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Attorneys for Interested Parties  
Kirk and Amy Henry

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiffs,	)	Case No. 2:06-cr-00186-PMP-PAL
	)	
vs.	)	
	)	
POWER COMPANY INC., doing business as	)	<b>VICTIMS KIRK AND AMY</b>
THE CRAZY HORSE TOO, and	)	<b>HENRY'S MOTION UNDER</b>
FREDERICK JOHN RIZZOLO	)	<b>18 U.S.C. 3663A TO REVOKE</b>
	)	<b>OR EXTEND RICK RIZZOLO'S</b>
Defendants.	)	<b><u>TERM OF SUPERVISION</u></b>
_____	)	

COMES NOW KIRK and AMY HENRY, by and through their attorneys of record, C. STANLEY HUNTERTON, ESQ., of the law firm HUNTERTON & ASSOCIATES, and DONALD J. CAMPBELL, ESQ., of the law firm CAMPBELL & WILLIAMS, and, and hereby file the following Motion under 18 U.S.C. 3663A to Revoke or Extend Rick Rizzolo's Terms of Supervision.

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DATED this 9th day of September, 2010.

HUNTERTON & ASSOCIATES

CAMPBELL & WILLIAMS

By  /s/ C. Stanley Hunteron  
C. STANLEY HUNTERTON, ESQ. (1891)  
333 South Sixth Street  
Las Vegas, Nevada 89101

By  /s/ Donald J. Campbell  
DONALD J. CAMPBELL, ESQ. (1216)  
700 South Seventh Street  
Las Vegas, Nevada 89101

*Attorneys for Victim Amy Henry*

*Attorneys for Victim Kirk Henry*

**POINTS AND AUTHORITIES**

**I. INTRODUCTION**

To be clear, Fredrick “Rick” Rizzolo is a convicted felon. As the Court is well aware, Rick Rizzolo owes restitution to the Henrys in the amount of \$9 million plus interest arising out of Kirk Henry’s horrific beating at the hands of employees of the Crazy Horse Too. The Henrys have not received one cent of restitution directly from Rick Rizzolo despite the fact that over four years have passed since their civil claims were settled.<sup>1</sup>

Rick Rizzolo’s overarching scheme to conceal assets and frustrate the Henrys’ recovery of funds is absolutely paramount among the reasons for his total failure to make payment. Indeed, Rick Rizzolo brazenly admitted to purposefully concealing funds from the Henrys and the Government when he made the following statements during his recent deposition:

**Question [Donald J. Campbell, Esq]:** And you’ll see that the message there, again, is from Mark Hafer, your attorney; correct?

**Answer [Rick J. Rizzolo]:** Right.

**Q:** To John Dawson, another one of your attorneys; correct?

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<sup>1</sup> The Henrys are victims entitled to mandatory restitution under 18 U.S.C. 3663A. See Exhibit “1,” Judgment of Conviction; Exhibit “2,” Transcript of April 26, 2010 Hearing, p. 16. Accordingly, the Henrys have standing to bring the instant Motion in light of Rick Rizzolo’s utter failure to comply with that statute.

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A: Right.

.....

Q: And then there is a second topic that's discussed. It says, quote, can Lions LP – that's limited partnership; correct?

A: Right. I think its an LLC though.

Q: *“Can Lions LP assign its rights to collect the balance due on the Philly sale to Bart before somebody else seeks to attach the payments which are not due to begin until approximately next February?”* Please review and call me. This is what I forgot to ask you yesterday.”

Why was your attorney inquiring of yet another one of your attorneys as to whether or not future payments that were expected to be made pursuant to that sale could be transferred to your father?

A: Because I owed him money.

Q: Excuse me?

A: Because I owed him money.

Q: Well, but that's not what this document says. It says, before somebody else seeks to attach the payments.

Do you see that?

.....

A: Yeah.

