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Teld, LLC; and 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

Supreme Court No. 79917

District Court No. A686303

TELD, LLC, PETER ELIADES,
INDIVIDUALLY AND AS
TRUSTEE FOR THE ELIADES
SURVIVOR TRUST OF 10/30/08,
AND ELDORADO HILLS,
LLC'S OPPOSITION TO
NANYAH VEGAS, LLC'S
MOTION TO STAY
ENFORCEMENT DURING
PENDENCY OF APPEAL

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Clerk of Supreme Court

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

5 Respondents.

6 SIG ROGICH, A/K/A SIGMUND
7 ROGICH, INDIVIDUALLY AND
8 AS TRUSTEE OF THE ROGICH
9 FAMILY IRREVOCABLE TRUST,

10 Cross-Appellant,

11 vs.

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

15 Cross-Respondent,

16 and

17 ELDORADO HILLS, LLC, A
18 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.

I. INTRODUCTION

Nanyah concedes it is a shell entity with no assets other than its dismissed claims for relief, and thus has no intent to pay the approximate \$250,000 judgment entered in favor of the Eliades Respondents.¹ Yet, as shown in the underlying briefing *and uncontradicted by Nanyah*, Nanyah’s sole principal and owner—Yoav Harlap—is one of the richest men in Israel.² He could fund a supersedeas bond on Nanyah’s behalf for the amount of the judgment. He prefers not to, because if Nanyah loses its appeal, it will remain insolvent and the Eliades Respondents will never be able to recover any portion of their judgment.

Contrary to Nanyah’s argument, this is *precisely* the scenario where a supersedeas bond for the full amount of the judgment is necessary. The vast majority of relevant authority only permits the waiver or reduction of the bond requirement when it is clear that the judgment debtor has available assets to

¹ The Eliades Respondents include Teld, LLC (“Teld”), Peter Eliades, Individually (“Eliades”) and as Trustee of the Eliades Survivor Trust of 10/30/08 (the “Eliades Trust”), and Eldorado Hills, LLC (“Eldorado Hills”).

² See Eliades Respondents’ Opp’n to Nanyah Vegas, LLC’s Motion to Stay Enforcement During Pendency of Appeal (citing various online sources showing Mr. Harlap’s significant net worth), pp. 2-3, attached as Exhibit 1; see also Nanyah Vegas, LLC’s Mot. in Limine # 4 Re. Yoav Harlap’s Personal Financials, attached as Exhibit 2.

1 pay the judgment if the appeal is unsuccessful. *See, e.g., Nelson v. Heer*, 121
2 Nev. 832, 834, 122 P.3d 1252, 1253 (2005) (identifying two relevant factors
3 as being based on the ability of the judgment debtor to pay the judgment).
4 Nanyah has not and cannot cite any legal authority to support the premise that
5 a shell entity with a wealthy owner should be granted relief from NRCP 62
6 merely because the owner wants his shell entity to remain judgment-proof.
7 Quite to the contrary, the entire purpose of the supersedeas bond requirement
8 is to ensure payment of the judgment if the appeal is unsuccessful. *Id.* at 835,
9 122 P.3d at 1254.³ Nanyah’s requested relief achieves the opposite—it
10 ensures that the Eliades Respondents’ judgment will ***not*** be paid.

11 II. STATEMENT OF FACTS

12 A. The Judgment.

13 Through a series of various rulings and summary judgment orders, the
14 Eliades Respondents were dismissed from the underlying consolidated action
15 with prejudice. Following their dismissal, two of the Eliades Respondents
16 (Teld and Eliades) prevailed on a Motion for Attorney’s Fees, thereby

17 ³ *See also Sheldon v. Munford, Inc.*, 128 F.R.D. 663, 665 (1989) (“The
18 purpose of a supersedeas bond is to permit the plaintiff to collect its judgment
after appeal without the necessity of proceedings supplemental or a protracted
search for assets.”).

1 obtaining a monetary judgment against Nanyah in the amount of \$216,236.25.

2 All four Eliades Respondents obtained a judgment for reimbursement of their
3 costs in the amount of \$31,010.98.⁴

4 **B. The Bad Faith Bankruptcy.**

5 On August 6, 2020, the District Court issued a writ of execution for
6 Nanyah’s “things in action.”⁵ Nanyah—a shell entity owning only dismissed
7 claims for relief—filed a Chapter 11 bankruptcy petition for reorganization.

8 On December 22, 2021, the Bankruptcy Court granted the Eliades
9 Respondents’ Motion to Dismiss, finding that it had been *filed in bad faith*.⁶

10 **C. The Second Writ of Execution and Sheriff’s Sale.**

11 On January 5, 2022, the District Court issued another writ of execution.⁷
12 The Sheriff’s sale has been scheduled for April 13, 2022.

13 **D. The District Court’s Denial of the Motion to Stay.**

14 Rather than post a supersedeas bond as discussed by the Bankruptcy
15 Court in its dismissal, Nanyah went to the District Court and requested a stay.

16
17 ⁴ Judgment, attached as Exhibit 3.

⁵ Writ of Execution, Exhibit 1 to Exhibit 1.

18 ⁶ Mem. Dec, 7:5-8:7, Exhibit 4 to Exhibit 1.

⁷ Writ of Execution, Exhibit 5 to Exhibit 1.

1 Nanyah did not offer to provide any sort of alternative security until oral
2 argument, when it suggested that its “appellate rights” could be posted as
3 collateral. The District Court logically understood that if Nanyah loses its
4 appeal, any “appellate rights” will be worthless, and therefore denied
5 Nanyah’s Motion.⁸

6 III. ARGUMENT

7 A. Nanyah Fails to Adequately Address the Relevant Factors.

8 NRCP 62(d) governs a stay of judgment pending appeal. According to
9 its plain language, an appellant must either post a supersedeas bond for the full
10 judgment amount or provide an alternative form of security approved by the
11 District Court in order to receive a stay. This Court has further expounded on
12 this requirement, holding that an appellant has an automatic right to a stay
13 “upon the posting of a supersedeas bond for the full judgment amount, but that
14 courts retain the inherent power to grant a stay in the absence of a full bond.”
15 *Nelson*, 121 Nev. at 834, 122 P.3d at 1253. This Court ultimately adopted five
16

17 ⁸ Because Nanyah prematurely filed this Motion to Stay before this
18 Court, the District Court has not yet signed its Order Denying the Motion to Stay. Attached is the draft Order that all parties agreed to, but the Court has not yet signed. *See* e-mail requesting approval for signature and attached Order, attached as Exhibit 4.

1 factors to determine whether it is appropriate to allow for security other than a
2 supersedeas bond for the full judgment amount. *Id.*

3 Nanyah failed to address these factors before the District Court, and also
4 fails to adequately address them before this Court. Nanyah ignores the fact
5 that ***most*** instances which justify a waiver or reduction of the bond
6 requirement are because the judgment debtor is fully capable of paying the
7 judgment if the appeal is unsuccessful. Although it is unclear whether *Nelson*
8 permits a completely unsecured stay, the only case Nanyah cites for this
9 premise granted the stay because the judgment debtor was able to pay the
10 judgment if the appeal were unsuccessful⁹, which is directly contrary to
11 Nanyah’s ***insufficient*** justification that it is incapable of and has no intent to
12 pay any judgment if its appeal is unsuccessful. *See Avirgan v. Hull*, 125
13 F.R.D. 185, 187 (S.D. Fla. 1989) (“[A] prospective inability to pay a judgment
14 must defeat the request for a stay without a bond.”).

15 In fact, the only *Nelson* factor that references a judgment debtor’s poor
16 financial condition is the fifth factor. But it is only relevant if “the

17 ⁹ Mot. to Stay, 7:18-19 (citing *Fed. Prescription Serv., Inc. v. Am. Pharm.*
18 *Ass’n*, 636 F.2d 755, 761 (D.C. Cir. 1980) (“[T]he documented net worth of the
judgment debtor was \$4.8 million, about 47 times the amount of the damage
award.”)).

1 requirement to post a bond would place other creditors of the defendant in an
2 insecure position.” *Nelson*, 121 Nev. at 836, 122 P.3d at 1254. Nanyah has
3 not made any such argument, and aside from the Rogich Respondents, Nanyah
4 does not appear to have any other creditors.

5 Accordingly, Nanyah has failed to carry its heavy burden of waiving the
6 requirements of NRCP 62(d). *See Howard Town Center Developer, LLC v.*
7 *Howard University*, 288 F.Supp.3d 11, 13 (D.D.C. 2017). And considering
8 the fact that Nanyah’s sole owner can easily afford to comply with NRCP
9 62(d) and ensure that there is adequate security in place to pay the judgment if
10 Nanyah’s appeal is unsuccessful, there is no logical analysis of the factors
11 above that would weigh in favor of Nanyah’s requested relief.

12 **B. Nanyah’s Belated Offer to Post its “Appellate Rights” as**
13 **Alternative Security Was Insufficient and the District Court Was**
Well Within Its Discretion to Deny It.

14 Nanyah, for the first time at oral argument, offered to post its “appellate
15 rights” as security in exchange for a stay pending its appeal. Nanyah now
16 argues that should have been sufficient because those are the same assets the
17 Eliades Respondents are currently trying to levy.

18 Nanyah’s argument is illogical. The requisite analysis for alternative

1 security is to ensure that there is something of sufficient value in place to pay
2 the judgment *if the appeal is unsuccessful*. See *John Wiley & Sons, Inc. v.*
3 *Book Dog Books, LLC*, 327 F.Supp.3d 606, 650 (S.D.N.Y. 2018). Nanyah
4 makes no effort to explain how its “appellate rights” would have any value if
5 its appeal were unsuccessful, let alone enough value to pay an approximate
6 \$250,000 judgment. Nor could it, as those “appellate rights” would be
7 worthless at that point. The only manner in which the Eliades Respondents
8 can realize any value from Nanyah’s appellate rights is to execute while the
9 appeal remains pending, at which time a third-party bidder may provide some
10 value for the claim at the Sheriff’s sale, or the Eliades Respondents could
11 become the owner of Nanyah’s claims and have the ability to dismiss them, as
12 this Court previously discussed in *Reynolds v. Tufenkjian*, 136 Nev. 145, 461
13 P.3d 147 (2020). Allowing Nanyah to post its “appellate rights” as alternative
14 security under NRCP 62(d) does not provide any benefit to the Eliades
15 Respondents, and therefore, the District Court was well within its discretion
16 under NRCP 62(d) to deny the Motion to Stay.

1 **C. To the Extent That the Factors Under NRAP 8(c) Are Relevant,**
2 **They Also Support Denial of the Motion to Stay.**

3 As set forth above, this Court—in *Nelson v. Heer*—set forth five factors
4 to determine whether a supersedeas bond should be waived or reduced in
5 exchange for a stay of judgment during the pendency of the appeal. Nanyah
6 ignores those factors and instead argues that it is entitled to an unsecured stay
7 under the four factors set forth in NRAP 8(c). *See John Wiley & Sons*, 327
8 F.Supp.3d at 649 (declining to consider the four factors above for the purposes
9 of a stay of a money judgment). Nevertheless, to the extent those factors are
10 relevant, they likewise support denial of the Motion to Stay.

11 First, Nanyah claims that if a stay is not granted, the object of its appeal
12 will be defeated because the Eliades Respondents will simply dismiss the
13 appeal. Nanyah can avoid this by having its wealthy owner post a supersedeas
14 bond on its behalf. Nanyah or Mr. Harlap could also appear at the Sheriff’s
15 sale and outbid the Eliades Respondents for its claims, thereby retaining full
16 control. To the extent that Nanyah and Mr. Harlap decline to act, the Eliades
17 Respondents should not be precluded from exercising their rights as judgment
18 creditors and executing on pending “things in action,” as is permitted under

1 Nevada statutory law and binding Nevada precedent. *See Gallegos v. Malco*
2 *Enters., of Nev., Inc.*, 127 Nev. 579, 582, 255 P.3d 1287, 1289 (2011).

3 Nanyah also claims that it should receive a complimentary stay in order
4 to fulfill Nevada’s policy of resolving claims on their merits. Nanyah, of
5 course, ignores the fact that the District Court already decided its claims on
6 their merits (*e.g.*, most of the claims were substantively dismissed via
7 summary judgment), and now Nanyah is asking this Court for appellate
8 review. Even if Nanyah has some sort of right to appellate review, under
9 NRCP 62, it must post a supersedeas bond or other approved security in order
10 to exercise that right with the benefit of a stay.

11 Second, Nanyah claims it will suffer irreparable injury if it does not
12 receive a stay. Again, Nanyah ignores the fact that it can remedy this
13 supposedly irreparable harm itself—by posting a supersedeas bond or
14 providing alternative security that is comparable to the value of the Eliades
15 Respondents’ judgment. *See Schreiber v. Kellogg*, 839 F.Supp. 1157, 1161
16 (E.D. Pa. 1993) (“Any such danger would of course be eliminated by the
17 procurement of a supersedeas bond.”)

