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Firm Gets Breach of Contract Suit Dismissed for Uranium Energy

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March 20, 2018 — Hughes Hubbard scored a big victory for Uranium Energy Corp. (UEC) on March 2 when U.S. District Judge Katherine Forrest granted HHR's motion for summary judgment.

A group of investors led by John O'Shea and his Wall Street investment business filed a lawsuit in June 2015, claiming millions of shares in UEC on the grounds that a company that UEC acquired, Concentric Energy (Concentric), had issued stock at a price that triggered an anti-dilution provision in their stock warrants.

Concentric was founded in 2001 to mine and sell uranium deposits. In an effort to commence operations at a mine in Arizona, Concentric raised money in four funding rounds between 2007 and 2009. But by August 2008, Concentric was nearly broke and resorted to issuing debentures and warrants.

As Concentric ran out of cash, it began paying its directors in stock and priced issuances of equity compensation at over $1 per share. Plaintiffs, however, argued the "effective price" of the stock issuances was only $0.001 per share under the terms of stock purchase agreements.

In September 2011, UEC merged with Concentric. Although plaintiffs exchanged their Concentric warrants for UEC warrants, in March 2012, they sued Concentric in Arizona state court, alleging that they were fraudulently led to invest in the company. After the Arizona state court denied as untimely their attempt to amend the complaint to add anti-dilution claims, plaintiffs brought those claims in New York.

HHR moved for summary judgment, arguing that the anti-dilution provisions in the warrants were never triggered and that all rights under the warrants were extinguished in the merger. Judge Forrest granted the motion and dismissed plaintiffs' claims, finding that they had voluntarily surrendered their Concentric warrants in November 2011 in return for replacement UEC warrants, and that surrender terminated the anti-dilution provision.

The Court also held that plaintiffs failed to offer any evidence to suggest that the term "effective price" of the stock issuances was limited to the nominal cash consideration of a tenth of a penny per share and did not also include the value of the management services that the directors and officers provided.

"Plaintiffs' argument makes little sense and does not give effect to the plain language of the Concentric Warrants," Judge Forrest wrote. "Because the 'effective price' of the stock issuances in dispute was greater than $1.00, the anti-dilution provision was never triggered, and defendants' motion for summary judgment must be granted."

Bill Maguire, Fara Tabatabai and Webster McBride represented UEC.

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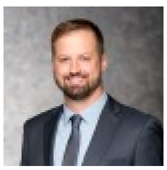

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