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January 3, 1992

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12792-0001


Dennis Byrne
Alameda County Hazardous Materials Division
80 Swan Way, #200
Oakland, California 94621

Deposition In re King-Knight Company
Federal District Court, Northern California District
Case No. 4-86-04171W

Dear Mr. Byrne:

As we discussed yesterday, we would like to schedule your deposition in the King-Knight matter for 9:00 a.m. January 22, 1992 at the Law Offices of Heller, Ehrman, White and McAuliffe at 333 Bush Street, San Francisco, California, 31st Floor. We anticipate that this deposition will take no more than 3 to 4 hours. As we discussed on the telephone, this deposition will cover issues associated with the removal of underground fuel tanks on the property at 6202 Christie Avenue, Emeryville, California. Please give me a call on this matter as soon as convenient. Thank you.

Yours truly,


Kenneth B. Finney

cc: Michael Coffino, Esq.
Matt Shier, Esq.
Christine Noma, Esq.
Herman H. Fitzgerald, Esq.

92 JAN -5 PM 12:20

United States Bankruptcy Court

NORTHERN

CALIFORNIA

DISTRICT OF _____

In re KING-KNIGHT

Debtor

SUBPOENA IN A CASE UNDER THE BANKRUPTCY CODE

Case No. 4-86-04171W

To: DENNIS BYRNE
ALAMEDA COUNTY HAZARDOUS MATERIALS DIVISION
80 SWAN WAY, #200
Oakland, California 94621

Chapter 11

YOU ARE COMMANDED to appear in the United States Bankruptcy Court at the place, date, and time specified below to testify in the above case.

PLACE	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE Offices of Heller, Ehrman, White & McAuliffe 333 Bush Street, 31st Floor San Francisco, CA 94104-2878 (415) 772-6000	DATE AND TIME January 22, 1992 9:00 a.m.
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YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE Offices of Heller, Ehrman, White & McAuliffe 333 Bush Street, 31st Floor San Francisco, CA 94104-2878 (415) 772-6000	DATE AND TIME January 22, 1992 9:00 a.m.
---	--

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any subpoenaed organization not a party to this proceeding case shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify, Fed.R.Civ.P. 30(b)(6) made applicable to this proceeding by Rule 7030, Fed.R.Bankr.P. See Rules 1018 and 9014, Fed.R.Bankr.P.

ISSUING OFFICER'S SIGNATURE AND TITLE <i>Michael Coffino</i>	DATE January 2, 1992
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ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Michael Coffino Heller, Ehrman, White & McAuliffe 333 Bush Street, 31st Floor San Francisco, CA 94104-2878 (415) 772-6000	
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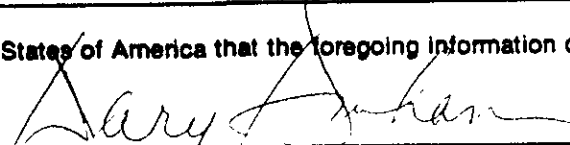
PROOF OF SERVICE

SERVED	DATE	PLACE
	January 2, 1992	San Francisco, California
SERVED ON (PRINT NAME)		MANNER OF SERVICE
Dennis Byrne		Federal Express
SERVED BY (PRINT NAME)		TITLE
Gary Durham		Secretary Heller, Ehrman, White & McAuliffe

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on January 2, 1992
DATE


SIGNATURE OF SERVER
Heller, Ehrman, White & McAuliffe
333 Bush Street, 31st Floor
San Francisco, California 94104-2878
ADDRESS OF SERVER

Rule 45, Fed.R.Civ.P., Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts

business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A TO SUBPOENA ISSUED TO DENNIS BYRNE

The Official General Unsecured Creditors' committee (the "Committee") in this case and the Debtor-in-Possession King-Knight Company ("King-Knight") hereby request, pursuant to Red. R. Civ. P. 34, Fed. RR. Bankr. P. 7034, 9015 and 9016, and Local Rule 230-2 of the United States District Court for the Northern District of California, that Dennis Byrne produce at 333 Bush Street, San Francisco, California at the time of his deposition and permit the committee, King-Knight and their attorneys and agents to inspect and copy each of the documents and things described below which are in his possession, custody or control.

