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HUNTERTON & ASSOCIATES
C. STANLEY HUNTERTON, ESQ. (1891)
333 S. Sixth Street
Las Vegas, Nevada 89101
Telephone: (702) 388-0098
Facsimile: (702) 388-0361
and
CAMPBELL & WILLIAMS
DONALD J. CAMPBELL, ESQ. (1216)
PHILIP R. ERWIN, ESQ. (11563)
700 South Seventh Street
Las Vegas, Nevada 89101
Telephone: (702) 382-5222
Facsimile: (702) 382-0540

Attorneys for Interested Parties
Kirk and Amy Henry

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

)	
Plaintiffs,)	Case No. 2:06-cr-00186-PMP-PAL
)	
vs.)	VICTIMS KIRK AND AMY
)	HENRY'S OPPOSITION TO
POWER COMPANY INC., doing business as)	DEFENDANT RICK RIZZOLO'S
THE CRAZY HORSE TOO, and)	MOTION FOR LEAVE TO
FREDERICK JOHN RIZZOLO)	NEGOTIATE AN OFFER IN
)	COMPROMISE WITH THE
Defendants.)	<u>INTERNAL REVENUE SERVICE</u>
)	

Victims KIRK and AMY HENRY, by and through their attorneys of record, hereby file the following Opposition to Defendant Rick Rizzolo's Motion for Leave to Negotiate an Offer in Compromise with the Internal Revenue Service.

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POINTS AND AUTHORITIES

In the Motion for Leave to Negotiate (#451), Defendant Rick Rizzolo essentially requests permission to offer the remaining proceeds from his surreptitious sale of real property in Philadelphia, Pennsylvania to the Internal Revenue Service. If the Court grants this request then the Henrys will have received nothing from a financial transaction conducted by Rick Rizzolo after his conviction and worth approximately \$3 million. To be sure, Rizzolo already distributed most of the initial payment of approximately \$1 million to Lisa Rizzolo, Bartholomew Rizzolo, and the law firm of Patti & Sgro. *See* Exhibit “1,” Deposition Testimony of Rick Rizzolo, p. 19. He used the remainder for personal expenses. *Id.* at 278. Thereafter, Rick Rizzolo assigned an additional \$789,000 to Bartholomew and Kim Tran Rizzolo. *See* Exhibit “2,” Assignment of Proceeds.

Here, Rizzolo seeks to give hundreds of thousands of dollars which are being held by the Piazza Family Limited Partnership to the IRS. Moreover, Rizzolo proposes to “assign” any and all future payments to the IRS which will eventually amount to approximately \$1.3 million. In exchange, Rizzolo requests satisfaction of his outstanding tax debt from 2006 under the guise that such a compromise will allow him to make paltry restitution payments of \$1,000 per month to the Henrys. The Court should reject Rizzolo’s request on equitable grounds as this “compromise” would constitute yet another injustice on the Henrys.

The Henrys have received next to nothing from Rizzolo in almost ten years. Indeed, Rizzolo’s miniscule monthly payments of \$1,000 are nothing more than tiny drops in the bucket when compared to the millions of dollars owed in restitution. Obviously, Rizzolo will never fulfill his debt to the Henrys at the current rate of payment. Nevertheless, Rizzolo now proposes to convey the remaining proceeds from the Philadelphia sale – an astounding sum of approximately \$1.3 million – to the IRS without paying the Henrys a dime. In fact, Rizzolo even has the gall to

1 cite his purported struggle to pay the Henrys monthly restitution in support of his request. His
2 fundamental disregard for the Henrys seemingly knows no bounds.

3
4 Rizzolo's scheme is even more preposterous when one considers that the Henrys
5 discovered the Philadelphia sale in the first place and brought it to the Government's attention.
6 Indeed, it is undisputed that the Department of Parole and Probation, US Attorneys office, and IRS
7 would have no knowledge of Rizzolo's deceitful financial transactions without the Henrys'
8 expenditure of time and resources. Rizzolo certainly would not be requesting the chance to assign
9 approximately \$1.3 million to the IRS in repayment of his substantial tax debt. To be clear, the
10 Henrys do not dispute the IRS's entitlement to the funds owed by Rizzolo. That said, to
11 completely freeze the Henrys out of the proceeds from the Philadelphia sale would offend the basic
12 notions of equity and fair play inherent in the federal judicial system.¹

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23 ¹ It is also important to note that the existing and future proceeds from the Philadelphia sale
24 are subject to multiple claims by the Henrys. Initially, the Henrys asked that the Court convey any
25 existing and future proceeds from the Philadelphia sale in their Memorandum on Victims Rights
26 (#449). Rizzolo's counsel had previously represented that he would not oppose such a request.
27 See Exhibit "3," Transcript of May 11, 2011 Hearing, p. 60-61. His position in that regard has
28 clearly changed. Further, the Henrys filed a Motion for Injunctive Relief seeking to freeze the
disputed funds in their civil action styled *Henry et al. v. Rizzolo et al.*, Case No.: 2:08-cv-635. The
Court should consider the timing and pendency of these requests when addressing the instant
Motion.

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Accordingly, Victims Kirk and Amy Henry request that the Court deny Defendant Rick Rizzolo's Motion for Leave to Negotiate an Offer in Compromise with the Internal Revenue Service.

DATED this 30th day of June, 2011.

HUNTERTON & ASSOCIATES

CAMPBELL & WILLIAMS

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

By /s/ Philip. R. Erwin
DONALD J. CAMPBELL, ESQ. (1216)
PHILIP R. ERWIN, ESQ. (11563)
700 South Seventh Street
Las Vegas, Nevada 89101

Attorneys for Victim Amy Henry

Attorneys for Victim Kirk Henry

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing was served on the 30th 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