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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHIGE TAKIGUCHI, FUMI NONAKA,)
MITSUAKI TAKITA, KAORUKO KOIZUMI,)
TATSURO SAKAI, SHIZUKO ISHIMORI,)
YOKO HATANO, YUKO NAKAMURA,)
HIDEHITO MIURA, YOSHIKO TAZAKI,)
MASAAKI MORIYA, HATSUNE HATANO,)
SATORU MORIYA, HIDENAO TAKAMA,)
SHIGERU KURISU, SAKA ONO,)
KAZUHIRO MATSUMOTO, KAYA)
HATANAKA, HIROKA YAMAJIRI,)
KIYOHARU YAMAMOTO, JUNKO)
YAMAMOTO, KOICHI INOUE, AKIKO)
NARUSE, TOSHIMASA NOMURA, and)
RITSU YURIKUSA, Individually and)
on Behalf of All Others Similarly)
Situating,)

Plaintiffs,)

vs.)

MRI INTERNATIONAL, INC., EDWIN J)
FUJINAGA, JUNZO SUZUKI, PAUL)
MUSASHI SUZUKI, LVT, INC., dba)
STERLING ESCROW, and DOES 1-500,)

Defendants.)

2:13-cv-01183-JAD-VCF

ORDER ON MOTION FOR
PRELIMINARY INJUNCTION

1 Plaintiffs bring this putative class action against defendants
2 in connection with the alleged operation of a Ponzi scheme.
3 Defendant MRI is alleged to be a Nevada corporation headquartered
4 in Las Vegas with a branch in Tokyo, Japan, operated by its
5 president and CEO, Edwin Fujinaga. MRI's Tokyo operations were
6 controlled by Junzo Suzuki. Together with his son, Paul Musashi
7 Suzuki, Junzo Suzuki marketed and solicited for purchase MRI
8 securities in Japan. The Suzukis reside in Tokyo and Hawaii.

9 On behalf of the proposed class, plaintiffs have moved for a
10 preliminary injunction "restraining and enjoining Junzo Suzuki and
11 Paul Suzuki, their agents and representatives, from transferring,
12 converting, selling, concealing, any of their assets for purposes
13 other than normal living expenses." (Doc. #133). Plaintiffs also
14 ask that the Suzukis be ordered to immediately disclose the nature
15 and location of any assets. The Suzukis have opposed (#135), and
16 plaintiffs have replied (#139).

17 MRI purports to deal in the purchase and collection of
18 "Medical Accounts Receivable" ("MARs"). Since the late 1990s, MRI
19 has recruited more than 8,000 Japanese investors paying in more
20 than a billion dollars, promising a solid and safe rate of return
21 on their investment. In promotional materials, the company
22 promised that investor funds would be: (1) maintained in a separate
23 "lockbox" managed by an independent escrow company; (2) used only
24 to transact in MARs; and (3) guaranteed by state laws. Plaintiffs
25 argue none of this was true, and that in fact MRI used investor
26 funds to pay off earlier investors, conduct its business, and
27 finance the lavish lifestyles of its principals, resulting in an
28 inability to now repay its investors.

1 In 2012, customers began complaining to authorities in Japan
2 that MRI was not paying on matured investments. Japan's Financial
3 Services Agency ("FSA") began an investigation. On April 26, 2013,
4 the FSA (Kanto Local Finance Bureau) revoked MRI's license. The
5 FSA adopted the recommendation of the Japanese Securities and
6 Exchange Surveillance Commission ("SESC"), which found that MRI had
7 failed to separately hold investor monies and since at least 2011
8 had commingled those assets with MRI's own, that investor monies
9 had been used to pay dividends to other investors, that MRI had
10 made false statements to FSA during the investigation, and that MRI
11 had planned to continue soliciting new investors in 2013, even
12 after it became clear it could no longer repay the ones it already
13 had. (Doc. # 133-4 (Igarishi Decl. ¶ 2 & Exs. A-B)).

14 MRI has stopped paying on its maturing contracts and already
15 owes more than \$3,300,000.00, and that number continues to
16 increase. (Doc. #134 (Taenaka Decl. ¶ 18)).

