

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 NANYAH VEGAS, LLC, A Nevada limited
3 liability company,

4 Petitioner,

5 v.

6 CLARK COUNTY DISTRICT COURT,
7 THE HONORABLE NANCY ALLF,
8 DEPARTMENT 27,

9 Respondent,

10 SIG ROGICH aka SIGMUND ROGICH as
11 Trustee of The Rogich Family Irrevocable
12 Trust; ELDORADO HILLS, LLC, a Nevada
13 limited liability company; TELD, LLC, a
14 Nevada limited liability company; PETER
15 ELIADES, individually and as Trustee of the
16 The Eliades Survivor Trust of 10/30/08;
17 IMITATIONS, LLC, a Nevada limited
18 liability company DOES I-X; and/or ROE
19 CORPORATIONS I-X, inclusive,

20 Real Parties in Interest.

Electronically Filed
Jun 27 2019 11:24 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

SUPREME COURT CASE
NO: _____

CASE NO. A-13-686303-C
DEPT. NO.: XXVII

CONSOLIDATED WITH:
CASE NO.: A-16-746239-C

PETITIONER'S
APPENDIX
VOLUME 1

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 Attorneys for Nanyah Vegas, LLC

CHRONOLOGICAL

<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>BATES</u>
Complaint	7/31/13	1	PA_0001-0021
First Amended Complaint	10/21/13	1	PA_0022-0042
Order Granting Partial Summary Judgment	10/1/14	1	PA_0043-0045
Order of Reversal and Remand	2/12/16	1	PA_0046-0048
Complaint	11/4/16	1	PA_0049-0067
Stipulation for Consolidation	3/31/17	1	PA_0068-0071
Order: (1) Granting Defendants Peter Eliades, Individually and as Trustee of the Eliades Survivor Trust of 10/30/08, and Teld, LLC's Motion for Summary Judgment; and (2) Denying Nanyah Vegas, LLC's Countermotion for Summary Judgment	10/5/18	1	PA_0072-0081
Offer of Judgment to Plaintiff Nanyah Vegas, LLC	10/29/18	1	PA_0082-0083
Minutes (Calendar Call)	11/1/18	1	PA_0084-0085
Minutes (Telephonic Conference)	11/5/18	1	PA_0086-0087
Offer of Judgment to Plaintiff Nanyah Vegas, LLC	4/1/19	1	PA_0088-0090
Request for Judicial Notice	4/15/19	1	PA_0091-0094

Nanyah Vegas, LLC's Emergency Motion to Address Defendant The Rogich Family Irrevocable Trust's NRS 163.120 Notice and/or Motion to Continue Trial for Purposes of NRS 163.120	4/16/19	1	PA_0095-0139
Nanyah Vegas, LLC's Pretrial Memorandum	4/16/19	2	PA_0140-0269
Opposition to Plaintiff's Emergency Motion to Address Defendant The Rogich Family Irrevocable Trust's NRS 163.120 Notice and/or Motion to Continue Trial for Purposes of NRS 163.120	4/18/19	2	PA_0270-0280
Transcript of Proceedings (Telephonic Conference)	4/18/19	2	PA_0281-0300
Nanyah Vegas, LLC's Supplement to Its Emergency Motion to Address Defendant the Rogich Trust's NRS 163.120 Notice and/or Motion to Continue Trial for Purposes of NRS 163.120	4/21/19	2	PA_0301-0315
The Rogich Defendants' Memorandum of Points and Authorities Regarding Limits of Judicial Discretion Regarding Notice Requirements Provided to Trust Beneficiaries Under NRS Chapter 163	4/21/19	2	PA_0316-0327

Recorder's Transcript of Motion Hearing	4/22/19	2	PA_0328-0344
Order	4/30/19	2	PA_0345-0348

ALPHABETICAL

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I certify that I am an employee of SIMONS HALL JOHNSTON PC, and that on this date I caused to be served a true copy of the **PETITIONER'S APPENDIX VOLUME 1** on all parties to this action by the method(s) indicated below:

- ☒ by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

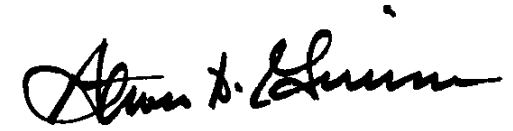
Brenoch Wirthlin
Thomas Fell
Samuel S. Lionel
Fennemore Craig, P.C.
300 S. Fourth Street, Ste. 1400
Las Vegas, NV 89101
*Attorneys for Sigmund Rogich, Individually and as Trustee of the
Rogich Family Irrevocable Trust and Imitations, LLC*

Joseph Liebman
Dennis Kennedy
Bailey Kennedy
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
Attorneys for Eldorado Hills, LLC

Honorable Nancy L. Allf
Eighth Judicial District Court, Dept. 27
200 Lewis Avenue
Las Vegas, NV 89101

DATED: This 27th day of June, 2019.


JODI ALHASAN



CLERK OF THE COURT

COMP

Brandon B. McDonald, Esq.
Nevada Bar No.: 11206
McDONALD LAW OFFICES, PLLC
2505 Anthem Village Drive, Ste. E-474
Henderson, NV 89052
Telephone: (702) 385-7411
Facsimile: (702) 664-0448
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual; CARLOS A. HUERTA as Trustee of THE ALEXANDER CHRISTOPHER TRUST, a Trust established in Nevada as assignee of interests of GO GLOBAL, INC., a Nevada corporation; ROBERT RAY as Trustee of the Ray Family Trust, a trust established in Nevada; NANYAH VEGAS, LLC, a Nevada limited liability company;

Plaintiffs,

v.

SIG ROGICH aka SIGMUND ROGICH as Trustee of The Rogich Family Irrevocable Trust; ELDORADO HILLS, LLC, a Nevada limited liability company; DOES I-X; and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No.: A - 13 - 686303 - C

Dept. No.: XXVII

COMPLAINT

COMES NOW, Plaintiffs, by and through their counsel of record, Brandon B. McDonald, Esq. of McDONALD LAW OFFICES, PLLC and for their causes of action, alleges as follows:

PARTIES

1. Plaintiff, CARLOS HUERTA (hereinafter referred to as "Huerta"), is now, and was at all times relevant hereto, a resident of Clark County, Nevada.

2. Plaintiff, CARLOS A. HUERTA as Trustee of THE ALEXANDER CHRISTOPHER TRUST as assignee of interests of GO GLOBAL, INC. (hereinafter referred to as “Go Global”), is now, and was at all times relevant hereto, a Nevada corporation doing business in Clark County, Nevada.

3. Plaintiff, ROBERT RAY (hereinafter referred to as “Ray”), is now, and was at all times relevant hereto the Trustee of the Ray Family Trust established in the State of Nevada.

4. Plaintiff, NANYAH VEGAS, LLC (hereinafter referred to as “Nanyah”), is now, and was at all times relevant hereto, a Nevada limited liability company doing business in Clark County, Nevada.

5. Defendant, SIGMUND ROGICH (hereinafter referred to as “Rogich”), is now, and was at all times relevant hereto, the Trustee of The Rogich Family Irrevocable Trust doing business in Clark County, Nevada.

6. Defendant, ELDORADO HILLS, LLC (hereinafter referred to as “Eldorado”), is now, and was at all times relevant hereto, a Nevada limited liability company doing business in Clark County, Nevada.

7. The true names and capacities of the Defendants named herein as DOES I-X, inclusive, whether individual, corporate, associate or otherwise, are presently unknown to Plaintiff who therefore sues the said Defendants by such fictitious names; and when the true names and capacities of DOES I-X inclusive are discovered, the Plaintiff will ask leave to amend this Complaint to substitute the true names of the said Defendants. The Plaintiff is informed, believes and therefore alleges that the Defendants so designated herein are responsible in some manner for the events and occurrences contained in this action.

JURISDICTION

5. That the facts surrounding this matter occurred in Clark County, Nevada, the parties

1 reside and/or conduct business in Clark County; thus jurisdiction of this Court is proper.

2 6. Additionally this matter relates to an interest/investment conveyed in a Nevada limited
3 liability company, Eldorado, which principal asset is real property located in Clark County, Nevada.

4 **GENERAL ALLEGATIONS**

5 **A. Factual Allegations Regarding Huerta, Go Global, Rogich and Eldorado Hills**

6 6. On or about October 2008, Huerta, Go Global and Rogich owned 100% of the
7 membership interests of Eldorado.

8 7. On or about October 30, 2008 Huerta, Go Global and Rogich entered into an agreement
9 whereby the 35% interest of Huerta and Global would be purchased by Rogich for \$2,747,729.50. (See
10 Purchase Agreement, referred to as the “Agreement”, attached herein as Exhibit 1)

11 8. Pursuant to the Agreement the \$2,747,729.50 (the “debt”) would be paid from “future
12 distributions or proceeds received by Buyer from Eldorado. (Id. at Exhibit 1, Section 2(a))

13 9. Upon information and belief, sometime in 2012, Rogich conveyed his membership
14 interest in Eldorado to TELD, LLC, a Nevada limited liability company. Rogich failed to inform
15 Huerta and Go Global of his intentions to transfer all the acquired membership interest in Eldorado to
16 TELD, LLC and was only informed after the transfer had in fact occurred.

17 10. That by conveying the membership interest to TELD, Rogich breached the Agreement
18 and also made it impossible for Huerta and Go Global to receive their rightful return of the debt.
19 Additionally, Eldorado received the benefit of the debt, which formerly represented the membership
20 capital account of Huerta and Go Global, as they were enabled to use those capital funds for their own
21 benefit, without providing any benefit to Huerta and Go Global.

22 **B. Factual Allegations Regarding Ray, Nanyah and Eldorado Hills**

23 11. At the request of Sigmund Rogich, Huerta sought other investors on behalf of Eldorado.
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12. Subsequently and in the years 2006 and 2007, Plaintiffs, Ray and Nanyah respectively invested \$1,783,561.60, collectively, in Eldorado, and were entitled to their respective membership interests.

13. At the time of the sale of Huerta and Go Global's interest in Eldorado on October 30, 2008, Rogich was expressly made aware of the claims of Ray and Nanyah.

14. Also as a result of the transfer of the Rogich's interest in Eldorado to TELD, LLC, Ray and Nanyah's interest or potential interest was eliminated, while Eldorado received the benefit of their investment of \$1,783,561.60.

15. That Ray and Nanyah are entitled to the return of the \$1,783,561.60 from Eldorado.

16. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an amount in excess of \$10,000.

FIRST CLAIM FOR RELIEF

(Breach of Express Contract - As Alleged by Huerta and Go Global Against Rogich)

17. Plaintiffs repeat and reallege each and every allegation contained above, as though fully set forth herein.

15. That on October 30, 2008 parties entered the Agreement regarding the sale of Huerta and Go Global's interest in Eldorado with Rogich. Pursuant to the Agreement, Huerta and Go Global would be repaid the debt. (Id. at Exhibit 1)

16. Plaintiffs have complied with all conditions precedent and fulfilled their duties under the Agreement.

17. That Defendant Rogich materially breached the terms of the Agreement providing the consideration required under the terms of the Agreement and by knowingly transferring the purchased interest to a third-party which effectively negated the possible recovery of monies owed to Huerta and

1 Go Global.

2 19. Huerta and Go Global reasonably relied on the representations of the Defendant, Rogich
3 in that they would honor the terms of the Agreement, all to their detriment.

4 20. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
5 amount in excess of \$10,000.

6 21. It has become necessary for Huerta and Go Global to engage the services of an attorney
7 to commence this action and is, therefore, entitled to reasonable attorney's fees and costs as damages
8 pursuant to the Agreement.
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10 **SECOND CLAIM FOR RELIEF**

11 **(Breach of Covenant of Good Faith and Fair Dealing - As Alleged by Huerta and Go Global**
12 **Against Rogich)**

13 22. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
14 set forth herein.

15 23. That the parties herein agreed to uphold certain obligations pursuant to their Agreement;
16 specifically, Defendant agreed to reasonably uphold the terms the Agreement by remitting the requisite
17 consideration and reasonably maintaining the membership interest to consummate the terms of the
18 Agreement.

19 22. That in every agreement there exists a covenant of good faith and fair dealing.
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21 23. That each agreed to uphold the terms of the Agreement upon execution of the
22 Agreement and as a result agreed to perform certain duties.

23 24. That Defendant, Rogich has failed to maintain the obligations which he agreed upon as
24 memorialized herein and in the Agreement as described herein and thereby failed to act in good faith
25 and has also failed to deal fairly in regards to upholding his defined duties under the Agreement.

26 25. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
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1 amount in excess of \$10,000.

2 26. It has become necessary for Huerta and Go Global to engage the services of an attorney
3 to commence this action and is, therefore, entitled to reasonable attorney's fees and costs as damages
4 pursuant to the Agreement.

5 **THIRD CLAIM FOR RELIEF**

6 **(Unjust Enrichment - As Alleged by Huerta and Go Global Against Eldorado)**

7 28. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
8 set forth herein.

9
10 29. That Huerta and Go Global formerly invested \$2,747,729.50 into Eldorado as a capital
11 investment for the benefit of that company, which represented a benefit to Eldorado.

12 30. Eldorado accepted the benefit of the monies provided by Huerta and Go Global.

13 31. That Huerta and Go Global have not received any consideration for the use of those
14 funds.

15 32. That in equity and good conscience the \$2,747,729.50 provided by Huerta and Go
16 Global does not belong to Eldorado and said amount should be returned.

17 33. Eldorado has been unjustly enriched in the amount of \$2,747,729.50.

18 34. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
19 amount in excess of \$10,000.
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21 35. It has become necessary for Huerta and Go Global to engage the services of an attorney
22 to commence this action and is, therefore, entitled to reasonable attorney's fees and costs as damages.
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24 **FOURTH CLAIM FOR RELIEF**

25 **(Negligent Misrepresentation - As Alleged by Huerta and Go Global Against Rogich)**

26 36. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
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1 set forth herein.

2 37. That Huerta and Go Global had an interest in Eldorado that was purchased by Rogich.

3 38. Rogich represented at the time of the Agreement that he would remit payment to Huerta
4 and Go Global as required, yet knew or reasonably intended to transfer the acquired interest to TELD,
5 LLC; and furthermore knew that the representations made by him in the Agreement were in fact false
6 with regard to tendering repayment or reasonably preserving the acquired interest so he could repay the
7 debt in the future.

8 39. That these representations were made knowingly, willfully and with the intention that
9 Huerta and Go Global would be induced to act accordingly and execute the Agreement.
10

11 40. Huerta and Go Global reasonably and justifiably relied on the representations of Rogich
12 all to their detriment.

13 41. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
14 amount in excess of \$10,000.

15 42. It has become necessary for Huerta and Go Global to engage the services of an attorney
16 to commence this action and is, therefore, entitled to reasonable attorney's fees and costs as damages.
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18 **FIFTH CLAIM FOR RELIEF**

19 **(Unjust Enrichment - As Alleged by Ray and Nanyah Against Eldorado)**

20 43. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
21 set forth herein.

22 44. That Ray and Nanyah formerly invested \$1,783,561.60 into Eldorado as a capital
23 investment for the benefit of that company, which represented a benefit to Eldorado.
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25 45. Eldorado accepted the benefit of the monies provided by Ray and Nanyah.

26 46. Ray and Nanyah were not afforded their equity positions in Eldorado nor have they
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1 received any beneficial consideration from Eldorado.

2 47. That in equity and good conscience the \$1,783,561.60 provided by Ray and Nanyah
3 does not belong to Eldorado and said amount should be returned.

4 48. Eldorado has been unjustly enriched in the amount of \$1,783,561.60.

5 49. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
6 amount in excess of \$10,000.

7 50. It has become necessary for Ray and Nanyah to engage the services of an attorney to
8 commence this action and are, therefore, entitled to reasonable attorney's fees and costs as damages.
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10 **SIXTH CLAIM FOR RELIEF**

11 **(Breach of Implied Agreement - As Alleged by Ray and Nanyah Against Rogich and Eldorado)**

12 51. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
13 set forth herein.

14 52. That Ray and Nanyah formerly invested \$1,783,561.60 into Eldorado in 2006 and 2007
15 as a capital investment for the benefit of that company, with the agreement from Eldorado that they
16 would be provided an interest in the company equivalent to their investment.
17

18 53. That at the time of the Agreement Rogich as a member of Eldorado was expressly made
19 aware of these claims. Furthermore, Ray and Nanyah performed all conditions necessary under the
20 implied agreement.

21 54. That on or about 2012 when Rogich transferred all of his interest in Eldorado to TELD,
22 LLC, Ray and Nanyah's interest or potential interest was eliminated; which constituted a material
23 breach of the implied agreement between the parties.
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25 55. That Ray and Nanyah have been damaged have been damaged in an amount in excess of
26 \$10,000 as they have never received any consideration for their investment of \$1,783,561.60.
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56. It has become necessary for Ray and Nanyah to engage the services of an attorney to commence this action and is, therefore, entitled to reasonable attorney's fees and costs as damages.

WHEREFORE Plaintiffs pray for judgment against Defendant(s), and each of them, as follows:

1. For compensatory damages in an amount in excess of \$10,000.00 subject to proof at time of trial;
2. For prejudgment interest;
3. For reasonable attorney's fees and costs incurred herein; and
4. For such other and further relief as the court deems just and proper.

Dated this 30th day of July, 2013.

McDONALD LAW OFFICES, PLLC

By: /s/ Brandon B. McDonald, Esq.
 Brandon B. McDonald, Esq.
 Nevada Bar No.: 11206
 2505 Anthem Village Drive, Ste. E-474
 Henderson, NV 89052
 Attorneys for Plaintiffs

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EXHIBIT 1

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT ("Agreement") made and entered into effective the 30th day of October, 2008, by and among Go Global, Inc. ("Go Global"), Carlos Huerta ("Carlos") ("Seller") and The Rogich Family Irrevocable Trust ("Buyer") with respect to the following facts and circumstances:

RECITALS:

A. Seller owns a Membership Interest ("Membership Interest") in Eldorado Hills, LLC (the "Company") equal to or greater than thirty-five percent (35%) and which may be as high as forty-nine and forty-four one hundredths (49.44%) of the total ownership interests in the Company. Such interest, as well as the ownership interest currently held by Buyer, may be subject to certain potential claims of those entities set forth and attached hereto in Exhibit "A" and incorporated herein by this reference ("Potential Claimants"). Buyer intends to negotiate such claims with Seller's assistance so that such claimants confirm or convert the amounts set forth beside the name of each of said claimants into non-interest bearing debt, or an equity percentage to be determined by Buyer after consultation with Seller as desired by Seller, with no capital calls for monthly payments, and a distribution in respect of their claims in amounts from the one-third ($1/3^{\text{rd}}$) ownership interest in the Company retained by Buyer.

B. Seller desires to sell, and Buyer desires to purchase, all of Seller's Membership Interest, subject to the Potential Claimants and pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants and representations hereinafter contained, and subject to the conditions hereinafter set forth, it is agreed as follows:

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1. Sale and Transfer of Membership Interest. Subject to the terms and conditions set forth in this Agreement, Seller will transfer and convey the Membership Interest to Buyer, and Buyer will acquire the Membership Interest from Seller, upon payment of the consideration set forth herein at Closing.

2. Consideration. For and in consideration of Seller's transfer of the Membership Interest hereunder, Buyer agrees:

(a) Buyer shall owe Seller the sum of \$2,747,729.50 as non-interest bearing debt with, therefore, no capital calls for monthly payments. Said amount shall be payable to Seller from future distributions or proceeds (net of bank/debt owed payments and tax liabilities from such proceeds, if any) distributed to Buyer at the rate of 56.20% of such profits, as, when and if received by Buyer from the Company.

(b) As further consideration, Buyer agrees to indemnify Seller against the personal guaranty of Seller for the existing Company loan in the approximate currently outstanding amount of \$21,170,278.08, and further agrees to request the lender of such loan to release Seller from such guaranty (within one year);

(c) Furthermore, as an acknowledgment of the fact that Carlos will no longer be a manager of the Company after the Closing, Buyer shall also defend and indemnify Carlos from and against post-Closing Company activities.

3. Release of Interest. At Closing, upon payment of the Consideration required hereunder, Seller shall release and relinquish any and all right, title and interest which Seller now has or may ever have had in the Membership Interest and in any other interest (equity or debt) of the Company. Each Seller furthermore does hereby presently resign (or confirms resignation) from any and all positions in the Company as an officer, manager, employee and/or consultant. Additionally, Seller does hereby release the

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Company and its members, managers and officers from any and all liability to each Seller of whatever kind or nature, including without limitation any claims for debt or equity repayment (except to the extent of the Consideration referenced in Section 2 above) or for remuneration relative to past services as an officer, manager, employee, consultant or otherwise.

4. Representations of Seller. Subject to any potential claims of the Potential Claimants, Seller represents and warrants that (i) Seller is the owner, beneficially and of record, of the Membership Interest as described in Recital A above, free and clear of all liens, encumbrances, security agreements, equities, options, claims, charges, and restrictions, which ownership interest is not evidenced by a written Membership Certificate, (ii) all of the Membership Interest is validly issued in the name of Seller, fully paid and non-assessable, (iii) Seller has full power to transfer the Membership Interest to Buyer without obtaining the consent or approval of any other person or governmental authority, (iv) Seller has been offered complete and unhindered access to all financial records, business records, and business operations of the Company, (v) the decision to sell the Membership Interest on the terms and conditions of this Agreement were negotiated by the parties upon consideration of the concurrent transactions to be entered into among Buyer, Company and two new investors (referenced below in this Section 4) and Seller has been provided all information necessary to make an informed decision regarding the acceptance of the terms hereunder and has sought the advice of such counsel or investment advisors as Seller deemed appropriate, or elected not to do so and (vi) except as otherwise provided in this Agreement, Seller is not relying upon any representations made by Buyer or Company in entering the transaction contemplated hereby. Each Seller further represents and warrants being familiar with the concurrent transactions between each of the Company and Buyer, respectively, with each of TELD, LLC and Albert E. Flangas Revocable Living Trust dated July 22nd, 2005. The transaction documentation with respect thereto recites

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the current facts and circumstances giving rise to this Purchase Agreement and those concurrent transactions. Seller further represents and warrants the accuracy of the list (and dollar amounts) of Potential Claimants set forth in Exhibit "A" and agrees to indemnify and hold Buyer harmless from and against any additional claims, over-and-above the listed dollar amounts in Exhibit A and with respect to said claimants or respect to any other claimants (including without limitation Craig Dunlap and Eric Rietz), unless the claims of such other claimants asserts unilateral agreements with Buyer. The representations, warranties and covenants of Seller contained in this Agreement shall survive the Closing hereof and shall continue in full force and effect. Seller, however, will not be responsible to pay the Exhibit A Claimants their percentage or debt. This will be Buyer's obligation, moving forward and Buyer will also make sure that any ongoing company bills (utilities, security, and expenses attributed to maintaining the property) will not be Seller's obligation(s) from the date of closing, with Pete and Al, onward.

5. Further Assurances and Covenants.

(a) Each of the parties hereto shall, upon reasonable request, execute and deliver any additional document(s) and/or instrument(s) and take any and all actions that are deemed reasonably necessary or desirable by the requesting party to consummate the transaction contemplated hereby.

(b) Go Global and Carlos shall deliver all books and records (including checks and any other material of Company) to Buyer promptly after Closing.

6. Closing. The Closing ("Closing") of the transactions hereunder shall be consummated upon the execution of this Agreement and:

(a) The delivery by Seller to Buyer of the Assignment in the form attached hereto as Exhibit "B" and incorporated herein by this reference.

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(b) The delivery to said Seller by Buyer of the Consideration set forth hereunder.

(c) Closing shall take place effective the _____ day of October, 2008, or at such other time as the parties may agree.

(d) Seller and Buyer further represent and warrant that the representations, and indemnification and payment obligations made in this Agreement shall survive Closing.

7. Miscellaneous.

(a) Notices. Any and all notices or demands by any party hereto to any other party, required or desired to be given hereunder shall be in writing and shall be validly given or made if served personally, delivered by a nationally recognized overnight courier services or if deposited in the United States Mail, certified, return receipt requested, postage prepaid, addressed as follows:

If to Buyer: The Rogich Family Irrevocable Trust
3883 Howard Hughes Pkwy., #590
Las Vegas, NV 89169

If to Seller: Go Global, Inc.
3060 E. Post Road, #110
Las Vegas, Nevada 89120

Carlos Huerta
3060 E. Post Road, #110
Las Vegas, Nevada 89120

Any party hereto may change his or its address for the purpose of receiving notices or demands as hereinabove provided by a written notice given in the manner aforesaid to the other party(ies). All notices shall be as specific as reasonably necessary to enable the party receiving the same to respond thereto.

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(b) Governing Law. The laws of the State of Nevada applicable to contracts made in that State, without giving effect to its conflict of law rules, shall govern the validity, construction, performance and effect of this Agreement.

(c) Consent to Jurisdiction. Each party hereto consents to the jurisdiction of the Courts of the State of Nevada in the event any action is brought to declaratory relief or enforcement of any of the terms and provisions of this Agreement.

(d) Attorneys' Fees. Unless otherwise specifically provided for herein, each party hereto shall bear its own attorneys' fees incurred in the negotiation and preparation of this Agreement and any related documents. In the event that any action or proceeding is instituted to interpret or enforce the terms and provisions of this Agreement, however, the prevailing party shall be entitled to its costs and attorneys' fees, in addition to any other relief it may obtain or to which it may be entitled.

(e) Interpretation. In the interpretation of this Agreement, the singular may be read as the plural, and vice versa, the neuter gender as the masculine or feminine, and vice versa, and the future tense as the past or present, and vice versa, all interchangeably as the context may require in order to fully effectuate the intent of the parties and the transactions contemplated herein. Syntax shall yield to the substance of the terms and provisions hereof. Paragraph headings are for convenience of reference only and shall not be used in the interpretation of the Agreement. Unless the context specifically states to the contrary, all examples itemized or listed herein are for illustrative purposes only, and the doctrine of inclusion unius exclusio alterius shall not be applied in interpreting this Agreement.

(f) Entire Agreement. This Agreement sets forth the entire understanding of the parties, and supersedes all previous agreements, negotiations, memoranda, and understandings, whether written or

CH J.R.

oral. In the event of any conflict between any exhibits or schedules attached hereto, this Agreement shall control.

(g) Modifications. This Agreement shall not be modified, amended or changed in any manner unless in writing executed by the parties hereto.

(h) Waivers. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver, and no waiver shall be binding unless evidenced by an instrument in writing and executed by the party making the waiver.

(i) Invalidity. If any term, provision, covenant or condition of this Agreement, or any application thereof, should be held by a Court of competent jurisdiction to be invalid, void or unenforceable, that provision shall be deemed severable and all provisions, covenants, and conditions of this Agreement, and all applications thereof not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

(j) Binding Effect. This Agreement shall be binding on and inure to the benefit of the heirs, personal representatives, successors and permitted assigns of the parties hereto.

(k) Counterparts. This Agreement may be executed in multiple counterparts, including facsimile counterparts, which together shall constitute one and the same document.

(l) Negotiated Agreement. This is a negotiated Agreement. All parties have participated in its preparation. In the event of any dispute regarding its interpretation, it shall not be construed for or against any party based upon the grounds that the Agreement was prepared by any one of the parties.

