

1 DOUGLAS JAFFE, ESQ. Bar No. 170354
LAW OFFICES OF DOUGLAS JAFFE
2 501 West Broadway, Suite 800
San Diego, California 92101
3 Telephone: (619) 400-4945
Facsimile: (619) 400-4947
4

5 Attorneys for Razuki Investments, LLC
and Salam Razuki
6
7
8

F I L E D
Clerk of the Superior Court
NOV 02 2017
By: S. Klais-Trent, Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN DIEGO - CENTRAL

11 MONTGOMERY FIELD BUSINESS
12 CONDOMINIUMS ASSOCIATION,

13 Plaintiff,

14 vs.

15 BALBOA AVENUE COOPERATIVE, et. al.,

16 Defendants.
17
18
19
20
21

Case No.: 37-2017-00019384-CU-CO-CTL

**DECLARATION OF DOUGLAS JAFFE
REGARDING THE DEPOSITION OF
ARTHUR HOPKINS**

DATE: November 3, 2017

TIME: 2:00 p.m.

DEPT.: 62

JUDGE: Hon. Ronald L. Slyn

22 Douglas Jaffe declares as follows:

23 1. I am the attorney for Razuki Investments, LLC and Salam Razuki. As such, I
24 have personal knowledge of the facts in this declaration and if called to testify I could and would
25 competently testify thereto.
26
27
28

1 2. I took the deposition of insurance agent Arthur Hopkins (“Hopkins”) on October
2 31, 2017¹. The deposition has established several key issues in this case as follows:

3 3. The Use Of The Subject Premises As A Medical Marijuana Dispensary Has Not
4 Caused Insurance Cancellation. Hopkins’ testified:

5 Q. So without armed guards, Farmers was willing to continue to insurance this
6 premises, correct?

7 A. That is correct.

8 Q. Even with the medical marijuana dispensary?

9 MR. PETTIT: Let me object that it calls for speculation.

10 BY MR. JAFFE:

11 Q. Is that correct?

12 MR. PETTIT: You can tell him what you know.

13 THE WITNESS: That is correct.

14 See, Hopkins Deposition at p. 55, lines 14-23.

15 4. Massage Parlors Are A Prohibited Use For Purposes Of The Farmers’ Insurance.

16 Regardless of the medical marijuana dispensary, Plaintiff risks the cancellation of its Farmers’
17 insurance because of the massage parlors operating at the subject property. Hopkins testified:

18 Q. When was the first time you received any information or knowledge that a
19 massage parlor was operating at subject property?

20 A. I believe it was either April or May of 2000 [sic] it was in full operation.

21 Q. 2017?

22 A. Correct.

23 See, Hopkins Deposition at p. 49, line 25, p. 50, 1-6.

24 Q. With regard to these commercial real estate underwriting rules that are front of us,
25 isn't it correct that under these rules, a massage parlor would not be allowed?

26 A. It is partially correct. Anything outside the general guidelines of eligibility.
27 Another page that's not included with this is submit for approval. So any risk can be submitted
28 to the company for approval for their discretion to issue business.

 Q. Do you know whether the Montgomery HOA has ever submitted for approval to
Farmers a massage parlor?

¹ Mr. Hopkins was subpoenaed to appear for his deposition on October 23, 2017. He failed to appear. Mr. Hopkins represented that the first available date for his deposition was October 31, 2017. Mr. Hopkins appeared at the deposition on October 31, 2017, which started at 10:00 a.m., in a full Halloween sorcerer’s costume complete with a sorcerer’s hat. It did not appear from his dress that Mr. Hopkins was taking the deposition seriously.

1 A. Specifically, I don't know.

2 See, Hopkins Deposition at p. 40, lines 7-19.

3 5. Hopkins Is Not An Expert And Should Not Be Allowed To Give Opinions.

4 Hopkins testified:

5 Q. Well, are you here as an expert for the plaintiff in this case?

6 A. I am not an expert, no.

7 Q. Have you been retained by the plaintiff in
8 this case to give opinions?

9 A. I wish. No.

10 Q. Do you have any opinions in this case at all?

11 A. Opinions are irrelevant.

12 See, Hopkins Deposition at p. 22, lines 5-12².

13 6. There Is Insurance Available That Covers Armed Guards For The Medical
14 Marijuana Dispensary, And Provides Equivalent Coverage To The Existing Farmers' Insurance.

15 Hopkins is not an expert and should not be allowed to give opinions comparing and contrasting
16 the insurance that Balboa Avenue Cooperative has been quoted through its expert insurance
17 agent, Bobby Uppal.