I. DEFINITIONS

The following definitions apply to this request for document production:

1. The term "you" and "your" shall mean Dennis Byrne and any individual acting at his direction.
2. The term "agency" means the redevelopment agency of the City of Emeryville, County of Alameda, California.
3. The term "Christie Avenue property" means that certain piece of real estate at 6202 Christie Avenue, emeryville, California, together with all fixtures appurtenant thereto.
4. The term "city" means the government of the City of Emeryville, County of Alameda, California.

5. The term "communication" means any oral or written exchange or transmission of words, numbers, or ideas to any person or persons.

6. The term "condemnation" means any actual or contemplated judicial action, undertaken or contemplated by a governmental unit or its agents to acquire title to property for public or quasi-public use as provided in Title 7 of the California Code of Civil Procedure, §1230.010 et seq., and any acts undertaken for analysis, consideration or discussion of such a governmental acquisition.

7. The term "document" means any written or recorded information or communications in whatever form including without limitation writings and recordings within the meaning of Fed. R. Evid. 1001 (a) and (b). The term includes, but is not limited to, photographs, sketches, drawings, plans, test results, video tapes, correspondence, books, letters, memoranda, drafts, contracts, charts, or other writings relating to the requested information.

8. The term "drums" means any and all containers of hazardous or potentially hazardous materials ever stored or utilized on the Christie Avenue Property including without limitation those referred to in the letter dated January 24, 1991 to Herman H. Fitzgerald from Terence J. McManus of Harding Lawson Associates.

EXHIBIT A

9. The term "evaluate" means testing, sampling, visual or other sensory inspection, photographing, or otherwise examining the property or item indicated and "evaluation" means any document discussing the method, procedure, findings, results or conclusions of such tests, inspections, or examinations as described in this paragraph.

10. The term "individual" means a natural person.

11. The term "lease" means that certain lease of property at 6202 Christie Avenue, Emeryville, California originally dated January 25, 1966 and extended from time to time until terminated by the signed order of February 20, 1991 of the Bankruptcy Court for the Northern District of California.

12. The term "person" means an individual, corporation, partnership, trust, or other unincorporated association or legal entity.

13. The term "relating to" the subject matter, thing or document means referring to, pertaining to, embodying, constituting, memorializing, discussing, containing, confirming or otherwise connected by reason of an established or discoverable relationship to that subject matter, thing or document.

14. The term "underground tanks" means underground storage vessels used in the storage and dispensing of fuels and/or solvents.

EXHIBIT A

II. REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

All Documents relating to any claims of Vanco or the Agency concerning hazardous material contamination at the Christie Avenue Property.

REQUEST FOR PRODUCTION NO. 2:

All documents relating to any Evaluation of hazardous material contamination at the Christie Avenue Property.

REQUEST FOR PRODUCTION NO. 3:

All Communications between you and Vanco relating to any Evaluation for hazardous material contamination of the Christie Avenue Property.

REQUEST FOR PRODUCTION NO. 4:

All Documents relating to Underground Tanks located on the Christie Avenue Property in any way, including without limitation the installation, purchase, design, manufacture, maintenance, condition, removal, ownership, operation or use of such Underground Tanks.

REQUEST FOR PRODUCTION NO. 5:

All Documents relating to Drums located on the Christie Avenue Property in any way, including without limitation the installation, purchase, design, manufacture, maintenance, condition, removal, ownership, operation or use of such Drums.

EXHIBIT A

REQUEST FOR PRODUCTION NO. 6:

All Documents relating to any Communication between you and any other person concerning condemnation of the Christie Avenue Property.

REQUEST FOR PRODUCTION NO. 7:

All Documents relating to use or proposed use by the City or the Agency of the Christie Avenue Property.

EXHIBIT A