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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

R. ALEXANDER ACOSTA, Secretary of
Labor, United States Department of Labor,

Plaintiff,

v.

**RIVERSTONE CAPITAL LLC, a
California limited liability corporation;
NEXGEN INSURANCE SERVICES
INCORPORATED, a California
corporation; NGI BROKERAGE
SERVICES, INC., a California
corporation; JAMES C. KELLY, an
individual; TRAVIS O. BUGLI, an
individual; ROBERT CLARKE, an
individual; ERIK MANQUEROS, an
individual.**

Defendants

Case No.: CV 19-778-MWF(MAAX)

**ORDER GRANTING IN PART
SECRETARY’S APPLICATION
FOR TEMPORARY
RESTRAINING ORDER AND
ORDER FOR DEFENDANTS TO
SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE**

1 This Court is in receipt of the Secretary of Labor's *ex parte* application for a
2 temporary restraining order (TRO) and issuance of an order to show cause why a
3 preliminary injunction should not issue. The Court held an *ex parte* hearing on February
4 1, 2019, at approximately 2:15 p.m., at the United States Courthouse at Los Angeles,
5 California.

6 The Court finds good cause for the lack of notice. Fed. R. Civ. P. 65(b)(1)(A).
7 The basis for the lack of notice is the risk of dissipation of assets. The Secretary's
8 declarations present the Riverstone MEWA as functioning like a Ponzi scheme, although
9 the Court makes no finding as to the criminal intent of any Defendant. More
10 importantly, the Secretary has described an account in the Cayman Islands and a transfer
11 of \$200,000 to the Cayman Islands.

12 The Court further finds good cause for the issuance of a TRO.

13 Now, therefore, the Court hereby **GRANTS IN PART** the Secretary's application
14 for a temporary restraining order, and hereby:

- 15 1. RESTRAINS AND ENJOINS Defendants, their officers, agents, servants,
16 employees, attorneys, successor companies, and all persons in active concert or
17 participation with them who have actual knowledge of this Temporary Restraining
18 Order by personal service or otherwise, from exercising any authority or control
19 with respect to the management of the Riverstone MEWA, the Participating Plans,
20 and the assets of the Participating Plans, including but not limited to the transfer
21 of any funds from any bank accounts into which these assets have been deposited;
- 22 2. ORDERS a temporary freeze on specific bank accounts (as specified in the
23 attached Appendix A) where the assets of the Participating Plans are believed to
24 exist, in order to preserve these assets from being improperly dissipated;
- 25 3. APPOINTS temporarily an independent fiduciary to assume control of the
26 management and administration of the Riverstone MEWA and Participating Plans
27 and who shall be provided by Defendants and their agents and employees all
28 information necessary to manage and administer the Riverstone MEWA and

1 Participating Plans;


- 2 4. Pursuant to the All Writs Act, STAYS, ENJOINS, and/or PROHIBITS any person
3 or entity from claiming as against the assets of the Participating Plans outside of
4 the procedures and processes to be set forth by the independent fiduciary and for
5 such protections to be maintained until closure of the liquidation process or until
6 further order by this Court; and
- 7 5. ORDERS Defendants to show cause why a preliminary injunction should not
8 issue that would include (a) all of the equitable relief contained in this Temporary
9 Restraining Order; (b) removing Defendants from any position in regard to
10 Riverstone MEWA; (c) enjoining and restraining Defendants from violating
11 Sections 403, 404, and 406 of ERISA; and (d) requiring Defendants to send notice
12 to all employers and employee participants notifying them that their plans are
13 underfunded and may not be able to pay past or future benefits so that they may
14 make fully informed decisions regarding their health care.

15
16 In response to the Order to Show Cause, Defendants shall submit a written
17 response on or before **February 7, 2019**. The hearing shall be held on **February 11,**
18 **2019, at 3:00 p.m.**

19
20 Defendants are notified that they have the right to move to dissolve or modify this
21 Temporary Restraining Order, and shall be granted a hearing on that motion with one
22 day's notice to the Secretary. Fed. R. Civ. P. 65(b)(4).

23
24 IT IS SO ORDERED.

25
26 Dated: February 1, 2019.

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MICHAEL W. FITZGERALD
United States District Judge

Appendix A

Account Number	Account Holder	EIN
****_****_2604	Riverstone Capital LLC	**_***7994
****_****_4787	Riverstone Capital LLC	**_***7994
****_****_5029	Riverstone Capital LLC	**_***7994
****_****_5003	Riverstone Capital LLC	**_***7994
****_****_5016	Riverstone Capital LLC	**_***7994
****_****_1794	Riverstone Capital LLC	**_***7994
****_****_1781	Riverstone Capital LLC	**_***7994
****_****_2120	Riverstone Capital LLC	**_***7994
****_****_2117	Riverstone Capital LLC	**_***7994
****_****_1820	Riverstone Capital LLC	**_***7994
****_****_1833	Riverstone Capital LLC	**_***7994
****_****_1846	Riverstone Capital LLC	**_***7994

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