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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

15 KIRK and AMY HENRY,

16 Plaintiffs,

17 vs.

18
19 FREDRICK RIZZOLO aka RICK RIZZOLO,
20 an individual; LISA RIZZOLO, individually
21 and as trustee of The Lisa M. Rizzolo Separate
22 Property Trust and as successor trustee of
23 The Rick J. Rizzolo Separate Property Trust;
24 THE RICK AND LISA RIZZOLO FAMILY
25 TRUST; THE RICK J. RIZZOLO SEPARATE
26 PROPERTY TRUST; THE LISA M. RIZZOLO
27 SEPARATE PROPERTY TRUST; THE RLR
28 TRUST; and THE LMR TRUST,

Defendants.

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

**PLAINTIFFS' RENEWED
MOTION TO COMPEL
DEFENDANT RICK RIZZOLO
TO ANSWER AND RESPOND
TO KIRK HENRY'S FIRST SET
OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION
AND FOR APPROPRIATE
FRCP 37 SANCTIONS**

1 upon my personal knowledge, and if called upon to testify, I would testify as set forth in this
2 Declaration.

3 2. I am a licensed attorney in the State of Nevada Bar Number 11102. I am an
4 associate in the law firm CAMPBELL & WILLIAMS. I am one of the attorneys representing
5 Plaintiffs Kirk and Amy Henry in the above-captioned action.
6

7 3. On November 19, 2009, I spoke to Mr. Rizzolo's counsel, Mr. Kenneth Frizzell,
8 III, Esq., regarding a date for Mr. Rizzolo's deposition. I further requested a meet-and-confer
9 conference to discuss Mr. Rizzolo's inadequate discovery responses. *See* November 19, 2009
10 Email, attached hereto as Exhibit "1." Mr. Rizzolo's deposition was set for December 17, 2009.
11

12 4. On December 2, 2009, I again informed Mr. Frizzell that supplementation of Mr.
13 Rizzolo's discovery responses must be made at least a week prior to his deposition. I explained
14 that Mr. Rizzolo's most recent discovery responses (received on April 20, 2009) are evasive,
15 incomplete, and even misleading. *See* December 2, 2009 Letter, attached hereto as Exhibit "2."
16

17 5. On December 3, 2009, Mr. Frizzell represented that his files and records for this
18 case were still incomplete. He then requested I provide him with all discovery propounded to
19 and answered by Mr. Rizzolo in addition to a list of items deemed insufficient. He wanted to
20 supplement after an initial meet-and-confer and then request a second meet-and-confer if
21 additional information was required to be produced. *See* December 3, 2009 Letter, attached
22 hereto as Exhibit "3." I then immediately left a message with Mr. Frizzell and emailed him, and
23 specifically reminded Mr. Frizzell of his obligation to obtain his client's discovery files
24 especially since he appeared in this action nearly two months prior. I then made myself
25 available for an immediate meet-and-confer on the following day and offered to conduct it at
26 our offices with his client's discovery. *See* December 3, 2009 Email, attached hereto as Exhibit
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1 “4.” Mr. Frizzell explained that neither he nor Mr. Rizzolo’s former counsel are in possession
2 of the most recent discovery responses. He again requested that he be provided with the
3 responses and advised that he would be unable to meet and confer in the morning due to other
4 court appearances. *See* December 3, 2009 Email (2), attached hereto as Exhibit “5.”

5 6. On December 4, 2009, I provided every one of Mr. Rizzolo’s answers,
6 responses, and supplements to Plaintiff’s First Set of Interrogatories and Requests for
7 Production to Mr. Frizzell. He agreed to review them prior to the meet-and-confer conference
8 which we scheduled for December 7, 2009. *See* December 4, 2009 Email, attached hereto as
9 Exhibit “6.”
10

