

DENNIS L. KENNEDY
Nevada Bar No. 1462
JOSEPH A. LIEBMAN
Nevada Bar No. 10125
BAILEY ♦ KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
Telephone: 702.562.8820
Facsimile: 702.562.8821
DKennedy@BaileyKennedy.com
JLiebman@BaileyKennedy.com

Attorneys for Respondents
Peter Eliades, Individually and as Trustee
of the Eliades Survivor Trust of 10/30/08;
Teld, LLC; and Respondent/Cross-Appellant
Eldorado Hills, LLC

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, INDIVIDUALLY, AND
AS TRUSTEE OF THE ROGICH
FAMILY IRREVOCABLE TRUST;
ELDORADO HILLS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; TELD, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; PETER ELIADES,
INDIVIDUALLY AND AS
TRUSTEE OF THE ELIADES

Electronically Filed
Nov 26 2019 04:25 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No. 79917

District Court No. A686303

CROSS-APPELLANT
ELDORADO HILLS, LLC'S
DOCKETING STATEMENT

1 SURVIVOR TRUST OF 10/30/08;
2 AND IMITATIONS, LLC, A
3 NEVADA LIMITED LIABILITY
4 COMPANY,

5 Respondents.

6 ELDORADO HILLS, LLC, A
7 NEVADA LIMITED LIABILITY
8 COMPANY,

9 Cross-Appellant,

10 vs.

11 NANYAH VEGAS, LLC, A
12 NEVADA LIMITED LIABILITY
13 COMPANY,

14 Cross-Respondent.

15 SIG ROGICH, A/K/A SIGMUND
16 ROGICH, INDIVIDUALLY AND
17 AS TRUSTEE OF THE ROGICH
18 FAMILY IRREVOCABLE TRUST,

Cross-Appellant,

vs.

NANYAH VEGAS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Cross-Respondent,

and

ELDORADO HILLS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; TELD, LLC, A
NEVADA LIMITED LIABILITY

COMPANY; PETER ELIADES,
INDIVIDUALLY AND AS
TRUSTEE OF THE ELIADES
SURVIVOR TRUST OF 10/30/08;
AND IMITATIONS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondents.

CROSS-APPELLANT ELDORADO HILLS, LLC'S
DOCKETING STATEMENT

1. **Judicial District:** Eighth Judicial District Court; Department: XXVII;
County: Clark; Judge: Honorable District Judge Nancy Allf; District Court
Docket No. A-13-686303-C.

2. **Attorney(s) filing this Docketing Statement:** Eldorado Hills, LLC
("Eldorado Hills") is represented by Dennis L. Kennedy, Esq. (Nevada Bar
No. 1462) and Joseph A. Liebman (Nevada Bar No. 10125) of
BAILEY❖KENNEDY LLP, 8984 Spanish Ridge Avenue, Las Vegas, Nevada
89148.

3. **Attorney(s) representing Cross-Respondent:** Nanyah Vegas, LLC
("Nanyah") is represented by Mark G. Simons, Esq. (Nevada Bar No. 5132) of
Simons Hall Johnston PC, 6490 S. McCarran Blvd., Ste. F-46, Reno, Nevada
89509.

4. **Nature of disposition:** Dismissal; Failure to Prosecute.

5. **Does this appeal raise issues concerning Child Custody, Venue, or Termination of Parental Rights:** No.

6. **Pending and prior proceedings in this Court:**

➤ Case No. 66823, *Nanyah Vegas, LLC v. Rogich*.

➤ Case No. 67595, *Huerta v. Rogich*.

➤ Case No. 70492, *Huerta v. Rogich*.

➤ Case No. 70492-COA, *Huerta v. Rogich*.

➤ Case No. 79072, *Nanyah Vegas, LLC v. Dist. Ct. (Rogich)*.

7. **Pending and prior proceedings in other courts:** N/A.

8. **Nature of the action:** Nanyah sued Eldorado Hills based on an alleged \$1,500,000.00 investment in Eldorado Hills. Nanyah claimed that it was entitled to a membership interest in Eldorado Hills which it never received, and therefore, it was now entitled to reimbursement of its \$1,500,000.00 payment. Nanyah later sued numerous other parties for breach of contract, amongst other claims, based on the same alleged investment in Eldorado Hills.¹ Because Nanyah did not have any sort of contract with Eldorado Hills,

¹ These other Defendants were sued by Nanyah (Case No. A-16-746239-C) on November 4, 2016. Nanyah's case against Eldorado Hills (Case No.

1 Nanyah’s sole claim against Eldorado Hills was for equitable unjust
2 enrichment. However, Nanyah’s unjust enrichment claim against Eldorado
3 Hills does not have merit because: (1) Nanyah agreed that the Rogich Family
4 Irrevocable Trust (the “Rogich Trust”) was “solely responsible” for any claim
5 Nanyah may assert related to its \$1,500,000.00 payment; (2) Nanyah had an
6 adequate remedy at law against the Rogich Trust; and (3) Nanyah’s unjust
7 enrichment claim was barred by the four year statute of limitations set forth in
8 NRS 11.190(2)(c).

9 The District Court ultimately dismissed Nanyah’s unjust enrichment
10 claim against Eldorado Hills due to Nanyah’s failure to bring the case to trial
11 within the three year period required under N.R.C.P. 41(e)(4)(B). That
12 particular Decision and Order is the one of the many subjects of Nanyah’s
13 appeal. However, Eldorado Hills has filed this cross-appeal based on the
14 District Court’s November 4, 2019 Order Denying Eldorado Hills, LLC’s
15 Motion for Summary Judgment (which denied summary judgment with
16 respect to the first two issues above) and the District Court’s May 22, 2018
17 Order Denying Eldorado Hills, LLC’s Joinder to Motion for Summary

18 _____
A-13-686303-C) was later consolidated with that matter.

Judgment (which denied summary judgment with respect to the third issue above).

9. Issues on cross-appeal:

The District Court erred by denying Eldorado Hills, LLC's Motion for Summary Judgment. In particular, the District Court should have entered summary judgment in favor of Eldorado Hills on Nanyah's equitable unjust enrichment claim because: (1) Nanyah agreed that the Rogich Trust was "solely responsible" for any claim Nanyah may assert related to its \$1,500,000.00 payment; and (2) Nanyah had an adequate remedy at law against the Rogich Trust.

The District Court also erred by denying Eldorado Hills, LLC's Joinder to Motion for Summary Judgment. In particular, the District Court should have entered summary judgment in favor of Eldorado Hills because Nanyah's unjust enrichment claim was barred by the four year statute of limitations set forth in NRS 11.190(2)(c).

10. Pending proceedings in this Court raising the same or similar issues:

N/A.

11. **Constitutional issues:** N/A.

12. **Other issues:** N/A

13. **Assignment to the Court of Appeals or retention in the Supreme**

Court: This case does not fall within any of the categories of cases

presumptively assigned to the Supreme Court or Court of Appeals under

NRAP 17.

14. **Trial:** No trial was held.

15. **Judicial disqualification:** No.

16. **Date of entry of written judgment or order appealed from:**

➤ Order Denying Eldorado Hills, LLC's Motion for Summary Judgment –
October 4, 2019.

➤ Order Granting Partial Summary Judgment, specifically, the portion of
the Court's Order Denying Eldorado Hills, LLC's Joinder to Motion for
Summary Judgment – May 22, 2018.

17. **Date written notice of entry of judgment or order served:**

➤ Notice of Entry of Order Denying Eldorado Hills, LLC's Motion for
Summary Judgment – October 4, 2019. Electronic service.

- Notice of Entry of Order Granting Partial Summary Judgment,
specifically, the portion of the Court’s Order Denying Eldorado Hills,
LLC’s Joinder to Motion for Summary Judgment – May 22, 2018.
Electronic service.

18. **If the time for filing the notice of appeal was tolled by a post
judgment motion:** N/A.

19. **Date notice of appeal was filed:**

- Nanyah’s Notice of Appeal – October 24, 2019.
➤ Eldorado Hills’ Notice of Cross-Appeal – November 6, 2019.
➤ The Rogich Trust, Sigmund Rogich (“Rogich”), and Imitations, LLC’s
 (“Imitations”) Notice of Cross-Appeal – November 7, 2019.

20. **Specify statute or rule governing the time limit for filing the notice
of appeal:** NRAP 4(a)(1) and NRAP 4(a)(2).

21. **Specify the statute or other authority granting this Court
jurisdiction to review the judgment or order appealed from:** NRAP
3A(b)(1). The October 4, 2019 Decision and Order resolved all the remaining
claims against Eldorado Hills in Case No. A-13-686303-C, and all the
remaining claims against Rogich and Imitations in Case No. A-16-746239-C,

1 thereby leaving no more pending claims in both cases. All of the other claims
2 that had been asserted in both cases had been resolved by prior Orders.