(m) Arbitration. Any controversy, claim, dispute or interpretations which are in any way related to the Agreement that are not settled informally in mediation shall be resolved by arbitration, if both Buyer and Seller choose this option, administered by the American Arbitration Association under its Commercial Arbitration Rules, and the judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction of and shall be final and binding on all the parties. However, if both Buyer and Seller do not mutually choose to proceed with arbitration, then the traditional legal process will be the only alternative for the parties to pursue if mediation is ineffective. In the event of any controversy, claim, dispute or interpretation, the following procedures shall be employed:

(1) If the dispute cannot be settled informally through negotiations, the parties first agree, in good faith, to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to arbitration or some other dispute resolution procedure. The mediation shall take place in Las Vegas, Nevada within sixty (60) days of initiating the mediation.

(2) At any time after the mediation, any party shall offer a request for Arbitration in writing on the other party(ies) to this Agreement and a copy of the request shall be sent to the American Arbitration Association.

(3) The party upon whom the request is served shall file a response within thirty (30) days from the service of the request for Arbitration. The response shall be served upon the other party(ies) and a copy sent to the American Arbitration Association.

(4) If both parties agree to Arbitration, then within ten (10) days after the

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American Arbitration Association sends the list of proposed arbitrators, all parties to the arbitration shall select their arbitrator and communicate their selection to the American Arbitration Association.-

(5) Unless otherwise agreed in writing by all parties, the arbitration shall be held in Las Vegas, Nevada. The arbitration hearing shall be held within ninety 90 days after the appointment of the arbitrator if and when both Buyer and Seller are both in agreement with regard to Arbitration.

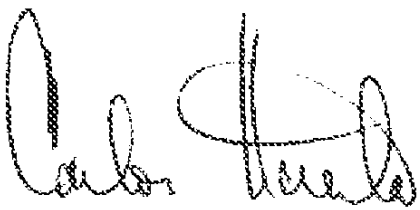
(6) The arbitrator is authorized to award to any party whose claims are sustained, such sums or other relief as the arbitrator shall deem proper and such award may include reasonable attorney's fees, professional fees and other costs expended to the prevailing party(ies) as determined by the arbitrator.

(n) Time of Essence. Time is of the essence of this Agreement and all of its provisions.

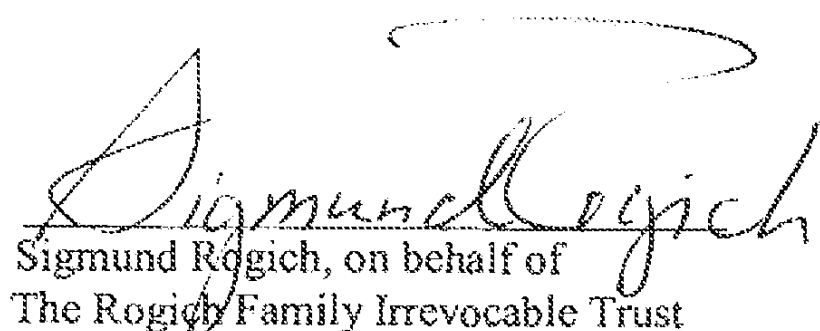
IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

"SELLER"

"BUYER"



Carlos Huerta, on behalf of Go Global, Inc.



Sigmund Rogich, on behalf of
The Rogich Family Irrevocable Trust

EXHIBIT "A"

Potential Claimants

1.	Eddyline Investments, LLC (potential investor or debtor)	\$50,000.00
2.	Ray Family Trust (potential investor or debtor)	\$283,561.60
3.	Nanyah Vegas, LLC (through Canamex Nevada, LLC)	\$1,500,000.00
4.	Antonio Nevada, LLC/Jacob Feingold	\$3,360,000.00

(4)

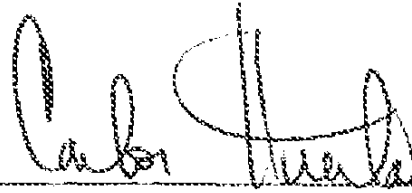
EXHIBIT "B"

Assignment

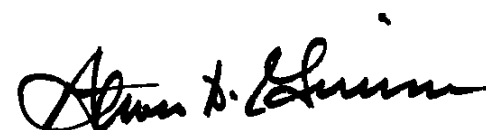
ASSIGNMENT

FOR VALUE RECEIVED, each of the undersigned hereby assigns and transfers unto The Rogich Family Irrevocable Trust ("Buyer"), all of the right, title and interest, if any, which the undersigned owns in and to Eldorado Hills, LLC, a Nevada limited-liability company (the "Company") and do hereby irrevocably constitute and appoint any individual designated by any officer or manager of the Company as attorney to each of the undersigned to transfer said interest(s) on the books of the Company, with full power of substitution in the premises.

DATED as of the 30 day of October, 2008.



Carlos Huerta, individually and on behalf of Go Global, Inc. as to any interest of either of them in and to the Company



CLERK OF THE COURT

ACOM

Brandon B. McDonald, Esq.
Nevada Bar No.: 11206
McDONALD LAW OFFICES, PLLC
2505 Anthem Village Drive, Ste. E-474
Henderson, NV 89052
Telephone: (702) 385-7411
Facsimile: (702) 664-0448
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual; CARLOS
A. HUERTA as Trustee of THE ALEXANDER
CHRISTOPHER TRUST, a Trust established in
Nevada as assignee of interests of GO GLOBAL,
INC., a Nevada corporation; NANYAH VEGAS,
LLC, a Nevada limited liability company;

Plaintiffs,

v.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable Trust;
ELDORADO HILLS, LLC, a Nevada limited
liability company; DOES I-X; and/or ROE
CORPORATIONS I-X, inclusive,

Defendants.

Case No.: A-13-686303-C
Dept. No.: XXVII

FIRST AMENDED COMPLAINT

COMES NOW, Plaintiffs, by and through their counsel of record, Brandon B. McDonald, Esq.
of McDONALD LAW OFFICES, PLLC and for their causes of action, alleges as follows:

PARTIES

1. Plaintiff, CARLOS HUERTA (hereinafter referred to as "Huerta"), is now, and was at
all times relevant hereto, a resident of Clark County, Nevada.

2. Plaintiff, CARLOS A. HUERTA as Trustee of THE ALEXANDER CHRISTOPHER

1 TRUST as assignee of interests of GO GLOBAL, INC. (hereinafter referred to as “Go Global”), is now,
2 and was at all times relevant hereto, a Nevada corporation doing business in Clark County, Nevada.

3 3. Plaintiff, NANYAH VEGAS, LLC (hereinafter referred to as “Nanyah”), is now, and
4 was at all times relevant hereto, a Nevada limited liability company doing business in Clark County,
5 Nevada.

6 4. Defendant, SIGMUND ROGICH (hereinafter referred to as “Rogich”), is now, and was
7 at all times relevant hereto, the Trustee of The Rogich Family Irrevocable Trust doing business in Clark
8 County, Nevada.

9 5. Defendant, ELDORADO HILLS, LLC (hereinafter referred to as “Eldorado”), is now,
10 and was at all times relevant hereto, a Nevada limited liability company doing business in Clark
11 County, Nevada.

12 6. The true names and capacities of the Defendants named herein as DOES I-X, inclusive,
13 whether individual, corporate, associate or otherwise, are presently unknown to Plaintiff who therefore
14 sues the said Defendants by such fictitious names; and when the true names and capacities of DOES I-
15 X inclusive are discovered, the Plaintiff will ask leave to amend this Complaint to substitute the true
16 names of the said Defendants. The Plaintiff is informed, believes and therefore alleges that the
17 Defendants so designated herein are responsible in some manner for the events and occurrences
18 contained in this action.

19
20
21 **JURISDICTION**

22 7. That the facts surrounding this matter occurred in Clark County, Nevada, the parties
23 reside and/or conduct business in Clark County; thus jurisdiction of this Court is proper.

24 8. Additionally this matter relates to an interest/investment conveyed in a Nevada limited
25 liability company, Eldorado, which principal asset is real property located in Clark County, Nevada.
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GENERAL ALLEGATIONS

A. Factual Allegations Regarding Huerta, Go Global, Rogich and Eldorado Hills

9. On or about October 2008, Huerta, Go Global and Rogich owned 100% of the membership interests of Eldorado.

10. On or about October 30, 2008 Huerta, Go Global and Rogich entered into an agreement whereby the 35% interest of Huerta and Global would be purchased by Rogich for \$2,747,729.50. (See Purchase Agreement, referred to as the “Agreement”, attached herein as Exhibit 1)

11. Pursuant to the Agreement the \$2,747,729.50 (the “debt”) would be paid from “future distributions or proceeds received by Buyer from Eldorado. (Id. at Exhibit 1, Section 2(a))

12. Upon information and belief, sometime in 2012, Rogich conveyed his membership interest in Eldorado to TELD, LLC, a Nevada limited liability company. Rogich failed to inform Huerta and Go Global of his intentions to transfer all the acquired membership interest in Eldorado to TELD, LLC and was only informed after the transfer had in fact occurred.

13. That by conveying the membership interest to TELD, Rogich breached the Agreement and also made it impossible for Huerta and Go Global to receive their rightful return of the debt. Additionally, Eldorado received the benefit of the debt, which formerly represented the membership capital account of Huerta and Go Global, as they were enabled to use those capital funds for their own benefit, without providing any benefit to Huerta and Go Global.

B. Factual Allegations Regarding Nanyah and Eldorado Hills

14. At the request of Sigmund Rogich, Huerta sought other investors on behalf of Eldorado.

15. Subsequently and in the years 2006 and 2007, Plaintiffs, Robert Ray and Nanyah collectively invested \$1,783,561.60 (with Nanyah’s portion being \$1,500,000), collectively, in Eldorado, and were entitled to their respective membership interests.

1 16. At the time of the sale of Huerta and Go Global's interest in Eldorado on October 30,
2 2008, Rogich was expressly made aware of the claims of Ray and Nanyah, and that they had invested
3 in Eldorado.

4 17. While Ray's interests in Eldorado are believed to have been preserved, despite contrary
5 representation by Sigmund Rogich. Nanyah never received an interest in Eldorado while Eldorado
6 retained the \$1,500,000.

7 18. That Nanyah is entitled to the return of the \$1,500,00 from Eldorado.

8 19. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
9 amount in excess of \$10,000.
10

11 **FIRST CLAIM FOR RELIEF**

12 **(Breach of Express Contract - As Alleged by Huerta and Go Global Against Rogich)**

13 20. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
14 set forth herein.

15 21. That on October 30, 2008 parties entered the Agreement regarding the sale of Huerta
16 and Go Global's interest in Eldorado with Rogich. Pursuant to the Agreement, Huerta and Go Global
17 would be repaid the debt. (Id. at Exhibit 1)

18 22. Plaintiffs have complied with all conditions precedent and fulfilled their duties under the
19 Agreement.
20

21 23. That Defendant Rogich materially breached the terms of the Agreement when he agreed
22 to remit payment from any profits paid from Eldorado, yet transferred his interest in Eldorado for no
23 consideration to TEDL, LLC. This had the net effect of allowing Rogich to keep Huerta's
24 \$2,747,729.50 in capital, and not repay that same amount which had converted to a non-interest bearing
25 debt.
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1 24. Huerta and Go Global reasonably relied on the representations of the Defendant, Rogich
2 in that they would honor the terms of the Agreement, all to their detriment.

3 25. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
4 amount in excess of \$10,000.

5 26. It has become necessary for Huerta and Go Global to engage the services of an attorney
6 to commence this action and is, therefore, entitled to reasonable attorney's fees and costs as damages
7 pursuant to the Agreement.
8

9 **SECOND CLAIM FOR RELIEF**

10 **(Breach of Covenant of Good Faith and Fair Dealing - As Alleged by Huerta and Go Global**
11 **Against Rogich)**

12 27. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
13 set forth herein.

14 28. That the parties herein agreed to uphold certain obligations pursuant to their Agreement;
15 specifically, Defendant agreed to reasonably uphold the terms the Agreement by remitting the requisite
16 payments required and reasonably maintaining the membership interest to consummate the terms of the
17 Agreement.

18 29. Rogich never provided verbal or written notice of his intentions to transfer the interests
19 held in Eldorado, and this fact was not discovered until other parties filed suit against Eldorado and
20 Rogich for other similar conduct.
21

22 30. That in every agreement there exists a covenant of good faith and fair dealing.

23 31. That each party agreed to uphold the terms of the Agreement upon execution of the
24 Agreement and as a result agreed to perform certain duties.

25 32. That Defendant, Rogich has failed to maintain the obligations which he agreed upon as
26 memorialized herein and in the Agreement as described herein and thereby failed to act in good faith
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1 and has also failed to deal fairly in regards to upholding his defined duties under the Agreement.

2 33. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
3 amount in excess of \$10,000.

4 34. It has become necessary for Huerta and Go Global to engage the services of an attorney
5 to commence this action and is, therefore, entitled to reasonable attorney's fees and costs as damages
6 pursuant to the Agreement.

7 **THIRD CLAIM FOR RELIEF**

8 **(Negligent Misrepresentation - As Alleged by Huerta and Go Global Against Rogich)**

9
10 35. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
11 set forth herein.

12 36. That Huerta and Go Global had an interest in Eldorado that was purchased by Rogich.

13 37. Rogich represented at the time of the Agreement that he would remit payment to Huerta
14 and Go Global as required, yet knew or reasonably intended to transfer the acquired interest to TELD,
15 LLC; and furthermore knew that the representations made by him in the Agreement were in fact false
16 with regard to tendering repayment or reasonably preserving the acquired interest so he could repay the
17 debt in the future.

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19 38. That these representations were made knowingly, willfully and with the intention that
20 Huerta and Go Global would be induced to act accordingly and execute the Agreement.

21 39. Huerta and Go Global reasonably and justifiably relied on the representations of Rogich
22 all to their detriment.

23
24 40. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
25 amount in excess of \$10,000.

26 41. It has become necessary for Huerta and Go Global to engage the services of an attorney
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1 to commence this action and is, therefore, entitled to reasonable attorney's fees and costs as damages.

2 **FOURTH CLAIM FOR RELIEF**

3 **(Unjust Enrichment - As Alleged by Nanyah Against Eldorado)**

4 44. Plaintiffs repeat and reallege each and every allegation contained above, as though fully
5 set forth herein.

6 45. That Nanyah intended to invest \$1,500,000 into Eldorado as a capital investment for the
7 benefit of that company, which represented a benefit to Eldorado.

8 46. Eldorado accepted the benefit of the monies provided by Nanyah.

9 47. That Rogich represented on or about October, 2008, that Nanyah's interest in the
10 company would be purchased.

11 48. Unknown to Nanyah, Rogich and Eldorado decided afterwards that they were not going
12 to repay Nanyah or buy out their equity interest. However during this same time other persons who
13 held an equity interest were repaid, such as Eric Reitz.

14 49. Therefore Eldorado sometime following October 2008 made a decision to decline to
15 repay or purchase Nanyah supposed interest and has to the present kept their \$1,500,000. That Nanyah
16 believed during same time that they had an equity interest in Eldorado, and it was not until sometime in
17 2012 when Rogich represented that he had no interest in Eldorado and testified that TELD, LLC was
18 the 100% interest holder in Eldorado; that Nanyah reasonably believed that they were not going to
19 receive any benefit for the \$1,500,000.

20 50. That Eldorado has been unjustly enriched in the amount of \$1,500,000.

21 51. As a direct result of the actions of Defendants, Plaintiffs have been damaged in an
22 amount in excess of \$10,000.

23 52. It has become necessary for Nanyah to engage the services of an attorney to commence
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1 this action and are, therefore, entitled to reasonable attorney's fees and costs as damages.

2 WHEREFORE Plaintiffs pray for judgment against Defendant(s), and each of them, as follows:

3 1. For compensatory damages in an amount in excess of \$10,000.00 subject to proof at
4 time of trial;

5 2. For prejudgment interest;

6 3. For reasonable attorney's fees and costs incurred herein; and

7 4. For such other and further relief as the court deems just and proper.
8

9 Dated this 21st day of October, 2013.

10 McDONALD LAW OFFICES, PLLC
11

12 By: /s/ Brandon B. McDonald, Esq.
13 Brandon B. McDonald, Esq.
14 Nevada Bar No.: 11206
15 2505 Anthem Village Drive, Ste. E-474
16 Henderson, NV 89052
17 Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that on this 21st day of October, 2013, service of the foregoing **FIRST AMENDED COMPLAINT** was made by depositing a true and correct copy of the same for regular mailing at Las Vegas, Nevada, first class postage fully prepaid, addressed to:

Samuel S. Lionel, Esq.
Steven C. Anderson, Esq.
LIONEL SAWYER & COLLINS
300 South Fourth Street, 17th Floor
Las Vegas, NV 89101
Attorneys for Defendant/Counterclaimant,
Eldorado Hills, LLC and Sig Rogich

/s/ Eric Tucker
An employee of McDonald Law Offices, PLLC

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EXHIBIT 1

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT ("Agreement") made and entered into effective the 30th day of October, 2008, by and among Go Global, Inc. ("Go Global"), Carlos Huerta ("Carlos") ("Seller") and The Rogich Family Irrevocable Trust ("Buyer") with respect to the following facts and circumstances:

RECITALS:

A. Seller owns a Membership Interest ("Membership Interest") in Eldorado Hills, LLC (the "Company") equal to or greater than thirty-five percent (35%) and which may be as high as forty-nine and forty-four one hundredths (49.44%) of the total ownership interests in the Company. Such interest, as well as the ownership interest currently held by Buyer, may be subject to certain potential claims of those entities set forth and attached hereto in Exhibit "A" and incorporated herein by this reference ("Potential Claimants"). Buyer intends to negotiate such claims with Seller's assistance so that such claimants confirm or convert the amounts set forth beside the name of each of said claimants into non-interest bearing debt, or an equity percentage to be determined by Buyer after consultation with Seller as desired by Seller, with no capital calls for monthly payments, and a distribution in respect of their claims in amounts from the one-third ($1/3^{\text{rd}}$) ownership interest in the Company retained by Buyer.

B. Seller desires to sell, and Buyer desires to purchase, all of Seller's Membership Interest, subject to the Potential Claimants and pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants and representations hereinafter contained, and subject to the conditions hereinafter set forth, it is agreed as follows:

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1. Sale and Transfer of Membership Interest. Subject to the terms and conditions set forth in this Agreement, Seller will transfer and convey the Membership Interest to Buyer, and Buyer will acquire the Membership Interest from Seller, upon payment of the consideration set forth herein at Closing.

2. Consideration. For and in consideration of Seller's transfer of the Membership Interest hereunder, Buyer agrees:

(a) Buyer shall owe Seller the sum of \$2,747,729.50 as non-interest bearing debt with, therefore, no capital calls for monthly payments. Said amount shall be payable to Seller from future distributions or proceeds (net of bank/debt owed payments and tax liabilities from such proceeds, if any) distributed to Buyer at the rate of 56.20% of such profits, as, when and if received by Buyer from the Company.

(b) As further consideration, Buyer agrees to indemnify Seller against the personal guaranty of Seller for the existing Company loan in the approximate currently outstanding amount of \$21,170,278.08, and further agrees to request the lender of such loan to release Seller from such guaranty (within one year);

(c) Furthermore, as an acknowledgment of the fact that Carlos will no longer be a manager of the Company after the Closing, Buyer shall also defend and indemnify Carlos from and against post-Closing Company activities.

3. Release of Interest. At Closing, upon payment of the Consideration required hereunder, Seller shall release and relinquish any and all right, title and interest which Seller now has or may ever have had in the Membership Interest and in any other interest (equity or debt) of the Company. Each Seller furthermore does hereby presently resign (or confirms resignation) from any and all positions in the Company as an officer, manager, employee and/or consultant. Additionally, Seller does hereby release the

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Company and its members, managers and officers from any and all liability to each Seller of whatever kind or nature, including without limitation any claims for debt or equity repayment (except to the extent of the Consideration referenced in Section 2 above) or for remuneration relative to past services as an officer, manager, employee, consultant or otherwise.

4. Representations of Seller. Subject to any potential claims of the Potential Claimants, Seller represents and warrants that (i) Seller is the owner, beneficially and of record, of the Membership Interest as described in Recital A above, free and clear of all liens, encumbrances, security agreements, equities, options, claims, charges, and restrictions, which ownership interest is not evidenced by a written Membership Certificate, (ii) all of the Membership Interest is validly issued in the name of Seller, fully paid and non-assessable, (iii) Seller has full power to transfer the Membership Interest to Buyer without obtaining the consent or approval of any other person or governmental authority, (iv) Seller has been offered complete and unhindered access to all financial records, business records, and business operations of the Company, (v) the decision to sell the Membership Interest on the terms and conditions of this Agreement were negotiated by the parties upon consideration of the concurrent transactions to be entered into among Buyer, Company and two new investors (referenced below in this Section 4) and Seller has been provided all information necessary to make an informed decision regarding the acceptance of the terms hereunder and has sought the advice of such counsel or investment advisors as Seller deemed appropriate, or elected not to do so and (vi) except as otherwise provided in this Agreement, Seller is not relying upon any representations made by Buyer or Company in entering the transaction contemplated hereby. Each Seller further represents and warrants being familiar with the concurrent transactions between each of the Company and Buyer, respectively, with each of TELD, LLC and Albert E. Flangas Revocable Living Trust dated July 22nd, 2005. The transaction documentation with respect thereto recites

CH S.R

the current facts and circumstances giving rise to this Purchase Agreement and those concurrent transactions. Seller further represents and warrants the accuracy of the list (and dollar amounts) of Potential Claimants set forth in Exhibit "A" and agrees to indemnify and hold Buyer harmless from and against any additional claims, over-and-above the listed dollar amounts in Exhibit A and with respect to said claimants or respect to any other claimants (including without limitation Craig Dunlap and Eric Rietz), unless the claims of such other claimants asserts unilateral agreements with Buyer. The representations, warranties and covenants of Seller contained in this Agreement shall survive the Closing hereof and shall continue in full force and effect. Seller, however, will not be responsible to pay the Exhibit A Claimants their percentage or debt. This will be Buyer's obligation, moving forward and Buyer will also make sure that any ongoing company bills (utilities, security, and expenses attributed to maintaining the property) will not be Seller's obligation(s) from the date of closing, with Pete and Al, onward.

5. Further Assurances and Covenants.

(a) Each of the parties hereto shall, upon reasonable request, execute and deliver any additional document(s) and/or instrument(s) and take any and all actions that are deemed reasonably necessary or desirable by the requesting party to consummate the transaction contemplated hereby.

(b) Go Global and Carlos shall deliver all books and records (including checks and any other material of Company) to Buyer promptly after Closing.

6. Closing. The Closing ("Closing") of the transactions hereunder shall be consummated upon the execution of this Agreement and:

(a) The delivery by Seller to Buyer of the Assignment in the form attached hereto as Exhibit "B" and incorporated herein by this reference.

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(b) The delivery to said Seller by Buyer of the Consideration set forth hereunder.

(c) Closing shall take place effective the _____ day of October, 2008, or at such other time as the parties may agree.

(d) Seller and Buyer further represent and warrant that the representations, and indemnification and payment obligations made in this Agreement shall survive Closing.

7. Miscellaneous.

(a) Notices. Any and all notices or demands by any party hereto to any other party, required or desired to be given hereunder shall be in writing and shall be validly given or made if served personally, delivered by a nationally recognized overnight courier services or if deposited in the United States Mail, certified, return receipt requested, postage prepaid, addressed as follows:

If to Buyer: The Rogich Family Irrevocable Trust
3883 Howard Hughes Pkwy., #590
Las Vegas, NV 89169

If to Seller: Go Global, Inc.
3060 E. Post Road, #110
Las Vegas, Nevada 89120

Carlos Huerta
3060 E. Post Road, #110
Las Vegas, Nevada 89120

Any party hereto may change his or its address for the purpose of receiving notices or demands as hereinabove provided by a written notice given in the manner aforesaid to the other party(ies). All notices shall be as specific as reasonably necessary to enable the party receiving the same to respond thereto.

04

(b) Governing Law. The laws of the State of Nevada applicable to contracts made in that State, without giving effect to its conflict of law rules, shall govern the validity, construction, performance and effect of this Agreement.

(c) Consent to Jurisdiction. Each party hereto consents to the jurisdiction of the Courts of the State of Nevada in the event any action is brought to declaratory relief or enforcement of any of the terms and provisions of this Agreement.

(d) Attorneys' Fees. Unless otherwise specifically provided for herein, each party hereto shall bear its own attorneys' fees incurred in the negotiation and preparation of this Agreement and any related documents. In the event that any action or proceeding is instituted to interpret or enforce the terms and provisions of this Agreement, however, the prevailing party shall be entitled to its costs and attorneys' fees, in addition to any other relief it may obtain or to which it may be entitled.

(e) Interpretation. In the interpretation of this Agreement, the singular may be read as the plural, and vice versa, the neuter gender as the masculine or feminine, and vice versa, and the future tense as the past or present, and vice versa, all interchangeably as the context may require in order to fully effectuate the intent of the parties and the transactions contemplated herein. Syntax shall yield to the substance of the terms and provisions hereof. Paragraph headings are for convenience of reference only and shall not be used in the interpretation of the Agreement. Unless the context specifically states to the contrary, all examples itemized or listed herein are for illustrative purposes only, and the doctrine of inclusion unius exclusio alterius shall not be applied in interpreting this Agreement.

(f) Entire Agreement. This Agreement sets forth the entire understanding of the parties, and supersedes all previous agreements, negotiations, memoranda, and understandings, whether written or

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oral. In the event of any conflict between any exhibits or schedules attached hereto, this Agreement shall control.

(g) Modifications. This Agreement shall not be modified, amended or changed in any manner unless in writing executed by the parties hereto.

(h) Waivers. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver, and no waiver shall be binding unless evidenced by an instrument in writing and executed by the party making the waiver.

(i) Invalidity. If any term, provision, covenant or condition of this Agreement, or any application thereof, should be held by a Court of competent jurisdiction to be invalid, void or unenforceable, that provision shall be deemed severable and all provisions, covenants, and conditions of this Agreement, and all applications thereof not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

(j) Binding Effect. This Agreement shall be binding on and inure to the benefit of the heirs, personal representatives, successors and permitted assigns of the parties hereto.

(k) Counterparts. This Agreement may be executed in multiple counterparts, including facsimile counterparts, which together shall constitute one and the same document.

(l) Negotiated Agreement. This is a negotiated Agreement. All parties have participated in its preparation. In the event of any dispute regarding its interpretation, it shall not be construed for or against any party based upon the grounds that the Agreement was prepared by any one of the parties.

(m) Arbitration. Any controversy, claim, dispute or interpretations which are in any way related to the Agreement that are not settled informally in mediation shall be resolved by arbitration, if both Buyer and Seller choose this option, administered by the American Arbitration Association under its Commercial Arbitration Rules, and the judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction of and shall be final and binding on all the parties. However, if both Buyer and Seller do not mutually choose to proceed with arbitration, then the traditional legal process will be the only alternative for the parties to pursue if mediation is ineffective. In the event of any controversy, claim, dispute or interpretation, the following procedures shall be employed:

(1) If the dispute cannot be settled informally through negotiations, the parties first agree, in good faith, to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to arbitration or some other dispute resolution procedure. The mediation shall take place in Las Vegas, Nevada within sixty (60) days of initiating the mediation.

(2) At any time after the mediation, any party shall offer a request for Arbitration in writing on the other party(ies) to this Agreement and a copy of the request shall be sent to the American Arbitration Association.

