

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

KINOJUZ I.P.
(a company under the laws of Kazakhstan)

Plaintiffs

v.

IRP INTERNATIONAL INC.
(a New York corporation);
OULIAN DOUBININE; IGOR ERLIKH
(both residents of New York State)

and DOES from 1 to 100

Defendants

CIVIL No. 11-cv-00299-DLI-VV

AMENDED COMPLAINT

**FOR COLLECTION OF CONVERTED
FUNDS, FOR ORDERS,
DECLARATORY JUDGMENT,
DAMAGES AND OTHER RELIEF
BASED ON:**

- 1. CONVERSION;**
- 2. MONEY HAD AND RECEIVED;**
- 3. FRAUD;**
- 4. MISREPRESENTATION;**
- 5. CIVIL CONSPIRACY;**
- 6. UNJUST ENRICHMENT;**
- 7. PIERCING CORPORATE VEIL;**
- 8. DECLARATORY RELIEF**

I. NATURE OF ACTION

This is an action to collect \$199,980, which was wire transferred by plaintiff, obtained by defendants on false pretenses and fraudulently used for defendants' personal needs. Plaintiff further seeks that the Court's judgment against defendants to award other damages for fraud and on other Counts.

II. PARTIES

1. Plaintiff KINOJUZ I.P. is a limited liability company created and existing under the laws of Kazakhstan, at the address: Ave Tauke-Khan 35 B, Shymkent, Kazakhstan.

2. Defendant IRP INTERNATIONAL, INC. (hereinafter also “IRP”) is a corporation registered and existing under the laws of the State of New York, with a purported registered address: 1408 Avenue X, Brooklyn, NY, 11235. That address, however, was falsely used before the State Department of New York for registration. That address belongs to an unrelated grocery store, and its designation as the corporate address of IRP has been a continuing fraud. IRP, registered on January 17, 2006, has no registered agent is identified in the public records. As evidence shows, IRP was not a true corporation, but was a bogus entity not conducting any lawful business, existing only as an account for obtaining money on false pretenses to be used for personal needs.

3. Defendant OULIAN DOUBININE aka Dulian Doubinin, aka Ulian Doubinine (also “Doubinine”), is an individual residing in the State of New York, with the last known address: 1437 W 4th Street #3, Brooklyn, NY 11204. Another address associated with said defendant is: 1015 Avenue Z #2, Brooklyn, NY 11235. Doubinine has held himself out as the Vice President of IRP International Inc., identified above. On information and belief, in about 1992 Doubinine immigrated from Kazakhstan.

4. Defendant IGOR ERLIKH (hereinafter also “Erlikh”) is an individual residing in the State of New York, on information and belief, at the address: 6910 Avenue U, #2S, Brooklyn, NY 11234, other associated address being: 6501 Bay Pkwy, Brooklyn, NY 1124 and 1331 86th St., Brooklyn, NY 11236. Erlikh has held himself out

as the principal and owner of IRP. On information and belief, Igor Erlikh immigrated from Ukraine.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction because of the diversity of citizenship pursuant to 28 U.S.C. §1332. For purposes of jurisdiction, plaintiff is a citizen of the Republic of Kazakhstan.

6. For purposes of diversity of citizenship, all three defendants are citizens of State of New York, with the registration and/or residential addresses in the State of New York, i.e. different from plaintiff's location.

7. The amount in controversy, exclusive of interest and costs, is in excess of the statutory minimum of \$75,000.

8. Venue is also proper because defendant IRP is a corporation registered and existing under the state laws of New York, with an alleged registered office in New York City. Likewise, the two individual defendants also reside in Brooklyn, New York.

III. UNDERLYING FACTS

A. Circumstances of Defendants Obtaining Money By False Pretenses

9. The movie industry in Kazakhstan has a substantial market, with a strong interest of the Kazakh public to see movies, based on the life in Kazakhstan. There is an interest in the new cinematic projects in Kazakhstan on the international market as well.