17 The third amended complaint ("TAC") alleges, and plaintiffs
18 assert, that the Suzukis were primary actors in consummating MRI's
19 fraud on investors, that they were in charge of virtually all of
20 MRI's solicitations and interactions with the investors, and that
21 they repeatedly made many of the misrepresentations alleged. In
22 particular, plaintiffs allege the Suzukis represented, at seminars
23 and other social gatherings, that: (1) investor funds would be
24 used only to purchase MARS; (2) U.S. laws protected investors'
25 funds; (3) investor funds would be kept in a separate "lockbox" in
26 escrow, which account was a specialized bank account used for
27 collecting receivables and which required that the face value of
28 the receivables purchased exceed the actual amount paid to purchase

1 them; (4) only companies that passed a rigorous test were eligible
2 to open lockbox accounts; (5) the escrow company made it impossible
3 for MRI to touch investors' assets; and (6) the escrow system
4 ensured segregation of funds, which protected the funds from
5 creditors in the event that MRI became insolvent. (TAC ¶¶ 46, 47,
6 51, 52, 53, 57, 58, 59, 63, 64; see also Doc. #133-5 (Tobita Decl.
7 ¶ 4)). That all or most of these statements were not true is
8 supported by ample evidence. (See Doc. #134 (Taenaka Decl. Exs. V,
9 W, X, Y)).

10 Various of the Suzukis' assets have been provisionally
11 attached by the courts in Japan. (*Id.* Hiroshi Yamaguchi Decl. ¶
12 2). However, since MRI's fraud was uncovered, plaintiffs allege
13 the Suzukis have taken steps to conceal their interests in some of
14 their assets, suggesting, the plaintiffs argue, that the Suzukis
15 will continue to dissipate, hide, conceal, or distance themselves
16 from these and other assets before judgment is reached in this
17 litigation. Accordingly, the plaintiffs move for an order freezing
18 the Suzukis' assets.

19 "An injunction is a matter of equitable discretion and is an
20 extraordinary remedy that may only be awarded upon a clear showing
21 that the [plaintiffs are] entitled to such relief." *Earth Island*
22 *Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010).

23 To obtain a preliminary injunction, plaintiffs must show: (1)
24 they will probably prevail on the merits; (2) they will likely
25 suffer irreparable injury if relief is denied; (3) the balance of
26 equities tips in their favor; and (4) an injunction is in the
27 public interest. *Winter v. Natural Res. Defense Council, Inc.*, 555
28 U.S. 7, 129 S. Ct. 365, 374 (2008).

1 Alternatively, an injunction may issue under the “sliding
2 scale” approach if there are serious questions going to the merits
3 and the balance of hardships tips sharply in the plaintiffs’ favor,
4 so long as plaintiffs still show a likelihood of irreparable injury
5 and that an injunction is in the public interest. *Alliance for*
6 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).
7 “Serious questions are those which cannot be resolved one way or
8 the other at the hearing on the injunction.” *Bernhardt v. Los*
9 *Angeles County*, 339 F.3d 920, 926-27 (9th Cir. 2003). They “need
10 not promise a certainty of success, nor even present a probability
11 of success, but must involve a ‘fair chance of success on the
12 merits.’” *Republic of the Philippines v. Marcos*, 862 F.2d 1355,
13 1362 (9th Cir. 1988).

14 1. Likelihood of Success on the Merits

15 Plaintiffs allege, and the Suzukis have not disputed, that the
16 Suzukis were virtually the sole face of MRI in Japan. It was the
17 Suzukis who marketed MRI securities, solicited plaintiffs to
18 invest, and repeatedly represented at seminars, social gatherings,
19 and tours that investing in MRI was safe and secure – a promise
20 that plaintiffs have already shown was demonstrably false. Paul
21 Musashi Suzuki also made these and similar misrepresentations in
22 VIMO.

23 The Suzukis also controlled MRI’s Japan operations. Junzo
24 Suzuki was MRI’s foreign registered representative, which vested
25 him with authority to act on the corporation’s behalf, and he was
26 in control of MRI’s Tokyo office. (Mot. Prelim. Inj. Yamaguchi
27 Decl. ¶¶ 2-3). Paul Musashi Suzuki managed the Tokyo branch. (TAC ¶
28 90).

