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Kirk and Amy Henry

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

KIRK and AMY HENRY,

Plaintiffs,

vs.

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

Defendants.

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

**MOTION FOR INJUNCTIVE
RELIEF AGAINST THE
DISPOSITION OR TRANSFER
OF ASSETS**

Plaintiffs KIRK and AMY HENRY, by and through their attorneys of record, hereby file
the following Motion for Injunctive Relief Against the Disposition or Transfer of Assets.

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POINTS AND AUTHORITIES

I. INTRODUCTION

The Court should keep this fact in mind when addressing the instant request for injunctive relief: *Plaintiffs Kirk and Amy Henry have received approximately \$4,000 in restitution from Defendant Rick Rizzolo*. Indeed, Rick Rizzolo has paid next to nothing even though almost ten years have passed since Kirk Henry's vicious beating. During that time, Plaintiffs have suffered greatly with the costs of supporting a family on very limited income. Rick Rizzolo, on the other hand, has continued to enjoy a lavish lifestyle despite his purported lack of assets or income. While the United States Department of Parole and Probation seemingly turned a blind eye to Rick Rizzolo's conduct after his felony convictions, Plaintiffs did not.

During discovery in the instant action, Plaintiffs exposed a series of financial transactions arising out of Rick Rizzolo's sale of property in Philadelphia, Pennsylvania. The facts surrounding the Philadelphia sale were intentionally concealed by Defendants throughout this proceeding. Notwithstanding Defendants' deception, Plaintiffs have now confirmed that a substantial amount of money is being held for Rick Rizzolo's benefit with more accruing each month. It is, therefore, imperative that the Court grant Plaintiffs injunctive relief barring Rick Rizzolo or his associates from any acts designed to dissipate these funds and thereby frustrate Plaintiffs' recovery of the sum owed to them under the settlement agreement. Further, the Court should direct all such funds to the account of the Clerk for the United States District Court for the District of Nevada.

In addition, Defendant Lisa Rizzolo has at all times relevant hereto been complicit in Rick Rizzolo's scheme to defraud Plaintiffs and frustrate their recovery of funds owed under the settlement agreement. To that end, she engaged or participated in each and every financial transaction which Plaintiffs have alleged to be fraudulent including the sham divorce. Lisa

Rizzolo also acted for the benefit of Rick Rizzolo when she has made numerous payments on his behalf and failed to enforce the financial provisions of the divorce decree. As such, the Court should bar Lisa Rizzolo from transferring or dissipating any assets without seeking permission from His Honor.

II. FACTUAL BACKGROUND

At this stage, the Court is all too familiar with the details of Defendants' wrongful conduct. By way of background, however, Plaintiffs will revisit the relevant facts here.¹

- **Rick Rizzolo was Aware He was Under Investigation by Federal and State Law Enforcement Agencies for Decades**

Defendants' fraudulent scheme arose out of Rick Rizzolo's 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 "1," Deposition Testimony of Rick Rizzolo, p. 88-89; 96-97; See Exhibit "2," Las Vegas Sun article of February 22, 2003. He purports to believe that the basis for these investigations was his ethnicity and profession rather than his well-known association with known mobsters dating back to the 1970s. See Exhibit "1," Deposition Testimony of Rick Rizzolo, p. 96-97.

¹ In that regard, Plaintiffs request that the Court take judicial notice of the revocation proceedings which took place before His Honor on March 29, 2011 and May 9-11, 2011 in the case styled *United States v. The Power Company et al.*, Case No. 2:08-cr-00186. Plaintiffs also ask that the Court take judicial notice of the following pleadings filed in that same action: 1) Victims Kirk and Amy Henry's Motion to Revoke or Extend Defendant Rick Rizzolo's Term of Supervision (#357); 2) Victims Kirk and Amy Henry's Supplement to the Motion to Revoke or Extend Defendant Rick Rizzolo's Term of Supervision (#361); 3) Form 12C - Petition for Summons for Offender under Supervision as to Frederick John Rizzolo (#389); and 4) Order on Petition for Warrant (#390). See *United States ex. rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (Federal courts may "take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to the matters at issue").

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

15 As a result of these developments, Rick Rizzolo and his wife Lisa retained attorney John E.
 16 Dawson, Esq. for what they euphemistically referred to as "estate planning." In reality, Rick
 17 Rizzolo engaged Mr. Dawson to create a complex web of trusts, corporate entities, and
 18 partnerships for the purpose of asset protection. See Exhibit "4," Retention Letter. This network
 19 of entities would then hold all of the Rizzolos' personal assets and business interests. *Id.*

20 On August 30, 2001, the Rizzolos executed the formation documents for The Rick and Lisa
 21 Family Trust. They subsequently transferred the bulk of their real property and personal assets
 22 into The Rick and Lisa Family Trust.² That same day, the Rizzolos created the Lions Limited
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 25 ² It is indicative of Rick Rizzolo's intent that he claimed this trust was "never funded" in his
 26 sworn answers to the Henrys' written discovery requests in *Henry et al. v. Rizzolo et al.*, Case No.
 27 2:08-cv-635. See Exhibit "5," Rick Rizzolo's First Set of Interrogatory Responses. Obviously,
 28 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.