11 7. On December 7, 2009, Mr. Frizzell and I conducted a telephonic meet-and-
12 confer conference for over an hour in hopes of resolving the dispute over his client’s inadequate
13 responses. Following this meeting, I provided Mr. Frizzell with a detailed list of discovery
14 reviewed and those he agreed to supplement, and expressed reservations during the meeting
15 concerning his ability to provide complete supplementation prior to Mr. Rizzolo’s deposition.
16 Accordingly, Plaintiffs vacated Mr. Rizzolo’s deposition to allow Mr. Frizzell an additional
17 three weeks to collect the materials. *See* December 11, 2009 Letter, attached hereto as Exhibits
18 “7.”
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20 8. On December 28, 2009, I reminded Mr. Frizzell that a complete supplementation
21 was due by January 4, 2009. *See* December 28, 2009 Letter, attached hereto as Exhibit “8.”
22

23 9. On January 6, 2009, Plaintiffs were served with Mr. Rizzolo’s third supplemental
24 answers and responses to the first set of interrogatories and requests for production. This
25 supplementation remains incomplete and inadequate.
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- 1 • Account statements held in the name of “The RLR Trust” at Capital Security
2 Bank Limited; this is the account Rizzolo deposited the proceeds of his \$990,000
3 interest in the sale from the Philadelphia club into; Rizzolo’s previous discovery
4 responses indicated this trust or account “was never funded with assets” and there
5 “is no such trust in existence today.”
- 6 • Account statements for the Primerica IRA and SEP Investment accounts also
7 disclosed pursuant to his Third Supplemental Answer to Interrogatory No. 3; the
8 latter was never disclosed until recently; Plaintiffs have repeatedly requested
9 statements from the former account and Rizzolo (through his counsel) agreed to
10 produce them but has failed to do so; *See* Ex. 8 p. 5; Request for Production No.
11 12.
- 12 • Monthly account statements for the Nevada State Bank account referenced in both
13 his Third Supplemental Answer to Interrogatory No. 3 and in the previously
14 described supervision records produced in this action (#248).
- 15 • Rizzolo’s 2008 federal income tax return must be produced. Rizzolo’s Second
16 Supplemental Response to Request No. 1 explains he is “[p]resently requesting
17 this information from the IRS and will provide said documents once received.” At
18 the time of the filing of this Motion, however, Plaintiffs have not received the
19 foregoing document despite requesting it long ago. *See* Ex. 8 p. 4. Plaintiffs will
20 withdraw this request if Rizzolo complies with his stated intent prior to oral
21 argument on this Motion.
- 22 • Documentation regarding the trust interests he has had since September 20, 2001;
23 a complete answer and production will certainly include documents evidencing
24 trust formation; a listing of assets held under the trusts; correspondence
25 concerning the trusts; and the dispositions of property pursuant to the trust. This
26 is the same type of information that was requested at the meet-and-confer
27 conference but Rizzolo simply answered with “No supplement.” *See* Ex. 8 p. 3;
28 Interrogatory No. 12; Request for Production No. 13.
- Details concerning the sale of the Philadelphia club; Rizzolo received \$990,000
from the sale of his interests in the Philadelphia club; this money was deposited in
his offshore account held at Capital Security Bank Limited in the name of “The
RLR Trust” and then immediately withdrawn; though some of this information
can be produced under the request for bank statements, additional documentation
concerning this disposition should likewise be produced including, but not limited
to, the purchase and sale agreements.
- Financial assistance provided by his father, Bart Rizzolo; Rizzolo (through his
counsel) admits he is getting financial help from his father; Rizzolo never
disclosed these benefits until recently; Plaintiffs asked for documentation

1 concerning it; the extent of this aid must be answered and all documents
2 evidencing these transactions must be produced. *See* Ex. 8 p. 6; Request for
Production Nos. 15, 22.