3 Specifically:

- 4 ➤ All of Nanyah’s claims against the Rogich Trust in Case No. A-16-
5 746239-C were resolved via the April 30, 2019 Order, which dismissed
6 all claims against the Rogich Trust with prejudice due to Plaintiff’s non-
7 compliance with NRS 163.120.
- 8 ➤ All of Nanyah’s claims against Peter Eliades (“Eliades”), the Eliades
9 Survivor Trust of 10/30/08 (the “Eliades Trust”), and Teld, LLC
10 (“Teld”) in Case No. A-16-746239-C were resolved via the October 5,
11 2018 Order: (1) Granting Defendants Peter Eliades, Individually and as
12 Trustee of the Eliades Survivor Trust of 10/30/08, and Teld, LLC’s
13 Motion for Summary Judgment; and (2) Denying Nanyah Vegas, LLC’s
14 Countermotion for Summary Judgment (the “October 5, 2018 SJ
15 Order”).
- 16 ➤ All of the claims asserted by Carlos Huerta and the Alexander
17 Christopher Trust against Sigmund Rogich and the Rogich Trust in Case
18

1 No. A-13-686303-C were resolved via the November 5, 2014 Order
2 Granting Partial Summary Judgment.

3 Since all claims against all parties in both cases were fully resolved as
4 of October 4, 2019, any and all orders became appealable. Thus, Eldorado
5 Hills is appealing both the October 4, 2019 Order Denying Eldorado Hills,
6 LLC's Motion for Summary Judgment and the May 22, 2018 Order Granting
7 Partial Summary Judgment, specifically, the portion of the Court's Order
8 Denying Eldorado Hills, LLC's Joinder to Motion for Summary Judgment.

9 **22. List all parties involved in the action in the district court:**

10 **a) Parties:**

11 ➤ Case No. A-13-686303-C.

12 ■ Plaintiffs: Carlos Huerta; Carlos Huerta as Trustee of the
13 Alexander Christopher Trust; Nanyah.

14 ■ Defendants: Rogich; the Rogich Trust; Eldorado Hills.

15 ➤ Case No. A-16-746239-C.

16 ■ Plaintiff: Nanyah.

17 ■ Defendants: Rogich; the Rogich Trust, Imitations; Eliades; the
18 Eliades Trust; Teld.

b) **If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal:** Carlos Huerta and the Alexander Christopher Trust (“Huerta”) already appealed the dismissal of all of their claims against Rogich and the Rogich Trust in Case No. 67595.² It was a final judgment because the District Court had also dismissed Nanyah’s unjust enrichment claim against Eldorado Hills at that time (which was later reversed and remanded in Case No. 66823). Huerta’s appeal was ultimately dismissed due to an untimely notice of appeal.

23. **Give a brief description (3 to 5 words) of each party’s separate claims, counterclaims, cross-claims or third-party claims, and the date of formal disposition of each claim:**

➤ Case No. A-13-686303-C.

- First Claim for Relief – Breach of Contract – Huerta against Rogich and the Rogich Trust – November 5, 2014 Order Granting Partial Summary Judgment.

² Case No. 70492-COA also addressed (and affirmed) the dismissal of Huerta’s claims against Rogich and the Rogich Trust.

- 1 ▪ Second Claim for Relief – Breach of Covenant of Good Faith and
- 2 Fair Dealing – Huerta against Rogich and the Rogich Trust –
- 3 November 5, 2014 Order Granting Partial Summary Judgment.
- 4 ▪ Third Claim for Relief – Negligent Misrepresentation – Huerta
- 5 against Rogich and the Rogich Trust – November 5, 2014 Order
- 6 Granting Partial Summary Judgment.
- 7 ▪ Fourth Claim for Relief – Unjust Enrichment – Nanyah against
- 8 Eldorado Hills – October 4, 2019 Decision.
- 9 ➤ Case No. A-16-746239-C.
- 10 ▪ First Claim for Relief – Breach of Contract – Nanyah against the
- 11 Rogich Trust, Rogich, Teld, and Eliades.
- 12 ○ Resolved against Teld and Eliades via the October 5, 2018 SJ
- 13 Order;
- 14 ○ Resolved against the Rogich Trust via the April 30, 2019 Order;
- 15 ○ Resolved against Rogich via the October 4, 2019 Decision.
- 16 ▪ Second Claim for Relief – Contractual Breach of the Implied
- 17 Covenant of Good Faith and Fair Dealing –Nanyah against the
- 18 Rogich Trust, Rogich, Teld, and Eliades.

- Resolved against Teld and Eliades via the October 5, 2018 SJ Order;
- Resolved against the Rogich Trust via the April 30, 2019 Order;
- Resolved against Rogich via the October 4, 2019 Decision.
- Third Claim for Relief – Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing – Nanyah against the Rogich Trust, Rogich, Teld, and Eliades.
 - Resolved against Teld and Eliades via the October 5, 2018 SJ Order;
 - Resolved against the Rogich Trust via the April 30, 2019 Order;
 - Resolved against Rogich via the October 4, 2019 Decision.
- Fourth Claim for Relief – Intentional Interference with Contract – Nanyah against Rogich, Teld, Eliades, the Eliades Trust, and Imitations.
 - Resolved against all parties via the May 22, 2018 Order Granting Partial Summary Judgment.
- Fifth Claim for Relief – Constructive Trust – Nanyah against the Eliades Trust.

○ Resolved via the May 22, 2018 Order Granting Partial Summary Judgment.

▪ Sixth Claim for Relief – Conspiracy – Nanyah against Rogich, the Rogich Trust, Imitations, Teld, Eliades, and the Eliades Trust.

○ Resolved against Teld, Eliades, and the Eliades Trust via the October 5, 2018 SJ Order;

○ Resolved against the Rogich Trust via the April 30, 2019 Order;

○ Resolved against Rogich and Imitations via the October 4, 2019 Decision.

▪ Seventh Claim for Relief – Fraudulent Transfer – Nanyah against the Rogich Trust and the Eliades Trust.

○ Resolved via the May 22, 2018 Order Granting Partial Summary Judgment.

▪ Eighth Claim for Relief – Declaratory Relief – Nanyah against Rogich, the Rogich Trust, Imitations, Teld, Eliades, and the Eliades Trust.

○ Resolved against Teld, Eliades, and the Eliades Trust via the October 5, 2018 SJ Order;

○ Withdrawn against Rogich, the Rogich Trust, and Imitations via
Nanyah's April 16, 2019 Pretrial Memorandum.

▪ Ninth Claim for Relief – Specific Performance – Nanyah against
Rogich, the Rogich Trust, Imitations, Teld, Eliades, and the Eliades
Trust.

○ Resolved against Teld, Eliades, and the Eliades Trust via the
October 5, 2018 SJ Order;

○ Withdrawn against Rogich, the Rogich Trust, and Imitations via
Nanyah's April 16, 2019 Pretrial Memorandum.

24. **Did the judgment or order appealed from adjudicate ALL the
claims alleged below and the rights and liabilities of ALL the parties to
the action below: Yes.**

25. **Attach file-stamped copies of the following documents:**

➤ Amended Complaint in Case No. A-13-686303-C, attached as Exhibit
1;

➤ Complaint in Case No. A-16-746239-C, attached as Exhibit 2;

➤ October 4, 2019 Decision, which includes the Order Denying Eldorado
Hills, LLC's Motion for Summary Judgment, attached as Exhibit 3;

- 1 ➤ Notice of Entry of October 4, 2019 Decision and Order, attached as
2 Exhibit 4;
- 3 ➤ May 22, 2018 Order Granting Partial Summary Judgment, attached as
4 Exhibit 5.
- 5 ➤ Notice of Entry of May 22, 2018 Order Granting Partial Summary
6 Judgment, attached as Exhibit 6.

7 ///

8 ///

9 ///

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information, and belief, and that I have attached all required documents to this docketing statement.

DATED this 26th day of November, 2019.

BAILEY ♦ KENNEDY

By: /s/ Dennis L. Kennedy
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN

*Attorneys for Respondents
Peter Eliades, Individually and as Trustee
of the Eliades Survivor Trust of 10/30/08;
Teld, LLC; and Respondent/Cross-Appellant
Eldorado Hills, LLC*

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 26th day of November, 2019, service of the foregoing **CROSS-APPELLANT ELDORADO HILLS, LLC'S DOCKETING STATEMENT** was made by electronic service through the Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known addresses:

MARK G. SIMONS, ESQ.
SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Suite F-46
Reno, NV 89509

Email: msimons@shjneveda.com

Attorneys for Appellant
NANYAH VEGAS, LLC

SAMUEL S. LIONEL, ESQ.
BRENOCH WIRTHLIN, ESQ.
FENNEMORE CRAIG, P.C.
300 S. Fourth Street, Suite 1400
Las Vegas, NV 89101

Email: slionel@fclaw.com
bwirthlin@fclaw.com

Attorneys for Respondents
**SIG ROGICH aka SIGMUND
ROGICH, Individually and as
Trustee of THE ROGICH
FAMILY IRREVOCABLE
TRUST, and IMITATIONS, LLC**

MICHAEL V. CRISTALLI
JANIECE S. MARSHALL
**GENTILE CRISTALLI MILLER
ARMENI SAVARESE**
410 South Rampart Blvd., Suite 420
Las Vegas, NV 89145

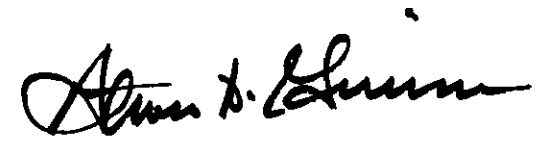
Email: mcristalli@gcmaslaw.com
jmarshall@gcmaslaw.com

Attorneys for Respondents
**SIG ROGICH aka SIGMUND
ROGICH as Trustee of THE
ROGICH FAMILY
IRREVOCABLE TRUST**

/s/ Sharon L. Murnane
Employee of BAILEY ♦ KENNEDY

EXHIBIT 1

EXHIBIT 1



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.