1 While the Suzukis argue that they had no knowledge that MRI
2 was defrauding its investors until Japanese authorities began their
3 investigation¹, the record establishes that the Suzukis were
4 intimately involved in MRI's operations and either knew, or
5 recklessly disregarded, that MRI was perpetrating a fraud. Though
6 the Suzukis argue that their roles were limited to marketing and
7 solicitation and that they had no involvement in, or access to,
8 MRI's financial dealings, they have not disputed that they were,
9 along with Fujinaga, the principal individuals controlling and
10 coordinating the business of MRI. Their critical positions within
11 MRI is corroborated by the fact that both Suzukis were present at
12 several meetings with Fujinaga in which issues fundamental to MRI's
13 business were discussed, including its affiliate companies and the
14 contents of the annual business report. (See TAC ¶ 76 (citing
15 filings in S.E.C. case against Fujinaga and MRI that describe audio
16 recordings seized from Junzo Suzuki's residence in Tokyo)).

17 Plaintiffs also allege that the Suzukis were involved in
18 drafting and submitting the annual reports to Japanese regulators,
19 which materially conflicted with materials sent to MRI's investors.
20 That the Suzukis were involved in drafting the annual reports is
21 supported by the fact that Junzo Suzuki submitted the reports under
22 his seal, (Doc. #140 (Igarishi Decl. ¶ 3), and apparently by the
23 audio recordings referenced in the S.E.C. case. Ample evidence
24 exists that the figures in these documents were inconsistent in
25 material ways, (see Doc. #140 (Igarish Decl. ¶¶ 4-9 & Exs A-H), and
26

27 ¹ The Suzukis believe documents prepared by the Japanese SESC will
28 corroborate that they had no knowledge of the fraud. However, the court
does not have before it any such documents.

1 that demonstrates at least serious questions going to whether the
2 Suzukis were on actual or constructive notice of the discrepancies,
3 and thus of MRI's fraud.

4 In addition, the Suzukis and their close relatives received
5 commissions in excess of twenty-two million dollars between 2009
6 and 2013. These substantial commissions, coupled with the fact
7 that virtually all of the control of MRI was exercised by Fujinaga
8 and the Suzukis, supports an inference that the Suzukis were aware
9 of - or should have been aware of - the fraud. (Taenaka Decl. ¶¶
10 7-12)).

11 Finally, faxes sent by Fujinaga to the Suzukis beginning in
12 April 2012 essentially informed the Suzukis that MRI was engaged in
13 a Ponzi scheme. (Taenaka Decl. ¶ 13 & Ex. U). And, even if the
14 faxes could have been interpreted by the Suzukis as revealing only
15 that MRI's funds were not being distributed to investors because of
16 an escrow audit, it is not disputed that the Suzukis continued to
17 solicit investors and represent MRI as a safe investment when they
18 knew, or should have known, that MRI could not repay its maturing
19 investments. Significantly, Junzo Suzuki exercised considerable
20 control over the activities when he directed Fujinaga to pay
21 investors who might complain to the authorities. (Doc. #134
22 (Taenaka Decl. Ex. U)). Such conduct creates a strong inference
23 that the Suzukis attempted to conceal MRI's fraud.

24 On the same facts presented to this court, the Japanese court
25 has attached the Suzukis' assets in Japan. Further, in the related
26 action filed by the S.E.C. against, among others, Fujinaga and MRI,
27 Fujinaga and MRI have entered into a stipulated preliminary
28 injunction and asset freeze. Finally, this court has already

1 issued a preliminary injunction against MRI and Fujinaga, as
2 officer of MRI, after finding that plaintiffs were likely to
3 succeed on their claims of fraud, breach of contract, and
4 securities violations against MRI and Fujinaga, as officer of MRI.

5 The Suzukis argue that the fact they transferred their own
6 funds to MRI and encouraged their family members to invest with MRI
7 shows they did not have any knowledge of MRI's fraud. However,
8 that the Suzukis encouraged family members to invest with MRI is
9 not supported by any evidence in the record. Further, combined
10 with the faxes in which they requested that Fujinaga pay certain
11 investors, (Doc. #134 (Taenaka Decl. Ex. U)), the fact the Suzukis
12 transferred some of their own funds to MRI in 2012 supports an
13 inference that they did so to avoid detection by authorities of
14 MRI's massive fraud.