- 3 • Loans of money given to “Faraci,” “M. Farris,” and “S. Stein,” which are
4 identified in the previously described supervision records (#248) for various
5 amounts; Plaintiffs requested information pertaining to claims against others
6 which indeed includes any unpaid amounts concerning these loans but Rizzolo
7 provides nothing; additionally, documents showing the funds given to his son as
8 an “allowance,” also identified in the supervision records must be produced;
Plaintiffs specifically asked for details concerning transfers of property to his
“children” but Rizzolo provides no such documentation; *See* Ex. 8 p. 3-4;
Interrogatory Nos. 11, 15; Request for Production Nos. 14, 22.
- 9 • Details concerning the sale of personal property, primarily the jewelry and the
10 1958 Corvette disclosed in the supervision records (#248); Plaintiffs specifically
11 asked for the details concerning the disposition of his “jewelry” but Rizzolo only
12 provides the vague explanation that it was sold to family members; *See* Ex. 8 p. 2;
Answer to Interrogatory No. 3.
- 13 • Insurance policies including, but not limited to, the auto and health insurance
14 policies he is continuously paying for that were identified through the production
15 of the supervision records (#248); Plaintiffs requested insurance information at
16 the meet-and-confer conference including the policy, the company, the number,
17 the limits, and all relevant documents but Rizzolo only includes a single statement
from his life insurance policy; *See* Ex. 8 pp. 3, 5; Interrogatory No. 14; Request
for Production No. 11.
- 18 • Details concerning Rizzolo’s living arrangement at the residence owned by Cliff
19 Diamond; Plaintiffs specifically asked for this information including “amounts
20 paid for rent and the terms” of the lease; Rizzolo, however, claims that this
21 information was produced in redacted form as part of the supervisions records
(#248) but Plaintiffs see nothing therein that represents the terms of his use of this
real property. *See* Ex. 8 p. 2; Interrogatory No. 4; Request for Production No. 9.

22 Plaintiffs have requested this information over-and-over again throughout discovery but
23 attempts have been to no avail without judicial intervention. Discovery continues to shed new
24 light on information demonstrating what appears to be Rizzolo’s feigned ignorance and
25 apparent misunderstanding of the meaning of simple document requests such as “monthly bank
26 statements,” “trust documents,” “gifts,” and “loans” for production.
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1 The foregoing list of can conceivably be responsive to several of the written discovery
2 requests Plaintiffs propounded on Mr. Rizzolo. For purposes of brevity, however, Plaintiffs
3 omit a large number of these interrogatories, requests for production, and Mr. Rizzolo's
4 responses thereto from the text of this Motion. The following subsections comply with LR 26-
5 7(a) for resolution of this Motion. Rizzolo must again be compelled to answer and produce
6 documents responsive to Plaintiff Kirk Henry's First Set of Interrogatories and Requests for
7 Production.
8

9 **II. ARGUMENT**

10 **A. Financial Information Is Fundamental In Fraudulent Transfer Cases**

11 Plaintiffs' Second Amended Complaint (#200) contends "Defendants Rick and Lisa
12 Rizzolo engaged in a concerted effort to conceal and/or alienate the ownership of their assets in
13 an effort to avoid and/or frustrate the Plaintiffs in their eventual efforts to recover the substantial
14 damages sustained." Indeed, the Court has already held that Plaintiffs are entitled to discovery
15 pertaining to the movement and location of Rizzolo's various assets, whether presently or
16 previously owned. In pursuit of this information, Plaintiffs served pattern interrogatories and
17 requests for production on Rizzolo on October 1, 2008. Information within the scope of these
18 requests is routinely produced in cases involving fraudulent transfers.¹ *See, e.g., In re Heritage*
19 *Bond Litigation*, 223 F.R.D. 527 (C.D. Cal. 2004) (bank statements, tax returns, and documents
20 evidencing real property interests are "clearly relevant" documents in a UFTA action). These
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24 ¹ Courts often refer to cases brought pursuant to the fraudulent transfer provisions of the
25 Bankruptcy Code (11 U.S.C. § 548) in resolving discovery issues and other matters. "Although
26 the Uniform Act and the common law thus provide the substantive law in this case, cases
27 construing the Bankruptcy Code counterparts are persuasive authority due to the similarity of
28 the laws in this area." *In re Agricultural Research and Technology Group, Inc.*, 916 F.2d 528,
534 (9th Cir. 1990). The discovery produced in fraudulent transfer cases brought under the
UFTA and The Bankruptcy Code is consistent with the discovery (financial information) sought
by Plaintiffs in this case.

1 Interrogatories and Requests for Production lead to the most essential information in a UFTA
2 case. Specifically, this written discovery is pertinent to the identification of Rizzolo's assets
3 and the movement and tracing of his interests in these assets. Accordingly, Rizzolo must again
4 be compelled to produce.