Q: *Who were you afraid was going to seek to attach those payments?*

A: *What do you mean, afraid?*

Q: *Well, who did you anticipate would seek to attach the payments?*

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A: *Well, at that time the government, the IRS, everybody.*

Q: *The Henrys?*

A: *The Henrys, whatever.*

*See Exhibit "3," Deposition Testimony of Rick Rizzolo, p. 293-295.*

As will be demonstrated below, the foregoing statements are just a straightforward declaration of the highly improper course of conduct which Rick Rizzolo has engaged in for more than a decade. It is undisputed that Rick Rizzolo's actions bear the indicia of tax fraud despite his prior felony conviction and incarceration for the same crime. Moreover, not only does this pattern of fraudulent behavior validate the Henrys' pending civil claims, but it also warrants the revocation or extension of Rick Rizzolo's terms of supervision and restriction of his ability to move his assets.

## II. FACTUAL BACKGROUND

In order to appreciate the seriousness and impropriety of Rick Rizzolo's post-incarceration behavior, it is necessary to understand his prior pattern of conduct. Simply put, Rick Rizzolo has planned for this very situation for many years. To that end, Rick Rizzolo's prophylactic (and fraudulent) actions in the past have largely protected him from many of the repercussions which should have followed his criminal conviction and subsequent failure to sell the Crazy Horse Too.

### A. Rick Rizzolo Was Aware He Was Under Investigation By Federal And State Law Enforcement Agencies For Decades

Rick Rizzolo's fraudulent scheme arose out of his knowledge that he was the subject of multiple criminal investigations by various law enforcement agencies. To be clear, Rick Rizzolo admits he was a person of interest to both federal and state law enforcement agencies for "over 20 years." *See Exhibit "3," Deposition Testimony of Rick Rizzolo, p. 88-89; 96-97; See Exhibit*

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2 “4,” Las Vegas Sun article of February 22, 2003. He purports to believe that the basis for these  
3 investigations was his ethnicity and profession rather than his well-known association with  
4 reputed mob figures dating back to the 1970s. *See* Exhibit “3,” Deposition Testimony of Rick  
5 Rizzolo, p. 96-97.

6 In addition, Rick Rizzolo knew that seizure and/or forfeiture of his assets was a potential  
7 penalty if the criminal investigations ever came to fruition. For instance, Rick Rizzolo was  
8 involved in an ill-fated attempt to purchase the Bicycle Club casino, a forfeited property in  
9 California, from the U.S. Marshals Service in the mid-1990s. *See* Exhibit “3,” Deposition  
10 Testimony of Rick Rizzolo, p. 98-102; *See* Exhibit “5,” Las Vegas Sun article of March 25,  
11 1996. The prospective deal was eventually broken up due to the involvement of reputed mob  
12 figures including Rick Rizzolo’s close friend Joey Cusumano. *See* Exhibit “5,” Las Vegas Sun  
13 article of March 25, 1996. As such, Rick Rizzolo had knowledge dating back to at least the mid-  
14 1990s that 1) he was under criminal investigation and 2) the seizure and subsequent forfeiture of  
15 his property was a potential criminal penalty.  
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18 **B. Rick Rizzolo’s Formation Of A Complex Network Of Trusts And Corporate**  
19 **Entities To Protect Assets From Potential Seizure and Forfeiture**

20 In response to the foregoing developments, Rick Rizzolo and his wife Lisa retained  
21 attorney John E. Dawson, Esq. for what they euphemistically referred to as “estate planning.” In  
22 reality, Rick Rizzolo engaged Mr. Dawson to create a complex web of trusts, corporate entities,  
23 and partnerships for the purpose of asset protection. *See* Exhibit “6,” Retention Letter. This  
24 network of entities would then hold all of the Rizzolos’ personal assets and business interests.

25 *Id.*

26 On August 20, 2001, the Rizzolos executed the formation documents for The Rick and  
27 Lisa Family Trust. They subsequently transferred the bulk of their real property and personal  
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1  
2 assets into The Rick and Lisa Family Trust.<sup>2</sup> That same day, the Rizzolos created the Lions  
3 Limited Partnership into which they transferred their holdings in the Power Company, Inc. The  
4 Power Company owned the Crazy Horse Too. As such, the Rizzolos' ownership interest in the  
5 Crazy Horse Too was held by the Lions Limited Partnership beginning in 2001.