18 7. If the Court allows Hopkins to testify about his "concerns" regarding the
19 insurance that Balboa Avenue Cooperative has been quoted (which "concerns" are really
20 disguised opinions), Hopkins' deposition has established that his "concerns" have been
21 addressed. The supplemental declaration of Bobby Uppal dated October 26, 2017 addresses
22 every insurance issue raised by the Plaintiff and demonstrates that the issues they have raised
23 simply do not negate the fact that there is insurance available that covers armed guards for the
24 medical marijuana dispensary, and provides equivalent coverage to the existing Farmers'
25 insurance.

26 ² Counsel for Hopkins, Mr. Pettit, stated on the record during part of his speaking objections and directions to his
27 client not to answer questions although they did not involve a privilege, "MR. PETTIT: Now, listen. When you say,
28 'Are you going to give opinions,' what the hell does that mean?" Since Plaintiff has previously indicated that it
wants to use Mr. Hopkins to provide opinion testimony, the question was appropriate. Mr. Pettit's response with
profanity was typical of how Mr. Pettit acted during the deposition. See, Hopkins deposition at p. 23, lines 23-35.

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

8. It should be noted that Hopkins at his deposition thought the insurance quotes at issue which were obtained by Mr. Uppal have been rescinded. Mr. Uppal has repeatedly indicated that they have not been rescinded. Mr. Uppal's declaration indicates how counsel for Plaintiff is threatening the insurance carriers with legal action based upon the improper argument that no insurance quotes of any kind in this matter can be obtained without the consent of Plaintiff. The insurance carriers cannot be expected to hold on much longer given the legal barrage from Plaintiff's counsel. That is further support for allowing Balboa back in business, which would maintain the status quo until trial.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 2, 2017 in San Diego, California.



DOUGLAS JAFFE

1 PROOF OF SERVICE

2 I am over the age of 18 years and not a party to or interested in the within entitled action.
3 My business address is 501 West Broadway, Suite 800, San Diego, California 92101.

4 On November 2, 2017, I served the foregoing:

5 **DECLARATION OF DOUGLAS JAFFE REGARDING THE DEPOSITION OF**
6 **ARTHUR HOPKINS**

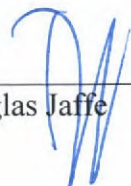
7 by placing true copies in a sealed envelope, postage fully prepaid, with the United States Postal
8 Service addressed as follows and by email as follows:

9 Mandy D. Hexom
10 EPSTEN GRINNELL & HOWELL APC
11 10200 Willow Creek Road, Suite 100
12 San Diego, California 92131
13 mhexom@epsten.com

14 Tamara Leetham, Esq.
15 Austin Law Group
16 3990 Old Town Avenue, Suite A-112
17 San Diego, CA 92110
18 tamara@austinlegalgroup.com

19 I am readily familiar with the firm's practice of collection and processing for mailing and
20 email. It is deposited with the United States Postal Service, postage prepaid, and sent by email,
21 on the same day in the ordinary course of business.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct. Executed on November 2, 2017 at San Diego, California.

24 
25 _____
26 Douglas Jaffe
27
28

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

(THE FOLLOWING IS A ROUGH DRAFT ONLY AND IS NOT TO BE
USED FOR ANY PURPOSE OTHER THAN ATTORNEY'S EYES ONLY)

SAN DIEGO, CALIFORNIA, TUESDAY, OCTOBER 31, 2017
10:08 A.M.

ARTHUR HOPKINS,
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. JAFFE:

Q. Could you state your name for the record and
spell your name.

A. Arthur Hopkins, A-R-T-H-U-R H-O-P-K-I-N-S.

Q. Mr. Hopkins, have you ever had your
deposition taken before?

A. I have not.

Q. You've taken an oath to tell the truth under
penalty of perjury just as if you were in a court of

1 understand the question. If you can rephrase it.
2 BY MR. JAFFE:
3 Q. You can answer.
4 A. Can you rephrase your question.
5 Q. Well, are you here as an expert for the
6 plaintiff in this case?
7 A. I am not an expert, no.
8 Q. Have you been retained by the plaintiff in
9 this case to give opinions?
10 A. I wish. No.
11 Q. Do you have any opinions in this case at all?
12 A. Opinions are irrelevant.
13 MR. PETTIT: I'll just object as --
14 BY MR. JAFFE:
15 Q. Do you have any --
16 MR. PETTIT: Let me just object as overbroad
17 and vague.
18 BY MR. JAFFE:
19 Q. Do you have any opinions?
20 MR. PETTIT: Same objection. Overbroad and
21 vague.
22 THE WITNESS: Do you have a more specific
23 question?
24 BY MR. JAFFE:
25 Q. I'm asking you, are you here today to give

1 any opinions with regard to anything that's involved in
2 this case?

3 A. I'm here today under subpoena.

4 MR. PETTIT: Hold on.

5 He's here because you subpoenaed him to show
6 up and give his deposition. He's not here because he
7 necessarily wants to be here. You issued a subpoena.
8 You made a big fuss about it. I went down to court.
9 You argued to the judge that he didn't show up for his
10 deposition. That's why he's here.

