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 10 Russell Road Food and Beverage, LLC

11 UNITED STATES DISTRICT COURT
 12 DISTRICT OF NEVADA
 13 SOUTHERN DIVISION

14
 15 RUSSELL ROAD FOOD AND
 BEVERAGE, LLC, a Nevada limited
 16 liability company

17 Plaintiff,

18 vs.

19 MIKE GALAM, an individual; VICTOR
 GALAM, an individual; JACQUELINE
 20 GALAM BARNES, an individual;
 CANICO CAPITAL GROUP, LLC, a
 21 California limited liability company;
 ABRAHAM ASSIL, an individual;
 22 GEORGE ESHAGHIAN, an individual;
 DJAVID HAKAKIAN, an individual;
 23 MORRIS NEJATHAIM, an individual;
 HAMED YAZDANPANAH, an
 24 individual; SOLEIMAN NAZARIAN, an
 individual; ISAAC JAVDANFAR, an
 25 individual; KAMRAN SAMOOHA, an
 individual; MEHRAN SADIGHPOUR, an
 26 individual; WEST BEST CAPITAL
 GROUP, LLC, a Delaware limited liability
 27 company; SEFOX INVESTMENT, LLC, a
 California limited liability company;
 28 OLYMPIC CAPITAL VENTURE, LLC, a

Case No. 2:13-CV-00776-JCM-NJK

**ORDER GRANTING
 PLAINTIFF RUSSELL ROAD FOOD AND
 BEVERAGE, LLC'S EMERGENCY
 OPPOSITION TO AND REQUEST FOR
 RECONSIDERATION OF ORDER
 EXTENDING THE BRIEFING AND
 HEARING SCHEDULE FOR
 PLAINTIFF'S MOTION FOR
 PRELIMINARY INJUNCTION AND
 RENEWED REQUEST FOR ISSUANCE
 OF A TEMPORARY RESTRAINING
 ORDER PENDING HEARING ON
 MOTION FOR PRELIMINARY
 INJUNCTION**

Judge: Hon. James C. Mahan

1 Delaware limited liability company; EL
2 MARINO, LLC, a California limited
3 liability company; KNOTTING HILL,
4 LLC, a California limited liability
5 company; SN & GE, LLC, a California
6 limited liability company; IJ
7 PROPERTIES, LLC, a California limited
8 liability company; S DOUBLE, LLC, a
9 California limited liability company;
10 INDUSTRIAL ROAD 2440-2497, LLC, a
11 Nevada limited liability company; RHINO
12 BARE PROJECTS LLC, a California
13 limited liability company; RHINO BARE
14 PROJECTS 4824 LLC, a California limited
15 liability company; CRAZY HORSE TOO
16 GENTLEMEN’S CLUB LLC, a Nevada
17 limited liability company; and DOES 1 –
18 50, inclusive,

Defendants.

13 **AFTER FULL CONSIDERATION** of Plaintiff Russell Road Food and Beverage,
14 LLC’s Emergency Opposition to and Request for Reconsideration of Order Extending the
15 Briefing and Hearing Schedule for Plaintiff’s Motion for Preliminary Injunction and Renewed
16 Request for Issuance of a Temporary Restraining Order Pending Hearing on Motion for
17 Preliminary Injunction is GRANTED as follows.

18 **THE COURT HEREBY FINDS AND ORDER THAT**

19 1. Plaintiff Russell Road Food and Beverage, LLC (“Russell Road”) is likely to
20 succeed on the merits of its trademark infringement claim. Russell Road has shown that it owns
21 common law and statutory trademark rights in the CRAZY HORSE III mark in connection with
22 its gentlemen’s club in the City of Las Vegas and State of Nevada and that such rights date back
23 to at least as early as September 4, 2009 when it opened its CRAZY HORSE III gentlemen’s
24 club. Russell Road has also shown that an analysis of the Ninth Circuit’s *Sleekcraft* factors weigh
25 in favor of a finding of likelihood of confusion. The Court also notes that Russell Road has
26 submitted substantial evidence of actual confusion in the marketplace, which is the best indicator
27 that a likelihood of confusion exists.

