

# In Deals, There's Often More Than Meets Eye

## KFX Signs Pact With Firm That Includes Brother Of CEO, Big Shareholders

By JONATHAN WEIL

### O H, BROTHER.

KFX Inc., a small company that since the mid-1980s has been working on a process for turning low-grade coal into high-quality fuel, last week announced a tentative licensing agreement that it said would allow the Denver company to "participate in opening up the vast coal resources in Alaska."

In its Sept. 20 news release, KFX said it had signed a letter of intent to license its technology, called K-Fuel, to a closely held Washington, D.C., merchant bank named Kanturk Partners LLC. But there are some key details that the news release omitted: Two of Kanturk's partners are significant KFX shareholders, and a third is the brother of KFX Chairman and Chief Executive Ted Venners. Those details also weren't included in an 8-K filing on Friday with the Securities and Exchange Commission disclosing the terms of Kanturk's letter of intent with KFX. Kanturk was formed in February 2004, according to its Washington business-registration certificate.

The KFX chairman's brother, John Venners, in 2000 paid a \$10,000 fine, without admitting or denying wrongdoing, to settle SEC accusations that he fraudulently manipulated KFX's stock price. He also works as a consultant to KFX, according to the company's proxy statement.

KFX disclosed the relationships on Monday—but not in the usual fashion. Rather than issuing another news release, it posted a two-page letter from its chairman and CEO on its Web site. The chairman's letter named five Kanturk partners, including the three with KFX ties. That letter, which KFX filed with the SEC in an 8-K late yesterday, doesn't mention John Venners's SEC settlement.

In an interview yesterday, Ted Venners said KFX posted the letter because it had been receiving phone calls from

investors asking for more information about Kanturk. Some of the callers, he said, had been told about the connections by short sellers betting that KFX's stock would fall.

Details about such related-party transactions must be disclosed, because they raise questions about whether the deals are the result of arm's length negotiations. In KFX's case, the ties with Kanturk could be crucial, because a deal might be perceived as an independent validation of KFX's technology, which the company concedes still isn't operational after 20 years of development.

"We have nothing to hide, and if there's anything we can do to be more transparent, we want to do it," Ted Venners said yesterday. Asked about his brother's SEC settlement, he said that "it's been out there a long time," and that "it was less expensive to pay the fine than it was to fight the situation."

The project for which KFX says it may license its technology to Kanturk stems from a recent pledge that the government of Taiwan made to Alaska state officials that Taiwan will encourage one of its state-owned utilities to make large purchases of low-grade Alaskan coal. Alaska's governor announced the Taiwan agreement on Sept. 17. In its Sept. 20 news release, KFX said its licensing deal is subject to Kanturk finalizing an agreement with the coal's owners.

Ted Venners said the reason his company issued the Sept. 20 news release was that Alaska's governor had announced the Taiwan project first. The news release didn't disclose KFX's close ties with Kanturk, because the company didn't consider them to be material, he said, adding that KFX has intended all along to disclose the related-party connections in its next annual report and proxy. He said his brother, a Washington lobbyist, is the one who pitched KFX on a licensing deal with Kanturk.

For 2001 through 2003 combined, KFX reported \$78,000 in revenue and a loss of \$63.4 million. Still, its stock has been on a tear lately, up 73% in the last year, and the company's market value now exceeds \$500 million, helped in part by peppy analyst-research reports by some investment banks. KFX shares closed yesterday at \$8.82, up two cents, in 4 p.m. American Stock Exchange trading.

### Family Ties

KFX, daily closing share price



Source: Thomson Datastream

The three Kanturk partners stand to benefit if investors perceive a licensing agreement as good news for KFX. One Kanturk partner, Rocky Robinson, is listed in an April 2003 KFX registration statement as the holder of 2.1 million KFX shares. In his letter, Ted Venners described another Kanturk partner, Gerald Cassidy, as a "significant" KFX shareholder. Mr. Venners said his brother holds 200,000 KFX options and owns less than 5% of Kanturk.

John Venners didn't return phone calls. Neither did Messrs. Robinson or Cassidy. Another Kanturk partner, Dave Fu, said he wasn't aware of John Venners's fraud settlement with the SEC. He referred questions to KFX.