10. At all times relevant hereto, Kinojuz has been, and is, one of a few studios in Kazakhstan, located in Shymkent, a large city in the South of Kazakhstan. Kinojuz has been run by Zhorabek Musabayev ("Musabayev"), its principal.

11. Kinojuz and Musabayev were looking for partners to materialize a substantial cinematic project, based on a script created by a Kazakh writer Mikhmud

Tuychev, well known in that country. The provisional title to the movie is to be “My Only” (the feature movie was about a romantic relationship in Kazakhstan).

12. The tentative market research in Kazakhstan has showed that the costs of producing such a movie could be up to \$3 million, with the potential market for sales and revenues, both from the cinematic projection and from television, up to \$30 million, with a profit of over \$15 million. Kinojuz’s approach to banks in Kazakhstan showed that those were willing to undertake limited investment into that cinematic project but that joint venture with foreign participants, with additional funding, was desirable.

13. In early 2007, Kinojuz and Musabayev learnt about Oulian Doubinine (“Doubinine”), a native of Kazakhstan, who, on information and belief, emigrated to the U.S. in about 1992, and has since received a U.S. citizenship.

14. Prior to his emigration to the U.S., Doubinine had been active in the cinematic industry in Kazakhstan, or at least made such representations about his prior experience. Since his immigration, Doubinine has lived in Brooklyn, NY, but was a frequent visitor to his native country Kazakhstan, at times living there up to 6 months a year.

15. In about March of 2007, Musabayev met with Doubinine in Kazakhstan, namely in Almaty, a former capital of that country, and later in Shymkent. They discussed Kinojuz’s cinematic project based on the above mentioned “My Only” script. Doubinine offered to participate in the project and to provide investments and American cinematic expertise.

16. Doubinine also introduced Igor Erlikh (hereinafter “Erlikh”), who was visiting in Kazakhstan, as an entrepreneur who could, according to Doubinine, help materialize that project. As mentioned above, Erlikh has also been a resident of

Brooklyn, NY, after having emigrated from Ukraine, also having obtained the U.S. citizenship. Doubinine falsely introduced Erlikh as a wealthy and experienced entrepreneur with the needed connections in the movie industry in the USA.

17. In the course of their discussions in Kazakhstan with Kinojuz and Musabayev, Doubinine and Erlikh made representations that they could indeed help materialize the project on the basis of a joint venture with an apportionment of participation in that project, regarding both the costs and the revenues.

18. Doubinine and Erlikh proposed to back that cinematic project by their company in the State of New York, by the name IRP International Inc. (“IRP”), with the address: 1408 Avenue X, Brooklyn NY 11235. In fact, IRP was not a true corporation, but a vehicle for various frauds. The registered address under which it was registered with the State of New York was actually a grocery store. The store’s owners asserted that using that address by any corporation was a fraud and linked that fraud to Erlikh, who was just identified as one of walk-in shoppers of groceries at that store, from time to time.

19. By submitting their false proposals, Doubinine and Erlikh did not inform Musabayev that, on information and belief, IRP had no experience in filmmaking, was falsely registered at a grocery store’s address. Doubinine and Erlikh failed to disclose that IRP had no assets and that instead IRP was used by individuals for obtaining moneys on false pretenses.

20. As it turned out, upon discovery of banking records, IRP’s account was used for personal purposes by Erlikh and his son. On March 1, 2006, Erlikh’s son Peter Erlikh (“Peter”) opened the account in the name of IRP at the JP Morgan Chase branch No. 136, on Coney Island Avenue in Brooklyn. However, that account was opened with

the banker's hand-written disclaimer, entering its address at 1408 Avenue X, Brooklyn, NY 11235, that there were "no records for business". In January of 2007, Erlikh became the second alternative signer on that account.

21. As mentioned above, at the meetings in Kazakhstan in about March of 2007, some papers were created to be later used for a preliminary agreement, subject to finalization, depending upon Kinojuz's obtaining funding in Kazakhstan. In about July of 2007, Doubinine, then also visiting Kazakhstan, signed with Kinojuz blank papers, with affixed seals of IRP and Kinojuz. Leaving behind signed and sealed blank papers for a contract was done, because Doubinine was to leave for the U.S. and would be unavailable to do so in person. Those preliminary papers were intended to be used for a future contract, the exact contents to be filled in. Later, however, Doubinine falsely claimed that the signature on one of those papers was not his and falsely claimed his true signature to be a forgery.

