

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

SEMIR D. SIRAZI, GREENSTONE	)	
CAPITAL L.L.C. and MARDINI, INC.,	)	
	)	
Plaintiffs,	)	
v.	)	Case No.
	)	
GENERAL MEDITERRANEAN	)	
HOLDING, SA, ORIFARM, SA, and	)	
NADHMI AUCHI,	)	
	)	
Defendants.	)	

**COMPLAINT**

Plaintiffs Semir D. Sirazi ("Sirazi"), Greenstone Capital, L.L.C. ("Greenstone"), and Mardini, Inc. ("Mardini") (collectively "the Sirazi Plaintiffs") by and through their attorneys Scandaglia & Ryan, for their Complaint against General Mediterranean Holdings, SA ("GMH"), Orifarm, SA ("Orifarm"), and Nadhmi Auchi (collectively "the GMH Defendants"), state as follows:

**NATURE OF THE CASE**

1. This case arises out of the GMH Defendants' efforts to leapfrog the Sirazi Plaintiffs, superior creditors of Antoin S. Rezko<sup>1</sup> ("Rezko") by secretly obtaining Rezko's ownership interests in a 62 acre parcel in Chicago's South Loop co-owned with the GMH Defendants (the "Parcel") in exchange for forgiving Rezko's debts to them and providing Rezko with access to millions of dollars in new capital.

---

<sup>1</sup> Since the events alleged in this Complaint, Rezko has been convicted of 12 counts of wire and mail fraud, two counts of money laundering and two counts of aiding and abetting bribery and sentenced to over ten years in prison. Rezko later pleaded guilty to another fraud in another case and was sentenced to 7 1/2 years, to be served concurrently with the sentence in his initial conviction.

2. As described herein, by virtue of a 2006 settlement agreement with Rezko (hereinafter the "Settlement Agreement"), Rezko was required to use his ownership interests in the Parcel to generate capital with which to repay debt guaranteed by the Sirazi Plaintiffs. To ensure that Rezko used his interests in this manner, the Settlement Agreement required Rezko to obtain the Sirazi Plaintiffs' consent before any transfer of his interests and gave the Sirazi Plaintiffs a security interest in any capital generated from Rezko's ownership interests.

3. Notwithstanding these provisions, the GMH Defendants secretly acquired Rezko's ownership interests in exchange for over \$26 million of debt forgiveness and over \$7 million of new capital.

4. To prevent the Sirazi Plaintiffs from blocking their acquisition of Rezko's ownership interests and/or from asserting their superior security interest in the funds paid to Rezko, the GMH Defendants and Rezko developed a scheme designed to deceive the Sirazi Plaintiffs into believing that Rezko continued to maintain his ownership interests and that no proceeds were generated.

5. To advance this scheme, Rezko, with the GMH Defendants' knowledge and, at times, active assistance, made repeated material misrepresentations to the Sirazi Plaintiffs in the Settlement Agreement: falsely promised to use the proceeds from his ownership interests for the benefit of the Sirazi Plaintiffs when he knew he would do no such thing; continually misled the Sirazi Plaintiffs about the status of the security interest they held pursuant to the Settlement Agreement; failed to correct express misrepresentations contained in the Settlement Agreement; and fraudulently failed to disclose to and seek consent from the Sirazi Plaintiffs for the transfer of his ownership interests, as explicitly required by the Settlement Agreement. These actions were undertaken for the explicit purpose of making the Sirazi Plaintiffs believe, incorrectly, that

their status as superior creditors was safe, so that they would forebear on collection efforts and other affirmative steps to ensure that Rezko's ownership interests would be used for their benefit.

6. The GMH Defendants formulated, participated in, and materially aided the fraudulent scheme in at least the following ways: encouraging Rezko's execution of the Settlement Agreement through their attorneys, even though it contained materially false representations about Rezko's ownership interests and authority; acquiring Rezko's ownership interests with full knowledge that Rezko had represented to the Sirazi Plaintiffs that they were secured creditors whose consent was required for any transfer; requiring all parties to maintain secrecy about their acquisition so that it would not be discovered by the Sirazi Plaintiffs; secretly wiring funds to law firms charged with distributing money on behalf of Rezko, so that the Sirazi Plaintiffs could not assert their security interest in the capital before it was disbursed; and never publicizing the transfers until months after they were completed and all funds disbursed.

7. The Sirazi Plaintiffs have brought this action to require the GMH Defendants, as current possessors of Rezko's ownership interests, to provide an accounting, to pay the Sirazi Plaintiffs any proceeds that have been generated from Rezko's ownership interests, and to pay them the damages they incurred as a result of this illicit scheme. The Sirazi Plaintiffs also seek to enjoin the GMH Defendants from further transferring shares obtained from Rezko without first providing notice.

### **PARTIES**

8. Plaintiff Semir D. Sirazi is a citizen of the State of Illinois who resides in Cook County, Illinois.

9. Plaintiff Greenstone Capital, LLC is a limited liability company organized under the laws of the State of Illinois with its principal place of business in Cook County, Illinois. Sirazi is the managing member of Greenstone.

10. Plaintiff Mardini, Inc. is a corporation organized and existing under the laws of the State of Illinois with its principal place of business in Cook County, Illinois. Sirazi is the President of Mardini.

