

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

RAYMOND ANGELO,	:	February Term 2007
Plaintiff,	:	
v.	:	No. 2903
GLOBAL ENERGY MANAGEMENT,	:	
LLC.,	:	COMMERCE PROGRAM
Defendant,	:	
v.	:	
WESTINGHOUSE LIGHTING	:	Control Number 071143
CORPORATION, STANLEY ANGELO,	:	
JOHN ANGELO, BARTON A.	:	
PASTERNAK,	:	
Additional Defendants.	:	

**ORDER**

**AND NOW**, this 9th day of October 2007, upon consideration of Plaintiff Stanley Angelo's Motion to Disqualify Meyerson & O'Neill as Counsel for Defendant Global Energy Management LLC and for a Stay, all responses in opposition, Memoranda and all matters of record, it hereby is **ORDERED** that the Motion is **Denied**.

**BY THE COURT,**

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**MARK I. BERNSTEIN, J.**

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**OPINION**

This is a dispute among the members of Global Energy Management, LLC., a joint venture between two electronic supply companies located respectively in India and the United States. On January 24, 2002, Asian Electronics Ltd. (“AEL”) and Suresh H. Shah (“Shah”) and Stanley Angelo, John Angelo and Raymond Angelo and Barton Pasternak (“Pasternak”) executed the Global Energy Management Operating Agreement to create Global Energy Management, LLC, a Delaware Limited Liability Company. The member interests in Global Energy Management are as follows: AEL Group- 9.5%, Shah- 40.5%, Stanley Angelo- 15%, Raymond Angelo- 15%, John Angelo- 10%, Barton Pasternak- 10%. Shah is the principal of AEL which is located in India. The combined membership interest of Shah and AEL (Asian Electronic Parties) in Global Energy Management is 50%. The Angelo’s and Pasternak are also shareholders in Westinghouse Lighting Corporation. The combined membership interest of the Angelo’s and Pasternak (The Westinghouse Lighting Corporation) is 50%.

The purpose of Global Energy Management LLC is to “distribute, advertise, market, promote and sell products and to own license, manage and develop inventions and patents related to the Products and other intellectual property and to do all things necessary in connection with that business or incidental thereto.”<sup>1</sup> Angelo was given primary responsibility for marketing and sales administration<sup>2</sup> while AEL was given primary responsibility for developing improvements and designing new products for Global Energy Management.<sup>3</sup> Pursuant to the terms of the Operating Agreement, Raymond Angelo, Stanley Angelo and Shah are Managers of the Global Energy Management. Each Angelo has one vote and Shah has two. The unanimous consent of all members and the management committee of Global Energy Management is required before Global Energy Management can incur indebtedness in excess of \$25,000.00, or sell, transfer or otherwise encumber Global Energy Management assets.<sup>4</sup>

In May 2005, Global Energy Management made and executed in favor of plaintiff Stanley Angelo, a Promissory Note in the principal amount of \$550,000.00.<sup>5</sup> On February 7, 2007, Stanley Angelo filed this confession of judgment action against Global Energy Management in the amount of \$617,750.00.<sup>6</sup> The firm of Meyerson & O’Neill (“the firm”) was retained by Shah and AEL, Inc. to represent Global Energy Management

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<sup>1</sup> Operating Agreement of Global Energy Management, LLC, ¶ 2.2.

<sup>2</sup> Operating Agreement of Global Energy Management, LLC, ¶ 3.0.

<sup>3</sup> Operating Agreement of Global Energy Management, LLC, ¶ 3.1.

<sup>4</sup> Operating Agreement of Global Energy Management, LLC, ¶ 10.5.

<sup>5</sup> Global Energy Management also made and executed in favor of Raymond Angelo a promissory note for the same amount.

<sup>6</sup> At the same time, Raymond Angelo also confessed judgment on his own judgment in the amount of \$617,000.00 against Global Management, Inc. The action commenced by Raymond Angelo is captioned Raymond Angelo v. Global Energy Management, LLC, February Term 2007 No. 2903. On June 7, 2007, the judgment was opened.

in this action. On April 9, 2007, the firm entered its appearance on behalf of Global Energy Management and filed a motion to strike, vacate and open the confession of judgment. That judgment was opened by the court by order dated on June 7, 2007.

On June 27, 2007, Global Energy Management filed its answer with New Matter and Counterclaims. The Counterclaims asserted claims for fraud, abuse of process, breach of fiduciary duty, company waste, and conspiracy. The Counterclaim further seeks to inspect Global Energy Management's records, appoint a new Managing Director and remove Stanley Angelo as an officer of Global.<sup>7</sup> The firm also filed a writ to join Barton Pasternak, Raymond Angelo, John Angelo and Westinghouse Lighting Corporation as additional defendants.