22. Relying on Erlikh's and Douginine's representations, by late November of 2007, Kinojuz was able to obtain a commitment for a Kazakh bank's loan of \$200,000. Mousabayev alerted Doubinine, over the phone. Doubinine told Mousbayev it was fine to fill in the blank papers, already with his signatures and seals, to satisfy the Kazakh bank's exact requirements. Later Doubinine claimed that he gave no such authorization to fill in those signed and sealed papers and, as mentioned above, falsely reneged on his signature. As a result, there was no meeting of the minds and no contract was concluded between these parties at any times.

23. Based on a mistaken understanding that the parties had reached a preliminary contract, on December 3, 2007 Kinojuz made an order to its bank, i.e. Demir Bank, Kazakhstan, to wire transfer \$200,000 from Kinojuz's account PPH

582310611708, to the account of IRP at J.P. Morgan Chase Bank, SWIFT CHASUS33, ABA 021000021, account 907248892065.

B. Conversion by Defendants of \$199,980 Obtained from Kinojuz On False Pretenses and Use for Personal Needs

24. On December 5, 2007 the account in the name of IRP, at JP Morgan Chase Bank, ABA 021000021, Account 907248892065 was credited for the amount of \$199,980. These funds were received from Kinojuz, wired transferred by Mousabayev from Kazakhstan.

25. On the next day after that wire transfer was credited on IRP's account, Erlikh ordered a vacation package at Apple Vacations East, for \$4,078, which was debited from that account on December 10, 2006. One day later, on December 7, 2007, Erlikh paid \$11,280 (check #1030) for another vacation package, in Dominica, the Caribbean.

26. Erlikh took cash at the J.P. Morgan Bank's branches, using checks in the name of IRP, originated from Kinojuz's wire transfer on the following occasions: \$10,000 (check #1028) on December 10, \$5,000 (check #1025) on December 18; \$5,000 (check #1027) on December 19; \$5,000 (check #1028) on December 20; and \$3,000 (check #1035) on December 28, 2007.

27. Erlikh and his son Igor immediately went on a buying spree, using the debit cards for IRP's account, paying to Little People Kids' Boutique \$1,100 and then \$250, Chuckies Designer Shoes \$795 and then \$217.56; Victoria's Secret \$280.67; Scarlet Flowers \$150.00, and the like.

28. Likewise Erlikh and his son Igor made numerous purchases of at the groceries' stores, pharmacies; laundries, obviously having nothing to do with Kinojuz's project or with any legitimate business expenses.

29. Erlikh with his son Igor also regularly took out cash from the IRP account from the ATMs on the streets, using two ATM cards in the name of IRP. On December 7, Erlikhs took out \$800, December 10: \$400, December 14: \$400; December 17: \$1000 (in two withdrawals); December 19: \$400; December 20: \$400; December 24: \$400; December 26: \$700 (in two withdrawals); December 27: \$1500 (in 3 withdrawals); and on December 31: \$400.

30. On December 10, 2007, Erlikh paid to his co-conspirator Doubinine \$15,000 (check #1032), apparently as a compensation for the successful fraud on Kinojuz and a fraudulent commission.

31. On December 11, 2007, Erlikh repaid a loan of \$10,000 to Alex Korol (check #1029), which also had nothing to do with Kinojuz's project.

32. On December 13, 2007, Erlikh's son Igor paid \$5,025 (check #1033) to Washington Mutual, to repay his loan, appearing to represent an installment on his personal mortgage.

33. Two days after the deposit of Kinojuz's money, Erlikh wired out \$35,000, on information and belief, to his other account at the same bank.

