

Andrew G. Watters (#237990)
Susanna L. Chenette (#257914)
555 Twin Dolphin Dr., Ste. 135
Redwood City, CA 94065
+1 (415) 261-8527
andrew@andrewwatters.com

Attorneys for Plaintiffs Hanieh Sigari and Qyral, LLC

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HANIEH SIGARI, an individual;
QYRAL, LLC, a California Limited
Liability Company,

Plaintiffs,

v.

DARIUSZ BANASIK, an individual;
Does 1-10,

Defendants.

Case No:

PLAINTIFFS' EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE PRELIMINARY
INJUNCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

INTRODUCTION.....3

FACTS4

KEY LAW 7

ARGUMENT 8

1 INTRODUCTION

2 The purpose of this action is to enjoin and seek damages for computer fraud and abuse
3 stemming from the illegal, unauthorized, and malicious lock-out of Plaintiff Ms. Hanieh Sigari
4 from her multi-million dollar company by her soon-to-be ex-husband, Defendant Mr. Dariusz
5 Banasik.

6 Qyral, LLC is a wellness company with over 100,000 customers and 1,300 wellness consultants
7 who travel the country promoting Qyral products to their networks, and elsewhere. That is 1,300
8 people, plus Plaintiff Ms. Sigari, who rely on Qyral for their livelihoods. *Qyral is Ms. Sigari's*
9 *company*, not Defendant's— she is the CEO, sole manager, and sole member of the LLC. Through
10 Defendant's illegal actions on 3/22/2024, he has irreparably harmed the company and its many
11 employees and consultants, as well as Plaintiffs.

12 To summarize the events of Friday, March 22, 2024, Defendant *illegally and without proper*
13 *authority*: (1) took control of and locked Plaintiff out of all of Qyral's I.T. infrastructure,
14 including its Google Administrator panel, domain name, Shopify account, phone numbers, email
15 accounts, and all other electronic assets; (2) shut off Plaintiff's mobile phone number, thereby
16 preventing her from making or receiving calls or text messages, and preventing her from resetting
17 her passwords and interacting with various service providers; (3) sent out a false, defamatory
18 "announcement" stating that Plaintiff had been removed from her position with Qyral for
19 purported breaches of fiduciary duty; (4) purported to fire a number of company employees and
20 contractors; (5) announced that the Facebook group (still controlled by Plaintiff) was no longer
21 authoritative and should be considered compromised; (6) started transferring an as-yet unknown
22 amount of money out of the business accounts; and (7) changed the account used for the
23 company's business deposits to one under his control.

24 Defendant's scheme was intended to sow distrust and discord throughout Qyral, thereby
25 irreparably damaging it and its brand, and destroying the personal reputation of Plaintiff, while
26 also enriching Defendant. All of this was in violation of the law, specifically the Computer Fraud
27 and Abuse Act, which is a Federal criminal statute that prohibits exactly Defendant's conduct.
28 His conduct also violated the Automatic Temporary Restraining Orders that are on the Summons

1 that *Defendant filed* in a recent divorce case that is pending in Santa Clara County, and numerous
2 other provisions of State law in the Penal Code.

3 This action and this application follow Plaintiff's demand letter of March 23, 2024 (Exhibit 1
4 to the Verified Complaint) seeking the restoration of the status quo, to which there has been no
5 response. Notice has not been given because of the substantial risk of dissipation of the company's
6 funds, as Defendant already attempted to transfer \$40,000.00 and may have succeeded in
7 transferring other substantial funds– the change in Stripe payment accounts essentially guarantees
8 that the stream of revenue from purchases by customers will be siphoned into Defendant's account
9 immediately.