11. Upon information and belief, Defendant General Mediterranean Holding, SA is a Luxembourg based company. Although it has not registered with the Illinois Secretary of State, it conducts business in the state of Illinois.

12. Upon information and belief, Defendant Orifarm, SA is a Luxembourg based company that operates as a subsidiary of GMH. Although it has not registered with the Illinois Secretary of State, it conducts business in the state of Illinois.

13. Upon information and belief, Defendant Nadhmi Auchi is a citizen of the United Kingdom. Upon information and belief, he is the founder, owner and chairman (or equivalent title) of GMH and Orifarm and active participant in the discussions and transactions at issue in this case.<sup>2</sup>

#### **JURISDICTION AND VENUE**

14. This court has general personal jurisdiction over the GMH Defendants.

15. Jurisdiction over GMH is proper because it conducts business in Illinois in a variety of manners:

- (a) It owns 100% of Riverside District Development, LLC (hereinafter "RDD"), an Illinois limited liability corporation, including 50% directly;

---

<sup>2</sup> Auchi has been convicted in absentia of criminal fraud in France. As a result, he currently is not permitted to enter the United States.

- (b) It wired money to bank accounts held in Illinois as part of its acquisition of Rezko's ownership interests;
- (c) Through its subsidiaries, it owns real property in Illinois;
- (d) It previously was a general partner in an Illinois limited liability company;
- (e) It produced documents to the United States Attorney's Office in connection with Rezko's criminal trial;
- (f) Its Illinois counsel agreed to accept service on their behalf of a citation to discover assets against Rezko and not to challenge service on jurisdictional grounds. (5/9/08 Yohalem letter, attached as Ex. 1.)

16. Jurisdiction over Orifarm is proper because it conducts business in Illinois:

- (a) It acquired and still maintains a majority share of two Illinois limited liability companies, MT Property Holdings, LLC (hereinafter, "MT") and Heritage Development Partners, LLC ("Heritage");
- (b) It owns real property in Illinois through RDD.

17. Jurisdiction over Auchi is proper because:

- (a) He acted as chairman and ultimate owner of GMH and Orifarm and was actively involved in their business in Illinois;
- (b) He previously traveled to Illinois to conduct business dealings, including dealings related to the Parcel;
- (c) He was personally involved in and benefitted from the fraudulent scheme described in this complaint.
- (d) As part of the fraudulent scheme, he regularly communicated with individuals in Illinois, including: Rezko; Rezko's partner and co-owner of Heritage, Michael Rumman; Auchi's own Illinois lawyers; Rezko's Illinois lawyers; and Rumman's Illinois lawyer.

18. In the alternative to general jurisdiction, specific jurisdiction over the GMH Defendants exists because the transactions in this case involve sending funds to Illinois, acquiring interests in Illinois real property through ownership of Illinois limited liability corporations, and causing injury to Illinois residents, the Sirazi Plaintiffs.

19. Federal diversity jurisdiction exists pursuant to 28 U.S.C. § 1332 because the Sirazi plaintiffs are residents of Illinois, whereas the GMH Defendants are all subjects of foreign states and because the value of the matter in controversy exceeds \$75,000.

20. Venue in this district is proper pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions on which the claim is based occurred in the Northern District of Illinois.

## **FACTUAL BACKGROUND**

### **Development of Rezko's Ownership Interests**

21. Auchi and Rezko have long been personal friends.

22. In 2002, a Rezko controlled company, Roosevelt-Clark Development, LLC ("Roosevelt-Clark") acquired ownership of the Parcel. In addition to Rezko, Daniel Mahru also owned an interest in Roosevelt-Clark. There were also several limited partners who owned shares in Roosevelt-Clark.

23. Roosevelt-Clark was managed by a general partnership that included GMH, Rezko and Mahru.

24. Mahru was also Rezko's business partner in several other companies, including Rezmar Corporation, ("Rezmar") and Western Phase II, LLC ("Western Phase II").

25. Between Rezmar and Western Phase II, Mahru and Rezko had accumulated several millions of dollars in debt to Sirazi, Mardini and Greenstone.

26. In July 2005, Mahru secured a potential buyer for the Parcel for \$175 million. The offer was contingent upon securing certain tax incentives from the City of Chicago.

27. The mayor's office informed Mahru that it would provide such tax incentives if Rezko's interest in the project was bought out.

28. Despite Mahru's efforts, Rezko refused to sell his interests in Roosevelt-Clark.

29. Neither Rezko nor Auchi informed any of the limited partners of this offer.

30. Instead, in August 2005, GMH loaned Rezko approximately \$4 million with which to purchase all of Mahru's interests in the companies in which he and Rezko were partners, including Rezmar, Western Phase II and Roosevelt-Clark.

31. Shortly thereafter, upon Rezko and Auchi's direction, Roosevelt-Clark sold its interest in the Parcel to GMH for \$131 million, \$44 million less than had been offered months earlier.

32. Though Roosevelt-Clark lost its interest in the Parcel, Rezko and Auchi structured ownership of the Parcel in such a way that both of them would reap the benefits of the reduced sale price.

33. Two new companies were formed in order to structure the ownership in a way beneficial to Rezko and Auchi: Riverside District Development, LLC ("RDD") and Heritage.

