

**CASE NO. DO75028**

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT, DIVISION 1**

---

SALAM RAZUKI, an individual,  
Plaintiff and Respondent,

v.

NINUS MALAN; MONARCH MANAGEMENT CONSULTING, INC.; SAN  
DIEGO UNITED HOLDINGS GROUP, LLC; FLIP MANAGEMENT, LLC;  
BALBOA AVE COOPERATIVE, a California nonprofit mutual benefit corporation;  
CALIFORNIA CANNABIS GROUP, a California nonprofit mutual benefit  
corporation; DEVILISH DELIGHTS, INC. a California nonprofit mutual benefit  
corporation,  
Defendants and Appellants.

---

CHRIS HAKIM; MIRA ESTE PROPERTIES LLC; ROSELLE PROPERTIES, LLC  
Defendants and Cross-Appellants.

---

On Appeal from the Superior Court, County of San Diego,  
Honorable Eddie C. Sturgeon, Department C-67; Tel. 619-450-7067  
San Diego Superior Court Case No. 37-2018-00034229-CU-BC-CTL

---

**VOLUME 2--CROSS-APPELLANTS' EXHIBIT INDEX IN SUPPORT OF  
PETITION FOR WRIT OF SUPERSEDEAS OR OTHER APPROPRIATE STAY  
ORDER; REQUEST FOR IMMEDIATE STAY;  
RELATED APPEAL PENDING**

---

Charles F. Gorla, Esq. (SBN68944)  
GORIA, WEBER & JARVIS  
1011 Camino del Rio South  
Suite 210  
San Diego, CA 92108  
Tel.: (619) 692 3555  
Fax: (619) 296 5508  
Attorneys for Defendants and Cross-  
Appellants CHRIS HAKIM, MIRA ESTE  
PROPERTIES, LLC and ROSELLE  
PROPERTIES LLC

## TABLE OF CONTENTS

### Volume 1

EXHIBIT LETTER	EXHIBIT DESCRIPTION
A	9/26/2018 Order Confirming Receiver and Granting preliminary Injunction
B	Notice of Appeal filed 10/30/2018 by Defendants and Appellants Ninus Malan, San Diego United Holdings Group, LLC, Flip Management LLC, California Cannabis Group, Balboa Ave Cooperative, and Devilish Delights, Inc.
C	Notice of Appeal filed 11/2/2018 by Defendants and Cross-Appellants Chris Hakim, Roselle Properties LLC, and Mira Este Properties LLC
D	8/28/2018 Order Appointing Receiver
E	Notice of Motion for Order Setting Bond on Appeal of Order Appointing Receiver; Declaration of Charles F. Gorja; Points and Authorities filed 11/19/2018
F	Declaration of Chris Hakim in Support of Motion for Order Setting Bond filed 11/19/2018
G	Memorandum of Points and Authorities and Declaration of James Joseph in Opposition to Motion for Order Setting Bond, filed December 3, 2018

### Volume 2

EXHIBIT LETTER	EXHIBIT DESCRIPTION
H	Reply Request for Judicial Notice and Memorandum of Points in Support of Motion for Order Setting Bond, filed December 7, 2018
I	12/14/2018 Transcript of Proceedings on Motion for Order Setting Bond on Appeal of Order Appointing Receiver
J	12/17/2018 Minute Order on Motion for Order Setting Bond on Appeal of Order Appointing Receiver
K	First Amended Complaint for Damages of plaintiff Salam Razuki, filed July 13, 2018

# EXHIBIT H

Charles F. Gorla, Esq. (SBN68944)  
GORIA, WEBER & JARVIS  
1011 Camino del Rio South, Suite 210  
San Diego, CA 92108  
Tel.: (619) 692-3555  
Fax: (619) 296-5508

**FILED**  
Clerk of the Superior Court

DEC 07 2018

By: C. Rein, Clerk

Attorneys for Defendants CHRIS HAKIM,  
MIRA ESTE PROPERTIES, LLC,  
AND ROSELLE PROPERTIES LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO, CENTRAL DIVISION**

SALAM RAZUKI, an individual  
Plaintiff

vs

NINUS MALAN, an individual; CHRIS  
HAKIM, an individual; MONARCH  
MANAGEMENT CONSULTING, INC.,  
California corporation; SAN DIEGO  
UNITED HOLDINGS GROUP, LLC, a  
California limited liability company; FLIP  
MANAGEMENT, LLC, a California limited  
liability company; MIRA ESTE PROPERTIES  
LLC, a California limited liability company;  
ROSELLE PROPERTIES, LLC, a California  
limited liability company; BALBOA AVE  
COOPERATIVE, a California nonprofit mutual  
benefit corporation; CALIFORNIA CANNABIS  
GROUP, a California nonprofit mutual benefit  
corporation; DEVILISH DELIGHTS, INC. a  
California nonprofit mutual benefit corporation;  
and DOES 1-100, inclusive;

Defendants.

AND RELATED CROSS-ACTIONS.

Case No.: 37-2018-00034229-CU-BC-CTL

(Unlimited Civil Action)

**REQUEST FOR JUDICIAL NOTICE OF  
DEFENDANTS CHRIS HAKIM, MIRA  
ESTE PROPERTIES LLC, AND  
ROSELLE PROPERTIES LLC IN  
SUPPORT OF REPLY TO OPPOSITION  
TO MOTION TO SET BOND ON  
APPEAL**

Hearing Date: December 14, 2018

Time: 1:30 PM

Dept.: C-67

I/C Judge: Hon. Eddie C. Sturgeon

Complaint Filed: July 10, 2018

Trial Date: Not Set

IMAGED FILE



1 TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that Defendants Chris Hakim, Mira Este Properties LLC., and  
3 Roselle Properties LLC hereby request that this Court take judicial notice pursuant to Evidence  
4 Code sections 452, et seq., of the following documents that are publicly recorded or filed  
5 documents and that are described below and attached hereto, as follows:  
6

7 Exhibit 8 Number	Description
9 Exhibit 1	10 United States District Court, Sothern District of California, Criminal Complaint, 11 Case No. 18 MJ5915, United States of America, Plaintiff, vs. Salam Razuki (1), 12 Sylvia Gonzales (2), and Elizabeth Juarez (3), Defendants.
13 Exhibit 2	14 Declaration of Jerry Baca in Opposition to Appointment of Receiver, filed 15 September 4, 2018 in this action.
16 Exhibit 3	17 Declaration of Robert Torrales in Opposition to Appointment of Receiver, filed 18 September 4, 2018 in this action.

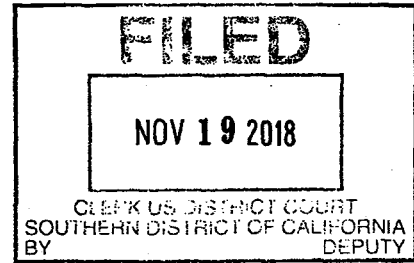
19 **GORIA, WEBER & JARVIS**

20  
21 Dated: 12/7/18

22 By: 

23 Charles F. Gorla  
24 Attorneys for Defendants  
25 Chris Hakim, Mira Este Properties  
26 LLC, and Roselle Properties LLC  
27

# EXHIBIT 1



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

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SALAM RAZUKI (1),  
SYLVIA GONZALES (2),  
and  
ELIZABETH JUAREZ (3),

Defendants.

Case No.:

**18MJ5915**

**COMPLAINT**

Title 18, United States Code, Section 956 -  
Conspiracy to kill, kidnap, maim an individual  
Title 18, United States Code, Section 1201(c) -  
Conspiracy to kidnap

The undersigned complainant being duly sworn states:

**COUNT 1**

On a date unknown and continuing through on or about November 16, 2018, within the Southern District of California, defendants SALAM RAZUKI, SYLVIA GONZALES, and ELIZABETH JUAREZ did knowingly and intentionally conspire to commit at a place outside the United States, to wit: Mexico, an act that would constitute the offense of murder, kidnapping or maiming if committed in the special maritime and territorial jurisdiction of the United States, in violation of Title 18, United States Code, Section 956.

**COUNT 2**


1  
2 On a date unknown and continuing through on or about November 16, 2018, within  
3 the Southern District of California, defendants SALAM RAZUKI, SYLVIA GONZALES,  
4 and ELIZABETH JUAREZ did conspire with one another to willfully seize, confine,  
5 inveigle, kidnap, abduct and carry away N.M. for another purpose, to wit: intimidation and  
6 murder, and to transport N.M. in foreign commerce from the United States to Mexico, in  
7 violation of Title 18, United States Code, Section 1201(c).

8  
9 And the complainant states that this complaint is based on the attached statement of  
10 facts, which is incorporated herein by reference.

11  
12   
13 MICHELLE HART  
14 FBI Special Agent

15 Sworn to before me and subscribed in my presence

16 this 16 day of November, 2018.

17  
18   
19 HONORABLE WILLIAM V. GALLO  
20 UNITED STATES MAGISTRATE JUDGE  
21  
22  
23  
24  
25  
26  
27  
28



1  
2 **Probable Cause Statement**

3 On or about October 17, 2018, SALAM RAZUKI and SYLVIA GONZALES met  
4 with a Confidential Human Source (CHS1) requesting CHS1 arrange to kill one of their  
5 business associates, N.M.<sup>1</sup> According to RAZUKI and GONZALES, they had invested in  
6 multiple properties and business ventures together and were now involved in a civil dispute  
7 over their assets. RAZUKI and GONZALES told CHS1 that they wanted CHS1 to “shoot  
8 him [N.M.] in the face,” “to take him to Mexico and have him whacked,” or kill him in  
9 some other way. RAZUKI and GONZALES provided CHS1 a picture of N.M., which  
10 CHS1 provided to the FBI.

11 On or about November 5, 2018, CHS1 met with GONZALES at The Great Maple  
12 in San Diego, CA. During the meeting, GONZALES asked if CHS1 could “get rid of  
13 Salam’s [RAZUKI] other little problem, [N.M.], because it looks like they’re going to  
14 appeal.... I would love for him [N.M.] to go to TJ and get lost. Just leave him over there.”  
15 GONZALES said the civil dispute between her, RAZUKI, and N.M. was over \$44 million  
16 dollars. GONZALES went on to say, “It’s no joke, Salam [RAZUKI] has a lot of money  
17 tied up right now, and he’s paying attorney fees. You need to get rid of this asshole [N.M.],  
18 he’s costing me too much money!” GONZALES wanted this to occur before the next  
19 court date in their civil suit scheduled on or about November 15, 2018. At a certain point  
20 during the conversation, a server was close to their table and GONZALES said, “You don’t  
21 have to kill him, you don’t have to put him off the face of the earth.” Despite her words at  
22 the time, GONZALES was making a slashing movement across her neck indicating she  
23

24 <sup>1</sup> CHS1 has been cooperating with the FBI since 2009 and had provided information,  
25 which was vetted and later determined credible, reliably over the years leading to the  
26 successful identification and prosecution of drug traffickers, money launderers, and other  
27 subjects in numerous FBI criminal investigations. RAZUKI is also a confidential source  
28 for the FBI and has been since approximately May 2014. However, RAZUKI has not  
informed the FBI of any of his actions, or those of GONZALES or JUAREZ, in attempting  
to have N.M. kidnapped and killed.

1 wanted N.M. to be killed. During the conversation, GONZALES advised that there was  
2 no reason to involve RAZUKI in planning for the kidnapping of N.M. because "I am the  
3 one with the balls, any time they [business partners, including RAZUKI] have a problem,  
4 they come after me ... they say Sylvia is like a little ... honey badger ... they're like send  
5 the honey badger after them."

6 On November or about 8, 2018, CHS1 met with GONZALES at Banbu Sushi Bar  
7 and Grill in La Mesa, CA. At the outset of the meeting, GONZALES continued to  
8 complain about N.M. and the ongoing civil lawsuit. According to GONZALES, another  
9 individual was coming, later identified as ELIZABETH JUAREZ, to talk about how to  
10 handle N.M. GONZALES said, "Elizabeth [JUAREZ] right here, Elizabeth is going to  
11 give you a proposition also on that problem. She said all you got to do is get him to Mexico  
12 and she'll take care of him over there." CHS1 asked, "She will?" and GONZALES replied,  
13 "Yes, that's why she's coming."

14 Approximately one hour, 20 minutes into GONZALES' and CHS1's meeting at  
15 Banbu Sushi Bar and Grill, JUAREZ joined them. JUAREZ said that all CHS1 needed to  
16 do was to get N.M. down to Mexico and she would take care of the rest. JUAREZ and  
17 GONZALES said a lot of people have it out for N.M. so nothing would come back on  
18 RAZUKI. GONZALES said she wanted to watch and wanted N.M. to know that it had  
19 come from them [GONZALES and RAZUKI], but JUAREZ cautioned GONZALES  
20 shouldn't watch because it would be gruesome and haunt her. JUAREZ said this "wasn't  
21 her first rodeo" and went on to talk about a previous incident involving a female from Vista,  
22 CA, who was drugged and kidnapped. CHS1, GONZALES, and JUAREZ discussed a cost  
23 of \$2,000 for the job. CHS1 clarified whether GONZALES and JUAREZ wanted this to  
24 happen in the United States or Mexico. JUAREZ said, "No, I don't want it done here [in  
25 the United States]." GONZALES added, "No, let's do it in Mexico because we can't be  
26 charged in the US. Let's do it in Mexico in case anything comes back to us." JUAREZ  
27 said, "In Mexico it's easier to make things go away. You pay for your freedom."  
28

1 GONZALES and JUAREZ said they wanted to “put the turkey up to roast before  
2 Thanksgiving.” After the meeting, CHS1 positively identified a driver’s license photo of  
3 ELIZABETH JUAREZ as the individual that joined them and talked of the kidnapping and  
4 murder of N.M. This is the same individual observed by FBI agents as joining the meeting  
5 as well. GONZALES advised that RAZUKI often referred to N.M. as “the midget” and  
6 near the end of the dinner, JUAREZ handed CHS1 her cellphone to take a picture of  
7 GONZALES and JUAREZ and said, “You can take a picture of us when we were going to  
8 get rid of the midget [decided to kidnap and kill N.M.]”

9 After dinner, CHS1 called GONZALES and confirmed that CHS1 could kidnap and  
10 murder N.M. During the call, CHS1 told GONZALES to provide information on N.M.,  
11 including his address, what car he drives, and other identifying information. GONZALES  
12 asked to meet the next day so she could give CHS1 the information requested.

13 On or about November 9, 2018, GONZALES called CHS1 and asked CHS1 to meet  
14 her, RAZUKI, and JUAREZ. During the meeting, RAZUKI’S assistant, GIOVANNA  
15 CONTRERAS, was also present in the room, but did not participate in the conversation  
16 and had headphones in her ears most of the time. RAZUKI, GONZALES, and JUAREZ,  
17 discussed with CHS1 several loans they were trying to secure for their businesses,  
18 including cannabis dispensaries, as well as RAZUKI’S frustration with the ongoing civil  
19 suit with N.M. At times during the meeting, RAZUKI went to the other side of the room  
20 to work, though CHS1 believes it was close enough to overhear the continued conversation  
21 between CHS1, GONZALES, and JUAREZ. GONZALES asked CHS1 if CHS1 needed  
22 money [for the kidnapping of N.M.] and said she would go get \$1,000, but asked if CHS1  
23 wanted the full payment instead. CHS1 indicated that \$1,000 fine for the time being and  
24 GONZALES went to the Goldn Bloom Dispensary and returned with \$1,000 cash.  
25 Surveillance agents observed GONZALES walk to the Goldn Bloom Dispensary across  
26 the street and return.  
27  
28

1 After the meeting, CHS1 provided agents with \$1000 cash provided by GONZALES  
2 as well as an envelope with a piece of paper inside, which had also been provided by  
3 GONZALES. The paper had two business addresses for N.M. according to GONZALES  
4 in a later meeting.

5 On or about November 13, 2018, GONZALES contacted CHS1 again via phone and  
6 informed CHS1 that RAZUKI and GONZALES would be with N.M. in court at the Hall  
7 of Justice located at 330 West Broadway, San Diego, CA. GONZALES requested CHS1  
8 join them so CHS1 could see N.M. in person. CHS1 declined going into the courtroom,  
9 but agreed to stand outside the building and wait for N.M. to exit. While inside the Hall of  
10 Justice, GONZALES took a picture of N.M. with her phone and sent it to CHS1 and then  
11 called CHS1 and described what N.M. was wearing at the hearing. GONZALES exited  
12 the Hall of Justice and met with CHS1 to further discuss the description of N.M., which  
13 was recorded. During this meeting, GONZALES explained that "10605 Roselle St." and  
14 "9212 Mira Est. Ct 218 SD 92126" were locations of businesses N.M. manages. She did  
15 not specifically explain the address, "2815 Camino Del Rio S. #124 San Diego, CA  
16 92108." According to GONZALES, the information on the envelope and back of the paper,  
17 was to assist CHS1 in locating N.M. for the kidnapping and murder in Mexico.  
18 GONZALES also stated during the meeting "if they take him now, it's gunna be good."  
19 GONZALES went back into the courthouse and provided CHS1 with updates as N.M. was  
20 departing the Hall of Justice to ensure CHS1 observed N.M. as he left. GONZALES told  
21 CHS1 that N.M. would be exiting the courthouse and that GONZALES, RAZUKI,  
22 JUAREZ, and their attorney would exit after him. FBI agents observed N.M exit the  
23 courthouse after CHS1 had been told this and agents observed RAZUKI, GONZALES,  
24 and JUAREZ proceeded on foot to the vehicle they arrived in and departed.

25 In an interview with FBI on November 15, 2018, N.M. advised that he had invested  
26 in real estate with RAZUKI in order to lease buildings to various entities – mainly  
27 marijuana dispensaries. Later on November 15, 2018, CHS1 met with RAZUKI, which  
28

1 was recorded and surveilled by FBI agents. CHS1 said, "I took care of it." RAZUKI  
2 replied, "So he will take care of it, or it's done?" CHS1 replied, "Done." RAZUKI quickly  
3 changed the subject to discuss other business investments and pending loans. Later in the  
4 conversation, CHS1 said, "Well, when I talked to what's her name, she said that she wanted  
5 to have proof. Do you want to see it, or are you ok with it?" RAZUKI replied, "No, I'm  
6 ok with it. I don't want to see it." Shortly thereafter, CHS1 requested the remainder of the  
7 agreed-upon payment and RAZUKI directed CHS1 to follow up with GONZALES for  
8 payment.

9 On November 15, 2018, GONZALES was arrested and advised of her Miranda  
10 rights and agreed to speak with agents. During her interview, GONZALES admitted the  
11 existence of the ongoing civil lawsuit between N.M. and RAZUKI, GONZALES, and  
12 JUAREZ, but denied involvement in any conspiracy to kidnap and kill N.M.

13 On November 16, 2018, JUAREZ was arrested and advised of her Miranda rights  
14 and agreed to speak with agents. JUAREZ admitted to having the meetings and  
15 conversations about kidnapping and killing N.M., but said she didn't think the group would  
16 actually go through with it.

17 On November 16, 2018, RAZUKI was arrested and advised of his Miranda rights  
18 and agreed to speak with agents. During his interview, RAZUKI admitted the existence of  
19 the ongoing civil lawsuit between N.M. and RAZUKI, GONZALES, and JUAREZ  
20 involving approximately \$40 million. RAZUKI heard that N.M. was missing, but thought  
21 it was a joke and denied involvement in any conspiracy to kidnap and kill N.M.

# EXHIBIT 2

1 Charles F. Gorla, Esq. (SBN68944)  
2 GORIA, WEBER & JARVIS  
3 1011 Camino del Rio South, Suite 210  
4 San Diego, CA 92108  
5 Tel.: (619) 692-3555  
6 Fax: (619) 296-5508

7 Attorneys for Defendant CHRIS HAKIM

**FILED**  
Clerk of the Superior Court

SEP 04 2018

By: C. Rein, Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 SALAM RAZUKI, an individual )  
11 Plaintiff )

12 vs )

13 )  
14 ) **NINUS MALAN, an individual; CHRIS**  
15 ) **HAKIM, an individual; MONARCH**  
16 ) **MANAGEMENT CONSULTING, INC.,**  
17 ) **California corporation; SAN DIEGO**  
18 ) **UNITED HOLDINGS GROUP, LLC, a**  
19 ) **California limited liability company; FLIP**  
20 ) **MANAGEMENT, LLC, a California limited**  
21 ) **liability company; MIRA ESTE**  
22 ) **PROPERTIES LLC, a California limited**  
23 ) **liability company; ROSELLE PROPERTIES,**  
24 ) **LLC, a California limited liability company;**  
25 ) **BALBOA AVE COOPERATIVE, a**  
26 ) **California nonprofit mutual benefit**  
27 ) **corporation; CALIFORNIA CANNABIS**  
28 ) **GROUP, a California nonprofit mutual**  
29 ) **benefit corporation; DEVILISH DELIGHTS,**  
30 ) **INC. a California nonprofit mutual benefit**  
31 ) **corporation; and DOES 1-100, inclusive;**

32 Defendants. )

Case No.: 37-2018-00034229-CU-BC-CTL

(Unlimited Civil Action)

**DECLARATION OF JERRY BACA IN**  
**OPPOSITION TO DEFENDANT'S**  
**APPLICATION FOR APPOINTMENT OF**  
**RECEIVER**

Hearing Date: September 7, 2018

Time: 1:30 PM

Dept.: C-67

I/C Judge: Hon. Eddie C. Sturgeon

Complaint Filed: July 10, 2018

Trial Date: Not Set

IMAGED FILE

1 I, Jerry Baca, declare:

2 1. I am over the age of 18.

3 2. I am the managing member (and sole member) of Synergy Management  
4 Partners, LLC ("Synergy"). Since approximately August 1, 2018, Synergy has managed the  
5 Facility at 9212 Mira Este Court, San Diego, California ("Mira Este Facility" or "Facility")  
6 for and on behalf of Mira Este Properties, LLC ("MEP").  
7

8 3. I have been employed in the cannabis industry for more than 6 years. Among  
9 other past experiences in the cannabis industry, I have owned and operated a cannabis  
10 dispensary; and I have owned and operated a business in three states that facilitated the  
11 physician evaluation of patients for possible cannabis prescriptions.  
12

13 4. In connection with Synergy's management of the Mira Este Facility, Synergy  
14 is responsible for the day-to-day operations of the Facility, including staffing for the  
15 building, installation of utilities, Internet service, and other services, providing security for  
16 the Facility, and providing a compliance manager to oversee production at that Facility.

17 5. The business model at the Mira Este Facility consists of at least 3 different  
18 activities, none of which involve the retail sale of cannabis products. First, the Mira Este  
19 Facility, consisting of approximately 16,000 square feet of space, is a licensed cannabis  
20 manufacturer. As such, the Mira Este Facility has the opportunity to enter into sub-license  
21 agreements with other producers and manufacturers so long as the safeguards and practices  
22 and procedures at the Mira Este Facility are followed. Those safeguards include providing  
23 security at the Facility 7 days a week and 24 hours a day. It also includes documenting all  
24 items that come into the Facility by manifest, taking control of those items, and placing  
25  
26  
27



1 them in a safe. When a sub licensee producer or manufacturer requires those items for the  
2 manufacture of its product, Synergy handles the paperwork, including the documenting of  
3 the release of such materials with at least two (2) persons present at all times. Additionally,  
4 Synergy coordinates the testing of products with an outside testing company, again with two  
5 (2) witnesses present at all times. As noted, Synergy also provides staffing for the building,  
6 which includes not only security and a compliance manager, but also all maintenance and  
7 cleaning staff. Synergy has also prepared formal written practices and policies that all sub  
8 licensees are required to follow. The second business activity at the Facility involves  
9 Synergy's distribution of cannabis products for the sub licensees. The third business  
10 activity involves the production by MEP of its own set of cannabis products for distribution.  
11  
12

13 6. The primary source of income to MEP is from sub licensees and is generated  
14 by a minimum guarantee as against a percentage of gross revenues earned by the sub  
15 licensee. Income from the distribution of cannabis products or MEP's manufacture of  
16 cannabis products are nonexistent because of the presence of the receiver.