(3) The party upon whom the request is served shall file a response within thirty (30) days from the service of the request for Arbitration. The response shall be served upon the other party(ies) and a copy sent to the American Arbitration Association.

(4) If both parties agree to Arbitration, then within ten (10) days after the

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American Arbitration Association sends the list of proposed arbitrators, all parties to the arbitration shall select their arbitrator and communicate their selection to the American Arbitration Association.-

(5) Unless otherwise agreed in writing by all parties, the arbitration shall be held in Las Vegas, Nevada. The arbitration hearing shall be held within ninety 90 days after the appointment of the arbitrator if and when both Buyer and Seller are both in agreement with regard to Arbitration.

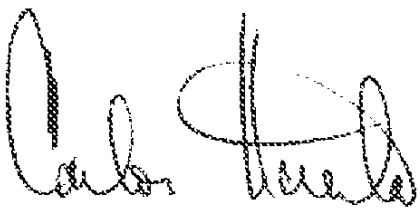
(6) The arbitrator is authorized to award to any party whose claims are sustained, such sums or other relief as the arbitrator shall deem proper and such award may include reasonable attorney's fees, professional fees and other costs expended to the prevailing party(ies) as determined by the arbitrator.

(n) Time of Essence. Time is of the essence of this Agreement and all of its provisions.

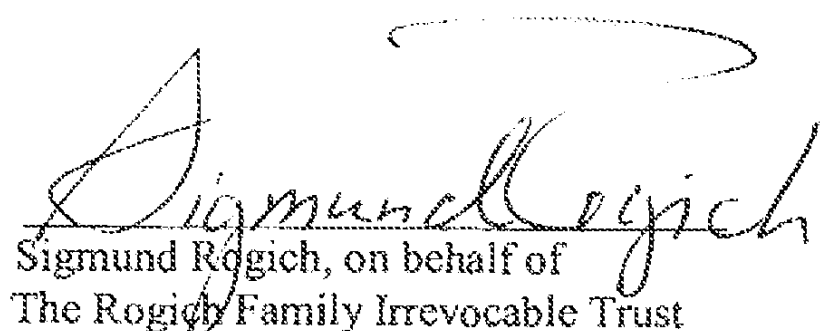
IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

"SELLER"

"BUYER"



Carlos Huerta, on behalf of Go Global, Inc.



Sigmund Rogich, on behalf of
The Rogich Family Irrevocable Trust

EXHIBIT "A"

Potential Claimants

1.	Eddyline Investments, LLC (potential investor or debtor)	\$50,000.00
2.	Ray Family Trust (potential investor or debtor)	\$283,561.60
3.	Nanyah Vegas, LLC (through Canamex Nevada, LLC)	\$1,500,000.00
4.	Antonio Nevada, LLC/Jacob Feingold	\$3,360,000.00

(4)

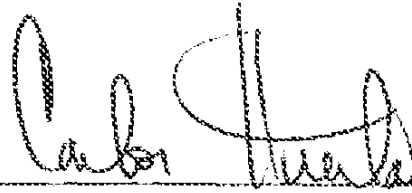
EXHIBIT "B"

Assignment

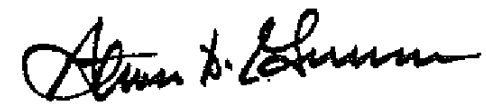
ASSIGNMENT

FOR VALUE RECEIVED, each of the undersigned hereby assigns and transfers unto The Rogich Family Irrevocable Trust ("Buyer"), all of the right, title and interest, if any, which the undersigned owns in and to Eldorado Hills, LLC, a Nevada limited-liability company (the "Company") and do hereby irrevocably constitute and appoint any individual designated by any officer or manager of the Company as attorney to each of the undersigned to transfer said interest(s) on the books of the Company, with full power of substitution in the premises.

DATED as of the 30 day of October, 2008.



Carlos Huerta, individually and on behalf of Go Global, Inc. as to any interest of either of them in and to the Company



CLERK OF THE COURT

1 **ORD**

Samuel S. Lionel, NV Bar No. 1766

2 *slionel@lionelsawyer.com*

LIONEL SAWYER & COLLINS

3 300 South Fourth Street, 17th Floor

Las Vegas, Nevada 89101

4 Telephone: (702) 383-8884

5 Fax: (702) 383-8845

Attorneys for Defendant

Eldorado Hills, LLC

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

10 CARLOS A. HUERTA, an individual;
11 CARLOS A. HUERTA as Trustee of THE
12 ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
13 interests of GO GLOBAL, INC., a Nevada
corporation; NANYAH VEGAS, LLC, a
Nevada limited liability company,

14 Plaintiffs,

15 v.

16 SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
17 Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
18 ROE CORPORATIONS I-X, inclusive

19 Defendants.

20 AND RELATED CLAIMS
21

Case No. A-13-686303-C
Dept. XXVII

**ORDER GRANTING PARTIAL
SUMMARY JUDGMENT**

22 **ORDER GRANTING PARTIAL SUMMARY JUDGMENT**

23 The Defendants Eldorado Hills, LLC ("Eldorado") having filed a Motion for Partial
24 Summary Judgment and Plaintiff, Nanyah Vegas, LLC ("Nanyah"), having filed a
25 Countermotion for Partial Summary Judgment and the parties having duly filed Memorandums
26 of Points and Authorities in support of their respective motions and oppositions and the Court
27 having heard oral argument on September 11, 2014 and good cause appearing, the court finds the
28 undisputed material fact is and makes the legal determinations as follows:

1 UNDISPUTED MATERIAL FACTS

- 2 1. Nanyah alleged that he invested \$1,500,000 for a membership interest in Eldorado
3 which he intended to be a capital investment and that he did not receive an
4 interest in Eldorado .
5 2. There is no evidence that Nanyah made an investment directly into Eldorado.
6 3. There was no privity between Nanyah and Eldorado.

7 LEGAL DETERMINATIONS

- 8 1. Nanyah's claim for unjust enrichment, if any, arose at the time of its alleged
9 investment.
10 2. The applicable statutes of limitations are NRS 11.190(2) and NRS 11:220.
11 3. Nanyah's alleged claim of unjust enrichment cannot be maintained and is barred
12 by the statutes of limitations.

13 WHEREFORE IT IS ORDERED that Defendant Nanyah Vegas, LLC's Countermotion is
14 denied without prejudice; and

15 IT IS FURTHER ORDERED that the Defendant Eldorado Hills, LLC's Motion for
16 Partial Summary Judgment against Defendant Nanyah Vegas, LLC, be and it is hereby granted.

17 DATED this 25 day of September, 2014.

18
19 Brandon McDonald
20 DISTRICT COURT JUDGE
21 *BM*

22 SUBMITTED:
23 LIONEL SAWYER & COLLINS

APPROVED
McDonald Law Offices, PLC

24 By: Samuel S. Lionel
25 Samuel S. Lionel
26 300 S. Fourth Street, #1700
27 Las Vegas, NV 89101
28 Attorneys for Defendant
Eldorado Hills, LLC

By: Brandon McDonald
Brandon McDonald
2505 Anthem Village Dr, Suite E-474
Henderson, NV 89052
Attorney for Plaintiffs

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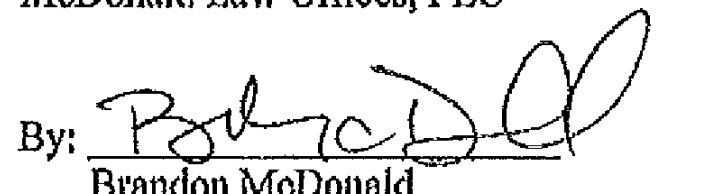
17 DATED this ____ day of September, 2014.
18
19

20 DISTRICT COURT JUDGE

21
22 SUBMITTED:
23 LIONEL SAWYER & COLLINS

24 By: 
25 Samuel S. Lionel
26 300 S. Fourth Street, #1700
27 Las Vegas, NV 89101
28 Attorneys for Defendant
Eldorado Hills, LLC

APPROVED
McDonald Law Offices, PLC

By: 
Brandon McDonald
2505 Anthem Village Dr, Suite E-474
Henderson, NV 89052
Attorney for Plaintiffs

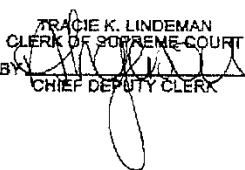
IN THE SUPREME COURT OF THE STATE OF NEVADA

NANYAH VEGAS, LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Appellant,
vs.
SIG ROGICH A/K/A SIGMUND
ROGICH AS TRUSTEE OF THE
ROGICH FAMILY IRREVOCABLE
TRUST; AND ELDORADO HILLS, LLC,
A NEVADA LIMITED LIABILITY
COMPANY,
Respondents.

No. 66823

FILED

FEB 12 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court final judgment in a contract action. Eighth Judicial District Court, Clark County; Nancy L. Alf, Judge.

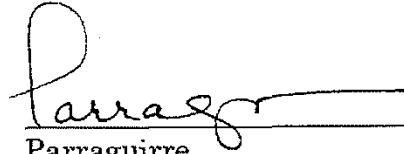
Appellant argues that the district court erred by granting summary judgment in favor of respondent Eldorado Hills, LLC, based on a finding that appellant's unjust enrichment claim was time-barred under the four-year statute of limitations. According to appellant, the statute of limitations did not begin to run until appellant became aware that it would not be repaid and that it owned no interest in Eldorado Hills. Having considered the parties' arguments and appendices, we conclude that the district court erred in granting summary judgment on statute-of-limitations grounds. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (holding that this court reviews summary judgments de novo and that summary judgment is only appropriate if the pleadings and

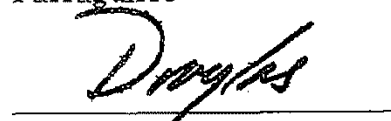
other evidence on file, viewed in the light most favorable to the nonmoving party, demonstrate that no genuine issue of material fact remains in dispute and that the moving party is entitled to judgment as a matter of law); *Oak Grove Inv'rs v. Bell & Gossett Co.*, 99 Nev. 616, 623, 668 P.2d 1075, 1079 (1983) (placing the burden of demonstrating the absence of a genuine issue of material fact as to when a party discovered or should have discovered the facts underlying a claim on the party seeking summary judgment on statute-of-limitations grounds), *disapproved on other grounds by Calloway v. City of Reno*, 116 Nev. 250, 993 P.2d 1259 (2000).

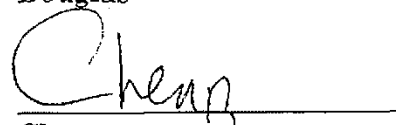
Appellant's claim for unjust enrichment did not accrue until Eldorado Hills retained \$1.5 million under circumstances where it was inequitable for Eldorado Hills to do so. *See Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev., Adv. Op. 35, 283 P.3d 250, 257 (2012) ("Unjust enrichment exists when the plaintiff confers a benefit on the defendant, the defendant appreciates such benefit, and there is acceptance and retention by the defendant of such benefit under circumstances such that it would be inequitable for him to retain the benefit without payment of the value thereof"). As Eldorado Hills failed to demonstrate that no genuine issues of material fact remain regarding whether the limitations period on appellant's unjust enrichment claim commenced when Eldorado Hills received the \$1.5 million or at a later date when Eldorado Hills allegedly failed to issue a membership interest to appellant or to repay the money as a loan, the district court erred in granting summary judgment based on the expiration of the statute of limitation. *Oak Grove Inv'rs*, 99 Nev. at 623, 668 P.2d at 1079; *see* NRS 11.190(2)(c) (setting a four year

statute of limitation for "[a]n action upon a contract, obligation or liability not founded upon an instrument in writing"). Accordingly, we

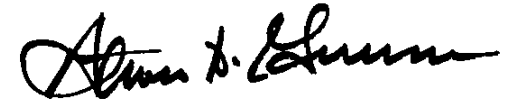
ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

 C.J.
Parraguirre

 J.
Douglas

 J.
Cherry

cc: Hon. Nancy L. Alf, District Judge
Ara H. Shirinian, Settlement Judge
McDonald Law Offices, PLLC
Fennemore Craig Jones Vargas/Las Vegas
Eighth District Court Clerk



CLERK OF THE COURT

COMP

Mark G. Simons, Esq. (SBN 5132)
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Reno, Nevada 89503
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Email: msimons@rbsllaw.com

Attorneys for Nanyah Vegas, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

v.

TELD, LLC, a Nevada limited liability
company; PETER ELIADAS, individually
and as Trustee of the The Eliades Survivor
Trust of 10/30/08; SIGMUND ROGICH,
individually and as Trustee of The Rogich
Family Irrevocable Trust; IMITATIONS,
LLC, a Nevada limited liability company;
DOES I-X; and/or ROE CORPORATIONS
I-X, inclusive,

Defendants.

CASE NO.: A-16-746239-C

DEPT. NO.: III

COMPLAINT

1. Plaintiff, Nanyah Vegas, LLC is a Nevada limited liability company ("Nanyah").
2. Defendant TELD, LLC is, and was at all times relevant hereto, a Nevada limited liability company ("Teld").
3. Defendant Peter Eliades is an individual who is believed to be a resident of the State of Nevada ("Peter Eliades").
4. Defendant Peter Eliadas is the Trustee of the The Eliades Survivor Trust of 10/30/08 (the "Eliades Trust").

1 5. Defendant Sigmund Rogich is an individual who is believed to be a
2 resident of the State of Nevada ("Sigmund Rogich").

3 6. Defendant Sigmund Rogich is the Trustee of The Rogich Family
4 Irrevocable Trust ("Rogich Trust").

5 7. Defendant Imitations, LLC is, and was at all times relevant hereto, a
6 Nevada limited liability company ("Imitations").

7 8. Plaintiff does not know the true names and capacities of defendants sued
8 herein as DOES 1 through 10, inclusive, and therefore sues these defendants by
9 fictitious names. Plaintiff is informed and believes, and thereon alleges, that each of
10 these fictitiously named defendants is responsible in some actionable manner for the
11 damages herein alleged. Plaintiff requests leave of Court to amend its Complaint to
12 name the defendants specifically when their identities become known.

13 **I. GENERAL ALLEGATIONS.**

14 **A. FORMATION AND OPERATION OF ELDORADO HILLS, LLC.**

15 9. Eldorado Hills, LLC ("Eldorado") was an entity formed in September, 2005,
16 for the purpose of owning and developing land in Clark County, Nevada, made up of
17 161.93 acres, several buildings and a functioning gun club and shooting range
18 commonly known as 12801 South U.S. Highway 95 and identified as Assessor Parcel
19 Number 189-11-002-001 (the "Property").

20 10. Go Global, Inc. ("Go Global") and Rogich Trust were originally 50%-50%
21 members in Eldorado.

22 11. In order to acquire the Property, Eldorado obtained institutional financing
23 in the amount of \$21 million dollars (the "Loan").

24 12. Eldorado relied on its two members to pay the monthly Loan payments
25 requiring Go Global and Rogich Trust to contribute additional funds to Eldorado, which
26 in turn Eldorado would use to pay the monthly Loan payment. In addition, funds
27 contributed would be applied and used towards development costs as the project was
28 being designed as an industrial park.

1 13. Commencing in or about 2006, Rogich Trust was experiencing financial
2 difficulties which caused Rogich Trust to be unable to contribute further funds to
3 Eldorado for payment of Eldorado's monthly Loan payments.

4 14. Accordingly, commencing in or about 2006, with the knowledge, approval
5 and consent of Rogich Trust, Go Global began funding Eldorado's monthly Loan
6 payments with the further knowledge, consent and agreement that Eldorado would
7 repay Go Global's advances.

8 15. In or about 2007, Go Global and Rogich Trust agreed that Go Global
9 would seek additional investors to invest in Eldorado, and in turn, Eldorado could use
10 such invested funds for repayment of Go Global's advances and to assist Eldorado to
11 make future debt service obligations and for future development of the Property.

12 16. In reliance on Rogich Trust's approval, consent and knowledge, Go Global
13 solicited and obtained the following investments into Eldorado:

- | | | |
|----|---|-------------|
| 14 | a. Nanyah | \$1,500,000 |
| 15 | b. Antonio Nevada ("Antonio") | \$3,360,000 |
| 16 | c. Ray Family Trust ("Ray") | \$283,561 |
| 17 | d. Eddyline Investments, LLC ("Eddyline") | \$50,000 |

18 17. After receipt of Nanyah's investment, with the full knowledge, consent and
19 agreement of Rogich Trust, in or about December 2007, Eldorado used a majority of the
20 \$1.5 million invested to repay Go Global the amounts Go Global had single-handedly
21 advanced on behalf of Eldorado.

22 18. Nanyah was an entity specifically formed for the purpose of investing in
23 Eldorado.

24 19. Rogich Trust was at all times fully informed and approved the foregoing
25 transactions.

26 20. Although Eldorado received the foregoing investments from Nanyah,
27 Antonio, Ray, Eddyline, Eldorado failed to properly issue membership interests
28 reflective of such investments to Nanyah and Antonio. Nanyah is informed and believes

1 that Eldorado subsequently recognized Ray and Eddyline as members of Eldorado with
2 ownership interests. Eldorado subsequently paid Antonio all amounts due to it for its
3 investment into Eldorado. Eldorado has, however, refused to honor Nanyah's
4 ownership interest in Eldorado necessitating this action.

5 **B. OCTOBER, 2008 TRANSACTION BETWEEN GO GLOBAL AND**
6 **ROGICH TRUST.**

7 21. In or about October, 2008, Eldorado was in default under the Loan.

8 22. Go Global agreed to sell its interest in Eldorado to Rogich Trust and
9 Rogich Trust in turn agreed to resell Go Global's interest in addition to part of its interest
10 in Eldorado to new parties interested in investing in Eldorado.

11 23. Accordingly, on or about October 30, 2008, Go Global and Rogich Trust
12 entered into a Purchase Agreement whereby Rogich Trust agreed to acquire Go
13 Global's membership interest in Eldorado (the "Purchase Agreement").

14 24. The Purchase Agreement's terms accurately reflected that Go Global's
15 interest in Eldorado, which Rogich Trust was acquiring, was not yet determined due to
16 the dilution of the parties' original 50% interests based upon the additional investments
17 made by Nanyah, Antonio, Ray and Eddyline. *Id.*, Recitals, A.

18 25. In addition, in entering into the Purchase Agreement, Rogich Trust
19 intended and agreed to be fully responsible for repayment of Nanyah's, Antonio's, Ray's
20 and Eddyline's investments in Eldorado. *Id.*

21 26. Rogich Trust affirmed, represented and covenanted that it would confirm
22 the membership interests of Nanyah, Antonio, Ray and Eddyline in Eldorado or convert
23 such interests into non-interest bearing debt. *Id.*

24 27. Rogich Trust agreed that Nanyah's, Antonio's, Ray's and Eddyline's
25 membership interests in Eldorado would not be subject to any capital calls. *Id.*

26 28. Rogich Trust also agreed that recognition of Nanyah's, Antonio's, Ray's
27 and Eddyline's membership interest in Eldorado would be established from Rogich
28 Trust's interest in Eldorado. *Id.*

1 29. Go Global also represented and warranted that Nanyah's, Antonio's,
2 Ray's and Eddyline's investments in Eldorado, identified in the Purchase Agreement at
3 Exhibit A, were accurate and that Go Global agreed to indemnify Rogich Trust for any
4 claims over and above the listed amounts for these investors. *Id.*, ¶4.

5 30. Go Global also warranted that its membership interest was subject to the
6 claims by Nanyah, Antonio, Ray and Eddyline for their membership interest in Eldorado
7 and/or encumbered for the repayment of their investment. *Id.*

8 31. Pursuant to the Purchase Agreement, Go Global was relieved of any
9 obligation and/or repayment to Nanyah, Antonio, Ray and Eddyline and Rogich Trust
10 agreed to accept full responsibility for said obligations. *Id.*

11 32. Rogich Trust also agreed and covenanted that the obligations owed to
12 Nanyah, Antonio, Ray and Eddyline would all survive the closing of the transaction
13 whereby Go Global transferred its membership interest to Rogich Trust. *Id.* ¶6(d).

14 33. The Purchase Agreement also provides that a prevailing party is entitled
15 to recover of all of its attorneys' fees and costs. *Id.* ¶7(d).

16 34. Nanyah is a specifically identified third-party beneficiary under the
17 Purchase Agreement.

18 35. The Purchase Agreement also acknowledged that as part of Rogich
19 Trust's acquisition of Go Global's membership interest in Eldorado, and as part of its
20 obligation to document their membership interests and/or repay Nanyah, Antonio, Ray
21 and Eddyline for their investments, Rogich Trust was reselling part of Eldorado's
22 membership interest to the following entities:

23 a. TELD, LLC ("Teld"); and

24 b. Albert E. Flangas Revocable Living Trust dated July 22nd 2005
25 ("Flangas").

26 *Id.* ¶5.

27 36. Go Global agreed to sell its interest in Eldorado to Rogich Trust for the
28 price of \$2,747,729.50 in addition to Rogich Trust's representations and promises to

1 accept full liability to honor the membership interests of Nanyah, Antonio, Ray and
2 Eddyline and/or to repay the investments made by these entities into Eldorado.

3 37. The Purchase Agreement also provided that "time is of the essence"
4 regarding compliance with the agreement's provisions. *Id.* ¶7(n).

5 **C. OCTOBER, 2008 TRANSACTIONS BETWEEN ROGICH TRUST, TELD**
6 **AND FLANGAS.**

7 38. Contemporaneously with the execution of the Purchase Agreement, on or
8 about October 30, 2009, Rogich Trust entered into a Membership Interest Purchase
9 Agreement with Teld (the "Teld Agreement").

10 39. Sigmund Rogich was a party to the Teld Agreement.

11 40. Peter Eliades was a party to the Teld Agreement.

12 41. Go Global was also a party to the Teld Agreement for the purpose of,
13 among other things, "consenting" to the transaction.

14 42. Contemporaneously with the execution of the Purchase Agreement and
15 the Teld Agreement, on or about October 30, 2008, Rogich Trust also entered into a
16 Membership Interest Purchase Agreement with Flangas (the "Flangas Agreement").

17 43. Sigmund Rogich was also a party to the Flangas Agreement.

18 44. Go Global was also a party to the Flangas Agreement for the purpose of,
19 among other things, "consenting" to the transaction.

20 45. Given that the terms of the Teld Agreement and the Flangas Agreement
21 are virtually identical, these membership purchase agreements will jointly be referred to
22 hereafter as the "Membership Agreements" unless otherwise specified.

23 46. The Membership Agreements document that the Loan required a principal
24 reduction payment of \$4,321,718.82 and a payment of \$678,281.68 as and for accrued
25 interest. *Id.* Recital C.

26 47. The Membership Agreements specifically reference the interests of
27 Nanyah, Antonio, Ray and Eddyline in Eldorado and state that Rogich Trust is
28 concurrently acquiring the ownership interests of these entities—which are included

1 within Go Global's membership interest in Eldorado. *Id.* Recital F.

2 48. Pursuant to the terms of the Membership agreements, Rogich Trust was
3 selling to Teld and to Flangas each 1/6th interest in Eldorado. *Id.* Recital D.

4 49. In addition, Rogich Trust entered into a Subscription Agreement with Teld
5 and with Flangas by which each entity also acquired another 1/6th interest in Eldorado.
6 *Id.* Recital E. The Subscription Agreement is incorporated as Exhibit C to the
7 Membership Agreements. *Id.*

8 50. Nowhere in the Purchase Agreement or Membership Agreements does
9 Rogich Trust, Sigmund Rogich, Teld or Peter Eliades represent to Go Global that as
10 part of these transactions Flangas was buying Go Global's interest then concurrently
11 reselling this interest back to Teld with a portion going to Rogich Trust.

12 51. Nowhere in the Purchase Agreement or Membership Agreements does
13 Rogich Trust, Sigmund Rogich, Teld or Peter Eliades represent to Go Global that as
14 part of these transactions Teld is reselling 6.67% of its interest acquired from Flangas
15 back to Rogich Trust and/or allegedly "loaning" Rogich Trust \$600,000 to acquire Go
16 Global's interest via transfer to Flangas, then by transfer to Teld, then by ultimate
17 transfer to the Rogich Trust.

18 52. Both Membership Agreements cross-reference the contemporaneous
19 agreements. *Id.*, Recital G.

20 53. The Membership Agreements also incorporate and adopt the Amended
21 and Restated Operating Agreement for Eldorado. *Id.* Recital I.

22 54. The Amended and Restated Operating Agreement for Eldorado is
23 attached as Exhibit I to the Membership Agreements. *Id.*

24 55. Accordingly, upon the disclosed information contained in the Purchase
25 Agreement and Membership Agreements, Rogich Trust was acquiring Go Global's
26 membership interest (which interest was subject to a right of a membership interest
27 and/or repayment of debt for Nanyah, Antonio, Ray and Eddyline) and Rogich Trust was
28 contemporaneously reselling this encumbered membership interest to Teld and Flangas

1 and Eldorado was issuing new 1/6th membership interests to Teld and Flangas.

2 56. Therefore, based upon the terms of the Membership Agreements, upon
3 the close of the transactions, the ownership of Eldorado was documented as follows:

- 4 a. Rogich Trust 1/3rd;
- 5 b. Teld 1/3rd; and
- 6 c. Flangas 1/3rd.

7 *Id.* ¶3.

8 57. Further, Rogich Trust's 1/3rd interest was specifically subject to the rights
9 of all the investors for whom Rogich Trust had already assumed responsibility to repay,
10 i.e., Nanyah, Antonio, Ray and Eddyline. *Id.* ¶3(c).

11 58. Rogich Trust specifically affirmed the following representations in the
12 Membership Agreements:

- 13 a. that Rogich Trust's interest in Eldorado was subject to the rights of
14 Nanyah, Antonio, Ray and Eddyline; and
- 15 b. the amounts owed to Nanyah, Antonio, Ray and Eddyline were all
16 accurately identified in Exhibit D to the Membership Agreements.

17 *Id.* ¶4.

18 59. Exhibit D to the Membership Agreements then states in concise detail the
19 following:

20 **Seller [Rogich Trust] confirms that certain amounts have been**
21 **advanced to or on behalf of the Company [Eldorado] by certain third-**
22 **parties, as referenced in Section 8 of the Agreement. Seller [Rogich**
23 **Trust] shall endeavor to convert the amounts advanced into non-**
interest bearing promissory notes for which Seller [Rogich Trust] will
be responsible.

24 *Id.*, Membership Agreements, Exh. D (emphasis added).

25 60. Exhibit D to the Membership Agreements also detailed Nanyah's,
26 Antonio's, Ray's and Eddyline's financial investments into Eldorado.

27 61. Section 8 of the Membership Agreement, which was specifically
28 referenced in Exhibit D, also states the following with regard to Rogich Trust's
obligations to Nanyah and the other investors as follows:

1 Seller [Rogich Trust] shall defend, indemnify and hold Buyer
2 harmless from any and all the claims of Eddyline . . . Ray . . . Nanyah . . .
3 and Antonio, **each of whom invested or otherwise advanced the**
4 **funds, plus certain possible claimed accrued interest.**

5 *Id.* ¶8(c) (emphasis added).

6 62. Rogich Trust, Teld and Flangas all agreed that the Amended and
7 Restated Operating Agreement for Eldorado became enforceable and effective upon
8 the closing of the transactions. *Id.* ¶6.