34. Under the terms of ownership, RDD directly owned the parcel. GMH and Heritage each owned 50% of RDD, however GMH was entitled to a preferred return from RDD on its entire \$131 million capital investment plus 12% annual interest. (A copy of a chart summarizing the respective ownership positions of Heritage and GMH is attached as Ex. 2.)

35. Because the value of the Parcel was considerably higher than the price paid by GMH, Heritage had significant worth. For example, if the price offered to Mahru for the Parcel was its market value, then there would be a \$44 million difference between the price at which RDD could sell the Parcel and the money owed to GMH as a preferred payment.

36. Since Heritage was entitled to 50% of the remaining profits, Heritage's ownership interest would be worth \$22 million, even though Heritage had contributed nothing to the

purchase of the Parcel other than Rezko's ability to facilitate a sale to GMH for a below market price.

37. If RDD could develop the Parcel and sell it for a higher price than had been offered to Mahru, then Heritage's value would be considerably higher.

38. To replace Mahru, Rezko hired Michael Rumman to run the day to day operations of Heritage and named him President. They initially structured Heritage such that Rezko owned an 80% interest and Rumman owned the remaining 20%.

39. At some point in 2006, Heritage was reorganized in a manner such that another Rezko-Rumman company, MT Property Holdings, LLC ("MT") became 100% owner of Heritage. Rezko maintained his 80% ownership of Heritage by owning an 80% interest in MT and Rumman owned the other 20%. Upon information and belief, MT existed solely as a holding company for Heritage.

40. Thus, as of 2006, Rezko owned 80% and Rumman 20% of MT, which owned 100% of Heritage, which owned 50% of RDD, which owned 100% of the Parcel.

41. In addition to their partnership in developing RDD, Auchi and Rezko had numerous other financial dealings.

42. Upon information and belief, from 2002 onwards, Auchi through GMH or its affiliates provided Rezko with tens of millions of dollars of loans for other purposes.

### **The Settlement Agreement**

43. As of May 2006, Rezko owed the Sirazi Plaintiffs millions of dollars through debts incurred by Rezmar and Western Phase II that he had personally agreed to pay. Additionally, Sirazi had guaranteed a \$5 million loan from Republic Bank for Rezmar for which Rezko was also individually responsible should it default.

44. At that time, it appeared that Rezmar was in danger of defaulting on that loan.

45. It was clear that Rezko and his companies were facing financial difficulties. The only significant, unencumbered assets of Rezko's were his indirect ownership interests in the development of the Parcel.

46. At or around that same time, Rezko was planning a private placement offering ("PPO") of up to 28 non-voting shares of Heritage at a price of \$1,250,000 for each share. Rezko told Sirazi and Heritage told its prospective investors, that if Heritage successfully raised these funds through the PPO, Heritage would loan \$30 million back to Rezko and Rezko would use those funds to pay debts Rezko and his companies owed the Sirazi Plaintiffs.

47. To buy time and avoid litigation that would be ruinous for both Rezko, his companies, and his fellow developers of the Parcel, the GMH Defendants, on May 5, 2006, Rezko and Rezmar entered into a settlement agreement with the Sirazi Plaintiffs. (The "Settlement Agreement," attached hereto as Ex. 3.)

48. The Settlement Agreement set out the various debts Rezko and his companies owed the Sirazi Plaintiffs. These debts totaled \$7.7 million. The Settlement Agreement also recognized that Sirazi was continuing to guarantee and provide collateral for the \$5 million loan. It permitted Rezko to seek a brief extension by obtaining financing from another bank, but required him to repay that loan within two months of execution of the Settlement Agreement.

49. The Settlement Agreement was structured so that Rezko could continue with the private placement offering of Heritage so long as he used the proceeds to repay the Sirazi Plaintiffs in a carefully prescribed manner. Thus, the Settlement Agreement explicitly required Rezko to use all proceeds from the PPO to extinguish the Sirazi guarantee by repaying the \$5 million bank loan within three days of receipt of the PPO proceeds.

50. The Settlement Agreement also explicitly gave the Sirazi Plaintiffs a security interest in all other capital or monies generated from Rezko's ownership interests in Heritage.

51. In this way, the Settlement Agreement required Rezko to manage his ownership interests in Heritage so as to use profits and proceeds generated by his interests to repay the various debts he owed to the Sirazi Plaintiffs. To this result, the Settlement Agreement specifically spelled out duties Rezko owed to the Sirazi Plaintiffs, including requiring him to:

- Use any proceeds generated from his ownership interests in Heritage, including the PPO, to repay the \$5 million bank loan within three days of receipt of the proceeds;
- Furnish to the Sirazi Plaintiffs financial documents relating to Heritage;
- Refrain from and block any effort to modify the Heritage Company Documents; and
- Obtain the "the prior written consent of Sirazi/CP [Sirazi]" before he transferred any of his ownership interests in Heritage.

52. The Settlement Agreement also permitted Sirazi to file a UCC Financing Statement to secure his interest in the proceeds generated from Rezko's ownership interests in Heritage. On May 18, 2006, Sirazi filed a UCC Financing Statement with the Illinois Secretary of State, incorporating the language of the Settlement Agreement and serving to give the world notice of his interest in any Distributions from Rezko's ownership interests in Heritage. (UCC Financing Statement; attached hereto as Ex. 4.) "Distributions" was defined broadly to include any capital generated from Rezko's direct or indirect ownership interests in Heritage.