5 ○ ***Bank and Credit Card Statements***

6
7 **Request No. 23:** Produce documents which record, reflect, refer or relate to defendant's
8 domestic and/or foreign bank accounts, regardless of whether the same be held in sole or joint
names since September 20, 2001, to the present date.

9 **Response:** Objection, irrelevant and not designed to lead to admissible evidence.
10 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
11 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
12 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
debtor's exam.

13 **Supplemental Response:** (same objection); Without waiving said objection;
14 See: Exhibit "F" attached hereto.

15 **Second Supplemental Response:** No Supplement. Additionally, this
16 request is subject to the collateral source rule, and as such, Plaintiffs may subpoena the account
17 statements directly from the bank.

18 This Request falls under the scope of financial information. The relevance of financial
19 information in the form of account statements is apparent because they document the tracing
20 and movement of funds – the central feature in a UFTA action. One of the primary
21 representations of a litigant's financial condition is the information contained in bank
22 statements, and the production of these statements is routinely compelled. *See In re Mendez,*
23 *2008 WL 597280 (E.D. Cal. 2008) (plaintiff's motion to compel production of bank statements*
24 *granted because the "statements are more probative on the point for which they are offered than*
25 *any other evidence which the proponent can procure through reasonable efforts because they*
26 *show all of defendant's transactions for a period of approximately ten years..."); In re*
27
28

1 *Dubrowsky*, 244 B.R. 560, 579 (E.D. N.Y. 2000) (“...finding that [defendant] failed to turn over
2 various financial documents including credit card accounts, bank statements and cancelled
3 checks despite a Court order that he turn over those documents, establishes a sufficient basis for
4 those sanctions.”); *In re Harmon*, 379 B.R. 182, 185 (M.D. Fla. 2007) (court granted motion to
5 compel turnover of documents which included “bank statements and cancelled checks for
6 twelve months prepetition for all accounts as to which either of them had signing authority or
7 held title, directly or beneficially...”); *In re Hamblen*, 354 B.R. 322, 328 (N.D. Ga. 2006)
8 (“...Court ordered the debtors to produce copies of all bank statements and cancelled
9 checks...”).
10

11 In *Mendez*, the plaintiff brought a cause of action under California’s codified version of
12 the UFTA and alleged the transfer was made with the “actual intent to hinder, delay, or defraud
13 creditors.”² *Id.* at *2. The Court granted plaintiff’s motion to compel and ordered ten years of
14 Defendant’s bank statements be produced but the issue did not rest with the motion to compel.
15 *Id.* at *8. That is, the bank statements were ultimately admitted at trial because they are
16 “probative” and “the interests of justice will best be served by [their admission] because they
17 were produced in response to a court order, and thus puts teeth into the court’s order compelling
18 the production of these documents.” *Id.* at *9.
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21 The foregoing authority demonstrates that one of the best sources for determining
22 Rizzolo’s financial condition is through the use of account statements. Moreover, the
23 transactions detailed on these statements are representative of funds transfers during the relevant
24 time periods pled in the Second Amended Complaint (#200). Plaintiffs have asked for this
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26 ² See Second Amended Complaint (#200), p. 7 (“That the transfers made and the obligations
27 incurred by Rick and Lisa Rizzolo were fraudulent as to the Henrys...because the Rizzolos
28 made transfers and otherwise incurred obligations with the *actual intent to hinder, delay, or defraud* the Henrys.”) (emphasis added).

1 information multiple times throughout discovery but Rizzolo refuses to produce the relevant
2 documents. Most recently, he refused to produce responsive documents when asked for “debit
3 or credit card” statements. *See* Ex. 8 pp. 3-6. Forthcoming answers and corresponding
4 documents are specifically relevant to Interrogatory No. 3 listed herein as well as Request for
5 Production No. 23. As such, his production must be compelled since Plaintiffs are indeed
6 prevented from conducting a meaningful deposition of Rizzolo.
7

8 ○ ***Tax Returns***

9 **Request No. 1:** Produce any federal and state income tax returns for the years 2000 through
10 2008 as filed by defendant, regardless of whether such filing was jointly with another or
11 individually or as principal member of a business entity.