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

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

25 8. Additionally this matter relates to an interest/investment conveyed in a Nevada limited
26 liability company, Eldorado, which principal asset is real property located in Clark County, Nevada.
27
28

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

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

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.
26
27
28

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

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

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
27
28

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.

18
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
27
28

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
24
25
26
27
28

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
18
19
20
21
22
23
24
25
26
27
28

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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:

CH S.R

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

S.R. M

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.

Off S.R.

(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.

(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.

CH S.R

(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

04 J.R.

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.

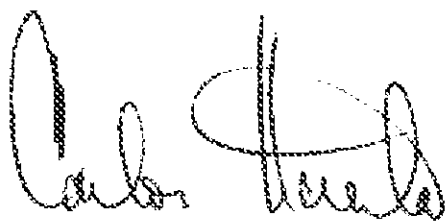
(6) The arbitrator is authorized to award to any party whose claims are sustained, such sums or other relief as the arbitrator shall deem proper and such award may include reasonable attorney's fees, professional fees and other costs expended to the prevailing party(ies) as determined by the arbitrator.

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

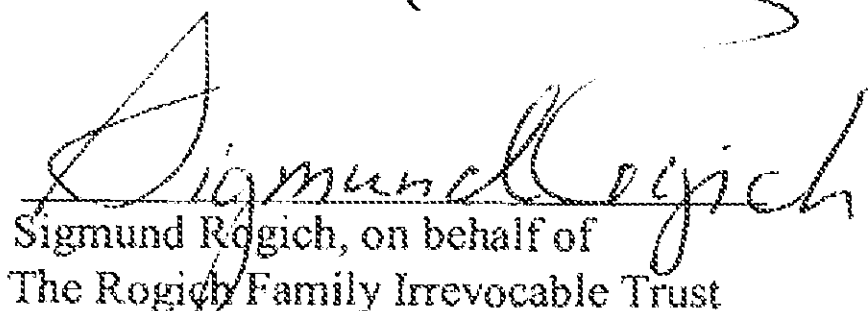
IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

"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

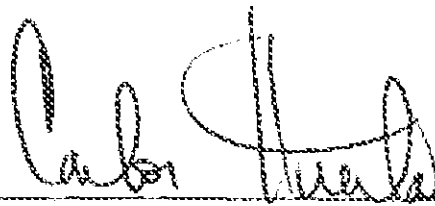
EXHIBIT "B"

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

EXHIBIT 2

EXHIBIT 2

COMP

Mark G. Simons, Esq. (SBN 5132)

ROBISON, BELAUSTEGUI, SHARP & LOW

A Professional Corporation

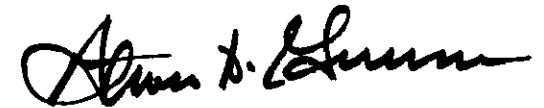
71 Washington Street

Reno, Nevada 89503

Telephone: (775) 329-3151

Facsimile: (775) 329-7941

Email: msimons@rbsllaw.com



CLERK OF THE COURT

Attorneys for Nanyah Vegas, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

NANYAH VEGAS, LLC, a Nevada limited
liability company,

CASE NO.: A-16-746239-C

DEPT. NO.: III

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.

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.

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

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

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

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

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

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

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

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

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

- 27 a. failing to provide Nanyah a membership interest in Eldorado;
28 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 Eliades
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.

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

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

- 6 1. For compensatory damages according to proof in excess of \$10,000.00;
7
8 2. For general damages according to proof in excess of \$10,000.00;
9
10 3. For punitive damages according to proof in excess of \$10,000.00;
11
12 4. For the imposition of a constructive trust on the Eliades Trust's
13 membership interest in Eldorado including not limited to all profits Nanyah
14 is entitled to receive from the ownership and development of the Property;
15
16 5. For declaratory relief;
17
18 6. For specific performance;
19
20 7. For costs of Court and attorneys' fees incurred;
21
22 8. For such other relief as the Court determines appropriate.

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

25 DATED this 4th day of November, 2016.

26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

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

j:\wpdata\imgs\30564.001 (nanyah)\p-complaint--new lawsuit_revised.docx

EXHIBIT 3

EXHIBIT 3

Steven D. Grierson

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * *

CARLOS HUERTA, et al.

Plaintiff(s)

vs.

ELDORADO HILLS LLC, et al.

Defendant(s)

CASE NO.: A-13-686303

DEPARTMENT 27

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

And all related matters.

DECISION

Pending before the Court are (1) Defendant Eldorado Hills, LLC's Motion for Dismissal with Prejudice Under Rule 41(e); (2) Defendant Eldorado Hills, LLC's Motion for Summary Judgment; and (3) Defendants Sigmund Rogich and Imitations, LLC's Motion for Summary Judgment, or Alternatively for Judgment as a Matter of Law Pursuant to NRCP 50(e). The matter came on for hearing on Motions Calendar on September 5, 2019 and following arguments of counsel, as well as the pleadings and papers on file herein, the Court took the matter under advisement. This decision follows.

I. Eldorado Hills LLC's Motion for Dismissal Under Rule 41(e)

On July 22, 2019, Defendant Eldorado Hills, LLC ("Eldorado") filed its Motion for Dismissal Under N.R.C.P. 41(e)(4)(B). Eldorado argues that dismissal is warranted because three years have elapsed since the remittitur was filed with the Court and that Nanyah Vegas, LLC ("Nanyah") failed to prosecute its case within the applicable limitations. This Court agrees.

///

RECEIVED

OCT - 4 2019

CLERK OF THE COURT

HONORABLE NANCY L. ALLF

DISTRICT COURT JUDGE

DEPT XXVII

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Applicable Standard

N.R.C.P. 41(e)(4)(B), in pertinent part, provides that “[i]f a party appeals a judgment and the judgment is reversed on appeal and remanded for a new trial, the court **must dismiss** the action for want of prosecution if a plaintiff fails to bring the action to trial within 3 years after the remittitur was filed in the trial court (emphasis added).” In order to avoid dismissal, the parties may stipulate, in writing, to extend the time in which to prosecute the action. *See*, N.R.C.P. 41(e)(5).

Discussion

The Complaint in the instant action was filed on July 31, 2013. On July 25, 2014, Eldorado filed a Motion for Partial Summary Judgment seeking to dismiss the unjust enrichment claim, which this Court granted. Nanyah appealed this Court’s dismissal to the Nevada Supreme Court. The Nevada Supreme Court issued an Order of Reversal and Remand, finding that there was a question of fact with respect to Nanyah’s unjust enrichment claim. On April 29, 2016, the Nevada Supreme Court’s remittitur was filed with this Court, thus, triggering the limitations imposed under N.R.C.P. 41(e)(4)(B). Given this remittitur, Nanyah must have brought the action to trial by April 29, 2019, or otherwise stipulated to extend for purposes of N.R.C.P. 41(e).

The instant case was not brought to trial within the time limits of Rule 41(e); moreover, the parties did not agree to stipulate the proceedings for purposes of N.R.C.P 41(e).

The Nevada Supreme Court has held that the swearing of a witness who gives testimony is sufficient to commence trial and thus toll the limitations period specified in N.R.C.P. 41(e). *See Lipitt v. State*, 103 Nev. 412, 413 (1987). Alternatively, examining a juror satisfies the limitations in N.R.C.P. 41(e) and avoids dismissal. *See Smith v. Timm*, 96 Nev. 197, 200 (1980).