53. Taken as a whole, the Settlement Agreement was structured in such a way as to ensure ownership interests in Heritage would be used for the benefit of the Sirazi Plaintiffs. Moreover, even if Rezko was unsuccessful in raising the capital necessary to repay the Sirazi Plaintiffs through the PPO, the Sirazi Plaintiffs could still use their security interest in Heritage

proceeds and their right to restrict Rezko's transfer of his ownership interests in Heritage to collect on the money to which they were entitled.

54. Unbeknownst to the Sirazi Plaintiffs, the Settlement Agreement contained many false or arguably false material representations and warranties by Rezko.

55. Among other things, Rezko warranted in the Settlement Agreement that he was owner of an 80% interest in Heritage. In fact, Rezko had already begun the PPO, thus diluting his ownership interest, and had not used any of the proceeds from the PPO for the benefit of the Sirazi Plaintiffs.

56. Rezko also warranted that he possessed the authority to enter into the Settlement Agreement and that the Settlement Agreement complied with any and all Heritage Company documents, and that it placed legally binding obligations upon him. Incredibly, Rezko and the GMH Defendants would later try to justify their illicit transactions by claiming that Rezko did not possess the authority to enter into the Settlement Agreement and that therefore Rezko's obligations to Sirazi were void.

#### **The Sirazi Plaintiffs' Suit Against Rezko**

57. Shortly after entering into the Settlement Agreement, Rezko obtained an extension of the \$5 million loan from Mutual Bank that required Sirazi to extend his personal guarantee. (Mutual Bank Loan, Ex. 5.)

58. However, Rezko failed to repay the Mutual Bank loan in the time period required by the Settlement Agreement. He also failed to pay the Sirazi Plaintiffs the monies due under the Settlement Agreement.

59. On November 16, 2006, Mutual Bank demanded that Sirazi pay his guarantee. (Mutual Bank Demand, attached as Ex. 6.)

60. On November 17, 2006, as required by his guarantee, Sirazi was forced to pay the balance of Rezko's loan, then totaling \$5,098,931.70. (Sirazi Payoff documents, attached as Ex. 7.)

61. In December 2006, the Sirazi Plaintiffs commenced a lawsuit attempting to recover the monies due to them under the Settlement Agreement and from Rezko's default. (Law Division Complaint, attached as Ex. 8.)

62. Sirazi did not seek an injunction preventing Rezko from transferring his ownership interests in Heritage or from disbursing the proceeds from such a transfer, because such a transfer was explicitly prohibited by the Settlement Agreement.

63. Moreover, under Illinois law, such a transfer and disbursement amounted to a class three felony. *See* 810 ILCS 5/9-315.01.

64. Thus, the Sirazi Plaintiffs believed that once successful in their suit against Rezko, they would be able to collect against Rezko's ownership interests in Heritage either by recovering the interests themselves through a judgment against Rezko, or, later, by receiving the proceeds from the development of the Parcel.

65. After learning that Rezko had liquidated his ownership interests in Heritage and no longer had any assets, on May 7, 2008, the Sirazi Plaintiffs filed an involuntary bankruptcy petition against Rezko. On August 26, 2008, the bankruptcy court entered an order for relief against Rezko. Rezko's bankruptcy has stayed all pending suits against him.

**GMH Secretly Acquires Rezko's Ownership Interests in Heritage**

66. On October 11, 2006 the government indicted Rezko on various counts of corruption.

67. On November 2, 2006, in his application to be released on bond, Rezko told the Court that his "one remaining asset of significant value" was his "interest in MT Property Holdings, LLC" the value of which was "speculative, incapable of quantification or estimation, and subject to payment only after satisfaction of large prior existing debts." (Motion for Issuance of an Arrest Warrant, attached as Ex. 9.) Based on these representations, Rezko was released on bond.

68. The GMH Defendants decided that it would be in their interest to acquire Rezko's ownership interests in Heritage, now held indirectly through MT. This would give GMH full control of RDD and better enable them to develop the Parcel. It would also allow them to distance themselves publicly from Rezko, notwithstanding Auchi and Rezko's continued friendship and financial dealings. Finally, since Rezko otherwise owed them millions of dollars, the GMH Defendants could use this debt to finance the acquisition of Rezko's shares and thereby have their debts prioritized over debts to other, superior creditors, such as the Sirazi Plaintiffs. The GMH Defendants retained an Illinois law firm to assist them in this effort.

69. Upon information and belief, the GMH Defendants were aware of the Settlement Agreement contemporaneous to its signing and well prior to their acquisition of Rezko's ownership interests in Heritage.

70. Specifically, upon information and belief, by virtue of GMH's ownership of the parcel and Auchi's friendship with Rezko, the GMH Defendants and their lawyers became aware of the Settlement Agreement both from Rezko and from Rezko's attorney, Anthony Licata, and encouraged Rezko to enter into it.

71. The GMH Defendants also were later specifically informed of the Settlement Agreement by Michael Rumman.

72. In addition, the GMH Defendants also had constructive notice of the Settlement Agreement by virtue of the UCC Financing Statement.