18 Third, Nanyah argues that the Eliades Respondents will suffer no

1 prejudice if the stay is granted. *To the extent Nanyah provides sufficient*
2 *security*, the Eliades Respondents would agree that they are not prejudiced by
3 a stay. However, the Eliades Respondents certainly face significant prejudice
4 if Nanyah receives an unsecured or undersecured stay, because if and when the
5 Eliades Respondents are successful on the appeal, their judgment will not be
6 paid because Mr. Harlap has strategically declined to capitalize Nanyah. *See*
7 *Schreiber*, 839 F.Supp. at 1160-61 (requiring a full supersedeas bond because
8 many of the judgment debtor's assets were protected from execution).

9 Finally, Nanyah claims it is likely to prevail on the merits of its appeal.
10 Nanyah's appeal contains many different prongs, so the Eliades Respondents
11 will not attempt to rebrief those issues here. That being said, Nanyah is suing
12 most of Eliades Respondents as an alleged third-party beneficiary to various
13 related written contracts, *all of which explicitly state that the Rogich Trust is*
14 *solely responsible for Nanyah's alleged investment*. So as it concerns the
15 Eliades Respondents, Nanyah is certainly not likely to prevail on any aspect of
16 its appeal, and that is precisely why the Eliades Respondents deserve adequate
17 security to ensure payment on their judgment once the appeal is unsuccessful.

18 For the foregoing reasons, the Motion to Stay should be denied.

1 DATED this 10th day of March, 2022.

2 BAILEY ♦ KENNEDY

3 By: /s/ Joseph A. Liebman
4 DENNIS L. KENNEDY
JOSEPH A. LIEBMAN

5 *Attorneys for Respondents Teld, LLC,*
6 *Peter Eliades, Individually and as*
7 *Trustee of The Eliades Survivor Trust of*
8 *10/30/08, and Eldorado Hills, LLC*

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 10th day of March, 2022, service of the foregoing **TELD, LLC, PETER ELIADES, INDIVIDUALLY AND AS TRUSTEE FOR THE ELIADES SURVIVOR TRUST OF 10/30/08, AND ELDORADO HILLS, LLC's OPPOSITION TO NANYAH VEGAS, LLC'S MOTION TO STAY ENFORCEMENT DURING PENDENCY OF APPEAL** 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:

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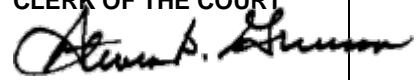
/s/ Sharon Murnane
Employee f BAILEY ♦ KENNEDY

EXHIBIT LIST

EXHIBIT NO.	DESCRIPTION	PAGES
1	Eliades Respondents' Opposition to Nanyah Vegas, LLC's Motion to Stay Enforcement During Pendency of Appeal, filed on January 28, 2022	59
2	Nanyah Vegas, LLC's Motion in Limine # 4 Re: Yoav Harlap's Personal Financials, filed on May 10, 2018	8
3	Judgment, filed on May 4, 2020	2
4	E-Mail to Mark Simons requesting approval for signature and attached Order, dated February 24, 2022	5

EXHIBIT 1

EXHIBIT 1



OPPM (CIV)

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Survivor Trust of 10/30/08, and Peter Eliades*

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

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

**DEFENDANTS ELDORADO HILLS,
LLC, TELD, LLC, THE ELIADES
SURVIVOR TRUST OF 10/30/08, AND
PETER ELIADES' OPPOSITION TO
NANYAH VEGAS, LLC'S MOTION TO
STAY ENFORCEMENT DURING
PENDENCY OF APPEAL**

Hearing Date: Feb. 3, 2022
Hearing Time: 10:30 a.m.

CONSOLIDATED WITH:

Case No. A-16-746239-C

DEFENDANTS ELDORADO HILLS, LLC, TELD, LLC, THE ELIADES SURVIVOR TRUST OF 10/30/08, AND PETER ELIADES' OPPOSITION TO NANYAH VEGAS, LLC'S MOTION TO STAY ENFORCEMENT DURING PENDENCY OF APPEAL

Defendants Eldorado Hills, LLC, Teld, LLC, The Eliades Survivor Trust of 10/30/08, and Peter Eliades (collectively, the "Eliades Judgment Creditors") oppose Nanyah Vegas, LLC's ("Nanyah") Motion to Stay Enforcement During Pendency of Appeal (the "Stay Motion"). This Opposition is based on the following Memorandum of Points of Authorities, the exhibits attached thereto, and any oral argument heard by the Court.

DATED this 28th day of January, 2022.

BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN

*Attorneys for Judgment Creditors
Eldorado Hills, LLC, Teld, LLC, The
Eliades Survivor Trust of 10/30/08, and
Peter Eliades*

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Nanyah has one and only member/owner—Yoav Harlap ("Yoav").¹ Yoav, along with his brother Schmucl Harlap ("Schmucl"), are the owners of Colmobil Corp., an Israeli company that imports and distributes Mercedes Benz, Smart, Mitsubishi, Hyundai, and King Long Vehicles.² Colmobil is described as "Israel's leading vehicle importer" with a "22.7% market share."³ Approximately four years ago, it was reported that Schmucl's "controlling interest in Israel's largest car importer, Colmobil, put him 21st on the list of Israel's wealthiest people *with an estimated*

¹ Nanyah Vegas, LLC's Mot. in Limine # 4 Re. Yoav Harlap's Personal Financials, 3:21-23, filed May 10, 2018.

² https://www.duns100.co.il/en/Colmobil_Corp ("Colmobil is a private company under the full ownership of the Harlap family.").

³ *Id.*

1 *fortune of \$1.4 billion.*⁴

2 Although Yoav's net worth does not appear to be publicly available, it is clear that he owns a
3 substantial portion of the same company that amounts to Schmucl's ***\$1.4 billion dollar ownership***
4 ***interest***. Interestingly enough, it appears that Yoav's ownership interest in Colmobil actually shares
5 the same name as Plaintiff—Nanyah.⁵ To be sure, Yoav was financially capable of acquiring a
6 multi-million dollar art collection, and then eventually selling a portion for over ***\$18 million***
7 ***dollars***.⁶ Nanyah is well aware of Yoav's substantial net worth. In fact, Nanyah was so concerned
8 that the jury would learn of Yoav's fortune, it filed a Motion *in Limine* with this Court, seeking to
9 preclude any evidence regarding Yoav's personal financials.⁷

10 Why is this important? Nanyah—in order to avoid the universal requirement of posting a
11 supersedeas bond in exchange for a stay during the pendency of an appeal—has the heavy burden of
12 showing that it should not be required to comply with NRCP 62(d). In its attempt to do so, it offers
13 ***zero evidence*** and mere *ipse dixit* statements that Nanyah has no assets and therefore cannot afford
14 to post a supersedeas bond. Nanyah is not being honest with this Court. Nanyah is well aware that
15 its sole owner has more than the financial wherewithal to provide capital to Nanyah (just as he has
16 been doing to pay Nanyah's attorneys fees for the past eight years) to post the required bond—he
17 just doesn't want to. Instead, Yoav prefers a free roll of the dice on Nanyah's appeal, because if
18 Nanyah loses, it can remain judgment-proof and the Eliades Judgment Creditors will never receive a
19 penny of their outstanding judgment.

20 The entire purpose of the supersedeas bond requirement is to ensure that there is adequate
21 security in place to pay any outstanding judgment if the appeal is unsuccessful. Nanyah and Yoav
22 are not the type of litigants that should be absolved of this well-established rule. If Nanyah and
23 Yoav lose the appeal, they should be forced to pay these outstanding judgments. That is the

24
25 ⁴ <https://www.haaretz.com/israel-news/business/meet-the-israeli-who-added-1b-to-his-bank-account-overnight-1.5453795> (emphasis added).

26 ⁵ <https://www.whoprofits.org/company/colmobil-corporation/> ("The company is privately owned by the Harlap
27 family, through their holdings in Tovanot Investments (2011) Ltd and Nanyah Cars Ltd.").

28 ⁶ <https://www.haaretz.com/1.4874359> and <https://www.christies.com/en/auction/auction-7364-cks>

⁷ Nanyah Vegas, LLC's Mot. in Limine # 4 Re. Yoav Harlap's Personal Financials, filed May 10, 2018.

1 necessary cost of continuing to litigate the appeal. And that is why Nanyah must be required to post
2 a supersedeas bond to receive a stay.

3 II. RELEVANT BACKGROUND

4 A. The Judgment.

5 Through a series of various rulings and summary judgment orders, the Eliades Judgment
6 Creditors were dismissed from this consolidated action with prejudice. Following their dismissal,
7 two of the Eliades Judgment Creditors (Teld and Eliades) prevailed on a Motion for Attorney's Fees,
8 thereby obtaining a monetary judgment against Nanyah in the amount of \$216,236.25. All four
9 Eliades Judgment Creditors obtained a judgment for reimbursement of their costs in the amount of
10 31,010.98.⁸

11 B. The First Writ of Execution and Sheriff's Sale.

12 As Nanyah makes clear in its Motion, Yoav has ensured that it currently has no assets aside
13 from its dismissed litigation claims. Accordingly, once Nanyah made its decision not to post a
14 supersedeas bond for the above-referenced judgment, the only so-called assets that the Eliades
15 Judgment Creditors could pursue were Nanyah's "things in action," *i.e.*, its dismissed claims for
16 relief. The Nevada Supreme Court has explicitly confirmed that any such collection efforts are
17 entirely appropriate, even if it results in the outright dismissal of those claims before the Nevada
18 Supreme Court can address the merits of their dismissal on appeal. *See generally Reynolds v.*
19 *Tufenkjian*, 136 Nev. 145, 461 P.3d 147 (2020).

20 Accordingly, on August 6, 2020, the District Court issued a writ of execution for Nanyah's
21 "things in action."⁹ Due to various COVID-related delays in the Sheriff's office, the process to
22 schedule the Sheriff's sale was delayed. Ultimately, it was scheduled for April 28, 2021.¹⁰ Nanyah
23 was served with all the appropriate documents on February 12, 2021.¹¹

24
25
26 ⁸ Judgment, filed May 4, 2020.

27 ⁹ Writ of Execution, attached as Exhibit 1.

28 ¹⁰ Notice of Sheriff's Sale, attached as Exhibit 2.

¹¹ Receipt of Counsel, attached as Exhibit 3.

1 **C. The Bad Faith Bankruptcy.**

2 Once Nanyah received notice of the Sheriff's sale, it did not attempt to file a supersedeas
3 bond. It did not come to this Court to seek any sort of stay. Instead, Nanyah—a shell entity owning
4 only dismissed claims for relief—filed a Chapter 11 bankruptcy petition for reorganization.

5 Following Nanyah's chapter 341 meetings, in which Nanyah confirmed that the sole purpose
6 of its bankruptcy was to stay execution of its claims during the pendency of the appeal, the Eliades
7 Judgment Creditors filed a Motion to Dismiss. On December 22, 2021, the Bankruptcy Court
8 granted the Motion and dismissed Nanyah's bankruptcy, finding that "Nanyah is not using the
9 bankruptcy to reorganize, only to stay collection."¹² The Bankruptcy Court ultimately determined
10 that Nanyah's bankruptcy filing *was a bad faith petition* for the following reasons:

11 In this instance, the bankruptcy filing is merely a litigation tactic. The
12 sole reason for filing this case was to continue Nanyah's appeal at the
13 expense of its judgment creditors without posting a bond. Nanyah's
14 lack of funds or assets would ordinarily weigh heavily in favor of a good
15 faith filing to permit it to proceed with its appeal. But the total absence
16 of any business or other assets only confirms that this is simply a
17 discrete litigation dispute rather than a reorganization. Nanyah
continues its existence solely on Mr. Harlap's discretion. He is willing
to fund Nanyah's appeal and chapter 11 fees. This is some evidence of
the availability of nonbusiness assets to post a bond pending the appeal.
This is what should be done to continue the appeal, not invoke the
automatic stay by filing a chapter 11 bankruptcy.¹³

18 **D. The Second Writ of Execution and Sheriff's Sale.**

19 On January 5, 2022, following dismissal of Nanyah's bankruptcy and the associated
20 extinguishment of the automatic stay, the District Court issued another writ of execution.¹⁴ The
21 appropriate documents were served on Nanyah on January 11, 2022.¹⁵ The Sheriff's sale has been
22 scheduled for April 13, 2022.

26 ¹² Mem. Dec, 7:11-13, attached as Exhibit 4.

27 ¹³ *Id.*, 7:14-25.

28 ¹⁴ Writ of Execution, attached as Exhibit 5.