17 7. In regards to income from sub licensees, that is also virtually nonexistent as  
18 explained below because of the presence of the receiver. The business model with sub  
19 licensees involved a guarantee per month of no less than \$20,000, as against a percentage of  
20 business of the sub licensee of no less than 10%. Therefore, and by way of example, the  
21 first and only producer/sub licensee procured by Synergy was a company known as Edipure.  
22 Edipure expended tens of thousands of dollars in preparation for the start of its production  
23 activities at the Facility. It also entered into a sublicense agreement to utilize approximately  
24 4000 square feet at the Facility. The sublicense agreement was made after the receiver was  
25  
26

1 removed on or about July 31, 2018 and before the receiver was re-appointed on or about  
2 August 20, 2018. During that time, Edipure generated approximately \$200,000 in "pre—  
3 orders". Since 10% of that amount or \$20,000 was less than the \$30,000 per month  
4 minimum guarantee under the sublicense agreement with Edipure, Edipure will be  
5 responsible to pay the sum of \$30,000 to continue its operations at the Facility for the first  
6 month of its operation. At this time, Edipure is the one and only sub licensee. The Facility  
7 cannot survive on Edipure's \$30,000 per month, given the extensive overhead that is  
8 involved in the operation of the Facility.  
9

10 8. The minimum space requirements of a sub licensee is approximately 2000  
11 square feet. The maximum is approximately 4000 square feet. As noted, no other sub  
12 licensee or manufacturer has entered into a sublicense agreement for reasons outlined below.  
13 When fully utilized, the Mira Este Facility can accommodate between 4 and 8 sub licensees  
14 or manufacturers at any given time. It is therefore anticipated that the Mira Este Facility  
15 could generate a minimum of \$120,000 per month and a maximum of \$400,000 per month  
16 in guarantees, depending upon the amount of the minimum guarantee and the amount of  
17 space that is required by sub licensees.  
18

19 9. The normal cost of improvements and other start-up costs that a sub licensee  
20 or producer would need to expend in order to begin operations at the Facility is  
21 approximately \$50,000 to \$100,000. Therefore, sub licensees are understandably cautious  
22 and careful before entering into sublicense agreements of the type made by Edipure.  
23

24 10. Based on our respective contacts in the cannabis industry, Chris Hakim and I  
25 developed a list of producers and manufacturers for sublicensing at the Mira Este Facility.  
26  
27

1 Through a series of ongoing discussions that we have had with these contacts in efforts to  
2 procure them as sub licensees for the Facility over the last several weeks, the existence of a  
3 receivership over the Facility essentially blocks these potential sub licensees from entering  
4 into sublicense agreements of the type made by Edipure. Before the receiver was appointed,  
5 almost all of our contacts expressed significant interest and willingness to enter into a  
6 sublicense agreement. After the receiver was re-appointed on or about August 20, 2018,  
7 none of our contacts expressed interest or a willingness to enter into a sublicense agreement  
8 when it was disclosed that a receiver was overseeing the Facility. Without sub licensees and  
9 producers and manufacturers such as Edipure, the Mira Este Facility will become insolvent.  
10 The following is a list of the companies with whom Mr. Hakim and I had discussions about  
11 a sublicense agreement (also included are a description of cannabis products made by the  
12 company, comments by company principals once it was disclosed that a receiver was in  
13 charge of the Facility, and potential revenues lost):  
14  
15

16 A. Conscious Flowers (see accompanying declaration of Robert Torrales).

17  
18 B. Eureka Oil (Vape Cartridges): I was told by the principal of Eureka Oil that  
19 having a third-party receiver would be a "deal breaker." He made it clear he will only  
20 work directly with Mr. Hakim. Potential revenues lost amount to more than \$40,000 per  
21 month based on anticipated sales.

22 C. Bomb Xtracts (Vape Cartridges, Pre Rolls, Flower, Moonrocks, Candy,  
23 Concentrates, Drinks, Edibles and chip). I was told by the principal that he refused to  
24 work with any receiver. He stated that his company had too many trade secrets and  
25 recipes that could potentially be monitored and copied by a receiver. Potential revenues  
26 lost amount to more than \$70,000 per month based on anticipated sales.

1  
2 D. 10X (Cannabis infused drinks). I was told by the principal that he was not willing  
3 to share trade secret to the knowledge of the business with a third party receiver.  
4 Potential lost revenue amounts to approximately \$20,000 per month.

5 E. Cannabis PROS ((Candy Company). I was told by the principal that any  
6 sublicense agreement would have to wait until all legal issues are resolved and  
7 ownership other than the receiver is in place. Potential lost revenue amounts to  
8 approximately \$25,000 per month.

9  
10 F. Royal Vape (Vape Cartridges, Pre Rolls, Edibles). I was told by the principal that  
11 he was unwilling to work with the receiver. He did not give a reason. Potential lost  
12 revenue amounts to more than \$30,000 per month.

13 G. LOL Edibles (Candy, Chips and more). I was told by the principal that he was  
14 not pleased about having to work with a receiver and is still waiting to decide whether or  
15 not to proceed with the sublicense agreement. Potential lost revenue is more than  
16 \$30,000 per month.

17 H. Xtreme Vape (Vape Oil manufacturing and Vape Cartridges). I was told by the  
18 principal that he is not willing to work with a receiver. Negotiations for sublicense  
19 agreement will be restarted once the receiver is removed or the lawsuit is complete.  
20 Potential lost revenue is more than \$20,000 per month.

21  
22 I. Bloom Farms (Vape Cartridges). I was told by the principal that because of the  
23 turmoil caused by the litigation, he has decided to go elsewhere for his production  
24 facility. Potential lost revenue is more than \$30,000 per month.  
25  
26  
27

1 J. Cannabis Presidentials (Premium Pre Rolls, Vape Cartridges, Flower, Moonrocks,  
2 Candies). I was told by the principal that he is not willing to work with a third-party  
3 receiver and that "once things are cleared up", they would be willing to sign a sublicense  
4 agreement. I was also told by the principal that he is concerned that his company's trade secrets  
5 would be jeopardized with a receiver or other third-party overseeing the Facility. Potential lost  
6 revenue is between \$40,000 and \$70,000 per month.

7 11. I am informed and believe and thereon declare that there is a dispute about  
8 ownership of equipment that SoCal delivered to the Mira Este Facility. All of the  
9 equipment that SoCal delivered has been isolated and is largely kept in pressure – wrapped  
10 plastic. None of the equipment has been used. All of the equipment is secure and is  
11 guarded by armed security guards 7 days a week, 24 hours a day.

12 12. On or about August 28, 2018, Synergy entered into an accounting agreement  
13 and paid a retainer of \$2000 to Justus H Henkes IV, Inc. and Justus "Judd" Henkes IV, CPA for  
14 accounting and bookkeeping services at the Mira Este Facility.

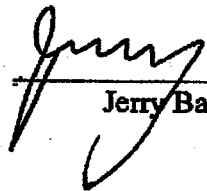
15 13. The management agreement between Synergy and MEP requires all revenues to  
16 be deposited into a bank account, with withdrawals to be made only with two (2) signatories, one  
17 by Synergy and the other by MEP. On the 5<sup>th</sup> of each month, the management fees to Synergy  
18 are paid along with distribution of net profits to MEP. I understand that the net profits payable  
19 to Ninus Malan, one of the members of MEP, is in dispute. I also understand that there is no  
20 dispute that one half of the net profits of MEP is to go to Chris Hakim.

21 14. A receiver to oversee the operations at the Mira Este Facility would not only be  
22 unnecessary, but would probably destroy the Facility as a marijuana production Facility because  
23 of the refusal of producers and manufacturers to want to work with a receiver. As an alternative  
24  
25  
26

1 to having a receiver in place over the management of the Mira Este Facility, I would strongly  
2 urge the court to allow Mr. Hakim to remain as the managing member and continue to supervise  
3 the Mira Este Facility. The dispute involving one half of the net profits of MEP can easily be  
4 preserved by having one half of the net profits otherwise payable to Mr. Malan and/or Mr.  
5 Razuki be retained in the account requiring dual signatures. No portion of those net profits  
6 would be disbursed without a court order or an agreement of the parties. Under that  
7 arrangement, I am informed and believe and thereon declare that manufacturing or sublicensing  
8 agreements could be reached with most if not all of the above – listed companies.  
9

10 I declare under penalty of perjury that the foregoing is true and correct except as to  
11 those matters stated on information and belief and as to those matters I believe it to be true.  
12

13 This declaration was executed on 9-3-18 at San Diego County, California.

14  
15   
16 \_\_\_\_\_  
17 Jerry Baca  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

# EXHIBIT 3

1 Charles F. Gorla, Esq. (SBN68944)  
GORIA, WEBER & JARVIS  
2 1011 Camino del Rio South, Suite 210  
San Diego, CA 92108  
3 Tel.: (619) 6923555  
Fax: (619) 2965508

4 Attorneys for Defendant CHRIS HAKIM  
5  
6  
7

**FILED**  
Clerk of the Superior Court

SEP 04 2018

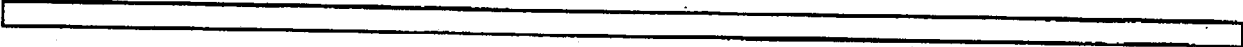
By: C. Rein, Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10	SALAM RAZUKI, an individual	)	Case No.: 37-2018-00034229-CU-BC-CTL
11	Plaintiff	)	(Unlimited Civil Action)
	vs	)	
12	NINUS MALAN, an individual; CHRIS	)	<b>DECLARATION OF ROBERT</b>
13	HAKIM, an individual; MONARCH	)	<b>TORRALES IN OPPOSITION TO</b>
14	MANAGEMENT CONSULTING, INC.,	)	<b>DEFENDANT'S APPLICATION FOR</b>
	California corporation; SAN DIEGO	)	<b>APPOINTMENT OF RECEIVER</b>
15	UNITED HOLDINGS GROUP, LLC, a	)	Hearing Date: September 7, 2018
	California limited liability company; FLIP	)	Time: 1:30 PM
16	MANAGEMENT, LLC, a California limited	)	Dept.: C-67
	liability company; MIRA ESTE PROPERTIES	)	I/C Judge: Hon. Eddie C. Sturgeon
17	LLC, a California limited liability company;	)	
	ROSELLE PROPERTIES, LLC, a California	)	Complaint Filed: July 10, 2018
18	limited liability company; BALBOA AVE	)	Trial Date: Not Set
	COOPERATIVE, a California nonprofit mutual	)	
19	benefit corporation; CALIFORNIA	)	
	CANNABIS GROUP, a California nonprofit	)	
20	mutual benefit corporation; DEVILISH	)	
	DELIGHTS, INC. a California nonprofit mutual	)	
	benefit corporation; and DOES 1-100, inclusive;	)	
21	Defendants.	)	IMAGED FILE
22		)	
23		)	



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



I, Robert Torrales declare:

1. I am over the age of 18 years.

2. I have been in the cannabis industry for several years. I am one of the principals and operate a reputable company known as Conscious Flowers that specializes in the production and distribution of cannabis products. Information concerning Conscious Flowers is referenced at <http://www.consciousflowers.com/>.

3. I have been working with Chris Hakim to find a suitable space at the Mira Este Facility at 9212 Mira Este Court, San Diego, California ("Mira Este Facility") to grow my existing business. We were extremely close in putting together an agreement but I recently found out I would be dealing with a third party receiver instead of Chris Hakim. Cannabis is a sensitive business, and I have several trade secrets I would not want exposed to a third party receiver. At this time, all negotiations have been on hold until the receiver is definitely removed from the Mira Este Facility.

I declare under penalty of perjury that the foregoing is true and correct. This declaration was executed on 8/11/18 at Riverside County, California.

Robert Torrales

1 Charles.F. Gorla, Esq. (SBN68944)  
GORIA, WEBER & JARVIS  
2 1011 Camino del Rio South, Suite 210  
San Diego, CA 92108  
3 Tel.: (619) 692-3555  
Fax: (619) 296-5508

4 Attorneys for Defendants CHRIS HAKIM,  
5 MIRA ESTE PROPERTIES, LLC,  
6 AND ROSELLE PROPERTIES LLC

**FILED**  
Clerk of the Superior Court

DEC 07 2018

By: C. Rein, Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 SALAM RAZUKI, an individual

11 Plaintiff

12 vs

13 NINUS MALAN, an individual; CHRIS HAKIM,  
an individual; MONARCH MANAGEMENT  
14 CONSULTING, INC.,  
California corporation; SAN DIEGO UNITED  
15 HOLDINGS GROUP, LLC, a  
California limited liability company; FLIP  
16 MANAGEMENT, LLC, a California limited  
liability company; MIRA ESTE PROPERTIES  
17 LLC, a California limited liability company;  
ROSELLE PROPERTIES, LLC, a California  
18 limited liability company; BALBOA AVE  
COOPERATIVE, a California nonprofit mutual  
19 benefit corporation; CALIFORNIA CANNABIS  
GROUP, a California nonprofit mutual benefit  
20 corporation; DEVILISH DELIGHTS, INC. a  
California nonprofit mutual benefit corporation;  
21 and DOES 1-100, inclusive;

22 Defendants.

23 AND RELATED CROSS-ACTIONS  
24  
25

) Case No.: 37-2018-00034229-CU-BC-CTL

) (Unlimited Civil Action)

) **DEFENDANTS CHRIS HAKIM'S,**  
) **MIRA ESTE PROPERTIES LLC'S,**  
) **AND ROSELLE PROPERTIES LLC'S**  
) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES IN REPLY TO**  
) **OPPOSITION OF PLAINTIFF SALAM**  
) **RAZUKI TO SET BOND ON APPEAL**

) Hearing Date: December 14, 2018

) Time: 1:30 PM

) Dept.: C-67

) I/C Judge: Hon. Eddie C. Sturgeon

) Complaint Filed: July 10, 2018

) Trial Date: Not Set

) IMAGED FILE



1 Defendants Chris Hakim, Mira Este Properties LLC, and Roselle Properties LLC  
2 ("Moving Defendants") respectfully submit the following memorandum of points and  
3 authorities in reply to the opposition of Plaintiff Salam Razuki to Moving Defendants'  
4 motion to set bond on appeal:

5 **1. Introduction.**

6 Plaintiff argues that the court should set the Moving Defendants' appeal bond in the  
7 exorbitant amount of \$3,750,000 relative to Moving Defendants' appeal of the appointment  
8 of the receiver at the Mira Este facility. Plaintiff argues that such an excessive bond is  
9 necessary because the court has already determined that plaintiff has a likelihood of success  
10 on the merits; that there is a "high risk that the business will be sold or fail if the  
11 receivership order is stayed"; and that the requested bond amount is based on the valuations  
12 that were negotiated in the management agreement with SoCal Building Ventures, LLC  
13 ("SoCal"). None of these arguments has merit. The bond amount should be set at a minimal  
14 level, not exceeding \$10,000.00.

15 **2. Plaintiff's gross misconduct in early November 2018 in his "murder for  
16 hire" plot represents a complete defense based on the doctrine of unclean hands and  
17 undermines any "likelihood of success" that may have previously been found by the  
18 court before plaintiff "hatched" his murder for hire plot.**

19 Ultimately, plaintiff will not be entitled to the continuance of the receiver or any  
20 other equitable relief because of his active participation in the "murder for hire" plot directed  
21 against co-defendant Ninus Malan.

22 Any suggestion of unclean hands directed against the party seeking equitable relief  
23 triggers the requirement that such party prove his "clean hands".<sup>1</sup> Unlike other affirmative

24 <sup>1</sup> In *Kendall-Jackson Winery, Ltd. v. Superior Court*, 76 Cal. App. 4th 970, 978-979, the court described  
25 the "clean hands" doctrine as follows:

26 "The defense of unclean hands arises from the maxim," "He who comes into Equity must come  
27 with clean hands." "(Blain v. Doctor's Co. (1990) 222 Cal. App. 3d 1048, 1059 [272 Cal. Rptr.  
28 250] (Blain).) . . . He must come into court with clean hands, and keep them clean, or he will be denied  
29 relief, regardless of the merits of his claim. (Precision Co. v. Automotive Co. (1945) 324 U.S. 806, 814-  
30 815 [65 S. Ct. 993, 997-998, 89 L. Ed. 1381]; Hall v. Wright (9th Cir. 1957) 240 F.2d 787, 794-795.) The  
31 defense is available in legal as well as equitable actions. (cit. omit.). . . The unclean hands doctrine

1 defenses that allocate the burden of proof to the defendant, **the unclean hands doctrine**  
2 **requires the party seeking relief to establish his or her "clean hands" when any**  
3 **suggestion arises about his or her inequitable conduct.**

4 The California Supreme Court case of *DeGarmo v. Goldman*, 19 Cal. 2d 755, is  
5 dispositive of the allocation of burden of proof in cases such as the present one where the  
6 plaintiff seeks the intervention of a court of equity. In *DeGarmo, supra*, the  
7 respondent/stockholder, also a director, claimed on appeal that his action was one at law, that he  
8 invoked a statutory remedy under Cal. Civ. Code § 310, and the court did not have jurisdiction to  
9 hear the appeal. The court held that it had equitable jurisdiction to hear the appeal and that the  
10 superior court erred in not considering the issue of the stockholder's good faith. The court found  
11 that the statutory action against the directors for misconduct was based upon a breach of their  
12 fiduciary duty to the corporation and that under such circumstances equity had concurrent  
13 jurisdiction with law. As a consequence of that finding, the stockholder was not entitled to the  
14 relief sought unless he came to the court of equity with clean hands. It was the duty of the  
15 superior court upon a "**suggestion**" that the stockholder had not acted in good faith to inquire  
16 into the facts in that regard. The evidence showed that the stockholder failed to perform his  
17 duties, failed to investigate the irregularities he alleged, and benefited from the fraudulent acts of  
18 the directors. ***The stockholder did not meet the burden of proof that he had clean hands and***  
19 ***could not avail himself of an equitable remedy.*** At 19 Cal. 2d 755, 764-765, the Court stated:

18 "Upon the second issue of good faith, the court made no finding although it is the duty of  
19 a court of equity, ***upon any suggestion that a plaintiff has not acted in good faith***  
20 concerning the matters upon which he bases his suit, to inquire into the facts in that  
21 regard. For it is not only fraud or illegality which will prevent a suitor from obtaining  
22 equitable relief. Any unconscientious conduct upon his part which is connected with the  
23 controversy will repel him from the forum whose very foundation is good  
24 conscience. (*Johnston v. Murphy*, 36 Cal. App. 469 [172 Pac. 616].)

25 \* \* \*

26 protects judicial integrity and promotes justice. It protects judicial integrity because allowing a plaintiff  
27 with unclean hands to recover in an action creates doubts as to the justice provided by the judicial system.  
Thus, precluding recovery to the unclean plaintiff protects the court's, rather than the opposing party's  
interests. (cit.omit.)" (Emphasis added).

1 . . . Therefore, as the very foundation of an equity forum is good conscience, any really  
2 unconscientious conduct connected with the controversy to which he is a party is  
3 sufficient justification for the court to close its doors to him; nor does the fact that a  
4 plaintiff may have no adequate remedy at law justify disregarding the  
5 maxim. (*Miller v. Kraus*, [Cal. App.] 155 Pac. 834.) **The burden is on the one coming  
into a court of equity for relief to prove not only his legal rights but his clean hands,  
and he may not rely on any deficiencies that may be laid at the door of the  
defendants.** (*Richman v. Bank of Perris, supra.*)” (Emphasis added).

6  
7 In the present case, the Probable Cause Statement in the Federal Criminal Complaint  
8 establishes at least the “suggestion” that plaintiff is guilty of the worst type of misconduct in  
9 connection with this litigation. That statement reads in part as follows (at Moving  
10 Defendants’ Request for Judicial Notice in Support of Motion to Set Bond on Appeal  
11 (“Moving Defendants’ Req. Jud. Notice”) Exhibit 1):

12 “On or about October 17, 2018, SALAM RAZUKI and SYLVIA GONZALES  
13 met with a Confidential Human Source (CHS1) requesting CHS1 arrange to kill one of  
14 their business associates, N.M.<sup>1</sup> ***According to RAZUKI and GONZALES, they had  
involved in a civil dispute over their assets. RAZUKI and GONZALES told CHS1  
that they wanted CHS1 to “shoot him [N.M.] in the face,” “to take him to Mexico and  
have him whacked,” or kill him in some other way. RAZUKI and GONZALES  
provided CHS1 a picture of N.M., which CHS1 provided to the FBI.***

16  
17 ***On or about November 5, 2018, CHS1 met with GONZALES at The Great  
Maple in San Diego, CA. During the meeting, GONZALES asked if CHS1 could “get  
rid of Salam’s [RAZUKI] other little problem, [N.M.], because it looks like they’re  
going to appeal....” GONZALES said the civil dispute between her, RAZUKI, and N.M.  
was over \$44 million dollars. GONZALES went on to say, “It’s no joke, Salam  
[RAZUKI] has a lot of money tied up right now, and he’s paying attorney fees. You  
need to get rid of this asshole [N.M.], he’s costing me too much money!” GONZALES  
wanted this to occur before the next court date in their civil suit scheduled on or about  
November 15, 2018. . . .***

22 ***On November or about 8, 2018, CHS1 met with GONZALES at Banbu  
Sushi Bar and Grill in La Mesa, CA. At the outset of the meeting, GONZALES  
continued to complain about N.M. and the ongoing civil lawsuit.***

24 ***. . . GONZALES and JUAREZ said they wanted to “put the turkey up  
to roast before Thanksgiving.”***

26 \* \* \*

1 On or about November 9, 2018, GONZALES called CHS1 and asked CHS1  
2 to meet her, RAZUKI, and JUAREZ. . . .RAZUKI, GONZALES, and JUAREZ,  
3 discussed with CHS1 several loans they were trying to secure for their businesses,  
4 including cannabis dispensaries, as well as RAZUKI's frustration with the ongoing  
5 civil suit with N.M. . . .

6 On or about November 13, 2018, GONZALES contacted CHS1 again via phone  
7 and informed CHS1 that RAZUKI and GONZALES would be with N.M. in court at the  
8 Hall of Justice located at 330 West Broadway, San Diego, CA. . . . While inside the Hall  
9 of Justice, GONZALES took a picture of N.M. with her phone and sent it to CHS1 . . .  
10 GONZALES went back into the courthouse and provided CHS1 with updates as N.M.  
11 was departing the Hall of Justice to ensure CHS1 observed N.M. as he left. GONZALES  
12 told CHS1 that N.M. would be exiting the courthouse and that GONZALES, RAZUKI,  
13 JUAREZ, and their attorney would exit after him. FBI agents observed N.M exit the  
14 courthouse after CHS1 had been told this and agents observed RAZUKI, GONZALES,  
15 and JUAREZ proceeded on foot to the vehicle they arrived in and departed.

