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8 Ninus Malan

9 **SUPERIOR COURT CALIFORNIA**
10 **COUNTY OF ORANGE - CENTRAL JUSTICE CENTER**

11
12 MONTGOMERY FIELD BUSINESS
13 CONDOMINIUMS ASSOCIATION, a
14 California Nonprofit Mutual Benefit
15 Corporation,

15 Plaintiff,

16 v.

17
18 BALBOA AVE COOPERATIVE, a
19 California corporation; SAN DIEGO
20 UNITED HOLDINGS GROUP, LLC, a
21 California limited liability company;
22 NINUS MALAN, an individual; RAZUKI
23 INVESTMENTS, LLC, a California limited
24 liability company; SALAM RAZUKI, an
25 individual; and DOES 1 through 25,
26 inclusive,

23 Defendants.

CASE NO. 37-2017-00019384-CU-CO-CTL

Assigned to Judge: Honorable Ronald L. Styn,

**DECLARATION OF MICHAEL RENE
MORTON IN SUPPORT OF BALBOA AVE
COOPERATIVE AND SAN DIEGO
UNITED HOLDINGS GROUP, LLC'S EX
PARTE APPLICATION TO DISSOLVE
TEMPORARY RESTRAINING ORDER**

DATE: August 4, 2017

TIME: 2:00 p.m.

DEPT: C-62

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1 I, Michael Rene Morton, declare:

2 1. I am over the age of 18 and am not a party to this action. I have personal
3 knowledge of the facts stated in this declaration. If called as a witness, I would testify
4 competently thereto. I provide this declaration in support of defendants Balboa Ave
5 Cooperative's and San Diego United Holdings Group, LLC's ("Defendants") ex parte
6 application to dissolve temporary restraining order.

7 2. I am a licensed architect in the state of California and work on projects in
8 conjunction with Techne. Techne provides architectural services under my supervision. In the
9 last approximately 3 years, Techne and I have worked on several projects for medical
10 marijuana consumer cooperatives in the City of San Diego ("City"). One of these projects was
11 an application for a medical marijuana consumer cooperative located at 8863 Balboa Ave, Suite
12 E, San Diego, California 92123 ("Balboa MMCC").

13 3. In early 2014, Techne was hired by a man named Michael "Biker" Sherlock,
14 who was the principal for an entity known as United Patients Consumer Cooperative ("UPCC")
15 to prepare and submit building plans to the City as part of UPCC's application to operate a
16 medical marijuana consumer cooperative at the Balboa MMCC. At that time, property owner
17 was a woman named Maria Sandoval.

18 4. Thereafter, Techne prepared and submitted building plans to the City, which I
19 stamped in my capacity as a licensed architect and the application, including the plans was
20 submitted by UPCC (Michael Sherlock) on or about April 24, 2014.

21 5. On or about April 22, 2015, I attended a City Planning Commission hearing
22 whereby the San Diego Planning Commission approved UPCC's application for a conditional
23 use permit to operate a MMCC at the Balboa MMCC. The conditional use permit approval
24 included a permit to widen an exterior door at the Balboa MMCC.

25 6. During the application process, Maria Sandoval sold the building to an entity
26 owned by a man named Steve Lake. Steve and Michael referred to themselves as brothers.

1 7. On December 3, 2015, Michael Sherlock took his own life. This deeply tragic
2 event understandably sidelined the Balboa MMCC process for some period of time as
3 Michael's family, including his children, had to deal first with the sudden tragedy rather than
4 deal with what to do with UPCC's conditional use permit for the Balboa MMCC.

5 8. I am informed and believe that at some point thereafter, the building was sold
6 more than once and is now owned by San Diego United Holdings Group, LLC and UPCC's
7 conditional use permit for the Balboa MMCC was transferred to the Balboa Ave Cooperative.
8 A man named Ninus Malan is the principal for both entities.

9 9. Once the property ownership and the Balboa MMCC conditional use permit was
10 settled, construction was finally commenced and completed.

11 10. I am aware of these facts as I was the architect that started the project and it was
12 Techne's plans that the City approved. Various employees have since been in contact with
13 Ninus Malan in order to complete construction to allow the City to sign off on the project and
14 issue a certificate of occupancy.

15 11. In or about April 2017, construction was completed and the City issued a
16 certificate of occupancy.

17 12. I am informed and believe that at some point in late April 2017, the City
18 received a complaint that all of the conditions of the CUP had not been complied with at no
19 fault by Balboa MMCC. The conditions that remained outstanding included widening the
20 driveway and increasing the size of the roll-up door. The City required Balboa MMCC to
21 make these corrections and issued a temporary certificate of occupancy while the construction
22 was being completed.

23 13. The total expected time for completion of these additional improvements is one
24 week. The City has stated that they will revoke the temporary certificate of occupancy if these
25 improvements are not completed within the next few days because Mr. Dan Daniel has been at
26 the City complaining about the violation of CUP condition on a daily basis.

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I declare under the penalty of perjury under California state law that the foregoing is true and correct.

Dated: August 3, 2017



Michael Rene Morton