1 Partnership into which they transferred their holdings in the Power Company, Inc. The Power
2 Company owned the Crazy Horse Too. As such, the Rizzolos' ownership interest in the Crazy
3 Horse Too was held by the Lions Limited Partnership beginning in 2001.

4
5 On September 20, 2001, Kirk Henry was viciously assaulted by a manager of the Crazy
6 Horse Too. Shortly thereafter, on November 2, 2001, Rick Rizzolo executed the formation
7 documents for The RLR Trust which was held by Capital Security Bank in the Cook Islands. Mr.
8 Dawson recommended the use of an offshore trust because it would "provide a second layer of
9 asset protection." See Exhibit "4," Retention Letter. He also recommended that Rick Rizzolo
10 transfer certain funds to this offshore trust because "*in the event a U.S. Judge froze any of [his]*
11 *assets, the funds in the Oppenheimer Account would be totally protected and would not be*
12 *subject to being frozen.*" *Id.*

13
14 After the creation of this offshore trust, the Rizzolos transferred their partnership interests
15 in the Lions Limited Partnership to The RLR Trust in the Cook Islands. Accordingly, the
16 Rizzolos' ownership interest in the Crazy Horse Too was transferred to an offshore trust almost
17 immediately after the Henry incident.³ More importantly, the Rizzolos took this action with the
18 belief that their interests in the Lions Limited Partnership (and its bank accounts) would be
19 protected and not subject to seizure by a United States Judge. Further, the Rizzolos concealed the
20 existence of this foreign trust from the Internal Revenue Service despite receiving direct inquiries
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24 ³ Even though this is the practical effect of the Rizzolos' machinations, their web of business
25 entities and trusts is actually much more complicated. In reality, the Rizzolos each own 49.5% of
26 Lions Limited Partnership. A separate entity styled Domole LLC owns the remaining 1% and is
27 the single general partner of Lions Limited Partnership. In turn, Rick Rizzolo is the sole manager
28 and member of Domole LLC. Rick Rizzolo, for all intensive purposes, is the alter ego of Domole
LLC and Lions Limited Partnership.

1 on the subject. Suffice it to say, the wrongful intent behind this calculated course of action is
2 transparent.⁴

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4 • **The Rizzolos' Sham Divorce and Subsequent Conduct**

5 After years of civil litigation against the Henrys and with criminal charges pending against
6 Rick Rizzolo and The Power Company, the Rizzolos divorced on June 7, 2005. Under the division
7 of property contained therein, Lisa Rizzolo received almost all of the marital property. *See* Exhibit
8 "6," Divorce Decree. Rick Rizzolo received the Crazy Horse Too which both parties agreed was
9 speculative in value and could be subject to potential criminal penalties. *See* Exhibit "6," Divorce
10 Decree, Section X. Obviously, the circumstances surrounding the Rizzolos' divorce were highly
11 suspicious given the impending forfeiture of the property which constituted Rick Rizzolo's share
12 of the marital estate.
13

14 Indeed, the Rizzolos' conduct since the divorce only reinforces the belief that it was a
15 complete charade. Initially, Lisa Rizzolo has not made any attempt to enforce the provisions of the
16 divorce decree. First and foremost, Rick Rizzolo has not paid one cent of the \$5 million in spousal
17 support which he allegedly owes to Lisa Rizzolo. *See* Exhibit "1" Deposition Testimony of Rick
18 Rizzolo, p. 28. Lisa Rizzolo did not take any legal action to enforce this spousal support provision
19 prior to her deposition in this matter on May 12, 2009. *See* Exhibit "7," Deposition Testimony of
20 Lisa Rizzolo, p. 146-47. Likewise, Lisa Rizzolo paid the \$100,000 premium on Rick Rizzolo's
21 life insurance policy despite the fact that he is obligated to do so under the divorce decree. *See*
22 Exhibit "1" Deposition Testimony of Rick Rizzolo, p. 212-13.
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25 ⁴ The Rizzolos each created a variety of other trusts and corporate entities over the course of
26 the following years. One such trust is Lisa Rizzolo's corresponding offshore trust styled The LMR
27 Trust. Like Rick Rizzolo's offshore trust, The LMR Trust is held by Capital Security Bank in the
28 Cook Islands. At present date, The LMR Trust contains millions of dollars which Lisa Rizzolo
received in 2005 as part of the sham divorce.