1 In *Prostack v. Lowden*, the Nevada Supreme Court interpreted N.R.C.P. 41(e) in the
2 context of the 5-year rule embedded therein and held that “an oral stipulation, entered into in
3 open court, approved by the judge, and spread upon the minutes, is the equivalent of a written
4 stipulation for the purposes of this rule.” 96 Nev. 230, 231 (1980). However, the *Prostack* Court
5 also held that a stipulation that is silent as to the 5-year rule is not sufficient to satisfy N.R.C.P.
6 41(e)’s written-stipulation requirement. *Id.* at 231. The *Prostack* Court further held that “words
7 and conduct, short of a written stipulation, cannot estop a defendant from asserting the
8 mandatory dismissal rule.” *Id.* (quoting *Thran v. District Court*, 79 Nev. 176, 181 (1963)).
9

10 Here, in order to avoid mandatory dismissal, Nanyah must have either (1) called a
11 witness; (2) examined a juror; or (3) stipulated to extend trial expressly for purposes of
12 N.R.C.P. 41(e). None of the three scenarios occurred because the jury trial was halted before
13 *voir dire* even began. First, not a single witness was called nor has a single juror been examined.
14 As such, this Court finds that trial has not begun for purposes of surviving a N.R.C.P. 41(e)
15 dismissal. Second, the April 22, 2019 oral stipulation that was made on the Court’s record was
16 silent as to N.R.C.P. 41(e)(4)(B)’s 3-year rule. Moreover, the Stipulation and Order Suspending
17 Jury Trial filed on May 16, 2019 with this Court was also silent as to N.R.C.P. 41(e)(4)(B)’s 3-
18 year rule. Rather, the jury trial was suspended to allow Nanyah to file an emergency writ with
19 the Supreme Court with respect to this Court’s Order dated April 30, 2019.¹ Therefore,
20 under *Prostack*, this Court finds that the stipulations that were made were not sufficient to
21 satisfy the rule’s express written-stipulation requirement.
22

23 Accordingly, mandatory dismissal is warranted under N.R.C.P. 41(e)(4)(B).
24
25
26
27

28

¹ In its Order, the Court dismissed the Rogich Trust defendants with prejudice.

1 **II. Eldorado Hills, LLC's Motion for Summary Judgment**

2 In addition to its Motion to Dismiss discussed *supra*, Eldorado filed a Motion for
3 Summary Judgment on May 22, 2019.² Eldorado argues that Nanyah's only remaining claim
4 against it for unjust enrichment should be dismissed because Nanyah once had an adequate
5 remedy at law against the Rogich Trust. This Court disagrees.
6

7 **Applicable Standard**

8 Summary judgment is proper if the pleadings and all other evidence on file demonstrate
9 that no genuine issue of material fact exists and that the moving party is entitled to judgment as
10 a matter of law. *See*, N.R.C.P. 56 et seq. When deciding a summary judgment motion, this
11 Court views the evidence in a light most favorable to the nonmoving party. *Id.*
12

13 **Discussion**

14 "Unjust enrichment exists when the plaintiff confers a benefit on the defendant, the
15 defendant appreciates such benefit, and there is acceptance and retention by the defendant of
16 such benefit under circumstances such that it would be inequitable for him to retain the benefit
17 without payment of the value thereof." *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev.
18 371, 381 (2012). "An action based on a theory of unjust enrichment is not available when there
19 is an express, written contract, because no agreement can be implied when there is an express
20 agreement." *Leasepartners Corp. v. Robert L. Brooks Trust Dated November 12, 1975*, 113
21 Nev. 747, 755 (1997).
22

23 Here, it is undisputed that Nanyah wired Eldorado \$1,500,000 as memorialized in the
24 October 30, 2008 Membership Interest Purchase Agreement (the "MIPA"). In this MIPA, the
25 Rogich Trust agreed to solely assume the obligation to pay Nanyah's debt. However, this Court
26

27
28

² In light of this Court's ruling on Eldorado's Motion for Dismissal Pursuant to N.R.C.P. 41(e), Eldorado's Motion
for Summary Judgment is moot. Nevertheless, this Court will analyze the motion on the merits.

1 dismissed the Rogich Trust because Nanyah's written demand for a list of beneficiaries was
2 untimely under N.R.S. 163.120 as such notification would not permit interested beneficiaries of
3 the trust an opportunity to intervene in this action pursuant to N.R.S. 12.130(1). Given this
4 dismissal, Nanyah does not currently have an adequate remedy at law in which to pursue. Thus,
5 in light of this Court's decision, unjust enrichment is appropriate as an alternative equitable
6 basis.

8 The Court disagrees with Eldorado's argument that Nanyah once *had* an adequate
9 remedy at law, which bars it from pursuing a claim against it for unjust enrichment. The case
10 law in Nevada is consistent in holding that recovery based on unjust enrichment is unavailable
11 if the party *has* an adequate remedy at law. Thus, the test is not past tense—as Eldorado
12 suggests—but rather present perfect tense.

14 Viewing facts in light most favorable to Nanyah, questions of fact exist as to whether the
15 *Certified Fire Prot. Inc.* test is met. First, Nanyah has established, for purposes of surviving
16 summary judgment, that Eldorado received a benefit from the \$1,500,000 investment in made in
17 Eldorado. Second, Nanyah has shown that Eldorado accepted the funds and that it had a
18 reasonable expectation of payment. And, Nanyah has demonstrated that it would be inequitable
19 for Eldorado to retain Nanyah's investment without payment.

21 For these reasons, summary judgment on Nanyah's unjust enrichment claim is
22 premature.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **III. Defendants Sigmund Rogich and Imitations, LLC's Motion for Summary**
2 **Judgment, or Alternatively for Judgment as a Matter of Law Pursuant to**
3 **NRCP 50(e)**

4 On May 10, 2019, Defendants Sigmund Rogich and Imitations, LLC filed their Motion
5 for Summary Judgment, or alternatively, for judgment as a matter of law pursuant to N.R.C.P.
6 50(a) with the Court seeking dismissal of (1) the breach of contract claim against Mr. Rogich,
7 individually; (2) the breach of implied covenant of good faith and fair dealing claim against Mr.
8 Rogich, individually; and (3) the conspiracy claim against Mr. Rogich, individually, and
9 Imitations, LLC. This Court agrees with Defendants Sigmund Rogich and Imitations, LLC that
10 summary judgment is warranted.

12 **Applicable Standard**

13 Summary judgment is proper if the pleadings and all other evidence on file demonstrate
14 that no genuine issue of material fact exists and that the moving party is entitled to judgment as
15 a matter of law. *See*, N.R.C.P. 56.

17 **Discussion**

18 **A. Breach of Contract and Breach of the Implied Covenant of Good Faith and Fair**
19 **Dealing**

20 The elements necessary for breach of contract are as follows: (1) formation of a valid
21 contract; (2) performance or excuse of performance by the plaintiff; (3) material breach by the
22 defendant; and (4) damages. *Bernard v. Rockhill Dev. Co.*, 103 Nev. 132, 134 (1987). In
23 Nevada, an implied covenant of good faith and fair dealing exists in every contract. *A.C. Shaw*
24 *Const., Inc. v. Washoe County*, 105 Nev. 913, 915 (1989). When a party seeks only contractual
25 damages, that party must show that the breaching party acted in bad faith. *Nelson v. Heer*, 123
26 Nev. 217, 226 (2007) ("It is well established that all contracts impose upon the parties an
27

1 implied covenant of good faith and fair dealing, which prohibits arbitrary or unfair acts by one
2 party that work to the disadvantage of the other.”

3
4 Here, no contractual relationship between Mr. Rogich—**individually**—and Nanyah
5 exists. While Mr. Rogich was the Trustee of the Rogich Trust, “a trustee is **not personally**
6 **liable** on a contract properly entered into in the capacity of representative in the course of
7 administration of the trust unless the trustee fails to reveal the representative capacity or identify
8 the trust in the contract.” *See*, NRS 163.120. One of the fundamental elements of a breach of
9 contract claim is for a valid contract—oral or otherwise—to exist.

10
11 In its opposition, Nanyah argues that there are questions of fact related to whether Mr.
12 Rogich is personally liable under the alter ego doctrine. “A party who wishes to assert an alter
13 ego claim must do so in an **independent action** against the alleged alter ego with the requisite
14 notice, service of process, and other attributes of due process (emphasis added).” *Callie v.*
15 *Bowling*, 123 Nev. 181, 185 (2007). Nanyah has not alleged alter ego as a separate independent
16 action against Mr. Rogich. Thus, its assertion that there are questions as fact under the alter ego
17 doctrine is without merit.³

18
19 Similarly, Nanyah argues that there are questions of fact as to the existence of a “special
20 relationship” between Nanyah and Mr. Rogich, individually. This Court disagrees. First, the
21 special relationship requirement is for tortious conduct, which are only available “in rare and
22 exceptional cases when there is a special relationship between the victim and tortfeasor,” or
23 where one party holds “‘vastly superior bargaining power’ ” over another. *See K Mart Corp. v.*
24 *Ponsock*, 103 Nev. 39, 49 (1987). The relationships between the parties here are memorialized
25 in contractual agreements. Specifically, this dispute arises out of an investment by Nanyah in
26

27
28 ³ Further, this Court cannot grant Nanyah leave to amend if it so seeks it at this juncture because the applicable
statute of limitations bars alter ego claims.