9 63. Conclusively demonstrating that Rogich Trust's membership interest was
10 subject to Nanyah's and the other investor's interests, the Amended and Restated
11 Operating Agreement specifically called out that Rogich Trust's membership interest in
12 Eldorado was "subject to certain possible dilution or other indemnification
13 responsibilities assumed by the Rogich Trust in the Purchase Agreements." *Id.* at ¶B.

14 **D. ROGICH TRUST'S ACQUISITION OF FLANGAS' INTEREST IN**
15 **ELDORADO.**

16 64. Sometime during the later part of 2008 and/or contemporaneously with the
17 execution of the Purchase Agreements and Membership Agreements, Nanyah is
18 informed and believes that Flangas, Rogich Trust, Sigmund Rogich, Teld and Pete
19 Eliades agreed that Flangas would cease being a member in Eldorado and would sell
20 its 33 1/3rd interest in Eldorado to Teld and to the Rogich Trust.

21 65. In 2008, Eliadas purportedly loaned Rogich Trust the amount of \$600,000
22 for Rogich Trust to acquire 6.67% interest in Eldorado from Flangas.

23 66. Of note, this transaction evidenced that 1% of Eldorado was equivalent to
24 approximately \$100,000. As discussed later herein, Rogich Trust wrongfully transfers
25 its 40% interest in Eldorado (valued at \$4 million) to Teld for the alleged repayment of
26 Rogich Trust's \$600,000 note. In this fashion, Rogich Trust and Teld, along with their
27 principals, wrongfully conspired to transfer \$3.4 million worth of value from Rogich to
28 Teld to avoid recognizing Nanyah's interest in Eldorado and/or to avoid repaying
Eldorado its investment in Eldorado.

1 67. As part of the foregoing transaction, Nanyah is informed and believes that
2 Flangas transferred its remaining interest in Eldorado to Teld.

3 68. Accordingly, as of approximately the end of 2008, Rogich Trust held a
4 40% membership interest in Eldorado and this membership interest was subject to
5 Nanyah's membership interest claim and/or repayment of Nanyah's investment.

6 69. Nanyah was never informed of the foregoing transactions between Rogich
7 Trust, Teld and Flangas.

8 **E. TELD'S ACQUISITION OF ROGICH TRUST'S 40% INTEREST IN**
9 **ELDORADO.**

10 70. Based upon information and belief, on about August or September of
11 2012, Teld and Rogich Trust entered into a new agreement whereby Rogich Trust
12 agreed to forfeit its 40% membership interest in Eldorado allegedly in exchange for the
13 sum of \$682,000 to the Eliades Trust (the "Eliades Trust Acquisition"). Nanyah is
14 informed and believes these documents were backdated to January 1, 2012, for some
15 reason that it is not yet known to Nanyah.

16 71. Nanyah is informed and believes that Pete Eliades and/or Teld is the
17 grantor, Trustee and/or beneficiary of the Eliades Trust.

18 72. Pursuant to the Eliades Trust Acquisition, Rogich Trust represented that it
19 had the authority to transfer the 40% membership interest in Eldorado to the Eliades
20 Trust without the consent or approval of any other person or entity.

21 73. Rogich Trust's representations were false in that Rogich Trust and the
22 Eliades Trust both knew that Rogich Trust's membership interest was subject to the
23 rights and claims of Nanyah.

24 74. As part of this transaction, Rogich Trust represented that it was insolvent
25 and unable to contribute to the ongoing debt obligations of Eldorado as it was obligated
26 to do under the terms of the Eldorado Amended and Restated Operating Agreement.

27 75. Rogich Trust has asserted that the \$682,000 amount for which it
28 transferred its 40% interest in Eldorado to the Eliades Trust was for the purpose of

1 repaying the original \$600,000 that the Rogich Trust allegedly borrowed to acquire
2 6.67% interest of Flangas' ownership interest from Teld, plus \$83,000 in interest.

3 76. Nanyah has since discovered that the purported repayment of \$683,000 to
4 Eliades was a sham transaction perpetrated to assist Rogich Trust and Teld from
5 repaying the debt owed to Nanyah and to assist in transferring Rogich Trust's
6 membership interest to Teld's affiliated entity the Eliades Trust.

7 77. As part of the Eliades Trust Acquisition, a Unanimous Written Consent of
8 the Managers of Eldorado Hills, LLC was entered into by and between Rogich Trust and
9 Teld (hereinafter the "Eldorado Resolution").

10 78. The Eldorado Resolution identifies that Rogich Trust is transferring its
11 40% interest in Eldorado to the Eliadas Trust subject to the claims of Ray and Eddyline.

12 79. The Eldorado Resolution intentionally omits Rogich Trust's obligations to
13 Nanyah again demonstrating such transaction was perpetrated for the purpose of
14 avoiding Nanyah's membership interest in Eldorado.

15 80. Nanyah is informed and believes that by this time, Rogich Trust, Sigmund
16 Rogich, Teld, Pete Eliades and the Eliades Trust had agreed to effectuate the Eliades
17 Trust Acquisition for the purpose of depriving Nanyah from any ownership interest in
18 Eldorado and/or to avoid repayment of Nanyah's investment into Eldorado.

19 81. Nanyah has since been informed that as part of the Eliades Trust
20 Acquisition, Rogich Trust also received an additional interest in Imitations, LLC
21 ("Imitations") from the Eliades Trust, which Nanyah believes such interest is valued at
22 over \$2,500,000. Of note, further demonstrating the scheme to harm Nanyah,
23 Imitations, LLC was established by Peter Eliades as a Nevada limited liability company,
24 but has been solely controlled by Rogich or one of his entities since inception.

25 82. Rogich Trust, Sigmund Rogich, Teld, Peter Eliades and the Eliades Trust
26 never informed Nanyah of the Eliadas Trust Acquisition and/or the Eldorado Resolution.

27 83. It was not until December, 2012, that Nanyah discovered that Rogich
28 Trust purported to no longer own any interest in Eldorado and that Rogich Trust's

1 interest in Eldorado had been transferred to Teld and/or the Eliades Trust.

2 84. Nanyah is informed and believes that Rogich Trust repaid Antonio its
3 investment in Eldorado and formally recognized Ray's and Eddyline's membership
4 interests in Eldorado.

5 **FIRST CLAIM FOR RELIEF**
6 **(Breach of Contract-Rogich Trust, Sigmund Rogich, Teld, Peter Eliades)**

7 85. Nanyah incorporates all prior allegations as if fully set forth herein.

8 86. Nanyah invested \$1.5 million into Eldorado.

9 87. At all relevant times, Nanyah claimed an ownership interest in Eldorado.

10 88. Rogich Trust, Sigmund Rogich, Teld and Peter Eliades all entered into the
11 Purchase Agreement, the Membership Agreements and the Amended and Restated
12 Operating Agreement, which agreements all specifically identified Nanyah as a third-
13 party beneficiary of each agreement.

14 89. Pursuant to the terms of these agreements, all parties agreed that
15 Nanyah's \$1.5 million investment into Eldorado would be documented as an "equity"
16 interest in Eldorado and, if not, such investment would otherwise be treated as "non-
17 interest bearing debt".

18 90. Nanyah's membership interest has no capital calls.

19 91. Nanyah's membership interest was required to be apportioned from
20 Rogich Trust's membership interest in Eldorado.

21 92. The defendants, and each of them, breached the terms of the foregoing
22 agreements by, among other things:

- 23 a. failing to provide Nanyah a membership interest in Eldorado;
24 b. failing to convert Nanyah's investment into a non-interest bearing
25 debt;
26 c. failing to inform Nanyah that Rogich Trust was transferring its full
27 membership interest in Eldorado to the Eliadas Trust in breach of
28 the terms of the agreements;
d. in transferring Rogich Trust's full membership interest in Eldorado
to the Eliadas Trust in breach of the terms of the agreements; and

- 1
2 e. working cooperatively to assist Rogich Trust in transferring its full
3 membership interest in Eldorado to the Eliadas Trust for the
4 purpose of not honoring the debt owed to Nanyah.

5 93. Nanyah has sustained damages in excess of Ten Thousand Dollars
6 (\$10,000.00) as a result of these defendants' actions and it is entitled to recover its
7 reasonable and necessary attorney's fees and costs incurred in this action.

8 **SECOND CLAIM FOR RELIEF**
9 **(Breach of the Implied Covenant of Good Faith and Fair Dealing, Contractual-**
10 **Rogich Trust, Sigmund Rogich, Teld, Peter Eliades)**

11 94. Nanyah incorporates all prior allegations as if fully set forth herein.

12 95. Rogich Trust, Sigmund Rogich, Teld and Peter Eliades all entered into the
13 Purchase Agreement, the Membership Agreements and the Amended and Restated
14 Operating Agreement, which agreements all specifically identified Nanyah as a third-
15 party beneficiary of each agreement.

16 96. These defendants owed Nanyah a duty of good faith and fair dealing
17 arising from these contracts.

18 97. The defendants breached the implied covenant of good faith and fair
19 dealing contained in the agreements by engaging in misconduct that was unfaithful to
20 the purpose of the contractual relationship, by among other things:

- 21 a. failing to provide Nanyah a membership interest in Eldorado;
22 b. failing to convert Nanyah's investment into a non-interest bearing
23 debt;
24 c. failing to inform Nanyah that Rogich Trust was transferring its full
25 membership interest in Eldorado to the Eliadas Trust in breach of
26 the terms of the agreements;
27 d. in transferring Rogich Trust's full membership interest in Eldorado
28 to the Eliadas Trust in breach of the terms of the agreements; and
e. working cooperatively to assist Rogich Trust in transferring its full
membership interest in Eldorado to the Eliadas Trust for the
purpose of not honoring the debt owed to Nanyah.

98. The defendants' acts intended to and did accomplish the wrongful objective in deceiving and depriving Nanyah of its expectations and financial benefits in investing in Eldorado's ownership and development of the Property.

99. Nanyah has sustained damages in excess of Ten Thousand Dollars (\$10,000.00) as a result of these defendants' actions and it is entitled to recover its reasonable and necessary attorney's fees and costs incurred in this action.

THIRD CLAIM FOR RELIEF
(Breach of the Implied Covenant of Good Faith and Fair Dealing, Tortious-Rogich Trust, Sigmund Rogich, Teld, Peter Eliades)

100. Nanyah incorporates all prior allegations as if fully set forth herein.

101. Rogich Trust, Sigmund Rogich, Teld and Peter Eliades all entered into the Purchase Agreement, the Membership Agreements and the Amended and Restated Operating Agreement, which agreements all specifically identified Nanyah as a third-party beneficiary of each agreement.

102. These defendants owed Nanyah a duty of good faith and fair dealing arising from these contracts.

103. These defendants shared a special, fiduciary and/or confidential relationship with Nanyah.

104. Nanyah did repose in these defendants a special confidence with respect to the transactions involving its investment in Eldorado and defendants were obligated to honor the special confidence and confidentiality with due regard for Nanyah's interests.

105. The defendants breached the implied covenant of good faith and fair dealing contained in the agreements by engaging in misconduct that was unfaithful to the purpose of the contractual relationship and special relationship that existed, by among other things:

- a. failing to provide Nanyah a membership interest in Eldorado;
- b. failing to convert Nanyah's investment into a non-interest bearing debt;

- c. failing to inform Nanyah that Rogich Trust was transferring its full membership interest in Eldorado to The Eliadas Trust in breach of the terms of the agreements;
- d. in transferring Rogich Trust's full membership interest in Eldorado to The Eliadas Trust in breach of the terms of the agreements; and
- e. working cooperatively to assist Rogich Trust in transferring its full membership interest in Eldorado to the Eliadas Trust for the purpose of not honoring the debt owed to Nanyah.

106. The defendants' acts intended to and did accomplish the wrongful objective in deceiving and depriving Nanyah of its expectations and financial benefits in investing in Eldorado's ownership and development of the Property.

107. Nanyah has sustained damages in excess of Ten Thousand Dollars (\$10,000.00) as a result of these defendants' actions and it is entitled to recover its reasonable and necessary attorney's fees and costs incurred in this action.

108. When the defendants' acts were performed, they acted with oppression, fraud and malice and/or with the willful, intentional and reckless disregard of Nanyah's rights and interest, and, therefore, Nanyah is entitled to punitive damages in excess of Ten Thousand Dollars (\$10,000.00).

FOURTH CLAIM FOR RELIEF
(Intentional Interference With Contract—Sigmund Rogich, Teld, Peter Eliades, Eliades Trust, Imitations)

109. Nanyah incorporates all prior allegations as if fully set forth herein.

110. Nanyah was a third-party beneficiary of the Purchase Agreement, the Membership Agreements and the Amended and Restated Operating Agreement.

111. These defendants were all aware of the foregoing agreements specifically identifying Nanyah's membership interest in Eldorado and the rights to receive such interest from the Rogich Trust.

112. These defendants performed intentional acts intended or designed to disrupt Nanyah's contractual rights arising out of these contracts.

113. Based upon these defendants' actions, actual disruption of the contracts occurred.

1 114. Nanyah has sustained damages in excess of Ten Thousand Dollars
2 (\$10,000.00) as a result of these defendants' actions and it is entitled to recover its
3 reasonable and necessary attorney's fees and costs incurred in this action.

4 115. When the defendants' acts were performed, they acted with oppression,
5 fraud and malice and/or with the willful, intentional and reckless disregard of Nanyah's
6 rights and interest, and, therefore, Nanyah is entitled to punitive damages in excess of
7 Ten Thousand Dollars (\$10,000.00).

8
9 **FIFTH CLAIM FOR RELIEF**
(Constructive Trust–The Eliades Trust)

10 116. Nanyah incorporates all prior allegations as if fully set forth herein.

11 117. The Eliades Trust has obtained Rogich Trust's interest in Eldorado, which
12 interest was subject to Nanyah's ownership interest in Eldorado. At all times, the
13 Eliades Trust was fully aware of Nanyah's ownership interests in Eldorado.

14 118. The Eliades Trust, working cooperatively with the other named
15 defendants, assisted Rogich Trust in the transfer of its full membership interest in
16 Eldorado to the Eliadas Trust for the purpose of not honoring the obligations owed to
17 Nanyah.

18 119. By reason of the foregoing, this Court should impose a constructive trust
19 upon the Eliades Trust's membership interest in Eldorado for all profits found to be
20 improperly acquired by it and/or for all interests Nanyah is entitled to receive.

21 **SIXTH CLAIM FOR RELIEF**
22 **(Conspiracy–All Defendants)**

23 120. Nanyah incorporates all prior allegations as if fully set forth herein.

24 121. Defendants, by acting in concert, intended to accomplish an unlawful
25 objective in deceiving and depriving Nanyah from its expectations and financial benefits
26 in being a member of Eldorado.

27 122. Nanyah has sustained damages in excess of Ten Thousand Dollars
28 (\$10,000.00) as a result of these defendants' actions and it is entitled to recover its

1 reasonable and necessary attorney's fees and costs incurred in this action.

2 123. When the defendants' acts were performed, they acted with oppression,
3 fraud and malice and/or with the willful, intentional and reckless disregard of Nanyah's
4 rights and interest, and, therefore, Nanyah is entitled to punitive damages in excess of
5 Ten Thousand Dollars (\$10,000.00).
6

7 **SEVENTH CLAIM FOR RELIEF**
8 **(Fraudulent Transfer—NRS 112.180(1)(b))**

9 124. Nanyah incorporates all prior allegations as if fully set forth herein.

10 125. The conveyances by Rogich Trust to the Eliades Trust constituted a
11 "transfer" of assets within the meaning of Nevada's Uniform Fraudulent Transfer Act
12 (the "UFTA").

13 126. The transfer was performed with actual intent to hinder, delay or defraud
14 Nanyah so that Nanyah would be deprived of its interest in Eldorado.

15 127. At all relevant times the Eliades Trust had actual knowledge of Nanyah's
16 interest in Eldorado and cannot, therefore, be a "good faith" purchaser within the
17 meaning of NRS 112.220.

18 128. Pursuant to NRS 112.210, Nanyah is entitled to the following relief against
19 the Eliades Trust:

- 20 a. The right to levy execution on the assets transferred to the Elidas
21 Trust or their proceeds;
- 22 b. The avoidance of the transferred membership interest to the extent
23 necessary to satisfy Nanyah's claims;
- 24 c. Recovery of the value of the transfer to the extent necessary to
25 satisfy Nanyah's claims;
- 26 d. Appointment of a receiver to take charge of the assets transferred
27 until such time as those assets can be liquidated;
- 28 e. Attachment or garnishment against the asset transferred; and,
- f. An injunction against further disposition by the Eliades Trust and/or
subsequent transferee of the assets transferred.

1 129. Nanyah has sustained damages in excess of Ten Thousand Dollars
2 (\$10,000.00) as a result of the defendant's actions and it is entitled to recover its
3 reasonable and necessary attorney's fees and costs incurred in this action.
4

5 130. When the defendant's acts were performed, it acted with oppression, fraud
6 and malice and/or with the willful, intentional and reckless disregard of Nanyah's rights
7 and interest, and, therefore, Nanyah is entitled to punitive damages in excess of Ten
8 Thousand Dollars (\$10,000.00).

9 **EIGHTH CLAIM FOR RELIEF**
10 **(Declaratory Relief)**

11 131. Nanyah incorporates all prior allegations as if fully set forth herein.

12 132. There exists a current justiciable controversy between Nanyah and the
13 named defendants regarding Nanyah's rights and obligations with respect to its
14 investment into Eldorado.

15 133. Pursuant to NRS 30.030 and 30.040 Nanyah is entitled to seek
16 declaratory relief determining the amount of its membership interest in Eldorado and/or
17 the amounts owed to it in the event a membership interest is not sought and/or
18 obtained.

19 134. This controversy is ripe for adjudication.

20 135. Nanyah seeks a declaration from this Court setting forth Nanyah's rights
21 as contained in the various agreements referenced herein.

22 **NINTH CLAIM FOR RELIEF**
23 **(Specific Performance)**

24 136. Nanyah incorporates all prior allegations as if fully set forth herein.

25 137. The terms of the various contracts are clear, definite and certain.

26 138. An award of damages may be inadequate to compensate Nanyah for the
27 derivation of its membership interest in Eldorado.

28 139. Nanyah has already tendered its performance by paying \$1.5 million as an
investment into and/or for the benefit of Eldorado.

140. Accordingly, Nanyah is entitled to specific performance of the Purchase Agreement, Membership Agreements and the Amended and Restated Operating Agreement vesting Nanyah with a membership interest in Eldorado as detailed herein.

WHEREFORE, Nanyah prays for judgment against the Defendants, and each of them, as follows:

1. For compensatory damages according to proof in excess of \$10,000.00;
2. For general damages according to proof in excess of \$10,000.00;
3. For punitive damages according to proof in excess of \$10,000.00;
4. For the imposition of a constructive trust on the Eliades Trust's membership interest in Eldorado including not limited to all profits Nanyah is entitled to receive from the ownership and development of the Property;
5. For declaratory relief;
6. For specific performance;
7. For costs of Court and attorneys' fees incurred;
8. For such other relief as the Court determines appropriate.

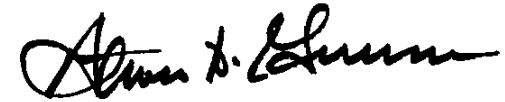
AFFIRMATION: The undersigned does hereby affirm that this document does not contain the Social Security Number of any person.

DATED this 4th day of November, 2016.

ROBISON, BELAUSTEGUI, SHARP & LOW
A Professional Corporation
71 Washington Street
Reno, Nevada 89503

By: MARK G. SIMONS, ESQ.
Attorneys for Nanyah Vegas, LLC

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CLERK OF THE COURT

1 **SAO**
2 Mark G. Simons, Esq. (SBN 5132)
3 **ROBISON, BELAUSTEGUI, SHARP & LOW**
4 A Professional Corporation
5 71 Washington Street
6 Reno, Nevada 89503
7 Telephone: (775) 329-3151
8 Facsimile: (775) 329-7941
9 Email: msimons@rbsllaw.com

10 *Attorneys for Nanyah Vegas, LLC*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 CARLOS A. HUERTA, an individual;
14 CARLOS A. HUERTA as Trustee of THE
15 ALEXANDER CHRISTOPHER TRUST, a
16 Trust established in Nevada as assignee
17 of interests of GO GLOBAL, INC., a
18 Nevada corporation; NANYAH VEGAS,
19 LLC, A Nevada limited liability company,

20 Plaintiffs,

21 v.

22 SIG ROGICH aka SIGMUND ROGICH as
23 Trustee of The Rogich Family Irrevocable
24 Trust; ELDORADO HILLS, LLC, a Nevada
25 limited liability company; DOES I-X; and/or
26 ROE CORPORATIONS I-X, inclusive,

27 Defendants.

28 **STIPULATION FOR CONSOLIDATION**

The parties by and through their respective counsel and stipulate as follows:

A. DEPARTMENT XXVII, CASE NO. A-13-686303-C.

Carlos Huerta, et al. v. Sig Rogich, et al., was filed in the Eighth Judicial District Court and assigned Case No. A-13-686303-C (the "Huerta Action"). Nanyah Vegas, LLC ("Nanyah") asserted a claim for unjust enrichment against Eldorado Hills, LLC

1 ("Eldorado Hills") in the Huerta Action. This Court previously granted summary
2 judgment against Nanyah on the basis that the statute of limitations had run on
3 Nanyah's unjust enrichment claim. The Nevada Supreme Court reversed this Court's
4 decision and remanded the case finding that the application of the statute of limitations
5 was a question of fact. Nanyah's claim therefore remains pending against Eldorado
6 Hills. The trial date in the Huerta Action has not been rescheduled.

7 **B. DEPT. NO.: III, CASE NO.: A-16-746239-C**

8 Nanyah initiated a new action against a number of defendants other than
9 Eldorado Hills in the case Nanyah Vegas, LLC v. TELD, LLC, et al., which was also filed
10 in the Eighth Judicial District Court and assigned Case No. A-16-746239-C (the
11 "Nanyah Action"). Nanyah has asserted new claims against new defendants other than
12 Eldorado Hills in the Nanyah Action, however the new claims in the Nanyah Action have
13 some similar factual issues as contained in the Huerta Action.

14 **C. CONSOLIDATION.**

15 The parties agree that the Huerta Action and the Nanyah Action should be
16 consolidated for all further proceedings. The parties believe that consolidation will
17 minimize the consumption of judicial resources, the resources of the parties and will
18 yield the most expeditious resolution of the claims in the Huerta and Nanyah Actions.
19 The Court is therefore, requested to consolidate the two cases as stated herein. Upon
20 the Court entering its Order consolidating the actions, the defendants in the Nanyah
21 Action shall have twenty (20) days thereafter to file their Answers.

22 **D. NEW CAPTION.**

23 Upon consolidation, the new caption will be as follows:

24 ///

25 ///

26 ///

27 ///

28 ///

1 CARLOS A. HUERTA, an individual;
2 CARLOS A. HUERTA as Trustee of THE
3 ALEXANDER CHRISTOPHER TRUST, a
4 Trust established in Nevada as assignee
5 of interests of GO GLOBAL, INC., a
6 Nevada corporation; NANYAH VEGAS,
7 LLC, A Nevada limited liability company,
8
9 Plaintiffs,

10 v.

11 SIG ROGICH aka SIGMUND ROGICH as
12 Trustee of The Rogich Family Irrevocable
13 Trust; ELDORADO HILLS, LLC, a Nevada
14 limited liability company; DOES I-X; and/or
15 ROE CORPORATIONS I-X, inclusive,
16
17 Defendants.

18
19 NANYAH VEGAS, LLC, a Nevada limited
20 liability company,
21
22 Plaintiff,

23 v.

24 TELD, LLC, a Nevada limited liability
25 company; PETER ELIADAS, individually
26 and as Trustee of the The Eliades Survivor
27 Trust of 10/30/08; SIGMUND ROGICH,
28 individually and as Trustee of The Rogich
Family Irrevocable Trust; IMITATIONS,
LLC, a Nevada limited liability company;
DOES I-X; and/or ROE CORPORATIONS
I-X, inclusive,
Defendants.

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CASE NO.: A-13-686303-C
DEPT. NO.: XXVII

CONSOLIDATED WITH:
CASE NO.: A-16-746239-C

1 **AFFIRMATION:** The undersigned does hereby affirm that this document does
2 not contain the Social Security Number of any person.

3 DATED this 17th day of March, 2017.

4 ROBISON, BELAUSTEGUI, SHARP & LOW
5 A Professional Corporation
6 71 Washington Street
7 Reno, Nevada 89503

8 By: 

MARK G. SIMONS, ESQ.
THERESE M. SHANKS, ESQ.
Attorneys for Nanyah Vegas, LLC

10
11 DATED this 15 day of March, 2017.

12 FENNEMORE CRAIG, P.C.
13 300 South Fourth Street, Ste. 1400
14 Las Vegas, NV 89101

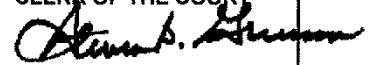
15 By: 

SAMUEL S. LIONEL, ESQ.
Attorneys for Eldorado Hills, LLC, TELD, LLC,
PETER ELIADAS, individually and as Trustee
of the The Eliades Survivor Trust of 10/30/08;
SIGMUND ROGICH, individually and as
Trustee of The Rogich Family Irrevocable
Trust; IMITATIONS, LLC

19
20 **ORDER**

21 IT IS SO ORDERED this 27 day of March, 2017.

22
23 
24 DISTRICT COURT JUDGE
25
26
27
28



ORDER (CIV)

Mark G. Simons, Esq., NSB No. 5132
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Attorneys for Nanyah Vegas, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual;
CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
Corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

Plaintiffs,

vs.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

TELD, LLC, a Nevada limited liability
company; PETER ELIADES, individually and
as Trustee of The Eliades Survivor Trust of
10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No. A-13-686303-C
Dept. No. XXVII

**ORDER: (1) GRANTING DEFENDANTS
PETER ELIADES, INDIVIDUALLY
AND AS TRUSTEE OF THE ELIADES
SURVIVOR TRUST OF 10/30/08, AND
TELD, LLC'S MOTION FOR
SUMMARY JUDGMENT; AND (2)
DENYING NANYAH VEGAS, LLC'S
COUNTERMOTION FOR SUMMARY
JUDGMENT**

CONSOLIDATED WITH:

Case No. A-16-746239-C

THIS MATTER came before the Court on July 26, 2018 on Defendants Peter Eliades,
individually ("Eliades") and as Trustee of The Eliades Survivor Trust of 10/30/08 (the "Eliades
Trust"), and Teld, LLC's ("Teld") (collectively, the "Eliades Defendants") Motion for Summary

Judgment (the "Motion for Summary Judgment"), and Nanyah Vegas, LLC's ("Nanyah")

Countermotion for Summary Judgment (the "Countermotion for Summary Judgment"). The Parties appeared as follows:

- For the Eliades Defendants and Eldorado Hills, LLC ("Eldorado"): Joseph Liebman, Esq. of Bailey❖Kennedy, LLP.
- For Sig Rogich, individually ("Rogich") and as Trustee of the Rogich Family Irrevocable Trust (the "Rogich Trust"), and Imitations, LLC (collectively, the "Rogich Defendants"): Samuel Lionel, Esq. of Fennemore Craig, P.C.
- For Nanyah: Mark G. Simons, Esq. of Simons Law, PC.