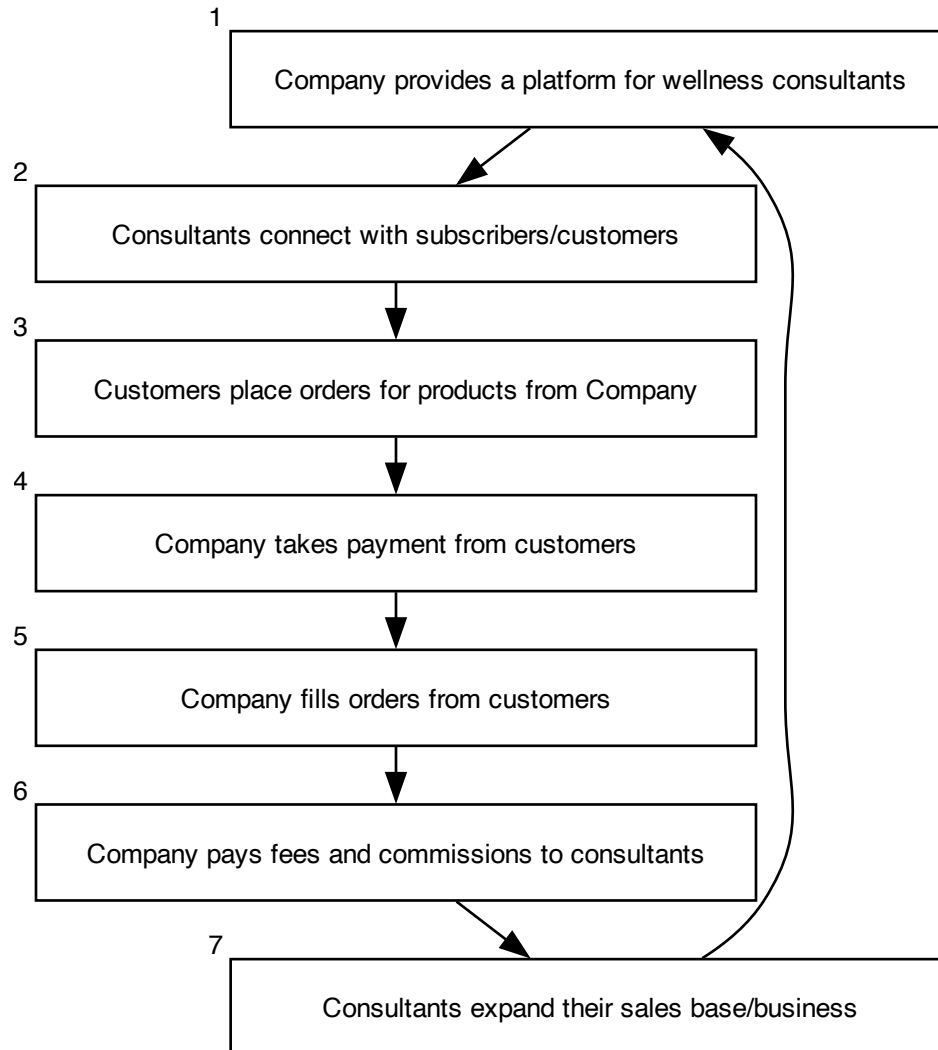
10 FACTS

11 Qyral, LLC is a wellness company started in 2019 by Plaintiff. Although the company was
12 started during the parties' marriage to each other, the company has belonged solely to Plaintiff
13 and been under her management and control since the beginning. Regardless of any
14 characterization issues implicating the law of community property or otherwise, even if the
15 company were community property, Defendant would have had no right to do what he did.

16 Qyral has approximately 1,300 wellness consultants, who travel the country promoting its
17 products and services to over 100,000 customers. Plaintiff was on a business trip to Utah
18 promoting the company to various online influencers when Defendant executed his plan to cut her
19 off, which drastically impaired Plaintiff's ability to respond to his illegal, wrongful acts because
20 Plaintiff did not have access to her office, computer, or employees.

21 Qyral relies strongly on Plaintiff's personal brand. Plaintiff is the "Martha Stewart" or
22 "Oprah" of Qyral, and her personal efforts are responsible for the company's success, not any
23 (minimal) contributions from Defendant. This had been the situation throughout the company's
24 history of five years, during which it experienced massive growth due to Plaintiff's successful
25 promotion of its products. In any case, the fact that Qyral is heavily reliant on Plaintiff's personal
26 brand magnifies the wrongdoing of Defendant exponentially. Without Plaintiff, and without
27 Plaintiff having access to her I.T. infrastructure and communications, the company will fail.