1 Eldorado Hills. Eldorado Hills owned 161 acres of real property in Boulder City that was
2 intended to be developed into commercial mixed-use facilities. Nanyah invested in Eldorado
3 \$1,500,000. Agreements in October, 2008 affirm that the Rogich Trust solely owed Nanyah its
4 \$1,500,000 investment. The Court does not find that any party had “superior bargaining
5 powers” over another. Thus, the relationship is not a special relationship that gives rise to
6 recovery of tort damages; rather, it is a contractual relationship. *See Nelson v. Heer*, 123 Nev.
7 217, 226 (2007).
8

9 Accordingly, because there is no contract between Nanyah and Mr. Rogich individually,
10 the Court finds that summary judgment is appropriate on Nanyah’s causes of actions for breach
11 of contract and breach of the implied covenant of good faith and fair dealing against Mr.
12 Rogich.
13

14 **B. Civil Conspiracy**

15 An actionable civil conspiracy “consists of a combination of two or more persons who,
16 by some concerted action, **intend to accomplish an unlawful objective** for the purpose of
17 harming another, and damage results from the act or acts.” *Consol. Generator-Nevada, Inc. v.*
18 *Cummins Engine Co.*, 114 Nev. 1304, 1311 (1998).
19

20 Here, Nanyah’s conspiracy claims are primarily premised on agreements in which the
21 Rogich Trust agreed to indemnify Nanyah. Imitations, LLC was not a party to any of these
22 agreements. Nevertheless, the Court does not find that there was intent to pursue an unlawful
23 objective based on (1) Mr. Rogich’s declaration; and (2) the agreements at issue. While Nanyah
24 cites to Mr. Rogich’s deposition as evidence of his unlawful intent, the testimony does not
25 expressly state that he intended to accomplish an *unlawful* object for the purpose of harming
26 Nanyah. Similarly, there is no evidence in the record that Defendant Imitations, LLC neither
27 intended to accomplish an unlawful objective nor was Defendant Imitations, LLC even a party
28

1 to the agreements at issue. Finally, there are not facts in dispute of an illegal agreement amongst
2 the parties. Without the necessary intent requirement under *Consol. Generator-Nevada, Inc.*,
3 Nanyah's conspiracy claims cannot succeed.
4

5 As such, summary judgment is appropriate on the civil conspiracy cause of action.

6 **ORDER**

7 Accordingly, **COURT ORDERS** for good cause appearing and after review that the
8 Motion Defendant Eldorado Hills, LLC's Motion for Dismissal with Prejudice Under Rule
9 41(e) is hereby **GRANTED**.

10 **COURT FURTHER ORDERS** for good cause appearing and after review that
11 Defendant Eldorado Hills, LLC's Motion for Summary Judgment on the unjust enrichment
12 claim is hereby **DENIED**.

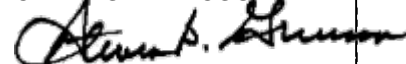
13 **COURT FURTHER ORDERS** for good cause appearing and after review that
14 Defendants Sigmund Rogich and Imitations, LLC's Motion for Summary Judgment, or
15 Alternatively for Judgment as a Matter of Law Pursuant to NRCP 50(e) is hereby **GRANTED**.
16

17
18 DATED this 30 day of September, 2019.
19

20 Nancy L Allf
21 NANCY ALLF
22 DISTRICT COURT JUDGE
23
24
25
26
27
28

EXHIBIT 4

EXHIBIT 4



DISTRICT COURT
CLARK COUNTY, NEVADA

* * * *

CARLOS HUERTA, et al.

Plaintiff(s)

vs.

ELDORADO HILLS LLC, et al.

Defendant(s)

CASE NO.: A-13-686303

DEPARTMENT 27

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

And all related matters.

NOTICE OF ENTRY OF DECISION AND ORDER

PLEASE TAKE NOTICE that a Decision and Order was entered in this action on or about October 1, 2019, a true and correct copy of which is attached hereto.

DATED October 1, 2019



NANCY L. ALLF
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of the foregoing was electronically served pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court's Electronic Filing Program.



Karen Lawrence
Judicial Executive Assistant

RECEIVED

OCT - 4 2019

CLERK OF THE COURT

HONORABLE NANCY L. ALLF

DISTRICT COURT JUDGE

DEPT XXVII

DISTRICT COURT
CLARK COUNTY, NEVADA

CARLOS HUERTA, et al.

Plaintiff(s)

vs.

ELDORADO HILLS LLC, et al.

Defendant(s)

CASE NO.: A-13-686303

DEPARTMENT 27

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

And all related matters.

DECISION

Pending before the Court are (1) Defendant Eldorado Hills, LLC's Motion for Dismissal with Prejudice Under Rule 41(e); (2) Defendant Eldorado Hills, LLC's Motion for Summary Judgment; and (3) Defendants Sigmund Rogich and Imitations, LLC's Motion for Summary Judgment, or Alternatively for Judgment as a Matter of Law Pursuant to NRCP 50(e). The matter came on for hearing on Motions Calendar on September 5, 2019 and following arguments of counsel, as well as the pleadings and papers on file herein, the Court took the matter under advisement. This decision follows.

I. Eldorado Hills LLC's Motion for Dismissal Under Rule 41(e)

On July 22, 2019, Defendant Eldorado Hills, LLC ("Eldorado") filed its Motion for Dismissal Under N.R.C.P 41(e)(4)(B). Eldorado argues that dismissal is warranted because three years have elapsed since the remittitur was filed with the Court and that Nanyah Vegas, LLC ("Nanyah") failed to prosecute its case within the applicable limitations. This Court agrees.

///

HONORABLE NANCY L. ALLF

DISTRICT COURT JUDGE

DEPT XXVII

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Applicable Standard

N.R.C.P. 41(e)(4)(B), in pertinent part, provides that “[i]f a party appeals a judgment and the judgment is reversed on appeal and remanded for a new trial, the court must dismiss the action for want of prosecution if a plaintiff fails to bring the action to trial within 3 years after the remittitur was filed in the trial court (emphasis added).” In order to avoid dismissal, the parties may stipulate, in writing, to extend the time in which to prosecute the action. *See*, N.R.C.P. 41(e)(5).

Discussion

The Complaint in the instant action was filed on July 31, 2013. On July 25, 2014, Eldorado filed a Motion for Partial Summary Judgment seeking to dismiss the unjust enrichment claim, which this Court granted. Nanyah appealed this Court’s dismissal to the Nevada Supreme Court. The Nevada Supreme Court issued an Order of Reversal and Remand, finding that there was a question of fact with respect to Nanyah’s unjust enrichment claim. On April 29, 2016, the Nevada Supreme Court’s remittitur was filed with this Court, thus, triggering the limitations imposed under N.R.C.P. 41(e)(4)(B). Given this remittitur, Nanyah must have brought the action to trial by April 29, 2019, or otherwise stipulated to extend for purposes of N.R.C.P. 41(e).

The instant case was not brought to trial within the time limits of Rule 41(e); moreover, the parties did not agree to stipulate the proceedings for purposes of N.R.C.P 41(e).

The Nevada Supreme Court has held that the swearing of a witness who gives testimony is sufficient to commence trial and thus toll the limitations period specified in N.R.C.P. 41(e). *See Lipitt v. State*, 103 Nev. 412, 413 (1987). Alternatively, examining a juror satisfies the limitations in N.R.C.P. 41(e) and avoids dismissal. *See Smith v. Timm*, 96 Nev. 197, 200 (1980).

1 In *Prostack v. Lowden*, the Nevada Supreme Court interpreted N.R.C.P. 41(e) in the
2 context of the 5-year rule embedded therein and held that "an oral stipulation, entered into in
3 open court, approved by the judge, and spread upon the minutes, is the equivalent of a written
4 stipulation for the purposes of this rule." 96 Nev. 230, 231 (1980). However, the *Prostack* Court
5 also held that a stipulation that is silent as to the 5-year rule is not sufficient to satisfy N.R.C.P.
6 41(e)'s written-stipulation requirement. *Id.* at 231. The *Prostack* Court further held that "words
7 and conduct, short of a written stipulation, cannot estop a defendant from asserting the
8 mandatory dismissal rule." *Id.* (quoting *Thran v. District Court*, 79 Nev. 176, 181 (1963)).

10 Here, in order to avoid mandatory dismissal, Nanyah must have either (1) called a
11 witness; (2) examined a juror; or (3) stipulated to extend trial expressly for purposes of
12 N.R.C.P. 41(e). None of the three scenarios occurred because the jury trial was halted before
13 *voir dire* even began. First, not a single witness was called nor has a single juror been examined.
14 As such, this Court finds that trial has not begun for purposes of surviving a N.R.C.P. 41(e)
15 dismissal. Second, the April 22, 2019 oral stipulation that was made on the Court's record was
16 silent as to N.R.C.P. 41(e)(4)(B)'s 3-year rule. Moreover, the Stipulation and Order Suspending
17 Jury Trial filed on May 16, 2019 with this Court was also silent as to N.R.C.P. 41(e)(4)(B)'s 3-
18 year rule. Rather, the jury trial was suspended to allow Nanyah to file an emergency writ with
19 the Supreme Court with respect to this Court's Order dated April 30, 2019.¹ Therefore,
20 under *Prostack*, this Court finds that the stipulations that were made were not sufficient to
21 satisfy the rule's express written-stipulation requirement.

