

1 SANTA BARBARA, CALIFORNIA; MONDAY, AUGUST 8, 2011

2 PM SESSION

3 DEPARTMENT NO. 6 HON. DENISE de BELLEFEUILLE, JUDGE

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5  
6 (Partial Transcript.)

7 THE COURT: Okay. I want to, first of all,  
8 thank counsel. I so appreciate, respect and admire each  
9 and every one of you in your advocacy, your Santa  
10 Barbara style. It's very stylish.

11 For those of you in the audience, if you heard  
12 us back meeting privately in my office as we did a few  
13 times during the trial, if you heard peels of laughter,  
14 it's because that's Santa Barbara style. We get along.  
15 We do our work pleasantly. And there were moments at  
16 which we each were expressing how much we individually  
17 and collectively appreciate The Independent. And I  
18 think I speak for all the lawyers in the case in  
19 expressing the thought that The Independent is the  
20 journalistic jewel of Santa Barbara. I know that I  
21 often turn to its pages to find out what's going on  
22 right here in the courthouse because we don't have any  
23 idea when we're individually doing our work as Judges.

24 Up here on the bench I keep my copy pocket of  
25 the Constitution of the United States. I want you to  
26 note how small and compact it is compared to, oh, the  
27 Constitution of the State of California. You know, but  
28 the First Amendment is a very important and cherished

1 constitutional right. And The Independent gets credit  
2 for its journalistic integrity. And we all very much  
3 appreciate the tremendous contribution it makes to the  
4 community.

5 So, Mr. Campbell, I have to compliment you for  
6 having the vision to go into the newspaper business and  
7 to start something that I'm sure that your mother is now  
8 proud of, even though she wanted you to have that degree  
9 from UCSB. What you've done is simply tremendous. And  
10 I truly understand how attached you are to this  
11 creation. It's your baby. You made it from nothing.

12 And Miss Partridge, you of course as the  
13 editorial heart of the paper get the credit for the  
14 vision, the fierce independence and the journalistic  
15 integrity that Santa Barbarans have come to rely on  
16 every week for a source of information that they can  
17 trust about their community.

18 The fact that you've been able to navigate for  
19 so many years when you have very different personalities  
20 and -- I guess I'll leave it at that. Different  
21 personalities that, you're both strong-willed, you both  
22 have different ideas. You've made it work.

23 I enjoyed seeing Mr. Parker and Mr. -- Dr.  
24 Parker and Mr. St. Jean. I have to say, they are a  
25 couple of characters. Good characters. And it has been  
26 a marvelous success.

27 This isn't a complicated case really when it  
28 comes right down to it. It's a simple contract case.

1 And we can all look back to the first year of law school  
2 when we learned offer, acceptance and consideration.  
3 Magic elements for making a contract.

4 And it's apparent after hearing from everyone,  
5 from all sources, that Mr. Campbell made an offer, that  
6 he had a reasonable time to leave it hanging out there.  
7 He was acting in accordance with his understanding of  
8 the buy-sell agreement that bound him, that bound the  
9 other shareholders. Whether Miss Partridge had signed  
10 it originally or not, she was bound by it as a  
11 shareholder.

12 He made his offer. He thought he had  
13 scrutinized its terms. He made the offer. And that  
14 offer was not withdrawn before Miss Partridge accepted  
15 it in writing pursuant to the terms of the buy-sell.  
16 She had the consideration. She put the money in an  
17 account. She has won the right to specific performance.  
18 I find for her on Count 1 of her Complaint.

19 Count 2 is that Mr. Campbell refused to deliver  
20 the shares. And part of the decision of the case is  
21 that a reasonable time period will be set for Mr.  
22 Campbell to do just that. That he has an obligation to  
23 sell to her his 51 percent of the ownership of The  
24 Independent for the sum of \$1,377,000.

25 I find that the true-up is not applicable. The  
26 Southland proposal makes for interesting background  
27 information, but it is neither here nor there. There's  
28 no way that the shareholders are bound to extend a

1 contract, keep Mr. Campbell as the publisher. They  
2 simply have the opportunity to match the offer for the  
3 shares and that's it. That's the end of the story.