73. Upon information and belief, at some point the GMH Defendants obtained a copy of the Settlement Agreement.

74. Because the Settlement Agreement stood in the way of their acquisition of Rezko's shares, the GMH Defendants needed something to give the impending transactions the appearance of legality. Thus, they fabricated the rationalization that the Sirazi Plaintiffs' security interests and contractual rights were void, because notwithstanding his representations and warranties to the contrary, Rezko had lacked authority to enter into the Settlement Agreement.

75. If this legal conclusion were correct, which it was not, it would have meant that Rezko had made materially false representations in the Settlement Agreement concerning his authority.

76. The GMH Defendants also knew that Rezko had never informed the Sirazi Plaintiffs that the Settlement Agreement was void or that he and the GMH Defendants contended their security interests were unenforceable.

77. Nonetheless, despite being fully aware that Rezko was actively misleading the Sirazi Plaintiffs, the GMH Defendants elected pursue transactions with him.

78. Moreover, the acquisition of Rezko's interests was only possible because of Rezko's ongoing fraud.

79. Thus, the GMH Defendants not only were aware that Rezko was defrauding the Sirazi Plaintiffs, but themselves directly benefitted from the Sirazi Plaintiffs being misled.

80. Sometime in early 2007, the GMH Defendants further developed their scheme with Rezko such that GMH would provide Rezko with millions of dollars in liquid assets and

forgive his past debts to them, and in return, Rezko would transfer his ownership interests in Heritage to Orifarm, a subsidiary of GMH.

81. Throughout this process, Rezko and the GMH Defendants would take steps to ensure that the Sirazi Plaintiffs would continue to believe that Rezko maintained his ownership interests in Heritage and was required to use them for the Sirazi Plaintiffs' benefit.

82. Upon information and belief, in March 2007, GMH also offered to purchase Michael Rumman's ownership interests in Heritage and Rumman agreed to this offer.

83. However, prior to formalizing this transaction, the GMH defendants and Rezko decided that in order to obscure the true nature of the transaction, they would structure it so that the payment to Rezko purported to be an "unsecured loan" to Rezko followed by later "forgiveness" of this loan.

84. Thus, on April 4, 2007, GMH provided Rezko with what purported to be another unsecured "loan" of approximately \$3.5 million. Since Rezko was released on bond on the premise that he had no access to capital, any monies paid to Rezko had to be routed through other entities, lest the government become aware of his assets and revoke his bond.

85. To avoid detection, GMH routed the loan to an account held by Rezko's counsel of record in his lawsuit with the Sirazi Plaintiffs. (Motion for Issuance of an Arrest Warrant, attached as Ex. 9, pp. 5-6)

86. On April 5, 2007, Rezko's civil counsel then wired money to various Rezko-friendly persons and entities, including \$700,000 to his wife Rita. (Motion for an Arrest Warrant, Ex. 9, pp. 5-6)

87. Less than four months later, on July 24, 2007, GMH and Fintrade, one of its affiliates, "forgave" loans to Rezko totaling \$26,414,297.92, including the April 4, 2007 loan, as

part of what Rezko's criminal counsel termed in a letter sent to the criminal court under seal (subsequently released), a "reorganization of the ownership structure of the 62 acres." (Heritage Development Partners, LLC Unit Purchase Agreement, attached as Ex. 10; 6/13/07 Duffy letter, attached as Ex. 11.)

88. In this reorganization, Orifarm obtained a 60% ownership interest in Heritage, despite the fact that the Settlement Agreement explicitly forbade Rezko from transferring his ownership interests without the advanced written consent of Sirazi. (Heritage Development Partners, LLC Unit Purchase Agreement, Ex. 10.)

89. Consistent with this reorganization, Heritage also amended its operating agreement to reflect this transfer to Orifarm, despite the fact that Rezko was required by the Settlement Agreement to block any such amendment. (Second Amendment to Operating Agreement of Heritage Development Partners, LLC, attached as Ex. 12.)

90. As part of this transaction, GMH also "loaned" an additional \$200,000 to Rezko by wiring it to his civil counsel. (Motion for an Arrest Warrant, Ex. 9, p. 12.)

91. Finally, the GMH Defendants also acquired Rumman's ownership interests at this time by having Rumman sell his interests to Rezko in exchange for a promissory note for \$1.409 million. GMH then immediately paid the promissory note in full in exchange for Rezko transferring the ownership interests previously held by Rumman to Orifarm. (Rumman Promissory Note, attached as Ex. 13; Heritage Development Partners, LLC Unit Purchase Agreement, Ex. 10.)

92. Rezko and the GMH Defendants undertook this reorganization of Heritage notwithstanding express language in the Settlement Agreement stating that without Sirazi's consent, "[Rezko] shall not agree or otherwise permit any amendment, modification or

restatement of any of the Company Documents [defined to include the Heritage Operating Agreement]" and that without Sirazi's consent "[Rezko] shall not sell, transfer, encumber or pledge any or all of the Ownership Interests." (Settlement Agreement, Ex. 3, §§ V(d)(i) and (iii).)

93. Neither the GMH Defendants nor Rezko ever provided Sirazi advanced notice or sought his consent to this transaction.

94. Neither the GMH Defendants nor Rezko provided any of the documentation of this reorganization as Rezko was required to do "promptly upon receipt thereof." (Settlement Agreement, Ex. 3, § V(d)(ii).)