22 Accordingly, mandatory dismissal is warranted under N.R.C.P. 41(e)(4)(B).
23
24
25
26
27
28

///

///

¹ In its Order, the Court dismissed the Rogich Trust defendants with prejudice.

1 **II. Eldorado Hills, LLC's Motion for Summary Judgment**

2 In addition to its Motion to Dismiss discussed *supra*, Eldorado filed a Motion for
3 Summary Judgment on May 22, 2019.² Eldorado argues that Nanyah's only remaining claim
4 against it for unjust enrichment should be dismissed because Nanyah once had an adequate
5 remedy at law against the Rogich Trust. This Court disagrees.
6

7 **Applicable Standard**

8 Summary judgment is proper if the pleadings and all other evidence on file demonstrate
9 that no genuine issue of material fact exists and that the moving party is entitled to judgment as
10 a matter of law. *See*, N.R.C.P. 56 et seq. When deciding a summary judgment motion, this
11 Court views the evidence in a light most favorable to the nonmoving party. *Id.*
12

13 **Discussion**

14 "Unjust enrichment exists when the plaintiff confers a benefit on the defendant, the
15 defendant appreciates such benefit, and there is acceptance and retention by the defendant of
16 such benefit under circumstances such that it would be inequitable for him to retain the benefit
17 without payment of the value thereof." *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev.
18 371, 381 (2012). "An action based on a theory of unjust enrichment is not available when there
19 is an express, written contract, because no agreement can be implied when there is an express
20 agreement." *Leasepartners Corp. v. Robert L. Brooks Trust Dated November 12, 1975*, 113
21 Nev. 747, 755 (1997).
22

23 Here, it is undisputed that Nanyah wired Eldorado \$1,500,000 as memorialized in the
24 October 30, 2008 Membership Interest Purchase Agreement (the "MIPA"). In this MIPA, the
25 Rogich Trust agreed to solely assume the obligation to pay Nanyah's debt. However, this Court
26

27
28

² In light of this Court's ruling on Eldorado's Motion for Dismissal Pursuant to N.R.C.P. 41(e), Eldorado's Motion
for Summary Judgment is moot. Nevertheless, this Court will analyze the motion on the merits.

1 dismissed the Rogich Trust because Nanyah's written demand for a list of beneficiaries was
2 untimely under N.R.S. 163.120 as such notification would not permit interested beneficiaries of
3 the trust an opportunity to intervene in this action pursuant to N.R.S. 12.130(1). Given this
4 dismissal, Nanyah does not currently have an adequate remedy at law in which to pursue. Thus,
5 in light of this Court's decision, unjust enrichment is appropriate as an alternative equitable
6 basis.
7

8 The Court disagrees with Eldorado's argument that Nanyah once *had* an adequate
9 remedy at law, which bars it from pursuing a claim against it for unjust enrichment. The case
10 law in Nevada is consistent in holding that recovery based on unjust enrichment is unavailable
11 if the party *has* an adequate remedy at law. Thus, the test is not past tense—as Eldorado
12 suggests—but rather present perfect tense.
13

14 Viewing facts in light most favorable to Nanyah, questions of fact exist as to whether the
15 *Certified Fire Prot. Inc.* test is met. First, Nanyah has established, for purposes of surviving
16 summary judgment, that Eldorado received a benefit from the \$1,500,000 investment in made in
17 Eldorado. Second, Nanyah has shown that Eldorado accepted the funds and that it had a
18 reasonable expectation of payment. And, Nanyah has demonstrated that it would be inequitable
19 for Eldorado to retain Nanyah's investment without payment.
20

21 For these reasons, summary judgment on Nanyah's unjust enrichment claim is
22 premature.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **III. Defendants Sigmund Rogich and Imitations, LLC's Motion for Summary**
2 **Judgment, or Alternatively for Judgment as a Matter of Law Pursuant to**
3 **NRCP 50(e)**

4 On May 10, 2019, Defendants Sigmund Rogich and Imitations, LLC filed their Motion
5 for Summary Judgment, or alternatively, for judgment as a matter of law pursuant to N.R.C.P.
6 50(a) with the Court seeking dismissal of (1) the breach of contract claim against Mr. Rogich,
7 individually; (2) the breach of implied covenant of good faith and fair dealing claim against Mr.
8 Rogich, individually; and (3) the conspiracy claim against Mr. Rogich, individually, and
9 Imitations, LLC. This Court agrees with Defendants Sigmund Rogich and Imitations, LLC that
10 summary judgment is warranted.

11
12 **Applicable Standard**

13 Summary judgment is proper if the pleadings and all other evidence on file demonstrate
14 that no genuine issue of material fact exists and that the moving party is entitled to judgment as
15 a matter of law. *See*, N.R.C.P. 56.

16
17 **Discussion**

18 **A. Breach of Contract and Breach of the Implied Covenant of Good Faith and Fair**
19 **Dealing**

20 The elements necessary for breach of contract are as follows: (1) formation of a valid
21 contract; (2) performance or excuse of performance by the plaintiff; (3) material breach by the
22 defendant; and (4) damages. *Bernard v. Rockhill Dev. Co.*, 103 Nev. 132, 134 (1987). In
23 Nevada, an implied covenant of good faith and fair dealing exists in every contract. *A.C. Shaw*
24 *Const., Inc. v. Washoe County*, 105 Nev. 913, 915 (1989). When a party seeks only contractual
25 damages, that party must show that the breaching party acted in bad faith. *Nelson v. Heer*, 123
26 Nev. 217, 226 (2007) ("It is well established that all contracts impose upon the parties an
27

1 implied covenant of good faith and fair dealing, which prohibits arbitrary or unfair acts by one
2 party that work to the disadvantage of the other.”

3
4 Here, no contractual relationship between Mr. Rogich—**individually**—and Nanyah
5 exists. While Mr. Rogich was the Trustee of the Rogich Trust, “a trustee is **not personally**
6 **liable** on a contract properly entered into in the capacity of representative in the course of
7 administration of the trust unless the trustee fails to reveal the representative capacity or identify
8 the trust in the contract.” *See*, NRS 163.120. One of the fundamental elements of a breach of
9 contract claim is for a valid contract—oral or otherwise—to exist.

10
11 In its opposition, Nanyah argues that there are questions of fact related to whether Mr.
12 Rogich is personally liable under the alter ego doctrine. “A party who wishes to assert an alter
13 ego claim must do so in an **independent action** against the alleged alter ego with the requisite
14 notice, service of process, and other attributes of due process (emphasis added).” *Callie v.*
15 *Bowling*, 123 Nev. 181, 185 (2007). Nanyah has not alleged alter ego as a separate independent
16 action against Mr. Rogich. Thus, its assertion that there are questions as fact under the alter ego
17 doctrine is without merit.³

18
19 Similarly, Nanyah argues that there are questions of fact as to the existence of a “special
20 relationship” between Nanyah and Mr. Rogich, individually. This Court disagrees. First, the
21 special relationship requirement is for tortious conduct, which are only available “in rare and
22 exceptional cases when there is a special relationship between the victim and tortfeasor,” or
23 where one party holds “‘vastly superior bargaining power’ ” over another. *See K Mart Corp. v.*
24 *Ponsock*, 103 Nev. 39, 49 (1987). The relationships between the parties here are memorialized
25 in contractual agreements. Specifically, this dispute arises out of an investment by Nanyah in
26

27
28 ³ Further, this Court cannot grant Nanyah leave to amend if it so seeks it at this juncture because the applicable
statute of limitations bars alter ego claims.

1 Eldorado Hills. Eldorado Hills owned 161 acres of real property in Boulder City that was
2 intended to be developed into commercial mixed-use facilities. Nanyah invested in Eldorado
3 \$1,500,000. Agreements in October, 2008 affirm that the Rogich Trust solely owed Nanyah its
4 \$1,500,000 investment. The Court does not find that any party had "superior bargaining
5 powers" over another. Thus, the relationship is not a special relationship that gives rise to
6 recovery of tort damages; rather, it is a contractual relationship. *See Nelson v. Heer*, 123 Nev.
7 217, 226 (2007).