16 . . . Later on November 15, 2018, CHS1 met with RAZUKI, which was recorded  
17 and surveilled by FBI agents. CHS1 said, "I took care of it." RAZUKI replied, "So he  
18 will take care of it, or it's done?" CHS1 replied, "Done." . . . Later in the  
19 conversation, CHS1 said, "Well, when I talked to what's her name, she said that she  
20 wanted to have proof. Do you want to see it, or are you ok with it?" RAZUKI replied,  
21 "No, I'm ok with it. I don't want to see it." Shortly thereafter, CHS1 requested the  
22 remainder of the agreed-upon payment and RAZUKI directed CHS1 to follow up with  
23 GONZALES for payment. . . ." (Emphasis added).

24 Again, the probable cause statement reflected gross misconduct that went to the very  
25 heart of this civil litigation because plaintiff intended to murder defendant Malan as the  
26 most expeditious way to end the civil litigation. As such, the probable cause statement at  
27 least triggered the Court's duty to inquire into the facts surrounding the attempted murder.  
The burden of proof is not on the party asserting unclean hands; it is on the party seeking the  
intervention of the court, namely plaintiff, to affirmatively establish that his "hands" are  
clean and the material in the Probable Cause Statement is false. Plaintiff has utterly failed to  
do so. His Counsel's insupportable and gratuitous remark that plaintiff's criminal  
misconduct is "nothing more than a tort" does not meet plaintiff's burden of proof to  
establish that his "hands are clean".

Plaintiff has also previously misinformed the court about the requirement that the  
"unclean hands" arise from the alleged causes of action asserted by the plaintiff. Plaintiff has

1 misinformed the Court about the extent of the nexus between the misconduct and the subject  
2 matter of the action necessary for the application of the unclean hands doctrine.

3 In *Unilogic, Inc. v. Burroughs Corp.*, 10 Cal. App. 4th 612, the plaintiff, Unilogic,  
4 alleged that Burroughs tortiously converted certain new technology for a personal computer  
5 developed by Unilogic pursuant to a contract it had with Burroughs. Unilogic introduced  
6 evidence that, during development of the technology and at the direction of his superiors at  
7 Burroughs, a Burroughs employee, Orcutt, spirited proprietary information on the development  
8 of the personal computer away from Unilogic. Burroughs answered Unilogic's conversion claim  
9 with the affirmative defense of unclean hands, claiming that the subject contract was fraudulently  
10 procured by Unilogic. Although the fraudulent procurement of the contract was not part of the  
11 conversion claim and not even directly involved in the conversion claim, the court of appeal  
12 nonetheless upheld the finding of unclean hands as a defense to the conversion claim. The court  
13 stated as follows (at 10 Cal.App.4th 621):

14 "Unilogic takes an unreasonably narrow view of the unclean hands doctrine.  
15 Certainly, there must be a connection between the complaint and the equitable defense:  
16 'The trial of the issue relating to clean hands cannot be distorted into a proceeding to try  
17 the general morals of the parties.' ( *Boericke v. Weise* (1945) 68 Cal.App.2d 407, 419  
18 [156 P.2d 781].) . . . ***But the doctrine does apply "if the inequitable conduct occurred in  
19 a transaction directly related to the matter before the court*** and affects the equitable  
20 relationship between the litigants. [Citations.]" ( *California Satellite Systems, Inc. v.  
21 Nichols, supra*, 170 Cal.App.3d at p. 70.) In short, "[t]he misconduct must infect the  
22 cause of action before the court." ( *Carman v. Athearn* (1947) 77 Cal.App.2d 585, 598  
23 [175 P.2d 926].)

24 In this case, Burroughs's conversion and Unilogic's misconduct occurred in the  
25 same transaction that forms the subject of this litigation--the joint development project. In  
26 our view, that is enough to trigger application of the unclean hands doctrine."

27 See, also, *Kendall-Jackson Winery, Ltd. v. Superior Court*, 76 Cal. App. 4th 970, 985,  
and *Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP*, 133 Cal. App. 4th 658.  
In the latter case, the Fourth District Court of Appeal discussed the nexus element in the unclean  
hands doctrine as follows:

"The question is whether the unclean conduct relates directly "to the transaction  
concerning which the complaint is made," i.e., to the "subject matter involved"  
(*Fibreboard, supra*, 227 Cal. App. 2d at p. 728, italics added), and not whether it is part  
of the basis upon which liability is being asserted. (*Unilogic, Inc. v. Burroughs Corp.*

1 (1992) 10 Cal.App.4th 612, 621 [12 Cal. Rptr. 2d 741] [“the doctrine does apply ‘if the  
2 inequitable conduct occurred in a transaction directly related to the matter before the  
3 court and affects the equitable relationship between the litigants’ ”]; see also  
4 *Kendall-Jackson Winery, Ltd. v. Superior Court, supra*, 76 Cal.App.4<sup>th</sup> at p. 985 [“any  
5 *evidence of a plaintiff’s unclean hands in relation to the transaction before the court  
6 or which affects the equitable relations between the litigants in the matter before the  
7 court should be available to enable the court to effect a fair result in the  
8 litigation”].)” (Emphasis added).*

9 In the present case as well, the murder for hire plot was triggered by the very litigation  
10 that is before the court. Far more than in *Unilogic*, the misconduct here was a direct outgrowth  
11 of the lawsuit, and not simply an ancillary fact. Indeed, in *Unilogic*, Unilogic’s unclean hands in  
12 the formation of the contract did not constitute any part of Unilogic’s conversion claim against  
13 Burroughs for the conversion of Unilogic’s proprietary information. Nevertheless, the court  
14 there determined that the unclean hands doctrine will apply if the ***misconduct that constitutes  
15 unclean hands relates to the subject matter before the court.***

16 That is certainly the case here. The murder for hire plot occurred in the same context as  
17 the subject litigation in that the murder for hire plot was triggered by the expense, attorney’s  
18 fees, and likelihood of appeal in the litigation. Each of these factors was specifically mentioned  
19 by plaintiff and his co-defendants to the undercover agent. Paraphrasing *Unilogic*, the murder  
20 for hire plot occurred in the same dispute as the civil lawsuit, namely, the dispute over  
21 properties, the extensive attorney’s fees incurred by the parties in this litigation, and the filing of  
22 the appeal. The murder for hire plot is inextricably intertwined with the subject litigation, and  
23 that is enough of a relationship to bring into play the unclean hands doctrine. As such, the  
24 argument by plaintiff that the court has already ruled that plaintiff will likely prevail on the  
25 merits is fatally defective because any such determination was made before the murder for hire  
26 plot occurred.

27 It should finally be noted that the court’s order appointing a receiver at Mira Este may  
also be collaterally attacked at any stage of the proceedings as being void for lack of jurisdiction  
as well. The requirements of CCP § 564 pertaining to the appointment of receivers are  
jurisdictional, and without a showing of the basis under CCP §564 for the appointment of a



1 receiver, the court's order appointing a receiver is void. *Turner v. Superior Court* (Cal. App. 5th  
2 Dist. Aug. 24, 1977), 72 Cal. App. 3d 804.

3 In the present case, plaintiff has never been able to point out the basis for his argument  
4 that the appointment of a receiver at the Mira Este facility (as compared to the Balboa facility)  
5 implicates any of the bases for the appointment of a receiver under CCP section 564. Plaintiff  
6 has no property ownership in the Mira Este facility, since that is owned exclusively by Mira Este  
7 Properties LLC. Plaintiff does not even own any recognizable interest in Mira Este Properties  
8 LLC. Plaintiff's interest only goes to a share of the profits *after* those profits are distributed to  
9 defendant Ninus Malan. Such interest is predicated on an amorphous settlement agreement  
10 between plaintiff and Mr. Malan (but not Mr. Hakim) that purports to create RM Holdings, LLC  
11 to receive profits distributed to Mr. Malan. Plaintiff has no control, voting power, or other  
12 recognizable interest in the Mira Este facility.

13 Further, plaintiff cannot point to any partnership dispute involving Mira Este Properties  
14 LLC, because plaintiff has no contractual relationship or partnership relationship with Mr.  
15 Hakim or with Mira Este Properties LLC. Plaintiff's contractual relationship is with Ninus Malan  
16 alone. In that regard, it should be noted that even as to the operations of the Mira Este facility,  
17 defendant Chris Hakim is the sole and exclusive managing member of Mira Este Properties LLC.

18 In short, plaintiff cannot and has not established any basis under CCP §564 for this  
19 court's jurisdiction to appoint a receiver over the Mira Este facility or Mira Este Properties LLC.  
20 For that reason as well, the appellate bond should be minimal.

21 **3. There is an avalanche of evidence that the business will not fail if the**  
22 **receiver is removed; contrariwise, the business will continue to fail if the receiver**  
23 **remains.**

24 The bond amount suggested by plaintiff of \$3.75 million for Mira Este bears no  
25 relationship to any potential damage that may be suffered if the receivership is stayed. Plaintiff  
26 will actually profit from a removal of the receiver and not suffer any damage whatsoever. In  
27 particular, the Mira Este facility will actually profit from the removal of the receiver because  
once the receiver is removed, manufacturers will come into the facility and pay substantial

1 monies that will make the facility profitable. As such, plaintiff has not and cannot show any  
2 "likelihood of damage" if the receivership is stayed.

3 As made clear by the Amended Second Report of Receiver ("Second Report"), the  
4 Mira Este facility has lost some \$132,097.60 for the period from July through October 2018.  
5 (See Schedule 5 of Second Report). The only revenues during this time have come from the  
6 Edipure license fees of \$90,000.00, paid at the rate of \$30,000.00 per month. Edipure was  
7 procured as a sub-licensee at a time when there was no receiver in place at the Mira Este  
8 facility. (Of course, and by comparison, the Second Report shows that during the time  
9 SoCal managed the Mira Este facility during the latter part of 2017 and through July 10,  
10 2018, **no revenues from operations were generated by SoCal.** See Schedule 5, Second  
11 Report).

12 Moreover, during the course of the proceedings in the last three months, Moving  
13 Defendants have submitted a virtual avalanche of evidence to establish that the  
14 manufacturers with whom they have negotiated are not willing to come into the Mira Este  
15 facility so long as the receiver is there. These manufacturers were identified in the prior  
16 declaration of Jerry Baca (attached for the convenience of the Court to Defendants' Req.  
17 Jud. Notice as Exhibit 2). As specified in that declaration, the manufacturers together with  
18 their comments are as follows:

19 1. **Conscious Flowers.** (The principal at Conscious Flowers, Robert Torrales,  
20 submitted his own declaration (attached for the convenience of the Court to  
21 Defendants' Req. Jud. Notice as Exhibit 3) wherein he explained why he would not  
22 work under a receiver.)

23 2. **Eureka Oil (Vape Cartridges):** Baca was told by the principal of Eureka Oil  
24 that having a third-party receiver would be a "deal breaker." He made it clear he will  
25 only work directly with Mr. Hakim. Potential revenues lost amount to more than  
26 \$40,000 per month based on anticipated sales.

27 3. **Bomb Xtracts** (Vape Cartridges, Pre Rolls, Flower, Moonrocks, Candy,  
Concentrates, Drinks, Edibles and chip). Baca was told by the principal that he refused  
to work with any receiver. He stated that his company had too many trade secrets and

1 party overseeing the Facility. Potential lost revenue is between \$40,000 and \$70,000 per  
2 month.

3 Against this avalanche of evidence, plaintiff offers an innocuous, irrelevant, and  
4 hearsay email sent three days before the November 30, 2018 hearing concerning a specific  
5 negotiation with another manufacturer, Cream of the Crop. That email suggested that it was  
6 a negotiating error to offer a 40% discount to Cream of the Crop as an inducement when the  
7 parties were only three days away from what was thought to be a decision on the removal of  
8 the receiver from the Mira Este facility. If such removal had occurred on the scheduled date  
9 of November 30, then Cream of the Crop would likely have been willing to locate its  
10 manufacturing processes at Mira Este at the previously negotiated price of \$50,000 rather  
11 than the reduced price of \$30,000.

12 In short, a stay of the receivership pending appeal will actually result in the Mira Este  
13 facility becoming profitable. The numerous manufacturers who are awaiting this court's  
14 decision on the removal of the receiver have given every indication that once the receiver is  
15 out, they will locate their manufacturing operations at Mira Este. As such, it "turns logic on  
16 its head" to suggest that there will likely be damages if the receivership is stayed at the Mira  
17 Este facility. No damage will result from the removal of the receiver, and therefore, the  
18 bond on appeal should be set at the minimum.

19 **4. Conclusion.**

20 For all of the foregoing reasons, it is requested that the Court set the bond on appeal  
21 relative to the Mira Este facility at the minimum required amount of not more than \$10,000.

22 Respectfully submitted,

23 **GORIA, WEBER & JARVIS**

24 Dated: 12/7/18

25 By: 

26 Charles F. Gorla

27 Attorneys for Defendants

Chris Hakim, Mira Este Properties  
LLC, and Roselle Properties LLC

# EXHIBIT I

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

SALAM RAZUKI, an  
individual,

Plaintiff,

vs.

NINUS MALAN, an individual;  
MONARCH MANAGEMENT  
CONSULTING, INC., a  
California corporation;  
SAN DIEGO UNITED HOLDING  
GROUP, LLC, a California  
limited liability company;  
MIRA ESTE PROPERTIES, LLC,  
a California limited  
liability company; ROSELLE  
PROPERTIES, LLC, a  
California limited  
liability company; and  
DOES 1-100, inclusive,

Defendants.

Hon. Eddie C. Sturgeon

CASE NO. 37-2018-  
00034229-CU-BC-CTL

Hearing

---

TRANSCRIPT OF PROCEEDINGS

December 14, 2018

2:16 a.m.

330 West Broadway, Dept. 67

San Diego, California

REPORTED BY:

Leyla S. Jones

CSR No. 12750

## 1 APPEARANCES:

2 For Plaintiff Salam Razuki:

3 LAW OFFICES OF STEVEN A. ELIA  
4 STEVEN A. ELIA, ESQ.  
5 MAURA GRIFFIN, ESQ.  
6 JAMES JOSEPH, ESQ.  
7 2221 Camino Del Rio South, Suite 207  
8 San Diego, California 92108  
9 619.444.2244  
10 steve@elialaw.com  
11 mg@mauragriffinlaw.com  
12 james@elialaw.com

13 For Plaintiffs in Intervention SoCal Building  
14 Ventures, LLC, and San Diego Building Ventures,  
15 LLC:

16 SHELLEY A. CARDER, ATTORNEY AT LAW  
17 SHELLEY A. CARDER, ESQ.  
18 (Specially appearing)  
19 13055 Walking Path Place  
20 San Diego, California 92130  
21 858.692.3786  
22 shelley.carder@gmail.com

23 For Defendant Ninus Malan, San Diego United  
24 Holdings Group, California Cannabis Group,  
25 Balboa Avenue Cooperative, Devilish Delights,  
26 and Flip Management, LLC:

27 AUSTIN LEGAL GROUP  
28 GINA M. AUSTIN, ESQ.  
TAMARA M. LEETHAM, ESQ.  
3990 Old Town Avenue, Suite A-112  
San Diego, California 92110  
619.924.9600  
gaustin@austinlegalgroup.com  
tamara@austinlegalgroup.com

For Defendant Ninus Malan:

GALUPPO & BLAKE  
LOUIS A. GALUPPO, ESQ.  
DANIEL T. WATTS, ESQ.  
2792 Gateway Road, Suite 102  
Carlsbad, California 92009  
760.431.4575  
dwatts@galuppolaw.com  
lgaluppo@galuppolaw.com

27

28

## 1 APPEARANCES (Continued):

2

3

For Defendants Chris Hakim, Mira Este  
Properties, Roselle Properties, and Monarch  
Management Consulting, Inc.:

4

5

GORIA, WEBER & JARVIS  
CHARLES F. GORIA, ESQ.  
1011 Camino Del Rio South, Suite 210  
San Diego, California 92108  
619.692.3555  
chasgoria@gmail.com

6

7

8

For Sunrise Property Investments, LLC:

9

LAW OFFICE OF DOUGLAS JAFFE  
DOUGLAS JAFFE, ESQ.  
501 West Broadway, Suite 800  
San Diego, California 92101  
619.400.4945  
douglasjaffe@aol.com

10

11

12

13

For Receiver, Michael Essary:

14

15

16

17

GRISWOLD LAW  
RICHARDSON C. GRISWOLD, ESQ.  
444 S. Cedros Avenue, Suite 250  
Solana Beach, California 92075  
858.481.1300  
rgriswold@griswoldlawsandiego.com

18

For Far West Management, LLC; Adam Knopf;  
Heidi Rising; Alexis Bridgewater; and Matthew  
Freeman:

19

20

21

22

DART LAW  
MATTHEW B. DART, ESQ.  
12526 High Bluff Drive, Suite 300  
San Diego, California 92130  
858.792.3616  
matt@dartlawfirm.com

23

Also present: Michael Essary  
Matt Mahoney  
Kyle Yaeger  
Joe Salas  
Ninus Malan  
Brian Brinig  
Michael Hickman  
Salam Razuki  
Chris Hakim

24

25

26

27

28

1 SAN DIEGO, CALIFORNIA;

2 FRIDAY, DECEMBER 14, 2018; 2:16 P.M.

3  
4 THE COURT: All right. Let's get everybody  
5 up. Let's go. All right. We'll start and -- just  
6 start going right across. So this is Razuki vs.  
7 Malan. May I have appearances.

8 MR. BRINIG: Brian Brinig, Court's forensic  
9 accountant.

10 MR. JOSEPH: James Joseph on behalf of the  
11 plaintiff, Salam Razuki.

12 MS. GRIFFIN: Maura Griffin on behalf of  
13 the plaintiff, Salam Razuki, who is present in the  
14 courtroom today.

15 MR. ELIA: Steven Elia on behalf of  
16 Mr. Razuki, who's present, and also Mrs. Razuki is  
17 also present as well.

18 THE COURT: Thank you.

19 MR. WATTS: Daniel Watts on behalf of  
20 defendant Ninus Malan and cross-complaint American  
21 Lending and Holdings, and Mr. Malan is in the  
22 courtroom today as well.

23 THE COURT: Thank you.

24 MR. GORIA: Charles Goria on behalf of  
25 Chris Hakim, Roselle Properties, and Mira Este  
26 Properties, LLC. And Mr. Hakim is also here.

27 MS. LEETHAM: Tamara Leetham for San Diego  
28 United Holdings Group, Flip Management, Roselle



1 Properties -- oh, wait. That's Chuck. I'm sorry.  
2 That's Chuck. Balboa Ave. Cooperative, California  
3 Cannabis Group, and Ninus Malan.

4 THE COURT: Devilish Delights?

5 MS. LEETHAM: Devilish Delights. Thank  
6 you, Your Honor.

7 MS. AUSTIN: Gina Austin on behalf of the  
8 same parties as Ms. Leetham.

9 MR. GALUPPO: Louis Galuppo, Galuppo &  
10 Blake, on behalf of the same parties as Mr. Watts.

11 THE COURT: Is that everyone? Oh, back  
12 row.

13 MR. JAFFE: Doug Jaffe on behalf of Sunrise  
14 Properties and -- Property Investments, LLC.

15 MR. ESSARY: Michael Essary, receiver.

16 MR. GRISWOLD: Richardson Griswold for  
17 receiver, Michael Essary.

18 MR. DART: Matthew Dart. Excuse me.

19 MS. CARDER: Shelley Carder specially  
20 appearing on behalf of SoCal Building Ventures and  
21 San Diego Building Ventures.

22 MR. DART: Matthew Dart specially appearing  
23 for Far West and its individuals, Knopf, Rising,  
24 Bridgewater, and Freeman.

25 MR. MAHONEY: And as before, Your Honor,  
26 Matt Mahoney on behalf of nonparty Synergy. Just  
27 here for any questions pertaining to Synergy.

28 THE COURT: Thank you. First of all,

1 welcome. Let's -- has everybody -- did everybody --  
2 okay. There's a lot to go do, but we'll see how far  
3 we're going to go today. It could be a short  
4 hearing or it could be a long hearing.

5 The first thing I want to talk about is  
6 jurisdiction. In looking on the appellate court  
7 website, there's been an appeal filed by -- is it  
8 Razuki? No?

9 MR. ELIA: No, Your Honor.

10 THE COURT: It's been filed by -- strike  
11 that -- Avail.

12 Who's Avail? Are they even here?

13 MS. LEETHAM: Your Honor, Avail is the  
14 case that --

15 THE COURT: Are you Avail?

16 MR. YAEGE: Yes. I'm counsel for Avail  
17 Shipping. I don't really have any interest in this.

18 THE REPORTER: I need your name.

19 MR. YAEGE: Kyle Yaeger for Avail Shipping.

20 THE COURT: What's the appellate issue?

21 MR. YAEGE: The appellate issue --

22 Mr. Jaffe would be better suited to address that.

23 THE COURT: Mr. Jaffe, what's the appellate  
24 issue? Where is he?

25 MR. JAFFE: Your Honor, that's a case  
26 that's not involved in this.

27 THE COURT: I just want to -- I saw Razuki.  
28 I pulled up everything. Just tell me what it is.

1 MR. JAFFE: That appeal is of the  
2 arbitration award and the landlord tenant case.

3 THE COURT: We can throw that one away.  
4 Let's move in to the next appellate court issue, and  
5 this was the one that has been filed by Malan;  
6 San Diego United Holdings Group, LLC; Flip  
7 Management, LLC; Balboa Avenue Corporation [sic];  
8 California Cannabis Group; and Devilish Delights,  
9 correct?

10 MS. LEETHAM: Yes, Your Honor.

11 THE COURT: Okay. First question, because  
12 of that appeal, does this Court have any  
13 jurisdiction to do anything today?

14 MR. WATTS: Yes, Your Honor.

15 THE COURT: Let's talk about that.

16 MR. WATTS: You -- the appeal removes from  
17 your purview the power to modify the injunction that  
18 is being appealed. That is to protect the appellate  
19 court's jurisdiction. So you can't modify the  
20 existing injunction, except to vacate it if it's  
21 void. If you've entered a void order, the Court can  
22 sua sponte vacate a void order at any time, because  
23 a void order is as if it's never been entered in the  
24 first place.

25 THE COURT: So under that analysis, Judge,  
26 you can't do anything today with the -- with the  
27 TRO, including -- strike that -- with the  
28 appointment of the receiver today, correct --

1 MR. WATTS: No, Your Honcr.

2 THE COURT: -- under your analysis?

3 MR. WATTS: No, Your Honor. You may  
4 vacate --

5 THE COURT: Go ahead.

6 MR. WATTS: You may vacate the receivership  
7 order because it's a void order.

8 THE COURT: I'm not going to do that.

9 MR. WATTS: We've also filed a motion, a  
10 separate claim for relief. In case the Court does  
11 not find the order vague, we're saying that we have  
12 an independent right to have Sunrise and those  
13 dispensaries put into receivership under Kevin  
14 Singer, who is the independent, experienced cannabis  
15 receiver that we've provided his application, his  
16 CV, et cetera.