Moreover, Rick and Lisa Rizzolo engaged in multiple large financial transactions since their divorce. For example, Lisa Rizzolo made interest-free loans to Rick Rizzolo in the amounts of \$200,000 and \$400,000 in November 2006 and March 2007 respectively. *Id.* at 153-61. Further, Lisa Rizzolo paid \$50,000 of Rick Rizzolo's legal bills in June 2007. *Id.* at 273-75. Lisa Rizzolo also made rent payments on the Crazy Horse Too during Rick Rizzolo's incarceration. *See* Exhibit "7," Deposition Testimony of Lisa Rizzolo, p. 208-09. Similarly, Rick and Lisa Rizzolo continue to share a checking account and credit card at Wells Fargo. *See* Exhibit "1," Deposition Testimony of Rick Rizzolo, p. 181-182. Rick Rizzolo likewise continued to receive important correspondence concerning his tax and financial interests at the marital home. These are just some of the indicators that the Rizzolos' divorce was a complete and utter sham.

• **The Sale of Rick Rizzolo's Interest In TEZ Real Estate LP**

On October 17, 2007, Lisa Rizzolo – acting as Rick Rizzolo's attorney-in-fact under a power of attorney dated May 2, 2007⁵ – executed the TEZ Real Estate LP purchase agreement ("Purchase Agreement") on behalf of Lions Limited Partnership; the entity through which Rick Rizzolo conducted almost all of his business. *See* Exhibit "9," Purchase of Limited Partnership Interest Agreement. In the Purchase Agreement, Rick Rizzolo agreed to sell his 1/3 interest in the Philadelphia property to the Piazza Family Limited Partnership for \$2,999,000. *Id.* The Purchase Agreement provided that Rick Rizzolo would receive \$1,999,000 immediately upon closing followed by an additional \$1 million with one year of closing. *Id.* This transaction was not disclosed to Plaintiffs nor was the Purchase Agreement ever produced during discovery.

⁵ Defendants have never produced the power of attorney which relates to the Philadelphia club although a power of attorney relating to the sale of the Crazy Horse Too was produced. *See* Exhibit "8," Power of Attorney of May 18, 2007. Based on what is presently known about Defendants' familial conspiracy to conceal funds arising out of the Philadelphia sale, it is no wonder that the power of attorney pertaining to that transaction never surfaced during discovery.

1 Thereafter, between March 25, 2008 and March 31, 2008, a then-incarcerated Rizzolo
2 executed a series of documents which constituted the First Amendment to the Purchase Agreement
3 ("First Amendment"). *See* Exhibit "10," First Amendment. Lisa Rizzolo also executed certain
4 documents relating to the First Amendment during this period of time. *Id.* In short, the First
5 Amendment altered the payment schedule and made it contingent on certain sales of stock by the
6 Piazza Family Limited Partnership. *Id.* As such, Rick Rizzolo would receive \$1 million as an
7 initial down payment and \$2 million to be paid in monthly installments beginning in April 2009.
8 *Id.*

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10 On April 1, 2008, the Piazza Limited Partnership disbursed the initial payment of \$1
11 million for the benefit of Rick Rizzolo. *See* Exhibit "11," Letter of April 1, 2008 and Checks.
12 Rick Rizzolo then deposited \$999,000 into the Lions Limited Partnership account at Nevada
13 Commerce Bank on April 3, 2008 – just one day before he was released from federal custody.
14 Less than three weeks later, Rick Rizzolo transferred the entirety of that sum to The RLR Trust in
15 the Cook Islands.

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17 Once the proceeds from the sale of the Philadelphia property were safely offshore, Rick
18 Rizzolo immediately disbursed the bulk of the funds as follows: \$600,000 to Lisa Rizzolo;
19 \$200,000 to Bart Rizzolo; and \$100,000 to the Law Firm of Patti Sgro & Lewis.⁶ *See* Exhibit "1,"
20 Deposition Testimony of Rick Rizzolo, p. 151-66. Shortly thereafter, Rick Rizzolo arranged for
21 the remainder – approximately \$90,000 – to be brought back from the Cook Islands and deposited
22 in the Lions Limited Partnership account at Nevada Commerce Bank. *Id.*

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26 ⁶ Rick Rizzolo allegedly authorized the disbursement of \$600,000 to Lisa Rizzolo to repay
27 her earlier interest-free loans to him in the amounts of \$400,000 and \$200,000. Like the earlier
28 transactions, this payment was secretly funneled through Rick and Lisa Rizzolo's respective
 offshore trusts in the Cook Islands.