15 Fraud requires the plaintiffs to show:

- 16 (1) a false representation made by the defendant;
- 17 (2) the defendant's knowledge or belief that the
18 representation was false (or an insufficient basis
19 for making the representation);
- 20 (3) the defendant's intention to induce the plaintiff to
21 act or to refrain from acting in reliance upon the
22 misrepresentation;
- 23 (4) the plaintiff's justifiable reliance upon the
24 misrepresentation; and
- 25 (5) damage to the plaintiff resulting from such
26 reliance.

27 *Bulbman, Inc. v. Nev. Bell*, 825 P.2d 588, 592 (Nev. 1992).

28 Plaintiffs' allegations and the evidence produced establishes that
plaintiffs are likely to prove that the Suzukis repeatedly made
false representations to the plaintiffs in order to sell MRI
securities. The evidence is persuasive that the Suzukis were aware

1 of, or should have been aware of, the fraud at the time they made
2 the representations and at the time they received commissions from
3 MRI. Plaintiffs invested large sums of money with defendants after
4 the Suzukis promised the investments would be subject to strict
5 safeguards. The Suzukis made false representations about the
6 manner in which plaintiffs' investments would be handled.
7 Plaintiffs make several specific allegations of misstatements by
8 each Suzuki, including that: (1) investor funds would only be used
9 to purchase MARS (both); (2) U.S. laws protected investors' funds
10 (both)²; (3) investor funds would be kept in a separate "lockbox"
11 in escrow, which account was a specialized bank account used for
12 collecting receivables and which required that the face value of
13 the receivables purchased exceed the actual amount paid to purchase
14 them (both); (4) only companies that passed a rigorous test were
15 eligible to open lockbox accounts (both); (5) the escrow company
16 made it impossible for MRI to touch investors' assets (both); and
17 (6) the escrow system ensured segregation of funds, which protected
18 the funds from creditors in the event that MRI became insolvent
19 (Paul Musashi Suzuki). They knew these representations were false,
20 they intended for the representations to induce the plaintiffs into
21 making investments, the plaintiffs justifiably relied on the
22 representations in deciding to enter into contracts with MRI, and
23 plaintiffs will suffer the damage of losing most, if not all, of
24 the money they invested. The court therefore concludes that
25 plaintiffs are likely to succeed on their fraud claim against the
26 Suzukis, or at the very least there are serious questions going to

27
28 ² The TAC also details several statements made by Paul Musashi Suzuki
in VIMO that relate to this general statement.

1 that claim.

2 For the same reasons, plaintiffs are also likely to prevail on
3 their claim of constructive trust. "A constructive trust has been
4 defined as a remedial device by which the holder of legal title to
5 property is held to be a trustee for the benefit of another who in
6 good conscience is entitled to it. The requirement that a
7 constructive trustee have title (not mere possession) to the
8 property involved is critical to the imposition of a constructive
9 trust." *Danning v. Lum's, Inc.*, 478 P.2d 166, 167 (Nev. 1970).
10 "[I]mposition of a constructive trust requires: '(1) [that] a
11 confidential relationship exists between the parties; (2) retention
12 of legal title by the holder thereof against another would be
13 inequitable; and (3) the existence of such a trust is essential to
14 the effectuation of justice.'" *Waldman v. Maini*, 195 P.3d 850, 857
15 (Nev. 2008). Constructive trust "is not 'limited to [fraud and]
16 misconduct cases; it redresses unjust enrichment, not wrongdoing.'" *Id.*
17 A constructive trust may be "flexibly fashioned . . . to
18 provide relief where a balancing of interests in the context of a
19 particular case seems to call for it." *In re N. Am. Coin &*
20 *Currency, Ltd.*, 767 F.2d 1573, 1575 (9th Cir. 1985).

21 The Suzukis argue that one who purchases a tainted asset in
22 good faith may not be subjected to a constructive trust, and
23 plaintiffs cannot show the Suzukis had actual or constructive
24 notice of the fraud at the time they received the tainted
25 commissions. *See Harris Trust & Sav. Bank v. Salomon Smith Barney,*
26 *Inc.*, 530 U.S. 238, 51 (2000). As the court has previously
27 concluded, there is a substantial likelihood that plaintiffs will
28 prove that the Suzukis knew of the fraud. The Suzukis repeatedly

1 offered the plaintiffs what they represented was a safe and secure
2 investment, and the plaintiffs in turn invested their assets, and
3 in some cases their life savings, with MRI. Plaintiffs have
4 established that there are at least serious questions as to whether
5 such actions on the part of the Suzukis created a confidential
6 relationship. The Suzukis, along with Fujinaga, were the
7 principals in MRI's fraudulent scheme, and they obtained
8 substantial commissions that came directly from plaintiffs'
9 investments funds. Thus, the court finds plaintiffs are likely to
10 succeed on their a constructive trust claim as to those assets of
11 the Suzukis that can be traced in whole or in part to the
12 commissions they received from MRI. Plaintiffs have shown at least
13 serious questions going to the merits of their constructive trust
14 claim.