12 **Response:** Objection, irrelevant and not designed to lead to admissible evidence.
13 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
14 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
15 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
16 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
17 debtor’s exam. Without waiving said objection; See: tax returns included in due diligence
18 documents for Crazy Horse Too produced herewith on a disc.

19 **Supplemental Response:** (same objection); Without waiving said objection;
20 See: Exhibit “A”, “B”, “C”, and “D” attached hereto.

21 **Second Supplemental Response:** Presently requesting this information
22 from the IRS, and will provide said documents once received.

23 The ordered production of financial information in UFTA cases does not rest with bank
24 statements, as tax returns must similarly be produced. *See, e.g., In re Victor Intern., Inc.*, 278
25 B.R. 67, 76 (D. N.J. 2002) (court imposed the “ultimate sanction” and struck the defendant’s
26 pleadings after failure to produce tax returns because “the court cannot permit its orders to be
27 flouted”). The tax returns are relevant to establishing Rizzolo’s income levels at various
28 points in time including, but not limited to: (1) before and after the September 20, 2001
incident; (2) before and after the 2005 divorce; (3) before and after the seizure of the club; and

1 (4) before and after Rizzolo's release from prison. As such, Rizzolo must produce his 2008 tax
2 return.

3 ○ ***Trust Information***

4 ***Interrogatory No. 12:*** List any property you hold or have held as trustee of a testamentary or
5 inter vivos trust since September 20, 2001, and identify any trust you have created or
6 contributed to for the benefit of others since September 20, 2001.

7 ***Answer:*** Objection, irrelevant and not designed to lead to admissible evidence.
8 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
9 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
10 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
11 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
debtor's exam. Without waiving said objection, at one time my former wife and I created a
family trust for estate planning purposes. I am informed and do believe that said trust was never
funded with assets.

12 ***Supplemental Answer:*** (same answer); Without waiving said objection, at one
13 time my former wife and I created a family trust for estate planning purposes. I am informed
14 and do believe that said trust was never funded with assets except that our family home may
15 have been titled to the trust before my divorce. I am further informed and do believe that there
is no such trust in existence today.

16 ***Second Supplemental Answer:*** I believe there was a family trust when I
17 was still married but was never funded. John Dawson attorney was the creator. I also was a
trustee for Bart Rizzolo years ago but am no longer you can't be a felon and manage a trust.

18 ***Request No. 13:*** Produce all documents which reflect, refer, record or relate to any trust under
19 which defendant is or was settlor or beneficiary, at any time from September 20, 2001, to the
20 present date.

21 ***Response:*** Objection, irrelevant and not designed to lead to admissible evidence.
22 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
23 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
24 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
debtor's exam. Without waiving said objection; ***See:*** Exhibit "A" attached hereto.

25 ***Supplemental Response:*** No Supplement.
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1 In a UFTA case, discovery of all relevant information pertaining to the interests held by
2 Rizzolo in the numerous trusts he established is also permitted. In *F.D.I.C. v. Elio*, 39 F.3d
3 1239 (1st Cir. 1994), the court embraced measures to protect the plaintiff's interests in a
4 potentially fraudulent transfer involving a trust. There was evidence plaintiff "had been
5 frustrated in its attempts to obtain discovery with respect to the assets of the two trusts..." *Id.* at
6 1247. In this case, several trusts have been named as parties to this action. Plaintiffs' diligent
7 efforts to obtain discovery on the family trusts have been met with nothing but a complete lack
8 of cooperation. Various trust agreements and related documents from Defendant Lisa Rizzolo
9 have been produced but none of these documents consist of trust account maintenance
10 concerning "The RLR Trust," which Mr. Rizzolo uses and controls for his benefit.
11

12
13 ○ ***General Financial Information***

14 ***Interrogatory No. 3:*** State the full description and present location and ownership of any asset
15 or property you presently possess. If any such asset or property is not presently owned by you,
16 state the full details concerning its disposition by you, including to whom it went, when, and for
what consideration, including its sale price, if any.

17 ***Answer:*** Objection, irrelevant and not designed to lead to admissible evidence.
18 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
19 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
20 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
debtor's exam.