34. On December 10, 2006 Erlikh wire transferred the amount of \$57,000 to his other account at the same bank, ending with 2066, and 3 days later, on December 13, 2006, he wire transferred that same amount back to the IRP account. 5 days later, on December 13, 2006, he issued a check #1023 for that same amount. On information and belief, that represented the repayment of the balance of \$56,476 on December 1, 2007,

before Kinojuz's wire transfer came. On information and belief, that prior balance was used to show some balance on IRP's account and to lure victims to pay to that account. Once fraud on IRP was completed, that balance was then liquidated.

35. None of Erlikh's transactions with \$57,000 appeared to be connected to any business, but, on information and belief, represented money laundering, to disguise the origins of the repayment of that money. Obviously, nothing of those transactions had anything to do with Kinojuz's project.

36. Within less than a month after Kinojuz's wire transfer, the balance on IRP's account, as of December 31, 2007, was only \$18,337. Erlikh then continued to withdraw money, pay for items unrelated to Kinojuz's project, such as groceries and restaurants.

37. By January 31, 2008, Erlikh and his son essentially liquidated the IRP account, leaving only a \$1,020 balance. After that, the account showed only insignificant activities and several penalties for overdraft, ultimately abandoned with zero balance and inactive.

38. In sum, nothing on that bank account, upon the deposit of Kinojuz's money on December 5, 2007, shows any expenses, related to Kinojuz's project or even related to any business purposes. Erlikh and Doubinine dispensed with Kinojuz's funds within about a month and one week.

C. Concealment by Defendants of Conversion of Funds Obtained from Kinojuz

39. Since early 2008, Kinojuz started to make inquiries from Doubinine and Erlikh about the progress with his cinematic project and about Erlikh's obtaining additional funding for Kinojuz's project. However, Doubinine and Erlikh, started to

make representations about temporary obstacles with the production of the movies, postponing the dates for their performance.

40. On April 18, 2009, plaintiff's attorney in the U.S. sent to defendants a demand letter, by registered mail, demanding from to refund the monies obtained in December of 2007. Alternatively, as the letter warned, the case would be filed in a court of competent jurisdiction.

41. That letter from counsel, apparently, had certain effect in the sense that Doubinine and Erlikh reactivated their contacts with Kinojuz and Musabayev, providing further promises, with new dates and explanations, but never repaying any funds.

42. However, as it became ultimately clear, defendants continued their misrepresentations with the sole objective just to gain time. As a result, not one dollar out of the \$199,980 has been returned to Kinojuz to this date.

COUNT I. CONVERSION

43. Plaintiff incorporates by reference the allegations in Paragraphs 1 to 42 above, as if restated herewith with the same force and effect.

44. As the facts show, upon obtaining \$199,980 on the account in the name of IRP on December 5, 2007, individual defendants then converted the funds to their own use and benefit, completely unrelated to Kinojuz's project.

45. As shown above, essentially all the disbursements in cash, Erlikh's payments for his personal needs (two vacation packages, purchases of designer shoes, children's clothing boutiques, Victoria Secret catalogue, etc.) had nothing to do with Kinojuz's cinematic project.

46. Defendants used those funds for their personal purposes, which had nothing to do with their representations Erlikh and Doubinine made to Kinojuz towards obtaining those assets.

47. Accordingly, Kinojuz is entitled to relief under the count 'conversion', including disgorgement of \$199,980, with interest and costs.

COUNT II. MONEY HAD AND RECEIVED

48. Plaintiff incorporates by reference the allegations in Paragraphs 1 to 47 above, as if restated herewith with the same force and effect.

49. Defendants obtained \$199,980 on their account in the name of IRP, on December 5, 2007. Thereupon, Erlikh and Doubinine used those funds for themselves, without any benefit to Kinojuz.

50. As evidence shows, Erlikh and Doubinine used those funds for their personal needs, which use had nothing to do with their false representations to Kinojuz.

51. Accordingly, Kinojuz is entitled to disgorgement of \$199,980 by Defendants, with interest and costs.

COUNT III. FRAUD

52. Plaintiffs incorporate by reference the allegations in Paragraphs 1 to 51 above, as if restated herewith with the same force and effect.