1 Rick Rizzolo's surreptitious movement of funds from the Philadelphia sale did not end
2 there. On April 18, 2008, Rick Rizzolo executed an assignment of proceeds from the Philadelphia
3 sale in favor of his father Bartholomew Rizzolo in the amount of \$789,000. *See* Exhibit "12,"
4 Assignment of Proceeds of Sale. On March 2, 2009, just before the monthly payments were about
5 to begin, Rick Rizzolo executed the Second Amendment to the Purchase Agreement ("Second
6 Amendment") which memorialized this assignment of proceeds. *See* Exhibit "13," Second
7 Amendment. Bartholomew Rizzolo also signed the Second Amendment. *Id.*

8
9 In or about April 2009, the Piazza Family Limited Partnership began selling stock on a
10 monthly basis and making payments to Bartholomew Rizzolo pursuant to the Purchase Agreement
11 and the amendments thereto. The first payment was made to Bartholomew Rizzolo on April 20,
12 2009 in the amount of \$30,009.87. *See* Exhibit "14," April 20, 2009 Letter and accompanying
13 documents. In fact, the Piazza Family Limited Partnership actually sent the first check to Rick
14 Rizzolo. *Id.* Bartholomew Rizzolo received these monthly payments until he passed away in
15 March 2010. *See* Exhibit "15," Schedule of Payments. After Bartholomew Rizzolo's death, his
16 wife Kimtran Rizzolo became the recipient of the monthly payments from the Piazza Family
17 Limited Trust. *Id.*

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19 In October 2010, the assignment of proceeds was almost complete so the Piazza Family
20 Limited Partnership issued two checks; one to Kimtran Rizzolo in the amount of \$30,000 and
21 another to the Lions Limited Partnership in the amount of \$27,500. *See* Exhibit "16," Check
22 Stubs. The check made out to Lions Limited Partnership was directed to Rick Rizzolo. *Id.*
23 Accordingly, Rick Rizzolo received a payment as recently as October 2010 which dwarfed the
24 miniscule amount of restitution that Plaintiffs have received in the course of almost ten years since
25 Kirk Henry's brutal beating.
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1 Of course, Rick Rizzolo knew at that point that Plaintiffs were aware of his pecuniary
2 interest in the Philadelphia club and he actively moved to distance himself from the money. On
3 October 26, 2010, Kimtran Rizzolo returned the check made payable to Lions Limited Partnership
4 with a note instructing the Piazza Family Limited Partnership to "please issue this check under my
5 name." *See* Exhibit "17," October 26, 2010 E-mail and attachment. Further, Rick Rizzolo's
6 attorney Dominic Gentile attempted to shield Rizzolo from the illicit funds. *See* Exhibit "18,"
7 November 3, 2010 E-mail.
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9 Vincent Piazza's attorney replied to the e-mail on the following day and acknowledged the
10 Rizzolos' arrangement to conceal the movement of funds from the Philadelphia sale. *See* Exhibit
11 "19," November 4, 2010 Letter. He also committed to placing the future proceeds from the sale of
12 stock into a separate account held for the benefit of the Lions Limited Partnership and, in turn,
13 Rick Rizzolo. *Id.* At present date, the separate account maintained by the Piazza Family Limited
14 Partnership for the benefit of Rick Rizzolo contains in excess of \$100,000 and increases with each
15 passing month. For the reasons set forth below, the Court should enjoin the disposition or transfer
16 of said funds and order that they be placed in the account of the Clerk for the United States District
17 Court for the District of Nevada. Additionally, the Court should freeze Lisa Rizzolo's disputed
18 assets and only permit the use or transfer of such funds with permission of His Honor.
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21 **III. ARGUMENT**

22 The Nevada Uniform Fraudulent Transfer Act defines certain rights and remedies available
23 to a creditor seeking to avoid a fraudulent transfer. *See* NRS 112.210. In addition to avoidance, a
24 creditor may be entitled to "[a]n injunction against further disposition by the debtor or a transferee,
25 or both, of the asset transferred or of other property." NRS 112.210(c)(1).
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1 To be sure, courts regularly issue pre-judgment relief under the UFTA to enjoin the
2 potential dissipation, concealment, or transfer of disputed funds. *See, e.g., United States v.*
3 *Runnells*, 335 F.Supp.2d 724 (E.D. Va. 2004) (entering order restraining defendant from diverting
4 and concealing assets and income to avoid paying restitution); *Dargan v. Ingram*, 2009 WL
5 1437564 (W.D. Wash. May 22, 2009) (granting injunction to freeze assets where defendant
6 fraudulently transferred cash and assets to wife in order to frustrate restitution order to plaintiff);
7 *Pashaian v. Eccelston Prop., Ltd.*, 88 F.3d 77 (2d Cir. 1996) (granting injunction where defendant
8 conducted a series of asset transfers to frustrate collection of existing judgment).
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10 A creditor seeking injunctive relief under the UFTA must demonstrate that the basic
11 elements of a preliminary injunction are met. “A plaintiff seeking a preliminary injunction must
12 establish 1) that he is likely to succeed on the merits; 2) that he is likely to suffer irreparable harm
13 in the absence of preliminary relief; 3) that the balance of equities tips in his favor; and 4) that an
14 injunction is in the public interest.” *Johnson v. Couturier*, 572 F.3d 1067, 1078 (9th Cir. 2009)
15 (quoting *Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7 (2008)). In the Ninth Circuit, a
16 preliminary injunction is appropriate if the plaintiff demonstrates that “serious questions going to
17 the merits [are] raised and the balance of hardships tips sharply in the plaintiffs favor.” *Lands*
18 *Council v. McNair*, 537 F.3d 981, 987 (9th Cir. 2008).
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21 “In each case, courts must balance the competing claims of injury and must consider the
22 effect on each party of the granting or withholding of the requested relief.” *Indep. Liv. Cntr. of*
23 *Southern Cal, Inc. v. Maxwell-Jolly*, 572 F.3d 644, 651 (9th Cir. 2009) (quoting *Winter v. Natural*
24 *Res. Defense Council, Inc.*, 555 U.S. 7 (2008)). “If the balance of harm tips decidedly toward the
25 plaintiff, then the plaintiff need not show as robust a likelihood of success on the merits as when
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the balance tips less decidedly.” *State of Alaska v. Native Village of Venetie*, 856 F.2d 1384, 1389 (9th Cir. 1988). The foregoing elements are easily met here.