17 THE COURT: Would that be modifying the  
18 receiver's order?

19 MR. WATTS: It would not. It would --  
20 Sunrise is not part of the receivership. Goldn  
21 Bloom is not part of the receivership. You wouldn't  
22 have to touch Mr. Essary's receivership order to do  
23 that. You would be appointing a receiver -- a new  
24 receiver based on a separate --

25 THE COURT: So this is a new motion to  
26 bring in a new receiver?

27 MR. WATTS: That's right, Your Honor. This  
28 motion was originally -- it was a noticed motion.

1 It was, I believe -- well, we came in ex parte, and  
2 then it was set for this hearing date. The Court  
3 set the date in the briefing schedule.

4 MS. LEETHAM: Your Honor, if I can jump in  
5 for a moment, the answer to your question is: No,  
6 we don't think you can modify the preliminary  
7 injunction order. I think we've talked about that  
8 at higher hearings. We had come in and asked for  
9 the appeal bond and --

10 THE COURT: We did that.

11 MS. LEETHAM: Right. And so the Court had  
12 decided to set that and hear that today, so I think  
13 that would be the position.

14 THE COURT: Position on this side of the  
15 table?

16 MR. JOSEPH: Yes, Your Honor. You can  
17 modify and do whatever you want with the  
18 receivership until the bond is posted. And I  
19 apologize. I do not remember the exact case that we  
20 cited, but we did provide supplemental briefing to  
21 the Court ahead of our November 16th hearing. That  
22 case, the Court set a bond for \$80,000, and the  
23 appellate never posted the bond.

24 Years -- months afterwards, the Court then  
25 modified the receiver, gave the receiver power to  
26 sell the property and everything. The Court of  
27 Appeals said the Court -- the trial Court was  
28 permitted to do whatever he wanted with the

1 receivership because the bond was never posted.  
2 That security was never given to the respondent in  
3 that situation, and the appellate court specifically  
4 held that the Court was not divested of jurisdiction  
5 until the bond is posted.

6 THE COURT: That could be a matter of two  
7 days.

8 What's Mira Mesa [sic] -- what's your  
9 position on this? Do you think I can modify it or  
10 not, Mr. Gorja?

11 MR. GORJA: Your Honor, I break ranks with  
12 Mr. Watts. I agree with Mr. Joseph, and I know the  
13 case he's talking about. The name of it escapes me,  
14 and that is the authority. So I think it's Erikson  
15 (phonetic), but I think that that allows the Court  
16 to modify the appointment of the receiver until the  
17 bond is posted.

18 MR. WATTS: Your Honor, the requirement for  
19 the bond --

20 THE COURT: Go ahead.

21 MR. WATTS: The requirement for the bond is  
22 to stay enforcement of the receivership order.  
23 Simply filing the appeal divests the Court of  
24 jurisdiction over the matters encompassed by the  
25 appeal. If this case had gone to trial and we were  
26 talking about a judgment, that judgment would remain  
27 enforceable until someone posted a bond.

28 However, as soon as someone files an

1 appeal, the trial Court is divested of jurisdiction  
2 over that judgment and can't alter that judgment.  
3 They can vacate it if it's void, but the enforcement  
4 of it is not stayed until the bond is posted. It's  
5 the difference between the enforcement of an  
6 existing preliminary injunction or judgment, and  
7 then altering it, which would divest -- it would  
8 interfere with the appellate court's jurisdiction.

9 The issue is on appeal. And so if  
10 Your Honor were to, say, narrow or enlarge this  
11 receivership order, put additional things in there,  
12 they would require subsequent appeals, infinite  
13 appeals, every time the Court would modify it.  
14 That's the point of the appellate court grabbing  
15 jurisdiction from the trial Court, so that you don't  
16 do things here that interfere with the appeal from  
17 the judgment or order.

18 MS. LEETHAM: And I think the case law,  
19 too, is predicated on --

20 MR. JOSEPH: Your Honor --

21 THE COURT: Shh, shh, shh.

22 Go ahead.

23 MS. LEETHAM: It's predicated on the Court  
24 having set a bond amount. And as you recall, we  
25 don't have a bond we can -- we can't call up the  
26 bond company and say, "Give us an infinite amount of  
27 money to post." So I think that's putting the cart  
28 before the horse.

1 MR. WATTS: That's one of the reasons that  
2 we were so insistent in previous hearings that the  
3 Court set a bond immediately. And the case that we  
4 had cited, Rondos vs. Superior Court, says upon  
5 application, the Court has to set a bond amount, and  
6 a peremptory writ issued in that case when the Court  
7 didn't do it.

8 So they're correct that staying the  
9 receivership order requires us to post a bond.  
10 Staying it requires that, but it also requires the  
11 Court to set the bond. So that's --

12 THE COURT: Understood. So what we're  
13 going to do today, we're all going to set bonds.  
14 That's exactly what we're going to do.

15 MR. JOSEPH: Your Honor, if I can briefly  
16 respond?

17 THE COURT: For the record, of course.

18 MR. JOSEPH: Yes, just for the record.  
19 Your Honor, filing an appellate bond has an  
20 automatic stay when you're under the general rules  
21 of 916 -- CCP 916; however, there's a specific carve  
22 out for specific appeals, one of those being an  
23 appeal for the appointment of a receivership. That  
24 puts us into 917.5, which is a completely different  
25 one. It actually states the bond must happen before  
26 the Court is divested of jurisdiction.

27 THE COURT: Thank you. And I can take care  
28 of that too.



1           So in doing my research, in knowing the  
2 history of the case, I -- Number 1, I'm not going to  
3 make any rulings on the bond -- not making any  
4 rulings modifying the receiver today. We're going  
5 to let the appellate court look at this.

6           An appeal has been filed. We're going to  
7 set bond amounts. It's my understanding there are  
8 two bond issues. One side of the table wants to  
9 raise the injunctive bond -- I will say that.  
10 That's Mr. Razuki's bond -- from 350,000 to 800,000.

11           Did I get that right?

12           MR. WATTS: Yes, Your Honor.

13           THE COURT: And then I'll hear argument on  
14 that. Then we're going to find out the appellate  
15 bond on Mr. Malan, Monarch, San Diego United  
16 Holdings, correct?

17           MS. LEETHAM: Yes, Your Honor.

18           THE COURT: I'll answer my own question.  
19 Correct. And then the other issue is the  
20 nonprofits. Let me -- a lot of issues. Let's go  
21 slow. The nonprofits are Balboa Avenue Corporation  
22 [sic], Devilish Delights, California Cannabis --  
23 what is it? Whatever. California Cannabis.

24           MS. LEETHAM: Your Honor, do you want me to  
25 stand or sit or go to the podium?

26           THE COURT: Relax. No, no. Let me finish  
27 my thoughts --

28           MS. LEETHAM: Okay.

1 THE COURT: -- because there's a lot of  
2 issues here.

3 MS. LEETHAM: Yeah.

4 THE COURT: I'm going to set a bond for  
5 everyone. Different amounts, I'll tell you that.  
6 But here's the issue. Would counsel -- listen  
7 carefully -- agree that the order I'm going to make  
8 on the bonds that -- to enforce the -- not the stay,  
9 but to enforce the vacating of my previous order for  
10 the appointment of a receiver that all defendants  
11 must post a bond, not just one?

12 Did everyone understand the Court's  
13 question? And then I'll even go more specific if  
14 you want.

15 MR. WATTS: I understood the question.

16 THE COURT: Good.

17 You understood it?

18 MR. JOSEPH: Yes, Your Honor.

19 THE COURT: Because I want to stipulate --  
20 because here's the Court's concern. I'm going to  
21 set some pretty high bonds. One wonders, though,  
22 for the nonprofits, what -- if they're really  
23 nonprofits, I may set a much lower bond.

24 And the issue then for the Court is, well,  
25 what if one party says, I'm just going to give some  
26 money to the nonprofit. Go post it, and I don't  
27 have to post a million bucks.

28 Everybody understand the issue? Let's put

1 it right out on the table.

2 MR. JOSEPH: Yes.

3 THE COURT: So my first question is: Are  
4 we going to have a stipulation, Judge, we're going  
5 to let you do it, that, Judge, everybody must post a  
6 bond to get a vacate of the order?

7 And if not, that's fine, we'll go through  
8 and I'll start giving everybody one. Everybody  
9 understand? I'll listen to argument on that issue.  
10 Go.

11 MR. JOSEPH: To -- our position on that,  
12 Your Honor -- I think our briefing papers and the  
13 way that the parties have dealt with it is we've  
14 always been treating Balboa as one sort of group of  
15 people and then Mira Este as one sort of group.

16 And our specific requests requested a  
17 \$9 million bond for the Balboa entities, which would  
18 be San Diego United, Flip, Balboa Avenue  
19 Cooperative, all of those entities that control that  
20 business. And then for Mira Este, we have a  
21 different bond amount for those entities.

22 So not to make it even more confusing,  
23 Your Honor, but I don't know if we can do one  
24 where -- for example, looking at Balboa, Balboa  
25 Avenue Cooperative is a nonprofit. If you were to  
26 set a low bond for them and the receiver is not  
27 allowed to control Balboa Avenue Cooperative, but  
28 for San Diego United Holdings and Flip, they have a

1 higher bond and that bond can't be posted, we have  
2 that same problem we were having before where we  
3 need these entities to work in concert with each  
4 other. So it's either all of them -- the  
5 receivership is stayed for all of them or it's  
6 stayed for none of them.

7 THE COURT: So can I take by what you said,  
8 Judge, we agree to stipulate that everybody must  
9 file a bond before the stay or the vacation -- it's  
10 not a stay -- the vacating of that order would go  
11 into effect? Did I understand that right?

12 MR. JOSEPH: We would say it's not everyone  
13 in terms of all defendants. It's just everyone at  
14 Balboa and then everyone at Mira Este. They all  
15 are -- they all have to be under the same bond for  
16 all those entities. So --

17 THE COURT: Okay. You lost me on that, but  
18 I'll come back.

19 MR. JOSEPH: If I can just -- a little bit  
20 more. Essentially, treat them all as one entity.

21 MS. LEETHAM: You can't do it that way,  
22 Your Honor, because they have different appellate  
23 rights. So our argument has always been that  
24 California -- California Cannabis is not mentioned  
25 in a single cause of action in the complaint,  
26 similar to Devilish Delights.

27 So the appeal rights are going to run  
28 differently to different entities. So to lump them

1 in as one when they're not and for purposes of trial  
2 and litigation they're going to be treated as  
3 separate and distinct parties, you can't say they  
4 all have to do the same thing.

5 And they have different financials and they  
6 have different circumstances. So the Court would  
7 need to set -- I understand what you're saying, and  
8 I think the Court would need to set a bond for each  
9 entity.

10 THE COURT: I think -- well, I was --  
11 there's two ways to go, and I sense -- I need a  
12 stipulation from everybody. I sense that's not  
13 forthcoming, so I'm going to set a bond for each and  
14 everybody.

15 But let's realize what this is limited to.  
16 It is not trial. What I -- what the bond is going  
17 to be set upon is if there were damages that a party  
18 would sustain because of the reasoning of staying  
19 the enforcement of the receiver -- of the receiver.  
20 That's what we're talk -- we're not talking about  
21 trial yet.

22 I appointed the receiver. If that's wrong  
23 and the appellate court says that's wrong, there  
24 could be damages for the -- that would be the  
25 appellant. But if I am right, there would be  
26 damages for the respondent. And I think we all  
27 agree on that. That's the law, right? It is.

28 All right. So let's start working on the

1 bonds. Everybody agree?

2 MR. WATTS: That that's what we're going to  
3 do? Yes.

4 THE COURT: Okay. Let's do them in --  
5 first of all, do you want to do the injunctive bonds  
6 first? That's to raise Razuki bond to 800-, right?

7 MR. WATTS: Sure.

8 THE COURT: It is. Sometimes I answer my  
9 own question. I do that a lot. All right. Let's  
10 do some work. Here we go.

11 It's on this side of the table.

12 MR. WATTS: Your Honor, they have made --  
13 this receivership -- it is clear that the amount of  
14 money that it's costing is costing the businesses  
15 their livelihood. They can't stay open. They can't  
16 buy product. The receivership is an unbearable  
17 expense. The costs of it every month are  
18 25 percent, roughly, of the revenues that are coming  
19 in, and already we can see how much it's cost just  
20 in attorney's fees alone.

21 We've come in here every other week because  
22 of the receivership. All of these companies are  
23 paying for that. So the damages already exceed the  
24 \$350,000. Their firm has a motion to withdraw as  
25 counsel because of the fees and the increased costs.  
26 So the damages of having the receiver in there  
27 are -- have already exceeded \$350,000.

28 The \$800,000 figure is what would -- if the

1 receivership were vacated immediately, that might be  
2 enough to pay off some of the taxes and things.  
3 Tammy can talk more about that.

4 MS. LEETHAM: Right. So what we're looking  
5 at is the current liabilities that primarily  
6 San Diego United Holdings Group is carrying, which  
7 is going to be the state excise taxes and the  
8 mortgages and the insurance and all of those things  
9 that we haven't been able to pay that we attribute  
10 to the receivership.

11 And so I don't know if the Court is aware  
12 that the Montgomery Field attorney filed a motion to  
13 revoke the use areas, and I got served with it today  
14 and that's going to be heard in January. And that's  
15 attributable to the fact there's no money to pay the  
16 terms of that settlement agreement. So what we're  
17 looking at is a complete loss of our business. And  
18 the 800,000 does not compensate us for that, but it  
19 gets at least a debt threshold.

20 Does that make sense?

21 MR. WATTS: And a couple of specific  
22 numbers. The receiver filed an application. We --  
23 I don't think we ever got a ruling on it, but he  
24 wanted to take out a \$600,000 loan for immediate  
25 expenses.

26 THE COURT: Uh-huh.

27 MR. WATTS: Six hundred thousand dollars.  
28 I don't know if that also encompassed the hundred --

1 roughly \$175,000 in tax liabilities, and that was  
2 SoCal's responsibility to pay earlier this year.  
3 You just put those together and you're at 775-.

4 That's -- and the receiver will tell you  
5 that these businesses need an immediate cash  
6 infusion. We hope that you would vacate the  
7 receivership today. And if it's void, then we can  
8 make a claim on the bond.

9 THE COURT: It's up on appeal.

10 MR. WATTS: If -- but if you don't, then  
11 we --

12 THE COURT: I can make that decision. I'm  
13 not vacating it.

14 MR. WATTS: Understood, understood. It --  
15 the bond needs to be increased. The damages are  
16 increasing. I think that's clear from all the  
17 figures.

18 THE COURT: And your suggestion is 800-?

19 MR. WATTS: It's my -- our suggestion was  
20 to raise it by 800-, that he should post an  
21 additional 800,000.

22 THE COURT: One point -- one point --  
23 \$150,000?

24 MR. WATTS: Yeah.

25 MS. LEETHAM: But if I can tack onto that,  
26 I think that's the bare minimum and --

27 THE COURT: Keep going.

28 MS. LEETHAM: What we're not taking into



1 account is the intangibles of the CUP, and  
2 Ms. Austin has talked about it. And the plaintiff  
3 in intervention and the plaintiff in their papers  
4 have talked about this overriding value that those  
5 properties have that is exclusively attributable to  
6 the conditional use permit.

7 And so what our figures are talking about  
8 are the hard costs, right? But they're not talking  
9 about the intangibles. So 15, 16 million has been  
10 thrown out there on this side, right? Five, 6  
11 million, we have -- you know, we have an option that  
12 SoCal wants for 3 million.

13 So, I mean, the Court can set it to  
14 10 million, and I think it would capture what the  
15 loss would be, to be quite honest with you. But,  
16 you know, the bare minimum here would be at least  
17 800,000 additional.

18 THE COURT: Okay.

19 MR. GORIA: Your Honor, may I -- before we  
20 leave this side of the table, may I have a few words  
21 on that?

22 THE COURT: And then, Counsel, who are you  
23 again?

24 MR. GALUPPO: Lou Galuppo.

25 THE COURT: No, I know. You're --

26 MR. GALUPPO: I'm with Malan.

27 MR. WATTS: My boss also.

28 THE COURT: Thank you.

1           Go.

2           MR. GORIA: In terms of Mira Este, we have  
3 presented a veritable avalanche of evidence that the  
4 producers and manufacturers just won't go in. They  
5 don't want to work under a receivership. So the  
6 receivership is directly causing the loss of income  
7 at Mira Este.

8           We're -- based on what SoCal was paying as  
9 a minimum, they were paying a minimum of \$110,000  
10 while they were there, while they were managing, as  
11 against gross profits. So if you use the 110,000 as  
12 to what the value of that Mira Este facility is if  
13 it were operating at all on a -- on the basis that  
14 it was designed to operate, they're losing 80,000 a  
15 month.

16           They're only getting 30,000 in, because the  
17 one and only producer that they were able to attract  
18 was attracted during the brief interim when there  
19 was no receiver. So we're losing -- and he's  
20 still -- that producer is EdiPure and he's still  
21 there, but -- and they're paying 30,000 a month, as  
22 opposed to 110-, which is a very minimum amount --  
23 minimum level of income that that facility should be  
24 generating. So we think that we're losing 80,000 a  
25 month in income just because of the existence of the  
26 receivership.

27           And if I might just inquire briefly, we  
28 filed an ex parte application to have the receiver

1 removed from Mira Este back on October 25th. Is --  
2 do I understand the Court to say that that's not  
3 going to be decided today?

4 THE COURT: Correct.

5 MR. GORIA: And is that in connection with  
6 the appeal issue?

7 THE COURT: It is.

8 MR. GORIA: Okay. Well, again, as I  
9 indicated earlier, I think that the Court does have  
10 jurisdiction to rule on that. But if the Court's  
11 decided not to, then it's not going to. So --

12 THE COURT: At least my understanding of  
13 the law. Real quick, so what's your number are you  
14 suggesting for Mr. Razuki?

15 MR. GORIA: Well, if the receiver is going  
16 to stay in there for the balance of this  
17 litigation --

18 THE COURT: We'll see what the appellate  
19 court says.

20 MR. GORIA: A minimum of six months. I  
21 mean, we're looking at an additional 500,000.  
22 Six months, 80,000. An additional 500,000 on top of  
23 Mr. Watts' suggested, so at least an increase of  
24 1.3 million.

25 THE COURT: So total 1.3 million?

26 MR. GORIA: No. Total 1.67 --

27 MR. WATTS: Six five.

28 MR. GORIA: Yeah, six five.

1 THE COURT: Thank you.

2 Anyone else? I think we've covered that  
3 side.

4 MR. JOSEPH: Your Honor, we've -- I don't  
5 want to repeat what we had in our argument at the  
6 last hearing.

7 THE COURT: Please don't.

8 MR. JOSEPH: But as we have stated before,  
9 this is not an issue -- speaking of the receivership  
10 on -- 350- is sufficient, because that's been  
11 posted. The reason these businesses are failing is  
12 not because of the receiver. It's because of  
13 management.

14 Last year -- last -- two weeks ago --  
15 sorry -- we provided you the examples of when SoCal  
16 was in had \$133,000 more in sales at Balboa alone.  
17 When SoCal was in at Mira Este, they were  
18 guaranteeing that and getting that \$110,000 until  
19 there was a contract dispute with these -- between  
20 SoCal and the defendants on this side of the table.

21 The receiver inherited a loss of SoCal and  
22 then all of these new managers coming in.  
23 Mr. Essary has said that he does not believe that  
24 their management is up to par of what it should be.  
25 In fact, just as we mentioned at the last hearing,  
26 the receiver was unaware of Balboa shutting its  
27 doors until five hours before they did so. Even  
28 though the fact that they apparently had been losing

1 business, they didn't tell him. Like, how can the  
2 receiver operate these businesses?

3 Like, Your Honor, I know you've said that  
4 you are not going to modify the receiver, but I do  
5 need to ask what are we doing going forward? because  
6 the order that we have that Mr. Essary is stuck with  
7 requires using Far West, who has gone. It requires  
8 using Synergy, which we're asking -- still is gone  
9 and is one of the problems here. It requires using  
10 Justus Henkes, which is another issue that  
11 Mr. Essary has said is a problem.

12 And I don't understand. I'm hoping that we  
13 can at least modify and at least get the discretion  
14 to have a new management or we can -- or something  
15 like that, but we have always stated from the very  
16 beginning the receiver is not the reason for these  
17 business failings.

18 In fact, the receivership costs -- he's  
19 sending them a big bill every month, largely because  
20 of the issues that we're having with the receiver,  
21 who is not able to properly run these businesses,  
22 because he's not -- Mr. Essary is not really acting  
23 as a receiver. He's simply acting as a supervising  
24 accountant.

25 He's not managing the business. He's not  
26 telling -- he's not making business decisions for  
27 the businesses or anything. He doesn't even have  
28 the power to hire new managers to come in or, you

1 know, make those decisions. He is just simply there  
2 saying, This invoice is good to go. This invoice is  
3 good to go. This is what you can do with my  
4 money -- sorry -- not "my money," but the business's  
5 money. And with that, he is simply out of the loop.  
6 He has no idea why these businesses are failing, as  
7 we've seen with Balboa.

8           And going to Mira Este and what's happening  
9 at Mira Este, well, Your Honor, EdiPure is in there  
10 at \$30,000 a month. As we have seen, the Cream of  
11 the Crop, the other tenant that is trying to come  
12 in, they're currently working with the receiver. It  
13 may not be the most profitable deal, because  
14 apparently before the receiver, they were willing to  
15 do 50- and now they're doing 30-.

16           I'm not aware of what's going on with the  
17 negotiations. All I know is that there are finally  
18 negotiations with the receiver for new tenants. And  
19 at the last hearing, we learned that Synergy is  
20 going to be producing out of this facility and, you  
21 know, generating profit for the Mira Este facility.

22           So the question about -- the receiver is  
23 not destroying these businesses. It is the  
24 businesses that are destroying themselves because of  
25 poor management. And this is why ever since  
26 October 25th, when we filed ex parte, we have said  
27 the receiver needs operational control, not just  
28 supervisory control.

1           And there's no reason why Mr. Razuki should  
2 have the punishment for their mismanagement. That  
3 is essentially what they're doing. If he's required  
4 to raise his bond from 350- to 800-, he's  
5 essentially paying for their mismanagement and their  
6 causing the businesses to fail.

7           In terms of -- again, in terms of expenses,  
8 it's important to note the receiver might be sending  
9 a bill, but Mr. Brinig, Mr. Griswold, the receiver's  
10 counsel, and the receiver themselves are not getting  
11 paid.

12           THE COURT: I know that.

13           MR. JOSEPH: All of these bills that they  
14 keep talking about -- there's the HOA, the  
15 mortgages -- all of these are not getting paid  
16 because of their mismanagement. It is not because  
17 the receiver is paying himself first and not paying  
18 anyone else. No one is getting paid.

19           And the issue that we have also brought up,  
20 Your Honor, is that we need the receiver there to  
21 control what's going on with these businesses,  
22 because we don't trust this management. There's  
23 a lot of distrust between the parties here. We're  
24 talking about a cash business in terms of how these  
25 payments are getting made. It's a cash business.  
26 We need supervision to make sure these businesses  
27 are run properly.

