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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

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

17 Plaintiff,

**ORDER GRANTING
 PLAINTIFF RUSSELL ROAD FOOD AND
 BEVERAGE, LLC'S MOTION FOR
 PRELIMINARY INJUNCTION**

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 YAZDANPANA, 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

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,

19 Defendants.

20 Plaintiff Russell Road Food and Beverage, LLC's Motion for Preliminary Injunction was
21 heard on May 22, 2013 at 10:00 a.m. Plaintiffs and Defendants were represented by counsel at
22 the hearing.

23 **AFTER FULL CONSIDERATION** of the moving, opposition, and reply papers and
24 oral argument presented by counsel, and good cause appearing therefor, Plaintiff's Motion for
25 Preliminary Injunction is GRANTED as follows.

26 **THE COURT HEREBY FINDS THAT**

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

1 that a likelihood of confusion exists.

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

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

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

22 5. A preliminary injunction would serve to preserve the status quo in this case until a
23 final determination on the merits.

24 6. Defendants will suffer minimal damage, if any at all, by the issuance of a
25 preliminary injunction. Therefore, a bond in the amount of \$100 is appropriate because
26 Defendants have just recently started using the CRAZY HORSE TOO mark and have not yet
27 opened their competing gentlemen's club, such that they will suffer no lost sales, and because
28 Defendants adopted the CRAZY HORSE TOO mark with full knowledge of Russell Road's use

1 and ownership of the CRAZY HORSE III mark and position that Defendants' use would
2 constitute infringement.

3 **THEREFORE, IT IS HEREBY ORDERED THAT**, pending a a full trial on the merits

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 preliminarily enjoined from using the CRAZY HORSE
7 TOO, CRAZY HORSE TOO SALOON, and CRAZY HORSE trademarks and names (alone or in
8 combination with other letters, words, or designs), as well abbreviations thereof such as CH2,
9 CH2LV, CHTOO, and CHTOOLV, in connection with the advertising, promotion, operation, or
10 provision of a gentlemen's club in the City of Las Vegas and State of Nevada.

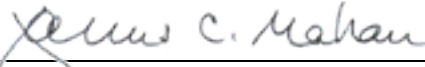
11 2. All named Defendants, including without limitation, all of their respective owners,
12 officers, managers, employees, agents, partners, and all other persons acting in concert or
13 participation with Defendants, are hereby preliminarily enjoined and ordered to (i) remove or
14 cover up all billboards and signage featuring the CRAZY HORSE TOO, CRAZY HORSE TOO
15 SALOON, and/or CRAZY HORSE trademarks and names (alone or in combination with other
16 letters, words, or designs), as well abbreviations thereof such as CH2, CH2LV, CHTOO, and
17 CHTOOLV; (ii) remove or disable all websites that feature—whether in the domain name url or
18 website itself—the CRAZY HORSE TOO, CRAZY HORSE TOO SALOON, and/or CRAZY
19 HORSE trademarks and names (alone or in combination with other letters, words, or designs), as
20 well abbreviations thereof such as CH2, CH2LV, CHTOO, and CHTOOLV, including, but not
21 limited to, all websites at www.crazyhorsetoogentlemensclub.com,
22 www.crazyhorselasvegas.com, www.crazyhorselv.com, and www.ch2lv.com; and (iii) remove or
23 withdraw all other promotional materials featuring the CRAZY HORSE TOO, CRAZY HORSE
24 TOO SALOON, and/or CRAZY HORSE trademarks and names (alone or in combination with
25 other letters, words, or designs), as well abbreviations thereof such as CH2, CH2LV, CHTOO,
26 and CHTOOLV, including, but not limited to, any flyers, advertisements, job postings, radio
27 spots, and TV advertisements.

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IT IS HEREBY FURTHER ORDERED THAT

1. The \$100 cash deposit previously made by Russell Road as a security for the temporary restraining order shall remain on deposit with the Clerk of the Court as security for this preliminary injunction pending the final disposition of this case or further order of this Court.

ENTERED this 22nd day of May, 2013.



HON. JAMES C. MAHAN
UNITED STATES DISTRICT JUDGE