A. Plaintiffs Are Likely To Succeed On Their Cause Of Action To Avoid Defendants’ Numerous Fraudulent Transfers

Here, it is readily apparent that Plaintiffs have obtained more than enough evidence of wrongdoing by Defendants to succeed on their claim under the UFTA. In fact, this proceeding would have already been brought to trial but for Defendants’ abusive litigation tactics and the discovery of additional evidence of fraudulent behavior and participants thereto. In sum, Plaintiffs have identified multiple fraudulent transfers which should be avoided including but not limited to 1) Rick and Lisa Rizzolo’s sham divorce; 2) a series of supposed “loans” from Lisa Rizzolo to Rick Rizzolo and his repayment of said “loans” out of the proceeds from the Philadelphia sale; and 3) Rick Rizzolo’s assignment of proceeds from the Philadelphia sale to Bartholomew and Kimtran Rizzolo.

A creditor acting under the Nevada Uniform Fraudulent Transfer Act may seek “avoidance of the [fraudulent] transfer...to the extent necessary to satisfy the creditor’s claim.” NRS 112.210. A transfer made by a debtor is fraudulent as to the creditor, whether the creditor’s claim arose before or after the transfer was made, if the debtor made the transfer with actual intent to hinder, delay, or defraud any creditor of the debtor. NRS 112.180. In determining actual intent to hinder, delay, or defraud creditors, a court should consider the following badges of fraud:

- The transfer was to an insider;
- The debtor retained possession or control of the property transferred after the transfer;
- The transfer was disclosed or concealed;
- Before the transfer was made, the debtor has been sued or threatened with suit;
- The transfer was of substantially all the debtor’s assets;

- The debtor absconded;
- The debtor removed or concealed assets;
- The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred;
- The debtor was insolvent or became insolvent shortly after the transfer was made;
- The transfer occurred shortly before or shortly after a substantial debt was incurred; and
- The debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

NRS 112.180(2)(a)-(h).

At the outset, *Rick Rizzolo expressly admitted that he intentionally transferred assets to frustrate Plaintiffs' ability to recover funds owed to them under the settlement agreement.* See Exhibit "1," Deposition Testimony of Rick Rizzolo, p. 293-295. Moreover, the Honorable Magistrate Judge Foley determined that Rick Rizzolo's pervasive misconduct and concealment of evidence during discovery would support a judicial finding of fraudulent intent. See Order (#437). Accordingly, even though Rick Rizzolo's fraudulent intent is undeniable, Plaintiffs will briefly assess the existence of the foregoing badges of fraud.

1. Insider Transaction

To begin with, each and every fraudulent transaction identified by Plaintiffs involves "insiders." An "insider" for the purposes of the UFTA constitutes "a relative of the debtor." NRS 112.150. Rick Rizzolo's fraudulent scheme to defraud Plaintiffs not only involved his wife, Lisa Rizzolo, but also his father, Bartholomew Rizzolo, and stepmother, Kimtran Rizzolo. To be sure, Defendants' familial conspiracy to assist Rick Rizzolo's evasion of his legal obligations is an important factor when establishing fraudulent intent under the UFTA.

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2. Control Over Transferred Assets

The evidence also demonstrates that Rick Rizzolo retained substantial control over the assets transferred to Lisa Rizzolo in the divorce. Indeed, Lisa Rizzolo's interest-free loans to Rick Rizzolo for hundreds of thousands of dollars are indicative of fraudulent conduct. Moreover, Lisa Rizzolo has repeatedly taken care of Rick Rizzolo's financial obligations such as legal bills, rent payments on the Crazy Horse Too, and life insurance premiums. This arrangement is even more egregious when one considers that Rick Rizzolo supposedly owes Lisa Rizzolo more than \$5 million in alimony payments; an obligation which she has never sought to enforce.⁷

3. Concealment of Transfers and Assets

The fraud indicator of concealment is also very apparent here as evidenced by the fact that Rick Rizzolo is currently subject to revocation of his supervised release for failing to disclose financial dealings to his probation officer and the Internal Revenue Service. Rick Rizzolo never disclosed the massive financial transactions or cash inflows to which he was a party even though his terms of supervised release expressly required him to do so. In addition, Lisa Rizzolo did not disclose the existence of her foreign trust to the Internal Revenue Service despite the fact that it contains millions of dollars received in the sham divorce.