53. As the evidence shows, defendants, making representations, or, alternatively, concealing material facts, engaged in a fraudulent scheme, to obtain the funds from Kinojuz. That included their several meetings in Kazakhstan, their representations to Kinojuz in March and in July of 2007 in Almaty. Defendants made oral assurances and expressed personal guarantees of Doubinine and Erlikh of a secure investment into the project should the funds be wired to IRP's account.

54. On information and belief, Erlikh traveled to Kazakhstan only with the sole purpose of convincing Kinojuz to wire transfer the money, and his entire trip served the purpose of perpetrating that pre-planned conspiracy and fraud towards obtaining the funds. Erlikh and Doubinine never intended to participate in Kinojuz's project at any time.

55. That fraud was sophisticated, it was undertaken by two individuals acting in concert, using their bogus company in New York, registered at someone else's grocery store's address. That fraud, of promising substantial investments, subject to a contribution by the potential victim, is similar to the fraud scheme, known as the "Nigerian letters" (promising funds, but with an advance deposit to be made first), even though originated in New York. Moreover, as it turned out, on information and belief, Erlikh had nothing to do with the cinematic business at all, he was not a wealthy businessman with connections in Hollywood, as he suggested, and would not be in any position to do anything of value for the movie production contemplated by Kinojuz.

56. When Erlikh and Doubinine essentially depleted the asset of \$199,980 in December of 2007 and early January of 2008 on their personal needs, they concealed that from conversion Kinojuz.

57. Accordingly, Kinojuz is entitled to relief under the count 'fraud' asserted against defendants. Kinojuz is entitled to punitive and exemplary penalties to the full extent allowed by the law, for Defendants' despicable fraud.

COUNT IV. MISREPRESENTATION

58. Plaintiff incorporates by reference the allegations in Paragraphs 1 to 57 above, as if restated herewith with the same force and effect.

59. Erlikh and Doubinine made misrepresentations before Kinojuz, while attempting to obtain the funds, particularly at the meetings with Kinojuz in Almaty in March and July of 2007 and at other times. In fact, if not defendants' false pretenses, they would have not obtained those funds from Kinojuz.

60. In fact, defendants never intended to repay to Kinojuz or to provide any services to it. As mentioned above, the misrepresentations towards obtaining funds upfront, promising greater funds to be available, i.e. similarly to the 'Nigerian letters' scheme, used by various con artists. After Erlikh and Doubinine already actually converted the funds, they continued the misrepresentations to Kinojuz, vaguely promising either to provide services for Kinojuz or to refund the monies.

61. Kinojuz is entitled to damages under the count 'misrepresentation' asserted against defendants, including punitive or exemplary damages to the full extent allowed by the law.

COUNT V. CIVIL CONSPIRACY

62. Plaintiff incorporates by reference the allegations in Paragraphs 1 to 61 above, as if restated herewith with the same force and effect.

63. As the facts show, from the outset Doubinine and Erlikh conspired among themselves to obtain Kinojuz's funds, using a bogus entity IRP, never intending to provide any services for Kinojuz's project, but intending to divide and spend those proceeds for their personal needs.

64. Although not completely avoiding contacts with Kinojuz subsequently, defendants nonetheless made those contacts difficult, and used irregular contacts only to assuage the concerns with the growing appearance of the fraud committed, and to gain more time.

65. Erlikh was the prime figure in the civil conspiracy, converting most of the funds. Doubinine received, at a minimum, a check for \$15,000, for his services of fraudulently luring Kinojuz into wiring the funds to the account in the name of IRP, which he knew was a bogus entity.

66. Plaintiff is entitled to damages under the count 'civil conspiracy'.

COUNT VI. UNJUST ENRICHMENT

67. Plaintiff incorporates by reference the allegations in Paragraphs 1 to 67 above, as if restated herewith with the same force and effect.

68. On December 5 2007, defendants obtained, through an account in the name of IRP, \$199,980 and then converted those amounts.

69. By way of obtaining those proceeds and using those for their personal needs, which included their vacation packages, purchases of designer shoes, children's boutiques, restaurants, taking out as much cash as ATM could handle on one day, and taking cash by presenting checks at the bank branch. Defendants were unjustly enriched.