11 He's not here because he's an expert witness.
12 He's not here because he's retained. Nobody's paying
13 him. He's here to answer your questions. So let's ask
14 him questions he can answer.

15 MR. JAFFE: I need to know that.

16 Well, you don't know what representations
17 Ms. Hexom has made to the court with regard to his
18 relationship to the plaintiff and him giving opinions
19 previously.

20 MR. PETTIT: And I don't care. He's here to
21 give a deposition. He doesn't know --

22 MR. JAFFE: I need to know.

23 MR. PETTIT: Now, listen. When you say, "Are
24 you going to give opinions," what the hell does that
25 mean? What does that mean?

1 You're showing him an underwriting document.
2 That's not a coverage issue. It's an underwriting
3 issue. So let's just -- if we can keep it in those two
4 camps, it will make it much easier for him to tell you
5 if he can answer your question or not.

6 BY MR. JAFFE:

7 Q. With regard to these commercial real estate
8 underwriting rules that are front of us, isn't it
9 correct that under these rules, a massage parlor would
10 not be allowed?

11 A. It is partially correct. Anything outside
12 the general guidelines of eligibility. Another page
13 that's not included with this is submit for approval.
14 So any risk can be submitted to the company for
15 approval for their discretion to issue business.

16 Q. Do you know whether the Montgomery HOA has
17 ever submitted for approval to Farmers a massage
18 parlor?

19 A. Specifically, I don't know.

20 Q. Let me show you what we'll mark as Exhibit 2.
21 Before that.

22 Have you ever asked of Daniel Burakowski that
23 he provide a list of the owners and tenants and their
24 operations at the Montgomery CCID?

25 A. I believe I have, either through their

1 answered this. I sent this specifically to Dan to
2 prepare him for any other questions that might be
3 there. And, again, the only intention expressed to me
4 from Farmers was that the only absolute no-go was the
5 presence of armed guards.

6 Q. Because you had informed them that there
7 might be armed guards there; is that it?

8 A. That is not correct.

9 Q. How did the issue of armed guards come up?

10 A. When the conditional use permit was presented
11 stating the requirement for armed guards, because
12 Mr. Malan was absolutely cooperative, willing to have a
13 loss control inspection, and the moment the loss
14 control inspector was given the conditional use permit
15 and saw that there were armed guards, he cancelled the
16 inspection and sent his high risk underwriting
17 notification.

18 Q. When was the first time you had any
19 involvement of any kind or type with Mr. Malan?

20 A. I forget if it was a phone call or an email
21 chain. It was definitely in 2017, to the best of my
22 knowledge. I believe it was a direct phone call
23 because he was forwarded one of my emails from
24 Mr. Burakowski, I think.

25 Q. When was the first time you received any

1 information or knowledge that a massage parlor was
2 operating at subject property?

3 A. I believe it was either April or May
4 of 2000 [sic] it was in full operation.

5 Q. 2017?

6 A. Correct.

7 Q. How did you receive that information?

8 A. I received that information from
9 Mr. Dan Burakowski.

10 Q. What did he tell you?

11 A. He told me that the marijuana clinic or MMD
12 opened in spite of the association's rules and
13 protestations.

14 Q. Did he tell you he wanted -- let me rephrase
15 that.

16 What else did he tell you, other than that
17 they had opened over their protestations?

18 A. Pretty much that he was following up with my
19 communication from a prior board member in 2014, I
20 believe, that he had to notify me of the change in
21 operations to notify the company since it had been
22 specifically addressed before.

23 Q. So he wanted you -- let me rephrase that.

24 Mr. Burakowski wanted you to tell Farmers
25 that the medical marijuana dispensary was operating; is

1 information.

2 So the reason, going back to Exhibit 2 on the
3 absolute underwriting hazard and/or whatever your few
4 items, which are it getting meant to be broad and vague
5 intentionally, was that the company was going to allow
6 the operations of the association to continue in its
7 nature and make an exception on its underwriting
8 guidelines as they can with any other tenants'
9 operation or item so long as there were no armed guards
10 present. That was the only absolute at that time that
11 there were no armed guards and it would not adversely
12 affect the insurance or its continuing renewal on its
13 own.

14 Q. So without armed guards, Farmers was willing
15 to continue to insurance this premises, correct?

16 A. That is correct.

17 Q. Even with the medical marijuana dispensary?

18 MR. PETTIT: Let me object that it calls for
19 speculation.

20 BY MR. JAFFE:

21 Q. Is that correct?

22 MR. PETTIT: You can tell him what you know.

23 THE WITNESS: That is correct.

24 MR. PETTIT: Hold on. Hold on. Nobody --
25 you can't gesture to my client. You can't gesture to