95. With the GMH Defendant's knowledge and assistance, Rezko also violated 810 ILCS 5/9-315.01 by distributing the proceeds to his friends, family, and lawyers rather than furnishing the proceeds of this transaction to the Sirazi Plaintiffs.

96. Though they often issue press releases when major transactions are completed, the GMH Defendants did not publicly disclose this reorganization, because they did not want to alert the Sirazi Plaintiffs to the transfers.

97. Several months later, the GMH Defendants engaged in another secret transaction with Rezko in which they purchased for Orifarm Rezko's remaining shares of MT, which represented his "sole remaining interest, direct or indirect, in RDD." In this purchase, they wired \$3.8 million to their Illinois counsel, Joseph Ryan, who then distributed the funds as directed by Rezko, and forgave the July 24, 2007 loan to Rezko of \$200,000. (Unit Purchase Agreement, attached as Ex. 14.)

98. GMH authorized its Illinois counsel, Joseph Ryan, to release these funds to Rezko's criminal counsel and Rezko's civil counsel on February 12, 2008. (2/2008 Ryan/Al-

Miqdadi correspondence, attached as Ex. 15; 5/19/08 Yohalem letter; attached as Ex. 16; 5/21/08 Ryan letter, attached as Ex. 17; 5/23/08 Yohalem letter, attached as Ex. 18; Stetler & Duffy letters, Ex. 19.)

99. Once again, neither Rezko nor the GMH Defendants notified the Sirazi Plaintiffs or sought their consent for these transfers and once again these funds were secretly disbursed rather than furnished to the Sirazi Plaintiffs.

100. GMH did not issue a press release at the time of this transfer either.

101. On March 27, 2008, attempting to publicly disassociate from Rezko, Auchi finally issued a statement to a foreign website in which he finally announced that GMH had "secured the minority shares formerly held by Mr. Rezko" and that GMH "look[ed] forward to putting the matter to rest." (3/27/08 Middle East Online Article, attached as Ex. 20.)

102. At that point, all funds used to purchase Rezko's Heritage shares had been disbursed and the Sirazi Plaintiffs had no ability to seize them or otherwise assert their security interest in them.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Tortious Interference with Contractual Relations**

103. The Sirazi Plaintiffs reallege and incorporate their averments in paragraphs 1-102.

104. The Settlement Agreement constituted a valid and enforceable contract between the Sirazi Plaintiffs and Rezko.

105. The GMH Defendants were aware of Rezko's obligations under the Settlement Agreement.

106. The GMH Defendants induced Rezko to breach the Settlement Agreement by arranging for the reorganization of Heritage and by providing Rezko with a source of funds while he stood trial.

107. Rezko breached the Settlement Agreement by transferring his ownership interests in Heritage to the GMH Defendants without Sirazi's consent, by reorganizing Heritage without Sirazi's consent, by failing to provide Sirazi with any of the financial documents relating to Heritage, and by failing to pay any of the proceeds of this sale to the Sirazi Plaintiffs.

108. The Sirazi Plaintiffs have been damaged from this tortious interference. Because Rezko secretly transferred his ownership interests in Heritage to Orifarm and then dispersed all the proceeds from those transfers before the Sirazi Plaintiffs were aware of them, Rezko no longer has assets from which the Sirazi Plaintiffs can recover the monies owed to them. In fact, Rezko currently faces involuntary bankruptcy.

**COUNT II**  
**Aiding and Abetting Fraud**

109. The Sirazi Plaintiffs reallege and incorporate their averments in paragraphs 1-108.

110. Rezko entered into the Settlement Agreement as part of a fraudulent scheme to mislead the Sirazi Plaintiffs about their security interest so that they would forebear on their collection efforts and not take affirmative steps to protect their status as superior creditors.

111. At the time he entered into the Settlement Agreement, Rezko had no intention to abide by its terms.

112. He also made materially false representations about his then ownership interests in Heritage.

113. Under the Settlement Agreement, Rezko had duties to inform Sirazi of any potential transfer of Rezko's ownership interest in Heritage, to obtain Sirazi's consent prior to any

such transfer, and to promptly provide Sirazi with the documents generated during his various transfers of Heritage.

114. Rezko never informed Sirazi, obtained his consent, or provided him documents generated during any of the transfers comprising his liquidation of Heritage.

115. Rezko did not inform Sirazi or provide him any company documents precisely because it was his intent to mislead Sirazi into believing that Rezko still maintained his ownership interests in Heritage so that Sirazi could no longer prevent the transfer or assert his security interest in the proceeds.

116. Absent Rezko fulfilling his duties under the Settlement Agreement to seek Sirazi's consent and to furnish company documents to the Sirazi Plaintiffs, the Sirazi Plaintiffs could not otherwise discover the transfers.

117. If they had known that Rezko was transferring his ownership interests in Heritage without their consent and liquidating the proceeds, the Sirazi Plaintiffs would have enjoined the transfers, or, if unable to enjoin the transfers, attached all funds provided to Rezko in exchange for his ownership interests in Heritage.

118. The Sirazi Plaintiffs have been damaged by this fraud because their security interest has been compromised and they can no longer recover from Rezko, who dispersed all of the proceeds and is now in involuntary bankruptcy.