4 On Count 3 of the Complaint I find that there  
5 was no breach of fiduciary duty on Mr. Campbell's behalf  
6 by insisting on an employment contract for himself. He  
7 was just trying to hold on to his dream and to increase  
8 his consideration. I don't know what went wrong when  
9 Mr. Thurlow left the company and why he didn't get the  
10 same package that Mr. Thurlow had, but that's not part  
11 of the evidence. It's just past history.

12 I find against Mr. Campbell on his three counts  
13 in his Cross-Complaint. There's no evidence that Miss  
14 Partridge engaged in wrongdoing or breached the Buy-Sell  
15 Agreement by obtaining funds from an outside source and  
16 as secretary of the corporation. Her role as secretary  
17 of the corporation is not relevant. Her only role is  
18 that of shareholder. She was entitled to buy Mr.  
19 Campbell's shares.

20 This Acquisition of Shares For Own Account  
21 language in the buy-sell has no applicability to future  
22 purchases of shares in the company by shareholders.  
23 There is no -- I find that there is no clause in this  
24 contract that prohibits a shareholder from buying --  
25 borrowing money to buy shares. It's illogical. It  
26 doesn't make any sense.

27 And I think, Mr. Hill, you did a good job of  
28 tying all the language together. The Acquisition of

1 Shares For Own Account language is written in the  
2 present tense, and it obviously applies to Mr. Campbell  
3 and Mr. Grand-Jean in putting the original capital into  
4 the company to start the corporation. And it was  
5 important at the beginning of the corporation not to  
6 borrow money so that you had capital. It couldn't be  
7 taken away.

8 I don't find that she did anything wrong by  
9 secretly negotiating with Mr. Cole. I don't find that  
10 he, Mr. Cole, violated any duty to Mr. Campbell because  
11 he had represented him in the last century on an  
12 unrelated business dispute. He's not acting as Miss  
13 Partridge's lawyer. There's no fiduciary obligation  
14 that was breached there.

15 On Count 2 of the Cross-Complaint Mr.  
16 Campbell's alleged that Miss Partridge omitted material  
17 matters at the meeting and concealed material  
18 correspondence between minority shareholders. Both of  
19 the experts called in this case agreed that minority  
20 shareholders have no fiduciary duty to a majority  
21 shareholder. There is no breach.

22 And number three, that there was a breach on  
23 her part of good faith and fair dealing, that he had not  
24 made a binding offer, that she tried to buy shares and  
25 deceive Mr. Campbell and improperly force him to sell  
26 his shares. The written materials prepared by Mr.  
27 Campbell say otherwise. His language in Exhibit  
28 Number 14 could not have been more clear. "This notice

1 is of my intent to sell all of my shares in the  
2 Santa Barbara Independent to Southland  
3 Publishing. I own 1530 shares and will accept  
4 \$1,377,000." And then he references the  
5 Southland offer sheet.

6 They had the right of first refusal. Miss  
7 Partridge, being resourceful, was able to marshal  
8 resources to present her acceptance of that offer in  
9 writing appropriately on November 23rd, and then again,  
10 I can't remember the date that she gave it to him again,  
11 but he couldn't escape the fact that she accepted his  
12 offer before he withdrew it. We have a contract. It is  
13 enforceable. Specific performance is the remedy.

14 Now, Mr. Rydell, you've asked me to prepare a  
15 Statement of Decision. I wonder if there are any  
16 post-trial questions that you wish to pose in writing,  
17 either side, that you want me to include in the  
18 Statement of Decision. You know what my ruling is. But  
19 if there's something that you need in a more detailed  
20 manner I need to know that from you now.

21 MR. RYDELL: Well, here's my suggestion, and  
22 it's only that. Since you've shared your reasoning in  
23 some considerable detail I would be prepared to agree  
24 that that constitutes under the law your tentative  
25 decision and that triggers our, both sides' ability to  
26 suggest additional items that may be included or may not  
27 be included according to what the Court decides.