Rick Rizzolo also blatantly perjured himself during his deposition in the instant action. For example, Rizzolo repeatedly denied having any knowledge about the Lions Limited Partnership and claimed to not be aware of the nature of its business or who controlled the entity. *See Exhibit "1,"* Deposition of Rick Rizzolo, Pgs. 69-70, 239-40, 267-68, 292. Similarly, Rizzolo made

⁷ Plaintiffs also believe that Rick Rizzolo exercised substantial control over the funds which were allegedly transferred to Bartholomew and Kimtran Rizzolo. Indeed, testimony given at the revocation proceedings indicates that Rick Rizzolo received substantial amounts of money from Bartholomew and Kimtran Rizzolo in the past. For example, Bartholomew and Kimtran Rizzolo have paid tens of thousands of dollars to attorneys for Rick Rizzolo's benefit.

1 multiple misrepresentations relating to his interest in TEZ Real Estate LP including that 1) he sold
2 his interest in 2003; 2) he did not remember executing any documents relating to the sale; 3) that
3 he received a total of \$1 million from the sale in one bulk payment; and 4) he was not entitled to
4 receive any more money from the sale. *Id.* at 127, 131-32, 281-282.
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6 Further, Rick and Lisa Rizzolo's concealment of their fraudulent scheme throughout
7 discovery in this proceeding is highly persuasive. Neither party willfully disclosed the existence of
8 the Cook Islands trusts or the disputed "loans." Similarly, Rick and Lisa Rizzolo never informed
9 Plaintiffs of the Philadelphia transaction despite their mutual participation and sharing of the
10 proceeds. Rick Rizzolo likewise failed to disclose significant sales of property like the 1958
11 Corvette and his collection of expensive jewelry. Lisa Rizzolo, on the other hand, repeatedly
12 refused to disclose complete information regarding her domestic and foreign holdings of liquid
13 assets and real property received in the divorce.
14

15 Defendants have also been extremely lax in complying with their ongoing duty to
16 supplement discovery. For instance, Rick Rizzolo and Lisa Rizzolo have not supplemented their
17 discovery responses since October 14, 2010 and October 21, 2010, respectively. In light of the
18 newly discovered evidence and developments detailed herein, Defendants cannot dispute that their
19 discovery responses are woefully inadequate. It is indicative of Defendants' conduct that Plaintiffs
20 were only able to confirm many of their suspicions once the U.S. government sought the
21 revocation of Rick Rizzolo's supervised release. There can be no question that Defendants' every
22 action during discovery has been couched in deception and outright perjury.
23

24 4. Existence of Pending or Threatened Litigation

25 Suffice it to say, civil and criminal litigation has followed the Rizzolos since September 20,
26 2001 – the date of Kirk Henry's beating. Plaintiffs immediately sued in state court while the
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1 federal government escalated its ongoing criminal investigation of Rick Rizzolo and the Power
2 Company. Under those circumstances, Rick and Lisa Rizzolo's "divorce" in 2005 was highly
3 suspicious given the impending criminal charges that would require forfeiture of the Crazy Horse
4 Too. Similarly, Defendants executed the remaining fraudulent transfers with actual knowledge of
5 Rick Rizzolo's debt to Plaintiffs. Defendants likewise knew that Plaintiffs and the Internal
6 Revenue Service were actively searching for available assets. Obviously, Defendants'
7 surreptitious acts were carried out to frustrate creditors in potential litigation.
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10 **5. Transfer of All Assets in Anticipation of a Substantial Debt and for
Less than Reasonable Equivalent Value**

11 Simply put, Rick and Lisa Rizzolo's divorce bears many of the other hallmarks of a
12 fraudulent transfer. In sum, Rick Rizzolo transferred the entirety of the marital estate to Lisa
13 Rizzolo while only retaining the Crazy Horse Too which he knew would be subject to forfeiture
14 and other criminal penalties. Defendants may assert that the division of property was equal
15 because the Crazy Horse Too was supposedly worth more than the assets that Lisa Rizzolo
16 received in the divorce. This is nonsense. Rick and Lisa Rizzolo expressly agreed in the divorce
17 decree itself that the value of the Crazy Horse Too was "speculative," which is simply stating the
18 obvious considering their knowledge that it would soon be subject to forfeiture. Accordingly, the
19 sham divorce constituted a transfer of all of Rick Rizzolo's assets in anticipation of the substantial
20 restitution order that would accompany his criminal conviction.
21

22 It is clear that, beginning with the sham divorce and ending with Rick Rizzolo's assignment
23 of funds to Bartholomew and Kimtran Rizzolo, Defendants conducted numerous transfers of
24 property with the intent to hinder, delay, and defraud Plaintiffs. In a rare moment of veracity, Rick
25 Rizzolo blatantly admitted to transferring assets with the intent to frustrate Plaintiffs' recovery of
26 the substantial debt owed to them. Moreover, Defendants' actions are stained with multiple
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1 badges of fraud as set forth by the UFTA. Accordingly, Plaintiffs will succeed in the instant action
2 which justifies the entry of injunctive relief as requested herein.