119. In the alternative, Rezko did not have the authority to enter into the Settlement Agreement.

120. If he did not have the authority to enter into the Settlement Agreement, then his representations in the Settlement Agreement that he possessed such authority the Settlement were materially false.

121. If Rezko did not have the authority to enter into the Settlement Agreement, then he had an ongoing affirmative obligation to notify the Sirazi Plaintiffs of his misrepresentation.

122. Similarly, if Rezko concluded that the Settlement Agreement was void because of his misrepresentations, then he had an ongoing duty to inform the Sirazi Plaintiffs.

123. Rezko never informed the Sirazi Plaintiffs that the Settlement Agreement was void.

124. The Sirazi Plaintiffs were damaged by this fraud because they forebore on taking affirmative steps to obtain the monies to which they were entitled.

125. The GMH Defendants were regularly aware that either: 1) Rezko had a duty to inform the Sirazi Plaintiffs of the impending transactions, seek their consent, and use the proceeds for their benefit; or 2) Rezko had misrepresented his authority in the Settlement Agreement and was continuing to mislead the Sirazi Plaintiffs about the effectiveness of the Settlement Agreement so that they would not take action to enjoin his interests in Heritage.

126. Thus, the GMH Defendants were aware that one way or another the transactions they were undertaking with Rezko were part of a scheme to defraud the Sirazi Plaintiffs and deprive them of their rightful status as preferred creditors.

127. The GMH Defendants substantially aided Rezko in concealing the transactions from Sirazi.

128. As part of this plan, the GMH Defendants wired money to Rezko's counsel rather than to Rezko himself.

129. GMH also invited the participation of Rumman to facilitate the transaction.

130. GMH also made no public announcements about any of these acquisitions until months after they all were completed.

131. Upon information and belief, the GMH Defendants also encouraged all parties to the transactions not to inform Sirazi, and required them to keep these dealings confidential.

**COUNT III**  
**Civil Conspiracy**

132. The Sirazi Plaintiffs reallege and incorporate their averments in paragraphs 1-131.

133. Rezko and the GMH Defendants combined in a concerted action for the purpose of secretly transferring Rezko's shares in Heritage to the GMH Defendants and disbursing the proceeds without obtaining the Sirazi Plaintiffs' consent or tendering the proceeds to the Sirazi Plaintiffs.

134. This purpose was unlawful in that it:

- (a) Amounted to a Class 3 felony under Illinois Law. *See* 810 ILCS 5/9-315.01; and
- (b) Constituted fraud upon the Sirazi Plaintiffs.

135. The means by which this purpose was achieved were also unlawful in that:

- (a) Rezko failed to inform Sirazi or seek his consent prior to the transaction, which constituted fraud;
  - (b) Rezko disbursed the proceeds from his Heritage shares without notifying Sirazi or paying the proceeds to Sirazi, in violation of 810 ILCS 5/9-315.01;
- or, in the alternative,
- (c) Rezko made materially misrepresentations in the Settlement Agreement, knew they were false and voided the Settlement Agreement; but never corrected his misrepresentations so as to deceive the Sirazi Plaintiffs.

136. The GMH Defendants and Rezko acted in a concerted action.

137. In furtherance of this illicit scheme, each of the GMH Defendants and Rezko engaged in tortious acts, as outlined in Counts I and II.

138. With each of the GMH Defendants' knowledge, Rezko also actively defrauded the Sirazi Plaintiffs, both through continuing to misrepresent his ownership interests in Heritage and by failing to make the disclosures required of him under the Settlement Agreement.

139. The Sirazi Plaintiffs have been damaged by this conspiracy because their security interest has been compromised and they can no longer recover from Rezko, who dispersed all of the proceeds and is now in involuntary bankruptcy.

**COUNT IV**  
**Unjust Enrichment**

140. The Sirazi Plaintiffs reallege and incorporate their averments in paragraphs 1-139.

141. The Settlement Agreement granted Sirazi a security interest in any proceeds from Rezko's ownership interests of Heritage Development Partners.

142. The Settlement Agreement also explicitly forbade Rezko from transferring his Heritage shares and from reorganizing Heritage without Sirazi's consent.

143. Taken together, these provisions meant that Rezko's ownership interest in Heritage was to be used first and foremost to pay down his debts to the Sirazi Plaintiffs.

144. Instead of Rezko's Heritage interests being used in this manner, they were transferred to the GMH Defendants in exchange for over \$20 million in debt forgiveness and \$7.5 million in capital, none of which was paid to the Sirazi Plaintiffs.

145. Thus, the GMH Defendants, as creditors of Rezko with inferior claims to Rezko's Heritage interests and the proceeds therefrom, were able to jump ahead of the Sirazi Plaintiffs and have their debts repaid first.

146. Conversely, any payments that may be made to the Sirazi Plaintiffs through Rezko's bankruptcy estate will be for a small fraction of the amounts owed to the Sirazi Plaintiffs.

147. Moreover, the GMH Defendants were active co-conspirators with Rezko, knowing full well that that Rezko was deliberately misleading the Sirazi Plaintiffs by failing to disclose any of his transfers of Heritage shares.