¹⁵ Receipt of Counsel, attached as Exhibit 6.

1 Rather than post the necessary bond as discussed by the Bankruptcy Court in its dismissal,
2 Nanyah has now come to this Court and requested a stay without offering any type of security or
3 collateral in exchange for this relief.

4 III. ARGUMENT

5 A. The Eliades Judgment Creditors' Collection Efforts Are Appropriate and Should Only 6 Be Suspended by the Posting of a Supersedeas Bond for the Judgment Amount.

7 Nanyah presents its Motion in such a manner as to make it appear that the Eliades Judgment
8 Creditors are doing something improper by executing on its valid judgment. Of course, Nanyah
9 does not cite any legal authority in support of this theory. Even worse, Nanyah fails to mention that
10 the Nevada Supreme Court has squarely addressed this type of collection activity and held that
11 Nevada's relevant statutes absolutely permit it (as long as the claims are assignable). *See generally*
12 *Reynolds*, 136 Nev. 145, 461 P.3d 147.¹⁶

13 In *Reynolds*, much like in this matter, the defendants obtained summary judgment against the
14 plaintiff, and likewise obtained a judgment for reimbursement of their attorney's fees. The plaintiff
15 appealed the summary judgment order, but did not post a supersedeas bond, claiming—just like
16 Nanyah—that they could not afford to do so. While the appeal was pending, the defendants
17 executed on the plaintiff's pending claims for relief that were the subject of the appeal, and
18 ultimately moved to dismiss the appeal following the Sheriff's sale. *Id.* at 146-47, 461 P.3d at 149.
19 With respect to the claims that were assignable (*e.g.*, tort claims seeking pecuniary harm and
20 contract claims), the Nevada Supreme Court ultimately held that it was entirely proper for a
21 defendant/judgment creditor to execute on those claims during the pendency of the appeal, and then
22 move to dismiss that aspect of the appeal before the Nevada Supreme Court rules on the merits. *Id.*
23 at 154, 461 P.3d at 154 ("Having further concluded that appellants' claims for negligent
24 misrepresentation and breach of contract are assignable and subject to execution, we grant
25

26 ¹⁶ Nanyah has not argued that any of the claims for relief which are the subject of execution are unassignable.
27 *Reynolds* addressed the vast majority of the claims that Nanyah asserted against the Eliades Judgment Creditors and
28 confirmed they are assignable. Additionally, the Nevada Supreme Court has recently confirmed that a fraudulent
conveyance claim, unlike a fraud claim, is also assignable. *Superpumper, Inc. v. Leonard, Trustee for Bankruptcy*
Estate, 137 Nev. Adv. Op. 43, 495 P.3d 101, n. 1 (2021).

respondents’ motion to substitute themselves for appellants as to those claims and to voluntarily dismiss this appeal as to those claims.”); *see also Applied Medical Technologies, Inc. v. Eames*, 44 P.3d 699, 704 (Utah 2002) (“We hold that Dr. Hill legally purchased claims pending against himself and then moved to dismiss those claims.”).

Nanyah has now attempted to stymie the Eliades Judgment Creditors’ rightful collection efforts in every manner except the correct one—posting a supersedeas bond. Nanyah filed a bad faith bankruptcy that has since been dismissed. Now Nanyah seeks a stay from this Court without providing any sort of security to secure the judgment. As this Court is well aware, that is the precise purpose of the bond—to ensure payment of the judgment if the appeal is unsuccessful. *Nelson v. Heer*, 121 Nev. 832, 835, 122 P.3d 1252, 1254 (2005). But Nanyah and Yoav would rather have the best of both worlds by obtaining a stay for the pendency of their appeal while at the same time keeping Nanyah judgment-proof if the appeal is unsuccessful. This approach certainly does not justify the waiver of the bond or even alternative security under NRCP 62(d). To the contrary, considering the fact that Nanyah’s sole owner is more than capable of capitalizing Nanyah in order to pay the necessary supersedeas bond for the judgment amount, it would be a miscarriage of justice to absolve Nanyah of this necessary requirement for the requested stay.

B. Nanyah Fails to Adequately Address the Relevant Factors Under NRCP 62(d) and *Nelson v. Heer*.

NRCP 62(d) governs a stay of judgment pending appeal. According to the plain language of the statute, an appellant must either post a supersedeas bond for the full judgment amount or provide an alternative bond or other form of security approved by the Court in order to receive a stay of a judgment pending appeal. The Nevada Supreme Court has further expounded on this requirement, holding that an appellant has an automatic right to a stay “upon the posting of a supersedeas bond for the full judgment amount, but that courts retain the inherent power to grant a stay in the absence of a full bond.” *Nelson*, 121 Nev. at 834, 122 P.3d at 1253. Notably, *there is nothing in Nelson or in Rule 62(d) which states it is appropriate to grant a stay in the absence of any security whatsoever, as Nanyah is now attempting to do.*

The Nevada Supreme Court ultimately adopted five factors to determine whether it is appropriate to allow for security other than a supersedeas bond for the full judgment amount:

(1) the complexity of the collection process; (2) the amount of time required to obtain a judgment after it is affirmed on appeal; (3) the degree of confidence that the district court has in the availability of funds to pay the judgment; (4) whether the defendant's ability to pay the judgment is so plain that the cost of a bond would be a waste of money; and (5) whether the defendant is in such a precarious financial situation that the requirement to post a bond would place other creditors of the defendant in an insecure position.

Id. Notably, Nanyah fails to address any of these factors. Instead, Nanyah points to some other instances outlined in footnote 7 which originate from authority cited in *McCulloch v. Jeakins*, a prior outdated opinion which the Nevada Supreme Court chose to overrule in *Nelson*. *Id.* at 833, 122 P.3d at 1252.

Accordingly, Nanyah has failed to carry its heavy burden of waiving the requirements of NRCP 62(d). *See Abouramadan v. Mandalay Resort Group, Inc.*, 2018 WL 11216422, at *3 (Nev. Dist. Ct. 2018). While Nanyah claims it cannot afford to post the appropriate bond, it offers no evidence in support of this naked, self-serving conclusion. Nanyah does not even offer any alternative security, thereby raising the question as to whether the Court even has the discretion to impose a stay under this unprecedented scenario. Regardless, considering the fact that Nanyah's sole owner can more than afford to comply with NRCP 62(d) and ensure that there is adequate security in place to pay the judgment if Nanyah's appeal is unsuccessful, there is no logical analysis of the factors above that would weigh in favor of Nanyah's requested relief.

C. Nanyah's Jurisdictional Argument is Contrary to Nevada Authority.

Nanyah argues that there is an "independent justification" for the stay because this Court supposedly does not have jurisdiction to issue a writ of execution that could affect a pending appeal. Nanyah's novel argument is not supported by any relevant legal authority. In fact, the Nevada Supreme Court's recent decision in *Reynolds*, which permitted a defendant/judgment creditor to do just that, proves otherwise. Nevertheless, the Nevada Supreme Court has previously confirmed that the District Court's jurisdiction remains in this precise situation.

Despite the fact that the appeal to this court has removed from the district court's jurisdiction the determination of any matters involved in the appeal, it is nonetheless clear that the appeal to this court, without supersedeas, cannot of itself deprive the respondent judgment creditor of the right to execute upon its judgment or of its right to invoke the aid, in the district court, of the provisions of Rule 69 with reference to execution and proceedings supplementary to and in aid of the judgment and under the provisions of Rule 37(a) and (b) with reference to discovery. *For such purposes the district court, under the circumstances recited, retains jurisdiction to make such orders as may be necessary and proper under the rules.*

Fishman v. Las Vegas Sun, 75 Nev. 13, 14, 333 P.3d 988, 989 (1951) (emphasis added).

D. Nevada's Policy of Resolving Cases on Their Merits Does Not Preclude Appropriate Collection Activity.

As a last ditch argument, Nanyah claims that it should obtain a free stay in order to fulfill Nevada's policy of resolving claims on their merits. Nanyah, of course, ignores the undisputed fact that this Court already decided all of its claims on their merits, and now Nanyah is asking the Nevada Supreme Court for appellate review. However, Nanyah does not have any sort of constitutional right to have the Nevada Supreme Court decide its appeal on its merits. *Lindsey v. Normet*, 405 U.S. 56, 77 (1972). And even if it did, under NRCP 62, it must post a supersedeas bond or other approved security in order to ensure that occurs. Finally, once again, the Nevada Supreme Court in *Reynolds v. Tufenkjian* has confirmed that execution on Nanyah's claims for relief during the pendency of Nanyah's appeal is perfectly appropriate collection activity.

IV. CONCLUSION

Nanyah's sole member and principal is one of the wealthiest people in Israel. He and his brother own an Israeli company that is reportedly worth billions of dollars. Yet Nanyah has the temerity to claim it cannot afford to post a supersedeas bond, even after its owner has funded Nanyah with hundreds of thousands of dollars to litigate this case for the past eight years. Needless to say, Nanyah and its owner are not the type of litigants that are entitled to any relief from the necessary supersedeas bond requirements. The Motion should be denied.

1
2 DATED this 28th day January, 2022.
3

BAILEY ♦ KENNEDY

4
5 By: /s/ Joseph A. Liebman
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN

6
7 *Attorneys for Judgment Creditors*
8 *Eldorado Hills, LLC, Teld, LLC, The*
9 *Eliades Survivor Trust of 10/30/08, and*
10 *Peter Eliades*
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BAILEY ♦ KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 28th day of January, 2022, service of the foregoing **DEFENDANTS ELDORADO HILLS, LLC, TELD, LLC, THE ELIADES SURVIVOR TRUST OF 10/30/08, AND PETER ELIADES' OPPOSITION TO NANYAH VEGAS, LLC'S MOTION TO STAY ENFORCEMENT DURING PENDENCY OF APPEAL** was made by mandatory electronic service through the Eighth Judicial District 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 address:

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SIMONS HALL JOHNSTON PC
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Attorneys for Defendants
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ROGICH, Individually and as
Trustee of THE ROGICH FAMILY
IRREVOCABLE TRUST, and
IMITATIONS, LLC

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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

WTEX (CIV)

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSEPH A. LIEBMAN

Nevada Bar No. 10125

BAILEY ♦ KENNEDY

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Attorneys for Defendants PETE ELIADES, THE
ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

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

WRIT OF EXECUTION

CONSOLIDATED WITH:

Case No. A-16-746239-C

WRIT OF EXECUTION

☐ **Earnings** ☒ **Other Property**

☐ **Earnings, Order of Support**

THE STATE OF NEVADA TO THE SHERIFF OF CLARK COUNTY, GREETINGS:

On May 4, 2020, a Judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor of Peter Eliades and Teld, LLC as judgment creditors and against Nanyah Vegas, LLC as judgment debtor in the amount of \$216,236.25 and Peter Eliades, The Eliades Survivor Trust of 10/30/08, Teld, LLC and Eldorado Hills, LLC as judgment creditors and against Nanyah Vegas, LLC as judgment debtor in the amount of \$31,010.98. Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs, leaving the following net balance, which sum bears interest at the legal rate of 6.75 % per annum, \$45.72 per day from issuance of this writ to date of levy and to which sum must be added all commissions and costs of executing this Writ.

JUDGMENT BALANCE

AMOUNTS TO BE COLLECTED BY LEVY

Principal	\$ 247,247.23	NET BALANCE	\$
Pre-judgment Interest	\$ 0.00	Fee this Writ	\$ _____
Attorney's Fee	\$ 0.00	Garnishment Fee	\$ _____
Costs	\$ 0.00	Mileage	\$ _____
JUDGMENT TOTAL	\$ 247,247.23	Levy Fee	\$ _____
Accrued Costs	\$ 0.00	Advertising	\$ _____
Accrued Interest ¹	\$ 4,263.74	Storage	\$ _____
Less Satisfaction	\$ 0.00	Interest from	_____
		Date of Issuance	_____
NET BALANCE	\$ 251,510.97	SUB-TOTAL	\$ _____
		Commission	\$ _____
		TOTAL LEVY	\$ _____

¹ Interest accrued through August 6, 2020.

NOW, THEREFORE, you are commanded to satisfy the Judgment for the total amount due out of the following described personal property:

- Levy on all rights of action, things in action, choses in action, causes of action, and/or claims for relief belonging to NANYAH VEGAS, LLC and against Eldorado Hills, LLC, including, but not limited to, those which were asserted or could have been asserted against Eldorado Hills, LLC in the action styled *Carlos A. Huerta, et al. v. Sig Rogich, et. al.*, Case No. A-13-686303-C, currently pending in the Eighth Judicial District Court, Clark County, Nevada, and sell all such property and apply the proceeds toward satisfaction of judgment. Those rights of action, things in action, choses in action, causes of action, and/or claims for relief against Eldorado Hills, LLC include, but are not limited to, the following:

- Unjust Enrichment;
- Breach of Contract; and
- Breach of Implied Contract.