The Court, having heard oral argument, having reviewed the papers, exhibits, and pleadings on file, and having considered the same, and for the reasons stated upon the record, finds as follows:

UNDISPUTED MATERIAL FACTS

The Relevant History of Eldorado

1. Eldorado was formed in 2005 for the purpose of owning and developing approximately 161 acres of land near Boulder City, Nevada. Eldorado was originally comprised of Go Global, Inc. (100% owned by Carlos Huerta) and the Rogich Trust.
2. In 2007, Huerta contacted Nanyah to invest. In December of 2007, Nanyah wired \$1,500,000.00 which eventually was deposited into Eldorado's bank account. At this time, the Eliades Defendants had no involvement with Eldorado.
3. In October of 2008, approximately ten months later, Teld purchased a 1/3 interest in Eldorado for \$3,000,000.00. Concurrently, The Flangas Trust also purchased a 1/3 interest in Eldorado for \$3,000,000.00, which was subsequently transferred to Teld when the Flangas Trust backed out of the deal. Because Teld ended up with a larger percentage of Eldorado than originally contemplated, it was later agreed that the Rogich Trust would re-acquire 6.67% of Eldorado from Teld. As a result of these transactions, Go Global (*i.e.*, Huerta) no longer owned an Eldorado membership interest, Teld owned 60% of Eldorado, and the Rogich Trust owned approximately 40% of Eldorado.
4. These transactions were memorialized in various written agreements. Nanyah was not

included as a named signatory on the agreements, however, the agreements identified that The Rogich Trust specifically agreed to assume the obligation to pay Nanyah its percentage interest in Eldorado or to pay Nanyah its \$1,500,000 invested into Eldorado.

The Relevant Agreements

5. The relevant agreements at issue in this case state as follows:

a. October 30, 2008 Purchase Agreement between Go Global, Carlos Huerta, and the Rogich Trust:

i. "[Go Global and Huerta] owns a membership interest ... in Eldorado Hills, LLC ... equal or greater than thirty-five percent and which may be as high as forty-nine and forty-four one hundredths (49.44%) of the total ownership interests in the Company. Such interest, as well as the ownership interest currently held by [the Rogich Trust], may be subject to certain potential claims of those entities set forth and attached hereto in Exhibit 'A' and incorporated by this reference ('Potential Claimants'). [The Rogich Trust] intends to negotiate such claims with [Go Global and Huerta's] assistance so that such claimants confirm or convert the amounts set forth beside the name of each said claimants into non-interest bearing debt, or an equity percentage to be determined by [the Rogich Trust] after consultation with [Go Global and Huerta] as desired by [Go Global and Huerta], with no capital calls for monthly payments, and a distribution in respect of their claims in amounts from the one-third (1/3rd) ownership interest in [Eldorado] retained by [the Rogich Trust]."

ii. The October 30, 2008, Purchase Agreement states at Section 4 the following: Seller [Go Global], however, will not be responsible to pay the Exhibit A Claimants their percentage or debt. This will be Buyer's [The Rogich Trust's] obligation. . . ." The Exhibit A Claimants include Nanyah and its \$1,500,000.00 investment.

2 **b. October 30, 2008 Membership Interest Purchase Agreement between Rogich,**
3 **the Rogich Trust, Teld, Go Global and Huerta:**

- 4 i. The October 30, 2008, Membership Interest Purchase Agreement identifies
5 Nanyah's \$1,500,000 investment into Eldorado at Exhibit D which clearly and
6 unequivocally states the following: Seller [Rogich and the Rogich Trust]
7 confirms that certain amounts have been advanced to or on behalf of the
8 Company [Eldorado] by certain third-parties [including Nanyah], as
9 referenced in Section 8 of the Agreement. Exhibit D also memorializes
10 Nanyah's \$1,500,000 investment into Eldorado.
- 11 ii. Section 8(c) of this agreement again states that "Seller [Rogich and the Rogich
12 Trust] shall defend, indemnify and hold Buyer [Teld] harmless from any and
13 all the claims of . . . Nanyah . . . each of whom invested or otherwise
14 advanced . . . funds . . . (i) It is the current intention of Seller [Rogich and the
15 Rogich Trust] that such amounts be confirmed or converted to debt . . .
- 16 iii. Eliades acknowledged that he was aware of the Rogich Trust's obligation to
17 Nanyah contained in the October 30, 2008, Purchase Agreement when he
18 entered into the October 30, 2008 Membership Interest Purchase Agreement
19 and that he understood that Teld's acquisition of the Rogich Trust's
20 membership interests in Eldorado was subject to the terms and conditions of
21 the October 30, 2008, Purchase Agreement.
- 22 iv. Eliades acknowledges that it was always the responsibility of Rogich and the
23 Rogich Trust to repay Nanyah for its investment in Eldorado.
- 24 v. "[The Rogich Trust] is the owner, beneficially and of record, of the
25 Membership Interest, free and clear of all liens, encumbrances, security
26 agreements, equities, options, claims, charges, and restrictions, and [Teld] will
27 receive at Closing good and absolute title thereto free of any liens, charges or
28 encumbrances thereon."
- vi. "[The Rogich Trust] shall defend, indemnify, and hold [Teld] harmless from

any and all the claims of Eddyline Investments, LLC, Ray Family Trust, Nanyah Vegas, LLC, and Antonio Nevada, LLC, each of whom invested or otherwise advanced the funds, plus certain possible claimed accrued interest.”

vii. “It is the current intention of [the Rogich Trust] that such amounts be confirmed or converted to debt, with no obligation to participate in capital calls or monthly payments, a pro-rata distribution at such time as [Eldorado’s] real property is sold or otherwise disposed of. Regardless of whether this intention is realized, [the Rogich Trust] shall remain solely responsible for any claims by the above referenced entities set forth in this section above.”

viii. “The ‘pro-rata distributions’ hereinabove referenced shall mean equal one-third shares pursuant to the ownership set forth in Section 3 above, provided, that any amounts owing to those entities set forth on Exhibit ‘D,’ or who shall otherwise claim an ownership interest based upon contributions or advances directly or indirectly to [Eldorado] made prior to the date of this agreement, shall be satisfied solely by [the Rogich Trust].”

ix. “The parties agree that [the Rogich Trust] may transfer [the Rogich Trust’s] ownership interest in [Eldorado] to one or more of the entities set forth in Exhibit ‘D’ to satisfy any claims such entity may have.”

c. **October 30, 2008 Amended and Restated Operating Agreement between the Rogich Trust, the Flangas Trust, and Teld:**

i. “The Rogich Trust will retain a one-third (1/3rd) ownership interest in [Eldorado] (subject to certain possible dilution or other indemnification responsibilities assumed by the Rogich Trust in the Purchase Documents).”

ii. “The Rogich trust shall indemnify and hold the Flangas Trust and Teld harmless from and against the claims of any individuals or entities claiming to be entitled to a share of profits and losses other than the Rogich Trust, the Flangas Trust and Teld, so as not to diminish the one-third (1/3rd) participation in profits and losses by each of the Flangas Trust and Teld.”

- 2 iii. The terms and conditions of the October 30, 2008 Membership Interest
3 Purchase Agreement were incorporated by reference into the October 30,
4 2008 Amended and Restated Operating Agreement. Recital A.
- 5 d. **January 1, 2012 Membership Interest Assignment Agreement between the**
6 **Rogich Trust and the Eliades Trust:**
- 7 i. The January 1, 2012, Membership Interest Assignment Agreement was not
8 executed until sometime in August, 2012.
- 9 ii. As of August, 2012, the debt owed to Nanyah of \$1,500,000.00 had not been
10 paid.
- 11 iii. "Rogich has acquired a forty percent (40%) interest in Eldorado Hills, LLC, a
12 Nevada limited-liability company...as of the date hereof...(Within the Rogich
13 40% is a potential 1.12% interest of other holders not of formal record with
14 Eldorado)."
- 15 iv. "Rogich has not, other than as previously stated, transferred, sold, conveyed
16 or encumbered any of his Forty Percent (40%) to any other person or entity
17 prior to this Agreement, except for the potential claims of .95% held by The
18 Robert Ray Family Trust and .17% held by Eddyline Investments, L.L.C."
- 19 v. "Rogich will cause the satisfaction of the Teld note at Closing and Eliades
20 will receive at closing good and absolute title free of any liens, charges or
21 encumbrances thereon."
- 22 vi. The Eliades Defendants never informed Nanyah of this agreement and/or that
23 they were acquiring the remainder of the Rogich Trust's interest in Eldorado.
- 24 vii. The Eliades Defendants have no knowledge or understanding when Nanyah
25 discovered or was informed of the d. January 1, 2012 Membership Interest
26 Assignment Agreement.
- 27 viii. Nanyah was not a party to this agreement.
- 28 6. Any finding of fact set forth herein more appropriately designated as a conclusion of law
 shall be so designated.

CONCLUSIONS OF LAW

- 2 7. The October 30, 2008, Purchase Agreement states that The Rogich Trust specifically agreed
3 to assume the obligation to pay Nanyah its percentage or debt. However, there is nothing in
4 the Purchase Agreement that states Eliades, the Eliades Trust or Teld specifically agreed to
5 assume those obligations from the Rogich Trust.
- 6 8. Nanyah's contract theory rests upon a successors and assigns provision contained in the
7 October 30, 2008 Purchase Agreement between Go Global, Huerta, Rogich and the Rogich
8 Trust.
- 9 9. The language in the October 30, 2008 Purchase Agreement indicating that this agreement
10 will be binding on the Eliades Defendants, absent any specific agreement to be liable for the
11 Rogich Trust's obligation to Nanyah, is not itself sufficient to impose liability on the Eliades
12 Defendants to pay the Nanyah debt.
- 13 10. Under Nevada law, "[t]he fact that a contract or agreement contains a provision, as in the
14 case at bar, 'binding the successors, heirs, and assigns of the parties hereto,' is not of itself, as
15 a general rule, sufficient to impose personal liability upon the assignee, unless by specific
16 agreement to that effect or by an agreed substitution of the assignee for the vendee. *Southern*
17 *Pac. Co. v. Butterfield*, 39 Nev. 177, 154 P. 932, 932 (1916).¹
- 18 11. Further, "[a]n assignment 'cannot shift the assignor's liability to the assignee, because it is a
19 well-established rule that a party to a contract cannot relieve himself of his obligations by
20 assigning the contract. Neither does it have the effect of creating a new liability on the part
21 of the assignee, to the other party to the contract assigned, because the assignment does not
22 bring them together, and consequently there cannot be a meeting of the minds essential to the
23 formation of a contract.'"² *Id.* at 933 (citation omitted).
- 24 12. None of the Eliades Defendants were parties to the October 30, 2008 Purchase Agreement
25 with the successors and assigns provision relied on by Nanyah, and even if they were, the
26

27 ¹ Other jurisdictions are in accord. *Van Sickle v. Hallmark & Associates, Inc.*, 840 N.W.2d 92, 104 (N.D. 2013);
28 *In re Refco Inc. Sec. Litig.*, 826 F.Supp.2d 478, 494 (S.D.N.Y. 2011); *Pelz v. Streater Nat'l Bank*, 496 N.E.2d 315, 319-
20 (Ill. Ct. App. 1986).

- explicit language contained in the October 30, 2008 Membership Interest Purchase Agreement (whereby Teld purchased some of the Rogich Trust's membership interests) confirms that the Eliades Defendants would not be responsible for the Rogich Trust's obligations to Nanyah's to pay Nanyah is percentage of Eldorado or the debt to Nanyah.
13. Likewise, the explicit language of the relevant agreements also make it crystal clear that the Eliades Defendants purchased all of their Eldorado membership interests free and clear from any type of encumbrance. Nanyah was not a party to this agreement.
14. Because the relevant agreements are clear and unambiguous, this Court may determine the intent of the parties as a matter of law, and is precluded from considering any testimony to determine the Eliades Defendants' so-called contractual liability. *Krieger v. Elkins*, 96 Nev. 839, 843, 620 P.2d 370, 373 (1980) (holding that testimony used to contradict or vary the written terms of an agreement is a violation of the parol evidence rule).
15. Based on the above, the Eliades Defendants never assumed the Rogich Trust's debt or obligation to Nanyah, and therefore, there is no contractual basis for Nanyah—as an alleged third-party beneficiary—to sue the Eliades Defendants. *See Lipshie v. Tracy Inv. Co.*, 93 Nev. 370, 379-80, 566 P.2d 819, 825 (1977).
16. A tortious implied covenant claim will only arise in “rare and exceptional circumstances.” *Ins. Co. of the West v. Gibson Tile Co., Inc.*, 122 Nev. 455, 461, 134 P.3d 698, 702 (2006) (citation omitted).
17. Further, “the implied covenant or duty of good faith and fair dealing does not create rights or duties beyond those agreed to by the parties.” 17A C.J.S. Contracts § 437.
18. Nanyah's tortious implied covenant claim fails because the Court concludes there is nothing within the relevant agreements which imposes any sort of obligation on the Eliades Defendants for Nanyah's benefit.
19. “[C]ivil conspiracy liability may attach where two or more persons undertake some concerted action with the intent to commit an unlawful objective, not necessarily a tort.” *Cadle Woods v. Woods & Erickson, LLP*, 131 Nev. Adv. Op. 15, 345 P.3d 1049, 1052 (2015).
20. Nanyah's conspiracy theory relates to the transactions whereby the Eliades Defendants

obtained membership interests in Eldorado allegedly subject to repayment obligations owed to Nanyah and the Eliades Defendants supposedly pursued their own individual advantage by seeking to interfere with the return of Nanyah's alleged investment in Eldorado.

21. Because the Court concludes that that Eliades Defendants did not specifically assumed the Rogich Trust's obligation to repay Nanyah its \$1,500,000.00 investment into Eldorado, there is no unlawful objective to support a civil conspiracy claim. The Court also finds that the intracorporate conspiracy doctrine does not apply because the claim does not involve the Eliades Defendants conspiring with Eldorado.

22. Any conclusion of law set forth herein more appropriately designated as a finding of fact shall be so designated.

ORDER

Based upon the foregoing findings of fact and conclusions of law, **IT IS HEREBY ORDERED** that the Motion for Summary Judgment is GRANTED. The Court enters summary judgment in favor of the Eliades Defendants and against Nanyah, and dismisses, with prejudice, Nanyah's following claims for relief against the Eliades Defendants:

1. First Claim for Relief – Breach of Contract;
2. Second Claim for Relief – Breach of Implied Covenant of Good Faith and Fair Dealing;
3. Third Claim for Relief – Tortious Breach of Implied Covenant of Good Faith and Fair Dealing;
4. Sixth Claim for Relief – Civil conspiracy;
5. Eighth Claim for Relief – Declaratory Relief; and
6. Ninth Claim for Relief – Specific Performance.

As a result of this Order, the Eliades Defendants are completely dismissed from this litigation.

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For the reasons set forth above, **IT IS FURTHER ORDERED** that the Countermotion for
Summary Judgment is DENIED.

DATED this 1 day of Oct., 2018.

Nancy L. Alif
DISTRICT COURT JUDGE

Submitted by:

SIMONS LAW

By: [Signature]
Mark Simons, Esq.
6490 South McCarran Blvd., # 20
Reno, NV 8950
Attorneys for Plaintiff Nanyah Vegas, LLC

Approved as to Form and Content:

BAILEY ♦ KENNEDY

By: [Signature]
Dennis Kennedy, Esq.
Joseph Liebman, Esq.
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
*Attorneys for Defendants PETE ELIADES,
THE ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS, LLC*

Approved as to Form and Content:

FENNMORE CRAIG, P.C.

By: [Signature]
Samuel Lionel, Esq.
300 S. Fourth Street, Suite 1400
Las Vegas, NV 89101
*Attorneys for Defendants Sig Rogich,
Individually and as Trustee of the Rogich
Family Irrevocable Trust, and Imitations,
LLC*

1 Samuel S. Lionel, Esq. (Bar No. 1766)
2 Brenoch Wirthlin, Esq. (Bar No. 10282)
3 **FENNEMORE CRAIG, P.C.**
4 300 S. Fourth Street, Suite 1400
5 Las Vegas, Nevada 89101
6 Tel.: (702) 692-8000; Fax: (702) 692-8099
7 Email: slionel@fclaw.com
8 bwirthlin@fclaw.com
9 *Attorneys for Sigmund Rogich, Individually and*
10 *as Trustee of the Rogich Family Irrevocable*
11 *Trust and Imitations, LLC*

DISTRICT COURT
CLARK COUNTY, NEVADA

9 CARLOS A. HUERTA, an individual;
10 CARLOS A. HUERTA as Trustee of THE
11 ALEXANDER CHRISTOPHER TRUST, a
12 Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

13 Plaintiffs,

14 v.

15 SIG ROGICH aka SIGMUND ROGICH as
16 Trustee of The Rogich Family Irrevocable
17 Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

18 Defendants.

19 NANYAH VEGAS, LLC, a Nevada limited
20 liability company,

21 Plaintiff,

22 v.

23 TELD, LLC, a Nevada limited liability
24 company; PETER ELIADES, individually and
25 as Trustee of The Eliades Survivor Trust of
26 10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

27 Defendants.

28 ///

CASE NO.: A-13-686303-C

DEPT. NO.: XXVII

**OFFER OF JUDGMENT TO PLAINTIFF
NANYAH VEGAS, LLC**

CONSOLIDATED WITH:
CASE NO.: A-16-746239-C

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OFFER OF JUDGMENT TO PLAINTIFF NANYAH VEGAS, LLC

TO: PLAINTIFF NANYAH VEGAS, LLC; and

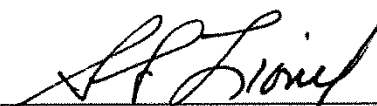
TO: MARK SIMONS, ESQ., its attorney:

Pursuant to N.R.C.P. 68, Defendants, SIGMUND ROGICH, individually and as Trustee of The Rogich Family Irrevocable Trust and IMITATIONS, LLC (collectively, the "Defendants"), hereby offer to allow judgment to be taken in favor of Plaintiff NANYAH VEGAS, LLC (the "Plaintiff") and against Defendants, jointly, for **Fifty Thousand and 00/100 Dollars (\$50,000.00)**. Acceptance of this offer precludes any additional award of interest, costs or attorneys' fees to Plaintiff as such items are already included in this offer.

This offer of Judgment is not an admission of liability but is an offer of compromise made for the purposes specified in N.R.C.P. 68. If not accepted within ten (10) days from service, this Offer of Judgment shall be deemed rejected.

Dated this 29th day of October, 2018.

FENNEMORE CRAIG, P.C.

By: 
Samuel S. Lionel, Esq. (Bar No. 1766)
Brenoch Wirthlin, Esq. (Bar No. 10282)
300 S. Fourth Street, Suite 1400
Las Vegas, Nevada 89101
*Attorneys for Sigmund Rogich,
Individually and as Trustee of the Rogich
Family Irrevocable Trust and
Imitations, LLC*

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REGISTER OF ACTIONS

CASE NO. A-13-686303-C

Carlos Huerta, Plaintiff(s) vs. Eldorado Hills LLC, Defendant(s)

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Case Type: **Breach of Contract**
 Subtype: **Other**
 Date Filed: **07/31/2013**
 Location: **Department 27**
 Cross-Reference Case Number: **A686303**
 Supreme Court No.: **66823**
67595
70492

RELATED CASE INFORMATION

Related Cases

A-16-746239-C (Consolidated)

PARTY INFORMATION

Consolidated Eliades Survivor Trust of 10-30-03
Case Party

Lead Attorneys

Consolidated Eliades, Peter
Case Party

Dennis L. Kennedy
Retained
 7025628820(W)

Consolidated Sigmund Rogich
Case Party

Samuel S. Lionel
Retained
 7023838888(W)

Consolidated TELD, LLC
Case Party

Dennis L. Kennedy
Retained
 7025628820(W)

Counter Claimant **Eldorado Hills LLC**

Dennis L. Kennedy
Retained
 7025628820(W)

Counter Defendant **Alexander Christopher Trust**

Charles E. Barnabi
Retained
 702-823-3500 ☎ (W)

Counter Defendant **Go Global Inc**

Brandon B McDonald
Retained
 702-385-7411 ☎ (W)

Counter Defendant **Huerta, Carlos A**

Defendant **Eldorado Hills LLC**

Dennis L. Kennedy
Retained
 7025628820(W)

Other Plaintiff **Go Global Inc**

Brandon B McDonald
Retained
 702-385-7411 ☎ (W)

Plaintiff **Alexander Christopher Trust**

Charles E. Barnabi

Retained
702-823-3500 📞 (W)

Plaintiff **Huerta, Carlos A**

Charles E. Barnabi
Retained
702-823-3500 📞 (W)

Plaintiff **Nanyah Vegas LLC**

Mark G Simons
Retained
775-785-0088 📞 (W)

Trustee **Huerta, Carlos A**

Charles E. Barnabi
Retained
702-823-3500 📞 (W)

Trustee **Rogich, Sig Also Known As Rogich, Sigmund**

Samuel S. Lionel
Retained
7023838888(W)

EVENTS & ORDERS OF THE COURT

11/01/2018 **Calendar Call (11:00 AM)** (Judicial Officer Alf, Nancy)

Minutes

06/21/2018 10:31 AM

11/01/2018 11:00 AM

- Mr. Sawyer requested to continue matter and advised his sister passed away Friday night in Florida. Further, funeral was yesterday, counsel returned last night and stated the past couple of weeks have been difficult for counsel. Court stated matter can be continued if everyone consents today. Mr. Kennedy stated he has no objection to request. Mr. Simons stated he does not have authorization to consent to continuance and noted the Rule 41(e) issue. Mr. Wirthlin stated counsel is talking a 60 day continuance and no objection to firm setting. Mr. Simons stated that he has not had time to communicate with his client, can reach out to him but instructions that he has today is to move forward with trial. Further, counsel advised he will reach out to client and to get response back. Colloquy regarding telephonic conference. Court stated counsel to let parties know if there is consent if not telephonic conference will go forward. Counsel to have availability for alternate trial dates when telephonic conference is held. COURT ORDERED, matter SET for telephonic conference. Further, the Court does not have the 2.47 or bench briefs the Court requested. Mr. Simons stated parties have communicated with regards to seeing if there can be some middle ground and does not seem to have any traction. Further, parties have exchanged exhibits. Parties have agreed to file pre-trial memorandums on Monday. Matter is moving along and all parties are ready except for this little event that has occurred. 11/518 2:30 PM TELEPHONIC CONFERENCE

Parties Present

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REGISTER OF ACTIONS

CASE No. A-13-686303-C

Carlos Huerta, Plaintiff(s) vs. Eldorado Hills LLC, Defendant(s)

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Case Type: **Breach of Contract**
 Subtype: **Other**
 Date Filed: **07/31/2013**
 Location: **Department 27**
 Cross-Reference Case Number: **A686303**
 Supreme Court No.: **66823**
67595
70492

RELATED CASE INFORMATION

Related Cases

A-16-746239-C (Consolidated)

PARTY INFORMATION

Lead Attorneys

Consolidated Eliades Survivor Trust of 10-30-03
 Case Party

Consolidated Eliades, Peter
 Case Party

Dennis L. Kennedy
Retained
 7025628820(W)

Consolidated Sigmund Rogich
 Case Party

Samuel S. Lionel
Retained
 7023838888(W)

Consolidated TELD, LLC
 Case Party

Dennis L. Kennedy
Retained
 7025628820(W)

Counter Eldorado Hills LLC
Claimant

Dennis L. Kennedy
Retained
 7025628820(W)

Counter Alexander Christopher Trust
Defendant

Charles E. Barnabi
Retained
 702-823-3500 (W)

Counter Go Global Inc
Defendant

Brandon B McDonald
Retained
 702-385-7411 (W)

Counter Huerta, Carlos A
Defendant

Defendant Eldorado Hills LLC

Dennis L. Kennedy
Retained
 7025628820(W)

Other Plaintiff Go Global Inc

Brandon B McDonald
Retained
 702-385-7411 (W)

Plaintiff Alexander Christopher Trust

Charles E. Barnabi

6/18/2019

<https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=11093402&HearingID=197373396&SingleViewMode=Minutes>

Retained
702-823-3500 📞 (W)

Plaintiff **Huerta, Carlos A**

Charles E. Barnabi
Retained
702-823-3500 📞 (W)

Plaintiff **Nanyah Vegas LLC**

Mark G Simons
Retained
775-785-0088 📞 (W)

Trustee **Huerta, Carlos A**

Charles E. Barnabi
Retained
702-823-3500 📞 (W)

Trustee **Rogich, Sig Also Known As Rogich, Sigmund**

Samuel S. Lionel
Retained
7023838888(W)

EVENTS & ORDERS OF THE COURT

11/05/2018 | **Telephonic Conference (2:30 PM)** (Judicial Officer Allf, Nancy)

Minutes

11/05/2018 2:30 PM

- All counsel present telephonically. Colloquy regarding oral motion at last hearing to continue trial. Mr. Simons stated his client did not consent to the continuance however, he did obtain the availability of his client. COURT ORDERED, continuance GRANTED. Colloquy regarding availability. Court directed counsel to confer and let Court's Judicial Executive Assistant know by the close of business November 7, 2018.

Parties Present

[Return to Register of Actions](#)

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Brenoch Wirthlin, Esq. (Bar No. 10282)
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*Attorneys for Sigmund Rogich, Individually and
as Trustee of the Rogich Family Irrevocable
Trust and Imitations, LLC*

DISTRICT COURT
CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual;
CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

Plaintiffs,

v.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

v.

TELD, LLC, a Nevada limited liability
company; PETER ELIADES, individually and
as Trustee of The Eliades Survivor Trust of
10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

///

CASE NO.: A-13-686303-C

DEPT. NO.: XXVII

**OFFER OF JUDGMENT TO PLAINTIFF
NANYAH VEGAS, LLC**

*CONSOLIDATED WITH:
CASE NO.: A-16-746239-C*

1 **OFFER OF JUDGMENT TO PLAINTIFF NANYAH VEGAS, LLC**

2 TO: PLAINTIFF NANYAH VEGAS, LLC; and

3 TO: MARK SIMONS, ESQ., its attorney:

4 Pursuant to N.R.C.P. 68, Defendants, SIGMUND ROGICH, individually and as Trustee of
5 The Rogich Family Irrevocable Trust and IMITATIONS, LLC (collectively, the “Defendants”),
6 hereby offer to allow judgment to be taken in favor of Plaintiff NANYAH VEGAS, LLC (the
7 “Plaintiff”) and against Defendants, jointly, for **One Hundred Thousand and 00/100 Dollars**
8 **(\$100,000.00)**. Acceptance of this offer precludes any additional award of interest, costs or
9 attorneys’ fees to Plaintiff as such items are already included in this offer.

10 This offer of Judgment is not an admission of liability but is an offer of compromise made
11 for the purposes specified in N.R.C.P. 68. If not accepted within fourteen (14) days from service,
12 this Offer of Judgment shall be deemed rejected.