3
4 **B. Plaintiffs Will Suffer Irreparable Harm If Injunctive Relief Is Not Granted
Restricting The Transfer Of Proceeds From The Philadelphia Sale**

5 Plaintiffs anticipate that Defendants will argue that there is no danger of irreparable harm
6 because the disputed funds are not in danger of dissipation prior to the conclusion of the instant
7 lawsuit. Indeed, counsel for Rick Rizzolo stated as much in reference to the proceeds from the
8 Philadelphia sale when he admitted during the revocation proceedings that Rizzolo has no claim to
9 the money and it should be directed to Plaintiffs or the Internal Revenue Service. Such assurances
10 by counsel, however, do not obviate the need for injunctive relief over the proceeds from the
11 Philadelphia sale or the assets which Lisa Rizzolo received in the sham divorce and subsequent
12 fraudulent transfers.
13

14 A defendant's prior conduct will justify a finding of irreparable harm for the purposes of
15 injunctive relief pursuant to the UFTA. In *Dargan v. Ingram*, for example, the court held that
16 irreparable harm was present where defendants had "demonstrated the ability and willingness to
17 hide assets, frustrating plaintiff's efforts at restitution." 2009 WL 1437564, *6 (W.D. Wash. May
18 22, 2009). In that case, the court ruled that the defendant's "violations of the terms of the
19 Restitution Order indicate that a preliminary injunction is necessary to prevent the consumption,
20 dissipation, or fraudulent conveyance of [the defendant's] assets." *Id.*
21

22 Similarly, in *Caterpillar Inc. v. Jerryco Footwear, Inc.*, 880 F.Supp. 578, 586-87 (C.D. Ill.
23 1994), the court addressed the element of irreparable harm by first noting that "the defendants have
24 committed premeditated, fraudulent, bad faith acts and have given false testimony in proceedings
25 before the court." With that background, the court held as follows:
26
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1 Considering the defendants' past intentionally deceptive, bad faith acts, the court
2 finds that there is a high probability that, absent a preliminary injunction, the
3 defendants would engage in further acts designed to defraud CAT and frustrate
4 enforcement of any judgment the court might enter. This is a form of irreparable
5 harm warranting preliminary injunction relief.

6 *Id* at 587.

7 Simply put, Rick Rizzolo has not demonstrated any willingness whatsoever to repay his
8 debt to Plaintiffs. To the contrary, Rick Rizzolo – with the assistance of his family – has
9 uniformly sought to frustrate Plaintiffs' recovery of the amount owed under the settlement
10 agreement. The funds being held by the Piazza Family Limited Partnership for Rick Rizzolo's
11 benefit are not secure unless the Court takes control of the assets. Likewise, the Court should
12 account for future monthly payments which will eventually amount to more than \$1 million.

13 The assets which Rick Rizzolo fraudulently transferred to Lisa Rizzolo in the sham divorce
14 and so-called "loan repayments" are equally insecure. To be sure, the bulk of such funds are held
15 in Lisa Rizzolo's offshore trust which was expressly created to evade the power of United States
16 courts. The remaining assets are no safer as substantial real property is shielded by the domestic
17 trusts established John Dawson to frustrate creditors. Simply put, there is no oversight over the
18 disputed property held by Lisa Rizzolo or guarantee that it will still be there when Plaintiffs secure
19 a judgment under the UFTA.
20

21 Plaintiffs spent the last decade suffering as a result of Rick Rizzolo's criminal acts and
22 have received almost nothing in return. Further, there is no light at the end of the tunnel because
23 Rick Rizzolo has no desire to fulfill his legal obligations. Rick Rizzolo already disposed of almost
24 2/3 of the total sum received from the sale of his interest in TEZ Real Estate without contributing
25 anything to Plaintiffs. He also disposed of a variety of personal assets including the 1958 Corvette
26 and his collection of personal jewelry. Lisa Rizzolo holds the rest of Defendants' marital assets
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1 including millions in cash in a foreign trust which she attempted to conceal throughout discovery
2 in this proceeding. Clearly, Defendants were complicit in the underhanded scheme to protect Rick
3 Rizzolo from the consequences of his criminal conduct and preclude any recovery by Plaintiffs.
4