- Levy on all rights of action, things in action, choses in action, causes of action, and/or claims for relief belonging to NANYAH VEGAS, LLC and against Peter Eliades, The Eliades Survivor Trust of 10/30/08, and Teld, LLC, including, but not limited to, those which were asserted or could have been asserted against Peter Eliades, The Eliades Survivor Trust of 10/30/08, and Teld, LLC in the action styled *Nanyah Vegas, LLC v. Teld, LLC, et. al.*, Case No. A-16-746239-C, currently pending in the Eighth Judicial District Court, Clark County, Nevada, and sell all such property and apply the proceeds toward satisfaction of judgment. Those rights of action, things in action, choses in action, causes of action, and/or claims for relief against Peter Eliades, The Eliades Survivor Trust of 10/30/08, and Teld, LLC include, but are not limited to, the following:

- Breach of Contract;
- Breach of Implied Covenant of Good Faith and Fair Dealing;
- Tortious Breach of Implied Covenant of Good Faith and Fair Dealing;
- Intentional Interference with Contractual Relations;
- Constructive Trust;

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- Civil Conspiracy;
- Fraudulent Transfer;
- Declaratory Relief; and
- Specific Performance.

(See next page for exemptions which may apply)

EXEMPTIONS WHICH APPLY TO THIS LEVY

(Check appropriate paragraph and complete as necessary)

☒ Property other than wages. The exemption set forth in NRS 21.090 or in other applicable Federal Statutes may apply, consult an attorney.

☐ Earnings. The amount subject to garnishment and this writ shall not exceed for any one pay period the less of:

A. 25% of the disposable earnings due the judgment debtor for the pay period, or

B. The difference between the disposable earnings for the period and \$100.50 per week for each week of the pay period.

☐ Earnings (Judgment or Order of Support)

A Judgment was entered for amounts due under a decree or order entered on ____, 20__, by the ____ for support of ____, for the period from ____, 20__, through ____, 20__, in ____ installments of \$_____.

The amount of disposable earnings subject to garnishment and this writ shall not exceed for any one pay period:

☐ A maximum of 50 percent of the disposable earnings of such judgment debtor who is supporting a spouse or dependent child other than the dependent named above;

☐ A maximum of 60 percent of the disposable earnings of such judgment debtor who is not supporting a spouse or dependent child other than the dependent named above;

☐ Plus an additional 5 percent of the disposable earnings of such judgment debtor if and to the extent that the judgment is for support due for a period of time more than 12 weeks prior to the beginning of the work period of the judgment debtor during which the levy is made upon the disposable earnings.

NOTE: Disposable earnings are defined as gross earnings less deductions for Federal Income Tax Withholding, Federal Social Security Tax and Withholding for any State, County or City Taxes.

You are required to return this Writ from the date of issuance not less than 10 days or more than 60 days with the results of your levy endorsed thereon.

Submitted By:

BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman

JOSEPH A. LIEBMAN

Nevada Bar No. 101251

8984 Spanish Ridge Avenue

Las Vegas, Nevada 89148-1302

STEVEN. D. GRIERSON
CLERK OF COURT

By: Robyn Rodriguez

Deputy Clerk

Robyn Rodriguez

3/7/2020

Date

Attorneys for Defendants

PETE ELIADES, THE ELIADES

SURVIVOR TRUST OF 10/30/08,

TELD, LLC and ELDORADO HILLS,
LLC

RETURN

☐ Not Satisfied \$ _____

☐ Satisfied in Sum of \$ _____

☐ Costs retained \$ _____

☐ Commission retained \$ _____

☐ Costs incurred \$ _____

☐ Commission incurred \$ _____

☐ Costs Received \$ _____

REMITTED TO \$ _____
JUDGMENT CREDITOR

JOE LOMBARDO, SHERIFF
CLARK COUNTY

By: _____

Deputy

Date

1 **NE (CIV)**

DENNIS L. KENNEDY

2 Nevada Bar No. 1462

JOSEPH A. LIEBMAN

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8 *Attorneys for Defendants* PETE ELIADES, THE
9 ELIADES SURVIVOR TRUST OF 10/30/08,
10 TELD, LLC and ELDORADO HILLS, LLC

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

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

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

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

NOTICE OF EXECUTION

CONSOLIDATED WITH:

Case No. A-16-746239-C

NOTICE OF EXECUTION

**YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED**

A court has determined that you owe money to Peter Eliades, The Eliades Survivor Trust of 10/30/08, Teld, LLC, and Eldorado Hills, LLC, the judgment creditors. The judgment creditors have begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, including, subject to the provisions of NRS 115.055, the proceeds from the sale of such property, not to exceed \$605,000, unless:
 - (a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

- (b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.
10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.
11. A vehicle, if your equity in the vehicle is less than \$15,000.
12. Eighty-two percent of the take-home pay for any workweek if your gross weekly salary or wage was \$770 or less on the date the most recent writ of garnishment was issued, or seventy-five percent of the take-home pay for any workweek if your gross weekly salary or wage exceeded \$770 on the date the most recent writ of garnishment was issued, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money, not to exceed \$1,000,000 in present value, held in:
- (a) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;
- (b) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;
- (c) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;
- (d) A trust forming part of a stock bonus, pension or profit-sharing plan that is

- 1 qualified and maintained pursuant to sections 401 et seq. of the Internal
2 Revenue Code, 26 U.S.C. §§ 401 et seq.; and
- 3 (e) A trust forming part of a qualified tuition program pursuant to chapter 353B of
4 NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and
5 section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is
6 deposited after the entry of a judgment against the purchaser or account owner
7 or the money will not be used by any beneficiary to attend a college or
8 university.
- 9 14. All money and other benefits paid pursuant to the order of a court of competent
10 jurisdiction for the support, education and maintenance of a child, whether collected by
11 the judgment debtor or the State.
- 12 15. All money and other benefits paid pursuant to the order of a court of competent
13 jurisdiction for the support and maintenance of a former spouse, including the amount
14 of any arrearages in the payment of such support and maintenance to which the former
15 spouse may be entitled.
- 16 16. Regardless of whether a trust contains a spendthrift provision:
- 17 (a) A present or future interest in the income or principal of a trust that is a
18 contingent interest, if the contingency has not been satisfied or removed;
- 19 (b) A present or future interest in the income or principal of a trust for which
20 discretionary power is held by a trustee to determine whether to make a
21 distribution from the trust, if the interest has not been distributed from the trust;
- 22 (c) The power to direct dispositions of property in the trust, other than such a power
23 held by a trustee to distribute property to a beneficiary of the trust;
- 24 (d) Certain powers held by a trust protector or certain other persons; and
- 25 (e) Any power held by the person who created the trust.
- 26 17. If a trust contains a spendthrift provision:
- 27 (a) A present or future interest in the income or principal of a trust that is a
28 mandatory interest in which the trustee does not have discretion concerning

- 1 whether to make the distribution from the trust, if the interest has not been
2 distributed from the trust; and
- 3 (b) A present or future interest in the income or principal of a trust that is a support
4 interest in which the standard for distribution may be interpreted by the trustee
5 or a court, if the interest has not been distributed from the trust.
- 6 18. A vehicle for use by you or your dependent which is specially equipped or modified to
7 provide mobility for a person with a permanent disability.
- 8 19. A prosthesis or any equipment prescribed by a physician or dentist for you or your
9 dependent.
- 10 20. Payments, in an amount not to exceed \$16,150, received as compensation for personal
11 injury, not including compensation for pain and suffering or actual pecuniary loss, by
12 the judgment debtor or by a person upon whom the judgment debtor is dependent at the
13 time the payment is received.
- 14 21. Payments received as compensation for the wrongful death of a person upon whom the
15 judgment debtor was dependent at the time of the wrongful death, to the extent
16 reasonably necessary for the support of the judgment debtor and any dependent of the
17 judgment debtor.
- 18 22. Payments received as compensation for the loss of future earnings of the judgment
19 debtor or of a person upon whom the judgment debtor is dependent at the time the
20 payment is received, to the extent reasonably necessary for the support of the judgment
21 debtor and any dependent of the judgment debtor.
- 22 23. Payments received as restitution for a criminal act.
- 23 24. Personal property, not to exceed \$10,000 in total value, if the property is not otherwise
24 exempt from execution.
- 25 25. A tax refund received from the earned income credit provided by federal law or a
26 similar state law.
- 27 26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in
28 that section.

1 These exemptions may not apply in certain cases such as a proceeding to enforce a judgment
2 for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult
3 an attorney immediately to assist you in determining whether your property or money is
4 exempt from execution. If you cannot afford an attorney, you may be eligible for assistance
5 through Legal Aid Center of Southern Nevada or Southern Nevada Senior Law Program. If
6 you do not wish to consult an attorney or receive legal services from an organization that
7 provides assistance to persons who qualify, you may obtain the form to be used to claim an
8 exemption from the clerk of the court.

9 **PROCEDURE FOR CLAIMING EXEMPT PROPERTY**

10 If you believe that the money or property taken from you is exempt, you must complete and
11 file with the clerk of the court an executed claim of exemption. A copy of the claim of exemption
12 must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the
13 notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which
14 identifies the specific property that is being levied on. The property must be released by the
15 garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the
16 sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an
17 objection to the claim of exemption and a notice for a hearing to determine the issue of exemption.
18 If this happens, a hearing will be held to determine whether the property or money is exempt. The
19 objection to the claim of exemption and notice for the hearing to determine the issue of exemption
20 must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor
21 by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than
22 5 judicial days before the date set for the hearing. The hearing to determine whether the property
23 or money is exempt must be held within 7 judicial days after the objection to the claim of
24 exemption and notice for the hearing is filed. You may be able to have your property released
25 more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written
26 proof that the property is exempt. Such proof may include, without limitation, a letter from the
27 government, an annual statement from a pension fund, receipts for payment, copies of checks,
28 records from financial institutions or any other document which demonstrates that the money in

your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE
TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE
JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

NOTICE TO BE SENT TO NANYAH VEGAS, LLC AT THE ADDRESS BELOW

PURSUANT TO N.R.S. 21.076:

NANYAH VEGAS, LLC
c/o its Registered Agent and Counsel of Record
Mark G. Simons, Esq.
Simons Hall Johnston PC
6490 S. McCarran Blvd., Suite F-46, Reno, NV 89509

Exhibit 2

Exhibit 2

BAILEY ♦ KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

NOTC (CIV)

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSEPH A. LIEBMAN

Nevada Bar No. 10125

BAILEY ♦ KENNEDY

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DKennedy@BaileyKennedy.com

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Attorneys for Defendants PETE ELIADES, THE
ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

Case No. A-13-686303-C

Dept. No. XXVII

**NOTICE OF SHERIFF'S SALE OF
PERSONAL PROPERTY**

CONSOLIDATED WITH:

Case No. A-16-746239-C

RECEIVED
CLARK COUNTY SHERIFF
2021 FEB 26 P 1:27

NOTICE OF SHERIFF'S SALE OF PERSONAL PROPERTY

By virtue of an execution directed from the Eighth Judicial District Court, Clark County, Nevada, in favor of Peter Eliades, The Eliades Survivor Trust of 10/30/08, Teld, LLC, and Eldorado Hills, LLC and against Nanyah Vegas, LLC to satisfy a Judgment in the principal amount of \$247,247.23, with interest thereon accruing at the legal rate of 6.75% per annum from May 4, 2020, until the Judgment is paid in full and to which sum must be added all commissions and costs, I have levied upon the following personal property located in the City of Las Vegas, County of Clark, State of Nevada as described below:

- Levy on all rights of action, things in action, choses in action, causes of action, and/or claims for relief belonging to NANYAH VEGAS, LLC and against Eldorado Hills, LLC, including, but not limited to, those which were asserted or could have been asserted against Eldorado Hills, LLC in the action styled *Carlos A. Huerta, et al. v. Sig Rogich, et. al.*, Case No. A-13-686303-C, currently pending in the Eighth Judicial District Court, Clark County, Nevada, and sell all such property and apply the proceeds toward satisfaction of judgment. Those rights of action, things in action, choses in action, causes of action, and/or claims for relief against Eldorado Hills, LLC include, but are not limited to, the following:
 - Unjust Enrichment;
 - Breach of Contract; and
 - Breach of Implied Contract.
- Levy on all rights of action, things in action, choses in action, causes of action, and/or claims for relief belonging to NANYAH VEGAS, LLC and against Peter Eliades, The Eliades Survivor Trust of 10/30/08, and Teld, LLC, including, but not limited to, those which were asserted or could have been asserted against Peter Eliades, The Eliades Survivor Trust of 10/30/08, and Teld, LLC in the action styled *Nanyah Vegas, LLC v. Teld, LLC, et. al.*, Case No. A-16-746239-C, currently pending in the Eighth Judicial District Court, Clark County, Nevada, and sell all such property and apply the proceeds toward satisfaction of judgment. Those rights of action, things in action, choses in action, causes of action, and/or claims for relief against Peter Eliades, The Eliades Survivor Trust of 10/30/08, and Teld, LLC include,

but are not limited to, the following:

- Breach of Contract;
- Breach of Implied Covenant of Good Faith and Fair Dealing;
- Tortious Breach of Implied Covenant of Good Faith and Fair Dealing;
- Intentional Interference with Contractual Relations;
- Constructive Trust;
- Civil Conspiracy;
- Fraudulent Transfer;
- Declaratory Relief; and
- Specific Performance.