1 2. Russell Road has shown that it is suffering and is likely to suffer irreparable harm
2 in the absence of a temporary restraining order. Such irreparable harm may be presumed by
3 Russell Road's showing that it is likely to succeed on the merits of its trademark infringement
4 claim. However, Russell Road has made a separate and sufficient showing of irreparable harm
5 through its submission of evidence that (i) actual confusion has already occurred in the market;
6 (ii) it has suffered, and will continue to suffer, intangible harm to the goodwill of its CRAZY
7 HORSE III mark, (iii) it will be unable to control and maintain the reputation and perception of
8 its CRAZY HORSE III mark, (iv) it will be unable to obtain a reasonable return on its investment
9 of millions of dollars into its CRAZY HORSE III mark; and (v) its CRAZY HORSE III mark will
10 be tarnished by being associated with the negative reputation of the former Crazy Horse Too club
11 and its owners.

12 3. The balance of equities tips in Russell Road's favor. Russell Road has invested
13 millions of dollars into its mark and created substantial goodwill and consumer recognition in its
14 CRAZY HORSE III mark. In contrast, Defendants have just recently adopted the CRAZY
15 HORSE TOO mark and did so with full knowledge of Russell Road's prior rights in the CRAZY
16 HORSE III mark. The damage to Russell Road if a temporary restraining order does not issue far
17 outweighs the alleged harm to Defendants of their duty to comply with the law.

18 4. As in most trademark cases, a temporary restraining order serves the public
19 interest because it prevents confusion in the market. Here, actual confusion is already occurring
20 and a temporary restraining order would serve to the public's interest by preventing further
21 confusion.

22 5. A temporary restraining order would serve to preserve the status quo in this case
23 until the Court can hear and make a decision on Russell Road's Motion for Preliminary
24 Injunction.

25 6. A bond in the amount of \$100 is appropriate because Defendants have just recently
26 started using the CRAZY HORSE TOO mark and have not yet opened their competing
27 gentlemen's club, such that they will suffer no lost sales, and because Defendants adopted the
28 CRAZY HORSE TOO mark with full knowledge of Russell Road's use and ownership of the

1 CRAZY HORSE III mark and position that Defendants' use would constitute infringement.

2 **THEREFORE, IT IS HEREBY ORDERED THAT**, pending a decision on Plaintiff's
3 Motion for Preliminary Injunction

4 1. All named Defendants, including without limitation, all of their respective owners,
5 officers, managers, employees, agents, partners, and all other persons acting in concert or
6 participation with Defendants, are hereby temporarily restrained and enjoined from opening a
7 gentlemen's club under the CRAZY HORSE TOO name or mark prior to June 1, 2013.

8 **IT IS HEREBY FURTHER ORDERED THAT**

9 1. Upon the issuance of this Order, Russell Road shall provide security for this
10 temporary restraining order by tendering \$100 cash to the Clerk of the Court pursuant to Local
11 Rule 67-1;

12 2. Defendants shall file and serve their opposition to Russell Road's Motion for
13 Preliminary Injunction by May 13 _____, 2013;

14 3. Russell Road shall file and serve its reply brief in support of its Motion for
15 Preliminary Injunction no later than May 17 _____, 2013; and

16 4. The parties shall appear for hearing and oral argument on Russell Road's Motion
17 for Preliminary Injunction on May 22 _____, 2013 at 10:00 AM . in Courtroom 6A , at
18 the Lloyd D. George Federal Courthouse, 333 South Las Vegas Boulevard, Las Vegas, Nevada.

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ENTERED May 10, 2013 at 1:50 PM.

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HON. JAMES C. MAHAN
UNITED STATES DISTRICT JUDGE

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