21 ***Supplemental Answer:*** (same objection); Without waiving said objection, I
22 have my clothes and personal possessions with me where I live as a roommate with a friend.
23 I've got a watch and a few items of jewelry which I may have to sell to a pawn shop for living
expenses. I did sell my car for living expenses and the IRS seized everything else.

24 ***Second Supplemental Answer:*** Misc jewelry and clothes that I currently
25 possess. And there is nothing that I possess that I don't own.

26 ***Third Supplemental Answer:*** The Federal Court has provided
27 appropriate copies of information provided to the United States Government through the United
28 States Probation Department under documents #248.

1 Personal: Clothing and personal possessions. The personal cash which I
2 have been living on came from the sale jewelry to family members and the sale of my
3 1955 Corvette in August 2008.

4 Bank/Financial Accounts: Nevada Commerce Bank Account #: [REDACTED]
5 [REDACTED] for Lions Limited Partnership, balance \$280.00; Nevada State Bank, Account #:
6 [REDACTED], closed; Nevada State Bank, Account #: [REDACTED] closed; Bank of
7 America, Account#: [REDACTED], closed; Oppenheimer, Account #: [REDACTED];
8 balance \$0.63.

9 Real Estate: NONE.

10 Vehicles: 2005 Mercedes SL 55, registered to Lions Limited Partnership,
11 current value unknown; 1955 Corvette which was sold August 2008.

12 Life Insurance: No personal ownership. John Hancock policy has a value
13 of \$259,680.93 and was awarded to ex-spouse in the divorce. Additional lien against
14 policy by divorce judgment as collateral against judgment obligations. Dominick
15 Rizzolo is Trustee for Lisa Rizzolo.

16 Retirement Investment/SEP/IRA: Energy Transfer Partners LP, Account #:
17 [REDACTED] held as SEP Investment, balance \$ 10,334.00; Primerica IRA, Account #:
18 [REDACTED] balance \$61,714.91.

19 Contingent Assets: Lawsuit against Michael Signorelli; Sale of the Crazy
20 Horse, dependent on protection of the name and the previous FDIC sale of the
21 underlying loan.

22 Debts: Average monthly household expenses, average monthly medical
23 expenses; American Express XXXX-[REDACTED] monthly payment; Mastercard/Visa XXXX-
24 [REDACTED] monthly payment.

25 Interrogatory No. 4: State the location and estimated present market value of any and all
26 ownership or leasehold interest in any real property you presently have or have held since
27 September 20, 2001, to the present date.

28 Answer: Objection, irrelevant and not designed to lead to admissible evidence.
Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
debtor's exam. Without waiving said objection, I do not have any present interest in real
property.

Supplemental Answer: I do not have any present interest in any real property.
Past property see divorce decree and government seizure.

Second Supplemental Answer: No Supplement. As for the residential
information in connection with Mr. Diamond, this information was provided to the United
States Probation Department and has been released in redacted form by the Court in document
#248.

1 **Interrogatory No. 5:** State the cost, location and estimated present market value of each item of
2 personal property owned by you, including but not limited to vehicles of any sort, firearms,
3 collections (stamps, coin, sports memorabilia, etc.), tools, and equipment of any sort as of
4 September 20, 2001, to the present date.

5 **Answer:** Objection, irrelevant and not designed to lead to admissible evidence.
6 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
7 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
8 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
9 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
10 debtor's exam. Without waiving said objection, this answering Defendant owns no vehicles,
11 firearms, collections, tools or equipment.

12 **Supplemental Answer:** I do not own any vehicles, firearms, collections of any
13 kind except some sports memorabilia misc maybe worth 10-15 thousand, no tools or equipment.
14 Government seized most of sports memorabilia.

15 **Second Supplemental Answer:** No supplement. This interrogatory has
16 been asked, answered and supplemented. Any remaining sports memorabilia was and is located
17 in the warehouses and was subject to seizure with the remainder of the Crazy Horse complex.

18 **Third Supplemental Answer:** No supplement.

19 **Interrogatory No. 19:** List any creditors you have at the present time and the amount and terms
20 of the debt along with any property which you claim is exempt from collection by plaintiff or
21 any other creditors.