15 2. Irreparable Harm

16 While, in general, harm that can be compensated with monetary
17 damages is insufficient to establish a right to injunctive relief,
18 irreparable harm may be demonstrated by showing a likelihood of
19 dissipation of the claimed assets, or other inability to recover
20 monetary damages, if relief is not granted. *Johnson v. Couturier*,
21 572 F.3d 1067, 1085 (9th Cir. 2009); *see also Conn. Gen. Life Ins.*
22 *Co. v. New Images of Beverly Hills*, 321 F.3d 878, 881 (9th Cir.
23 2003). Simple allegations of past fraud are insufficient, but
24 allegations of past fraud coupled with a present ability to
25 dissipate funds may satisfy this standard. *See Couturier*, 572 F.3d
26 1067.

27 Plaintiffs assert there is a danger that the Suzukis will
28 improperly dissipate or conceal their assets. Specifically, they

1 point to a rapid series of transactions in May 2013, just after the
2 SESC issued its findings, (see *supra* p. 3), in which a home in
3 Hawaii belonging to "Junzo Suzuki Trust" was ultimately transferred
4 to an entity called Puuikena Investments, LLLP, which was formed by
5 Paul Musashi Suzuki and Catherine Suzuki (Junzo Suzuki's children)
6 the same day the transfers began. (See Doc. #134 (Taenaka Decl. ¶¶
7 3-4 & Ex. B)). Puuikena Investments is not as readily associated
8 with the Suzukis as the Junzo Suzuki Trust. Similar transfers were
9 made to another piece of real property located in Hawaii. (Taenaka
10 Decl. ¶¶ 5). In addition, an entity controlled by the Suzukis -
11 Sonnette³ - cashed out a life insurance policy on the life of Keiko
12 Suzuki before it could be attached by Japanese courts, depositing
13 the proceeds into its Tokyo bank account; despite the policy having
14 paid out nearly \$230,000.00, and despite the record showing more
15 than eight million dollars in MRI commissions having been wired to
16 Sonnette between 2009 and 2013, only \$4,640 remained in the account
17 as of November 2013. (Doc. #133-3 (Hiroshi Yamaguchi Decl. ¶ 4);
18 Doc. #134 (Taenaka Decl. ¶¶ 7-12)).

19 The Suzukis argue that the assets which plaintiffs identify as
20 improperly dissipated cannot be tied to any commissions received
21 from MRI because they were purchased in 1987, 2002 and 2004 - well
22 before the Suzukis learned of any fraud and well before the class
23 period. However, regardless of whether these particular assets
24 would be subject to a constructive trust, they show that the
25 Suzukis began taking immediate steps, as soon as MRI's fraud was
26 uncovered, to divest themselves from some of their assets. A

27
28 ³ See Mot. Prelim. Inj. Takashi Yamaguchi Decl. ¶ 5.

1 reasonable inference can be drawn that the Suzukis are likely to
2 dissipate or conceal other assets and property paid for, at least
3 in part, with commissions received from MRI. Further, given that
4 the Suzukis and their entities obtained more than twenty-two
5 million dollars over a four- to five-year period, it is likely that
6 some or all of the assets were paid for, at least in part, by
7 commissions.

8 The Suzukis also argue that the assets were not dissipated or
9 hidden but were transferred as part of an estate planning process
10 that had begun ten years earlier, and that all transfers are part
11 of the public record. However, the timing of the transfers is
12 highly suggestive of an attempt to secret assets.

