

1 LAW OFFICES OF KENNETH G. FRIZZELL, III
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 3 509 South Sixth Street
 Las Vegas, Nevada 89101
 Telephone: (702) 366-1230
 4 Facsimile: (702) 384-9961
 Attorney for Defendants
 5 FREDRICK J. RIZZOLO
 RICK AND LISA RIZZOLO FAMILY TRUST
 6 RICK J. RIZZOLO SEPARATE PROPERTY TRUST
 and RJR TRUST

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

* * *

9 KIRK and AMY HENRY,
 10
 Plaintiffs,

11 vs.

12 FREDRICK RIZZOLO aka RICK RIZZOLO,
 an individual; LISA RIZZOLO, individually
 13 and as trustee of The Lisa M. Rizzolo
 Separate Property Trust and as successor
 14 trustee of The Rick J. Rizzolo Separate
 Property Trust; THE RICK AND LISA
 15 RIZZOLO FAMILY TRUST; THE RICK J.
 RIZZOLO SEPARATE PROPERTY TRUST;
 16 THE LISA M. RIZZOLO SEPARATE
 PROPERTY TRUST; THE RLR TRUST; and
 17 THE LMR TRUST,

Defendants.

Case No.: 2:08-CV-635-PMP-GWF

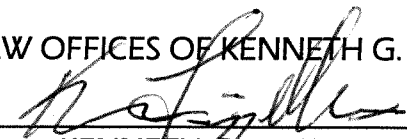
DEFENDANT RICK RIZZOLO'S
RESPONSE IN COMPLIANCE WITH
ORDER (#314), WHICH CONSTITUTE
DEFENDANTS' FOURTH
SUPPLEMENTAL ANSWERS TO
INTERROGATORIES AND
SUPPLEMENTAL RESPONSES TO
REQUEST FOR PRODUCTION OF
DOCUMENTS

19 COMES NOW, Defendant FREDRICK RIZZOLO a/k/a RICK RIZZOLO, et al., by and
 20 through counsel of record KENNETH G. FRIZZELL, III, of the LAW OFFICES OF KENNETH
 21 G. FRIZZELL, III, and respectfully submits this response in compliance with the Order re:
 22 Renewed Motion to Compel (#314).

23 DATED: April 26, 2010

24 LAW OFFICES OF KENNETH G. FRIZZELL, III

25 By



26 KENNETH G. FRIZZELL, III, ESQ.
 Nevada Bar #006303
 27 509 South Sixth Street
 Las Vegas, Nevada 89101

28 Attorney for Defendants
 FREDRICK J. RIZZOLO, RICK AND LISA RIZZOLO
 FAMILY TRUST; RICK J. RIZZOLO SEPARATE
 PROPERTY TRUST; and RJR TRUST

RESPONSE

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Order (#314, pg. 8, Ins. 15-19):

The Court orders Defendant to request any and all available statements from the institutions regarding these accounts and produce them to Plaintiffs. Defendant is also ordered to request and produce any records relating to his former Oppenheimer investment account. Of course, if Defendant actually possesses documents relating to these accounts, he is ordered to produce them to Plaintiffs.

Defendant, without waiver of any previously stated objections, provides the additional items listed below and attached as Exhibit "A":

	<u>TITLE OF DOCUMENT</u>	<u>STATEMENT DATE</u>
1.	Primerica - Account #: [REDACTED]	12-31-2009
2.	Oppenheimer - Account #: [REDACTED] <i>(No additional documentation will be forthcoming on this account due to inactivity, and the death of Bartholomew Rizzolo.)</i>	09-30-2009
3.	Lyons Limited Partnership Account # [REDACTED] Account held at Nevada Commerce Bank	09-28-2007 to present
4.	U.S. Airways Mastercard Account ending in 3982	03/15/2009 & 04/12/2009
5.	Request to Produce duplicate copy of John Hancock Policy #: [REDACTED]	
6.	Bank of America Statement Request - Closed Account #: [REDACTED] - All statements from 04/01/2001 to 08/22/2008 when account was closed have been requested.	
7.	Nevada State Bank - Closed Account #: [REDACTED] and Account #: [REDACTED] All statements from 01/01/2001 through 04/23/2010 have been requested.	

Further, Defendant would like to inform Plaintiffs and the Court, that to obtain the statements on the closed Nevada State Bank Accounts, he will be assessed fees in the amount of \$5.00 per page, as well as \$30.00 per hour spent locating same in the archives. Accordingly, once this bill has been presented and paid by Defendant, it will be forwarded to Plaintiffs' for reimbursement.

Order (#314, pg. 10, Ins. 12-16):

Defendant must provide the Plaintiffs with a complete statement as to why he is unable to produce documents relating to "The RLR Trust," including its bank account statements. Defendant Rizzolo must also provide full and complete information about his interest in the Philadelphia club or "enterprise" and the \$990,000 he reportedly received in relation to that enterprise.

