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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

**STATE OF CALIFORNIA, ex rel. ROB
BONTA, in his official capacity as Attorney
General of the State of California,**

Plaintiff,

v.

**PHILLIP DEL ROSA, in his personal
capacity and official capacity as Chairman
of the Alturas Indian Rancheria; and
DARREN ROSE, in his personal capacity
and official capacities as Vice-chairman of
the Alturas Indian Rancheria and
President/Secretary of Azuma Corporation,**

Defendants.

2:23-cv-00743-KJM-SCR

PLAINTIFF'S NOTICE OF VIOLATION

Date: N/A
Time: N/A
Courtroom: 3, 15th Floor
Judge: Hon. Kimberly J. Mueller
Trial Date: N/A
Action Filed: April 19, 2023

TO THE COURT AND TO THE PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant Darren Rose has violated the Court's preliminary injunction filed September 8, 2023, Order ("Preliminary Injunction"), ECF No. 43, and Plaintiff files this notice of violation pursuant to the Court's order filed November 18, 2023, Order ("Sanctions Order"), ECF No. 95, that imposed sanctions for Rose's prior violations of the

1 Preliminary Injunction. In blatant violation of this Court’s Preliminary Injunction, Azuma
2 Corporation, under the direction of Rose as President/Secretary, his employees, or agents, has
3 continued to complete or to cause to be completed the delivery, or some portion of the delivery,
4 of packages containing cigarettes on behalf of Azuma to persons throughout California.

5 The Preliminary Injunction enjoins Rose “in his official capacity as vice-chairman of the
6 Alturas Indian Rancheria and as president/secretary of Azuma Corporation, and his employees
7 and agents” from “completing or causing to be completed any delivery, or any portion of a
8 delivery, of packages containing cigarettes on behalf of Azuma Corporation to anyone in
9 California.” Preliminary Injunction 24. After Azuma Corporation continued to deliver cigarettes
10 throughout the State following the filing of that injunction, the Court held Rose in contempt:
11 “[B]y showing Azuma is continuing to deliver cigarettes to the same customers previously
12 identified in the preliminary injunction record, California has shown Rose, in his official capacity
13 as an officer of the Alturas Tribe, has violated the preliminary injunction by clear and convincing
14 evidence.” Order (“Contempt Order”) 6, ECF No. 6.

15 Rose subsequently filed a declaration that as of February 28, 2024, he “immediately
16 directed Azuma staff to cease all deliveries of cigarettes,” and that such direction “effectively
17 halts all Azuma deliveries.” Rose Decl. ¶ 4, ECF No. 75. He also swore that “no deliveries have
18 occurred following that time, nor will they occur in the future, unless and until the Contempt
19 Order is dissolved, set aside or otherwise made ineffective.” *Id.* at ¶ 5. However, as the State has
20 subsequently learned, Azuma cigarettes have continued to be delivered to the same customers in
21 transactions substantially identical to those forming the basis of the Court’s Preliminary
22 Injunction and Contempt Order. *See* Nascenzi Decl., ex. A [subject to a request to seal]. Indeed,
23 almost half a million cigarettes reached four separate customers the day after Rose swore
24 Azuma’s deliveries ceased. *See id.*, ex. A, at AZUMA-305 to -312 [subject to a request to seal].

25 In the Court’s prior Sanctions Order, it imposed, among other things, certain reporting and
26 recordkeeping requirements on Rose as “reasonable measures to ensure compliance with the
27 preliminary injunction.” Sanctions Order 5. It also directed that further sanctions would be
28 imposed only if the State “files a notice of violation on the docket of this action, supported by a

1 declaration of a person with knowledge of the violation.” *Id.* at 6. Such further sanctions include
2 an escalating per-day monetary sanction starting at \$10,000 and ending at \$16,000, with a
3 potential custodial sanction for “[n]oncompliance beyond the sixth day.” *Id.* at 5–6. After a notice
4 of violation is filed, “[t]he court will then promptly set a hearing on an order to show cause why
5 additional sanctions should not be imposed under this order.” *Id.* at 6.

6 The Sanctions Order’s reporting and recordkeeping requirements included that Rose “retain
7 for inspection by the State all of Azuma’s purchase records, sales, and invoices dated after the
8 injunction came into effect on September 15, 2023.” *Id.* at 5. The State originally requested that
9 Rose provide the State with such documents within 30 days of the date of the Sanctions Order.
10 After several delays, Rose provided such documents only after the parties stipulated to a
11 production schedule and such schedule became an order of the Court. *See* Joint Admin. Mot.,
12 ECF No. 105; Order, ECF No. 107. Rose ultimately provided such documents to the State on
13 January 31, 2025.

14 Those documents reveal that despite the Preliminary Injunction, the Contempt Order, and
15 the Sanctions Order, the distribution of Azuma cigarettes has continued uninterrupted. In the over
16 eleven months since Rose swore that no further cigarettes would be delivered on Azuma’s behalf,
17 Azuma, under the direction of Rose as President/Secretary, his employees, or agents, has
18 completed or caused to be completed the delivery, or some portion of the delivery, of packages
19 containing 29,376,000 cigarettes to persons throughout California. *See* Nascenzi Decl. ¶ 7 & ex.
20 A. [subject to request to seal]. Accordingly, Plaintiff provides this Notice of Violation and asks
21 that the Court “promptly set a hearing on an order to show cause why additional sanctions should
22 not be imposed.” Sanctions Order 6.

1 Dated: February 5, 2025

Respectfully submitted,

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9 /s/ Peter F. Nascenzi

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