13 The Suzukis argue that the life insurance policy was on the
14 life of Keiko Suzuki and the proceeds were deposited into
15 Sonnette's bank account; neither Keiko Suzuki nor Sonnette is a
16 party to this case. However, the fact that the holder and insured
17 of the policy are not defendants is irrelevant; both are closely
18 related to - and in the case of Sonnette, controlled by - the
19 Suzukis. The Suzukis argue that Sonnette's low bank account
20 balance is not evidence of dissipation because plaintiffs have not
21 shown the money was not spent for normal and ordinary purposes.
22 However, neither have the Suzukis shown the bank account's funds
23 were depleted for normal and ordinary uses. Finally, the Suzukis
24 argue that because the policy was purchased in 2002 it cannot be
25 tied to the MRI commissions, and because Sonnette's bank account
26 has already been frozen by Japanese courts there is no threat of
27 irreparable harm. However, the fact that the Suzukis cashed out a
28 life insurance policy at or around the same time MRI's fraud was

1 uncovered suggests an intent to conceal and/or dissipate their
2 assets so that they might not be reached by any judgment in this
3 case, regardless of whether Sonnette's bank account is now frozen
4 and regardless of whether the policy was purchased with MRI
5 commissions.

6 Finally, the Suzukis argue that the property transfers took
7 place more than five months before the plaintiffs filed their
8 motion, that plaintiffs have twice withdrawn their request against
9 the Suzukis, and that there is no evidence of current asset
10 dissipation, which undercut any alleged urgency or threat of
11 irreparable harm. Any delay in seeking injunctive relief against
12 the Suzukis does not preclude a finding of irreparable harm in this
13 case.

14 Several named and putative plaintiffs have submitted
15 declarations or statements in this action detailing how they have
16 invested substantial sums of money in MRI - in some cases their
17 life savings. As discussed in this court's prior orders, it is
18 clear that plaintiffs' recovery from MRI and Sterling Escrow is
19 likely to be minimal. As plaintiffs have proffered evidence
20 showing that the Suzukis have taken steps to distance themselves
21 from their assets since MRI's fraud was revealed, the court
22 concludes that there is a danger that, unless restrained, they will
23 continue to do so before final judgment is rendered. Given the
24 substantial commissions earned by the Suzukis, it is likely that a
25 good portion of their assets were paid for with those commissions -
26 commissions that undoubtedly came directly from plaintiffs'
27 investments. A dissipation of these assets would make it
28 impossible to provide any effective relief to the thousands of

1 investors in this case. Plaintiffs face the immediate and
2 irreparable harm of not being able to recover their investments
3 unless the Suzukis' assets are frozen.

4 3. Balance of Equities

5 As already discussed, the plaintiffs have invested
6 substantial sums of money in MRI, including in some cases their
7 life savings, and they will likely not be able to secure any
8 recovery if the Suzukis are not prevented from further dissipating
9 or hiding their assets. An asset freeze would allow the Suzukis to
10 continue paying their normal living expenses and legal fees but
11 would prevent them from concealing or dissipating assets without
12 specific leave of court. Accordingly, the balance of these
13 equities tilts sharply in plaintiffs' favor.

14 4. Public Interest

15 "The public interest inquiry primarily addresses impact on
16 non-parties rather than parties." *Sammartano v. First Judicial*
17 *Dist. Court*, 303 F.3d 959, 974 (9th Cir. 2002). Here, there would
18 be no harm to the public interest should an injunction be issued.
19 The court concludes the public interest favors the issuance of an
20 injunction.

21 Plaintiffs seek the freezing of the Suzukis' assets. The
22 court has inherent equitable power to grant an asset freeze. *Sec.*
23 *& Exch. Comm'n v. Int'l Swiss Invs. Corp.*, 895 F.2d 1272, 1276 (9th
24 Cir. 1990). While the court does not have the authority to freeze
25 assets where the only relief the plaintiffs seek is legal, monetary
26 damages, *Couturier*, 572 F.3d at 1083-84, an asset freeze is
27 properly awarded where the plaintiffs have shown they have an
28 equitable interest in the assets sought to be frozen. *Textron Fin.*

1 *Corp. v. Unique Marine, Inc.*, 2008 WL 4716965 (S.D. Fla. 2008) (the
2 court "can order an asset freeze as part of preliminary injunctive
3 relief only with respect to assets in which an equitable interest
4 is claimed and established"). As discussed, plaintiffs have
5 demonstrated they are likely to have an equitable interest in funds
6 currently held by the Suzukis. Accordingly, an award of injunctive
7 relief freezing the Suzukis' assets that are traceable to the
8 commissions they received from MRI is proper.