28           For that reason, we don't believe the bond

1 should be 800-, because those damages should never  
2 be attributed to Mr. Essary and the receiver  
3 himself. The \$350,000 bond that you have already  
4 imposed is sufficient to cover his costs and the  
5 attorney's fees costs if it is deemed that, you  
6 know, the appellate court deems the receivership is  
7 inappropriate.

8 THE COURT: Anyone else on that side of the  
9 table?

10 MR. ELIA: Briefly, Your Honor, if I may.  
11 Your Honor, in terms of the -- why the receiver fees  
12 are what they are, I would request that you ask  
13 Mr. Essary, "Why are your fees why [sic] they are?"  
14 And I think you'll learn it's because they have gone  
15 out of their way to do everything they can to block  
16 him out of the business so that there's no  
17 oversight.

18 Now, I'm looking at your August 20th  
19 transcript when -- where Your Honor stated, Do your  
20 work and it better be uncumbered.

21 They have gone out of their way to make  
22 sure that the receiver has no access to the  
23 business, and the reason they're doing that is  
24 because it's a cash business and they're lining  
25 their pockets with the money.

26 MR. WATTS: Objection. Facts not in  
27 evidence.

28 THE COURT: Sustained.



1 MS. LEETHAM: Your Honor, if I might --

2 THE COURT: No, no, no, no.

3 MS. LEETHAM: No?

4 THE COURT: Their side of the table.

5 MS. LEETHAM: Okay.

6 MR. ELIA: Your Honor, I also wanted to add  
7 a couple more things. At the last hearing, SoCal  
8 represented that they would insert another  
9 \$1 million into the operations of Balboa.  
10 Mr. Razuki said that he would take care of the  
11 \$132,000 payment for the use variance with the HOA,  
12 and he's still willing to do that.

13 And one thing I wanted to address about  
14 Mira Este, counsel -- Mr. Gorla said that these  
15 people don't want to work with the receiver. And  
16 what was -- what I heard yesterday -- two weeks ago  
17 at the November 30th hearing is Your Honor asked the  
18 agent for Cream of the Crop, "Do you want to come  
19 in?" And he said, "On the advice of counsel, I'm  
20 not going to do it."

21 And that's very telling. And what they're  
22 doing is their lawyers are telling them, "Don't work  
23 for the receiver because we want the receiver out."  
24 It's not that they don't want to work with them.  
25 It's that they're telling -- their attorneys are  
26 coaching them, telling them, "Don't do it because  
27 we'll now get the receiver out so there's no  
28 oversight."

1 MR. WATTS: Objection. Facts not in  
2 evidence.

3 THE COURT: Sustained. Stricken from the  
4 record.

5 All right. Anyone else? Thank you.

6 I may get to you, Mr. Brinig.

7 MR. BRINIG: It's okay if you don't,  
8 Your Honor.

9 THE COURT: Let's talk about Malan now.  
10 Let's talk about -- let's see how the arguments go  
11 with Mr. Malan and what his should be, and we'll  
12 start with Plaintiff.

13 MR. JOSEPH: Sorry, Your Honor. Just to  
14 clarify, you're talking about the bond?

15 THE COURT: Now we're going to talk  
16 about the -- correct. This would be the appellate  
17 bond.

18 MR. JOSEPH: Your Honor, I think it's --  
19 when we're talking about the appellate bond, I think  
20 it's important that we realize we've got to shift  
21 gears here. Most of the time we've been here, we're  
22 talking about a receivership, which is irreparable  
23 injury, likelihood of success, and whatnot.

24 The Court, by already ordering the  
25 receiver, has found a likelihood of success in favor  
26 of Mr. Razuki. And this is no longer an issue about  
27 irreparable harm. It's a question of damages and  
28 the order is stayed.

1           So therefore, the sort of mindset that the  
2 Court should have when setting the bond is to  
3 protect Mr. Razuki's interest, because the Court has  
4 already found that there's a property interest that  
5 should be protected. And we're not -- no longer  
6 talking about irreparable damage. We're simply  
7 talking about damages themselves.

8           Now, the Court has already mentioned we're  
9 not talking about, you know, end-of-jury-verdict  
10 damages. It's just the damages regarding when the  
11 stay of an order is. Your Honor, we would argue,  
12 though, that because of the evidence that we've  
13 presented to the Court, there is evidence already  
14 showing that we should be talking about trial  
15 damages here.

16           What would happen if the receiver -- if  
17 that entire order is gone? They -- Mr. Malan and  
18 Mr. Hakim can sell these businesses. And we've  
19 already provided evidence with the Far West  
20 Management agreement. It was in part of the  
21 declaration that we submitted with the opposition  
22 papers.

23           The Far West Management agreement, which  
24 was as soon as the receivership was initially  
25 vacated -- when Judge Strauss vacated the  
26 receivership, they got in -- Far West in. And in  
27 that agreement, they already tried to say that they  
28 will work out a long-term agreement that would allow

1 the manager to purchase an interest in the business.

2 There's already evidence that they want to  
3 sell these businesses and get out of here. And if  
4 they sell the businesses, now we're talking about  
5 something that my client has an interest in. And he  
6 was not -- he won't receive those proceeds until we  
7 get three years after trial or something like that.  
8 So yes, we are talking about the loss of the entire  
9 business when we're talking about what would happen  
10 if the receivership is stayed.

11 Other things that can happen: They can  
12 lose the license. These businesses can --

13 THE COURT: What's a license now? I think  
14 I know the number. What's a li -- what's the  
15 marijuana license worth now?

16 MR. JOSEPH: Your Honor, in terms of -- I  
17 admit I don't know the market, but I do know how  
18 much it's valued at Balboa and Mira Este given the  
19 SoCal management agreement.

20 THE COURT: How much is that?

21 MR. JOSEPH: According to the management  
22 agreement, SoCal is going to purchase a 50 percent  
23 interest in Balboa for \$3 million, meaning that the  
24 entire facility -- that business is worth 6 million.  
25 At Mira Este, the SoCal agreement said that they  
26 were going to purchase a 50 percent interest for  
27 \$5 million, meaning that's a \$10 million business  
28 over there at Mira Este.

1 THE COURT: Who's SoCal?

2 MS. CARDER: I am, Your Honor.

3 THE COURT: Is that right?

4 MS. CARDER: And I cannot confirm or deny.

5 I apologize.

6 THE COURT: Good answer by an attorney.

7 MR. JOSEPH: Your Honor --

8 THE COURT: So 10 million, right --

9 MR. JOSEPH: Your Honor --

10 THE COURT: -- for Mira Este?

11 MR. JOSEPH: Ten million for Mira Este;  
12 6 million for the 8861/8863, which is the dispensary  
13 at Balboa. There is another facility at Balboa as  
14 well, Your Honor, the 8859 facility. That's the  
15 manufacturing facility at Balboa, the five units. I  
16 would defer to the other side in -- regarding the  
17 status of that licensing and what's going on with  
18 that operation.

19 But given the fact that the dispensary is  
20 worth \$6 million and there seems to be no issues  
21 with that license, we would argue that the five  
22 units at Balboa, which are separate facilities,  
23 should also be valued at \$6 million, again, going  
24 off the management agreements that SoCal, Mr. Ninus,  
25 and Mr. -- Mr. Ninus Malan and Mr. Hakim entered  
26 into.

27 Your Honor, we provided a copy of those  
28 management agreements in the declaration that we

1 supplied with our opposition. It is page 10 of the  
2 Balboa agreement, and it is page 10 of the Mira Este  
3 agreement. That outlines the options that they were  
4 willing to buy these businesses for.

5 So, Your Honor, in terms of -- if these  
6 businesses lose their licenses, they're just  
7 industrial buildings. There's no value to them.  
8 The value is that there's a license here and that  
9 they're producing and actually bringing in customers  
10 or manufacturing marijuana product.

11 In terms of other things that could happen,  
12 these businesses -- we could lose these businesses.  
13 In fact, in court today -- we did not mention on the  
14 record -- is Mr. Joe Salas. He is one of the  
15 lenders who owns -- or not owns, but he owns the  
16 note on the Balboa buildings, both the 8861, 8863,  
17 the dispensary at Balboa, and he owns the note and  
18 was lending on the manufacturing facility at Balboa,  
19 88 -- 8859.

20 Those mortgages are in default right now.  
21 And unless we have some other one -- some new  
22 management that's able to bring these businesses up  
23 and have them be profitable like they were in the  
24 beginning part of this year when SoCal was there and  
25 they were raking in \$288,000 a month in sales, these  
26 businesses risk a foreclosure, which means, again,  
27 the businesses are gone. The property is gone.

28 And this is not something that is a risk

1 that is going to happen three years down the line.  
2 They're in default right now. And we -- without  
3 further control, we have no idea when they're going  
4 to finally be defaulted and take that property away.  
5 And this is one of the other threats to the  
6 businesses, which is why we need to start talking  
7 about trial damages at this stage of the litigation.

8 Finally, Your Honor, the -- we are talking  
9 about pure cash businesses. We have not been  
10 bringing up the issue that it's a cash business  
11 because when we're talking about a receiver, we need  
12 to prove irreparable injury. Real property is the  
13 issue here.

14 When we're talking about the damages here  
15 when the receiver is not there, we have no  
16 accounting over these businesses and they're pure  
17 cash. Right now we've had some accounting on it  
18 because Mr. Essary was able to bring in Mr. Brinig  
19 and Ms. -- and Marilyn Weber, and we were able to  
20 get these daily cash reports.

21 No more oversight, no more accountability,  
22 no more accounting when the receiver is gone. We  
23 have nobody there, and the defendants have pure  
24 control over a pure cash business during the next  
25 year, maybe two years, of litigation. There is no  
26 way we're ever going to have an accurate accounting  
27 without the receiver there, and that is damages that  
28 the Court should consider.

1           And that is why, Your Honor -- I'm not  
2 positive on what we said along -- in terms of the  
3 bonds amounts themselves. But the way we calculated  
4 our bond amount is for the Balboa facilities,  
5 there's the dispensary and a manufacturing facility.  
6 We're valuing both of those at \$6 million given the  
7 management agreements.

8           By the way, it should be noted that  
9 according to prior papers, when Defendants asked to  
10 set the receivership out against Mr. Razuki, they  
11 actually used these calculations, and they said  
12 Mr. Razuki's receivership bond should be 16 million  
13 because Balboa was 6 and Mira Este was 10. They  
14 argued this on page 10 of Mr. Malan's papers. This  
15 was a pleading submitted on September 4th.

16           And Mr. Hakim, his papers also argued  
17 this -- I apologize, Your Honor. One moment -- on  
18 page 13 of his pleadings that were submitted before,  
19 when we initially set -- before the September 7th  
20 hearing when we were setting the bond for the  
21 receivership in the first place. They actually used  
22 these same evaluations of the businesses.

23           The difference is that bond -- Mr. Razuki's  
24 bond is talking about receivership damages. What  
25 damages would Mr. Essary cause to the businesses if  
26 he's there? Three fifty was appropriate given that  
27 he is there to save the businesses.

28           Here we're talking about trial damages,



1 because with no order, they can sell them. There's  
2 no oversight to make sure bad management cannot --  
3 bad management will almost surely continue.  
4 Bankruptcy is a possibility. The lack of -- no  
5 accountability for a cash business. We're actually  
6 talking about trial damages here.

7 So the way that we get to our numbers is we  
8 take 6 plus 6 at Balboa, 75 percent of that, that  
9 gets to a \$9 million bond for the Balboa facilities.  
10 At Mira Este, because we have a 37.5 percent  
11 interest in Mira Este, that gets to our  
12 \$3.75 million bond.

13 THE COURT: So for Mr. Malan, the bond  
14 should be 12,750,000, correct?

15 MR. JOSEPH: Your Honor, it's actually -- I  
16 believe we said 9 million, because we acknowledge we  
17 only have a 75 percent interest in those. I'm  
18 sorry. Maybe I'm not understanding your math.

19 THE COURT: What's your total bond?

20 MR. JOSEPH: Total bond, I guess -- yes.  
21 Yes, Your Honor, 12,000 -- 12,750,000. Yes. Sorry.

22 THE COURT: All right.

23 MR. JOSEPH: Your Honor, just to address  
24 their arguments as well that they bring up, and I'll  
25 start with the nonprofits. Case law is very, very  
26 clear on this. The nonprofits are not eligible for  
27 indigent person status.

28 The case that we cited is the Williams case

1 that directly on point says that we are holding that  
2 they are not qualified for indigent person statuses  
3 because they're a corporation. The Williams case  
4 says this is analogous to federal court law on this  
5 issue, and we are now making that law here. That is  
6 a binding precedent for the Court.

7           And second, most importantly, they have not  
8 made a showing of an inability to pay the bond.  
9 Just because they don't make money on a daily basis  
10 does not mean that they are poor. If that were the  
11 case, Uber would be a poor company because they lose  
12 \$20 million a day. That's a billion-dollar  
13 corporation here. The question is: Do they have  
14 the assets to put up for a bond? Can they secure a  
15 loan? None of that work has ever been done.

16           And with respect to -- they claim that they  
17 can't go ask for a bond beforehand and then -- you  
18 know, they can't ask for a bond of infinity dollars  
19 or anything. What they can do is they can go to a  
20 bond company and say, "Here are our assets. Here's  
21 our income. Here's all the business financials.  
22 What's the highest bond you'll give me?"

23           In fact, Mr. Razuki did do that before the  
24 September 7th hearing, which is when we were -- did  
25 not know what the bond amount was, but we wanted to  
26 make sure we could post it. And we did try and we  
27 did get a bond company to give us, "This is the most  
28 we will give you."

1           Nothing like that has been done by the  
2 defendants, Your Honor. We have no idea what their  
3 financials are, which is ironic given the  
4 receivership and the accounting that's been done.  
5 But they have never made that showing, and that is a  
6 necessary element for that.

7           The declaration that they merely went out  
8 and could not get a bond amount before the Court's  
9 order, it does not matter. They could have gone and  
10 said, "What's the highest you will give me?" And  
11 then they could have come back to the Court and  
12 said, "We have a bond company that said they'll only  
13 give us \$20,000." That could have been evidence.  
14 They don't have that evidence whatsoever.

15           The rest of their arguments, Your Honor,  
16 with respect to the bond and everything are mostly  
17 going to -- again, to the merits of the case. I do  
18 not believe the Court really wants to hear our  
19 arguments regarding the legitimacy of the settlement  
20 agreements. If the Court does have questions on  
21 that, we can address them.

22           But they do sort of do a slight motion for  
23 reconsideration on the merits of the case and the  
24 bond by arguing that the settlement agreement isn't  
25 void and all of that. Considering the Court has  
26 already found -- what the Court has already ordered,  
27 I think we're fine on that.

28           THE COURT: So in sum, you're suggesting

1 what? For Mr. Malan, 12,750-. For the nonprofits?

2 MR. JOSEPH: Your Honor, I'll -- sorry,  
3 Your Honor. I did not address that issue.

4 Your Honor, we would say that the nonprofits also  
5 need to be at a substantially high bond, around that  
6 amount. Again, it's --

7 THE COURT: Around 12 million?

8 MR. JOSEPH: Yes, Your Honor.

9 THE COURT: I forgot. What number did you  
10 say?

11 MR. JOSEPH: 12,750,000.

12 THE COURT: Okay.

13 MR. JOSEPH: It should be -- if anything,  
14 it should be the same amount. Your Honor, there's a  
15 potential that we could have an absurd situation  
16 where one of -- the state license holder is not  
17 under control of the receiver when he is still  
18 running and supervising these businesses, but SD  
19 United is still under the receivership and he's  
20 still supposed to be running those businesses.

21 I mean, that would -- again, we've  
22 addressed this numerous times before the Court  
23 already. The nonprofits are named in our first  
24 amended complaint. They are defendants, named  
25 defendants, and we have causes of action against  
26 them, but that's just what the first amended  
27 complaint does. So therefore, they are parties to  
28 this case.

1           And the Court has always recognized that  
2 these entities need to work in concert. They're  
3 either all in or they're all out. It does not make  
4 sense to give the nonprofit -- if we're going to  
5 give Mr. Malan a \$12.75 million bond and then his  
6 nonprofit a \$20,000 bond, for example, you'll have a  
7 nonprofit, which is the agent -- which is the entity  
8 that is collecting and actually selling and buying  
9 and purchasing marijuana, with no oversight.

10           In terms of what we've already seen from  
11 the accounting, from what we're getting from  
12 Mr. Henkes, if he's still going to be the accountant  
13 on this case, he only does the accounting for Balboa  
14 Avenue's losses and their money flow and all their  
15 cash flow.

16           So we would have an absurd situation where  
17 the actual license -- the state license holder is  
18 not under control, but Mr. Essary is still under a  
19 duty to supervise and protect these businesses, even  
20 though he can't even control the license.

21           So for that issue, yes, one, the nonprofit  
22 is not entitled to any indigent status by law, first  
23 off. And then second, given the value of the  
24 businesses, they should have the exact same bond.

25           THE COURT: Okay. Anybody else?

26           MR. ELIA: Just briefly, Your Honor, if I  
27 just may add to the argument.

28           THE COURT: Sure.

1 MR. ELIA: I'll make it real short, Your  
2 Honor. Your Honor, I just want to talk about some  
3 of the liability and exposure of trial from SoCal.  
4 Now, we know Mr. Brinig traced at least \$2 million  
5 that SoCal put in. SoCal alleges in their  
6 declarations that they put in 2.7 million, so  
7 there's another \$700,000 that they say they put in  
8 in cash, which Mr. Brinig could not verify.  
9 However, a jury might believe them. So it could be  
10 2.7 million.

11 They were ousted from the business.  
12 There's going to be some lost profits that could be  
13 awarded. There are certainly some attorney's fees  
14 that could be awarded and costs under the terms of  
15 the agreement. We're looking at a potential 3 or  
16 \$4 million exposure just based on SoCal's damages  
17 alone, and that affects the partnership.

18 That's why we're -- we've been fighting so  
19 hard to get SoCal back in, because it would mitigate  
20 our -- we realize that we have to deal with them.  
21 They put in millions of dollars. They're just not  
22 going to go away. We've been saying that from day  
23 one.

24 So who's going to pay for this liability?  
25 It affects the partnership. Mr. Malan can't pay his  
26 own lawyers. He's got a pending motion before this  
27 court from his attorneys, from Ms. Leetham and  
28 Ms. Austin's office, to be relieved because he's not

1 paying their attorneys.

2 So there is some real exposure here just  
3 from SoCal alone, and I'd like Your Honor to  
4 consider that in the amount of the bond.

5 And let's remember the reason they were  
6 ousted from the business is because Mr. Malan and  
7 Mr. Hakim Photoshopped a \$250,000 invoice and sent  
8 it to SoCal for payment for services that were never  
9 ever rendered. And that's undisputed, Your Honor.

10 THE COURT: SoCal, do you want to say  
11 anything?

12 MS. CARDER: I would just like to say for  
13 the record, Your Honor, that it is my understanding  
14 that Mr. Brinig's independent report values monies  
15 put in at over about 5 million and a half,  
16 5 million 6. So there's no way -- although our  
17 papers agree that the bond should be set higher,  
18 there's no way the bond should be set less than  
19 that.

20 THE COURT: And when you say 5 million, is  
21 that total? I mean, are you including all -- who  
22 are you including in that?

23 MS. CARDER: That there's been a net  
24 contribution of approximately 3.5 million by Razuki  
25 and 2.1 million by SoCal, and that there's been no  
26 showing on behalf of any defendant of indigency or  
27 an excuse for not having to post the bond.

28 THE COURT: Thank you. Anybody else?

1           Shall we go to this side of the table.

2           MR. WATTS: Your Honor, a year ago, the  
3 MoviePass corporation share price was \$2,750 a  
4 share. Today, it's worth 1.2 cents. So the people  
5 that bought it last year valued that company at an  
6 astronomically higher sum than the people do today.

7           Ten months ago, SoCal was convinced to sign  
8 three management agreements under which they would  
9 buy an option in these properties and these  
10 businesses for, you know, a couple of million  
11 dollars. They had ten months to -- or several  
12 months to buy those options. So they didn't have  
13 those options straight up. They had the ability to  
14 buy them for 75,000 here or 35,000 here, something  
15 like that.

16           They didn't buy the one for Mira Este or  
17 Roselle. They didn't even buy it. Thirty-five to  
18 50,000, something like that, was the option price  
19 just to buy the option. They didn't buy it. So  
20 that -- those businesses were not worth that much.  
21 Otherwise, my God, \$50,000 for the option to get  
22 50 percent of this multimillion-dollar enterprise?  
23 You'd think they would have acted on that.

24           The Balboa option, the one they did buy for  
25 75,000, they never exercised. They never exercised  
26 it. They let it expire. They let all three of  
27 these options expire before they even filed this  
28 lawsuit.



1           So first of all, that contract is not an  
2 appraisal of how much the businesses are worth  
3 today. It's not even an appraisal of how much they  
4 were worth a year ago. It's the amount of money  
5 that Ninus or whoever negotiated with SoCal  
6 convinced them to put in the contract, but neither  
7 party acted on it.

8           "As to the bond amount, we believe  
9 Defendants' request to increase the bond to  
10 6 million is really, really ridiculous." That is  
11 from counsel for Salam Razuki on September 7th,  
12 2008.

13           Why? Well, on the next page, they said  
14 that we've consistently argued that the options have  
15 expired, so I don't know why the bond would be based  
16 on the options themselves. Again, that's from  
17 Mr. Razuki's counsel.

18           There is no evidence that the absence of a  
19 receiver would cause damages to Mr. Razuki.  
20 Remember what his claims are. He claims a  
21 75 percent interest in the losses of RM Property  
22 Holdings. He claims that these marijuana  
23 dispensaries, part of them should be in RM Property  
24 Holdings, and then he gets three-fourths of the  
25 losses of that business. He's entitled to losses.

26           These businesses are losing money. There's  
27 no doubt about that. So if he wins this litigation,  
28 if he can specifically perform that contract, he

1 would end up with a loss. If these businesses go  
2 under and he's not responsible for that loss, that's  
3 a boon to him. That's a benefit. He doesn't stand  
4 to make tens of millions of dollars. He stands to  
5 lose money if he becomes responsible. He hasn't  
6 been paying their bills now. But if he does, he's  
7 going to be out a lot of money.

8           There was a quote from Mr. Elia, "Mr. Malan  
9 has not put in one red cent. That is a fairy tale,  
10 Your Honor." That is from the transcript of the  
11 September 27th hearing. "Not one red cent. That is  
12 a fairy tale, Your Honor." Mr. Razuki filed a  
13 declaration saying that exact same thing.

14           The forensic accounting report, which  
15 again, is hearsay and the Court should not consider,  
16 but the Court does -- it says in there that  
17 Mr. Malan has now put in over 1 1/2 million. And  
18 that's just a swing in the last couple of weeks,  
19 again, based on documents that were provided to  
20 Mr. Brinig.

21           That's not accounting for his labor.  
22 That's not accounting for the time that he spent  
23 doing that to the exclusion of other businesses.  
24 It's not accounting for the times he had to go  
25 testify for the CUP hearings.

26           But remember that, "Mr. Malan has not put  
27 in one red cent." That is the basis for the  
28 receivership and it has been since the July 17th

1 hearing. Those exact words appear in Mr. Razuki's  
2 declaration and they came out of Mr. Elia's mouth  
3 multiple times throughout this litigation.