Shah, AEL and Dipesh M. Pandya ("Pandya") also retained the firm of Meyerson & O'Neill to file a complaint against Stanley Angelo, Raymond Angelo, John Angelo, Pasternak, Angelo Brothers Company International and Westinghouse Lighting Corporation. The complaint was initially filed on April 9, 2007 in this court and was then removed to the United States District Court for the Eastern District of Pennsylvania. The complaint alleges claims of unlawful conversion of intellectual property and improper assignment of patents and patent applications.

Stanley Angelo now moves to disqualify the firm of Meyerson & O'Neill alleging Rule of Professional Conduct 1.7 prohibits it from concurrently representing Global Energy Management in this action and Shah, AEL and Pandya in the Federal Court action. Angelo further argues that the firm was not authorized to represent Global Energy Management.

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<sup>7</sup> Currently pending before the court is Plaintiff's Motion to Determine Preliminary Objections to Defendants' Counterclaims.

Our Supreme Court has repeatedly stated that “the trial court in the first instance has the power to regulate the conduct of attorneys that practice before it, and has the duty to insure that those attorneys act in accordance with their Professional Responsibility.”<sup>8</sup> An attorney will not be permitted to represent conflicting interests unless those interests agree to be so represented.<sup>9</sup> The test of whether an attorney has a conflicting interest so as to preclude his representation of a party is not the actuality of conflict, but the probability that a conflict may arise.<sup>10</sup> Disqualification is a serious remedy which must be imposed with an awareness of the interests of the client in representation by counsel of the client’s choice. Motions to disqualify are not be used for tactical purposes.<sup>11</sup>

Rule of Professional Conduct 1.7 states:

- (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
  - (1) the representation of one client will be directly adverse to another client; or
  - (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.
- (b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:
  - (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
  - (2) the representation is not prohibited by law;

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<sup>8</sup> American Dredging Co. v. City of Philadelphia, 480 Pa. 177, 183, 389 A.2d 568, 571 (1978).

<sup>9</sup> Id.

<sup>10</sup> Middleberg v. Middleberg, 427 Pa. 114, 115, 233 A.2d 889, 890 (1967).

<sup>11</sup> Id.

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent.

In the case at bar, Angelo has failed to demonstrate that the firm's representation of Global Energy Management is directly adverse to that of AEL, Inc., Shah and Pandya. Global Energy Management in the name of its members AEL Group and Shah hired the firm to file a counterclaim against Angelo for wrongdoing associated with running Global Energy Management; namely executing promissory notes without authority. AEL, Inc. and Shah with 50% ownership in Global Energy Management are entitled to represent Global Energy Management from Angelo's alleged breach of fiduciary duties and corporate usurpation of opportunities.<sup>12</sup>

AEL, Inc., Shah and Pandya, on their own behalf, also retained the firm. AEL, Inc., Shah and Pandya hired the firm to represent their proprietary interests in patents that were allegedly to be placed in their names and assigned to Global Energy Management. According the Operating Agreement, the patents are the exclusive property of AEL, Inc., Shah and Pandya.<sup>13</sup> Global Energy Management was only given a license to market and sell the products invented.

The federal action to declare Shah, AEL, Inc and Pandya the owners of the patents does not conflict with the action instituted in state court for Angelo's alleged wrongdoing. Global Energy Management was granted a license to use the patents and

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<sup>12</sup> See Pa. R. Civ. P. 2178 ("An action may be prosecuted by a corporation or similar entity against one or more of the members thereof, or against members together with persons not members; or by one or more members, or by members together with other persons not members, against the corporation or similar entity.").

<sup>13</sup> See § 3.2 (e) "...intellectual property of Asian Electronics...are and will remain their (Asian Electronics) exclusive property".

therefore cannot bring an action to be declared an owner of the patents. This right belongs only to Shah, AEL, Inc. and Pandya. Since Global Energy Management's interest in the patents is solely that of a licensee, the firm's representation of Shah, AEL, Inc. and Pandya in the federal action is not adverse. In fact, the action is beneficial to Global Energy Management since Shah, AEL, Inc. and Pandya agreed to assign the patents to Global Energy Management. No conflict of interest exists.

### **CONCLUSION**

For the foregoing reasons, Plaintiff Stanley Angelo's Motion to Disqualify and Stay the action is Denied.

**BY THE COURT,**

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**MARK I. BERNSTEIN, J.**