6 On September 20, 2001, Kirk Henry was viciously brutalized by employees of the Crazy  
7 Horse Too in the incident that led to this litigation. Shortly thereafter, on November 2, 2001,  
8 Rick Rizzolo executed the formation documents for The RLR Trust which was held by Capital  
9 Security Bank in the Cook Islands. Mr. Dawson recommended the use of an offshore trust  
10 because it would "provide a second layer of asset protection." See Exhibit "6," Retention Letter.  
11 He also recommended that Rick Rizzolo transfer certain funds to this offshore trust because "*in*  
12 *the event a U.S. Judge froze any of [his] assets, the funds in the Oppenheimer Account would*  
13 *be totally protected and would not be subject to being frozen.*" *Id.*

14  
15 After the creation of this offshore trust, the Rizzolos transferred their partnership interests  
16 in the Lions Limited Partnership to The RLR Trust in the Cook Islands. Accordingly, the  
17 Rizzolos' ownership interest in the Crazy Horse Too was transferred to an offshore trust almost  
18 immediately after the Henry incident. More importantly, the Rizzolos took this action with the  
19 belief that their interests in the Lions Limited Partnership (and its bank accounts) would be  
20 protected and not subject to being frozen by a United States Judge. Further, the Rizzolos  
21 concealed the existence of this foreign trust from the Internal Revenue Service despite receiving  
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25 <sup>2</sup> It is indicative of Rick Rizzolo's intent that he claimed this trust was "never funded" in  
26 his sworn answers to the Henrys' written discovery requests in *Henry et al. v. Rizzolo et al.*, Case  
27 No. 2:08-cv-635. See Exhibit "7," Rick Rizzolo's First Set of Interrogatory Responses.  
28 Obviously, this interrogatory response was blatantly false and the court found that such  
deception would support a finding of fraudulent intent. See Docket (#437), *Henry et al. v.*  
*Rizzolo et al.*, Case No. 2:08-cv-635.

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2 direct inquiries on the subject. Suffice it to say, the wrongful intent behind this calculated course  
3 of action is transparent.<sup>3</sup>

4 **C. The Rizzolos' Sham Divorce And Subsequent Conduct**

5 After years of civil litigation against the Henrys and with criminal charges pending  
6 against Rick Rizzolo and The Power Company, the Rizzolos divorced on June 7, 2005. Under  
7 the division of property contained therein, Lisa Rizzolo received almost all of the marital  
8 property. See Exhibit "8," Divorce Decree. Rick Rizzolo received the Crazy Horse Too which  
9 both parties agreed was speculative in value and could be subject to potential criminal penalties.  
10 See Exhibit "8," Divorce Decree, Section X. Obviously, the circumstances surrounding the  
11 Rizzolos' divorce were highly suspicious.<sup>4</sup>

13 Indeed, the Rizzolos' conduct since the divorce only reinforces the belief that it was a  
14 complete charade. Initially, Lisa Rizzolo has not made any attempt to enforce the provisions of  
15 the divorce decree. First and foremost, Rick Rizzolo has not paid one cent of the \$5 million in  
16 spousal support which he allegedly owes to Lisa Rizzolo. See Exhibit "3," Deposition  
17 Testimony of Rick Rizzolo, p. 28. Lisa Rizzolo did not take any legal action to enforce this  
18 spousal support provision prior to her deposition in this matter on May 12, 2009. See Exhibit  
19 "9," Deposition Testimony of Lisa Rizzolo, p. 146-47. Likewise, Lisa Rizzolo paid the \$100,000  
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23 <sup>3</sup> The Rizzolos each created a variety of other trusts and corporate entities over the course  
24 of the following years. One such trust is Lisa Rizzolo's corresponding offshore trust styled The  
25 LMR Trust. Like Rick Rizzolo's offshore trust, The LMR Trust is held by Capital Security Bank  
26 in the Cook Islands. At present date, The LMR Trust contains millions of dollars which Lisa  
27 Rizzolo received in 2005 as part of the sham divorce.