4 That is not a true statement. The forensic  
5 accounting and everything shows he put in a lot more  
6 than one red cent. He's the one that stands to lose  
7 if these businesses go under because they're his  
8 businesses.

9 In the forensic accounting report,  
10 \$1.57 million is credited to Mr. Razuki for the sale  
11 of Balboa to Mr. Malan. That's an indebtedness  
12 based on Mr. Razuki purportedly selling the entire  
13 business to Mr. Malan. That shouldn't be a credit  
14 to him. That should be evidence that our client  
15 owns it.

16 And so if the businesses go under, it's not  
17 Mr. Razuki that's suffering damages. It's our  
18 client. It's not SoCal. They never bought the  
19 options. They don't have the right to buy any part  
20 of it. It's our client that is going to get the  
21 damages.

22 The reason that -- back in the beginning,  
23 why -- why was the receiver appointed? They said it  
24 was -- I forget what they said, but it wasn't the  
25 reason that they gave on July 17th. On July 17th,  
26 page 3 of the transcript, they said, SoCal has  
27 already paid millions of dollars and her client has  
28 granted options under this agreement. They paid

1 \$225,000 for these options to purchase half of these  
2 operations.

3 That's what Mr. Elia said to Judge Medel,  
4 that SoCal paid \$225,000 for these options to  
5 purchase half of the operations of the marijuana  
6 dispensaries. That is not a true statement,  
7 Your Honor. It wasn't then and it isn't now, but  
8 that's why the receiver was put in.

9 If the receiver is not there anymore, the  
10 businesses can run again. If the receiver is not  
11 there anymore, they can have a chance to get back on  
12 their feet and bring in other operators. Tammy can  
13 talk more about the specifics of the accounting.

14 But I have one comment about that case that  
15 he's citing that says that you can't find indigency.  
16 That's not what that case says. That case says  
17 regarding FreedomCard, a corporate entity, it's well  
18 settled that a corporation is not a person for the  
19 purposes of establishing indigency at least in the  
20 analogous context of obtaining in forma pauperis  
21 status to dispense with federal requirements as to  
22 filing fees, costs, and security. That case does  
23 not hold what they said it holds.

24 THE COURT: Cite that case.

25 MR. WATTS: That case is Williams vs.  
26 FreedomCard, Incorporated. It is May 3rd, 2004. I  
27 don't have the cite here, because I Googled it,  
28 but --

1 THE COURT: Somebody find it for me.

2 Go ahead. They'll look it up.

3 MR. WATTS: And even if -- and that's with  
4 the ability to completely dispense with a bond  
5 requirement. The Court can still reduce the bond  
6 requirement to a nominal amount of 5,000 or \$10,000  
7 based on one's ability to pay, also based on the  
8 damages that the other side would incur. So even if  
9 you don't dispense with it entirely --

10 Tammy, go ahead.

11 MS. LEETHAM: I'm going to stand up,  
12 Your Honor.

13 THE COURT: You may. Hold on.

14 Counsel, just so you know what's been  
15 handed to the Court, it's the cite of the Williams  
16 case, which is, for the record, 123 Cal.App.4th 609.

17 Thank you.

18 Counsel?

19 MS. LEETHAM: Yes, Your Honor. So I have  
20 something that comes to mind with respect to the  
21 \$12 million bond request to Mr. Malan that what's  
22 good for the goose is good for the gander. And if  
23 we're saying Mr. Malan is supposed to pay  
24 \$12 million by a virtue of a 25 percent ownership,  
25 the corollary to that is Mr. Razuki then must pay  
26 \$36 million. I think the --

27 THE COURT: So 36 and 12?

28 MS. LEETHAM: Correct, if you're following

1 that logic.

2 THE COURT: All right.

3 MS. LEETHAM: You know, Mr. Razuki's bond  
4 is always going to be three times higher than my  
5 client's bond because, according to their theory of  
6 liability, they own the same things in a  
7 disproportionate share. So it only makes sense from  
8 an equity perspective.

9 So their theory of liability is RM Property  
10 Holdings owns the real -- the holding companies that  
11 own the real estate, right, and that 75 percent of  
12 that holding company is Mr. Razuki's and 25 percent  
13 is Mr. Malan's. And so you would argue that the  
14 losses and the gains should be split that way, so  
15 36 million sounds pretty good.

16 I'm not even quite sure where to start. We  
17 went all over the place. So I guess where I'll  
18 start first is Ninus Malan.

19 THE COURT: So should I follow that logic  
20 all the way through, Counsel? No matter what I set  
21 Razuki's bond at, just take a third and make it for  
22 Malan?

23 MS. LEETHAM: No, Your Honor, because the  
24 parties' relationships are all different. So you  
25 have to remember that Razuki and Malan individually  
26 are parties to the operating agreement and the RM  
27 Property Holdings.

28 And I'm not conceding we agree with it, but

1 just following the logic makes sense, if that's what  
2 the Court is thinking about, that if you're going to  
3 look at that operating agreement and evaluate the  
4 claims, then you look at what's in that operating  
5 agreement, and that would be San Diego United.

6 So I guess what I'm trying to do is carve  
7 out Ninus right now, because the Court --

8 THE COURT: Yeah, because we're going to  
9 get to the rest one at a time too.

10 MS. LEETHAM: Correct.

11 THE COURT: So let's just talk about  
12 Mr. Malan.

13 MS. LEETHAM: So Mr. Malan -- so just from  
14 a pure equity perspective on splits, okay, so the  
15 Court says 12 million. I would ask the Court to  
16 triple whatever he sets for Mr. Malan for  
17 Mr. Razuki. And the one thing we haven't  
18 mentioned is --

19 THE COURT: So if I set Malan at 2 million,  
20 then Razuki should be 6 million?

21 MS. LEETHAM: Six million, absolutely.

22 THE COURT: Okay.

23 MS. LEETHAM: So with respect to my client,  
24 Mr. Malan, as the Court is well aware, he hasn't  
25 received a dime since August, like so many in this  
26 courtroom. There's no money to fund, and he hasn't  
27 been paid.

28 And, you know, there's no money. So if

1 you're looking at this from a purely equitable  
2 perspective, how do you ask my client to pay  
3 \$12 million when he doesn't have a dime to his name?

4 I'm sorry. I'm not trying to embarrass  
5 you, but it's true.

6 On the other side, we look at this equity,  
7 and we have -- we have a glaring hole in the Court's  
8 information on Sunrise. And Sunrise produces income  
9 and Sunrise provides Razuki income, and we know  
10 nothing about it and we know he continues to have  
11 it.

12 And so when you look at the inequity of  
13 that, that he continues to have resources and he  
14 continues to have income and he is not restrained by  
15 any of this, and yet he's required to share in the  
16 losses, it is fundamentally unfair to impose upon my  
17 client a multimillion-dollar bond when I don't even  
18 know if he can buy gas.

19 So setting aside the merits and looking at  
20 the equities, even if the Court were to set it, he  
21 can't pay it and he can't pay it because of this  
22 litigation.

23 THE COURT: So in the last six months, how  
24 much money has your client taken out? Nothing.

25 MS. LEETHAM: Well, I want to talk about  
26 that, yeah.

27 THE COURT: Well, I just want -- can you  
28 answer that question? Nothing.



1 MS. LEETHAM: So the last six months would  
2 be -- I believe the last time he received anything  
3 was July, and what he -- and what he's receiving,  
4 which I'm going to go to, is money from SoCal that  
5 he then used to pay the dispensary operation. So  
6 now we're going to get into the insolvency.

7 For whatever reason, Far West has become  
8 the scapegoat. I'm not entirely sure why, but --

9 THE COURT: Let me -- let me interrupt.

10 Mr. Brinig, I want to know how much money  
11 Mr. Malan has pulled out in the last seven, eight  
12 months.

13 MR. BRINIG: Let me look, Your Honor.

14 THE COURT: You can do that while she's --  
15 Counsel, proceed.

16 MS. LEETHAM: Thank you, Your Honor. I  
17 lost my train of thought.

18 THE COURT: You were talking about Sunrise.

19 MS. LEETHAM: Sunrise, SoCal. Okay. So,  
20 you know, we continue to throw Far West under the  
21 bus. And again, I'm not entirely sure why, because  
22 let's look at it. From the receivership, going  
23 forward, the businesses failed. And I've stood up  
24 here over and over again and I've told Your Honor  
25 it's going to happen. We're going to lose them.  
26 And then at the last hearing, I said, No, they're  
27 not worth saving, because the debt is so  
28 significant. And I still question that.

1           So when you look at the receivership -- and  
2           it's a little bit awkward to talk about this because  
3           I'm actually not casting personal aspersions at  
4           Mr. Essary. But when he has a big bill for taking  
5           on a supervisory role, it causes one to wonder what  
6           exactly he has been doing, because the Court's order  
7           actually gives him full operational control. And  
8           they blame my client and they blame Far West, and  
9           they couldn't do anything without permission.

10           Mr. Essary received daily financials from  
11           Far West. He was given the spreadsheets. He was  
12           given review. Nobody has communicated with Far West  
13           in any way they were deficient. I have declarations  
14           we filed prior to the last hearing from Adam Knopf  
15           and Heidi Rising where they talk about never being  
16           contacted, and they would have been more than  
17           willing to give anybody information. They haven't  
18           been paid.

19           The other thing that Ms. Austin can  
20           probably talk a little bit more about is the  
21           track-and-trace system that the State of California  
22           imposes upon cannabis sales. So when the plaintiff  
23           says that they're a cash-only business and we have  
24           no idea what they're doing, it's actually not true.

25           THE COURT: So may I interrupt for a  
26           second?

27           MS. LEETHAM: Yes, absolutely.

28           THE COURT: So is your analysis going to be

1 that these businesses are going to go down the  
2 drain, Judge, so therefore, the bond should be set  
3 at 10,000? Is that your analysis?

4 MS. LEETHAM: For the most part, but it  
5 varies a little bit based on the entity or the  
6 person. So it's not the same, but essentially yes,  
7 the equity.

8 THE COURT: How much for Malan?

9 MS. LEETHAM: For Malan, I would say  
10 something nominal, 5- or 10,000. He has no  
11 resources. He has nothing.

12 THE COURT: San Diego United Holdings?

13 MS. LEETHAM: So let me talk about that  
14 quickly. Oh, and one thing I want to highlight,  
15 Mr. Brinig's amended report --

16 THE COURT: I read it.

17 MS. LEETHAM: Right. And so if the Court  
18 read it, what you'll see is the Balboa operations  
19 are in a deficit.

20 If I'm reading this incorrectly,  
21 Mr. Brinig, please tell me.

22 But they're running a deficit of a million  
23 dollars, and I don't know if this figure takes into  
24 account the excise tax liability and the other  
25 liabilities to the lender and different things. So  
26 when you're look at that figure, that's big.

27 THE COURT: Uh-huh.

28 MS. LEETHAM: That's big.

1 THE COURT: So on San Diego United?

2 MS. LEETHAM: Well, since -- so San Diego  
3 United -- so I kind of have to talk about what they  
4 each do.

5 THE COURT: Okay. So do San Diego United,  
6 Flip, Balboa, California, and Devilish.

7 MS. LEETHAM: Okay.

8 THE COURT: Thank you.

9 MS. LEETHAM: San Diego United is a  
10 California limited liability company that owns three  
11 pieces of real property: 8859 Balboa, Suites A  
12 through E; 8861 Balboa, Suite B --

13 Leyla, are you okay?

14 THE REPORTER: Yes.

15 MS. LEETHAM: -- 8368 Balboa, Suite E.

16 With respect to 8859 Balboa, Suites A  
17 through E, those are suites, four of which have  
18 tenants. The rent is nominal. It has a conditional  
19 use permit to manufacture marijuana, but there is  
20 nothing done to move that forward. So while it has  
21 a land use entitlement that runs with the land, it's  
22 a building with suites. There's no value to it  
23 other than what the tenants pay in rent.

24 8861 and 8863 Balboa, 8363 has a  
25 conditional use permit and a land use entitlement  
26 that runs with the land. So San Diego United itself  
27 holds the license, and I say that in quotes because,  
28 as -- you know, as the Court knows, the City of

1 San Diego allows cannabis operations by virtue of a  
2 land use process. So this is the entity that would  
3 be impacted by, for example, the HOA motion to  
4 revoke the use variance. It would impact this  
5 entity.

6 But as the Court also knows from the  
7 financials, this entity has a million dollars in  
8 debt. You know, it has no money of any kind to pay  
9 any kind of a bond, and it's not because anybody was  
10 negligent. Up until the receivership, my client  
11 personally covered these bills.

12 So when we look at -- we have all these  
13 seductive numbers, right? 200,000 a month, 300,000  
14 a month. SoCal brought all this money in, but what  
15 we've hinted about is that that's the gross. It's  
16 the gross net. It's not the "net" net. And so when  
17 we talk about all of this money it was making, it  
18 was not. And my client was covering the deficit,  
19 and the minute he stopped, it crumbled.

20 So he stopped making mortgage payments.  
21 He's defaulted. He stopped making HOA payments.  
22 It's delinquent. They're revoking it. He stopped  
23 making insurance payments. Insurance is canceled.  
24 Right? So all of these things that he, as the  
25 business owner, paid for, stopped happening when the  
26 receiver came in.

27 And again, I'm not attacking Mike. I'm  
28 attacking the imposition the receiver shall -- the

1 receivership itself placed on it. If Mike didn't  
2 have the resources, the resources weren't there to  
3 give anybody else. I think the blame is  
4 attributable -- is being put in the wrong spot. I  
5 don't think anybody who managed that dispensary  
6 would have enough money to pay.

7 So with San Diego United, again, I would  
8 ask for a nominal bond.

9 THE COURT: You don't think SoCal would  
10 have enough money to pay?

11 MS. LEETHAM: No. They're the ones that  
12 caused the problem. They left us with a \$175,000  
13 tax debt.

14 THE COURT: You sure want to go back in  
15 there, don't you, SoCal?

16 MS. CARDER: Do I what?

17 THE COURT: Want to go back in to Balboa,  
18 right?

19 MS. CARDER: If we can purchase it.

20 THE COURT: Yeah.

21 MS. CARDER: But only if we can purchase  
22 it.

23 THE COURT: So if it's losing business,  
24 they're going to pay, what, a million? SoCal, a  
25 million? Wasn't it a million?

26 MS. CARDER: I know we've put in 2.1. I  
27 can't remember.

28 THE COURT: 2.1 million for this losing

1 business? All right.

2 MS. LEETHAM: Only if they can purchase it,  
3 though, is what she just said. They only want in if  
4 they can purchase it.

5 THE COURT: Yeah.

6 MS. LEETHAM: And obviously, our argument  
7 is that expired.

8 THE COURT: Well, it's a business and  
9 they're willing to pay 2.1 million for it.

10 MS. LEETHAM: I want to correct the record  
11 on that too. We keep talking about SoCal as if it's  
12 an equity, as if it has some kind of an ownership  
13 interest. SoCal had to pay to play.

14 THE COURT: No, I know. But they're  
15 telling me, the Court -- representing to the Court  
16 that they'll put 2.1 million on the table to buy it.  
17 They said that last hearing, Counsel.

18 MS. LEETHAM: No. They're saying they have  
19 previously put in 2.1 million.

20 MS. CARDER: My understanding,  
21 Your Honor -- and again, I apologize, because I'm  
22 specially appearing. But my understanding is 2.1  
23 was put in and that if SoCal was asked to come back  
24 in and run it, they would only do it if they could  
25 exercise those options to purchase, which I heard  
26 someone say, you know, the option's expired, but it  
27 seems like that happened because this lawsuit  
28 happened.

1 THE COURT: Okay. Let's keep going. I got  
2 off track.

3 MS. LEETHAM: Which is incorrect. And I'm  
4 going to move through SoCal for a few minutes,  
5 because I actually haven't had the opportunity to  
6 talk about it, and I think it's very important that  
7 the record is clear that --

8 THE COURT: And then let's get to the  
9 numbers.

10 MS. LEETHAM: Yes. The other one will take  
11 less time.

12 SoCal -- I like this phrase because it  
13 makes sense. They had to pay to play. SoCal has no  
14 independent right of its own to operate any medical  
15 or adult use cannabis facility for any reason. They  
16 had to buy the right. And they bought the right  
17 from my client, and they were obligated to pay to  
18 have the right to try to make money. And so the  
19 contributions that they're -- are being attributed  
20 are monies they were contractually required to put  
21 in.

22 And so, for example, if you --

23 Am I talking too fast?

24 THE REPORTER: No.

25 MS. LEETHAM: If you look at the management  
26 services agreement, which has been submitted to the  
27 Court numerous times, and this is the one for  
28 Balboa, SoCal is required to pay 35,000 per month as



1 a minimum guarantee solely for the right to try to  
2 operate.

3 So if you do that math, seven months at  
4 35,000, it's \$245,000 they had to pay. And it goes  
5 on. 120,000 they had to pay and CUP costs they had  
6 to pay. That adds up to a million right there.

7 And then the other money they're talking  
8 about contributing -- I went through Mr. Brinig's  
9 source documentation. They were very nice to give  
10 me information. And a lot of that money they paid  
11 themselves, almost all of it. They round-tripped it  
12 right back around to SoCal Building Ventures. They  
13 paid consultants. They paid attorneys. I could go  
14 on and on and on, but the contribution they claimed  
15 to make was by contract and they paid themselves.  
16 And they ran out of money, and they couldn't  
17 exercise the option. And this is where we sit  
18 today.

19 And in the process of doing that, they got  
20 in debt to the State of the California on the excise  
21 tax. They got in debt to the City. Oh, by the way,  
22 we have an MGO audit that is still in process, and  
23 it appears that we're going to be penalized for  
24 recordkeeping while SoCal was there.

25 So we fired them because they're a bad  
26 manager and you fire bad managers. You hire a  
27 manager to make you money, and you fire a manager  
28 when they don't make you money. And they didn't

1 make money and they broke the law, and my client was  
2 tired of paying for it. And now he's broke. So  
3 I'll move on from that.

4 THE COURT: So how much for -- what should  
5 the bond be for San Diego United Holdings?

6 MS. LEETHAM: Five thousand dollars.

7 THE COURT: How much for Flip Management?

8 MS. LEETHAM: So Flip has no money. It's a  
9 corporation. It was created to manage the  
10 dispensary prior to SoCal. Mr. Essary probably  
11 knows how much money is in that account, if any.  
12 But it doesn't do anything. It's a  
13 nonoperational -- basically, a dead entity. We  
14 haven't been able to dissolve it or do anything like  
15 that because of the receivership.

16 THE COURT: But it's appealing, is it not?

17 MS. LEETHAM: It is appealing.

18 THE COURT: So how much, Counsel?

19 MS. LEETHAM: Well, I would say zero for  
20 all of it. But if we're talking nominal, I would  
21 say 5,000.

22 THE COURT: How about for Balboa Avenue  
23 Cooperative?

24 MS. LEETHAM: Balboa Avenue Cooperative is  
25 a statutory cooperative corporation. It is a  
26 member-owned corporation. It must operate as a  
27 not-for-profit corporation. It is also the entity  
28 that holds the license that the State uses to allow

1 Balboa to operate.

2 Balboa has nothing. It cannot have  
3 anything. It cannot do anything. And because it's  
4 member owned, I guess on a purely technical level,  
5 the members would have to then contribute to  
6 whatever the Court asked, and anybody who bought  
7 medical cannabis while it was a medical cannabis  
8 state would be a member.

9 THE COURT: So the amount requested is?

10 MS. LEETHAM: A thousand.

11 THE COURT: Thank you. California Cannabis  
12 Group?

13 MS. LEETHAM: California Cannabis Group is  
14 a nonprofit, mutual benefit corporation that is  
15 currently suspended with the State of California  
16 because it has not paid taxes because it has no  
17 money to pay taxes. It has a suspended status.

18 THE COURT: Yeah. One wonders if it can go  
19 ahead and appeal then.

20 MS. LEETHAM: I think Mr. Essary is working  
21 on that right now. I think Mr. Gorla discovered it.  
22 And actually, everybody is trying to fix it, but  
23 there's no money. And Mr. Brinig's office is  
24 working on the tax returns.

25 MR. BRINIG: We'll have the tax returns on  
26 Monday.

27 THE COURT: It's suspended, though, right?

28 MR. BRINIG: Yes. I understand it is now,

1 yes. Filing the tax returns on -- we'll give them  
2 to the receiver and file them.

3 THE COURT: So I would say that's a  
4 thousand dollars or zero?

5 MS. LEETHAM: I would say -- for  
6 nonprofit -- not-for-profit entities, I would say  
7 zero, because they can't have anything.

8 THE COURT: Okay. And that would apply to  
9 Devilish Delights too?

10 MS. LEETHAM: Correct. That's also a  
11 nonprofit mutual benefit corporation, and that  
12 entity has never done anything. I'm not even sure  
13 why it's named, but it has nothing. It licenses  
14 nothing.

15 THE COURT: Just one second, Counsel.

16 All right. Proceed. Thank you.

17 MS. LEETHAM: I'm almost done.

18 THE COURT: Take your time.

19 MS. LEETHAM: There's one other thing I  
20 want to talk about. And I'm going to go to  
21 Mr. Brinig's report, and I'm looking at amended  
22 Schedule 1. And I'm looking --

23 THE COURT: Counsel, let me interrupt.  
24 That's on my -- I brought everything but that.  
25 We're going to just take five minutes. That's all.  
26 Five-minute recess. I'll go get it. Thank you.

27 (Brief recess.)

28 THE COURT: Go ahead and finish. Then

1 let's -- let's start getting the numbers, people.

2 MS. LEETHAM: Okay. I am almost done and  
3 we'll go to the numbers. I was -- the one thing I  
4 want --

5 THE COURT: Okay. I have -- I'm sorry. I  
6 have the report now. What did you want me to look  
7 at?

8 MS. LEETHAM: Okay. It's Schedule 8. I  
9 wanted to throw you a non sequitur really quick.  
10 Mr. Brinig gave me the figure of monies pulled out  
11 by Ninus Malan in the last -- since June.

12 THE COURT: How much?

13 MS. LEETHAM: None.

14 MR. BRINIG: Zero, Your Honor.

15 THE COURT: Good. Okay. Thank you.

16 MS. LEETHAM: You're welcome. Okay. So  
17 I'm on -- it's actually entitled "Schedule 8" of the  
18 letter update, amended Schedule 1. I don't think  
19 there's a page number on it. And this is actually  
20 Mr. Essary's declaration regarding forensic  
21 accountant Brian Brinig's updated report. It's  
22 attached to that as Exhibit A.

23 THE COURT: Go ahead.

24 MS. LEETHAM: Okay. Are you there?

25 THE COURT: Close enough.

26 MS. LEETHAM: Okay. And so I guess what I  
27 want to talk about right now is some of the -- some  
28 of the money attributed to Mr. Razuki for Balboa and

1 this figure of 1.575 million for the sale of the  
2 dispensary business.

3 THE COURT: There we go. Go.

4 MS. LEETHAM: So interestingly, Balboa  
5 Avenue Cooperative is not a party to the RM Property  
6 Holdings agreement and the settlement agreement, and  
7 that is because there is the separate agreement with  
8 Balboa Ave. Cooperative where Balboa Ave.  
9 Cooperative agreed to pay Razuki Investments  
10 \$1.575 million to buy the business. So that is a  
11 separate contract governed by a separate agreement  
12 that has nothing to do with this case.