148. The GMH Defendants unjustly retained Rezko's Heritage ownership interests to the Sirazi Plaintiffs' detriment.

149. The GMH Defendants' retention of Rezko's Heritage ownership interests violates the fundamental principles of justice, equity, and good conscience.

**COUNT V**  
**Accounting**

150. The Sirazi Plaintiffs reallege and incorporate their averments in paragraphs 1-149.

151. Under the Settlement Agreement and their UCC filing, the Sirazi Plaintiffs have an enforceable security interest in the proceeds from Rezko's ownership interests in Heritage.

152. The liquidation of Rezko's ownership interests in Heritage resulted in at least \$7.5 million in capital sent to Rezko and over \$26 million of forgiveness of loans allegedly made to him by the GMH Defendants. The Sirazi Plaintiffs cannot ascertain where any of the funds paid and/or loaned to Rezko currently are located.

153. Moreover, by virtue of their UCC Financing Statement, the Sirazi Plaintiffs continue to have an interest in any distributions made to the current owners of Heritage, shares that were formerly owned by Rezko but are now in possession of the GMH Defendants.

154. The GMH Defendants have reorganized Heritage and failed to disclose any financial information to the Sirazi Plaintiffs regarding any distributions to them through Heritage.

155. The GMH Defendants have made no payments to the Sirazi Plaintiffs out of the distributions from Heritage.

156. GMH's acquisition of Rezko's ownership interests in Heritage was fraudulent and involved Rezko breaching his fiduciary duties to the Sirazi Plaintiffs.

157. The Sirazi Plaintiffs have a need for discovery.

158. The ownership structure of RDD and Heritage now involves complex mutual accounts.

159. The Sirazi Plaintiffs have no remedy at law that would enable them to discover whether their security interests are being honored.

**COUNT VI**  
**Injunctive Relief**

160. The Sirazi Plaintiffs reallege and incorporate their averments in paragraphs 1-159.

161. The Sirazi Plaintiffs have recently learned that RDD is actively trying to sell the parcel.

162. Since the GMH Defendants, partly through Heritage, are now 100% owners of RDD, they ultimately will receive all of the proceeds from such a sale.

163. Under the Settlement Agreement, the Sirazi Plaintiffs owned a security interest in all capital or other monies generated from Rezko's ownership interests in Heritage.

164. The Sirazi Plaintiffs filed a timely UCC Financing Statement delineating their security interest.

165. Rezko's Heritage Ownership Interests have now been transferred to the GMH Defendants.

166. Nonetheless, the Sirazi Plaintiffs possess a valid security interest in any capital or other monies that would have gone to Rezko had he maintained his Ownership Interest in Heritage.

167. Since the GMH Defendants previously concealed transactions from the Sirazi Plaintiffs and helped disburse proceeds before the Sirazi Plaintiffs could assert their security interest, it is highly likely that in the event of a successful sale, any capital or other monies to which they are entitled will be concealed from the Sirazi Plaintiffs.

168. Since the GMH Defendants are foreign companies, it is likely that once they have sold the Parcel they will transfer all of their assets overseas.

169. Accordingly, the Sirazi Plaintiffs will be irreparably injured by again being unable to assert their security interest.

170. The Sirazi Plaintiffs therefore ask for an injunction requiring the GMH Defendants and Heritage to give them 30 days notice prior to any sale of the parcel by RDD, so that they may take appropriate action to ensure that their security interest is protected.

#### **DEMAND FOR TRIAL BY JURY**

171. Pursuant to Fed. R. Civ. P. 38(b), the Sirazi Plaintiffs demand a trial by jury for all issues so triable under the law.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Sirazi Plaintiffs pray this Court:

A. Enter an Injunction requiring the GMH Defendants to give the Sirazi Plaintiffs 30 days notice prior to any sale of the Parcel.

B. Find that the GMH Defendants are jointly and severally liable for tortiously interfering with the Sirazi Plaintiffs' contractual relationship with Rezko to their financial detriment and award the Sirazi Plaintiffs damages in an amount to be proven at trial for their resulting losses;

C. Find that the GMH Defendants are jointly and severally liable for aiding and abetting Rezko's fraud against the Sirazi Plaintiffs and award the Sirazi Plaintiffs damages in an amount to be proven at trial for their resulting losses;

D. Find that the GMH Defendants were unjustly enriched by obtaining Rezko's ownership interests in Heritage and award the Sirazi Plaintiffs damages in an amount to be proven at trial for their resulting losses;

E. Find that the GMH Defendants were part of a civil conspiracy with Rezko and award the Sirazi Plaintiffs damages in an amount to be proven at trial

F. Find that the Sirazi Plaintiffs have a security interest in any "Distributions" from Heritage shares formerly owned by Rezko and require the GMH Defendants to provide a full accounting of all revenue such shares have generated and pay the Sirazi Plaintiffs any money generated from Heritage subsequent to their acquisition of it.

Respectfully submitted,

SEMIR D. SIRAZI, GREENSTONE  
CAPITAL L.L.C. and MARDINI, INC.

By: s/ Gregory J. Scandaglia  
One of Their Attorneys

Gregory J. Scandaglia  
William J. Ryan  
Seth R. Yohalem  
SCANDAGLIA & RYAN  
55 E. Monroe Street, Suite 3440  
Chicago, Illinois 60603  
(312) 580-2020