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Defendant, without waiver of any previously stated objections, has been able to obtain certain document relevant to this proceeding, and hereby provides said items listed below and attached as Exhibit "B":

1. 11-2006 Promissory Note from Rick to LMR Trust \$200,000.
2. 03-11-02 Deed & Promissory Note \$ 1,200,000.
3. 03-11-02 Deed & Promissory Note \$ 1,5000,000.
4. 03-12-07 Lisa Auth.
5. 04-18-02 Statement to Rick.
6. 04-21-08 Wire Transfer \$990,000.00.
7. 04-24-08 RLR Trust Resolution \$500,000 from RLR to Rick.
8. 04-24-08 Auth from Rick RLR Trust-\$600.000 to Lisa; \$200,000 to Bart; \$ 100,000 to Patti Sgro.
9. 05-01-08 LSC Check to Lisa 599,975.00.
10. 06-27-06 Sun West Bank Confirmation of Deposit.
11. 07-07-08 Fax to JED w-Wire Transfer from Lions to RLR Trust \$990,000.
12. 07-17-08 \$88,290.50 Wire Transfer.
13. 08-01-06 LMR Trust Wiring Receipt.
14. 08-14-08 Bills from Bart Rizzolo.
15. 09-17-08 Southpac invoice.

Any remaining outstanding documents which Plaintiffs' believe are relevant to the instant matter are under the care, custody and control of John Dawson, Esq., and to Defendant's information and belief have been disclosed to the Plaintiffs as a result of subpoena to and deposition of, John Dawson, Esq.. Should any other relevant information be provided to Defendants from Mr. Dawson, said relevant information will be supplemented to Plaintiffs.

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1 Order (#314, pg. 11, Ins. 10-14):

2 Request No. 14 requested that Defendant produce all documents which
3 relate to the transfer of any real or personal property since September 20,
4 2001. To the extent that Defendant has any records regarding the 1958
5 Corvette or other items of personal property, he is ordered to produce them.
6 The Court, however, will not order Defendant to produce records that he
7 does possess or control.

8 Defendant, without waiver of any previously stated objections, provides a copy of
9 the following documents attached hereto as Exhibit "C".

- 10 1. Certificate of Title
- 11 2. Bill of Sale for said vehicle

12 Order (#314, pg. 11, Ins. 16-21):

13 There presumably is a policy of automobile insurance on the vehicle that
14 Defendant regularly uses and Defendant is ordered to produce a copy of the
15 insurance policy. If Defendant does not have the actual automobile
16 insurance policy, he should be able to obtain a declarations page for the
17 policy from the insurance company upon request or demand. Defendant
18 Rizzolo is therefore ordered to produce his automobile insurance policy(s)
19 or the declarations page of such policy(s).

20 Defendant, without waiver of any previously stated objections, provides a copy of
21 the following documents attached hereto as Exhibit "D".

- 22 1. Auto Insurance Coverage Summary - Policy #: [REDACTED]

23 Order (#314, pg. 11, Ins. 23-28, pg. 12, Ins. 1-3):

24 Defendant is ordered to produce any documents relating to loans made to
25 "Faraci," "M. Farris," and "S. Stein" and any documents relating to his living
26 arrangement at the residence of Cliff Diamond that are in his possession,
27 custody or control. If the loans or terms of his living arrangements are not
28 memorialized in any writing, then Defendant should so state in his
supplemental response. To the extent Defendant has documents relating to
financial support that Defendant provides to his son or receives from his
father, he is also ordered to produce such documents. The Court finds that
the interrogatories referenced by Plaintiffs in their motion do not necessarily
ask for information about loans to other persons, allowances paid by
Defendant to his son or financial support t that Defendant.

Defendant, without waiver of any previously stated objections, states:

1. In connection with loans made to "Faraci," "M. Farris," and "S. Stein", all such
loans were made prior to 2005, Defendant does not possess such documentation
concerning any of these loans. Further, Defendant believes that the S. Stein was subject
to discharge in the United States Bankruptcy Court.

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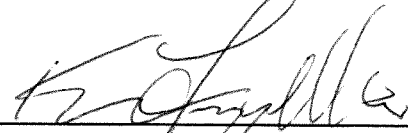
2. In connection with documentation relating to the living arrangements of the Defendant at the residence of Cliff Diamond, those arrangements are not memorialized in any writing, and cannot therefore be produced

3. In connection with documentation relating to financial support that Defendant provides to his son or received from his father, Defendant did provide some educational subsidies to his son, but none of the arrangements pertaining to the son or the father were memorialized in any writing, and cannot therefore be produced.

As a matter of form, the redacted version of this document has been filed with the court as proof of compliance with its Order #314.