28 <sup>4</sup> The divorce was a ploy designed to conceal assets and frustrate the eventual recovery of  
the debt owed to the Henrys by Rick Rizzolo. Indeed, the divorce is a central feature of the  
Henrys' pending civil lawsuit against Rick and Lisa Rizzolo. See *Henry et al. v. Rizzolo et al.*,  
Case No. 2:08-cv-635.

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2 premium on Rick Rizzolo's life insurance policy despite the fact that he is obligated to do so  
3 under the divorce decree. *See* Exhibit "3," Deposition Testimony of Rick Rizzolo, p. 212-13.

4 Moreover, Rick and Lisa Rizzolo have engaged in multiple large financial transactions  
5 since their divorce. For example, Lisa Rizzolo made interest-free loans to Rick Rizzolo in the  
6 amounts of \$200,000 and \$400,000 in November 2006 and March 2007 respectively. *Id.* at 153-  
7 61. Further, Lisa Rizzolo paid \$50,000 of Rick Rizzolo's legal bills in June 2007. *Id.* at 273-75.  
8 Clearly, this is not normal behavior for a divorced couple.<sup>5</sup>  
9

10 **D. The Settlement Of The Henrys' Civil Claims And The Criminal Conviction**  
11 **Of Rick Rizzolo**

12 On June 2, 2006, Rick Rizzolo and his alter ego corporation, The Power Company,  
13 entered guilty pleas to criminal charges which arose out of the various law enforcement  
14 investigations into criminal activity at the Crazy Horse Too. Rick Rizzolo pled guilty to  
15 conspiracy to defraud the United States of taxes and was sentenced to one year and one day of  
16 incarceration.<sup>6</sup> *See* Exhibit "1," Judgment in a Criminal Case. He was ordered to pay restitution  
17 to the Henrys in the amount of \$10 million.<sup>7</sup> *Id.* Finally, Rick Rizzolo was sentenced to three  
18 years of supervised release which included, along with the standard conditions of supervision,  
19 the following special provisions:  
20

21 <sup>5</sup> To be sure, the large interest-free monetary transactions and failure to enforce the divorce  
22 decree are not the only indicators that the Rizzolos' divorce is a complete and utter sham. There  
23 is abundant evidence demonstrating their fraudulent intent. For the purposes of this Motion,  
24 however, these financial transactions are the most relevant.

25 <sup>6</sup> The Power Company pled guilty to Conspiracy to Participate in an Enterprise through a  
26 pattern of Racketeering. *See* Exhibit "10" Judgment in a Criminal Case. It, too, was ordered to  
27 pay the Henrys restitution in the amount of \$10 million. *Id.* In addition, The Power Company  
28 was subject to an order for forfeiture in the amount of \$4,250,000. *Id.*

<sup>7</sup> Over the weeks following the entry of guilty pleas, the Henrys and Rick Rizzolo on  
behalf of himself and The Power Company executed the Settlement Agreement which guarantees  
payment of \$10 million under all circumstances.



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- You shall provide the probation officer access to any requested financial information, including personal income tax returns, authorization for release of credit information, and any other business financial information in which you have a control or interest
- You shall be prohibited from incurring new credit charges, opening additional lines of credit, or negotiating or consummating any financial contracts without the approval of the probation officer
- You shall cooperate and arrange with the Internal Revenue Service to pay all past and present taxes, interest and penalties owed. You shall file timely, accurate and lawful income tax returns and show proof of the same to the probation officer.

*Id.*<sup>8</sup>

On May 22, 2007, Rick Rizzolo began his incarceration at the Metropolitan Detention Center in Los Angeles, California. On or about March 3, 2008, Rick Rizzolo was released to a halfway house in Las Vegas, Nevada. One month later, on April 4, 2008, Rick Rizzolo was released from federal custody and entered his term of supervised release. At present, Rick Rizzolo's term of supervision ends on April 3, 2011. Rizzolo's course of conduct since his release from prison, however, makes it clear that his term of supervised release must be revoked or extended.