9 Although the plaintiffs also seek expedited and particularized
10 discovery into the Suzukis' assets, the court, in a separate order,
11 has denied the motions to dismiss plaintiffs' securities causes of
12 action. Accordingly, the court will not separately order discovery
13 into the Suzukis' assets but will allow such to be conducted in
14 accordance with the normal discovery order of this case.

15 The court therefore concludes as follows.

16 1. There is good cause to believe that Junzo Suzuki and Paul
17 Musashi Suzuki have engaged in fraudulent conduct such that
18 plaintiffs are likely to prevail on the merits of their state law
19 and securities fraud claims as well as their claim of constructive
20 trust;

21 2. There is good cause to believe that before this action
22 reaches final judgment immediate and irreparable harm will result
23 from the Suzukis' dissipation or concealment of their assets;

24 3. Balancing the equities, the potential harm to the
25 plaintiffs substantially and sharply outweighs the harm to the
26 Suzukis if an injunction is issued; and

27 4. Weighing the equities and considering plaintiffs'
28 likelihood of success on the merits, equitable relief is in the

1 public interest.

2 It is therefore ordered that except as necessary for normal
3 living expenses and legal fees, defendants Junzo Suzuki, Paul
4 Musashi Suzuki, their agents and representatives, and all persons
5 and entities under the control of or acting in concert with either
6 of them be restrained and enjoined from:

7 A. Directly or indirectly transferring, converting, selling,
8 concealing, disbursing, spending, withdrawing,
9 liquidating, encumbering, pledging, assigning, or
10 otherwise disposing of any assets, wherever located, that
11 are:

- 12 1. Owned or controlled by Junzo Suzuki or Paul Musashi
13 Suzuki, or their affiliates or by any person or
14 entity under the control of either of them; or
- 15 2. In the actual or constructive possession of Junzo
16 Suzuki or Paul Musashi Suzuki, or their affiliates
17 or by any person or entity under the control of
18 either of them; or
- 19 3. Owned, controlled by, or in the actual or
20 constructive possession of any corporation,
21 partnership, or other entity directly or indirectly
22 owned, managed, or controlled by or under common
23 control with Junzo Suzuki or Paul Musashi Suzuki;

24 B. Opening or causing to be opened any safe deposit box
25 titled in the name of or for the benefit of Junzo Suzuki
26 or Paul Musashi Suzuki, or their companies, affiliates,
27 or subsidiaries, or subject to access by any of them;

28 C. Directly or indirectly destroying, secreting, defacing,

1 transferring or otherwise altering or destroying any
2 documents concerning, evidencing, or relating to the
3 business, assets, and financial affairs of Junzo Suzuki
4 or Paul Musashi Suzuki, or of any business or entity
5 affiliated with either of them or under their control.

6 IT IS FURTHER ORDERED that any financial institution, broker,
7 dealer, or escrow agent having possession, custody, or control of
8 any asset titled in the name of or on behalf of Junzo Suzuki or
9 Paul Musashi Suzuki or by any person or entity owned or controlled
10 by either of them shall:

- 11 A. Hold and retain within its control and prohibit the
12 transfer, encumbrance, pledge, hypothecation, assignment,
13 removal, withdrawal, dissipation, sale, or other disposal
14 of any such asset, other than as authorized by further
15 order of the court;
- 16 B. Deny access by anyone to any safe deposit box titled in
17 the name of or for the benefit of Junzo Suzuki or Paul
18 Musashi Suzuki or of any person or entity under the
19 control of either of them or otherwise subject to access
20 by either of them.

21 Defendants may petition the court to modify this order to
22 allow the transfer, conversion, sale, disbursement, spending,
23 withdrawing, liquidation, encumbrance, pledging, assignment, or
24 other disposal of a specific asset for good cause shown. To the
25 extent that any nonparty has an interest in an asset reached by
26 this order, the court will not preclude that nonparty from
27 petitioning the court to modify this order as may be appropriate.

28 The bond in the amount of \$10,000.00 already filed by

1 plaintiffs in this action shall serve as security for the
2 injunctive relief herein ordered by the court.

3 DATED: This 18th day of September, 2014.

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Howard D McKelbin
UNITED STATES DISTRICT JUDGE