NOTICE IS HEREBY GIVEN that on the 28th day of April, 2021, at the hour of 9:00 a.m. at the front steps of the north entrance of the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89155, I will sell all rights, title and interest of Nanyah Vegas, LLC, in and to the personal property described herein at Public Auction for cash, in current lawful money of the United States of America to the highest and best bidder to satisfy said Execution and all interest and costs accruing

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BAILEY ♦ KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

therefrom. All interested parties may bid on the property at the execution sale and the property will be sold to the highest bidder. Upon sale of the personal property, the purchaser shall be substituted to and acquire all the rights, title, and interest, and claim of the Judgment Debtor thereto.

DATED this 9th day of March, 2021.

JOE LOMBARDO, SHERIFF
CLARK COUNTY

By: J. Lombardo 3/9/2021
Deputy Date

J. Lombardo
Sr. Deputy Sheriff
Sheriff Civil Bureau

Submitted By:

BAILEY ♦ KENNEDY

Dennis L. Kennedy
DENNIS L. KENNEDY
Nevada Bar No. 1462
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Exhibit 3

Exhibit 3

1 **ROC**

DENNIS L. KENNEDY

2 Nevada Bar No. 1462

JOSEPH A. LIEBMAN

3 Nevada Bar No. 10125

BAILEY ♦ KENNEDY

4 8984 Spanish Ridge Avenue

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5 Telephone: 702.562.8820

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6 DKennedy@BaileyKennedy.com

7 JLiebman@BaileyKennedy.com

Attorneys for Defendants PETE ELIADES, THE
8 ELIADES SURVIVOR TRUST OF 10/30/08,
9 TELD, LLC and ELDORADO HILLS, LLC

10 DISTRICT COURT
CLARK COUNTY, NEVADA

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

18 Plaintiffs,

19 vs.

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

25 Defendants.

26 NANYAH VEGAS, LLC, a Nevada limited
27 liability company,

28 Plaintiff,

vs.

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

Defendants.

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

RECEIPT OF COPY

CONSOLIDATED WITH:


Case No. A-16-746239-C

RECEIPT OF COPY

RECEIPT OF COPY of the following is hereby acknowledged on this 12th day of
February, 2021:

- Writ of Execution; and
- Notice of Execution.

SIMONS HALL JOHNSTON PC

By: 
MARK G. SIMONS, ESQ.
6490 S. MCCARRAN BLVD., SUITE F-46
RENO, NEVADA 89509

Attorneys and Registered Agent for Plaintiff
NANYAH VEGAS, LLC

Exhibit 4

Exhibit 4

Gary Spraker

Honorable Gary Spraker
United States Bankruptcy Judge



Entered on Docket
December 22, 2021

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

* * * * *

In re:) Case No.: 21-50226-gs
NANYAH VEGAS, LLC,) Chapter 11
Debtor.) Hearing Date and Time
) Date: October 14, 2021
) Time: 10:30 a.m.

MEMORANDUM DECISION RE: MOTION TO DISMISS

On October 14, 2021, the court held its hearing on the motion to dismiss the above-captioned bankruptcy case (ECF No. 28) (Motion) filed by creditors Peter Eliades, Peter Eliades as Trustee of the Eliades Survivor Trust of 10/30/08, Eldorado Hills, LLC, and Teld, LLC (collectively, the Movants). After hearing argument from the parties and delivering an oral tentative ruling, the court took this matter under advisement. For the reasons stated below and on the record at the October 14, 2021 hearing, the court will grant the Motion.

Facts

Debtor Nanyah Vegas, LLC (“Nanyah”) was formed in 2007 to effectuate a \$1.5 million investment in Eldorado Hills, LLC (“Eldorado”).¹ In turn, Eldorado invested the funds in real property located near Boulder City, Nevada.² Nanyah has no employees,³ no day-to-day business operations,⁴ and no income.⁵

//

¹ ECF No. 35, Exhibit 1, p. 16, Transcript p. 11:21-24

² *Id.* at Exhibit 3, p. 59:14-15.

³ *Id.* at Exhibit 1, p. 17, Transcript p. 12:14-15.

⁴ *Id.* at p. 19, Transcript p. 14:9-12.

⁵ *Id.* at Transcript p. 14:15-17.

Eldorado had two original members when formed in 2005: Go Global, Inc., owned by Carlos Huerta, and The Rogich Family Irrevocable Trust (“Rogich Trust”).⁶ In 2008, Teld, LLC acquired a 60% interest in Eldorado, resulting in Go Global, Inc. no longer holding an interest in Eldorado and the Rogich Trust owning 40% of Eldorado.⁷ Nanyah maintains that the documents memorializing these transactions included provisions pursuant to which the Rogich Trust agreed to assume Eldorado’s obligation to repay Nanyah’s \$1.5 million investment, or pay Nanyah its percentage interest in Eldorado.⁸ In 2012, the Rogich Trust purportedly assigned its membership interest in Eldorado to The Eliades Survivor Trust of 10/30/08 (“Eliades Trust”).⁹ Nanyah maintains this assignment was subject to its claims.

On July 31, 2013, having neither received distributions from Eldorado nor repayment of its investment, Huerta, Go Global, Inc. and Nanyah sued Eldorado and the Rogich Trust in state court.¹⁰ In 2016, Nanyah commenced a second lawsuit against Teld, Peter Eliades, the Eliades Trust (together, the Eliades Defendants) and Sigmund Rogich, the Rogich Trust and Imitations, LLC (together, the Rogich Defendants).¹¹ The two lawsuits were subsequently consolidated in 2017.¹² In May of 2018, the Rogich Defendants and the Eliades Defendants were awarded partial summary judgment as to two of Nanyah’s claim(s).¹³ On October 5, 2018, the state court granted summary judgment in favor of the Eliades Defendants.¹⁴ In September 2019, the state court granted summary judgment in favor of the Rogich Defendants, and granted Eldorado’s motion to dismiss.¹⁵ The defendants were awarded judgment in the amount of their attorneys’ fees and costs.¹⁶

⁶ *Id.* at Exhibit 3, p. 59:15-16.

⁷ *Id.* at p. 59:20-27.

⁸ *Id.* at pp. 59:28-60:3.

⁹ *Id.* at p. 63, ¶ d.

¹⁰ *Id.* at Exhibit 4.

¹¹ *Id.* at Exhibit 6, p. 102. Although based on the record presented it is unclear to the court what role defendant Imitations, LLC played in this dispute, that fact is not relevant to the court’s decision.

¹² *Id.* at Exhibit 6.

¹³ *Id.* at Exhibit 7.

¹⁴ *Id.* at Exhibit 3.

¹⁵ *Id.* at Exhibit 8.

¹⁶ *Id.* at Exhibit 9.

Nanyah appealed the judgment and the order granting summary judgment without posting a bond.¹⁷ With no bond having been posted, the defendants commenced the process of executing on Nanyah's litigation claims against Eldorado and the Eliades Defendants.¹⁸ Nanyah filed this bankruptcy proceeding approximately one month prior to the scheduled sale of those claims. At the debtor's § 341(a) meeting of creditors held on April 26, 2021, the debtor's representative, Andrew Heyman, testified that the Chapter 11 was filed to "protect and preserve the assets of the debtor, such as they are."¹⁹

Nanyah's bankruptcy schedules reflect that the company's only asset is its appeal.²⁰ This was confirmed by Yoav Harlap, Nanyah's sole member, during the continued § 341(a) meeting of creditors.²¹ When asked how Nanyah is paying its attorney fees with no assets and no income, Mr. Harlap confirmed that he personally is providing the funding.²² At the initial § 341(a) meeting of creditors, Mr. Harlap testified that if Nanyah did not prevail on its appeal the only source of funding for a chapter 11 plan would be a loan from him.²³

Nanyah's schedules list liabilities of approximately \$1.5 million.²⁴ Scheduled creditors are the prevailing defendants in the state court litigation, Mr. Harlap for personal loans to the debtor, and the Internal Revenue Service with a priority unsecured claim scheduled in an unknown amount.²⁵ Though initially filed as a standard chapter 11, Nanyah later amended its petition to reflect that it qualifies as a small business debtor under 11 U.S.C. § 101(51D).²⁶

The deadline for filing proofs of claim in Nanyah's case expired on July 26, 2021. Although nine proofs of claim were filed, all but one were filed by prevailing defendants in the state court litigation. That claim was filed by the Internal Revenue Service, asserting a

¹⁷ *Id.* at Exhibit 12.

¹⁸ *Id.* at Exhibit 10.

¹⁹ *Id.* at Exhibit 1, p. 17, Transcript p. 12:10-13.

²⁰ ECF No. 1, pp. 10-13.

²¹ ECF No. 35, Exhibit 2, p. 47, Transcript p. 9:3-5.

²² *Id.*, Transcript p. 9:11-17.

²³ *Id.* at pp. 26-27, Transcript pp. 21:22-22:7.

²⁴ ECF No. 1, pp. 15-17.

²⁵ *Id.*

²⁶ ECF No. 17, p. 2.

\$7,000.00 claim for estimated taxes owing for 2018-2020 (\$3,000.00 priority) and 2014-2017 (\$4,000.00 general unsecured).²⁷

Analysis

Under 11 U.S.C. § 1112(b), a bankruptcy court may dismiss a Chapter 11 case “for cause.” “Although section 1112(b) does not explicitly require that cases be filed in ‘good faith,’ courts have overwhelmingly held that a lack of good faith in filing a Chapter 11 petition establishes cause for dismissal.”²⁸ Courts measure a debtor’s good faith by examining “‘an amalgam of factors and not...a specific fact.’”²⁹ Those factors may include “any factors which evidence ‘an intent to abuse the judicial process and the purposes of the reorganization provisions.’”³⁰ The ultimate question is whether a debtor filed its chapter 11 petition to “effect a speedy, efficient reorganization” or “to unreasonably deter and harass creditors.”³¹ Towards this end, “if it appears at the outset there is no reasonable expectation that the financial situation of the debtor can be successfully repaired through the reorganization process, it is clear that such case is ripe for dismissal for ‘cause,’”³²

Movants maintain that Nanyah filed this case merely to avoid posting a bond during its appeal of the state court judgment. They argue that this constitutes bad faith warranting dismissal. But as the Ninth Circuit Bankruptcy Appellate Panel has noted, “neither the Ninth Circuit Court of Appeals nor [the Ninth Circuit Bankruptcy Appellate Panel] has held that filing a bankruptcy petition in lieu of posting an appeal bond is ipso facto bad faith for purposes of dismissal under § 1112(b).”³³ “Indeed, to make such a finding would be at odds with the

²⁷ Additionally, the court notes that, based on its review of the case docket, it appears Nanyah is several months behind in its monthly operating reports, the most recent having been filed for July 2021.

²⁸ *Marsch v. Marsch (In re Marsch)*, 36 F.3d 825, 828 (9th Cir. 1994) [citing cases].

²⁹ *Id.* (quoting *In re Arnold*, 806 F.2d 937, 939 (9th Cir.1986)).

³⁰ *In re Marshall*, 721 F.3d 1032, 1048 (9th Cir. 2013) (quoting *Phoenix Piccadilly, Ltd. v. Life Ins. Co. of Va. (In re Phoenix Piccadilly, Ltd.)*, 849 F.2d 1393, 1394 (11th Cir.1988)).

³¹ *Marsch*, 36 F.3d at 828.

³² *In re Mense*, 509 B.R. 269, 284 n.35 (Bankr. C.D. Cal. 2014) (quoting *Matter of Bock*, 58 B.R. 374, 378–79 (Bankr.M.D.Fla.1986)).