13 And actually, the Bill of Sale for that was  
14 submitted in Ninus Malan's declaration in support of  
15 the July 31st hearing as Exhibit C for the record,  
16 so it is in the record. And I don't have a copy for  
17 you and we didn't file any, I'm sure, today.

18 But what that Bill of Sale does is it  
19 obligates Balboa Ave. Cooperative to pay Razuki  
20 Investments \$1.575 million provided the business  
21 opens within 90 days of the date that San Diego  
22 United recorded the grant deed, which was somewhere  
23 around March 17th of 2017.

24 As we all know, the dispensary did not  
25 legally open until November or December when  
26 Judge Styn allowed us to open. So there's two --  
27 there's two -- two purposes to this argument.

28 First of all, this is not a credit to

1 Mr. Razuki. This is a debt that Balboa Ave.  
2 Cooperative used to owe to Razuki Investments, but  
3 it does not owe because that note is null and void  
4 because it never opened.

5 And so Balboa Ave. Cooperative -- and when  
6 I'm talking about its assets and liabilities, it has  
7 nothing. So my -- like, it has no debt. It has no  
8 equity. It's a cooperative corporation that exists  
9 just to hold the license, so it should have a zero  
10 bond. And I wanted to clarify the record on that,  
11 because Razuki is actually being given quite a large  
12 amount of possible contribution in the letter  
13 update.

14 Okay. So now we're on to -- I think we did  
15 California Cannabis Group and Devilish Delights.

16 THE COURT: And Devilish, yeah. They're  
17 all nonprofits.

18 MS. LEETHAM: They're all nonprofits.

19 THE COURT: Same analysis.

20 MS. LEETHAM: Correct. So to wrap it up, I  
21 think what the Court said at the beginning and what  
22 the plaintiffs are saying is there -- the bond is  
23 there to cover the harm between the stay and I guess  
24 the appellate decision and any harm that might  
25 occur.

26 There's no harm that's going to occur with  
27 the cash. It's a track-and-trace business. The  
28 State of California and the City have processes in

1 place that require reporting, and there's no  
2 evidence that they haven't reported under Far West's  
3 management. There's evidence we don't know what  
4 happened under SoCal's management. But as a concern  
5 in terms of a bond, it's nonexistent because there  
6 is a structure in place here due to our regulatory  
7 structure. So that should not be an overriding  
8 concern the Court has in setting the bond amount.

9           The other thing the Court talked about and  
10 they talked about is any damage if my clients sell  
11 the property. And they keep talking about some kind  
12 of agreement to sell the property, and I don't think  
13 there's any evidence in the record, other than  
14 argument from counsel, that they're going to sell  
15 the property. The Far West Management services  
16 agreement does not grant an option. It has not been  
17 marketed.

18           In fact, the HOA use variance precludes  
19 them from selling it, because if you transfer  
20 ownership, it goes away. So they would actually  
21 have to file a motion to have that approved anyway.  
22 So in terms of damage, by granting -- or a low bond,  
23 there's no damage in the interim. You're looking at  
24 me skeptically, but --

25           THE COURT: No, not at all.

26           MS. LEETHAM: They -- and I think that's  
27 where you started is how do we deal with the harm.  
28 Well, we deal with the harm by not making my



1 indigent clients pay an exorbitant bond.

2 THE COURT: Okay. Thank you.

3 Okay. Have I covered the money issues?

4 And I want to make sure that, Judge, set a -- issues  
5 to raise the injunctive bond, I'm going to call it,  
6 of Mr. Razuki. And then I have to set bonds on  
7 Malan, San Diego United, Flip, Balboa Cooperative,  
8 California Cannabis, and Devilish Delights.

9 Is that it?

10 MR. GORIA: Well, Your Honor, we have  
11 Mira Este as well. Mira Este, Hakim, and Roselle  
12 are also appealing. We filed a cross-appeal.

13 THE COURT: You know what? That's what I  
14 have. So that is Mira Este, Mr. Hakim, right?

15 MR. GORIA: They're all cross-appellants,  
16 correct.

17 THE COURT: And who's the other one?

18 MR. GORIA: Roselle.

19 THE COURT: Got it. Shall we do those  
20 since it's a cross-appeal?

21 MR. GORIA: Yes.

22 THE COURT: So, Counsel, let me hear from  
23 you.

24 And then you're going to respond, of  
25 course.

26 Let's go.

27 MR. GORIA: Your Honor, let me just start  
28 out by telling --

1 THE COURT: And --

2 MR. GORIA: Oh, I'm sorry.

3 THE COURT: Mr. Brinig, you're going to  
4 come after that. I just want a quick update based  
5 on the new analysis, which I must say was kind of  
6 substantial.

7 MR. BRINIG: It was.

8 THE COURT: I know.

9 MS. LEETHAM: Thank you, by the way.

10 THE COURT: Huh?

11 MS. LEETHAM: Thank you.

12 THE COURT: No. You're the one that  
13 brought it up, Counsel. It was a big deal.

14 I'll stop right there. I interrupted. Go.

15 MR. GORIA: Let me start out by giving you  
16 the conclusion, and that is that we think only a  
17 minimum bond, 10,000, for Mira Este Properties.

18 THE COURT: Okay.

19 MR. GORIA: Mr. Hakim, in terms of a bond,  
20 that's kind of irrelevant, same with Roselle,  
21 because the receiver isn't over there. The receiver  
22 is in Mira Este Properties, LLC, and that's probably  
23 the only party that we're going to post a bond for.

24 Now, in terms of the evidence -- well,  
25 let's back up.

26 THE COURT: So hold on. Only Mira Este  
27 appealed?

28 MR. GORIA: No. All three parties

1 appealed, but Mira Este is really the only one that  
2 is the interested party in the order for the  
3 preliminary injunction at this point.

4 THE COURT: Wow. Got it. Go. Thank you,  
5 Counsel.

6 MR. GORIA: So in terms of 917.5, that code  
7 section speaks in terms of damages likely to occur  
8 with the removal of the receiver, likely to occur  
9 with the removal of the receiver.

10 And what is the evidence before the Court?  
11 Because we think it, frankly, would be an abuse of  
12 discretion for the Court to impose a bond more than  
13 the minimum, because the only evidence before the  
14 Court -- and I -- I do believe that, Your Honor,  
15 because the only evidence before the Court is that  
16 the -- as far as Mira Este goes, producers are  
17 staying away from Mira Este solely because of the  
18 receiver. We have produced an avalanche of evidence  
19 to that effect.

20 Mr. Elia had, you know, the audacity,  
21 really, to bring up Mr. Milner and Cream of the Crop  
22 and say, Well, he was just told to say that in court  
23 because of his attorneys, and the attorneys are  
24 conspiring to try to keep the receiver out.

25 Far from it. We have put into declaration  
26 form that Cream of the Crop was close to getting a  
27 deal done until it was disclosed that there was a  
28 receiver in place. And he was advised by his own

1 attorney, who I don't even know and I've never  
2 spoken with -- I've never even spoken to Mr. Milner.  
3 He was advised by his attorney, Don't get involved  
4 where there's a receiver.

5 And there are -- I provided evidence to the  
6 Court as to the reasons why these producers do not  
7 want to deal with the receiver, and that's the  
8 simple fact that I think we have produced undisputed  
9 evidence that that is the case.

10 And with that as a given, it would be an  
11 abuse of discretion for the Court to find that there  
12 are damages likely to occur if the receiver is  
13 removed, because the opposite is correct. The  
14 opposite is that damages will not occur if the  
15 receiver is removed. And it's all very likely that  
16 Mira Este will return to profitability if the  
17 receiver is, in fact, removed through a stay, if you  
18 will, through a stay of the order avoiding the  
19 receiver.

20 Now, in addition to the number of producers  
21 who were staying away because of the producer [sic],  
22 I'd like to spend a minute to go back to the origins  
23 of Mira Este. My client did not know Mr. Malan. He  
24 did not know Mr. Razuki before June of 2016. He was  
25 introduced to them through a loan broker who was  
26 putting the deal together for Mira Este.

27 Mr. Malan and Mr. Razuki, who are longtime  
28 partners, had Mira Este in escrow. Okay. They had

1 it in escrow in June of 2016. But again, despite  
2 the bravado of Mr. Elia in saying that Mr. Razuki  
3 had all these millions of dollars, they didn't have  
4 enough money -- enough cash to close the deal in  
5 Mira Este. They needed about 3- or 400,000.

6 The loan broker came to my clients because  
7 he knew that my client had the wherewithal. And at  
8 that point in time, my client got involved. And in  
9 July of 2016, he had his attorney, who happens to be  
10 my partner, draft the operating agreement for  
11 Mira Este.

12 At that time the three of them --  
13 Mr. Malan, Mr. Razuki, and Mr. Hakim -- decided that  
14 Mr. Razuki would not be an owner of Mira Este  
15 Properties. He didn't want to be an owner of  
16 Mira Este Properties. He didn't even have it put  
17 into the operating agreement that he would receive  
18 any distribution. All that was done between  
19 Mr. Malan and Mr. Razuki.

20 So as far as Mira Este Properties go --  
21 goes, Mr. Razuki has no interest -- no ownership  
22 interest and no rights, no voting rights or  
23 anything. Okay. So really, this Court doesn't have  
24 jurisdiction to even impose a receiver over  
25 Mira Este at the behest of Mr. Razuki, because he  
26 has no interest in Mira Este Properties.

27 So -- but having said that, let's carry on.  
28 After the deal was struck and my client put in

1 \$420,000 in cash to allow that escrow to close, my  
2 client was appointed the managing member -- sole  
3 managing member of Mira Este Properties.

4 And for the better part of two years, he  
5 managed that while he procured SoCal to pay 110,000  
6 a month. And during that time frame, Mira Este was  
7 operating profitably. He was the sole manager. He  
8 was the one that was responsible for that. That  
9 takes us to June.

10 THE COURT: Did SoCal do a good job?

11 MR. GORIA: SoCal did nothing. SoCal did  
12 nothing. The only thing they did was for five  
13 months or six months, they paid the 110,000. But  
14 they brought nobody into the facility. There was  
15 zero operating income as a result of SoCal's lack of  
16 effort. And then in June of 2018, June of this  
17 year, they stop paying.

18 And now what do they do in this litigation?  
19 They come up with this totally bogus charge that my  
20 client falsified some records concerning tenant  
21 improvements.

22 Well, we have submitted declarations to the  
23 effect that -- and we, in fact, provided Mr. Brinig  
24 with not only a summary of the tenant improvements  
25 paid by the facility, both Mira Este Properties  
26 itself, Mr. Malan, and Mr. Hakim. They paid  
27 \$288,000 for tenant improvements.

28 They turned to SoCal, Can we get reimbursed

1 because of -- the management agreement with SoCal  
2 says that anything over 250-, you're going to pay us  
3 one half or a hundred -- not over 250-, but up to  
4 250-, you will pay us one half or 125,000.

5 We have backup material, like I said, that  
6 we provided Mr. Brinig. And he confirmed all except  
7 for 5,000. He confirmed \$280,000 had been paid for  
8 tenant improvements. And what does SoCal do? They  
9 do not pay anything towards tenant improvements.

10 In addition to that, they stopped paying on  
11 their minimum monthly so that as of June -- as of  
12 early July of 2018, they were indebted to Mira Este  
13 Properties in the amount of -- let's see --  
14 \$450,000, 125- for tenant improvements that we have  
15 established through Mr. Brinig was actually paid,  
16 plus an additional 326,000 on the minimum guarantee  
17 and other payments that they just flat out defaulted  
18 on. That's the sole reason that SoCal was  
19 terminated, and this nonsense about a fabricated or  
20 falsified listing of tenant improvements is just  
21 that. It's false.

22 Now, again, turning back to the issue of  
23 the likely damages that would result, we have a lot  
24 of speculation about -- oh, they'll let the property  
25 go into foreclosure. Oh, yeah, Mr. Hakim is going  
26 to just walk away from 420,000. Right.

27 The businesses are limping along.  
28 Mira Este is limping along because they don't have

1 enough operating income or net income to pay the  
2 mortgage payment. And who's paying the payments?  
3 Mr. Malan, who's -- as his counsel said, doesn't  
4 have much in the way of assets, and my client.  
5 They're paying the mortgage payment out of their own  
6 pocket, not out of Mira Este Properties and  
7 certainly not from Mr. Razuki.

8           So we think if the receiver is removed,  
9 there will not be damages to Mr. Razuki. He will  
10 actually profit from the removal of the receiver.  
11 And we also think that the only reason they're  
12 arguing against that is for a litigation advantage,  
13 for settlement leverage.

14           I think quite clearly that Mr. Elia and his  
15 group over there understand that if the receiver is  
16 out at Mira Este, that facility will turn  
17 profitable. And to the extent that Mr. Razuki is  
18 entitled to any share of the profits, he will  
19 benefit from that. So for him to stand up here  
20 through his counsel and argue that there's going to  
21 be a likelihood of damage if the receiver is removed  
22 is disingenuous, Your Honor.

23           I'd be happy to answer any question if the  
24 Court has any.

25           THE COURT: So it's 10,000, zero, zero? Is  
26 that the way I look at it? That's what I wrote  
27 down. Correct?

28           MS. LEETHAM: Yes.



1 THE COURT: Ten thousand for Mira Este,  
2 zero for Hakim, zero for Roselle, correct?

3 MR. GORIA: Yes.

4 THE COURT: Thank you, Counsel.

5 Give me your -- and then I'm going to ask  
6 you some questions.

7 MR. JOSEPH: Sure. Before we get to the  
8 specifics, I've got to bring it back to the law,  
9 Your Honor, on what the standard is when we're  
10 setting the appellate bond. CCP 917.5, the first  
11 thing --

12 THE COURT: Counsel, I got it right in  
13 front of me.

14 MR. JOSEPH: The first thing you look at is  
15 Plaintiff's damages. What they -- what Malan and  
16 his entities are trying to do is to get a waiver  
17 under 995.240. First, you look at Plaintiff's  
18 damages, and then you see they have met the  
19 requirements for the waiver to begin indigent person  
20 status.

21 Where is the bank statement that Mr. Malan  
22 has truly received no income before this year? I  
23 appreciate Ms. Leetham stating that her client has  
24 not got that money. But in 20 minutes, Your Honor,  
25 we have another hearing where there's another  
26 company that Mr. Malan owns. It's not just these  
27 marijuana dispensaries that --

28 THE COURT: In 20 minutes we have another

1 hearing?

2 MR. JOSEPH: The Schwig (phonetic) case,  
3 Your Honor. Sorry to remind you about that.

4 THE COURT: Is that Westpoint?

5 MR. JOSEPH: Westpoint, SH Westpoint.

6 THE COURT: I got it.

7 MR. JOSEPH: But where is the action? The  
8 law is very clear. The law requires an actual  
9 finding by the Court based on evidence that there is  
10 no substantial financial assets to actually support  
11 the bond itself. Where is the declaration from  
12 Mr. Malan saying, "I have not made money. Here are  
13 my bank statements. Here's my income for the last  
14 three months"?

15 I understand from this business, according  
16 to Mr. Brinig, he has not received anything. We  
17 don't know about his other sources of income, if  
18 he's taken any other forms of income, or anything  
19 like that.

20 More important, with respect to the other  
21 businesses, from Mr. Brinig and everything, we  
22 understand that there may not -- there's a cash flow  
23 issue with the businesses, but these businesses have  
24 assets. As we have said, there are people willing  
25 to pay millions of dollars for these businesses.  
26 That does not mean that they're poor and have no  
27 ability to acquire a bond. They have very valuable  
28 property. They have very valuable assets and

1 licenses that people are willing to pay millions of  
2 dollars for.

3 On top of all of that, the law is very  
4 clear. These are corporations that are not entitled  
5 to indigent person status. The -- I believe in  
6 SoCal's briefing, Your Honor, it actually goes  
7 through the very specific history and the  
8 legislative intent with respect to the 998/995.240  
9 waiver. It is to prevent -- it to save individuals  
10 who would be precluded from the Court, to save  
11 individuals who would be precluded from the Court,  
12 persons, indigent persons.

13 It's something -- the main case I believe  
14 that's cited is an employment case where an employee  
15 lost at trial, and then they could not put forward  
16 the bond for an attorney's fees issue. That is the  
17 purpose of that waiver, and that waiver has simply  
18 not been met. There's no finding whatsoever for  
19 that.

20 To address one other issue very quickly, I  
21 think Ms. Leetham got her math wrong. It's --  
22 Razuki has the 75 percent interest in these  
23 businesses. Mr. Malan has the 25 percent interest  
24 in the business. Therefore, our damages would  
25 always be three times more than his damage. So  
26 whatever Malan's bond is, our bond has to be at  
27 least three times higher. That's how the math would  
28 work in that instance.

1           But anyway, the last thing that we would  
2 have to -- that we must point out, Your Honor, the  
3 receiver has already submitted declarations that  
4 Ms. Austin was not willing to work with him. In  
5 fact, the receiver tried to hire a manager or tried  
6 to work with the management company in order to  
7 exercise operational control. Your order required  
8 Mr. Essary to work with Far West.

9           When Mr. Essary said, "Let me see your  
10 payments. Let me approve of all of these issues.  
11 Let me actually get into there" -- he has already  
12 submitted e-mails to the Court where Ms. Austin  
13 says, I am not going to require Far West to -- to  
14 submit everything to you, Mr. Essary.

15           There's already evidence that they have  
16 tried to obstruct with the receiver, and that is  
17 exactly what we've been talking about since day one.  
18 The receiver is not the responsibility -- the  
19 responsible party for these businesses failing. It  
20 is management.

21           Finding -- finally, Your Honor, the Court  
22 can save these businesses. I understand that they  
23 come off and talk about all these debts and  
24 everything. You have SoCal, who at last, two weeks  
25 hearings ago, said, We'll inject a million dollars  
26 into Balboa if you let us in.

27           My client, Mr. Razuki, has said, We'll  
28 cover the HOA fees, but we need the security of

1 knowing that we're going to have control about that.

2 Finally, Your Honor, we have to address the  
3 latest findings of Mr. Brinig and everything --

4 THE COURT: Uh-huh.

5 MR. JOSEPH: -- because we did submit  
6 briefing on this. I'm not sure if the Court had a  
7 chance to review that.

8 THE COURT: I don't remember reading that.

9 MR. JOSEPH: I can summarize it very  
10 quickly, Your Honor.

11 THE COURT: Go.

12 MR. JOSEPH: Essentially put, there are  
13 multiple sources of income that Mr. Ninus --  
14 Mr. Malan claims that he made contributions for. In  
15 Schedule 9 is where those contributions are listed.

16 And so according to Mr. Brinig, there were  
17 contributions made from Mr. Malan personally and  
18 another entity called NM Investments, Incorporated,  
19 which is Mr. Malan's entity. In total, when you  
20 calculate those, looking at Schedule 9,  
21 NM Investments invested or contributed \$90,341,  
22 Mr. Malan personally contributed \$364,000, for a  
23 total of \$454,000 and change. And that is a  
24 contribution that's been put into Mr. Malan's  
25 column.

26 Schedule 8, though, already has a  
27 contribution where Mr. Razuki transfers \$498,000 to  
28 NM Investments and Mr. Malan. We were the ones who

1 gave that money to Mr. Malan, and then he put it  
2 into the businesses. And that's exactly according  
3 to Mr. Brinig's report.

4 Finally, Your Honor, according to the  
5 report, \$635,000 of contributions by -- that were  
6 accredited to Mr. Malan came from American Lending  
7 and Holdings. I don't need to belabor the point  
8 right here, but there is a dispute over who owns  
9 American Lending and Holdings and who gets credit  
10 for the money that American Lendings and Holdings  
11 put in.

12 Right there that is \$450,000 that we gave  
13 Mr. Malan that he put back into the business, and  
14 then we have \$635,000 from American Lending and  
15 Holding that should be ours, given our position in  
16 the hearing that may happen in ten minutes or may  
17 not.

18 That's a million dollars that we dispute  
19 based off the actual evidence and our positions on  
20 this case. If that million dollars is subtracted  
21 from Mr. Malan's position, he's net positive.  
22 He's pos -- he's -- or "net negative" I guess is the  
23 way we're saying it a quarter of a million dollars.

24 THE COURT: Got it.

25 MR. JOSEPH: So again, Your Honor --

26 THE COURT: Okay. Here we go. I got your  
27 argument, Counsel. Let's go. So on SD -- I've  
28 already got Malan, what you're requesting.

1 SD Holdings? I'm looking for numbers.

2 MR. JOSEPH: It should be the same,  
3 Your Honor. It's still --

4 THE COURT: Flip?

5 MR. JOSEPH: The same, Your Honor.

6 THE COURT: Twelve million, right?

7 MR. JOSEPH: Yes, 12 million.

8 THE COURT: Balboa?

9 MR. JOSEPH: Same, Your Honor.

10 THE COURT: Is it the same for everybody?

11 MR. JOSEPH: It is the same for everybody.

12 THE COURT: Including Mira Este?

13 MR. JOSEPH: For Mira Este, we would argue,  
14 because we only have a basis for 3.75 million, it  
15 would be for Mira Este LLC, California Cannabis  
16 Group, and those entities, 3.75 million.

17 THE COURT: Okay. You lost me. SD, twelve  
18 five -- or twelve seven; Flip, twelve seven.

19 Balboa, how much is your request?

20 MR. JOSEPH: Twelve seven.

21 THE COURT: California?

22 MR. JOSEPH: Because that is the entity  
23 associated with the Mira Este facility, three seven  
24 five.

25 THE COURT: For Devilish Delights?

26 MR. JOSEPH: Three seven five, because I  
27 believe that's with the Mira Este facility.

28 THE COURT: Mira Este? Three seven five?

1 MR. JOSEPH: Three seven five.

2 THE COURT: Mr. Hakim?

3 MR. JOSEPH: Three seven five.

4 THE COURT: And Roselle?

5 MR. JOSEPH: Your Honor, Roselle is  
6 actually not in the receivership at this time, so --

7 THE COURT: Why would they appeal? That's  
8 a good point.

9 MR. WATTS: They don't like the order.

10 THE COURT: That's a good reason. Judge, I  
11 don't like it.

12 One wonders, though, if they even have  
13 standing if they're not in it, but that's another  
14 issue.

15 MR. JOSEPH: Your Honor, just for clarity,  
16 I don't want them to say we put a zero dollar bond  
17 there by the receiver's bond, by any means, so --

18 THE COURT: No, no. I know.

19 MR. JOSEPH: If anything, it should just be  
20 the same amount.

21 THE COURT: I got it. Okay. Since we've  
22 only got 25 minutes left with the reporter, slow  
23 down. Is there anyone else before I turn to Mr. --  
24 anybody else want to say anything? Anybody?

25 Mr. Jaffe, are you good?

26 Receiver? You want to say anything,  
27 Mr. Essary?

28 MR. ESSARY: I don't think it's relevant to



1 what you're discussing here on the bonds,  
2 Your Honor.

3 THE COURT: Just the bonds.

4 SoCal, do you want to say anything?

5 MS. CARDER: Do I need to address anything  
6 about the management? because I believe --

7 THE COURT: You don't.

8 MS. CARDER: Okay.

9 THE COURT: I don't mean to be rude, but  
10 you don't.

11 MS. LEETHAM: I have a lot to say, but I  
12 think you got the gist of it.

13 THE COURT: Well said.

14 MR. GORIA: Just one point, Your Honor.  
15 According to Mr. Brinig, between the time that the  
16 receiver was appointed and October 31, Mira Este  
17 lost over \$130,000.