**E. Rick Rizzolo's Actions Since His Release From Prison**

Simply put, Rick Rizzolo does not lead the life of an ex-convict who owes millions of dollars to the Henrys and the Government. Indeed, by effectively disregarding his restitution obligations and conditions of supervised release without any consequence, Rick Rizzolo has been allowed to live as if his transgressions over the past decade never occurred. The following details of Rick Rizzolo's post-release behavior demonstrate a stunning lack of oversight into his

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<sup>8</sup> Of course, the terms of supervisions also included such standard conditions as 1) defendant shall work regularly at a lawful occupation; 2) defendant shall refrain from excessive use of alcohol; and 3) defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony. See Exhibit "1," Judgment in a Criminal Case.

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2 behavior along with a complete failure to enforce the penalties imposed on him as a result of his  
3 criminal conviction.

4 **1. The Sale of Real Estate in Philadelphia**

5 The details surrounding Rick Rizzolo's sale of his interest in certain Philadelphia real  
6 estate in 2008 are murky to say the least. In the latter half of 2002, Rick Rizzolo allegedly  
7 invested \$2 million in an enterprise to open a Crazy Horse nightclub in Philadelphia,  
8 Pennsylvania. See Exhibit "3," Deposition Testimony of Rick Rizzolo, p. 123-24. His  
9 investment went toward buying the real estate upon which the nightclub would be built. *Id.* In  
10 2003, however, Rick Rizzolo was supposedly forced out of the venture due to the criminal  
11 investigations pending against him in Las Vegas, Nevada. *Id.* at 124-25.

13 That said, Rick Rizzolo did make an agreement for the return of his investment prior to  
14 withdrawing from the business. This buyout was solely based on the word of his business  
15 partner, Vince Piazza. *Id.* at 128-30. In short, Rick Rizzolo does not possess any documentation  
16 regarding the purchase, operation, or sale of this property although he claims there is an "Exit  
17 Agreement." *Id.* Likewise, Rick Rizzolo never examined any books, records, or financial  
18 reviews for this business venture. *Id.* at 140-46. Further, Rick Rizzolo's name was completely  
19 absent from all real estate and business records. *Id.*

21 The inferences that can be drawn from Rick Rizzolo's actions surrounding the supposed  
22 return of his investment are highly damaging. Although the exact details of the financial  
23 transaction are unknown, Rick Rizzolo deposited \$999,000 into the Lions Limited Partnership  
24 account at Nevada Commerce Bank on April 3, 2008 – **one day before he was released from**  
25 **federal custody.** Less than three weeks later, Rick Rizzolo transferred the entirety of that sum to  
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The RLR Trust in the Cook Islands which, as noted above, was created to guard against the potential seizure of assets by a United States Judge.

Once the proceeds from the sale of the Philadelphia property were safely offshore, Rick Rizzolo immediately disbursed the bulk of the funds as follows: \$600,000 to Lisa Rizzolo; \$200,000 to Bart Rizzolo; and \$100,000 to the Law Firm of Patti Sgro & Lewis. *Id.* at 151-66. Shortly thereafter, Rick Rizzolo arranged for the remainder – approximately \$90,000 – to be brought back from the Cook Islands and deposited in the Lions Limited Partnership account at Nevada Commerce Bank. *Id.*

We again emphasize, Rick Rizzolo was a convicted felon beginning his term of supervised release; yet, he had the audacity to arrange for a movement of approximately \$1 million while still in federal custody. He never disclosed any of the subsequent transactions to his probation officer even though he was ordered to do so. In addition, Rick Rizzolo never disclosed any of these transactions to the Internal Revenue Service. More importantly, Rick Rizzolo did not attempt to use this vast sum of money to meet his restitution obligations to the Henrys. In fact, he effectively concealed the existence of this transaction for nearly the entire period of discovery in the Henrys’ civil lawsuit.

This duplicitous and very illegal behavior is only worsened by the sworn testimony given by Rick Rizzolo in his deposition. Initially, Rick Rizzolo was confronted with a message between Mark Hafer, Esq. and Mr. Dawson which contained the following statement: “[c]an Lions LP assign its rights to collect the balance due on the Philly sale to Bart [Rizzolo] *before someone else seeks to attach the payments which are not due to begin until approximately next February.*” See Exhibit “11,” Fax Cover Sheet of July 8, 2008.

