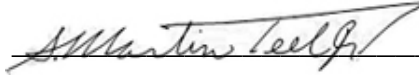


The document below is hereby signed.

Signed: August 30, 2010.



  
S. Martin Teel, Jr.  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLUMBIA

In re )  
 )  
ENVIRONMENTAL LAND ) Case No. 04-00926  
TECHNOLOGY, LTD., ) (Chapter 11)  
 ) Not for Publication in  
Debtor. ) West's Bankruptcy Reporter

MEMORANDUM DECISION AND ORDER DENYING  
"EMERGENCY MOTION TO AMEND ORDER TO STRIKE DOCUMENT  
353 AS ISSUED ON DECEMBER 16, 2010 [SIC] PURSUANT TO RULE 9011"

This addresses the "Emergency Motion to Amend Order to Strike Document 353 As Issued on December 16, 2010 [sic] Pursuant to Rule 9011" filed by James Patrick Doyle on August 12, 2010 (Dkt. No. 438). On December 17, 2009, the court entered an Order Striking Documents (Dkt. No. 368) which struck Doyle's original Emergency Motion for Writs of Mandamus (Dkt. No. 350),<sup>1</sup> directed

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<sup>1</sup> The Emergency Motion for Writs of Mandamus bore a full title reading:

Emergency Motion for Writs of Mandamus for Immediate Equitable Relief in Compelling the Secretary of Interior to Offer to Purchase or Trade Petitioner's ELT Land Projects Pursuant to Public Law 104-333 (T); Compell [sic] the Secretary of Interior to Admit the Taking of ELT Land Projects in St. George, Utah; in the Alternative, Complaint for Adversary Proceeding, Pursuant to Rule 7001 (Nine), for Declaratory Judgment on the Taking of ELT Land Projects.

against the Secretary of the Interior, and filed on November 17, 2009. In the interim, on November 27, 2009, Doyle had filed an amended version of his Emergency Motion for Writs of Mandamus (Dkt. No. 363). That amended version of the mandamus motion failed to correct the defects in the original mandamus motion that led to the order striking the original mandamus motion, and was implicitly stricken by the order of December 17, 2009.

As this court observed in striking the original mandamus motion, Doyle cannot act on behalf of the debtor in possession. The claims asserted in the original mandamus motion and in the amended version of the mandamus motion included claims that appear to belong exclusively to the debtor, Environmental Land Technology, Ltd. Doyle has no standing to assert those claims: a shareholder's interest in a corporation does not give that shareholder standing to assert claims of the corporation. Because Doyle is not a member of the bar of the District Court of which this court as a unit, he could not file the mandamus motion in a representative capacity on behalf of the debtor in possession.

Moreover, to the extent that Doyle asserts claims that belong to himself, both versions of the mandamus motion failed to articulate how those claims would have an impact on the administration of the estate such as to confer subject matter jurisdiction on the court under 28 U.S.C. § 1334.

Finally, as both the original and amended versions of the mandamus motion recognized, the relief sought by Doyle included relief that ought to be sought by way of an adversary proceeding by reason of Federal Rules of Bankruptcy Procedure 7001. Both the original and amended versions were not properly captioned for an adversary proceeding, and the clerk appropriately did not docket either version of the mandamus motion as an adversary proceeding complaint.<sup>2</sup>

The striking of the original mandamus motion (and implicitly of the amended to mandamus motion) was without prejudice to Doyle filing a motion or complaint as to claims that he had standing to pursue in his own right, if, which seems unlikely, he could establish subject matter jurisdiction for entertaining such claims. In accordance with the foregoing, it is

ORDERED that the "Emergency Motion to Amend Order to Strike Document 353 As Issued on December 16, 2010 [sic] Pursuant to

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<sup>2</sup> Even if the clerk had treated the mandamus motion as an adversary proceeding complaint, Doyle never took steps to make proper service of a complaint pursuant to Federal Rule of Bankruptcy Procedure 7004. The 120-day period under Federal Rule of Civil Procedure 4(m) (made applicable by Fed. R. Bankr. P. 7004(a)) for making service of the complaint expired long ago. Nothing in the record suggests that Doyle ever inquired of the clerk's office regarding whether the motion was being treated as a complaint and regarding issuance of a summons to serve with the motion if it were being treated as a complaint. Although Doyle asserts that he did not learn of the denial of the mandamus motion until recently, his neglect in following the status of the motion bespeaks a lack of reasonable diligence that would warrant finding no good cause for extending the Rule 4(m) time for serving a complaint.

Rule 9011" filed by James Patrick Doyle on August 12, 2010 (Dkt. No. 438) is DENIED. It is further

ORDERED that the Emergency Motion for Writs of Mandamus (Dkt. No. 350) filed by Doyle on November 17, 2009, and the amended version of the Emergency Motion for Writs of Mandamus (Dkt. No. 363) filed by Doyle on November 27, 2009, stand stricken.

[Signed and dated above.]

Copies to:

James Patrick Doyle  
2100 M Street, NW #170-238  
Washington, DC 20037

Secretary of the Interior  
Department of the Interior  
1949 C Street, NW  
Washington, DC 20240

Kevin R. McCarthy  
McCarthy & White, PLLC  
1751 Pinnacle Drive - Suite 1115  
McLean, VA 22102

Martha Davis  
Office of the United States Trustee  
115 South Union Street, Suite 210  
Alexandria, Virginia 22314

Donald A. Workman  
Foley & Lardner, LLP  
Washington Harbour  
3000 K Street, NW - Suite 500  
Washington, DC 20007

David Lee  
Lee & Smith, PC  
1101 30th Street, NW  
Suite 200  
Washington, DC 20007

David E. Leta  
Snell & Wilmer, LLP  
15 West South Temple, Suite 1200  
Salt Lake City, UT 84101

David M. Ross  
Wilson Elser Moskowitz Edelman & Dicker LLP  
700 11th Street, NW, Suite 400  
Washington, D.C. 20001

Adelaide Maudsley  
Chapman and Cutler LLP  
201 South Main Street #2000  
Salt Lake City, UT 84111