³³ *In re Hanna*, 2018 WL 1770960, at *5 (B.A.P. 9th Cir. Apr. 13, 2018).

directive that courts look at the totality of circumstances in determining bad faith.”³⁴ Instead, the Ninth Circuit has observed that “[s]everal bankruptcy courts have held that a debtor may use a Chapter 11 petition to avoid posting an appeal bond if satisfaction of the judgment would severely disrupt the debtor’s business.”³⁵

However, the Ninth Circuit has also recognized that a petition filed to avoid posting an appeal bond is improper if the judgment against the debtor can be paid with nonbusiness assets.³⁶ At least one court in the Ninth Circuit has reviewed the following factors “[w]hen a debtor files chapter 11 to dodge the requirement for an appeal bond”:

- (1) Whether the debtor is a viable business which would suffer severe disruption if enforcement of the judgment was not stayed; and the chapter 11 petition was filed to preserve its status as an ongoing concern and to protect its employees and creditors;
- (2) Whether the debtor had financial problems on the petition date, other than the adverse judgment;
- (3) Whether the debtor has relatively few unsecured creditors, other than the holder of the adverse judgment;
- (4) Whether the debtor has sufficient assets to post a bond to stay the judgment pending appeal;
- (5) Whether the debtor acted in good faith to exhaust all efforts to obtain a bond to stay the judgment pending appeal;
- (6) Whether the debtor intends to pursue an effective reorganization within a reasonable period of time, or whether the debtor is unwilling or unable to propose a meaningful plan until the conclusion of the litigation; and
- (7) Whether assets of the estate are being diminished by the combined ongoing expenses of the debtor, the chapter 11 proceedings, and prosecution of the appeal.³⁷

³⁴ *In re Bowers Inv. Co., LLC*, 553 B.R. 762, 770 (Bankr. D. Alaska 2016).

³⁵ *Marsch*, 36 F.3d at 828; *see also Windscheffel v. Montebello Unified School District (In re Windscheffel)*, 2017 WL 1371294 (B.A.P. 9th Cir. Apr. 3, 2017); *Rocco v. King (In re King)*, 2008 WL 8444814 (B.A.P. 9th Cir. Mar. 12, 2008); *In re Zaruba*, 2007 WL 4589746 (Bankr. D. Alaska Dec. 28, 2007).

³⁶ *Marsch*, 36 F.3d at 828-29 [citing cases].

³⁷ *Mense*, 509 B.R. at 279–81 [citations omitted].

1 In this case, the court need not examine these factors in detail. “At its core,
 2 reorganization through Chapter 11 is intended by Congress to permit a debtor to pay its creditors,
 3 retain its employees, and preserve the equity of its investors.”³⁸ Nanyah has no employees. It
 4 has no day-to-day operations and no income. By its sole member’s own admission, Nanyah is
 5 simply an investment vehicle.³⁹ The only other non-insider creditor is the IRS for an estimated
 6 \$7,000 in taxes. Nanyah’s only asset is the appeal of the Movants’ judgment and it has no
 7 money of its own to fund either the appeal or this bankruptcy.

8 This is simply a dispute between two groups of parties stuck in litigation. Nanyah wants
 9 to continue the litigation despite entry of an adverse judgment. Again, the mere fact that this is
 10 really a two-party dispute does not condemn the filing as bad faith.⁴⁰ “Courts that find bad faith
 11 based on two-party disputes do so where ‘it is an apparent two-party dispute that can be resolved
 12 outside of the Bankruptcy Court’s jurisdiction.’”⁴¹

13 The court is aware of the decision in *In re Sullivan*, in which the BAP reversed dismissal
 14 of an individual’s bankruptcy as a bad faith filing early in the case. The bankruptcy court
 15 concluded in *Sullivan* that there was no possibility of a confirmable plan based on the judgment
 16 creditor’s statement that it would never vote for confirmation. The BAP held that the limited
 17 record before the bankruptcy court at that stage did not support a finding of bad faith despite the
 18 judgment creditor’s argument that it was a two-party dispute.⁴² In sharp contrast to Nanyah, Mr.
 19 Sullivan had considerable assets, had been using exempt assets to fund a litigation that was
 20 continuing, and had an annual salary of \$200,000. The BAP recognized the debtor’s valid
 21 bankruptcy interest in protecting his assets and providing for an orderly liquidation.⁴³ Moreover,
 22 the debtor stated an intent to file a plan within the exclusivity period but was met with the motion
 23 to dismiss before he could file his plan. The BAP was not persuaded by the creditor’s
 24

25 ³⁸ *In re Mohave Agrarian Grp., LLC*, 588 B.R. 903, 915 (Bankr. D. Nev. 2018) (citing *United*
 26 *States v. Whiting Pools, Inc. (In re Whiting Pools, Inc.)*, 462 U.S. 198, 203 (1983)).

27 ³⁹ ECF No. 35, Exhibit 2, p. 46, Transcript p. 8:22-23.

28 ⁴⁰ *Sullivan v. Harnisch (In re Sullivan)*, 522 B.R. 604, 616 (B.A.P. 9th Cir. 2014).

⁴¹ *Id.* (quoting *Oasis at Wild Horse Ranch, LLC v. Sholes (In re Oasis at Wild Horse Ranch, LLC)*, 2011 WL 4502102 at *10 (9th Cir. BAP Aug. 26, 2011)).

⁴² *Id.* at 615.

⁴³ *Id.* at 616.

1 declaration that it would never support a plan, particularly when faced with the possibility of
2 conversion to chapter 7.⁴⁴ Finally, the BAP also noted that Mr. Sullivan had a number of other
3 creditors, including family members, whose debts were not challenged at that time, negating the
4 argument that there was only a two-party dispute.⁴⁵

5 In this instance, there is no business to reorganize, no other assets to protect or
6 administer, and nothing shall take place in this bankruptcy apart from the appeal. Unlike the
7 situation in *Sullivan* where the record suggested the possibility of some reorganization based on
8 the debtor's assets and income, Nanyah has nothing of its own with which to effectuate a
9 resolution in bankruptcy. If Nanyah wins the appeal, the judgment creditors disappear and there
10 is no reason to proceed in chapter 11 given the limited (and estimated) amount owed to the IRS.
11 If the appeal is unsuccessful, the likely outcome is dismissal or conversion, not confirmation of a
12 plan as there will be no asset and there is no income or ongoing business. In short, Nanyah is not
13 using the bankruptcy to reorganize, only to stay collection.

14 Preserving an asset such as Nanyah's litigation claims by filing bankruptcy is not per se
15 bad faith. But it must be part of an actual attempt to reorganize (or liquidate). In this instance,
16 the bankruptcy filing is merely a litigation tactic. The sole reason for filing this case was to
17 continue Nanyah's appeal at the expense of its judgment creditors without posting a bond.
18 Nanyah's lack of funds or assets would ordinarily weigh heavily in favor of a good faith filing to
19 permit it to proceed with its appeal. But the total absence of any business or other assets only
20 confirms that this is simply a discrete litigation dispute rather than a reorganization. Nanyah
21 continues its existence solely on Mr. Harlap's discretion. He is willing to fund Nanyah's appeal
22 and chapter 11 fees. This is some evidence of the availability of nonbusiness assets to post a
23 bond pending the appeal. This is what should be done to continue the appeal, not invoke the
24 automatic stay by filing a chapter 11 bankruptcy.
25
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⁴⁴ *Id.* at 617-18.

⁴⁵ *Id.*

1 The court concludes that Nanyah did not file this bankruptcy to “effect a speedy, efficient
2 reorganization,” but rather to unreasonably deter its judgment creditors.⁴⁶ Accordingly, the court
3 finds that the bankruptcy was filed in bad faith and that cause exists under § 1112(b). The court
4 has considered whether conversion or dismissal is in the best interests as required under
5 § 1112(b). As the matter is truly a two-party dispute, there is no benefit to conversion to chapter
6 7. The court will, therefore, dismiss the case. An order granting the Motion and dismissing this
7 case will be entered separately.

8 * * * *

9 **Copies sent to all registered parties via CM/ECF ELECTRONIC NOTICE.**

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26 ⁴⁶ Courts have held that dismissal for bad faith is appropriate where the bankruptcy case was
27 filed solely as a litigation tactic. *See Prometheus Health Imaging, Inc. v. United States Trustee*
28 *(In re Prometheus Health Imaging, Inc.)*, 705 Fed.Appx. 626 (9th Cir. 2017); *Greenberg v.*
United States Trustee (In re Greenberg), 2017 WL 3816042 (B.A.P. 9th Cir. Aug. 31, 2017); *St.*
Paul Self Storage Ltd. Partnership v. The Port Authority of the City of St. Paul (In re St. Paul
Self Storage Ltd. Partnership), 185 B.R. 580, 582–83 (B.A.P. 9th Cir. 1995); *In re Silberkraus*,
253 B.R. 890, 902–03 (Bankr. C.D. Cal. 2000).

Exhibit 5

Exhibit 5

WTEX (CIV)

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSEPH A. LIEBMAN

Nevada Bar No. 10125

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Attorneys for Defendants PETE ELIADES, THE
ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS, 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
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Nevada limited liability company,

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Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

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

WRIT OF EXECUTION

CONSOLIDATED WITH:

Case No. A-16-746239-C

WRIT OF EXECUTION

☐ **Earnings** ☒ **Other Property**

☐ **Earnings, Order of Support**

THE STATE OF NEVADA TO THE SHERIFF OF CLARK COUNTY, GREETINGS:

On May 4, 2020, a Judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor of Peter Eliades and Teld, LLC as judgment creditors and against Nanyah Vegas, LLC as judgment debtor in the amount of \$216,236.25 and Peter Eliades, The Eliades Survivor Trust of 10/30/08, Teld, LLC and Eldorado Hills, LLC as judgment creditors and against Nanyah Vegas, LLC as judgment debtor in the amount of \$31,010.98. Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs, leaving the following net balance, which sum bears interest at 6.75 % per annum, \$45.72 per day from issuance of this writ to date of levy and to which sum must be added all commissions and costs of executing this Writ.

JUDGMENT BALANCE

AMOUNTS TO BE COLLECTED BY LEVY

Principal	\$ 247,247.23	NET BALANCE	\$
Pre-judgment Interest	\$ 0.00	Fee this Writ	\$ _____
Attorney's Fee	\$ 0.00	Garnishment Fee	\$ _____
Costs	\$ 0.00	Mileage	\$ _____
JUDGMENT TOTAL	\$ 247,247.23	Levy Fee	\$ _____
Accrued Costs	\$ 0.00	Advertising	\$ _____
Accrued Interest ¹	\$ 27,861.03	Storage	\$ _____
Less Satisfaction	\$ 0.00	Interest from	_____
		Date of Issuance	_____
NET BALANCE	\$ 275,108.26	SUB-TOTAL	\$ _____
		Commission	\$ _____
TOTAL LEVY		\$	_____

¹ Interest accrued through January 5, 2022.

1 NOW, THEREFORE, you are commanded to satisfy the Judgment for the total amount due out of
2 the following described personal property:

- 3 ➤ Levy on all rights of action, things in action, choses in action, causes of action, claims for
4 relief, and/or appellate claims and interests belonging to NANYAH VEGAS, LLC and
5 against Eldorado Hills, LLC, including, but not limited to, those which were asserted or
6 could have been asserted against Eldorado Hills, LLC in the action styled *Carlos A. Huerta,*
7 *et al. v. Sig Rogich, et. al.*, Case No. A-13-686303-C, currently pending in the Eighth Judicial
8 District Court, Clark County, Nevada, and currently pending in the Nevada Supreme Court as
9 Case No. 79917, and sell all such property and apply the proceeds toward satisfaction of
10 judgment. Those rights of action, things in action, choses in action, causes of action, claims
11 for relief, and/or appellate claims and interests against Eldorado Hills, LLC include, but are
12 not limited to, the following:

- 13 ○ Unjust Enrichment;
14 ○ Breach of Contract; and
15 ○ Breach of Implied Contract.

- 16 ➤ Levy on all rights of action, things in action, choses in action, causes of action, claims for
17 relief, and/or appellate claims and interests belonging to NANYAH VEGAS, LLC and
18 against Peter Eliades, The Eliades Survivor Trust of 10/30/08, and Teld, LLC, including, but
19 not limited to, those which were asserted or could have been asserted against Peter Eliades,
20 The Eliades Survivor Trust of 10/30/08, and Teld, LLC in the action styled *Nanyah Vegas,*
21 *LLC v. Teld, LLC, et. al.*, Case No. A-16-746239-C, currently pending in the Eighth Judicial
22 District Court, Clark County, Nevada, and currently pending in the Nevada Supreme Court as
23 Case No. 79917, and sell all such property and apply the proceeds toward satisfaction of
24 judgment. Those rights of action, things in action, choses in action, causes of action, claims
25 for relief, and/or appellate claims and interests against Peter Eliades, The Eliades Survivor
26 Trust of 10/30/08, and Teld, LLC include, but are not limited to, the following:

- 27 ○ Breach of Contract;
28 ○ Breach of Implied Covenant of Good Faith and Fair Dealing;

- Tortious Breach of Implied Covenant of Good Faith and Fair Dealing;
- Intentional Interference with Contractual Relations;
- Constructive Trust;
- Civil Conspiracy;
- Fraudulent Transfer;
- Declaratory Relief; and
- Specific Performance.