8
9 Accordingly, because there is no contract between Nanyah and Mr. Rogich individually,
10 the Court finds that summary judgment is appropriate on Nanyah's causes of actions for breach
11 of contract and breach of the implied covenant of good faith and fair dealing against Mr.
12 Rogich.
13

14 **B. Civil Conspiracy**

15 An actionable civil conspiracy "consists of a combination of two or more persons who,
16 by some concerted action, **intend to accomplish an unlawful objective** for the purpose of
17 harming another, and damage results from the act or acts." *Consol. Generator-Nevada, Inc. v.*
18 *Cummins Engine Co.*, 114 Nev. 1304, 1311 (1998).
19

20 Here, Nanyah's conspiracy claims are primarily premised on agreements in which the
21 Rogich Trust agreed to indemnify Nanyah. Imitations, LLC was not a party to any of these
22 agreements. Nevertheless, the Court does not find that there was intent to pursue an unlawful
23 objective based on (1) Mr. Rogich's declaration; and (2) the agreements at issue. While Nanyah
24 cites to Mr. Rogich's deposition as evidence of his unlawful intent, the testimony does not
25 expressly state that he intended to accomplish an *unlawful* object for the purpose of harming
26 Nanyah. Similarly, there is no evidence in the record that Defendant Imitations, LLC neither
27 intended to accomplish an unlawful objective nor was Defendant Imitations, LLC even a party
28

1 to the agreements at issue. Finally, there are not facts in dispute of an illegal agreement amongst
2 the parties. Without the necessary intent requirement under *Consol. Generator-Nevada, Inc.*,
3 Nanyah's conspiracy claims cannot succeed.
4

5 As such, summary judgment is appropriate on the civil conspiracy cause of action.

6 **ORDER**

7 Accordingly, **COURT ORDERS** for good cause appearing and after review that the
8 Motion Defendant Eldorado Hills, LLC's Motion for Dismissal with Prejudice Under Rule
9 41(e) is hereby **GRANTED**.

10 **COURT FURTHER ORDERS** for good cause appearing and after review that
11 Defendant Eldorado Hills, LLC's Motion for Summary Judgment on the unjust enrichment
12 claim is hereby **DENIED**.
13

14 **COURT FURTHER ORDERS** for good cause appearing and after review that
15 Defendants Sigmund Rogich and Imitations, LLC's Motion for Summary Judgment, or
16 Alternatively for Judgment as a Matter of Law Pursuant to NRCP 50(e) is hereby **GRANTED**.
17

18 DATED this 30 day of September, 2019.
19

20 Nancy L Allf
21 NANCY ALLF
22 DISTRICT COURT JUDGE
23
24
25
26
27
28

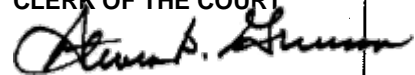
HONORABLE NANCY L. ALLF

DISTRICT COURT JUDGE

DEPT XXVII

EXHIBIT 5

EXHIBIT 5



ORDR

Mark G. Simons, Esq., NSB No. 5132
SIMONS LAW, PC
6490 S. McCarran Blvd., #20
Reno, Nevada, 89509
Telephone: (775) 785-0088
Facsimile: (775) 785-0087
Email: mark@mgsimonslaw.com

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,

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

**ORDER PARTIALLY GRANTING
SUMMARY JUDGMENT**

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

1 The Motion for Summary Judgment by Defendant Sigmund Rogich, individually and as
2 Trustee of the Rogich Family Irrevocable Trust, and Imitations, LLC ("Rogich Defendants"),
3 joined by Peter Eliades, individually and as Trustee of the Eliades Survivor Trust of 10/30/08,
4 Eldorado Hills, LLC, and Teld, LLC ("Eliades Defendants") having come on regularly to be
5 heard on April 18, 2018, Samuel S. Lionel of Fennemore Craig, P.C. representing The Rogich
6 Defendants and Joseph A. Liebman of Bailey Kennedy representing the Eliades Defendants and
7 the Court having hearing argument and good cause appearing, does hereby set forth the
8 undisputed material facts and the Court's legal determinations.

9 **RELEVANT FACTS**

10 1. Plaintiff's Complaint against the Rogich Defendants and the Eliades Defendants
11 was filed on November 4, 2016.

12 2. The alleged transfer of the Eldorado Membership interest from the Rogich Trust to
13 the Eliades Trust occurred no later than September 2012.

14 3. Plaintiff's Fifth and Seventh Claims for Fraudulent Transfer and Constructive
15 Trust against the Rogich Defendants and the Eliades Defendants accrued no later than September
16 2012.

17 4. Plaintiff's Fifth and Seventh Claims for Fraudulent Transfer and Constructive
18 Trust were filed more than four years after they accrued.

19 **LEGAL DETERMINATION**

20 1. Plaintiff's Fifth and Seventh Claims for Fraudulent Transfer and Constructive
21 Trust were filed more than 4 years after the alleged membership interest transfer.

22 2. NRS 112.230(1) provides that a claim for fraudulent transfer is extinguished if not
23 brought within four years after the date of the transfer.

24 ~~3. The membership interest transfer is not a transfer that is permitted to be perfected~~
25 ~~and therefore, NRS 112.200(1)(b)'s and NRS 112.200(2)'s provisions do not apply.~~ AK FOR
NLA

26 3. The Rogich Defendants and the Eliades Defendants are awarded Partial Summary
27 Judgment dismissing the Fifth and Seventh Claims, with prejudice.

28 4. Plaintiff's Fourth Claim for Intentional Interference with Contract has been

1 withdrawn by Plaintiff and should be dismissed.


2 5. The Motion of the Rogich Defendants' for Summary Judgment and the Joinder of
3 the Eliades Defendants in said Motion for Summary Judgment with respect to Plaintiffs' First,
4 Second, Third, Sixth, Eighth and Ninth Claims is denied.

5 Dated this 17 day of May, 2018.

6
7 Nancy L. AEF
8 DISTRICT COURT JUDGE
9 AE

9 Respectfully submitted by:

10 SIMONS LAW, PC

11 BY: 

12 Mark Simons, Esq., Nevada Bar No. 5132
13 6490 South McCarran Blvd., #20
14 Reno, Nevada 89509
mark@mgsimonslaw.com
Attorney for Plaintiff Nanyah Vegas, LLC

15 Approved:

16 This ____ day of ____, 2018

17 FENNEMORE CRAIG, P.C.

18 Samuel S. Lionel, Esq. NV Bar No. 1766
19 Brenoch Wirthlin, Esq. NV Bar No. 10282
20 300 S. Fourth Street, Suite 1400
21 Las Vegas, NV 89101
Tel: 702-692-8000
Fax: 702-692-8099

22 Attorneys for Sigmund Rogich, Individually and as Trustee of
23 The Rogich Family Irrevocable Trust and Imitations, LLC

24
25 ///

26

27

28

1 BAILEY KENNEDY

2

3 By:

4 Joseph Liebman, Esq., Nevada Bar No. 10125

5 Dennis Kennedy, Esq., Nevada Bar No. 1462

6 8984 Spanish Ridge Avenue

7 Las Vegas, NV 89148

8 DKennedy@BaileyKennedy.com

9 JLiebman@BaileyKennedy.com

10 *Attorneys for Defendants Pete Eliades, individually, and as*

11 *Trustee of The Eliades Survivor Trust of 10/30/08*

12 *Teld, LLC and Eldorado Hills, LLC*

13

14

15

16

17

18

19

20

21

22

23

24

25

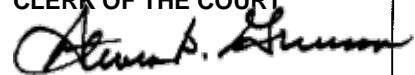
26

27

28

EXHIBIT 6

EXHIBIT 6



NEOJ

Mark G. Simons, Esq., NSB No. 5132
SIMONS LAW, PC
6490 S. McCarran Blvd., #20
Reno, Nevada, 89509
Telephone: (775) 785-0088
Facsimile: (775) 785-0087
Email: mark@mgsimonslaw.com

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,

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 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-13-686303-C

DEPT. NO.: XXVII

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

NOTICE OF ENTRY OF ORDERS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOTICE OF ENTRY OF ORDERS


PLEASE TAKE NOTICE THAT on May 17, 2018, an Order Denying
Counter-motion for Summary Judgment and Denying NRCP 56(f) Relief was entered by
the Honorable Nancy L. Alf and filed with this Court on May 22, 2018 in this matter. A
true and correct copy of the Order is attached hereto as **Exhibit 1**.

PLEASE TAKE FURTHER NOTICE THAT on May 17, 2018, an Order Partially
Granting Summary Judgment was entered by the Honorable Nancy L. Alf and filed with
this Court on May 22, 2018 in this matter. A true and correct copy of the Order is
attached hereto as **Exhibit 2**.

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

DATED this 22nd day of May, 2018.

