

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ANASCAPE, LTD.

Plaintiff,

v.

NINTENDO OF AMERICA, INC.

Defendant.

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Civil Action No. 9:06-CV-158

JUDGE RON CLARK

**ORDER GRANTING UNOPPOSED
MOTION FOR APPROVAL OF SECURITY BOND**

The Court has considered the Unopposed Motion for Approval of Security Bond ("Motion"). The Court is of the opinion that the Motion should be and is hereby GRANTED in all respects. The Clerk shall receive and file the Security Bond immediately, and Nintendo of America Inc. ("Nintendo") shall not be required to deposit proceeds from sales into an escrow account during the pendency of the injunction period as set forth in the Final Judgment and Permanent Injunction issued July 23,2008.

The Court ORDERS that Nintendo provide to Anascape, Ltd. an accounting of sales of Nintendo's Wii Classic controller, GameCube controller, and GameCube Wavebird wireless controller, that are sold in the United States either alone or in combination with any other Nintendo products, services or systems, on an annual basis for each calendar year, within sixty days following the end of each calendar year.

The Court GRANTS LEAVE for Anascape, Ltd. to seek relief from the Court to modify any of the above terms, after meeting and conferring with Nintendo, if circumstances change that would justify modifying any of the terms of the Security Bond or the Court ordered accounting.

So **ORDERED** and **SIGNED** this **29** day of **July, 2008**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge

Royalty Payment Bond

Bond No. 6590292

IN THE United States District COURT OF The Eastern District of Texas Lufkin Division
COUNTY OF Angelina STATE OF Texas

ANASCAPE, LTD.,
Plaintiff

vs.

NINTENDO OF AMERICA INC.,
Defendant

CIVIL ACTION NO. 9:06-CV-158-RC

KNOW ALL MEN BY THESE PRESENTS, That we, NINTENDO OF AMERICA INC. as Principal, and Safeco Insurance Company of America a Washington corporation, as Surety are held and firmly bound unto ANASCAPE, LTD. in the amount of Ten Million Three Hundred and Sixty-Six Thousand Nine Hundred and Fifty-Six and 60/100 Dollars (\$10,366,956.60) for the payment of which, well and truly to be made, we bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has petitioned THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT for an appeal to said court of an action previously decided in THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, LUFKIN DIVISION, wherein the said Principal is Defendant, and being numbered 9:06-CV-158-RC on the docket thereof.

WHEREAS, the Plaintiff has requested a separate bond as security for potential additional royalty payments which may be adjudged due and owing by the court to the Defendant during the appeal period.

WHEREAS, on Wednesday, July 23, 2008, a Judgment and decree was entered in the above cause number in favor of Plaintiff and against the Defendant, a copy of which said Judgment is attached hereto and by this reference made a part hereof.

NOW THEREFORE, the condition of this obligation is such that if the said Principal shall pay all royalties adjudged due and owing by the court during said appeal proceeding, then this obligation shall be null and void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is subject to the following conditions:

1. The maximum liability of the Surety shall in no event exceed the aggregate penal sum of the bond.
2. The liability of the Surety for this obligation shall only extend to payment of royalties adjudged due and owing by the court from the date of the original judgment dated 7-23-08 until completion of the appellate proceedings.
3. The bond shall not be liable for any costs or disbursements incurred because of the appeal.
4. The liability of the Surety will not extend beyond resolution of the appellate proceedings referenced above.
5. This paragraph shall take precedence should a conflict arise with another section of this bond.

IN WITNESS WHEREOF, NINTENDO OF AMERICA INC., as Principal and Safeco Insurance Company of America, as Surety, have hereunto set our hands this 25 day of July, 2008.

ATTEST/WITNESS
By: [Signature]

NINTENDO OF AMERICA INC.
By: [Signature] Principal

Safeco Insurance Company of America
By: [Signature] Attorney-in-Fact



POWER OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
Safeco Plaza
Seattle, WA 98185

No. 13257

KNOW ALL BY THESE PRESENTS:

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****WILLIAM BAYCROFT; WILLIAM DAVID DERODE; KATHY DOOLEY-DALBY; CAROL A. KING; MELISSA KIRSHY; GARY LAFOUR; JAMES D. MACWILLIAM; Nacogdoches, Texas*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 165th day of July, 2008

Handwritten signature of Stephanie Daley-Watson

Handwritten signature of Tim Mikolajewski

STEPHANIE DALEY-WATSON, SECRETARY

TIM MIKOLAJEWSKI, SENIOR VICE-PRESIDENT, SURETY

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Stephanie Daley-Watson, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 28th day of July, 2008



Handwritten signature of Stephanie Daley-Watson

STEPHANIE DALEY-WATSON, SECRETARY

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State of Texas Surety Bond Claim Notice

In accordance with Section 2253.021(f) of the Texas Government Code and Section 53.202(6) of the Texas Property Code, any notice of claim to the named surety under this bond(s) should be sent to:

SAFECO Surety
Adams Building
4634 154th PL NE
Redmond, WA 98052

Mailing Address:
SAFECO Surety
PO Box 34754
Seattle, WA 98124

Phone: (425) 376-6535
Fax: (425) 376-6533