28 Essentially, the company has the following workflow:



19 The first indication that something was wrong was at 1:43 p.m. on Friday the 22nd. At that
20 time, the Chief Operating Officer of the company, who was attending the Utah business trip with
21 Plaintiff, commented that her Slack access had just been suddenly cut off. Seeing the COO's
22 screen, which confirmed this, Plaintiff checked her own Slack account and saw that her Slack
23 access had also been suddenly cut off. It turns out that *everyone* in the company's leadership had
24 been kicked out of Slack suddenly and with no warning. Following the removal from Slack,
25 Plaintiff started getting password reset notifications from various service providers, until two
26 minutes later at 1:45 p.m., when her Google Administrator access was removed. Plaintiff's phone
27 then went into "SOS" mode and she could not place or receive calls or text messages. Then at
28 2:04 p.m., after Defendant had cut off Plaintiff's email and phone and when she had no way to

1 communicate, Defendant sent his first email (Exhibit 2 to the Verified Complaint) to Qyral
2 employees and consultants, stating the Plaintiff had been removed from her company for breaches
3 of fiduciary duty. Shortly after this, Defendant sent a mass email to Plaintiff's family accusing her
4 of having an affair and providing contact information for the alleged romantic partner. At this
5 point (Friday shortly after 2 p.m.), Plaintiff discovered that her Chase banking username and
6 password had been reset and that Defendant was starting to transfer funds out of the Chase
7 operating account by wire (Plaintiff saw one transfer of \$40,000.00 in that brief window) into a
8 separate account under his control. The Chase business account is usually at \$240,000.00 and
9 Plaintiff saw that it was then under \$90,000.00 which is abnormal. Plaintiff was able to call Chase
10 and initiate a temporary freeze on the business accounts, however, she also learned from Chase
11 that she had been locked out of her personal accounts as well. Plaintiff learned from the other
12 attendees of the business trip to Utah that people were trying to contact her and could not,
13 because Defendant cut off her phone line. Plaintiff tried to reset her Domain Name Service entries
14 on GoDaddy in order to temporarily shut off the company email, but she could not provide the
15 2-factor authentication codes because the authentication was under her just-disconnected phone
16 number. The rest of the afternoon of the 22nd was filled with Plaintiff trying to find litigation
17 counsel to handle this matter on an emergency basis. Then at 10:38 p.m., Defendant sent a
18 second mass email (Exhibit 3 to the Verified Complaint), in which he claimed, falsely, that the
19 Facebook account (still controlled by Plaintiff) was compromised and no longer authoritative.
20 Finally, Defendant unlawfully and without proper authority changed the bank account where
21 payments go from the Chase operating account to a different account, presumably under his
22 control. A copy of screenshot with the Stripe account change notification is provided as (Exhibit 4
23 to the Verified Complaint).

24 Plaintiff was harmed by being cut off from access to her own company, being unable to
25 communicate with customers, and having potentially millions of dollars siphoned off into accounts
26 under Defendant's control.

27 Plaintiff's counsel wrote a detailed demand letter to Defendant in an effort to restore
28 Plaintiff's control of her company. There has been no response as of this filing. This action

1 followed on an emergency basis, and the pleadings will be amended according to law with
2 additional facts and legal authority as the situation develops.

3 KEY LAW

4 The purpose of a temporary restraining order is to preserve the status quo and prevent
5 irreparable harm until a hearing may be held on the propriety of a preliminary injunction. *Reno*
6 *Air Racing Assoc., Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006).

7 The standard for a TRO is identical to the standard for a preliminary injunction. See
8 *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). To
9 obtain either a TRO or a preliminary injunction, the moving party must show: (1) a likelihood of
10 success on the merits; (2) a likelihood of irreparable harm to the moving party in the absence of
11 preliminary relief; (3) that the balance of equities tips in favor of the moving party; and (4) that
12 an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20,
13 (2008); see also Fed. R. Civ. Proc. § 65.

14 Although a plaintiff seeking a TRO or preliminary injunction must make a showing on each
15 element, the Ninth Circuit employs a “version of the sliding scale” approach where “a stronger
16 showing of one element may offset a weaker showing of another.” *All. for the Wild Rockies v.*
17 *Cottrell*, 632 F.3d 1127, 1131-35 (9th Cir. 2011). This is also known as the “serious questions”
18 test, which states “‘serious questions going to the merits’ and a balance of hardships that tips
19 sharply towards the plaintiff can support issuance of a preliminary injunction, so long as the
20 plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the
21 public interest.” *Id.* at 1135 (internal quotation marks omitted).