13 Dated: April 1, 2019.

14 **FENNEMORE CRAIG, P.C.**

15
16 By: /s/ Brenoch Wirthlin, Esq.
17 Samuel S. Lionel, Esq. (Bar No. 1766)
18 Brenoch Wirthlin, Esq. (Bar No. 10282)
19 300 S. Fourth Street, Suite 1400
20 Las Vegas, Nevada 89101
21 Attorneys for Sigmund Rogich,
22 Individually and as Trustee of the Rogich
23 Family Irrevocable Trust and
24 Imitations, LLC
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that a copy of **OFFER OF JUDGMENT TO PLAINTIFF NANYAH VEGAS, LLC** was served upon the following person(s) by electronic transmission through the Wiznet system pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, on April 1, 2019 as follows:

Mark Simons, Esq. *Via E-service*
6490 South McCarran Blvd., #20
Reno, Nevada 89509
Attorney for Plaintiff Plaintiff Vegas, LLC

Charles E. ("CJ") Barnabi, Jr. *Via E-service*
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Attorney for Plaintiffs Carlos Huerta and Go Global

Dennis Kennedy *Via E-service*
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Las Vegas, NV 89148
Attorneys for Defendants Pete Eliades, Teld, LLC and Eldorado Hills, LLC

Michael Cristalli *Via E-service*
Janiece S. Marshall
GENTILE CRISTALLI MILLER ARMENTI SAVARESE
410 S. Rampart Blvd., Suite 420
Las Vegas, NV 89145

/s/ Cheryl Landis
An employee of
Fennemore Craig, P.C.



Samuel S. Lionel, Esq. (Bar No. 1766)
Thomas Fell, Esq. (Bar No. 3717)
Brenoch Wirthlin, Esq. (Bar No. 10282)
FENNEMORE CRAIG, P.C.
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tfell@fclaw.com
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*Attorneys for Sigmund Rogich, Individually and as
Trustee of the Rogich Family Irrevocable Trust and
Imitations, LLC*

DISTRICT COURT

CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual; **CASE NO.: A-13-686303-C**
CARLOS A. HUERTA as Trustee of THE **DEPT. NO.: XXVII**
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

Plaintiffs,

v.

REQUEST FOR JUDICIAL NOTICE

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

v.

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

TELD, LLC, a Nevada limited liability
company; PETER ELIADAS, individually and
as Trustee of the The Eliades Survivor Trust of
10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

1 **REQUEST FOR JUDICIAL NOTICE**

2 Defendants, Sigmund Rogich, individually (“Mr. Rogich”), and as Trustee of the Rogich
3 2004 Family Irrevocable Trust (the “Rogich Trust” and collectively with Mr. Rogich referred to as
4 the “Rogich Defendants”), and Imitations, LLC (“Imitations” and collectively with the Rogich
5 Defendants referred to as the “Defendants”), hereby request that the Court take judicial notice of
6 the following law pursuant to NRS 47.140(3) which provides as follows:

7 **NRS 47.140(3):** “The laws subject to judicial notices are...[a]ny other
8 statute of this State if brought to the attention of the court by its title and the day of
9 its passage.”

10 Pursuant to NRS 47.140(3), the Defendants request this Court take judicial notice of the
11 following Nevada statute: **NRS 163.120**, which is found in Chapter 163 of the Nevada Revised
12 Statutes, entitled Trusts and enacted in 1941 (Added by Laws 1941, c. 136, § 11. NRS amended
13 by Laws 1999, c. 467, § 492. Nev. Rev. Stat. Ann. § 163.120 (West)). NRS 163.120 provides as
14 follows:

15 **NRS 163.120 Claims based on certain contracts or obligations:**
16 **Assertion against trust; entry of judgment; notice; intervention; personal**
17 **liability of trustee; significance of use of certain terms.**

18 1. A claim based on a contract entered into by a trustee in the capacity of
19 representative, or on an obligation arising from ownership or control of trust
20 property, may be asserted against the trust by proceeding against the trustee in the
21 capacity of representative, whether or not the trustee is personally liable on the
22 claim.

23 2. A judgment may not be entered in favor of the plaintiff in the action unless
24 the plaintiff proves that within 30 days after filing the action, or within 30 days
25 after the filing of a report of an early case conference if one is required, whichever
26 is longer, or within such other time as the court may fix, and more than 30 days
27 before obtaining the judgment, the plaintiff notified each of the beneficiaries
28 known to the trustee who then had a present interest, or in the case of a charitable
trust, the Attorney General and any corporation which is a beneficiary or agency in
the performance of the charitable trust, of the existence and nature of the action.
The notice must be given by mailing copies to the beneficiaries at their last known
addresses. The trustee shall furnish the plaintiff a list of the beneficiaries to be
notified, and their addresses, within 10 days after written demand therefor, and
notification of the persons on the list constitutes compliance with the duty placed
on the plaintiff by this section. Any beneficiary, or in the case of charitable trusts
the Attorney General and any corporation which is a beneficiary or agency in the

1 performance of the charitable trust, may intervene in the action and contest the
2 right of the plaintiff to recover.

3 3. Except as otherwise provided in this chapter or in the contract, a trustee is
4 not personally liable on a contract properly entered into in the capacity of
5 representative in the course of administration of the trust unless the trustee fails to
6 reveal the representative capacity or identify the trust in the contract. The addition
of the word "trustee" or the words "as trustee" after the signature of a trustee to a
contract are prima facie evidence of an intent to exclude the trustee from personal
liability.

7 [11:136:1941; 1931 NCL § 7718.40] — (NRS A [1999, 2368](#))

8
9 DATED this 15th day of April, 2019.

10 **FENNEMORE CRAIG, P.C.**

11 /s/ Brenoch Wirthlin, Esq.

12 Samuel S. Lionel, Esq. (Bar No. 1766)

13 Thomas Fell, Esq. (Bar No. 3717)

14 Brenoch Wirthlin, Esq. (Bar No. 10282)

FENNEMORE CRAIG, P.C.

300 S. Fourth Street, Suite 1400

Las Vegas, Nevada 89101

Attorneys for the Moving Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of **REQUEST FOR JUDICIAL NOTICE** was served upon the following person(s) either by electronic transmission through the Wiznet system pursuant to NEFCR 9, NRCF 5(b) and EDCR 7.26 or by mailing a copy to their last known address, first class mail, postage prepaid for non-registered users, April 15, 2019 as follows:

Mark Simons, Esq.
6490 South McCarran Blvd., #20
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mark@mgsimonslaw.com
Attorney for Plaintiff Nanyah Vegas, LLC

☒ Via E-service
☐ Via U.S. Mail (Not registered with
CM/ECF Program)

Charles E. ("CJ") Barnabi, Jr.
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*Attorney for Plaintiffs Carlos Huerta
and Go Global*

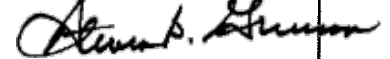
☒ Via E-service
☐ Via U.S. Mail (Not registered with
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*Attorneys for Defendants Pete Eliades,
Teld, LLC and Eldorado Hills, LLC*

☒ Via E-service
☐ Via U.S. Mail (Not registered with
CM/ECF Program)

/s/ Morganne Westover

An employee of
Fennemore Craig, P.C.



1 **EXMT**

2 MARK G. SIMONS, ESQ.
3 Nevada Bar No. 5132
MSimons@SHJNevada.com
4 SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
5 Reno, Nevada 89509
Telephone: (775) 785-0088
Facsimile: (775) 785-0087

6 *Attorneys for Nanyah Vegas, LLC*

BN 1611
LC

8
9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 CARLOS A. HUERTA, an individual; CARLOS A.
12 HUERTA as Trustee of THE ALEXANDER
CHRISTOPHER TRUST, a Trust established in
13 Nevada as assignee of interests of GO GLOBAL,
INC., a Nevada corporation; NANYAH VEGAS,
14 LLC, A Nevada limited liability company,

15 Plaintiffs,

16 v.

17 SIG ROGICH aka SIGMUND ROGICH as Trustee
of The Rogich Family Irrevocable Trust;
18 ELDORADO HILLS, LLC, a Nevada limited liability
company; DOES I-X; and/or ROE
CORPORATIONS I-X, inclusive,

19 Defendants.

20 NANYAH VEGAS, LLC, a Nevada limited liability
company,

21 Plaintiff,

22 v.

23 TELD, LLC, a Nevada limited liability company;
PETER ELIADAS, individually and as Trustee of
24 the The Eliades Survivor Trust of 10/30/08;
SIGMUND ROGICH, individually and as Trustee
25 of The Rogich Family Irrevocable Trust;
IMITATIONS, LLC, a Nevada limited liability
26 company; DOES I-X; and/or ROE
CORPORATIONS I-X, inclusive,

27 Defendants.
28

CASE NO.: A-13-686303-C
DEPT. NO.: XXVII

CONSOLIDATED WITH:
CASE NO.: A-16-746239-C

**NANYAH VEGAS, LLC'S
EMERGENCY MOTION TO
ADDRESS DEFENDANT THE
ROGICH FAMILY
IRREVOCABLE TRUST'S
NRS 163.120 NOTICE AND/OR
MOTION TO CONTINUE TRIAL
FOR PURPOSES OF NRS
163.120**

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

1
2 **NANYAH VEGAS, LLC'S EMERGENCY MOTION TO ADDRESS DEFENDANT**
3 **THE ROGICH FAMILY IRREVOCABLE TRUST'S**
4 **NRS 163.120 NOTICE**
5 **AND/OR MOTION TO CONTINUE TRIAL FOR PURPOSES OF NRS 163.120**

6 Nanyah Vegas, LLC ("Nanyah") submits the following Emergency Motion to
7 Address the Rogich Family Irrevocable Trust's NRS 163.120 notice ("Notice"). **Exhibit 1.**

8
9 DATED this 16th day of April, 2019.

10 SIMONS HALL JOHNSTON PC
11 6490 S. McCarran Blvd., Ste. F-46
12 Reno, NV 89509

13 
14 MARK G. SIMONS
15 Attorneys for Nanyah Vegas, LLC

16 **DECLARATION OF MARK G. SIMONS IN SUPPORT OF MOTION**

17 I, MARK G. SIMONS, hereby declare as follows:

- 18 1. I am a partner with the law firm of SIMONS HALL JOHNSTON PC, which
19 is counsel for Nanyah in the above-captioned matter.
- 20 2. This Declaration is made and based upon my personal knowledge. If
21 called to testify, I could competently do so.
- 22 3. Trial in this matter is set for a firm setting to begin April 22, 2019.
- 23 4. On April 15, 2019, an NRS 163.120 Notice was provided to the Court.
- 24 5. Once an NRS 163.120 notice issue is brought to the attention of the Court,
25 the Court must address how to proceed.
- 26 6. Despite extensive briefing and motion practice in this case, the defendants
27 never asserted an NRS 163.120 notice issue previously.
- 28

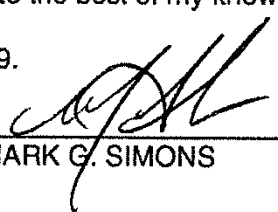
SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

7. The exhibits attached hereto are true and correct copies of the referenced documents.

8. This motion is submitted in good faith and not for purposes of delay.

I declare under penalty of perjury of the laws of the State of Nevada that the foregoing statements are true and correct to the best of my knowledge.

DATED this 16th day of April, 2019.


MARK G. SIMONS

ORDER SHORTENING TIME

TO: ALL INTERESTED PARTIES and THEIR ATTORNEYS OF RECORD:

Upon application of counsel, and good cause appearing, IT IS HEREBY ORDERED that Nanyah's **NANYAH VEGAS, LLC'S EMERGENCY MOTION TO ADDRESS DEFENDANT THE ROGICH FAMILY IRREVOCABLE TRUST'S NRS 163.120 NOTICE AND/OR MOTION TO CONTINUE TRIAL FOR PURPOSES OF NRS 163.120** shall be heard on the 18th day of April, 2019, at the hour of 4:00 pm ~~a.m.~~ or as soon thereafter as counsel may be heard. **

DATED this 16 day of April, 2019.

* by telephone, Mr. Simons to provide conference call information.


DISTRICT COURT JUDGE

** service to be effected by 7:00 pm on April 16, 2019.

** may be via email or fax, plus odyssey

1 **I. BASIS OF MOTION—THE ROGICH TRUST DEFENDANT.**

2 The five-day jury trial is set to commence April 22, 2019. Defendant Sigmund
3 Rogich and the purported entity the “Rogich 2004 Family Irrevocable Trust” submitted the
4 Notice identifying the obligations contained in NRS 163.120 detailing, among other things,
5 written notice to any beneficiaries of a trust prior to entry of judgment in a case.
6

7 However, the named defendant in this action is the “Rogich Family Irrevocable
8 Trust” (hereinafter the “Rogich Trust”) not the “Rogich 2004 Family Irrevocable Trust”
9 (hereinafter the “Rogich 2004 Trust”) the entity purporting to file the Notice. It is unclear if
10 this distinction is simply a typographical error and/or has a greater relevance at this time
11 since the attorneys representing the Rogich Trust have never before made the distinction
12 as to the Rogich 2004 Trust. However, the Notice seeks to imply a distinction.
13

14 The “Rogich Trust” filed its Answer in this action admitting that Defendant Rogich is
15 the Trustee of the Rogich Trust. Ans., ¶6. The Rogich Trust has never asserted a
16 distinction between the “Rogich Trust” versus the “Rogich 2004 Trust” in these
17 proceedings prior to the Notice.¹ Further, the Rogich Trust executed Responses to
18 Requests for Admissions admitting that it is the named party to the various contracts at
19 issue in this litigation. **Exhibit 2.**
20

21 ///

22 ///

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24
25
26
27 ¹ For instance, the Rogich Trust has filed numerous motions for summary judgment and
28 have submitted numerous affidavits signed by Rogich asserting he is the trustee of the
Rogich Trust.

1 **II. BASIS OF MOTION—NRS 163.120.**

2 The Notice was filed purporting to be on behalf of Rogich, the Rogich 2004 Trust
3 and Imitations, LLC ("Imitations"). However, Rogich and Imitations have no standing to
4 assert application of NRS 163.120. Also, at this time, it remains unclear if the Rogich
5 Trust and the Rogich 2004 Trust are independent entities or are the same entity.
6

7 **A. PURPOSE OF NRS 163.120.**

8 The purpose of NRS 163.120 is to provide notice to beneficiaries of a trust of a
9 pending action so that the beneficiaries may intervene, should they so desire, and attempt
10 to make the trustee liable for the trust's debt. NRS 163.120(3). NRS 163.120 provides
11 that a judgment may not be entered until such time "as the court may fix and more than
12 30 days before obtaining the judgment" so that any then beneficiaries of the trust are
13 provided actual notice of the proceedings. The statute does not preclude a case from
14 being tried to a jury and does not prevent a jury from rendering a verdict. Further, if the
15 beneficiaries have actual notice of the proceedings, then the provisions of NRS 163.120
16 do not apply. NRS 163.120 is part of the Trust Uniform Act.²
17
18
19
20

21 ² **NRS 163.120 states:**

22 1. A claim based on a contract entered into by a trustee in the capacity of
23 representative, or on an obligation arising from ownership or control of trust property, may
24 be asserted against the trust by proceeding against the trustee in the capacity of
25 representative, whether or not the trustee is personally liable on the claim.

26 2. A judgment may not be entered in favor of the plaintiff in the action unless the
27 plaintiff proves that within 30 days after filing the action, or within 30 days after the filing of
28 a report of an early case conference if one is required, whichever is longer, or within such
other time as the court may fix, and more than 30 days before obtaining the judgment, the
plaintiff notified each of the beneficiaries known to the trustee who then had a present

...(cont'd)

1 NRS 163.120 notices were not provided to any beneficiaries of the Rogich Trust
2 because Rogich is the beneficiary of the Rogich Trust. **Exhibit 3** (printouts from Nevada
3 Gaming Control Board showing Rogich as Trustee/Beneficiary of the trust); **Exhibit 4**,
4 deposition of Melissa Olivas, p. 113:9-24. Because Rogich is both the Trustee of the
5 Rogich Trust and the beneficiary of the trust, NRS 163.120 notice of the proceedings is
6 not mandated as Rogich has received actual notice of all activity in this case and NRS
7 163.120's provisions are fully satisfied.
8

9 This exact issue was analyzed in Transamerican Leasing Co. v. Three Bears, Inc.,
10 586 S.W.2d 472, 476-77 (Tex. 1979) by the Texas Supreme Court applying the identical
11 statutory provision as contained in NRS 163.120. In Transamamerica, the "defendants in
12 the trial court, urge that the trial court's judgment was fatally defective because there was
13 no notice to each of the McCreless beneficiaries as required by Tex.Rev.Civ.Stat.Ann. art.
14 7425b-19 B". The Court addressed the notice to beneficiaries requirement **after**
15 **judgment had already been rendered but during the period the Court was capable**
16 **of vacating the judgment** and stated as follows:
17
18
19
20

21 interest . . . The notice must be given by mailing copies to the beneficiaries at their last
22 known addresses. The trustee shall furnish the plaintiff a list of the beneficiaries to be
23 notified, and their addresses, within 10 days after written demand therefor, and
24 notification of the persons on the list constitutes compliance with the duty placed on the
25 plaintiff by this section. Any beneficiary . . . may intervene in the action and contest the
26 right of the plaintiff to recover.

27 3. Except as otherwise provided in this chapter or in the contract, a trustee is not
28 personally liable on a contract properly entered into in the capacity of representative in
the course of administration of the trust unless the trustee fails to reveal the
representative capacity or identify the trust in the contract. The addition of the word
"trustee" or the words "as trustee" after the signature of a trustee to a contract are prima
facie evidence of an intent to exclude the trustee from personal liability.

1 When this matter was first called to the attention of the trial court, it vacated
2 the original judgment while it still had jurisdiction to do so. . . . After the judgment
3 was vacated, Transamerican caused notice of the suit to be sent to the
4 beneficiaries, and the court also appointed a guardian ad litem to represent the two
5 minor contingent beneficiaries. **The trial court also ordered the beneficiaries to**
6 **show cause why judgment should not be rendered in the case. The**
7 **beneficiaries' response to the show cause order was that a new trial was**
8 **mandatory since the notice was not sent until after the jury had returned its**
9 **verdict.** On August 17, 1976, the trial court again rendered judgment for
10 Transamerican against both Three Bears and the McCreless Trust.

11 The beneficiaries acknowledge that the notices complied with the statutory
12 requirement that they be sent "more than thirty (30) days prior to obtaining the
13 judgment," but insist that the technical compliance did not allow the beneficiaries
14 the opportunity to participate in the trial of the case. There are undoubtedly many
15 instances in which a notice that is sent after verdict would not be sufficient to
16 protect a beneficiary's interest in a trust. **The beneficiaries in this instance have**
17 **not been able to show anything they would have done differently or in**
18 **addition to what was done in defense of the Trust liability if they had actually**
19 **participated in the trial. Prior to the court's judgment on August 17, 1976, the**
20 **beneficiaries presented nothing to the court to suggest any beneficiary had**
21 **been prejudiced by a failure to receive an earlier notice, or that the trial**
22 **would have been conducted any differently if all beneficiaries had**
23 **participated. The trustees were also the principal beneficiaries, and they**
24 **answered and ably participated in the defense of the case. None of the**
25 **beneficiaries who did not participate in the trial have ever asserted any**
26 **conflict between their *477 interests and the trustee-beneficiaries or that**
27 **their interests were not adequately represented by the trustees. In the**
28 **absence of a conflict of interest or of a pleading that they were inadequately**
represented, the beneficiaries who did not participate in the trial were not
necessary parties to the case. . . . The requirement for a notice does not always
require notice in time for trial, since the statute places some discretion with the
court to require the notice "within such other time as the court may fix" so long as it
is thirty days before judgment.

Id. (emphasis added). A copy of the Transamerica decision is attached hereto as **Exhibit**

5.

Again, in the Transamamerica action, the jury had already rendered a verdict
against the trust. The court entered judgment on the verdict. When the issue of notice to
beneficiaries was brought to the court's attention, the court vacated the judgment and
allowed the 30-day notice to be sent to the beneficiaries. The court then entered an order

1 to show cause to the beneficiaries to explain why the judgment should not be rendered.
2 The trustee who was overseeing the entire litigation was also the primary beneficiary of
3 the trust. The court held that the trustee/beneficiary "**ably participated in the defense of**
4 **the case**". The court held that the beneficiaries also never asserted that the trustee did
5 not adequately represent their interests and that there was no conflict of interests.
6

7 The court then ruled that the beneficiaries, other than the trustee/beneficiary were
8 not indispensable parties and the judgment on the jury verdict could be properly entered.
9 Further, the Texas Supreme Court also explained that the notice to beneficiary
10 requirement did not "**require notice in time for trial**" and that the statute provides the
11 court with discretion in instituting the notice "**so long as it is thirty days before**
12 **judgment.**"
13

14 **B. APPLICATION TO NRS 163.120 TO THE PRESENT CASE.**

15 Given the current status of the case, and that notice of NRS 163.120 has been
16 brought to the attention of the Court, the Court must determine that NRS 163.120's
17 provisions are either (1) not implicated; (2) that the case may be tried to verdict and,
18 thereafter, suspend entry of judgment pending notice to any designated beneficiary;
19 and/or (3) implement the notice requirement prior to the matter being tried to the jury via a
20 continuance of the case.
21

22 While Nanyah's position is that NRS 163.120's provisions are not implicated and
23 that, even if implicated, the NRS 163.120 notice issues can be addressed post-verdict,
24 Nanyah suggests to the Court that the most economical approach to this situation is to
25 continue the trial for approximately 60 days to allow NRS 163.120 notice to be provided to
26 any beneficiary of the Rogich Trust. Further, a brief continuance will allow the attorneys
27 for the Rogich Trust to provide written notification of any beneficiaries to Nanyah on or
28

1 before April 25, 2019 since Nanyah has submitted the NRS 163.120(2) request for
2 identification of the beneficiaries and for an explanation of whether the Rogich Trust and
3 the Rogich 2004 Trust are the same entity. **Exhibit 6.** NRS 163.120(2) requires the
4 Rogich Trust's attorneys to provide the name and addresses of all beneficiaries within 10-
5 days of receipt of such request. This request was provided immediately to the Rogich
6 Trust's counsel upon receipt of the Notice.
7

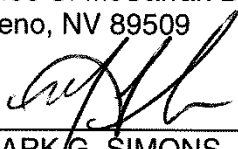
8 **C. EDCR 7.30.**

9 Based upon the foregoing, the motion seeking to continue the trial is based upon
10 good cause. The motion is based upon compliance with NRS 163.120 and not for the
11 purpose of delay. Further, the continued trial must commence on or before July 21, 2019
12 to comply with the requirements of NRCP 41(e). However, to the extent the Court's
13 calendar requires the trial be commenced at a later date, Nanyah consents to such
14 conduct only to the extent it does not prejudice Nanyah and does not constitute a
15 mandatory dismissal under NRCP 41(e).
16

17 **AFFIRMATION:** This document does not contain the social security number of any
18 person.

19 DATED this 16th day of April, 2019.
20

21 SIMONS HALL JOHNSTON PC
22 6490 S. McCarran Blvd., Ste. F-46
23 Reno, NV 89509

24 
25 MARK G. SIMONS
26 Attorneys for Nanyah Vegas, LLC
27
28


SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 8.05, I certify that I am an employee of
SIMONS HALL JOHNSTON PC and that on this date I caused to be served a true copy of
the **NANYAH VEGAS, LLC'S EMERGENCY MOTION TO ADDRESS DEFENDANT THE
ROGICH FAMILY IRREVOCABLE TRUST'S NRS 163.120 NOTICE AND/OR MOTION
TO CONTINUE TRIAL FOR PURPOSES OF NRS 163.120** on all parties to this action via
the Odyssey E-Filing System:

Dennis L. Kennedy	dkennedy@baileykennedy.com
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Andrew Leavitt	andrewleavitt@gmail.com
Angela Westlake	awestlake@lionelsawyer.com
Brandon McDonald	brandon@mcdonaldlayers.com
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Samuel Lionel	slionel@fclaw.com
CJ Barnabi	cj@cohenjohnson.com
H S Johnson	calendar@cohenjohnson.com
Erica Rosenberry	erosenberry@fclaw.com

DATED this 16th day of April, 2019.


Employee of Simons Hall Johnston PC

SIMONS HALL, JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

EXHIBIT LIST

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EXHIBIT 1

EXHIBIT 1



Samuel S. Lionel, Esq. (Bar No. 1766)
Thomas Fell, Esq. (Bar No. 3717)
Brenoch Wirthlin, Esq. (Bar No. 10282)
FENNEMORE CRAIG, P.C.
300 S. Fourth Street, Suite 1400
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Tel.: (702) 692-8000; Fax: (702) 692-8099
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tfell@fclaw.com
bwirthlin@fclaw.com

*Attorneys for Sigmund Rogich, Individually and as
Trustee of the Rogich Family Irrevocable Trust and
Imitations, LLC*

DISTRICT COURT

CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual; **CASE NO.: A-13-686303-C**
CARLOS A. HUERTA as Trustee of THE **DEPT. NO.: XXVII**
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

Plaintiffs,

v.

REQUEST FOR JUDICIAL NOTICE

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

v.

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

TELD, LLC, a Nevada limited liability
company; PETER ELIADAS, individually and
as Trustee of the The Eliades Survivor Trust of
10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

1 **REQUEST FOR JUDICIAL NOTICE**

2 Defendants, Sigmund Rogich, individually ("Mr. Rogich"), and as Trustee of the Rogich
3 2004 Family Irrevocable Trust (the "Rogich Trust" and collectively with Mr. Rogich referred to as
4 the "Rogich Defendants"), and Imitations, LLC ("Imitations" and collectively with the Rogich
5 Defendants referred to as the "Defendants"), hereby request that the Court take judicial notice of
6 the following law pursuant to NRS 47.140(3) which provides as follows:

7 **NRS 47.140(3):** "The laws subject to judicial notices are...[a]ny other
8 statute of this State if brought to the attention of the court by its title and the day of
9 its passage."

10 Pursuant to NRS 47.140(3), the Defendants request this Court take judicial notice of the
11 following Nevada statute: **NRS 163.120**, which is found in Chapter 163 of the Nevada Revised
12 Statutes, entitled Trusts and enacted in 1941 (Added by Laws 1941, c. 136, § 11. NRS amended
13 by Laws 1999, c. 467, § 492. Nev. Rev. Stat. Ann. § 163.120 (West)). NRS 163.120 provides as
14 follows:

15 **NRS 163.120 Claims based on certain contracts or obligations:**
16 **Assertion against trust; entry of judgment; notice; intervention; personal**
17 **liability of trustee; significance of use of certain terms.**

18 1. A claim based on a contract entered into by a trustee in the capacity of
19 representative, or on an obligation arising from ownership or control of trust
20 property, may be asserted against the trust by proceeding against the trustee in the
21 capacity of representative, whether or not the trustee is personally liable on the
22 claim.

23 2. A judgment may not be entered in favor of the plaintiff in the action unless
24 the plaintiff proves that within 30 days after filing the action, or within 30 days
25 after the filing of a report of an early case conference if one is required, whichever
26 is longer, or within such other time as the court may fix, and more than 30 days
27 before obtaining the judgment, the plaintiff notified each of the beneficiaries
28 known to the trustee who then had a present interest, or in the case of a charitable
trust, the Attorney General and any corporation which is a beneficiary or agency in
the performance of the charitable trust, of the existence and nature of the action.
The notice must be given by mailing copies to the beneficiaries at their last known
addresses. The trustee shall furnish the plaintiff a list of the beneficiaries to be
notified, and their addresses, within 10 days after written demand therefor, and
notification of the persons on the list constitutes compliance with the duty placed
on the plaintiff by this section. Any beneficiary, or in the case of charitable trusts
the Attorney General and any corporation which is a beneficiary or agency in the

1 performance of the charitable trust, may intervene in the action and contest the
2 right of the plaintiff to recover.