5 For that reason, the remaining funds from the Philadelphia sale represent a vital
6 opportunity for Plaintiffs because it is their best opportunity to receive meaningful compensation
7 directly from Rick Rizzolo. Moreover, the fraudulently transferred assets held by Lisa Rizzolo are
8 in significant danger because she is free to engage in further acts to obstruct Plaintiffs' eventual
9 recovery in this lawsuit. As such, Plaintiffs will suffer irreparable harm in the absence of a
10 preliminary injunction.
11

12 **C. The Balance Of Equities Undoubtedly Favors Plaintiffs Given The Underlying**
13 **Circumstances Of This Proceeding**

14 Once again, Plaintiffs have only received \$4,000 from Rick Rizzolo in nearly ten years
15 since Kirk Henry was rendered a quadriplegic at the Crazy Horse Too. In that time, Plaintiffs have
16 struggled to support two children despite their inability to maintain gainful employment. The
17 financial burden on Plaintiffs will only increase once Karsyn, Plaintiffs' youngest child, joins her
18 older brother Justin in college. Further, Plaintiffs must cover the cost of Kirk Henry's ongoing
19 healthcare which, given the severity of his injuries, is quite substantial. Plaintiffs struggle to make
20 ends meet on a daily basis and the blame for that travesty can be laid solely at the feet of Rick
21 Rizzolo.
22

23 Meanwhile, Rick Rizzolo has continued to live a luxurious lifestyle as if nothing ever
24 happened. His credit card bills demonstrate that he regularly dines at fine restaurants and parties in
25 posh nightclubs on the Las Vegas strip. He still drives a Mercedes Benz 600SL sports car. Rick
26 Rizzolo is not afraid to flaunt his lavish lifestyle either as he recently appeared in open court
27 wearing a Rolex worth approximately \$30,000 (more than seven times the miniscule amount he
28

1 has paid to Plaintiffs). In fact, Rick Rizzolo never even attempted to find gainful employment
 2 until late 2010 when the U.S. Attorney finally got around to enforcing the terms of his supervised
 3 release. For her part, Lisa Rizzolo has never had to seek employment or even attempted to enforce
 4 the alimony provision in the divorce decree. Indeed, it is difficult to imagine a scenario where the
 5 balance of equities could tip any further in favor of Plaintiffs.
 6

7 **D. The Public Interest Requires That Rick Rizzolo Fulfill His Restitution To**
 8 **Plaintiffs And A Preliminary Injunction Freezing The Proceedings Of The**
 9 **Philadelphia Sale Advances That Goal**

10 Rick Rizzolo and the Power Company pled guilty to conspiracy to commit tax fraud and
 11 racketeering in 2006. As part of these guilty pleas, Rick Rizzolo entered into a restitution order for
 12 the victims of his criminal activity including Plaintiffs. Now, almost five years after the entry of
 13 such pleas, the restitution owed to Plaintiffs (which amounts to more than \$13 million at this stage)
 14 remains unpaid. Obviously, Rick Rizzolo's miniscule monthly payments of \$1,000 are nothing
 15 short of offensive given his recent financial dealings.

16 Rick Rizzolo's failure to fulfill his restitutionary obligations to Plaintiffs conflicts with the
 17 public interest and warrants the entry of an injunction. *See, e.g., United States v. Delgado*, 321
 18 F.3d 1338, 1349 (11th Cir. 2003) (stating that the defendant "fairly owes restitution and payment
 19 of restitution is in the public interest"); *In re Worldcom, Inc. Sec. Litig.*, 2002 WL 31729501, *9
 20 (S.D.N.Y. 2002) (addressing the "important consideration" of the public's interest in preserving
 21 the criminal defendants' assets as a source of payment of potential restitution orders).
 22

23 Indeed, the public's interest in ensuring that Rick Rizzolo fulfills the restitution order to
 24 Plaintiffs is especially high under these circumstances. Rick Rizzolo has essentially avoided the
 25 consequences of his criminal misconduct through deception and perjury. Moreover, Rick
 26 Rizzolo's refusal to pay restitution to Plaintiffs constitutes a drain of judicial resources as his
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actions have necessitated multiple proceedings in state and federal court. In addition, Rick Rizzolo remains on supervised release which will likely be revoked and/or extended in the near future thereby increasing costs to the taxpaying public. The public interest, therefore, heavily favors an injunction freezing any existing and future proceeds from the Philadelphia sale and directing all such assets to the account of the Clerk for the United States District Court for the District of Nevada.

IV. CONCLUSION

Accordingly, it is respectfully requested that this Court grant Plaintiffs' Motion for Injunctive Relief against the Disposition or Transfer of Proceeds from the Sale of Rick Rizzolo's Interest in TEZ Real Estate LP.

DATED this 6th day of June, 2011.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing was served on the 6th day of June, 2011 via the Court's CM/ECF electronic filing system addressed to all parties on the e-service list.

/s/ Philip R. Erwin, Esq.
An Employee of Campbell & Williams