

Dated: December 22, 2025

  
Eddward P. Ballinger Jr., Chief Bankruptcy Judge



IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF ARIZONA

MINUTE ENTRY/ORDER

FOR MATTER TAKEN UNDER ADVISEMENT

Bankruptcy Judge: Eddward P. Ballinger, Jr.

Case Name: Elevation Gold Mining Corporation – Chapter 15

Case Number: 2:24-bk-06359-EPB

Adversary Name: Patriot Gold Corp. v. Golden Vertex Corp., et al.

Adversary Number: 2:24-ap-00253-EPB

Subject of Matter: Second Motion for Preliminary Injunction

Date Taken Under  
Advisement: December 9, 2025

Date Matter Ruled  
Upon: December 22, 2025

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This matter came before the Court for hearing on the motion of Plaintiff Patriot Gold Corp. (“Patriot”) for a preliminary injunction requiring Defendant Golden Vertex Corp. (“GVC”) to (1) provide monthly detailed calculations of all royalties owing in accordance with the terms

of the Royalty Deed, including all data supporting or otherwise relating to the calculations; and (2) segregate and hold in the United States the dollar amount of royalties payable to Patriot under the Royalty Deed. Patriot seeks an order covering the time period beginning October 22, 2025, the date the Court rendered its summary judgment determination, until the Court enters final judgment in this case.

Patriot acknowledges that a preliminary injunction is an extraordinary provisional remedy to be granted only when necessary to preserve the status quo during the pendency of litigation. Preliminary injunctions are governed by Fed. R. Civ. P. 65, which is made applicable to bankruptcy adversary proceedings by Fed. R. Bankr. P. 7065. The Ninth Circuit has held that courts must consider the following factors to determine whether a preliminary injunction is appropriate:

- (1) the likelihood of movant's success on the merits;
- (2) the possibility of an irreparable injury to movant in the absence of an injunction;
- (3) the balance of hardships between the parties; and
- (4) public policy favoring the requested relief.

*Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 2014), citing *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008).

Patriot submits that it is likely to succeed on the merits of its conversion claim and its claim for the equitable remedy of a constructive trust. "Arizona follows the definition of 'conversion' found in the Restatement (Second) of Torts § 222(A)." *Wagner v. Adickman*, 2019 WL 2996059, at \*3 (D. Ariz. July 9, 2019), citing *Miller v. Hehlen*, 104 P.3d 193, 203 (Ariz. Ct. App. 2005). "Conversion is an intentional exercise of dominion or control over a chattel which so seriously interferes with the right of another to control it that the actor may justly be required

to pay the other the full value of the chattel.” *Wagner* at \*3, quoting Restatement (Second) of Torts § 222(A)(1)). Under Arizona law, a constructive trust is an equitable remedy that may be available when the converter is a “conscious wrongdoer.” *See Rotary Club of Tucson v. Chaprales Ramos de Pena*, 773 P.2d 467, 470-471 (Ariz. Ct. App. 1989), quoting Restatement (First) of Restitution § 203.

GVC does not deny Patriot’s assertion that GVC is exercising dominion and control over proceeds subject to the Royalty Deed. Rather, GVC attempts to cast its failure to pay Patriot in accordance with the Royalty Deed as simply a failure to pay a debt. However, this is not a simple breach of contract case. The Court has already determined that Patriot owns and holds a real property interest in the minerals subject to the Royalty Deed and the proceeds generated therefrom. Accordingly, the Court finds that Patriot is likely to succeed on the merits of its causes of action for conversion and constructive trust, satisfying the first factor of the preliminary injunction test.

The second factor requires Patriot to demonstrate the possibility of irreparable harm. Monetary injury is generally insufficient to warrant a preliminary injunction. *See Grupo Mexicano de Desarrollo S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 333 (1999). However, the Ninth Circuit has held that a court is not barred from granting a preliminary injunction in an adversary bankruptcy proceeding in which a plaintiff alleges equitable causes of action such as constructive trust. *In re Focus Media Inc.*, 387 F.3d 1077, 1084–85 (9th Cir. 2004). A court may grant an injunction to prevent the dissipation of assets while a party seeks equitable relief. *See Castillo v. Johnson*, 2021 WL 75829, at \*2 (D. Ariz. Jan. 8, 2021).

GVC does not dispute Patriot’s allegation that proceeds subject to the Royalty Deed are being regularly transferred to GVC’s Canadian parent company, potentially outside the

jurisdiction of this Court. Rather, GVC contends that profits being generated from the mine will be sufficient to satisfy any potential judgment. GVC does not address Patriot's legitimate concern that those funds are being moved outside the United States and may ultimately be unavailable to satisfy a future judgment. The Court finds Patriot has demonstrated the possibility of irreparable harm.

The third factor considers the burdens or hardships to the party requesting the injunction compared to the burden on the opposing party if an injunction is ordered. *Porretti v. Dzurenda*, 11 F.4th 1037, 1050 (9th Cir. 2021). Proceeds subject to the Royalty Deed constitute a small percentage of GVC's profits. The requested preliminary injunction would subject GVC to very little hardship as it leaves GVC's remaining profits unaffected. This is in stark contrast to Patriot's hardship which, absent an injunction, could result in the total transfer of its assets out of the country during the pendency of this case.

The fourth factor requires the Court to consider whether public policy favors the requested injunction. "The public interest inquiry primarily addresses impact on non-parties rather than parties." *Wagner* at \*4, quoting *Sammartano v. First Judicial Dist. Court*, 303 F.3d 959, 974 (9th Cir. 2002). "As a practical matter, if a plaintiff demonstrates both a likelihood of success on the merits and irreparable injury, it almost always will be the case that the public interest will favor the plaintiff." *Id.*, quoting *Am. Tel. & Tel. Co. v. Winback & Conserve Program, Inc.*, 42 F.3d 1421, 1427 n.8 (3d Cir. 1994). As the District Court noted in *Wagner*, "[t]he public has a strong interest in preserving the availability of a forum for the enforcement of property rights." *Id.* at \*4. The Court has already determined that Patriot holds a real property interest in the minerals subject to the Royalty Deed and the proceeds generated therefrom. Because Patriot has demonstrated a likelihood of success on the merits and the potential for

irreparable harm, considerations of public policy weigh in favor of granting Patriot's request for a preliminary injunction.

Having considered each of the factors required for a preliminary injunction, the Court concludes that Patriot has made an adequate showing as to all four prongs. Patriot's request for a preliminary injunction is well taken.

Accordingly,

IT IS ORDERED that for the time period commencing on October 22, 2025, GVC is to (1) provide monthly detailed calculations of all royalties owing in accordance with the terms of the Royalty Deed, including all data supporting or otherwise relating to the calculations; and (2) segregate and hold in the United States the dollar amount of royalties payable to Patriot under the Royalty Deed.