(See next page for exemptions which may apply)

EXEMPTIONS WHICH APPLY TO THIS LEVY

(Check appropriate paragraph and complete as necessary)

☒ Property other than wages. The exemption set forth in NRS 21.090 or in other applicable Federal Statutes may apply, consult an attorney.

☐ Earnings. The amount subject to garnishment and this writ shall not exceed for any one pay period the less of:

A. 25% of the disposable earnings due the judgment debtor for the pay period, or

B. The difference between the disposable earnings for the period and \$100.50 per week for each week of the pay period.

☐ Earnings (Judgment or Order of Support)

A Judgment was entered for amounts due under a decree or order entered on ____, 20__, by the ____ for support of ____, for the period from ____, 20__, through ____, 20__, in ____ installments of \$ ____.

The amount of disposable earnings subject to garnishment and this writ shall not exceed for any one pay period:

☐ A maximum of 50 percent of the disposable earnings of such judgment debtor who is supporting a spouse or dependent child other than the dependent named above;

☐ A maximum of 60 percent of the disposable earnings of such judgment debtor who is not supporting a spouse or dependent child other than the dependent named above;

☐ Plus an additional 5 percent of the disposable earnings of such judgment debtor if and to the extent that the judgment is for support due for a period of time more than 12 weeks prior to the beginning of the work period of the judgment debtor during which the levy is made upon the disposable earnings.

NOTE: Disposable earnings are defined as gross earnings less deductions for Federal Income Tax Withholding, Federal Social Security Tax and Withholding for any State, County or City Taxes.

You are required to return this Writ from the date of issuance not less than 10 days or more than 60 days with the results of your levy endorsed thereon.

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Submitted By:
BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman
JOSEPH A. LIEBMAN
Nevada Bar No. 10125
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302

Attorneys for Defendants
PETE ELIADES, THE ELIADES
SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS,
LLC

JOE LOMBARDO, SHERIFF
CLARK COUNTY

By: _____
Deputy Date

STEVEN. D. GRIERSON
CLERK OF COURT
By: Robyn Rodriguez 1/10/2022
Deputy Clerk Date
Robyn Rodriguez

RETURN

<input type="checkbox"/> Not Satisfied	\$ _____
<input type="checkbox"/> Satisfied in Sum of	\$ _____
<input type="checkbox"/> Costs retained	\$ _____
<input type="checkbox"/> Commission retained	\$ _____
<input type="checkbox"/> Costs incurred	\$ _____
<input type="checkbox"/> Commission incurred	\$ _____
<input type="checkbox"/> Costs Received	\$ _____
REMITTED TO JUDGMENT CREDITOR	\$ _____

NE (CIV)
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 Defendant
ELDORADO HILLS, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

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

NOTICE OF EXECUTION

CONSOLIDATED WITH:

Case No. A-16-746239-C

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to Peter Eliades, Teld, LLC, The Eliades Survivor Trust of 10/30/08, and Eldorado Hills, LLC, the judgment creditors. The judgment creditors have begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.
6. Payments received as disability, illness or unemployment benefits.
7. Payments received as unemployment compensation.
8. Veteran's benefits.
9. A homestead in a dwelling or a mobile home, including, subject to the provisions of NRS 115.055, the proceeds from the sale of such property, not to exceed \$605,000, unless:
 - (a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

- (b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.
10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.
11. A vehicle, if your equity in the vehicle is less than \$15,000.
12. Eighty-two percent of the take-home pay for any workweek if your gross weekly salary or wage was \$770 or less on the date the most recent writ of garnishment was issued, or seventy-five percent of the take-home pay for any workweek if your gross weekly salary or wage exceeded \$770 on the date the most recent writ of garnishment was issued, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.
13. Money, not to exceed \$1,000,000 in present value, held in:
- (a) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;
- (b) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;
- (c) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;
- (d) A trust forming part of a stock bonus, pension or profit-sharing plan that is

- qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and
- (e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.
14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.
15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.
16. Regardless of whether a trust contains a spendthrift provision:
- (a) A present or future interest in the income or principal of a trust that is a contingent interest, if the contingency has not been satisfied or removed;
- (b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;
- (c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;
- (d) Certain powers held by a trust protector or certain other persons; and
- (e) Any power held by the person who created the trust.
17. If a trust contains a spendthrift provision:
- (a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning

whether to make the distribution from the trust, if the interest has not been distributed from the trust; and

(b) A present or future interest in the income or principal of a trust that is a support interest in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.
19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.
20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.
21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.
22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.
23. Payments received as restitution for a criminal act.
24. Personal property, not to exceed \$10,000 in total value, if the property is not otherwise exempt from execution.
25. A tax refund received from the earned income credit provided by federal law or a similar state law.
26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

1 These exemptions may not apply in certain cases such as a proceeding to enforce a judgment
2 for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult
3 an attorney immediately to assist you in determining whether your property or money is
4 exempt from execution. If you cannot afford an attorney, you may be eligible for assistance
5 through Legal Aid Center of Southern Nevada or Southern Nevada Senior Law Program. If
6 you do not wish to consult an attorney or receive legal services from an organization that
7 provides assistance to persons who qualify, you may obtain the form to be used to claim an
8 exemption from the clerk of the court.

9 **PROCEDURE FOR CLAIMING EXEMPT PROPERTY**

10 If you believe that the money or property taken from you is exempt, you must complete
11 and file with the clerk of the court an executed claim of exemption. A copy of the claim of
12 exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days
13 after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076
14 which identifies the specific property that is being levied on. The property must be released by the
15 garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the
16 sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an
17 objection to the claim of exemption and a notice for a hearing to determine the issue of exemption.
18 If this happens, a hearing will be held to determine whether the property or money is exempt. The
19 objection to the claim of exemption and notice for the hearing to determine the issue of exemption
20 must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor
21 by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than
22 5 judicial days before the date set for the hearing. The hearing to determine whether the property
23 or money is exempt must be held within 7 judicial days after the objection to the claim of
24 exemption and notice for the hearing is filed. You may be able to have your property released
25 more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written
26 proof that the property is exempt. Such proof may include, without limitation, a letter from the
27 government, an annual statement from a pension fund, receipts for payment, copies of checks,
28 records from financial institutions or any other document which demonstrates that the money in

your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE
TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE
JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

NOTICE TO BE SENT TO NANYAH VEGAS, LLC AT THE ADDRESS BELOW

PURSUANT TO N.R.S. 21.076:

NANYAH VEGAS, LLC
c/o its Registered Agent and Counsel of Record
Mark G. Simons, Esq.
Simons Hall Johnston PC
690 Sierra Rose Drive, Reno, NV 89511

Exhibit 6

Exhibit 6

ROC

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSEPH A. LIEBMAN

Nevada Bar No. 10125

BAILEY ♦ KENNEDY

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Las Vegas, Nevada 89148-1302

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DKennedy@BaileyKennedy.com

JLiebman@BaileyKennedy.com

Attorneys for Defendants PETE ELIADES, THE
ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

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

RECEIPT OF COPY

CONSOLIDATED WITH:

Case No. A-16-746239-C

RECEIPT OF COPY

RECEIPT OF COPY of the following is hereby acknowledged on this 11th day of
January, 2022:

- Writ of Execution; and
- Notice of Execution.

SIMONS HALL JOHNSTON PC

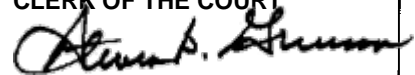
By: 

MARK G. SIMONS, ESQ.
690 SIERRA ROSE DRIVE
RENO, NEVADA 89511

Attorneys and Registered Agent for Plaintiff
NANYAH VEGAS, LLC

EXHIBIT 2

EXHIBIT 2



1 **MILM**

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
16 of interests of GO GLOBAL, INC., a
17 Nevada corporation; NANYAH VEGAS,
18 LLC, A 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 _____/
28 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

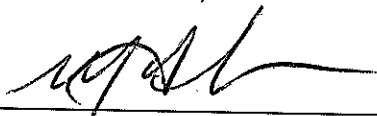
**NANYAH VEGAS, LLC'S MOTION IN
LIMINE #4 RE: YOAV HARLAP'S
PERSONAL FINANCIALS**

1 **NANYAH VEGAS, LLC'S MOTION IN LIMINE #4**
2 **RE: YOAV HARLAP'S PERSONAL FINANCIALS**

3 Nanyah Vegas, LLC ("Nanyah") submits the following motion in limine seeking to
4 exclude any attempt by the defendants to solicit testimony relating to the personal
5 finances of Yoav Harlap who is Nanyah's principal.

6 DATED this 10th day of May, 2018.

8 SIMONS LAW, PC
9 6490 S. McCarran Blvd., #20
10 Reno, Nevada, 89509

11 
12 _____
13 MARK G. SIMONS
14 Attorney for Nanyah Vegas, LLC


14 **NOTICE OF MOTION**

15 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:**

16 PLEASE TAKE NOTICE that the undersigned will bring the foregoing
17 **NANYAH'S MOTION IN LIMINE #4 RE: YOAV HARLAP'S PERSONAL**
18 **FINANCIALS** on for hearing before the above-entitled court on the 14 day of
19 June, 2018 at 9:30 a.m./~~p.m.~~ in Department XXVII or as soon
20 thereafter as counsel may be heard.

21 DATED this 10th day of May, 2018.

22 SIMONS LAW, PC
23 6490 S. McCarran Blvd., #20
24 Reno, Nevada, 89509

25 
26 _____
27 MARK G. SIMONS
28 Attorney for Nanyah Vegas, LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STANDARD OF REVIEW.**

3 Motions in limine are designed to seek the Court's ruling on the admissibility of
4 arguments, assertions and evidence in advance of trial. The Nevada Supreme Court
5 has approved the use of motions in limine recognizing the legitimacy of such pre-trial
6 motions practice and the courts' authority to rule on these motions. *See, e.g., Bull v.*
7 *McCuskey*, 615 P.2d 957, 961 (Nev. 1976). Additionally, NRCP 16(c)(3) recognizes the
8 legitimacy of such pre-trial motion practice and the court's authority to rule on these
9 motions by allowing for "advance rulings . . . on the admissibility of evidence." Motions
10 in limine "permit more careful consideration of evidentiary issues than would take place
11 in the heat of battle during trial," and they promote judicial economy by minimizing
12 "side-bar conferences and disruptions during trial" and by resolving "potentially critical
13 issues at the onset, they enhance the efficiency of trials and promote settlements."
14 *Kelly v. New West Fed. Sav.*, 56 Cal.Rptr.2d 803, 808 (1996).

15 A motion in limine may also properly request the Court determine the
16 admissibility and/or inadmissibility of potential evidence at trial in relation to admissions
17 and/or undisputed facts that have been established in discovery. *See e.g., Eastman*
18 *Kodak Co. v. Westway Motor Freight*, 758 F. Supp. 641, 642 (D. Colo. 1991) (court
19 considered motion in limine "to determine the effect of the admission of liability by
20 Defendant . . ." and held only issue at trial was damages).

21 **II. RELEVANT FACTS RELATING TO THIS MOTION.**

22 Mr. Harlap is the manager and sole member in Nanyah. Nanyah invested \$1.5
23 million into Eldorado Hills, LLC ("Eldorado").

24 ////

25 **III. ARGUMENT SUPPORTING MOTION IN LIMINE.**

26 First and foremost, Mr. Harlap is not a party to these proceedings. Mr. Harlap
27 has not put his personal finances at issue in this litigation. Mr. Harlap is the
28 representative of Nanyah.

1 It is anticipated that defendants will attempt to inquire as to Mr. Harlap's wealth in
2 order to prejudice Nanyah in front of the jury. For instance, it is anticipated that the
3 defendants will attempt to inflame the jury's emotion that due to Mr. Harlap's personal
4 financial position, he has no need for money and/or that Nanyah should not be repaid
5 the debt owed to it because Nanyah "doesn't need the money." The law is clear that
6 Mr. Harlap enjoys privacy rights in his personal finances and that inquiry into the wealth
7 or poverty of a party is prejudicial.

8 **A. WEALTH OR POVERTY OF A LITIGANT IS IRRELEVANT AND**
9 **PREJUDICIAL.**

10 The relative wealth or poverty of a party to the litigation is irrelevant to a
11 determination of the ultimate issues at bar and would prejudice the jury. Courts have
12 held that:

13 a deliberate attempt by counsel to appeal to social or economic prejudices to of
14 the jury, including the wealth or poverty of the litigants, is misconduct where the
15 asserted wealth or poverty is not relevant to the issues of the case.