DATED: April 26, 2010

LAW OFFICES OF KENNETH G. FRIZZELL, III

By 

KENNETH G. FRIZZELL, III, ESQ.
Nevada Bar #006303
509 South Sixth Street
Las Vegas, Nevada 89101
(702) 366-1230
Attorney for Defendants
FREDRICK J. RIZZOLO
RICK AND LISA RIZZOLO FAMILY TRUST
RICK J. RIZZOLO SEPARATE PROPERTY TRUST
RJR TRUST

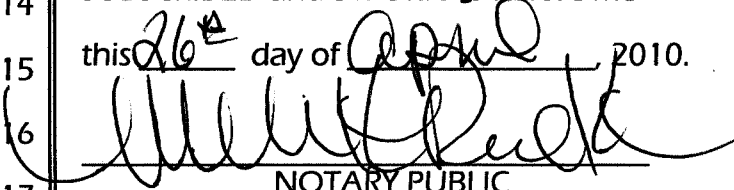
1 STATE OF NEVADA)
2 COUNTY OF CLARK)SS.

3 FREDRICK RIZZOLO, being first duly sworn, deposes and says:

4 That he a Defendant in the above entitled action; that he has read the foregoing
5 DEFENDANT RICK RIZZOLO'S RESPONSE IN COMPLIANCE WITH ORDER (#314), WHICH
6 CONSTITUTE DEFENDANTS' FOURTH SUPPLEMENTAL ANSWERS TO
7 INTERROGATORIES AND SUPPLEMENTAL RESPONSES TO REQUEST FOR PRODUCTION
8 OF DOCUMENTS and knows the contents thereof, and that the same is true of his own
9 knowledge except for those matters therein stated on information and belief, and as for
10 those matters he believes it to be true.


11 
12 FREDRICK RIZZOLO

13
14 SUBSCRIBED and SWORN to before me
15 this 26th day of April, 2010.

16 
17 NOTARY PUBLIC



18
19
20 SUBMITTED BY:
21 LAW OFFICES OF KENNETH G. FRIZZELL, III

22 By 
23 KENNETH G. FRIZZELL, III, ESQ.
24 Nevada Bar No. 006303
25 509 South 6th Street
26 Las Vegas, Nevada 89101
27 (702) 366-1230
28 Attorney for Defendant Frederick Rizzolo

CERTIFICATE OF SERVICE

I am a resident of and employed in Clark county, Nevada. I am over the age of 18 years and not a party to the within action. My business address is: 509 South 6th Street, Las Vegas, Nevada, 89101.

On April 26, 2010, I served this document on the parties listed on the attached service list via one or more of the methods of service described below as indicate next to the name of the served individual or entity by a checked box:

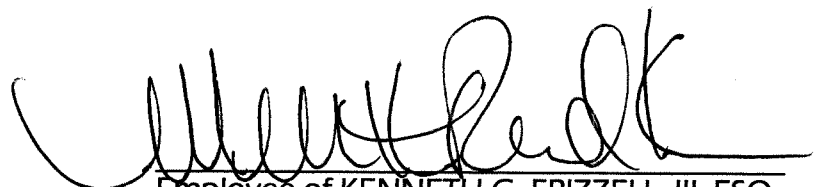
VIA U.S. MAIL: by placing a true and correct copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada. I am "readily familiar" with the firm's practice of collection and processing correspondence by mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage fully prepaid at Las Vegas, Nevada, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

VIA FACSIMILE: by transmitting to a facsimile machine maintained by the attorney or the party who has filed a written consent for such manner of service.

BY PERSONAL SERVICE: by personally hand-delivering or causing to be hand delivered by such designated individual whose particular duties include delivery of such on behalf of the firm, addressed to the individual(s) listed, signed by such individual or his/her representative accepting on his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery of the document will be maintained with the document and is attached.

BY E-MAIL: by transmitting a copy of the document in the format to be used for attachments to the electronic-mail address designated by the attorney or the party how has filed a written consent for such manner of service.

I declare that under penalty of perjury under the laws of the State of Nevada that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Employee of KENNETH G. FRIZZELL, III, ESQ.

SERVICE LIST

ATTORNEYS OF RECORD	METHOD OF SERVICE
George P. Kelesis, Esq. Mark B. Bailus, Esq. Marc P. Cook, Esq. Bailus, Cook & Kelesis, Ltd. 400 South 4 th Street, #300 Las Vegas, NV 89101	<input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Email Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input checked="" type="checkbox"/> CM/ECF Service (redacted)
C. Stanley Hunterton, Esq. Hunterton & Associates 333 South 6 th Street Las Vegas, NV 89101	<input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Email Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input checked="" type="checkbox"/> CM/ECF Service (redacted)
J. Colby Williams, Esq. Wade W. Rabenhorst, Esq. Donald J. Campbell, Esq. Jack F. DeGree, Esq. Campbell and Williams 700 South 7 th Street Las Vegas, NV 89101	<input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Email Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input checked="" type="checkbox"/> CM/ECF Service (redacted)
Paul Hejmanowski, Esq. Lionel, Sawyer & Collins 300 South 4 th Street, #1700 Las Vegas, NV 89101	<input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Email Service <input type="checkbox"/> Fax Service <input type="checkbox"/> Mail Service <input checked="" type="checkbox"/> CM/ECF Service (redacted)