22 **Answer:** Objection, irrelevant and not designed to lead to admissible evidence.
23 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
24 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
25 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
26 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
27 debtor's exam. Without waiving said objection; See: Exhibit "B" attached hereto.

28 **Supplemental Answer:** No I have not been a party to purchase any of my assets.

Second Supplemental Answer: See supplement to Answer #3 above. In
connection with Lisa Rizzolo, no supplement, as that information has already been disclosed.

Request No. 9: Produce all titles, leases or other evidence of any possessory interest for any
house, apartment, office, warehouse, garage, or other real estate held by defendant since
September 20, 2001, to the present date.

Response: Objection, irrelevant and not designed to lead to admissible evidence.
Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If

1 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
2 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
3 debtor's exam. Without waiving said objection, this answering Defendant has no such
4 documents. Documents regarding the Industrial Road property, which was owned by Ricriz,
5 LLC, are produced herewith on discs.

6 **Supplemental Response:** No Supplement.

7 **Request No. 11:** Produce all insurance policies, including life, personal property, automobile,
8 homeowners, or business liability insurance policies, owned by defendant or under which
9 defendant is or was named as a beneficiary, at any time from September 20, 2001, to the present
10 date.

11 **Response:** Objection, irrelevant and not designed to lead to admissible evidence.
12 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
13 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
14 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
15 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
16 debtor's exam. Without waiving said objection, this answering Defendant has no such
17 documents.

18 **Supplemental Response:** See Response to Request #6 above.

19 **Request No. 12:** Produce all documents which reflect, refer, record or relate to any interest in a
20 pension or profit sharing plan owned by defendant at any time from September 20, 2001, to the
21 present date.

22 **Response:** Objection, irrelevant and not designed to lead to admissible evidence.
23 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
24 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
25 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
26 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
27 debtor's exam. Without waiving said objection, this answering Defendant has no such
28 documents.

29 **Supplemental Response:** IRA Primerica # [REDACTED] balance as of March 31,
30 2009 61,714.91

31 **Second Supplemental Response:** See Response to Request #6 above.

32 **Request No. 14:** Produce all documents which reflect, refer, record or relate to any assignments
33 or transfers of real or personal property made by Defendant to any other person at any time from
34 September 20, 2001, to the present date.

35 **Response:** Objection, irrelevant and not designed to lead to admissible evidence.
36 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent

1 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
2 Plaintiffs establish that an order of the Eighth Judicial District Court is a fraud, they still have to
3 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
4 debtor's exam. Without waiving said objection; See: Exhibit "A" attached hereto.

5 **Supplemental Response:** No Supplement.

6 **Request No. 15:** Produce all documents which constitute or embody all applications for loans,
7 credit and/or financial assistance made or submitted by defendant, either alone or jointly with
8 another person, at any time from September 20, 2001, to the present date whether personal or on
9 behalf of any entity in which defendant held an interest of any kind or type.

10 **Response:** See: Security Pacific Bank loan documents produced herewith on a disc.

11 **Supplemental Response:** See Security Pacific Bank and there was a loan prior
12 to Security Pacific Bank with Nevada Commerce which Security Pacific paid off. Government
13 has loan application.

14 **Second Supplemental Response:** No Supplement.

15 **Request No. 22:** Produce documents which record or reflect gifts given to or received from
16 relatives, friends, or any other individual or entity during the years 2001 through the present
17 date.

18 **Response:** Objection, irrelevant and not designed to lead to admissible evidence.
19 Plaintiffs have alleged that the divorce of FREDRICK & LISA RIZZOLO was a fraudulent
20 transaction designed to avoid paying Plaintiffs on a claim that was unliquidated and disputed. If
21 Plaintiffs establish that an order of the Eighth Judicial District court is a fraud, they still have to
22 obtain a judgment for damages for discovery of personal assets to be permissible in a judgment
23 debtor's exam. Without waiving said objection this answering Defendant has no such
24 documents.

25 **Supplemental Response:** No Supplement.