28 The ultimate decision is yours. But if we call

1 this your tentative decision then everything in the Code  
2 of Civil Procedure naturally follows that with the time  
3 frame specified.

4 THE COURT: So you want to think about it?

5 MR. RYDELL: Right. If -- I think if we just  
6 follow the code it's the simplest way to do it. I'm not  
7 saying we need a written tentative decision, I'm  
8 suggesting we use what you've just said as your -- what  
9 the code calls your tentative decision in this case.

10 THE COURT: Okay. It's my ruling. It's not  
11 tentative. I've made my mind up. So if you want a  
12 Statement of Decision, you asked for one before we  
13 started --

14 MR. RYDELL: Right.

15 THE COURT: -- the arguments. I'm proposing  
16 that if you stand by that, if there are any questions  
17 that you want to have answered you ought to prepare a  
18 brief with the questions, share it with your colleague.  
19 If you have any, it's a ten day time period I think from  
20 now.

21 MR. HILL: Right.

22 MR. RYDELL: There's specific time limits in  
23 the Code of Civil Procedure. And I -- I'm just  
24 proposing we follow the code, that's all.

25 THE COURT: Well, at some point Judgment is  
26 going to have to be entered. Then we have to talk about  
27 the timing for other things. Do you want me to put this  
28 down for a Case Management Conference at the end of the

1 month or beginning of September? What do you want to  
2 do?

3 MR. HILL: The end of the month, your Honor,  
4 would work. I think the ten day time period allows us  
5 to -- to make any suggestions that we believe should be  
6 considered by the Court to augment its decision, and the  
7 Court can then decide on them and we can get that  
8 process done in the time period we've got.

9 THE COURT: August 25th at 8:30.

10 MR. HILL: That's fine, your Honor.

11 MR. RYDELL: That's fine. But are you planning  
12 on ruling that day? I mean --

13 THE COURT: I'm ruling now.

14 MR. RYDELL: Your Honor, I know you are.

15 THE COURT: I thought I made myself very clear.  
16 Offer, acceptance, consideration, contract, specific  
17 performance granted. I'm ruling now.

18 MR. RYDELL: Your Honor, I'm not suggesting  
19 you're not. I'm just saying that there's a procedure  
20 that's specifically called for in the code.

21 THE COURT: You have ten days to request a  
22 Statement of Decision. You've requested it.

23 MR. RYDELL: Right.

24 THE COURT: So I will write one. But if you  
25 want me to focus any particular attention on any aspect  
26 of the case, I'm inviting you to submit written  
27 questions, further briefing. And I suggested that we  
28 set it down as a place card keeper on August 25th.



1 MR. RYDELL: Right.

2 MR. TRAGER: We could have those further  
3 questions to you, if there are any, by next Monday.  
4 You're gone this week.

5 THE COURT: I'm gone this week. So, sure,  
6 Monday works. That's fine.

7 MR. HILL: Both sides.

8 THE COURT: Who's on first, what's on second.

9 MR. RYDELL: Your Honor, I mean, it seems to me  
10 that the code provides certain deadlines.

11 THE COURT: So you don't want to meet again?

12 MR. RYDELL: No. I'm happy to meet on that  
13 date. But then there's a further suggestion we get the  
14 stuff to you by next Monday.

15 THE COURT: I don't think you have to do it by  
16 next Monday.

17 MR. RYDELL: Whatever the code requires we're  
18 going to comply with.

19 MR. HILL: All right. Well, seems like we  
20 don't have a lot of argument on that point. If he  
21 insists on the code then we have to follow the code.  
22 But I understand the Court's --

23 THE COURT: August 25th --

24 MR. HILL: August 25th.

25 THE COURT: -- we'll meet again.

26 MR. HILL: Thank you, your Honor.

27 MR. TRAGER: Thank you, your Honor.

28 (Proceedings concluded.)