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2 At the outset, the message clearly states that Rizzolo expected to receive future payments  
3 beginning in February 2009 in addition to the previous influx of almost \$1 million in April 2008.  
4 He never disclosed this fact prior to being confronted with the foregoing document. Moreover,  
5 in response to questions about the intent behind the language, Rizzolo expressly admitted  
6 concealing assets from his creditors including the Henrys. *See* Exhibit “3,” Deposition  
7 Testimony of Rick Rizzolo, p. 293-295.  
8

9 Rick Rizzolo is a convicted felon on supervised release who owes millions of dollars in  
10 restitution to the victims of his crimes. Nonetheless, he was allowed to engage in massive  
11 financial transactions for his own benefit, at the expense of his victims, despite the fact that he is  
12 expressly prohibited from doing so under his conditions of supervised release. Incredibly, Rick  
13 Rizzolo even had the audacity not to file a tax return in 2008 or 2009 because he “didn’t make  
14 any money.” *Id.* at 223. This progression of events is nothing short of a travesty.  
15

## 16 2. The Sale of the 1958 Corvette

17 The aforementioned sale of Philadelphia real estate is not the only suspicious financial  
18 transaction engaged in by Rick Rizzolo since his release from prison. On October 17, 2008,  
19 Rick Rizzolo sold his 1958 Corvette to Fred Doumani for \$100,000. *See* Exhibit “3,” Deposition  
20 Testimony of Rick Rizzolo, p. 283-85. He deposited the money directly into the Lions Limited  
21 Partnership account at Nevada Commerce Bank. He did not disclose the sale of the vehicle to  
22 his probation officer, the Henrys, or the Internal Revenue Service. Likewise, Rick Rizzolo  
23 concealed the existence of this income from the Henrys in their parallel civil lawsuit.  
24

25 The details of this sale also raise red flags about the true nature of the parties’ intentions.  
26 For example, Doumani did not have the vehicle inspected prior to consummating the purchase  
27 despite its high value and classic nature. *See* Exhibit “12,” Deposition Testimony of Fred  
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2 Clearly, the foregoing charges are wholly atypical of an ex-convict who claims to have  
3 no income whatsoever. Rick Rizzolo did not report these improper charges to his probation  
4 officer despite the fact he is obligated to disclose all transactions over \$500. Notwithstanding  
5 these credit charges, Rick Rizzolo also sold multiple pieces of expensive jewelry since his  
6 incarceration. See Exhibit "3," Deposition Testimony of Rick Rizzolo, p. 72-75. Of course,  
7 Rick Rizzolo failed to disclose this transaction to his probation officer, the Henrys, and the  
8 Internal Revenue Service as well. Finally, Rick Rizzolo admits to gambling; yet, ludicrously  
9 claims to only do so when other people gift him money for use at the tables. *Id.* at 223-25.  
10

#### 11 4. Rick Rizzolo's Employment History

12 In short, Rick Rizzolo has not worked one day since his release from federal prison  
13 despite the fact that his conditions of supervision clearly state that he "*shall work regularly at a*  
14 *lawful occupation.*" See Exhibit "1," Judgment in a Criminal Case. In fact, Rizzolo has not  
15 even filled out a job application. See Exhibit "3," Deposition Testimony of Rick Rizzolo, p. 52.  
16 The sum of his attempts to find gainful employment is limited to three informal inquiries to  
17 friends about the possibility of finding a job. *Id.* at 43-46. This is patently absurd considering  
18 his immense debts to his victims and unequivocal conditions of his supervised release.  
19

20 The undisputed facts surrounding Rick Rizzolo's "attempts" to seek gainful employment  
21 in comparison with his alleged financial situation speak for themselves. Rick Rizzolo owes  
22 millions of dollars to his victims and the Government. He claims to have no personal assets or  
23 regular income. Finally, Rick Rizzolo is obligated by United States law to maintain regular work  
24 in a lawful obligation. Despite all these seemingly concrete reasons to seek gainful employment,  
25 Rick Rizzolo has done nothing and his probation officer has taken no action to remedy the  
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1  
2 situation. In sum, Rick Rizzolo continues to lead the same gangster lifestyle that he did before  
3 he went to prison, ignoring the rules of law and defying this Court.