26 Courts compel the production of financial information when the fraudulent transfers
27 concern property exchanged from spouse to spouse. *See Hanger Orthopedic Group, Inc. v.*
28 *McMurray*, 181 F.R.D. 525 (M.D. Fla. 1998) (wife compelled to answer interrogatories
"regarding assets, bank accounts, and fraudulent transfers of property to the wife") *citing G-*
Fours, Inc. v. Miele, 496 F.2d 809, 813 (2d Cir. 1998). It is essential to know Rizzolo's current
and past assets; a tracing of all property disposed of; and the timeframe for such disposal.

1 Therefore, Answers and Responses unfortunately must be compelled by this Court in order to
2 obtain a complete, accurate response from Rizzolo to the foregoing discovery requests.

3 Moreover, Rizzolo has made reference to several other financial arrangements which
4 warrant scrutiny in this action, yet he refuses to produce documents reflecting these dealings.
5 These documents fall under the scope of financial requests and supplementation has been
6 requested on numerous occasions, including the most recent meet-and-confer conference. The
7 following details documents which were discussed during discovery but Plaintiffs remain
8 without; they would indeed provide a stronger understanding of Rizzolo's financial condition.
9

10 Some of this information should be produced pursuant to Plaintiffs' requests for bank
11 statements, tax returns, and trusts information discussed earlier herein. However, answers and
12 documents to these requests are encompassed under several of the other distinct written
13 discovery requests Plaintiffs issued to Rizzolo. *See* Interrogatory No. 3 (present assets and
14 dispositions of property); No. 4 (ownership and leasehold interest in real property); No. 5 (items
15 of personal property); No. 19 (creditors and terms); *See also*, Request for Production No. 9
16 (possessory interests in real property); No. 11 (insurance policies); No. 12 (pensions and profit
17 sharing plans); No. 14 (transfers of real or personal property); No. 15 (applications for credit or
18 financial assistance); No. 22 (gifts given to or received); No. 27 (creditors claims). Rizzolo has,
19 nevertheless, employed nearly every tactic imaginable to shun his discovery obligations and
20 prevent complete and accurate discovery of his financial information. This is demonstrated by
21 the relevant information yet to be disclosed and/or produced after nearly 16 months.
22
23
24

25 **B. Appropriate Sanctions Should Be Imposed On Rizzolo**

26 A party may move to compel discovery if the opposing party fails to answer
27 interrogatories or fails to respond to a request for the production of documents. Fed. R. Civ. P.
28

CERTIFICATE OF SERVICE

1
2 I certify that I am an employee of Campbell & Williams and that I did, on the 5th day
3 of February, 2010, serve upon the attorneys in this action a copy of the foregoing
4 **PLAINTIFFS' RENEWED MOTION TO COMPEL DEFENDANT FREDRICK**
5 **RIZZOLO TO ANSWER AND RESPOND TO KIRK HENRY'S FIRST SET OF**
6 **INTERROGATORIES AND REQUESTS FOR PRODUCTION AND FOR**
7 **APPROPRIATE FRCP 37 SANCTIONS** via the Court's CM/ECF filing system to the
8 following:
9

10 Mark B. Bailus, Esq.
11 Bailus, Cook & Kelesis, Ltd.
12 400 South Fourth Street, #300
13 Las Vegas, Nevada 89101

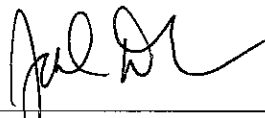
14 *Attorneys for Defendant/Cross Claimant*
15 *Lisa Rizzolo, The Lisa M. Rizzolo*
Separate Property Trust, and The LMR Trust

16 Kenneth G. Frizzell, III
17 Law Offices of Kenneth G. Frizzell
18 509 South Sixth Street
19 Las Vegas, Nevada 89101

20 *Attorneys for Rick Rizzolo,*
The Rick and Lisa Rizzolo Family Trust,
The Rick J. Rizzolo Separate Property Trust,
21 *And The RLR Trust*

22 C. Stanley Hunterton, Esq.
23 Hunterton & Associates
24 333 South Sixth Street
25 Las Vegas, Nevada 89101

26 *Attorneys for Plaintiff Amy Henry*



27 _____
28 An Employee of Campbell & Williams