70. Accordingly, plaintiff is entitled to damages for unjust enrichment.

COUNT VII. PIERCING CORPORATE VEIL

71. Plaintiff incorporates by reference the allegations in Paragraphs 1 to 70 above, as if restated herewith with the same force and effect.

72. As mentioned above, the registration of IRP was a fraud, because it submitted to the State of New York a false address, the address of a grocery store, where, on information and belief, Erlikh shopped from time to time. That address had nothing to do with IRP or with Erlikh, other than his shopping for groceries.

73. As an independent review of public records shows, there are no records on IRP in Yellow Pages, White Pages, or any other publicly available data sources, as if that corporation has never engaged in any business and as if it does not exist.

74. Searches on Google or other search engines show no references to, or mentioning of, any business undertaken by IRP at any time.

75. As the facts in this case show, in fact IRP did not engage in business, but existed for the purpose of a personal enrichment of the two individuals, who controlled the account in that corporate name at J.P. Morgan, Erlikh and his son Igor.

76. On information and belief, the only purpose of IRP was Erlikh's obtaining money on false pretenses on a purportedly corporate account, to spend the money essentially on personal purchases, but not to report those monies as personal income, illegally claiming, instead, social security benefits.

77. Accordingly, plaintiff is entitled to relief under the count of 'piercing corporate veil', namely to the adjudication that a corporate shield is unavailable to Doubinine and Erlikh, for purposes of a satisfying a judgment.

COUNT VIII. DECLARATORY JUDGMENT

78. Plaintiff incorporates by reference the allegations in Paragraphs 1 to 77 above, as if restated herewith with the same force and effect.

79. As the facts above show, Erlikh used IRP for personal enrichment without corporate formalities and for unlawful purposes of concealing personal income, allowing him, on information and belief, to improperly claim poverty and the government's social security benefits.

80. There is an actual controversy whether IRP was actually not a corporate entity and whether its corporate existence should be disregarded for purposes of, at a minimum, satisfying a judgment in this action.

81. As shown above, Erlikh using IRP's corporate status was not lawful or legitimate, and the Court should declare that IRP was not a true corporation, whereas IRP's account was in fact Erlikh's disguised personal account.

82. Plaintiff is entitled to relief under the count 'declaratory judgment'.

PRAYERS FOR RELIEF

THEREFORE, Plaintiff requests this honorable Court to grant relief as follows:

- 1) To order all defendants to refund, jointly and severally, \$199,980, money received and had, back to Kinojuz, with statutory interest accrued since the date of December 5, 2007, when they received those funds on the account in the name of IRP;
- 2) To order defendants to pay, jointly and severally, damages under each and every Count above, including but not limited to, the profits anticipated by plaintiff from the cinematic project, prorated as to the funds actually prepaid towards that project, according to evidence;
- 3) To award punitive and/or exemplary damages against Doubinine and Erlikh, for the intentional misrepresentations and for obtaining funds from Kinojuz by false pretenses and for converting those proceeds to their personal use, to the full extent allowed by the applicable law;
- 4) To issue a declaratory judgment that IRP was an *alter ego* of Erlikh, for purposes of unlawful obtaining funds from a victim of fraud, Kinojuz;
- 5) To declare that Erlikh and Doubinine are jointly and severally liable to return the monies back to Kinojuz, for purposes of satisfying a judgment in this case;

- 6) To award attorneys' fees and costs, and such further relief that is just and fair'
- 7) To grant such other and further relief as the Court deems proper.

Respectfully submitted:

Dated: August 29, 2011

/s/

GEORGE LAMBERT (D.C. Bar No. 979327),
pro hac vice
LAW OFFICES OF LEONARD SUCHANEK
1025 Connecticut Avenue, #1000, NW
Washington, D.C., 20036
Tel. (202) 640 1897, Fax (202) 747 7797
E-mail: lawdc10@aol.com
Attorneys for Plaintiff Kinojuz I.P