



1 Presently before the Court is Plaintiff's *Ex Parte* Application to Amend the Temporary  
2 Restraining Order. (Docket No. 7.) The September 21 Order provides:

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4 It is hereby ordered that Defendants, their customers, agents, officers, subsidiaries,  
5 assigns, and banking institutions, shall not alienate, dissipate, pay over or assign any  
6 assets of *Mia's Nutrition Center*, or its subsidiaries or related companies, except in the  
ordinary course of business until further order of this Court or until Defendants pay  
Plaintiff the sum of \$3,043.11 by cashiers' check or certified check, at which time this  
Order is dissolved.

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8 (Sept. 21 Order, at 3 (emphasis added).) Plaintiff seeks to amend the September 21 Order to provide  
9 that "funds of *Defendants John Christian Gillette and Lisa A Gillette* shall, along with company funds,  
10 if any, shall be paid over to the Plaintiff until the sum of \$3,043.11, plus statutory interest and attorney  
11 fees is, paid in full." (Pl. Mot. at 4 (emphasis added).) Plaintiff argues that "[a]s the 2 sole  
12 shareholders and corporate officers of the companies and as the persons responsible for the day-to-day  
13 operations of Mia Nutrition Centers, Defendants John Christian Gillette and Lisa A. Gillette were in  
14 a position of control over the PACA trust assets belonging to the Plaintiff and are therefore personally  
15 liable for the debt owed to the Plaintiff by their companies." (Pl. Mot. at 2.) Plaintiff also submits  
16 evidence that John Christian Gillette and Lisa A. Gillette are the two sole officers of Mia's Nutrition  
17 Centers. (Pl. Mot., Exh. C.)

18 Plaintiff's Motion is **GRANTED**. See *Sunkist Growers, Inc. v. Fisher*, 104 F.3d 280, 283 (9th  
19 Cir. 1997) ("[I]ndividual shareholders, officers, or directors of a corporation who are in a position to  
20 control PACA trust assets, and who breach their fiduciary duty to preserve those assets, may be held  
21 personally liable under the Act."). Page 3, lines 2 to 6, of the September 21 Order is amended as  
22 follows:

23 It is hereby ordered that Defendants, their customers, agents, officers, subsidiaries,  
24 assigns, and banking institutions, shall not alienate, dissipate, pay over or assign any  
25 assets of Mia's Nutrition Center, or its subsidiaries or related companies, except in the  
26 ordinary course of business, or of John Christian Gillette or Lisa A. Gillette, until further  
order of this Court or until Defendants pay Plaintiff the sum of \$ 3,043.11 by cashiers'  
check or certified check, at which time this Order is dissolved.<sup>1</sup>

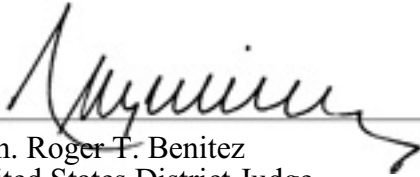
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28 <sup>1</sup> In a proposed order, Plaintiff made additional changes to the language found in the  
September 21 Order. Plaintiff, however, has not supported these changes with any evidence or  
legal authority. Accordingly, these changes have not been incorporated in the amended language.

1 All other provisions contained in the September 21 Order shall remain in full force and effect. Further  
2 amendments to the September 21 Order will not be made prior to the September 28, 2011 hearing  
3 without good cause.

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**IT IS SO ORDERED.**

DATED: September 22, 2011

  
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Hon. Roger T. Benitez  
United States District Judge