22 Generally, a TRO or preliminary injunction is considered “an extraordinary remedy that may
23 only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555 U.S.
24 at 22. “A preliminary injunction is an extraordinary and drastic remedy. It should never be
25 awarded as of right[.]” *Munaf v. Geren*, 553 U.S. 674, 690, 128 S. Ct. 2207 (2008) (citation
26 omitted). The moving party has the burden of persuasion. *Hill v. McDonough*, 547 U.S. 573, 584,
27 126 S. Ct. 2096, 165 L. Ed. 2d 44 (2006).

28 The court may issue a temporary restraining order ex parte without written or oral notice to

1 the adverse party or its attorney only if: (A) specific facts in an affidavit or a verified complaint
2 clearly show that immediate and irreparable injury, loss, or damage will result to the movant
3 before the adverse party can be heard in opposition; and (B) the movant's attorney certifies in
4 writing any efforts made to give notice and the reasons why it should not be required. Fed. R.
5 Civ. P. 65(b)(1). "The stringent restrictions imposed . . . by Rule 65[] on the availability of ex
6 parte temporary restraining orders reflect the fact that our entire jurisprudence runs counter to
7 the notion of court action taken before reasonable notice and an opportunity to be heard has been
8 granted both sides of a dispute." *Granny Goose Foods, Inc. v. Bhd. of Teamsters*, 415 U.S. 423,
9 438-39, 94 S. Ct. 1113, 39 L. Ed. 2d 435 (1974) (footnote omitted). Accordingly, "courts have
10 recognized very few circumstances justifying the issuance of an ex parte TRO." *Reno Air Racing*
11 *Ass'n v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006). "For example, an ex parte TRO may be
12 appropriate 'where notice to the adverse party is impossible either because the identity of the
13 adverse party is unknown or because a known party cannot be located in time for a hearing.'" *Id.*
14 (quoting *Am. Can Co. v. Mansukhani*, 742 F.2d 314, 322 (7th Cir. 1984)). Alternatively, "[i]n
15 cases where notice could have been given to the adverse party, courts have recognized a very
16 narrow band of cases in which ex parte orders are proper because notice to the defendant would
17 render fruitless the further prosecution of the action." *Id.* (quoting *Am. Can Co.*, 742 F.3d at
18 322).

19 ARGUMENT

20 I. THE VERIFIED COMPLAINT ESTABLISHES THE REQUIRED 21 SHOWING UNDER THE LAW

22 The Verified Complaint establishes criminal violations of law, which Plaintiff only has to prove
23 to a civil standard of proof in this case; the harm to her company already is irreparable and will
24 continue unless the Defendant is restrained; there is severe hardship to Plaintiff if the Temporary
25 Restraining Order is not granted, but minimal hardship to Defendant if the Temporary
26 Restraining Order is granted; and restraining violations of this type is certainly within the public
27 interest. In a case of this type, in which a network-based company is controlled solely through
28 electronic means, the Defendant's illegal conduct is especially damaging, and concerning. He must

1 have been plotting this cutoff for months, apparently in order to punish his soon-to-be ex-wife by
2 damaging her personal brand and defaming her. This is a textbook case for issuance of a
3 Temporary Restraining Order. Even if Defendant were to claim that the company is community
4 property because it was started during marriage (it was), his actions are still illegal, and
5 contemptible, because ex-spouses cannot willfully and maliciously lock each other out of
6 community property– or their personal accounts, as happened here as well.

7 II. IRREPARABLE HARM WILL RESULT IF THE TEMPORARY RESTRAINING ORDER
8 IS NOT GRANTED, EVEN WITHOUT NOTICE

9 Notice was not given because of the demonstrated risk of dissipation of company funds, which
10 Defendant already initiated on at least one occasion. In addition, the changeover to the bank
11 account on Stripe for customer payments means that Defendant could, if notified, move the funds
12 elsewhere. Accordingly, this application is made without notice. The responsible attorney,
13 Andrew G. Watters, Esq., hereby certifies pursuant to Fed. R. Civ. P. 65(b)(1) that notice to
14 Defendant beyond what has already been given in the demand letter would present a substantial
15 risk of exceptionally grave harm to Plaintiff.

16 CONCLUSION

17 A Temporary Restraining Order and Order to Show Cause re Preliminary Injunction should
18 issue forthwith to prevent the continued violations of law and restore Plaintiff to her rightful
19 position with the status quo until the hearing on a preliminary injunction.

20
21 Date: March 24, 2024

By:



Andrew G. Watters, Esq.
Attorneys for Plaintiffs Hanieh Sigari and
Qyral, LLC