## 4 **II. ARGUMENT**

5 Suffice it to say, Rick Rizzolo has flaunted the punishment imposed on him by the felony  
6 conviction for tax fraud and effectively disregarded his conditions of supervised release.  
7 Nonetheless, Rick Rizzolo is scheduled to complete his term of supervised release in April 2011  
8 even though his breaches of the aforementioned conditions of supervised release are  
9 innumerable. Most importantly, Rick Rizzolo's restitution to the Henrys remains unpaid. For  
10 those reasons, the Court should exercise its discretion to revoke or extend Rick Rizzolo's  
11 supervised release in order to ensure he fulfills his obligations to his victims.  
12

### 13 **A. Rick Rizzolo's Continuing Disregard For United States Tax Laws Warrants 14 The Revocation Or Extension Of His Term Of Supervised Release**

15 Simply put, Rick Rizzolo's actions since his release from federal prison bear many of the  
16 traditional hallmarks of tax fraud. Indeed, a court may infer fraudulent intent from the following  
17 factors: 1) understatement of income; 2) inadequate records; 3) failure to file tax returns; 4)  
18 dealing in cash; 5) implausible or inconsistent explanations of behavior; 6) concealing assets;  
19 and 7) failure to cooperate with tax authorities. *See, e.g., Bradford v. Comm. Of Internal*  
20 *Revenue*, 196 F.2d 303, 307 (9th Cir. 1986); *Edelson v. Comm. Of Internal Revenue*, 829 F.2d  
21 828, 832 (9th Cir. 1987).  
22

23 Rick Rizzolo's conduct with regard to his financial dealings meets all of the foregoing  
24 indicia of tax fraud. At the outset, Rick Rizzolo has not filed a tax return since his release from  
25 prison despite engaging in surreptitious financial transactions totaling in excess of \$1.1 million  
26 dollars. *See Exhibit "3," Deposition Testimony of Rick Rizzolo*, p. 222-23. Moreover, he also  
27 failed to disclose these transactions to his probation officer and numerous creditors including the  
28

1  
2 Henrys. Likewise, Rick Rizzolo's fraudulent intent may be inferred from his hidden use of The  
3 RLR Trust in the Cook Islands along with the previously undisclosed Lions Limited Partnership  
4 bank account at Nevada Commerce Bank.

5 Rick Rizzolo's fraudulent intent is also evidenced by his overwhelming use of cash and  
6 money orders rather than traceable forms of payment.<sup>10</sup> The suspicious nature of these methods  
7 of payment is exacerbated by Rick Rizzolo's implausible explanations for his discretionary  
8 spending. For example, Rick Rizzolo asserts that he gambles yet only does so with money that  
9 other people give to him for the specific purpose of gaming. *Id.* at 223-25. Likewise, he  
10 attempts to explain his large credit card purchases by stating that other people reimburse him for  
11 the charges so he can receive the "points." *Id.* at 258. Given Rick Rizzolo's history, these  
12 explanations are, frankly, ridiculous.

13  
14 At the outset, the abundant circumstantial evidence of Rick Rizzolo's fraudulent intent  
15 clearly demonstrates that he has consistently avoided the natural consequences of his illegal  
16 activity. Such circumstantial evidence, however, pales in comparison to his brazen admission  
17 that he purposefully concealed assets from the Henrys and the Internal Revenue Service. *Id.*  
18 The evidence of Rick Rizzolo's persistent disrespect for the tax laws of the United States is  
19 overwhelming. Rick Rizzolo's illegal behavior is compounded by his prior felony conviction for  
20 tax fraud and the fact that he is still on supervised release. Under these circumstances, it would  
21 be highly improper to allow Rick Rizzolo's term of supervised release to expire while he  
22 blatantly flaunts the oversight of the United States Government.  
23  
24

25 <sup>10</sup> Along with Rick Rizzolo's practice of only using untraceable forms of payment, he  
26 compounds the deceptive nature of his financial dealings by failing to keep any books or records.  
27 Indeed, Rick Rizzolo claims that the only record he keeps of his financial activity is the monthly  
28 report to his probation officer. *See* Exhibit "7," Rick Rizzolo's First Set of Interrogatory  
Responses. Further, as demonstrated herein, these monthly reports are often incomplete,  
misleading, or downright false.