16 *Hoffman v. Brandt*, 55 Cal.Rptr. 417, 65 Cal.2d 549, 421 P.2d 425 (Cal. 1966).¹ Any
17 attempt to play to the jury's emotions through allusion to financial matters is wholly
18 prejudicial and improper. *Id.* Further, courts consistently find that it is reversible error
19 to allow evidence of the wealth of a litigant. *Farmy v. College Housing, Inc.*, 121 Cal.
20 Rptr. 658 (Cal. Ct. App. 1975) (reversing award of compensatory damages due to
21 prejudicial effect of evidence relating to wealth of a party); *Carnival Corp. v.*
22 *Pajares*, 972 So.2d 973, 977 (Fla. Ct. App. 2007) (ordering a new trial where allusion to
23 cruise line's wealth and resources was not relevant to action).

24
25
26 ¹ See also *Hurtado v. Desouza*, 166 So. 3d 831, 835 (Fla. Dist. Ct. App. 2015) ("long-
27 standing rule that 'no reference should be made to the wealth or poverty of a party, nor
28 should the financial status of one party be contrasted with the other's.'").

1 Furthermore, assertions and arguments that Nanyah should not recover because
2 of Mr. Harlap's actual and/or perceived wealth is highly prejudicial and must not be
3 allowed; both the pauper and the millionaire are entitled to be treated fairly before the
4 trier of fact. *Las Palmas Associates v. Las Palmas Center Assoc.*, 235 Cal.App.3d
5 1220, 1 Cal.Rptr.2d 301 (Cal. Ct. App. 1991); *McKissick v. Frye*, 876 P.2d 1371 (Kan.
6 1994) (deliberate attempt by counsel to appeal to social or economic prejudices of the
7 jury, including the wealth or poverty of the litigants, is misconduct); *Harmon v. Town of*
8 *Afton*, 745 P.2d 889 (Wyo. 1987) (universal principle that jury should not consider
9 wealth of parties in arriving at its verdict).
10

11
12 Again, questioning going to the wealth of litigations is irrelevant and prejudicial.
13 In this case, Mr. Harlap is not a party to this action, accordingly, *a fortiori* his wealth
14 and/or financial position is even less relevant than a party and inquiry into his wealth is
15 even more prejudicial than inquiry into a party's wealth. Mr. Harlap's wealth is not an
16 issue in this case. Mr. Harlap's wealth, therefore, has no relevance to any issue in
17 these proceedings.
18

19 **B. MR. HARLAP ALSO ENJOYS PRIVACY PROTECTIONS PRECLUDING**
20 **INQUIRY INTO HIS PERSONAL FINANCES.**

21 The Nevada Supreme Court has not explored the personal privacy protections
22 afforded to witnesses in litigation. However, in *Hetter v. Dist. Court*, 110 Nev. 513, 874
23 P.2d 762 (1994), the Nevada Supreme Court recognized the privacy interests inherent
24 in a litigant's financial information, and held that financial information is entitled to
25 protection that is appropriate under the circumstances. See *id.* at 520, 874 P.2d at 766
26 (1994) ("public policy suggests that tax returns or financial status not be had for the
27 mere asking").
28

1 Both Nevada and California courts have recognized a party's right of privacy in
2 their financial records. *See e.g., Hetter v. Eighth Judicial District Court*, 110 Nev. 513,
3 520, 874 P.2d 762, 765 (1994) (disallowing inspection of a party's tax returns to prove
4 punitive damages and stating that "[t]he protection of privacy is of fundamental - indeed,
5 of constitutional - importance"). *See also Cobb v. Superior Court*, 160 Cal.Rptr. 561,
6 566 (Cal. Ct. App. 1979) (explaining that the right of privacy exists in a party's
7 confidential financial affairs even if relevant).

8
9 In *Hetter*, the Nevada Supreme Court cited with approval the decision of
10 *Maresca v. Marks*, 362 S.W.2d 299, 301 (Tex.1962) for the following proposition:

11
12 **The protection of privacy is of fundamental—indeed, of constitutional—
importance**

13 *Id.* at 766 (emphasis added). Many other courts have reiterated that right to privacy in
14 personal finances does implicate constitutional protections. *See e.g. Soto v. City of*
15 *Concord*, 162 F.R.D. 603, 616 (N.D.Cal.1995) ("Federal courts ordinarily recognize a
16 constitutionally-based right of privacy"); *Valley Bank of Nevada v. Superior Court*,
17 15 Cal.3d 652, 656, 125 Cal.Rptr. 553, 542 P.2d 977 (1975) ("overriding constitutional
18 considerations may exist which impel us to recognize some limited form of protection"
19 for personal financial information); *Charles O. Bradley Trust v. Zenith Capital LLC*, 2006
20 WL 798991 (N.D.Cal. Mar.24, 2006) ("Private financial records are normally entitled to
21 privacy protections").

22
23
24 Mr. Harlap's personal finances are clearly subject to constitutional protections as
25 he is not a party in these proceedings. It is suggested that the personal privacy right of
26 a witness is even greater than the privacy rights of a litigant. Again, in these
27 proceedings, Mr. Harlap is not a party and has not put his personal finances at issue in
28

1 this litigation and this Court should enter an order precluding any attempt by the
2 defendants to inquire into Mr. Harlap's personal wealth.

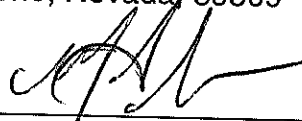
3 **IV. CONCLUSION.**

4 By definition, any evidence, testimony or questioning which seeks to illicit and/or
5 inquire into Mr. Harlap's personal wealth should be excluded by this Court.
6

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

9
10 DATED this 10th day of May, 2018.

11 SIMONS LAW, PC
12 6490 S. McCarran Blvd., #20
13 Reno, Nevada, 89509

14 

15 MARK G. SIMONS
16 *Attorney for Nanyah Vegas, LLC*
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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
**NANYAH VEGAS, LLC'S MOTION IN LIMINE #4 RE: YOAV HARLAP'S PERSONAL
FINANCIALS** on all parties to this action via the Odyssey E-Filing System:

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Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
Joseph A. Liebman	jlienbman@baileykennedy.com
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DATED this 10th day of May, 2018.

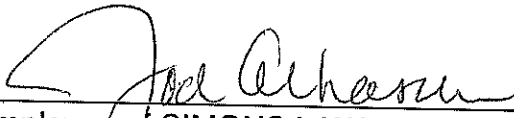
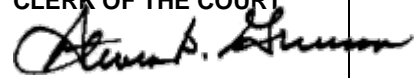

Employee of SIMONS LAW, PC

EXHIBIT 3

EXHIBIT 3



JUDG (CIV)

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Nevada Bar No. 1462

JOSEPH A. LIEBMAN
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Attorneys for Defendants PETE ELIADES, THE
ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC, and ELDORADO HILLS, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

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

JUDGMENT

CONSOLIDATED WITH:

Case No. A-16-746239-C

Judgment is entered in favor of Peter Eliades and Teld, LLC and against Nanyah Vegas, LLC in the amount of two hundred and sixteen thousand, two hundred and thirty-six and 25/100 dollars (\$216,236.25). Interest shall continue to accrue from entry of Judgment until paid in full.

Judgment is also entered in favor of Peter Eliades, The Eliades Survivor Trust of 10/30/08, Teld, LLC, and Eldorado Hills, LLC and against Nanyah Vegas, LLC in the amount of thirty-one thousand, ten and 98/100 dollars (\$31,010.98). Interest shall continue to accrue from entry of Judgment until paid in full.

DATED this 4th day of May, 2020.


DISTRICT COURT JUDGE

Submitted by:

BAILEY ♦ KENNEDY

By /s/ Joseph A. Liebman

Dennis L. Kennedy, Esq.
Joseph A. Liebman, Esq.
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302

Attorneys for Defendants PETE ELIADES,
THE ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC, and ELDORADO HILLS, LLC

EXHIBIT 4

EXHIBIT 4

From: [Sharon Murnane](#)
To: [Mark Simons](#)
Cc: [Joseph Liebman](#)
Subject: FW: Nanyah Vegas, LLC vs. Teld, LLC, et al.
Date: Thursday, February 24, 2022 5:04:20 PM
Attachments: [Order Denying Mx to Stay Enforcement.pdf](#)

Good afternoon Mr. Simons,

I have not seen a response to my email below regarding the attached Order. Please advise of your approval to affix your e-signatures to the Order for resubmission to the Court.

Thank you.

Sharon

Sharon Murnane
Litigation Assistant to
Joseph A. Liebman and
Paul Williams
BAILEY❖KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
Telephone: (702) 562-8820
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smurnane@baileykennedy.com

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From: Sharon Murnane <SMurnane@baileykennedy.com>
Sent: Tuesday, February 22, 2022 1:43 PM
To: Mark Simons <msimons@shjnevada.com>; Brenoch R. Wirthlin <bwirthlin@hutchlegal.com>
Cc: Joseph Liebman <JLiebman@baileykennedy.com>
Subject: Nanyah Vegas, LLC vs. Teld, LLC, et al.

Good afternoon Messrs. Simons and Wirthlin,

Attached is the Order Denying Plaintiff's Motion to Stay Enforcement During Pendency of Appeal. The Order was returned by the Court, noting that all parties must sign and approve the Order.

We added your signature blocks under "Approved as to Form and Content." **Please advise of your approval to affix your e-signatures to the Order for resubmission to the Court.**

Thank you.

Sharon Murnane
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ORDR (CIV)

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ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

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

Defendants.

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

**ORDER DENYING PLAINTIFF'S
MOTION TO STAY ENFORCEMENT
DURING PENDENCY OF APPEAL**

CONSOLIDATED WITH:

Case No. A-16-746239-C

1 Plaintiff Nanyah Vegas, LLC's ("Nanyah") Motion to Stay Enforcement During Pendency of
2 Appeal (the "Motion to Stay") came before the Court on February 3, 2022.

3 **APPEARANCES**

4 The Parties appeared as follows:

- 5 ➤ For Peter Eliades, individually and as Trustee of The Eliades Survivor Trust of 10/30/08,
6 Teld, LLC, and Eldorado Hills, LLC: Joseph Liebman, Esq. of Bailey ♦ Kennedy, LLP.
7 ➤ For Sig Rogich, individually and as Trustee of the Rogich Family Irrevocable Trust, and
8 Imitations, LLC: Brenoch Wirthlin, Esq. of Hutchison & Steffen.
9 ➤ For Nanyah: Mark G. Simons, Esq. of Simons Hall Johnston PC.

10 **ORDER**

11 The Court, having heard oral argument, having reviewed the papers, exhibits, and pleadings
12 on file, and having considered the same, and for the reasons stated upon the record, DENIES the
13 Motion to Stay for the following reasons.

- 14 ➤ The Nevada Supreme Court has adopted the following five factors to determine whether it is
15 appropriate to allow for security other than a supersedeas bond for the full judgment amount:

16 (1) the complexity of the collection process; (2) the amount of time
17 required to obtain a judgment after it is affirmed on appeal; (3) the
18 degree of confidence that the district court has in the availability of
19 funds to pay the judgment; (4) whether the defendant's ability to pay the
20 judgment is so plain that the cost of a bond would be a waste of money;
21 and (5) whether the defendant is in such a precarious financial situation
22 that the requirement to post a bond would place other creditors of the
23 defendant in an insecure position.

24 *Nelson v. Heer*, 121 Nev. 832, 834, 122 P.3d 1252, 1253 (2005).

- 25 ➤ The Court finds that Nanyah has not fulfilled its burden of showing—under the factors
26 above—that the requirement for a supersedeas bond under NRCP 62(d) should be modified
27 and/or waived.
28 ➤ In its Motion and Reply, Nanyah did not offer any alternative security or other bond under
NRCP 62(d)(2) for the Court to approve, and instead sought an unsecured stay. For the first
time at the hearing on the Motion to Stay, Nanyah offered to post its "appellate rights" as
alternate security.

➤ The Court finds that Nanyah’s “appellate rights” are insufficient as “other security” under
NRCp 62(d)(2).

Submitted by:

BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman
Dennis Kennedy, Esq.
Joseph Liebman, Esq.
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302

*Attorneys for Defendants PETE ELIADES,
THE ELIADES SURVIVOR TRUST OF
10/30/08, TELD, LLC and ELDORADO
HILLS, LLC*

Approved as to Form and Content:

SIMONS HALL JOHNSTON PC

By: /s/
MARK G. SIMONS, ESQ.
Nevada Bar No. 5132
690 Sierra Rose Drive
Reno, NV 89511

Attorneys for Plaintiff NANYAH VEGAS, LLC

Approved as to Form and Content:

HUTCHISON & STEFFEN, PLLC

By: /s/
BRENOCH WIRTHLIN, ESQ.
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*Attorneys for Defendants
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as Trustee of THE ROGICH FAMILY
IRREVOCABLE TRUST, and
IMITATIONS, LLC*