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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

J&J SPORTS PRODUCTIONS, INC.,)	
)	2:09-cv-03389-GEB-KJN
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
JUAN JOSE HERNANDEZ,)	
INDIVIDUALLY and d/b/a MAZATLAN)	
TACOS Y MARISCOS aka MARISCOS)	
MAZATLAN,)	
)	
Defendant.)	
_____)	

Plaintiff moves for the "appointment of a receiver of the liquor license bearing number 456047, used by the Defendant in the operation of its business" so that the receiver may "take possession of and sell the liquor license, the effect of which would be to provide for orderly payment of" a default judgment in the amount of \$10,000 entered against Defendant. (Mot. for Appointment of Receiver of Liquor License 1:25-26, 2:8-9.) Plaintiff's motion also includes the following injunctive relief request:

That the Defendant would be restrained, stayed and prohibited from continuing to operate [his] business, pending the sale of the liquor license[], that [Defendant] would be restrained from the sale, transfer, or other disposition of the license[]; that [Defendant] would be restrained from any act

1 to interfere with the receiver, either in part or
2 in whole.

3 (Proposed Order Granting Mot. for Appointment of Receiver of Liquor
4 License 2:16-19.) Plaintiff served its motion on Defendant on March 23,
5 2011 (ECF No. 24), but Defendant has not responded to Plaintiff's
6 motion. Plaintiff's motion was heard on May 2, 2011; however, counsel
7 appearing on Plaintiff's behalf stated he could not answer any question
8 concerning the motion. Therefore, the hearing was useless and was
9 promptly adjourned.

10 Plaintiff's motion demonstrates Plaintiff is entitled to have
11 a receiver appointed for the purpose of taking possession and control of
12 Defendant's liquor license, and selling the liquor license. However,
13 Plaintiff has not shown it is entitled to the portion of injunctive
14 relief it seeks which would enjoin Defendant "from continuing to operate
15 [his] business, pending the sale of the liquor license." See generally
16 Earth Island Inst. v. Carlton, 626 F.3d 462, 469 (9th Cir. 2010) ("An
17 injunction is a matter of equitable discretion' and is 'an extraordinary
18 remedy that may only be awarded upon a clear showing that the plaintiff
19 is entitled to such relief.'") (quoting Winter v. Natural Res. Def.
20 Council, 129 S. Ct. 365, 376, 381 (2008)).

21 Therefore, it is hereby ordered:

22 1. Sheri L. Carello is appointed as a receiver and is
23 granted the following powers:

24 A. To take possession and control of Defendant's
25 liquor license bearing number 456047 in accordance
26 with California Civil Procedure Code section
27 708.630, which prescribes: "An application shall be
28 filed to transfer the [liquor] license to the

1 receiver and a temporary retail permit shall be
2 obtained during the pendency of the transfer." CAL.
3 CIV. PROC. CODE § 708.630(c).

4 B. To retain the services of a business opportunity
5 broker, if necessary, to place the liquor license
6 on the market for purposes of a competitive sale.

7 C. To retain the services of an attorney and/or
8 accountant, if necessary, to aid and assist in the
9 sale of the liquor license.

10 D. To proceed with a sale of the liquor license in
11 accordance with the applicable sections of the
12 California Business and Professions Code, and the
13 applicable regulations of the California Department
14 of Alcoholic Beverage Control; and to hold the
15 proceeds of the sale of the liquor license in
16 trust, pending further order of the Court.

17 2. The receiver shall be compensated at the expense of
18 Defendant by way of a percentage of the amount recovered from the sale
19 of Defendant's liquor license. The receiver also shall receive judicial
20 approval from this Court before any referenced expense, fee, or service
21 is incurred; and the service of payment shall be specified in the
22 approval request.

23 3. Defendant is restrained from selling, transferring, or
24 otherwise disposing of his liquor license bearing number 456047.

25 A status hearing is scheduled in this matter on August 29,
26 2011 at 9:00 a.m., and a status report shall be filed 14 days prior to
27 the hearing, in which the following shall be addressed: the res of the
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1 trust, if any; a proposed plan to distribute the res of the trust; and
2 the need for the continued appointment of the receiver.

3 IT IS SO ORDERED.

4 Dated: July 20, 2011

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8 GARLAND E. BURRELL, JR.
9 United States District Judge
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