SIMONS LAW, PC
6490 S. McCarran Blvd., #20
Reno, Nevada, 89509



MARK G. SIMONS
Attorney for Nanyah Vegas, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

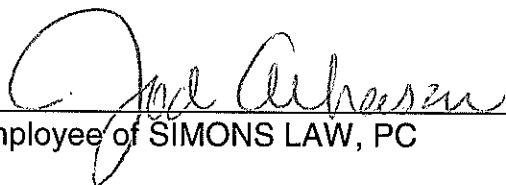
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 8.05, I certify that I am an employee of
SIMONS LAW, PC and that on this date I caused to be served a true copy of the
NOTICE OF ENTRY OF ORDERS on all parties to this action via the Odyssey E-

Filing System:

Dennis L. Kennedy	dkennedy@baileykennedy.com
Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
Joseph A. Liebman	jlienbman@baileykennedy.com
Andrew Leavitt	andrewleavitt@gmail.com
Angela Westlake	awestlake@lionelsawyer.com
Brandon McDonald	brandon@mcdonaldlayers.com
Bryan A. Lindsey	bryan@nvfirm.com
Charles Barnabi	cj@mcdonaldlawyers.com
Christy Cahall	christy@nvfirm.com
Lettie Herrera	lettie.herrera@andrewleavittlaw.com
Rob Hernquist	rhernquist@lionelsawyer.com
Samuel A. Schwartz	sam@nvfirm.com
Samuel Lionel	slionel@fclaw.com
CJ Barnabi	cj@cohenjohnson.com
H S Johnson	calendar@cohenjohnson.com
Erica Rosenberry	erosenberry@fclaw.com

DATED this 22 day of May, 2018.



Employee of SIMONS LAW, PC

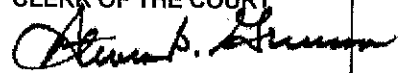
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT LIST

NO.	DESCRIPTION	PAGES
1	Order Denying Countermotion	3
2	Order Partially Granting Summary Judgment	4

EXHIBIT 1

EXHIBIT 1



1 **ORDR**

2 Mark G. Simons, Esq., NSB No. 5132
3 SIMONS LAW, PC
4 6490 S. McCarran Blvd., #20
5 Reno, Nevada, 89509
6 Telephone: (775) 785-0088
7 Facsimile: (775) 785-0087
8 Email: mark@mgsimonslaw.com

9 *Attorneys for Nanyah Vegas, LLC*

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

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

19 Plaintiffs,

20 v.

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

26 Defendants.

27 **NANYAH VEGAS, LLC**, a Nevada limited
28 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

**ORDER DENYING COUNTERMOTION
FOR SUMMARY JUDGMENT AND
DENYING NRCP 56(F) RELIEF**

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

1 The Countermotion for Summary Judgment and Motion for NRCP 56(f) Relief filed by
2 Plaintiff Nanyah Vegas, LLC ("Nanyah") having come on regularly to be heard on April 18,
3 2018, Mark G. Simons of SIMONS LAW, PC, representing Nanyah and Samuel S. Lionel of
4 Fennemore Craig, P.C. representing The Rogich Defendants and Joseph A. Liebman of Bailey
5 Kennedy representing the Eliades Defendants and the Court having hearing argument and good
6 cause appearing, does hereby find as follows:

7 1. Nanyah's Countermotion for Summary Judgment is denied.

8 2. Nanyah's Motion for NRCP 56(f) relief is denied.

9 Dated this 17 day of May, 2018.

10
11 Nancy L. Alf
12 DISTRICT COURT JUDGE

13 Respectfully submitted by:

14 SIMONS LAW, PC

15 BY: Mark Simons

16 Mark Simons, Esq., Nevada Bar No. 5132
17 6490 South McCarran Blvd., #20
18 Reno, Nevada 89509
19 mark@mgsimonslaw.com
20 Attorney for Plaintiff Nanyah Vegas, LLC

21 Approved:

22 This _____ day of _____, 2018

23 FENNEMORE CRAIG, P.C.

24 Samuel S. Lionel, Esq. NV Bar No. 1766
25 Brenoch Wirthlin, Esq. NV Bar No. 10282
26 300 S. Fourth Street, Suite 1400
27 Las Vegas, NV 89101
28 Tel: 702-692-8000
Fax: 702-692-8099

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

///
///

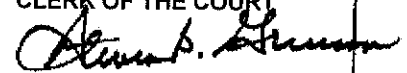
1
2 BAILEY KENNEDY

3 By:

4 Joseph Liebman, Esq., Nevada Bar No. 10125
5 Dennis Kennedy, Esq., Nevada Bar No. 1462
6 8984 Spanish Ridge Avenue
7 Las Vegas, NV 89148
8 DKennedy@BaileyKennedy.com
9 JLiebman@BaileyKennedy.com
10 Attorneys for Defendants Pete Eliades, individually, and as
11 Trustee of The Eliades Survivor Trust of 10/30/08
12 Teld, LLC and Eldorado Hills, LLC
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 2

EXHIBIT 2



1 **ORDR**

2 Mark G. Simons, Esq., NSB No. 5132
3 SIMONS LAW, PC
4 6490 S. McCarran Blvd., #20
5 Reno, Nevada, 89509
6 Telephone: (775) 785-0088
7 Facsimile: (775) 785-0087
8 Email: mark@mgsimonslaw.com

9 *Attorneys for Nanyah Vegas, LLC*

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

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

19 Plaintiffs,

20 v.

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

26 Defendants.

27 NANYAH VEGAS, LLC, a Nevada limited
28 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

**ORDER PARTIALLY GRANTING
SUMMARY JUDGMENT**

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

1 The Motion for Summary Judgment by Defendant Sigmund Rogich, individually and as
2 Trustee of the Rogich Family Irrevocable Trust, and Imitations, LLC ("Rogich Defendants"),
3 joined by Peter Eliades, individually and as Trustee of the Eliades Survivor Trust of 10/30/08,
4 Eldorado Hills, LLC, and Teld, LLC ("Eliades Defendants") having come on regularly to be
5 heard on April 18, 2018, Samuel S. Lionel of Fennemore Craig, P.C. representing The Rogich
6 Defendants and Joseph A. Liebman of Bailey Kennedy representing the Eliades Defendants and
7 the Court having hearing argument and good cause appearing, does hereby set forth the
8 undisputed material facts and the Court's legal determinations.

9 RELEVANT FACTS

10 1. Plaintiff's Complaint against the Rogich Defendants and the Eliades Defendants
11 was filed on November 4, 2016.

12 2. The alleged transfer of the Eldorado Membership interest from the Rogich Trust to
13 the Eliades Trust occurred no later than September 2012.

14 3. Plaintiff's Fifth and Seventh Claims for Fraudulent Transfer and Constructive
15 Trust against the Rogich Defendants and the Eliades Defendants accrued no later than September
16 2012.

17 4. Plaintiff's Fifth and Seventh Claims for Fraudulent Transfer and Constructive
18 Trust were filed more than four years after they accrued.

19 LEGAL DETERMINATION

20 1. Plaintiff's Fifth and Seventh Claims for Fraudulent Transfer and Constructive
21 Trust were filed more than 4 years after the alleged membership interest transfer.

22 2. NRS 112.230(1) provides that a claim for fraudulent transfer is extinguished if not
23 brought within four years after the date of the transfer.

24 ~~3. The membership interest transfer is not a transfer that is permitted to be perfected~~
25 ~~and therefore, NRS 112.200(1)(b)'s and NRS 112.200(2)'s provisions do not apply.~~ *AV for NLA*

26 3. The Rogich Defendants and the Eliades Defendants are awarded Partial Summary
27 Judgment dismissing the Fifth and Seventh Claims, with prejudice.

28 4. Plaintiff's Fourth Claim for Intentional Interference with Contract has been

1 withdrawn by Plaintiff and should be dismissed.

2 5. The Motion of the Rogich Defendants' for Summary Judgment and the Joinder of
3 the Eliades Defendants in said Motion for Summary Judgment with respect to Plaintiffs' First,
4 Second, Third, Sixth, Eighth and Ninth Claims is denied.

5 Dated this 17 day of May, 2018.

6
7 Nancy L. AEF
8 DISTRICT COURT JUDGE
9 AEF

9 Respectfully submitted by:

10 SIMONS LAW, PC

11 BY: 

12 Mark Simons, Esq., Nevada Bar No. 5132
13 6490 South McCarran Blvd., #20
14 Reno, Nevada 89509
mark@mgsimonslaw.com
Attorney for Plaintiff Nanyah Vegas, LLC

15 Approved:

16 This _____ day of _____, 2018

17 FENNEMORE CRAIG, P.C.

18 Samuel S. Lionel, Esq. NV Bar No. 1766
19 Brenoch Wirthlin, Esq. NV Bar No. 10282
20 300 S. Fourth Street, Suite 1400
21 Las Vegas, NV 89101
22 Tel: 702-692-8000
23 Fax: 702-692-8099
24 Attorneys for Sigmund Rogich, Individually and as Trustee of
25 The Rogich Family Irrevocable Trust and Imitations, LLC
26
27
28

///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BAILEY KENNEDY

By:

Joseph Liebman, Esq., Nevada Bar No. 10125
Dennis Kennedy, Esq., Nevada Bar No. 1462
8984 Spanish Ridge Avenue
Las Vegas, NV 89148
DKennedy@BaileyKennedy.com
JLiebman@BaileyKennedy.com
*Attorneys for Defendants Pete Eliades, individually, and as
Trustee of The Eliades Survivor Trust of 10/30/08
Teld, LLC and Eldorado Hills, LLC*

PHINEMORI CRAIG

LAS VEGAS