3 3. Except as otherwise provided in this chapter or in the contract, a trustee is
4 not personally liable on a contract properly entered into in the capacity of
5 representative in the course of administration of the trust unless the trustee fails to
6 reveal the representative capacity or identify the trust in the contract. The addition
7 of the word "trustee" or the words "as trustee" after the signature of a trustee to a
8 contract are prima facie evidence of an intent to exclude the trustee from personal
9 liability.

10 [11:136:1941; 1931 NCL § 7718.40] — (NRS A 1999, 2368)

11 DATED this 15th day of April, 2019.

12 **FENNEMORE CRAIG, P.C.**

13 /s/ Brenoch Wirthlin, Esq.

14 Samuel S. Lionel, Esq. (Bar No. 1766)

15 Thomas Fell, Esq. (Bar No. 3717)

16 Brenoch Wirthlin, Esq. (Bar No. 10282)

17 **FENNEMORE CRAIG, P.C.**

18 300 S. Fourth Street, Suite 1400

19 Las Vegas, Nevada 89101

20 *Attorneys for the Moving Defendants*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that a copy of **REQUEST FOR JUDICIAL NOTICE** was served upon
3 the following person(s) either by electronic transmission through the Wiznet system pursuant to
4 NEFCR 9, NRCP 5(b) and EDCR 7.26 or by mailing a copy to their last known address, first
5 class mail, postage prepaid for non-registered users, April 15, 2019 as follows:

6 Mark Simons, Esq.
7 6490 South McCarran Blvd., #20
8 Reno, Nevada 89509
9 mark@mgsimonslaw.com
10 *Attorney for Plaintiff Nanyah Vegas, LLC*

[x] Via E-service
[] Via U.S. Mail (Not registered with
CM/ECF Program)

11 Charles E. ("CJ") Barnabi, Jr.
12 COHEN JOHNSON PARKER EDWARDS
13 375 E. Warm Springs Road, Suite 104
14 Las Vegas, NV 89119
15 cj@cohenjohnson.com
16 *Attorney for Plaintiffs Carlos Huerta*
17 *and Go Global*

[x] Via E-service
[] Via U.S. Mail (Not registered with
CM/ECF Program)

18 Dennis Kennedy
19 Joseph Liebman
20 BAILEY ❖ KENNEDY
21 8984 Spanish Ridge Avenue
22 Las Vegas, NV 89148
23 DKennedy@BaileyKennedy.com
24 JLiebman@BaileyKennedy.com
25 *Attorneys for Defendants Pete Eliades,*
26 *Teld, LLC and Eldorado Hills, LLC*

[x] Via E-service
[] Via U.S. Mail (Not registered with
CM/ECF Program)

27 /s/ Morganne Westover

28 An employee of
Fennemore Craig, P.C.

EXHIBIT 2

EXHIBIT 2

1 **RFA**

2 Samuel S. Lionel, Esq. (Bar No. 1766)

3 **FENNEMORE CRAIG, P.C.**

300 S. Fourth Street, Suite 1400

Las Vegas, Nevada 89101

4 Tel.: (702) 692-8000; Fax: (702) 692-8099

Email: slionel@fclaw.com

5 *Attorney for Defendants*

6 DISTRICT COURT

7 CLARK COUNTY, NEVADA

8 CARLOS A. HUERTA, an individual;
9 CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
10 Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
11 corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

12 Plaintiffs,

13 v.

14 SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
15 Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
16 ROE CORPORATIONS I-X, inclusive,

17 Defendants.

18
19 NANYAH VEGAS, LLC, a Nevada limited
liability company,

20 Plaintiff,

21 v.

22 TELD, LLC, a Nevada limited liability
company; PETER ELIADES, individually and
as Trustee of the The Eliades Survivor Trust of
23 10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
24 Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
25 and/or ROE CORPORATIONS I-X, inclusive,

26 Defendants.
27
28

CASE NO.: A-13-686303-C

DEPT. NO.: XXVII

**DEFENDANT SIGMUND ROGICH , AS
TRUSTEE OF THE ROGICH FAMILY
IRREVOCABLE TRUST'S RESPONSES
TO PLAINTIFF NANYAH VEGAS, LLC'S
FIRST SET OF REQUESTS FOR
ADMISSION**

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

1 Defendant Sigmund Rogich, as Trustee of the Rogich Family Irrevocable Trust
2 ("Rogich"), responds to Plaintiff Nanyah Vegas, LLC's ("Plaintiff"), First Set of Requests for
3 Admission as follows:

4 **PRELIMINARY STATEMENT**

5 These responses are made solely for the purpose of the above-captioned proceedings.
6 Each response is subject to all appropriate objections, including competency, relevancy, propriety
7 and admissibility, which would require the exclusion of any response set forth herein if the
8 question of materiality were asked of, or any response were made by, a witness present and
9 testifying in Court. All such objections are expressly reserved. The fact that any interrogatory
10 herein has been answered should not be taken as an admission of relevancy, admissibility or any
11 fact set forth in the interrogatory. All responses are given on the basis for good faith effort to
12 locate requested information. Upon additional information being located throughout the course
13 of discovery, Rogich will supplement its response.

14 **GENERAL OBJECTIONS**

15 1. Rogich will make reasonable efforts to respond to each request, to the extent that it
16 has not been objected to, as Rogich understands and interprets the request. If Plaintiff
17 subsequently asserts an interpretation of any interrogatory or request, which differs from that of
18 Rogich, Rogich reserves the right to supplement their responses accordingly.

19 2. Rogich hereby objects to the definitions of Plaintiff's insofar as they are
20 oppressive, overbroad and burdensome, and insofar as they are vague and ambiguous.

21 3. Rogich objects to each and every request to the extent that and insofar as
22 Plaintiff's attempt to purport to impose requirements or obligations beyond those imposed by
23 Nevada Rules of Civil Procedure.

24 4. All answers and responses will be made solely for the purpose of this action. Each
25 response will be subject to all objections as to competence, relevance, materiality, propriety and
26 admissibility, and to any and all other objections on any ground which would require the
27 exclusion from evidence of any statement herein if any such statements were made by a witness
28 present and testifying at trial, all of which objections and grounds are expressly reserved and may
be interposed at such hearings or trial.

1 5. Rogich adopts by reference the above objections and incorporates each objection
2 as if it were fully set forth below in each of Rogich's responses below.

3 6. The following Objections and Responses are based upon the information and
4 documents presently available to and known by Rogich and disclose only those contentions,
5 which are presently asserted based upon facts now known. It is anticipated that further discovery,
6 independent investigation, legal research and analysis will supply additional facts, add meaning to
7 known facts, as well as establish entirely new factual conclusions and legal contentions, all of
8 which may lead to substantial addition, to, change in, and variations from these contentions and
9 responses. Rogich herein reserves the right to supplement or modify any of these Objections and
10 Responses as additional facts are recalled or ascertained, analyses are made, legal research is
11 completed and contentions are made. These Answers and Responses are made in good faith to
12 supply as much information and specifications as is presently known.

13 **REQUEST NO. 1:**

14 Admit that the document produced as NAN_000001-NAN_000011 is a true and correct
15 copy of the Purchase Agreement entered into between you, Go Global, Inc., and Carlos Huerta
16 effective October 30, 2008.

17 **RESPONSE TO REQUEST NO. 1:**

18 Admit.

19 **REQUEST NO. 2:**

20 Admit that the Purchase Agreement, in Recital A, specifically states that both your interest
21 in Eldorado Hills, LLC ("Eldorado") and Go Global's interest in Eldorado was subject to
22 potential claims of entities included in Exhibit A to the Purchase Agreement.

23 **RESPONSE TO REQUEST NO. 2:**

24 Objection: Recital A provides that Eldorado and Go Global, Inc.'s ("Go Global") interests
25 "may be" subject to potential claims of entities, not "was subject." Accordingly, the request is
26 denied.

27 **REQUEST NO. 3:**

28 Admit that you agreed, in Section 4 of the Purchase Agreement, to assume responsibility
for paying the claims of entities included in Exhibit A to the Purchase Agreement.

1 **RESPONSE TO REQUEST NO. 3:**

2 Deny.

3 **REQUEST NO. 4:**

4 Admit that Nanyah Vegas, LLC is specifically identified as a potential claimant in Exhibit
5 A of the Purchase Agreement.

6 **RESPONSE TO REQUEST NO. 4:**

7 Admit.

8 **REQUEST NO. 5:**

9 Admit that you never repaid, or caused to be repaid, Nanyah's investment in Eldorado.

10 **RESPONSE TO REQUEST NO. 5**

11 Objection: Nanyah did not invest in Eldorado. Accordingly, the request is denied.

12 **REQUEST NO. 6:**

13 Admit that your interest in Eldorado, as of October 30, 2008, was encumbered by
14 Nanyah's investment.

15 **RESPONSE TO REQUEST NO. 6:**

16 Deny.

17 **REQUEST NO. 7:**

18 Admit that the document produced as NAN_000012-NAN_000101 is a true and correct
19 copy of the Membership Interest Purchase Agreement entered into between you and Teld, LLC
20 ("Teld").

21 **RESPONSE TO REQUEST NO. 7:**

22 Admit.

23 **REQUEST NO. 8:**

24 Admit that Section 8(c) of the Membership Interest Purchase Agreement between you and
25 Teld states that you shall continue to assume all responsibility for the claims of Nanyah Vegas,
26 LLC.

27 **RESPONSE TO REQUEST NO. 8:**

28 Deny.

1 **REQUEST NO. 9:**

2 Admit that Exhibit D to the Membership Interest Purchase Agreement between you and
3 Teld states that you were responsible for claims arising from the amounts invested in Eldorado by
4 Nanyah Vegas, LLC.

5 **RESPONSE TO REQUEST NO. 9:**

6 Deny.

7 **REQUEST NO. 10:**

8 Admit that the document produced as NAN_000193-NAN_000206 is a true and correct
9 copy of the Amended and Restated Operating Agreement of Eldorado Hills, LLC.

10 **RESPONSE TO REQUEST NO. 10:**

11 Admit.

12 **REQUEST NO. 11:**

13 Admit that the Amended and Restated Operating Agreement, Recital B, specifically notes
14 that your interest in Eldorado was subject to Nanyah's claims for return of its investment.

15 **RESPONSE TO REQUEST NO. 11:**

16 Deny.

17 **REQUEST NO. 12:**

18 Admit that your interest in Eldorado continued to be subject to Nanyah's claim for return
19 of its investment up to and including, January 1, 2012.

20 **RESPONSE TO REQUEST NO. 12:**

21 Objection: The Rogich Trust's interest in Eldorado was never subject to a Nanyah claim
22 for return of an investment. Accordingly this request is denied.

23 **REQUEST NO. 13:**

24 Admit that you transferred your interest in Eldorado to the Eliades Survivor Trust of
25 10/30/08 (the "Eliades Trust") in order to avoid your obligations to Nanyah.

26 **RESPONSE TO REQUEST NO. 13:**

27 Deny.

28 **REQUEST NO. 14:**

Admit that you never intended to repay Nanyah for its investment in Eldorado.

1 **RESPONSE TO REQUEST NO. 14:**

2 Objection: Nanyah did not invest in Eldorado. Accordingly, this request is denied.

3 **REQUEST NO. 15:**


4 Admit that the price paid by Teld for its 1/6 interest in Eldorado acquired under the
5 Membership Purchase Agreement was a true and accurate price for the value of Teld's interest in
6 Eldorado.

7 **RESPONSE TO REQUEST NO. 15:**

8 Deny.

9 DATED this 1 day of January, 2018.

11 **FENNEMORE CRAIG, P.C.**

12 By: 
13 Samuel S. Lionel, Esq. (NW Bar No. 1766)
14 300 South Fourth Street, Suite 1400
15 Las Vegas, Nevada 89101
16 Telephone: (702) 692-8000
17 Facsimile: (702) 692-8099
18 E-mail: slionel@fclaw.com
19 *Attorney for Defendants*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that a copy of **DEFENDANT SIGMUND ROGICH , AS TRUSTEE**
3 **OF THE ROGICH FAMILY IRREVOCABLE TRUST'S RESPONSES TO PLAINTIFF**
4 **NANYAH VEGAS, LLC'S FIRST SET OF REQUESTS FOR ADMISSION** was served
5 upon the following person(s) either by electronic transmission through the Odyssey system
6 pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26 or by mailing a copy to their last known
7 address, first class mail, postage prepaid for non-registered users, on this 4th day of January, 2018
8 as follows:
9

10
11 Mark Simons, Esq.
12 Robison, Simons, Sharp & Brust
13 A Professional Corporation
14 71 Washington Street
Reno, Nevada 89503
msimons@rbsllaw.com

☒ [x] Via E-service
☐ [] Via U.S. Mail (Not registered with
CM/ECF Program)

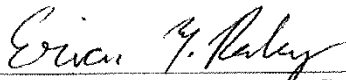
15
16 
17 An employee of Fennemore Craig, P.C.
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 3

EXHIBIT 3

03/03/15
09:59 AM

STATE OF NEVADA GAMING CONTROL BOARD
REPORT OF LOCATIONS
SORTED BY PRIMARY NAME

MSLSR1

```
=====
Name CANYON VIEW, INC. | Approve Date 06/21/95
DB at | Start Date 07/01/95
DB as 19TH HOLE | Finaled Date 99/99/99
N -Non Restricted Active Ownership CORP
----- Location Address ----- Mailing Address -----
550 S ELDORADO RD 550 S ELDORADO RD
MESQUITE NV 89027 MESQUITE NV 89027
---Added---Removed--- Owners only -----
07/01/95 JAMES DALE PETERSEN/
PRESIDENT-SECRETARY-TREASURER-DIRECTOR
07/01/95 02/22/96 R ROBERT LEROY PETERSEN/ (DECEASED)
SECRETARY-TREASURER-DIRECTOR
02/22/96 04/25/96 R JEANA LEE PETERSEN/ (1)
PERSONAL REPRESENTATIVE FOR THE ESTATE OF ROBERT
LEROY PETERSEN
06/05/03 TODD JAMES PETERSEN-----100%
: -----
: KEY EMPLOYEE
01/25/96 TODD JAMES PETERSEN/ (2)
GENERAL MANAGER
: -----
05/29/08 APPROVED TO PLEDGE THE EQUITY SECURITIES OF CANYON
VIEW, INC., AND TO GRANT A POSSESSORY SECURITY INTEREST
TO JAMES DALE PETERSON IN CONJUNCTION WITH LOAN
AGREEMENTS
: -----
02/22/96 04/25/96 R (1) TEMPORARY LIMITED LICENSURE TO EXPIRE ON DATE OF
THE NEVADA GAMING COMMISSION MEETING OF APRIL 1996
: -----
03/20/03 (2) PERMISSION TO PARTICIPATE PER REG. 8.060
: -----
<End of Owners>
=====
```

```
=====
Name NORTHPOINTE SIERRA, INC | Approve Date 12/18/08
DB at | Start Date 12/19/08
DB as ALAMO CASINO - MILL CITY | Finaled Date 99/99/99
N -Non Restricted Active Ownership CORP
----- Location Address ----- Mailing Address -----
INTERSTATE 80 ATTN: CONTROLLER
1200 FINANCIAL BLVD
MILL CITY NV 89418 RENO NV 89502
---Added---Removed--- Owners only -----
12/19/08 NORTHPOINTE SIERRA, INC DBA
ALAMO CASINO - MILL CITY
12/19/08 01/03/11 R ROBERT ALAN CASHELL, SR./
DIRECTOR
12/19/08 05/21/14 R LOWELL FRANCIS CHICHESTER/
SECRETARY-TREASURER-DIRECTOR
12/19/08 06/01/09 R NANCY KAY CASHELL/
DIRECTOR
12/19/08 04/20/09 R ROBERT AND NANCY CASHELL FAMILY TRUST
12/19/08 04/20/09 R ROBERT ALAN CASHELL, SR./
TRUSTEE-BENEFICIARY
12/19/08 04/20/09 R NANCY KAY CASHELL/BENEFICIARY
12/19/08 ROBERT ALAN CASHELL, JR./ (1)
PRESIDENT-SECRETARY-TREASURER-DIRECTOR
=====
```

07/01/84 09/30/89 R SIGMUND ARNASON ROGICH/
 VICE PRESIDENT-DIRECTOR
 06/20/85 01/30/91 R THE ROGICH FAMILY TRUST
 06/20/85 01/30/91 R SIGMUND ARNASON ROGICH/
 TRUSTEE-BENEFICIARY
 07/16/87 12/21/01 R PAUL JAMES NEMETH/
 CHIEF OPERATING OFFICER-CHIEF
 EXECUTIVE OFFICER-PRESIDENT-
 DIRECTOR-CHAIRMAN OF THE BOARD-
 OPTION HOLDER
 08/29/97 DAVID SCOTT TATE/(1)
 PRESIDENT-TREASURER-DIRECTOR-
 GENERAL MANAGER
 04/21/11 KRISTIE LYNN TATE/SECRETARY
 03/24/99 12/21/01 R PAUL J. NEMETH TRUST
 03/24/99 12/21/01 R PAUL JAMES NEMETH/
 TRUSTEE-BENEFICIARY
 04/22/03 THE DAVID SCOTT TATE GAMING TRUST----- 100%
 04/22/03 DAVID SCOTT TATE/
 TRUSTOR-TRUSTEE-BENEFICIARY
 - ----
 - KEY EMPLOYEES
 07/22/82 09/10/87 R JAMES ALBERT MOORE/GENERAL MANAGER
 01/22/87 07/16/87 R PAUL JAMES NEMETH/CHIEF OPERATING OFFICER(1)
 - ----
 - (1) PERMISSION TO PARTICIPATE PER REG 8.060
 - ----
 - PLEDGE OF STOCK:
 06/28/84 08/22/96 R WILLIAM WORTMAN
 06/28/84 08/22/96 R SIGMUND ROGICH
 06/28/86 08/22/96 R PERMISSION TO PLEDGE 1,000 SHARES OF W.C.W.
 CORPORATION STOCK AND ALL LAUF CORPORATION STOCK
 TO NEVADA NATIONAL BANK.

: ----
 <End of Owners>

Name	WILLIAM HILL NEVADA I	Approve Date	09/24/04
DB at BONANZA INN AND CASINO RACE BOOK AND SPO		Start Date	11/08/04
DB as WILLIAM HILL RACE & SPORTS BOOK		Final Date	99/99/99
N -Non Restricted	Active	Ownership	CORP
----- Location Address ----- Mailing Address -----			
855 W WILLIAMS	AV	6325 S RAINBOW BL STE 100	
FALLON	NV 89406	LAS VEGAS	NV 891183278
---Added---Removed--- Owners only -----			
: FULL NAME:			
: BONANZA INN AND CASINO RACE BOOK AND SPORTS POOL			
: ----			
06/27/12	WILLIAM HILL PLC		
	: (SOLE SHAREHOLDER OF WILLIAM HILL HOLDINGS LIMITED)		
06/27/12	GARETH DAVIS/CHAIRMAN OF THE BOARD		
06/27/12	NORMAN RALPH JAMIESON TOPPING/ CHIEF EXECUTIVE OFFICER-DIRECTOR		
06/27/12	NEIL COOPER/CHIEF FINANCIAL OFFICER-DIRECTOR		
06/27/12	THOMAS JEROME PETER MURPHY/CORPORATE SECRETARY		
05/16/13	DAVID SOUTAR LOWDEN/DIRECTOR		
03/20/14	PHILIP DANIEL MOYES/CHIEF INFORMATION OFFICER		
	: KEY EMPLOYEE		
06/27/12	THOMAS JEROME PETER MURPHY/GENERAL COUNSEL		
11/21/13	ROBINDAR RAJ CHHABRA/(1) HEAD OF STRATEGY AND CORPORATE DEVELOPMENT		

NEVADA GAMING COMMISSION REGULATION 16.400

: -----

<End of Owners>

```

=====
Name W.C.W. CORPORATION | Approve Date 03/19/63
DB at | Start Date 04/09/63
DB as FALLON NUGGET | Finaled Date 99/99/99
N -Non Restricted Active Ownership CORP
----- Location Address ----- Mailing Address -----
70 S MAINE ST ATTN: ACCOUNTING DEPARTMENT
562 N MAINE ST
FALLON NV 89406 FALLON NV 89406
---Added---Removed--- Owners only -----
07/01/84 08/22/96 R WILLIAM CLAUDE WORTMAN/
PRESIDENT-DIRECTOR
07/01/84 09/30/89 R SIGMUND ARNASON ROGICH/
VICE PRESIDENT-DIRECTOR
06/20/85 01/30/91 R THE ROGICH FAMILY TRUST
06/20/85 01/30/91 R SIGMUND ARNASON ROGICH/
TRUSTEE-BENEFICIARY
07/16/87 12/21/01 R PAUL JAMES NEMETH/
CHIEF OPERATING OFFICER-CHIEF
EXECUTIVE OFFICER-PRESIDENT-
DIRECTOR-CHAIRMAN OF THE BOARD-
OPTION HOLDER
12/18/97 DAVID SCOTT TATE/(1)
PRESIDENT-TREASURER-DIRECTOR-
GENERAL MANAGER
04/21/11 KRISTIE LYNN TATE/SECRETARY
03/24/99 12/21/01 R PAUL J. NEMETH TRUST
03/24/99 12/21/01 R PAUL JAMES NEMETH/
TRUSTEE-BENEFICIARY
04/22/03 THE DAVID SCOTT TATE GAMING TRUST----- 100%
04/22/03 DAVID SCOTT TATE/
TRUSTOR-TRUSTEE-BENEFICIARY
- -----
- KEY EMPLOYEES
12/15/77 09/10/87 R ROBERT GLENN CAUDLE/SHIFT MANAGER
02/19/81 09/10/87 R ROBERT MICHAEL BLAKELY/SHIFT MANAGER
07/22/82 09/10/87 R JAMES ALBERT MOORE/GENERAL MANAGER
08/18/83 09/10/87 R JAMES NEWTON JONES/FLOOR MANAGER
01/22/87 07/16/87 R PAUL JAMES NEMETH/CHIEF OPERATING OFFICER(1)
- -----
- (1) PERMISSION TO PARTICIPATE PER REG 8.060
- -----
09/26/84 09/09/99 R ADDITION OF SPORTS POOL - PARLAY CARDS ONLY
- -----
- PLEDGE OF STOCK:
06/28/84 08/22/96 R WILLIAM WORTMAN
06/28/84 08/22/96 R SIGMUND ROGICH
06/28/84 08/22/96 R PERMISSION TO PLEDGE 1,000 SHARES OF W.C.W.
CORPORATION STOCK AND ALL LAUF CORPORATION
STOCK TO NEVADA NATIONAL BANK.
: -----
<End of Owners>
=====

```

```

=====
Name WILLIAM HILL NEVADA I | Approve Date 01/26/06
DB at FALLON NUGGET - RACE BOOK AND SPORTS POO | Start Date 01/26/06
DB as WILLIAM HILL RACE & SPORTS BOOK | Finaled Date 99/99/99
N -Non Restricted Active Ownership CORP
=====

```

EXHIBIT 4

EXHIBIT 4

1		DISTRICT COURT	
2		CLARK COUNTY, NEVADA	
3	CARLOS A. HUERTA, an)	
4	individual; CARLOS A.)	
5	HUERTA as Trustee of THE)	
6	ALEXANDER CHRISTOPHER)	
7	TRUST, a Trust established)	
8	in Nevada as assignee of)	
9	interests of GO GLOBAL,)	
10	INC., a Nevada corporation;)	
11	NANYAH VEGAS, LLC, a Nevada)	
12	limited liability company,)	
13)	Case No.
14	Plaintiffs,)	A-13-686303-C
15)	
16	vs.)	DEPOSITION OF:
17)	MELISSA OLIVAS
18	SIG ROGICH aka SIGMUND)	
19	ROGICH as Trustee of the)	August 27, 2014
20	Rogich Family Irrevocable)	
21	Trust; ELDORADO HILLS, LLC,)	
22	a Nevada limited liability)	
23	company; DOES I-X; and/or)	
24	ROE CORPORATIONS I-X,)	
25	inclusive,)	
)	
	Defendants.)	

	ELDORADO HILLS, LLC,)	
	a Nevada Limited liability)	
	company,)	
)	
	Defendant/Counterclaimants)	
)	
	vs.)	
)	
	CARLOS A. HUERTA, an)	
	Individual, CARLOS A. HUERTA)	
	as Trustee of THE ALEXANDER)	
	CHRISTOPHER TRUST, a Trust)	
	established in Nevada as)	
	assignee of interests of)	
	GO GLOBAL, INC., a Nevada)	
	corporation,)	
)	
	Plaintiffs/Counterdefendants)	

	Reported by: Marilyn Speciale, CRR, RPR, CCR #749		

1
2
3
4
5
6 DEPOSITION OF MELISSA OLIVAS - INDIVIDUALLY AND AS
7 PERSON MOST KNOWLEDGEABLE/CUSTODIAN OF RECORDS OF THE
8 ROGICH COMMUNICATIONS GROUP

9 Taken on Wednesday, August 27, 2014

10 At 10:03 a.m.

11 At 2850 West Horizon Ridge Parkway

12 Suite 200

13 Henderson, Nevada
14
15
16
17
18
19
20
21
22
23

24 Reported by: Marilyn Speciale, CRR, RPR, CCR #749

25 Job No. 10633

1 APPEARANCES:

2

3 For the Plaintiffs:

4

BRANDON B. McDONALD, ESQ.
McDonald Law Offices, PLLC
2850 West Horizon Ridge Parkway
Suite 200
Henderson, Nevada 89052
(702) 385-7411

7

8

For the Defendants:

9

10 SAMUEL S. LIONEL, ESQ.
Lionel Sawyer & Collins
300 South Fourth Street
Suite 1700
Las Vegas, Nevada 89101
12 (702) 383-8888

13

14

15 Also Present:

16

CARLOS A. HUERTA
SIGMUND ROGICH

17

18

19

20

21

22

23

24

25

1 A. It's defunct. It was an art gallery that Sig
2 owned with some other people, and it was defunct prior
3 to or about the time of my employment with the Rogich
4 Communications Group.

5 Q. So prior to about 2000?

6 A. Yes.

7 Q. Do you know, is Olaphia, LLC, still active?

8 A. There's nothing in that.

9 Q. Do you know if Mr. Rogich has any other
10 trusts?

11 A. Yes.

12 Q. And what are they?

13 A. The Rogich Family Trust.

14 Q. Okay. Any others?

15 A. The Sigmund Rogich 2004 Family Irrevocable
16 Trust.

17 Q. Is that different than the one that --

18 A. Yes. Our estate attorney didn't do us any
19 favors.

20 Q. Okay. Do you know when those were set up?

21 A. 2004. The Rogich Family Trust was 1982.

22 Q. Do you know if Mr. Rogich is the beneficiary
23 for any other trusts?

24 A. I don't believe so.

25 Q. Prior to Carlos' buyout in 2008, did you

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
) ss.
3 COUNTY OF CLARK)

4
5 I, Marilyn L. Speciale, a duly certified court
reporter licensed in and for the State of Nevada, do
hereby certify:

6
7 That I reported the taking of the deposition
of the witness, MELISSA OLIVAS, at the time and place
aforesaid;

8
9 That prior to being examined, the witness was
by me duly sworn to testify to the truth, the whole
truth, and nothing but the truth;

10
11 That I thereafter transcribed my shorthand
notes into typewriting and that the typewritten
transcript of said deposition is a complete, true and
12 accurate record of testimony provided by the witness at
said time to the best of my ability.