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2 **B. Rick Rizzolo Has Repeatedly Breached The Conditions Of His Supervised**  
3 **Release Without Any Consequence Whatsoever**

4 In short, Rick Rizzolo's supervised release should be revoked or extended until such time  
5 as he compensates his victims and actually complies with the unequivocal conditions of his  
6 supervised release. Initially, the Henrys have not received one cent from Rick Rizzolo pursuant  
7 to his court-ordered restitution obligations. Rick Rizzolo has apparently agreed to pay \$1,000  
8 per month but such an amount is absurdly low given his massive debt to the Henrys and the  
9 exorbitant nature of his lifestyle. Indeed, Rick Rizzolo has consistently lived a lavish lifestyle  
10 since his release from federal prison even though he claims to make no income and hasn't made  
11 any substantial efforts to find gainful employment. It is an absolute travesty that the Henrys still  
12 lack compensation for their injuries while Rick Rizzolo is permitted to ignore his debts in  
13 totality.  
14

15 Notwithstanding the serious issue of Rick Rizzolo's unpaid restitution, he has also  
16 ignored the express strictures governing his supervised release and the Department of Parole and  
17 Probation is either unwilling or powerless to do anything about it. To be clear, Rick Rizzolo is  
18 barred from consummating any financial contracts without the approval of his probation officer;  
19 yet, he has received over \$1.1 million from his financial dealings since his release. Moreover,  
20 Rick Rizzolo failed to even disclose these transactions to his probation officer. Nevertheless, the  
21 Government has taken no action to enforce Rick Rizzolo's conditions of supervised release  
22 pertaining to the consummation of financial transactions.  
23

24 As noted above, Rick Rizzolo also incurred numerous credit card transactions at assorted  
25 restaurants, bars, and nightclubs in the period of time since his release from prison. He was  
26 allowed to do so despite the Government's express prohibition of new credit charges. Further,  
27 Rick Rizzolo failed to disclose any of these large credit charges in the monthly reports to his  
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probation officer. Once again, however, the Department of Parole and Probation appears to be entirely disinterested in taking any action.

In sum, Rick Rizzolo has altered the method, but not the manner, of his everyday lifestyle since his felony conviction for tax fraud and subsequent incarceration. He is not employed but still manages to spend thousands of dollars each month to support his very comfortable lifestyle. Rick Rizzolo still drives a luxury sports car and lives in an opulent home. Simply put, nothing has changed for Rick Rizzolo. Meanwhile, the Henrys struggle to make ends meet on a day-to-day basis as a direct result of Rick Rizzolo's illegal conduct. The parties tasked with enforcing the penalties of Rick Rizzolo's criminal acts have not take any substantive action to remedy the situation.

For those reasons, the Court should revoke or extend Rick Rizzolo's term of supervised release because if it does not, he may be able to avoid ever satisfying his debt to his victims. In addition, the Henrys request that the Court freeze Rick Rizzolo's assets and restrict his ability to enter into any substantial financial transactions.

**III. CONCLUSION**

For the foregoing reasons, Interested Parties Kirk and Amy Henry respectfully request that the Court grant Victims Kirk and Amy Henry's Motion under 18 U.S.C. 3663A to Revoke or Extend Rick Rizzolo's Terms of Supervision.

DATED this 9th day of September, 2010.

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CERTIFICATE OF SERVICE

I certify that I am an employee of Campbell & Williams and on the 9th day of September, 2010, service of a true and correct copy of the foregoing **MOTION UNDER 18 U.S.C. 3663A TO REVOKE OR EXTEND RICK RIZZOLO'S TERMS OF SUPERVISION** was made via CM/ECF to the following:

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