13
14 I further certify (1) that I am not a
relative, employee or independent contractor of counsel
of any of the parties; nor a relative, employee or
15 independent contractor of the parties involved in said
action; nor a person financially interested in the
16 action; nor do I have any other relationship with any of
the parties or with counsel of any of the parties
17 involved in the action that may reasonably cause my
impartiality to be questioned; and (2) that transcript
18 review pursuant to NRCP 30(e) was requested.

19
20 IN WITNESS WHEREOF, I have hereunto set my
hand in the County of Clark, State of Nevada, this 4th
day of September, 2014.

21
22
23 MARILYN L. SPECIALE, CRR,RPR,CCR#749
24
25


EXHIBIT 5

EXHIBIT 5

We've updated our Privacy Statement. Before you continue, please read our new Privacy Statement and familiarize yourself with the terms.

WESTLAW

Declined to Extend by In re Sunpoint Securities, Inc., Bankr.E.D.Tex., April 17, 2006

 Original Image of 586 S.W.2d 472 (PDF)

Transamerican Leasing Co. v. Three Bears, Inc.
Supreme Court of Texas. July 25, 1979. 586 S.W.2d 472 (Approx. 8 pages)

TRANSAMERICAN LEASING COMPANY, Petitioner,
v.
THREE BEARS, INC., et al., Respondents.

No. B-8172.
July 25, 1979.
Rehearing Denied Sept. 19, 1979.




Synopsis

On remand, 567 S.W.2d 799, the 229th District Court, Star County, Joe B. Evans, J., entered judgment for lessor of restaurant equipment against lessee and guarantors, and lessee and guarantors appealed. The El Paso Court of Civil Appeals, Max N. Osborn, J., 574 S.W.2d 193, affirmed in part, reversed in part and rendered. On applications for writs of error, the Supreme Court, Pope, J., held that: (1) where trust owned 50% Of stock in lessee corporation, benefits from lessee's success in restaurant business would ultimately accrue to trust, and thus trust's action in guaranteeing leases was within powers of trustees under terms of trust instrument; (2) where settlors or trust, along with other trustees, signed written agreement authorizing trustees to make trust party to lease agreements, trustees had power to guarantee leases by virtue of trust provision that settlors could, in writing, confer additional power on trustees; (3) in absence of conflict of interest between contingent beneficiaries and trustee-beneficiaries of trust of pleading that contingent beneficiaries were inadequately represented, contingent beneficiaries who did not participate in trial were not necessary parties; (4) evidence was sufficient to support finding of damages in amount of \$109,447.76; (5) parol evidence of purchase option agreement was properly excluded as violative of parol evidence rule; and (6) lease agreements were not unconscionable.

Affirmed in part and reversed in part.

West Headnotes (12)

Change View

- 1 **Trusts**  Possession, use, and care of property
Where trust owned 50% of corporation, benefits from corporation's success in restaurant chain ultimately accrued to trust, and thus trust's actions in guaranteeing corporation's performance of lease agreements was within powers granted to trust under term of trust agreement authorizing investment in leases.
- 2 **Trusts**  Authority of trustee in general
Where settlors of trust, along with other trustees, signed written agreement authorizing trustees to make trust party to lease agreement between leasing company and corporation, provision of trust instrument allowing settlors, in writing, to confer additional power on trustees was source of trustees' power to guarantee lease.
- 3 **Trusts**  Delegation of powers and duties

SELECTED TOPICS

Evidence

Prior and Contemporaneous Collateral Agreements
Written Lease and Oral Agreement

Bailment

Validity
Payment of Equipment Lease and Sales Service Agreement

Management and Disposal of Trust Property

Duty of Trustee of Insurance Trust

Secondary Sources**APPENDIX IV GUIDANCE AND TECHNICAL ASSISTANCE MANUALS**

ADA Compliance Guide Appendix IV

...Under the Americans with Disabilities Act of 1990 (the "ADA"), an employer may ask disability-related questions and require medical examinations of an applicant only after the applicant has been given ...

APPENDIX II: FAIR LABOR STANDARDS ACT REGULATIONS TITLE 29 CODE OF FEDERAL REGULATIONS

Fair Labor Stds. Hdbk. for States, Local Govs. and Schools Appendix II

...The U.S. Department of Labor published rule changes in October 2013 that will modify the companionship and live-in domestic services exemptions (but not the babysitting exemption) effective on Jan. 1, ...

APPENDIX IV: ADMINISTRATIVE LETTER RULINGS: DOL, WAGE AND HOUR DIVISION

FLSA Emp. Exemption Hdbk. Appendix IV

...(The following article appeared in the July 1995 update to the Employer's Guide to the Fair Labor Standards Act, published by Thompson Publishing Group. It is intended to provide basic information on c...

See More Secondary Sources

Briefs**Joint Appendix**

2015 WL 5139328
Dollar General Corp. and Dolgencorp, LLC, Petitioners, v. The Mississippi Band of Choctaw Indians; The Tribal Court of the Mississippi Band of Choctaw Indians; Christopher A. Collins, in his official capacity; John Doe, a minor, by and through his parents and next friends John Doe Sr. and Jane Doe, Respondents.
Supreme Court of the United States
Aug. 31, 2015


...[Filed: Jan. 06, 2005] COMES NOW said minor, a fourteen (14) year old member of the Mississippi Band of Choctaw Indians, by and through his mother and father as next friends, and institutes this suit a...

Joint Appendix


2009 WL 2601362
Mac's Shell Service, Inc., et al., Petitioners, v. Shell Oil Products Company LLC, et al., Respondents. Shell Oil Products Company LLC, et al., Petitioners, v. Mac's Shell Service, Inc., et al., Respondents.

Generally, trustee may not delegate his discretionary power to another; however, trustee, after determining how to exercise his discretion, may give authority to another to carry out ministerial or mechanical acts to effectuate such decision.


4 Cases that cite this headnote

- 4 Trusts**  Delegation of powers and duties
As parties to power of attorney, settlors of trust gave trustees express power of delegation giving trustees power to guarantee lease, and granting of such express power to trustees rendered delegation permissible; thus, general rule against delegating discretionary authority was not applicable.


3 Cases that cite this headnote


- 5 Trusts**  Necessary and proper parties in general
In absence of conflict of interest between contingent beneficiaries of trust and trustee-beneficiaries or of a pleading that contingent beneficiaries were inadequately represented, beneficiaries who did not participate in trial were not necessary parties in action by leasing company against trust which guaranteed leases. Vernon's Ann.Civ.St. art. 7425b-19, subd. B.


4 Cases that cite this headnote

- 6 Trusts**  Process and appearance
Requirement for notice to all beneficiaries of trust in event of litigation against trust does not always require notice in time for trial as statute places some discretion with court to require notice within such other time as court may fix so long as it is 30 days before judgment. Vernon's Ann.Civ.St. art. 7425b-19, subd. B.


3 Cases that cite this headnote

- 7 Costs**  Leases
Rule that if obligation of party depends upon performance of condition, and fulfillment of such condition is prevented by act of another, condition is deemed fulfilled was not applicable in action by lessor of restaurant equipment against lessee and guarantors of lease seeking attorney fees pursuant to lease provision for recovery of attorney fees in event lessor had to repossess equipment inasmuch as there was no evidence lessor ever intended to obtain possession of equipment or made any effort to prevent guarantor from taking property.


- 8 Bailment**  Damages
In action by lessor of equipment against lessee and guarantors evidence that lessee failed to make 50 rental payments, totaling more than \$170,000, was sufficient to support finding that lessors sustained damages from breach of lease in amount of \$109,447.76.

- 9 Evidence**  Leases
Where written lease agreements contain no provision giving lessee option to purchase restaurant equipment, and each lease stated that it constituted sole agreement of parties with respect to subject matter thereof, claimed purchase option agreement was inconsistent with lease contracts and not merely collateral to them, and thus evidence of oral purchase option agreement was properly excluded as violative of parol evidence rule.

8 Cases that cite this headnote

- 10 Evidence**  Leases
If purchase option agreement is inconsistent with, and not merely collateral to, lease contract, parol evidence rule applies.

6 Cases that cite this headnote

- 11 Usury**  Leases or agreements for hiring of property

Supreme Court of the United States
Aug. 21, 2009

...FN1. All references to "Dist. Ct. Dkt." are to the docket in No. 1:01-cv-11300-RWZ. 1. In response to the ruling in Civil Action number 00-11295-RWZ, the plaintiffs in the above-captioned matter are th...

Joint Appendix

2008 WL 3907401
United States of America, v. Eurodif S.A., et al. USEC, Inc., et al., petitioners, v. Eurodif S.A., et al.
Supreme Court of the United States
July 16, 2008
...1330 Connecticut Avenue, NW
Washington, DC 20036-1795 Telephone 202-429-3000 Facsimile 202-429-3902
www.steptoec.com Richard O. Cunningham
202-429-6434 Investigation Nos.: A-427-818, C-427-819, A-412-82...

See More Briefs

Trial Court Documents

In re Belle Foods, LLC

2013 WL 5590886
In re: BELLE FOODS, LLC, Debtor.
United States Bankruptcy Court, N.D. Alabama, Northern Division.
Oct. 07, 2013

...These cases came before the Court on the motion of Belle Foods, LLC, as debtor and debtor-in-possession (the "Debtor"), for an order under 11 U.S.C. §§ 105(a), 363, and 365 and Fed. R. Bankr. P. 6004 a...

In re Dots, LLC

2014 WL 2558262
In re: DOTS, LLC, et al., Debtors.
United States Bankruptcy Court, D. New Jersey.
Apr. 22, 2014

...The relief set forth on the following pages, numbered two (2) through twenty-one (21), is hereby ORDERED. Dated: April 22, 2014
<<signature>> Honorable Donald H. Steckroth United States Bankruptcy Judge...

In re Eddie Bauer Holdings, Inc.

2009 WL 8189043
In re: EDDIE BAUER HOLDINGS, INC., et al., Debtors.
United States Bankruptcy Court, D. Delaware.
July 23, 2009

...Chapter 11 Upon the motion, dated June 17, 2009 (the "Motion"), of Eddie Bauer Holdings, Inc. and certain of its affiliates, as debtors and debtors-in-possession (collectively, the "Debtors"), pursuant...

See More Trial Court Documents

In order for lessee of restaurant equipment to establish usury, lessee was required to first establish that leases were not mere leases but were, instead, lease-purchase agreements.

6 Cases that cite this headnote

12 Bailment Validity in general

Where terms of lease agreement for restaurant equipment were neither harsh nor oppressive, and there was no suggestion of unfair bargaining position at time agreements were made, leases were not unconscionable. V.T.C.A., Bus. & C. § 2.302.

2 Cases that cite this headnote

Attorneys and Law Firms

*473 Daniel R. Rutherford, San Antonio, for petitioner.

James N. Martin, San Antonio, Lang, Cross, Ladon, Boldrick & Green, Paul M. Green and Lawrence H. Rubenstein, Bruce Waitz and Van H. Johnson, Robert C. Patterson, San Antonio, for respondents.

Opinion

POPE, Justice.

Transamerican Leasing Company sued Three Bears, Incorporated, for breach of three agreements by which Three Bears leased restaurant equipment. Transamerican also sued the G. S. and Gladys A. McCreless Trust and its trustees as guarantors on the leases. The trial court rendered judgment on the jury verdict against Three Bears and the McCreless Trust and its trustees in the amount of \$109,447.76 for unpaid rentals, together with attorney fees and interest. The court of civil appeals reversed the trial court's judgment in part, holding that the McCreless Trust was not liable because its trustees did not have the power to bind the Trust as guarantors. 574 S.W.2d 193. Both Transamerican and Three Bears have applications for writs of error. We reverse that part of the judgment of the court of civil appeals which denied recovery against McCreless Trust and affirm the judgment of the trial court. We affirm the judgment which denied attorney fees to Transamerican.

*474 Three Bears¹ operated a chain of hamburger stands in San Antonio. The McCreless Trust owned fifty percent of the stock in Three Bears. G. S. and Gladys A. McCreless are the settlors of the McCreless Trust. The settlors² are the beneficiaries of the Trust during their lifetime; their two daughters³ will become the beneficiaries upon the death of the settlors provided they survive their parents; and the daughters' children⁴ are contingent beneficiaries. During the time of these events, G. S. and Gladys A. McCreless were the beneficiaries. The trustees for the Trust are the settlors and their two daughters.⁵

In May and June of 1973, Three Bears signed three agreements for the leasing of large amounts of restaurant equipment to be supplied by Transamerican. The agreements had a term of sixty months. The McCreless Trust by separate agreements guaranteed Three Bears' performance on each of the leases. Three Bears made the first and last rental payments under each of the leases but failed to make any other payments.

Transamerican had borrowed the funds to purchase the equipment that it leased to Three Bears. While it was seeking permanent financing, it obtained interim financing by a short-term loan in the amount of \$88,000 from the First National Bank of San Antonio. Transamerican's note to First National Bank was also guaranteed by the McCreless Trust and by G. S. McCreless individually. Transamerican did not obtain the permanent financing for its purchase of the equipment. Three Bears refused to make its rental payments, and when Transamerican defaulted on its note to the First National Bank, G. S. McCreless honored his guaranty and paid the bank. The bank assigned the \$88,000 note to him. He took possession of the restaurant equipment and sold it to the Fair Development Company,⁶ a partnership that was wholly owned by the McCreless family. Transamerican gave the Trust and Three Bears credit in the amount of \$88,000 against the unpaid rentals owed under the leases and the guaranty agreements.

*475 *Transamerican's Application for Writ of Error*

Transamerican obtained a judgment against Three Bears and also against the McCreless Trust as guarantor. The jury refused to find that Three Bears' and McCreless Trust's obligations on the equipment leases were conditioned upon Transamerican's obtaining permanent financing for the leases and also that Transamerican's arrangement for permanent financing was a part of the consideration for the leases. There was evidence which supported those findings. The court of civil appeals reversed the judgment against the McCreless Trust, holding that the Trust had no power to obligate itself as a guarantor of the three lease agreements that Three Bears signed. We reverse that part of the judgment of the court of civil appeals.

1 The Trust instrument confers numerous broad powers on the Trust. Among these powers are the following:

With reference to the Trust estate created herein and every part thereof, the Trustees shall have the following rights and powers, without limitation and in ADDITION TO POWERS conferred by law:

D. To invest and reinvest in such stocks, bonds and other securities and properties as they may deem advisable including stocks and unsecured obligations, undivided interests, interests in investment trusts, legal and discretionary common trust funds, mutual funds, Leases, all without diversification as to kind or amount and without being restricted in any way by any statute or court decision (now or hereafter existing) regulating or limiting investment by fiduciaries.

S. The Trustees shall have such additional powers as the Grantors, by any future instrument in writing delivered to Trustees, may grant to them, the right to grant such powers being hereby expressly reserved to the Grantors. (Emphasis added.)

Paragraph D gives the trustees power to invest in leases. The Trust beneficiaries, however, contend that a guarantee of another's performance under a lease does not constitute an investment in a lease. The term "invest" means to loan money on securities, to place it in business ventures or real estate, or to otherwise lay it out in an effort to produce revenue or income. BLACK'S LAW DICTIONARY 960 (4th ed. 1951). The Trust's guaranty of Three Bears' performance on its leases was not a gratuitous gesture; it was made as an effort to produce revenue for the Trust. The financial backing of Three Bears by the Trust was an important factor in Three Bears' obtaining its lease agreements with Transamerican, and the Trust held fifty percent of the stock in Three Bears. Thus, the benefits from Three Bears' success in the restaurant chain would ultimately accrue to the Trust. We consider the Trustees' action in guaranteeing Three Bears' performance to be one within their powers under the terms of the Trust instrument.

2 Paragraph S of the Trust instrument, which provides that the settlors may, in writing, confer additional power on the trustees, is an additional source of the trustees' power to guarantee the lease. Along with the other trustees, both G. S. and Gladys A. McCreless, the settlors, signed a written agreement authorizing Robert E. Durr and G. S. McCreless to make the Trust a party to the lease agreements themselves. Furthermore, in their answer to Transamerican's petition filed in this suit, the settlors and the other trustees stated that G. S. McCreless and Robert E. Durr had acted for them in executing the leases and thereby ratified the execution.

3 The Trust beneficiaries alternatively contend that the Trust cannot be bound as a guarantor because the trustees could not delegate their authority to enter into the leases to G. S. McCreless and Robert E. Durr. Only the latter two individuals *476 signed the leases as agents of the Trust. Their authority to do so is found in the above mentioned power-of-attorney instrument whereby the trustees authorized them to enter into lease agreements with Transamerican. The general rule is that a trustee may not delegate his discretionary power to another. *West v. Hapgood*, 141 Tex. 576, 174 S.W.2d 963 (1943). A trustee may, however, after determining how to exercise his discretion, give authority to another to carry out ministerial or mechanical acts to effectuate the trustee's decision. *Id.*

4 We consider the general rule against delegating authority inapplicable to this case. As parties to the power-of-attorney, the settlors, in effect, gave the trustees the express power of delegation. The granting of this express power to the trustees renders the delegation in this case permissible. See *BOGERT, TRUSTS & TRUSTEES* s 555 (2d ed. 1960). We need not decide whether, without such express power, the delegation would have been permissible.

All of the respondents, defendants in the trial court, urge that the trial court's judgment was fatally defective because there was no notice to each of the McCreless beneficiaries as required by Tex.Rev.Civ.Stat. Ann. art. 7425b-19 B which provides:

Whenever a trustee shall make a contract which is within his powers as trustee, or a predecessor trustee shall have made such a contract, and a cause of action arises thereon:

B. No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within thirty (30) days after the beginning of such action, or within such other time as the court may fix, and more than thirty (30) days prior to obtaining the judgment, he notified each of the beneficiaries known to the trustee who then had a present or contingent interest, or in the case of a charitable trust the Attorney General of Texas and any corporation which is a beneficiary or agency in the performance of such charitable trust, of the existence and nature of the action. Such notice shall be given by mailing copies thereof by registered mail addressed to the parties to be notified at their last known addresses.

When this matter was first called to the attention of the trial court, it vacated the original judgment while it still had jurisdiction to do so. *Transamerican Leasing Company v. Three Bears, Inc.*, 567 S.W.2d 799 (Tex.1978). After the judgment was vacated, Transamerican caused notice of the suit to be sent to the beneficiaries, and the court also appointed a guardian ad litem to represent the two minor contingent beneficiaries. The trial court also ordered the beneficiaries to show cause why judgment should not be rendered in the case. The beneficiaries' response to the show cause order was that a new trial was mandatory since the notice was not sent until after the jury had returned its verdict. On August 17, 1976, the trial court again rendered judgment for Transamerican against both Three Bears and the McCreless Trust.

5 6 The beneficiaries acknowledge that the notices complied with the statutory requirement that they be sent "more than thirty (30) days prior to obtaining the judgment," but insist that the technical compliance did not allow the beneficiaries the opportunity to participate in the trial of the case. There are undoubtedly many instances in which a notice that is sent after verdict would not be sufficient to protect a beneficiary's interest in a trust. The beneficiaries in this instance have not been able to show anything they would have done differently or in addition to what was done in defense of the Trust liability if they had actually participated in the trial. Prior to the court's judgment on August 17, 1976, the beneficiaries presented nothing to the court to suggest any beneficiary had been prejudiced by a failure to receive an earlier notice, or that the trial would have been conducted any differently if all beneficiaries had participated. The trustees were also the principal beneficiaries, and they answered and ably participated in the defense of the case. None of the beneficiaries who did not participate in the trial have ever asserted any conflict between their "477 interests and the trustee-beneficiaries or that their interests were not adequately represented by the trustees. In the absence of a conflict of interest or of a pleading that they were inadequately represented, the beneficiaries who did not participate in the trial were not necessary parties to the case. Cf. *Mason v. Mason*, 366 S.W.2d 552 (Tex.1963). The requirement for a notice does not always require notice in time for trial, since the statute places some discretion with the court to require the notice "within such other time as the court may fix" so long as it is thirty days before judgment.

7 Transamerican also contends that the court of civil appeals erred in denying its claim for attorney fees. It is our opinion that the court of civil appeals correctly denied the attorney fees. The leases provided that Transamerican could recover attorney fees in the event it had to repossess the restaurant equipment from Three Bears.⁷ Transamerican did not repossess the equipment, but it argues that it should be allowed attorney fees because it was prevented from repossessing the property. McCreless had purchased Transamerican's note from the bank, and he then repossessed the equipment. Transamerican relies upon the rule that when the obligation of a party depends upon the performance of a condition, and the fulfillment of that condition is prevented by the act of the other party, the condition is considered as fulfilled. *Sanderson v. Sanderson*, 130 Tex. 264, 109 S.W.2d 744, 749 (1937). The rule is not applicable to this case. Although G. S. McCreless took possession of the equipment and conveyed it to Fair Development Company, a McCreless-owned partnership, the record does not show that Transamerican ever attempted to obtain possession of the equipment or made any effort to prevent Mr. McCreless from taking the property. In fact, nothing in the record suggests that Transamerican ever intended to repossess the property.

Three Bears' Application

8 Three Bears has filed a conditional application for writ of error. It contends that there is no evidence to support the jury finding that Transamerican sustained damages in the amount of \$109,447.76. There is evidence in support of the jury finding of damages that Three Bears failed to make fifty-eight rental payments, amounting to more than \$170,000.

9 10 Three Bears also contends that the trial court erred in excluding evidence which tended to show that Three Bears and Transamerican had an oral agreement whereby Three Bears had an option to purchase the restaurant equipment. The excluded evidence contained testimony by G. S. McCreless to the effect that the parties intended the difference between the total of the rental payments and the purchase cost of the equipment to be paid as interest. A witness for Three Bears calculated the total interest to be in excess of twenty percent per annum. It is Three Bears' contention that all of this evidence should have been admitted to establish a violation of the usury statutes applicable to both individual and corporate borrowers. We hold that the evidence was properly excluded as violative *478 of the parol evidence rule. The written lease agreements contain no provision giving Three Bears an option to purchase the equipment. Furthermore, each lease states that it "constitutes the sole agreement of the parties with respect to the subject matter thereof." Thus, the claimed purchase option agreement is inconsistent with the lease contracts and not merely collateral to them. When such a purchase option agreement is inconsistent with, and not merely collateral to, a lease contract, the parol evidence rule applies. *Hobbs Trailers v. J. T. Arnett Grain Co., Inc.*, 560 S.W.2d 85 (Tex.1977).

11 Three Bears contends, however, that the parol evidence rule is not applicable to situations in which a party seeks to show that an apparently valid contract is really a mask for usury. As authority, Three Bears cites cases in which courts have held that parol evidence is admissible to show that a Loan agreement, valid on the face of the written instrument, is in fact, a usurious loan. See, e.g., *Smith v. Stevens*, 81 Tex. 461, 16 S.W. 986 (1891); *F. B. & D., Inc. v. Nathan Alterman Electric Co.*, 394 S.W.2d 821 (Tex.Civ.App. San Antonio 1965, writ ref'd n.r.e.). These cases are not applicable to this particular case. In order for Three Bears to establish usury, it must first establish that the leases were not mere leases but were, instead, lease-purchase agreements. Without parol evidence of the purchase option, the lease agreements cannot constitute loan agreements.

12 Three Bears also presents the contention that the lease agreements are unenforceable because they are unconscionable within the meaning of Texas Business and Commerce Code provisions governing sales of goods. Tex.Bus. & Comm.Code.Ann. art. 2.302. Assuming, without deciding, that the Code provision on unconscionability applies to these leases, we agree with the trial court's conclusion that the leases are not unconscionable. The terms of the contracts are neither harsh nor oppressive, and nothing in the record suggests that Three Bears, or the Trust, was in an unfair bargaining position at the time the agreements were made.

Three Bears' remaining points of error concerning the admission and exclusion of certain evidence are also overruled.

The judgment of the court of civil appeals which affirmed the judgment of the trial court against Three Bears and which denied Transamerican's recovery of attorney fees is affirmed. We reverse that part of the judgment of the court of civil appeals which reversed the judgment of the trial court for damages in the sum of \$109,447.76 against the McCreless Trust and its trustees. We affirm that part of the trial court's judgment. Attorney fees for the guardian ad litem and all costs of court are adjudged against Three Bears, the McCreless Trust and its trustees.

SPEARS, J., not sitting.

All Citations

586 S.W.2d 472

Footnotes

1 The ownership and control of Three Bears are as follows:

Board of Directors	Stockholders	
G. S. McCreless	G. S. & Gladys A. McCreless	50%
	Trust—	

Robert Durr (son-in-law)	Grace Ann McCreless Durr_____	5%
Jim Martin (McCreless' attorney)	Jim Martin_____	5%
Frank Hrncir (McCreless' accountant)	Frank Hrncir_____	5%
Bill Chapman (originator of Three Bears)	Bill Chapman_____	25%

The McCreless Trust**Beneficiaries:**

2. G. S. McCreless
Gladys A. McCreless

3. Grace Ann McCreless Durr
Merry Christine McCreless Nielsen

4. Kenneth Wesley Durr
Robert Gordon Durr
Cynthia Lynn Nielsen
Carolyn Ann Nielsen
(Cynthia and Carolyn are represented
by a guardian ad litem.)

Trustees:

5. G. S. McCreless
Gladys A. McCreless

Grace Ann McCreless Durr
Merry Christine McCreless Nielsen

5 The partners of Fair Development Company are:

G. S. McCreless Grace Ann McCreless Durr
Gladys A. McCreless Merry Christine McCreless Nielsen

6 The partners of Fair Development Company are:

G. S. McCreless
Gladys A. McCreless
Grace Ann McCreless Durr
Merry Christine McCreless Nielsen

7 The provision states:

Upon such repossession of the Leased Property, the Lessor shall have the right to:

A. Rerent the Leased Property and credit the rentals collected thereunder during the balance of the term of this Lease upon the unpaid balance of the rents hereunder after first deducting the costs and expenses of repossession (including an attorney's fee of 15% Of the balance of the rent due if an attorney was used in connection therewith), storage until rerenting, reconditioning and repair of the Leased Property and rerenting, paying any surplus to the Lessee, the Lessee to remain liable for any deficiency, or

B. If, in the sole opinion of the Lessor it would be impractical or impossible to rerent the Leased Property, sell the Leased Property at public or private sale with the right of Lessor or Assignee to purchase any or all of the Leased Property at such sale, pay all charges and expenses incurred by Lessor or Assignee in connection with or incidental to the repossession (including an attorney's fee of 15% Of the amount realized, if an attorney is used in connection therewith), storage and sale, and credit the remainder of the sale price to the unpaid balance of the rent hereunder, the Lessee to remain liable for any deficiency.

4/16/2019

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**End of
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EXHIBIT 6

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SIMONS HALL JOHNSTON PC

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April 15, 2019

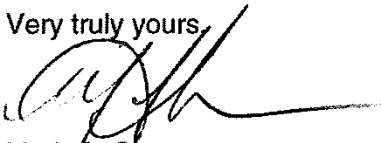
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Fennemore Craig, P.C.
300 S. Fourth Street, Ste. 1400
Las Vegas, NV 89101

RE: Nanyah Vegas, LLC v. TELD, LLC, et al.

Dear Counsel:

Can you please provide me with the names and addresses of the current known beneficiaries of The Rogich Family Irrevocable Trust (the "Rogich Trust")? Also, if the Rogich 2004 Family Irrevocable Trust is different than the Rogich Trust, please provide me with the names and addresses of the current known beneficiaries of the Rogich 2004 Family Irrevocable Trust.

Very truly yours,



Mark G. Simons

MGS/ja