18 THE COURT: Got it.

19 MR. WATTS: And I --

20 THE COURT: One sentence, go. Actually,  
21 two or three, because I've got to hear from  
22 Mr. Brinig. You're up.

23 MR. WATTS: They were talking about Ninus'  
24 ability to pay. There is evidence of Salam Razuki's  
25 ability to come up with at least \$800,000 on a  
26 moment's notice to get himself out of prison for  
27 murder for hire. So they can pay that -- whatever  
28 you set the bond amount for, I'm confident that

1 Mr. Razuki will be able to come up with the money to  
2 pay.

3 THE COURT: I will set a fair amount for  
4 everyone, so says the Court.

5 All right. Here we go. Mr. Brinig, you've  
6 waited a long time.

7 MR. BRINIG: Good afternoon, Your Honor.

8 THE COURT: Kind of give me -- I have  
9 studied the new report. Thank you for providing  
10 that. Kind of give me the overall assessment here.

11 MR. BRINIG: Well, the new report changed.  
12 And I apologize because I said last time I didn't  
13 think it would move the needle much. We received  
14 a lot of information from Mr. Malan subsequent to  
15 the issuance of the first report. It's essentially  
16 summarized in Schedule 9 with the comments over  
17 there. I've tried to number the schedules  
18 sequentially after the first report.

19 And the observations that people make are  
20 accurate that say I don't know where the money comes  
21 from. All I can do is analyze money going from an  
22 entity into the deals. I don't know where the money  
23 might originate from in the entity that puts money  
24 into the deal. So that's a fair -- in other words,  
25 where does the audit stop, so to speak? And I've  
26 stopped it where money is coming from. I don't know  
27 the source of those monies. So that's a fair  
28 critique.

1           And from a real tight auditing or forensic  
2 accounting perspective, I've tried to say in the  
3 notes, Well, some of this stuff is a little bit  
4 loose. But if I see money going from one person to  
5 one person or one place to another place, I identify  
6 it here and I give the person or the place paying  
7 the money credit for a contribution. Vice versa is  
8 true. That's kind of my -- the backup of my report.

9           THE COURT: Is -- can I say -- is --  
10 Schedule 8, is that kind of the bottom line?

11          MR. BRINIG: Yes, sir.

12          THE COURT: Could we look at that for a  
13 minute.

14          MR. BRINIG: Sure.

15          THE COURT: I guess -- I understand Razuki.  
16 So he's put in about one four, correct -- one three?

17          MR. BRINIG: Yes. And there's -- as you --  
18 I think the Court's well aware there's a clear  
19 distinction between above the line and below the  
20 line.

21          THE COURT: We went through that.

22          MR. BRINIG: Right.

23          THE COURT: Explain to me, though, how  
24 Malan gets down to negative 250-. Just walk me  
25 through that real quick. Do you understand? Go  
26 down -- go through that analysis.

27          MR. BRINIG: Sure.

28          THE COURT: He put in 470-?

1 MR. BRINIG: Four twenty-seven --

2 THE COURT: Go ahead.

3 MR. BRINIG: -- out of -- out of -- in  
4 Balboa and he took out 188-.

5 THE COURT: And let me interrupt just for a  
6 second, because I think this goes to your question.  
7 Do you know where that 427- came from?

8 MR. BRINIG: That -- yes. That came out of  
9 the Balboa operations.

10 THE COURT: Oh, operations?

11 MR. BRINIG: Yes, sir.

12 THE COURT: Not the sale of a property?

13 MR. BRINIG: I'm -- let me -- your -- you  
14 guys are focusing a little different way than I'm  
15 thinking right now. Let me just look to make sure.

16 MS. LEETHAM: I think I can jump in.

17 THE COURT: I just want to know if it's  
18 Balboa or the sale.

19 MS. LEETHAM: The sale -- what do you mean  
20 by "the sale," I guess? So the distributions are  
21 from the minimum guarantees. The SoCal -- the 188-,  
22 that came from the SoCal contract. And the 427- is  
23 a combination of money, the escrow and I think  
24 payments that he made to build out, to pay the  
25 architect, to pay different things like that.

26 THE COURT: "He" being?

27 MS. LEETHAM: I'm sorry, Your Honor.  
28 Mr. Malan.

1 THE COURT: Okay. So that -- so that's his  
2 private money? Can I say that? Does that make  
3 sense?

4 MS. LEETHAM: It makes sense and I think  
5 that's fair.

6 THE COURT: Okay. Go ahead.

7 MR. BRINIG: And the 188- coming out did  
8 come out of operations of Balboa.

9 THE COURT: Okay.

10 MR. BRINIG: None of them since -- since  
11 June, as we -- I pointed out earlier.

12 THE COURT: And then keep going.

13 MR. BRINIG: And then 65- into Mira Este  
14 operations, if we look at Schedule 4. I'm looking  
15 at the original report. I'm sorry. This -- this  
16 65- in comes from contributions to the --

17 THE COURT: I don't -- where are you?

18 MR. BRINIG: I'm jumping back to the  
19 original report.

20 THE COURT: Can you use this one?

21 MR. BRINIG: Well, I don't have the detail,  
22 but I can tell you the 65- -- I'm sorry.

23 THE COURT: It's okay. I got both of them  
24 in front of me.

25 MR. BRINIG: Okay. So look at the -- I'm  
26 jumping between -- so you're looking -- you want to  
27 look at Schedule 8. Where did 182- --

28 THE COURT: There we go. Where did that

1 come from?

2 MR. BRINIG: Where did 182- come from, and  
3 then where did the 670- come from. The 182- came  
4 from about -- rough numbers, about 65- of it was  
5 from an investment in the property. And then the  
6 balance -- let me -- this is new information for me.  
7 I've got to look at Schedule 9 to see  
8 contributions -- I'm sorry -- into Mira Este from  
9 Mr. Malan. And if you look at Schedule 9 --

10 THE COURT: Uh-huh.

11 MR. BRINIG: -- there's, sort of down to  
12 the bottom of the first page, a 25,000, a 2500, and  
13 a 25,000.

14 THE COURT: Uh-huh.

15 MR. BRINIG: Previously, I had -- knew  
16 about those numbers, but they were unsourced.  
17 Mr. Malan has provided information as to where  
18 they -- that money was on his behalf.

19 THE COURT: And that source was?

20 MR. BRINIG: I can tell you. The -- I got  
21 to jump around, though.

22 THE COURT: Take your time. I got it.

23 MR. BRINIG: Almost there. Twenty-five  
24 thousand is a check from Ninus Malan on May 7th,  
25 2018, from him personally. Twenty-five hundred is a  
26 check from Ninus Malan on June 12th, 2018,  
27 personally. And another --

28 THE COURT: Got it.

1 MR. BRINIG: Looking for 25,000 and 33-.  
2 Hold on. Thirty-three -- I'm sorry. This is my --  
3 the other 25,000 is -- I just see the money coming  
4 in. I don't in front of me have the source. I  
5 can't tell you that it's from a personal check, but  
6 I see the money coming in.

7 THE COURT: That's all right.

8 MR. BRINIG: Does that help?

9 THE COURT: It did. It helped a lot.  
10 Anything else you'd like to say?

11 MR. BRINIG: Not if you don't want to ask  
12 me, Judge.

13 THE COURT: So I assume, all counsel,  
14 Balboa closed, right?

15 MS. LEETHAM: Yes, Your Honor.

16 MR. JOSEPH: Yes, Your Honor.

17 THE COURT: Mira Este, is it viable?

18 MR. JOSEPH: Yes, Your Honor.

19 THE COURT: Mr. Gorja, is it viable, if you  
20 know?

21 MR. GORJA: Well, it's limping along. It's  
22 running as a negative because of the facts that  
23 we've discussed.

24 THE COURT: Anything else? Can we close  
25 this area for madam court reporter then? Thank you.  
26 Here's what I'm going to do. This will be off my  
27 plate Monday. I want to think about it. You've all  
28 given me a lot of stuff. But I'm going to make one,

1 two, three, four, five, six, seven, eight, nine --  
2 ten rulings, right? That's all on bonds, right?

3 MR. WATTS: And the other -- putting  
4 Sunrise in receivership, those things, are you going  
5 to rule on that today too?

6 THE COURT: I haven't heard argument on  
7 that. I'd like to hear it.

8 MR. ELIA: Your Honor, may I say something  
9 quickly? May I just make a request that Mr. Brinig  
10 actually source the money so we can determine where  
11 this money came from? I think he'd be done in a few  
12 days.

13 THE COURT: No. I've got an idea. I've  
14 seen this -- I've read the supplement. I'm moving  
15 forward. I got to move forward, Counsel. I say  
16 that respectfully. I'm going to make some orders.  
17 Okay? And these are going to come out Monday.

18 Hold on. Let me get my notes. There was  
19 something on Mira Este that I had. It wasn't  
20 exactly what you said, though.

21 MR. GORIA: Well, it was an ex parte  
22 application to remove the receiver that was --

23 THE COURT: That's it. That's it. That's  
24 to remove it, yeah. Okay. That's up on appeal,  
25 Counsel.

26 MR. GORIA: Understood, Your Honor.

27 THE COURT: Thank you. So that's --

28 MR. GRISWOLD: Your Honor, one minor issue.



1 You brought up -- I think you were confirming that  
2 Balboa, as of today, still remains closed. I just  
3 want to clarify if the Court was directing --

4 THE COURT: Did I say -- I didn't -- I just  
5 said it's closed.

6 MR. GRISWOLD: It is closed, and I'll  
7 confirm it is closed today. And I just want to get  
8 clarification. Is the Court directing the receiver  
9 to keep it -- keep it closed even until Monday, or  
10 can the receiver -- the receiver is receiving  
11 multiple proposals from operators that would  
12 consider operating Balboa.

13 Is the receiver allowed at this point to  
14 consider and even place an operator in Balboa, or is  
15 the Court's desire and direction of the receiver to  
16 keep it closed?

17 MS. LEETHAM: Well, the order states it's  
18 Far West, so that changes the order.

19 THE COURT: Yeah.

20 MR. GRISWOLD: When we left two weeks ago,  
21 it was the direction of the Court to keep it closed.  
22 All I'm trying to do is give direction to the  
23 receiver.

24 THE COURT: That makes sense. You all know  
25 what's going on here, right? You understood what I  
26 said? You all understand what's going on in my  
27 courtroom? You're looking at me like no, you don't.

28 Well, here's what's -- listen, I was going

1 to do a lot of things today. But now because of  
2 certain appellate issues, I don't think I can. And  
3 I could have moved this case along. But for -- but  
4 you all have your rights. Don't take this as  
5 criticism. You're attorneys. You're doing your  
6 job.

7 But I was going to do a lot of things, and  
8 then we got into detail about how much jurisdiction  
9 I have. And I don't think I have that much, except  
10 to do the bonds. I'll be quite honest. Because I  
11 was going to do a lot more today. Let me tell you.  
12 And I plan on it, but I'm not too sure -- so what --

13 Let's look at the reality. What's it going  
14 to do? I'm shutting down for, like, six months.  
15 And, you know, so be it. Whether these businesses  
16 survive for six months, I don't know. I don't  
17 understand why you all don't get together and do  
18 something. But, you know, that's not me. You  
19 present it to the Court. I do it. So that's my  
20 little spiel, and it is what it is.

21 But here's what -- I'll put it on the  
22 record. I'm afraid this is all going to go down the  
23 drain, every bit of it. And that doesn't help  
24 anybody, does it?

25 Okay. I've said my piece, so I'm going to  
26 make rulings. You're entitled to that. I'm going  
27 to do it.

28 MR. WATTS: Sunrise also.

1 THE COURT: Let's talk about the -- jeez.  
2 You got five minutes. Talk about Sunrise.

3 MR. WATTS: We're the moving party. We  
4 have asked that if the Court is not going to  
5 recognize that the order appointing Mr. Essary is  
6 void that we have the exact same rights as  
7 Mr. Razuki has under that RM Holdings agreement.

8 The parties both were required to put their  
9 shares into RM Holdings. Neither party did that.  
10 Neither party prepared a financial accounting.  
11 Neither party -- they were supposed to put their  
12 shares in Sunrise and Super 5 Consulting Group.  
13 Razuki was. He was supposed to put his shares into  
14 RM Holdings. Ninus Malan, under that same contract,  
15 he said that he was going to put his shares in  
16 San Diego United, et cetera, into RM Holdings.

17 If you recall, this is the contract on  
18 which the plaintiffs sued that started this  
19 litigation. And so they claim that because they're  
20 entitled to 75 percent of the profits or losses of  
21 RM Holdings --

22 THE COURT: And, Counsel, again, you  
23 represent?

24 MR. WATTS: I represent Ninus Malan and  
25 cross-complainant American --

26 THE COURT: Four attorneys.

27 MR. WATTS: So Ninus Malan and Mr. Razuki  
28 had the same obligations under that contract.

1 THE COURT: Real quick, tell me what you're  
2 specifically requesting.

3 MR. WATTS: I'm asking for you to appoint  
4 Kevin Singer --

5 THE COURT: There we go.

6 MR. WATTS: -- as the receiver over RM  
7 Property Holdings, LLC; Sunrise Property  
8 Investments, LLC; Alternative Health Cooperative,  
9 Incorporated --

10 THE COURT: Slow down.

11 MR. WATTS: Alternative Health --

12 THE COURT: Has this been filed, Counsel?

13 MR. WATTS: Yes, this has been filed.

14 THE COURT: Do you know what the ROA number  
15 is?

16 MR. WATTS: Tammy will look it up.

17 THE COURT: If you could do that, that  
18 would be helpful to the Court.

19 MR. WATTS: We have --

20 THE COURT: So go ahead.

21 MR. WATTS: So appointing Kevin Singer  
22 receiver over these five entities, Goldn Bloom  
23 Ventures, Incorporated, and also Super 5 Consulting  
24 Group, LLC. Those companies, except for  
25 RM Holdings, which is the holding company -- those  
26 companies are the entities that authorize -- operate  
27 this Goldn Bloom dispensary.

28 THE COURT: Are they in the lawsuit?

1 MR. WATTS: Yes, they're in the lawsuit.  
2 They have been served and --

3 THE COURT: Have they responded?

4 MS. LEETHAM: Sunrise Property Investments  
5 has answered.

6 THE COURT: How about the others?

7 MR. WATTS: They haven't -- they haven't  
8 responded.

9 THE COURT: When were they served? because  
10 they would be --

11 MS. LEETHAM: Default.

12 MR. WATTS: A couple of weeks ago, but  
13 bearing in mind that all of our companies were put  
14 into receivership before they were even served with  
15 a summons, so -- but we have served them, named  
16 them, filed amendments. We named them as Roes.  
17 Some of them we named as individuals, and we've  
18 served them. They're represented. They have  
19 counsel.

20 This Court was going to put them into the  
21 accounting back in September, but then decided not  
22 to do that because they didn't have counsel. They  
23 have had counsel now for months, and they're not  
24 even in the accounting.

25 THE COURT: Who represents them?

26 MR. WATTS: Mr. Jaffe right now.

27 THE COURT: Mr. Jaffe, you represent these  
28 five entities?

1 MR. JAFFE: Only Sunrise, Your Honor.

2 THE COURT: Who represents the others?

3 MR. JAFFE: I don't know. And I know  
4 they're not in default. I looked at the proofs of  
5 service. Thirty days hasn't even gone by.

6 MR. WATTS: I haven't -- I don't believe I  
7 said that they were.

8 THE COURT: Yeah, you did.

9 MS. LEETHAM: I thought they were, and I  
10 misspoke. And I was -- I apologize. I'm thinking  
11 of --

12 THE COURT: Okay. So let's slow down.  
13 Slow down.

14 So we'll wait and see. Well, then let's  
15 wait and see what they respond with.

16 But go ahead, finish your argument. I'll  
17 listen. Counsel, you got two minutes. Go.

18 MR. WATTS: We still think that the  
19 preliminary injunction is void, that the  
20 companies -- the parties don't have property  
21 interests in these companies.

22 If the Court finds, though, that they do,  
23 if the Court is still convinced that Razuki has  
24 property interests in San Diego United and Mira Este  
25 and these others sufficient to give him a receiver,  
26 if you think still think that that was the right  
27 order, then we are entitled to an equivalent order  
28 over Sunrise.

1           He used -- Mr. Razuki, you'll recall, used  
2 money -- we've submitted undisputed evidence that he  
3 used money from that dispensary to hire a hitman to  
4 try to murder Ninus Malan because of this  
5 litigation, because we filed an appeal.

6           That evidence is undisputed. No one has  
7 disputed it. No one has filed a declaration in  
8 opposition to it with evidence. There's been  
9 argument, but it's undisputed that they used the  
10 money from these companies that we're asking to be  
11 put in receivership, cash from a cash business,  
12 Your Honor --

13           MR. ELIA: Objection, Your Honor.  
14 Relevance.

15           THE COURT: Shh, shh, shh. Let him finish.  
16 You got one more minute.

17           MR. WATTS: The relevance is that we are  
18 letting these companies go to waste. We're letting  
19 them be used for criminal purposes. Mr. Malan has a  
20 property interest in them, according to the  
21 plaintiff, and his own property is being used to try  
22 to murder him. And there is --

23           MS. GRIFFIN: Objection.

24           THE COURT: Shh, shh, shh.

25           MR. WATTS: You can object if you want, but  
26 the evidence is undisputed. On that point, it is  
27 undisputed. And so if the --

28           MS. GRIFFIN: Whatever.

1 MR. WATTS: It is. It is.

2 MR. ELIA: And we dispute the evidence.

3 THE COURT: Let's --

4 MR. WATTS: That's --

5 THE COURT: I've heard enough.

6 MR. WATTS: In criminal, but --

7 THE COURT: Stick to it, Counsel. Go.

8 MR. WATTS: They can't be allowed to do  
9 that with the money. They can't be allowed to hire  
10 people to murder people with the money. They --

11 THE COURT: Okay. I got your argument.

12 MS. LEETHAM: Your Honor, I believe it's  
13 ROA 335, but there's a lot of pleadings.

14 THE COURT: Thank you very much.

15 MS. LEETHAM: I think so.

16 MR. JAFFE: Your Honor --

17 THE COURT: Mr. Jaffe, what do you want to  
18 say?

19 MR. JAFFE: There's four other owners of  
20 Sunrise other than Mr. Razuki. He only has a  
21 minority interest.

22 THE COURT: How much?

23 MR. JAFFE: About 20 percent. I think  
24 that's -- it's in the declaration.

25 THE COURT: Got it. Do you know what the  
26 ROA on that is? I'll find it. Never mind. Go  
27 ahead. It's around there probably.

28 MR. JAFFE: All they have done is brought



1 an ex parte. And what's happened is there was a  
2 settlement agreement that says that Mr. Malan only  
3 possibly gets money out of the Sunrise money that  
4 Mr. Razuki had, which might get -- if and when  
5 Mr. Razuki gets all his money back. So they don't  
6 have any interest right now at all in Sunrise.

7           The reason that you put in a receiver, as I  
8 understand it, is because Mr. Razuki put in all this  
9 money and there was money that was being taken by  
10 Mr. Malan from the Balboa dispensary. None of that  
11 is going on at Sunrise. This is an operating  
12 dispensary with other owners that has nothing to do  
13 with money being taken in any broad -- not even an  
14 allegation in any way that Mr. Malan's money is  
15 being taken and therefore he needs to have some  
16 interest in Sunrise.

17           You have declarations that the Sunrise  
18 people put in that after the charges were brought  
19 against Mr. Razuki, the federal authorities  
20 questioned them and they have -- they asked for some  
21 information about Razuki, and they have done nothing  
22 else. They're not pursuing any type of -- anything  
23 against this dispensary, Sunrise, with regard to any  
24 of those criminal issues that they have brought up.  
25 There's no emergency and they could bring this on a  
26 noticed motion.

27           THE COURT: Thank you.

28           MR. ELIA: Your Honor, I have a suggestion

1 if you want to hear it briefly. Here's my  
2 suggestion, Your Honor. Under the terms of the  
3 settlement agreement, in three different places, it  
4 states -- and for the record, it's Section 1.2,  
5 Sections 2.2 and 2.3.

6 Those three sections state that no one --  
7 when I say "no one," I mean Mr. Razuki and  
8 Mr. Malan -- are to take profits until the  
9 contributions are repaid.

10 My suggestion is I think a receivership is  
11 inappropriate, because there's four other owners.  
12 We would be happy to report to Mr. Essary  
13 Mr. Razuki's contributions that he receives every  
14 month.

15 MR. WATTS: They said they'd do that three  
16 months ago, and they didn't.

17 THE COURT: Thank you. Understand.

18 Any other -- so that's ten bonds, one  
19 ruling on Mr. Singer. Anything else?

20 MS. LEETHAM: For the record, my client has  
21 an actual conflict of interest with Mr. Jaffe.  
22 We'll be filing a motion to have him disqualified.  
23 I just want the Court to know that. Huge problem.

24 THE COURT: Fire that baby.

25 MS. LEETHAM: I'm going to fire that baby  
26 away.

27 THE COURT: There you go. Are you going to  
28 do it before you get relieved?

1 MS. LEETHAM: Well, I'm hoping I don't get  
2 relieved, but yes.

3 THE COURT: There you go. Well, I would  
4 hope you don't get relieved --

5 MS. LEETHAM: Thank you.

6 THE COURT: -- would be my opinion, because  
7 you all are -- I'd hate to have to gear somebody up  
8 again, and I mean that. I need all of you. I can't  
9 say that more strongly.

10 Okay. We're done. I'll let you know if I  
11 need you anymore.

12 (The proceedings concluded at 4:25 p.m.)

13 \* \* \*

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN DIEGO )

3

4 I, Leyla S. Jones, a Certified Shorthand  
5 Reporter, do hereby certify:

6 That prior to being examined, the witness  
7 in the foregoing proceedings was by me duly sworn to  
8 testify to the truth, the whole truth, and nothing  
9 but the truth;

10 That said proceedings were taken before me  
11 at the time and place therein set forth and were  
12 taken down by me in shorthand and thereafter  
13 transcribed into typewriting under my direction and  
14 supervision;

15 I further certify that I am neither counsel  
16 for, nor related to, any party to said proceedings,  
17 nor in any way interested in the outcome thereof.

18 In witness whereof, I have hereunto  
19 subscribed my name.

20

21 Dated: January 4, 2018

22

23


24

25

26

27

28

  
Leyla S. Jones  
CSR No. 12750

# EXHIBIT J

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL**

**MINUTE ORDER**

DATE: 12/17/2018

TIME: 02:26:00 PM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Patricia Ashworth

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: 37-2018-00034229-CU-BC-CTL CASE INIT.DATE: 07/10/2018

CASE TITLE: Razuki vs Malan [IMAGED]

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

---

**APPEARANCES**

---

The Court, having taken the above-entitled matter under submission on 12/14/2018 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The request to add Sunrise Property Investments, LLC to be included in the receivership proceedings is denied.

Defendants Ninus Malan, Monarch Management Consulting Inc., San Diego United Holdings Group, Balboa Ave Cooperative, Devilish Delights Inc., and California Cannabis Group's for order setting appellate bond amount is granted, in part. Defendants Chris Hakim, Mira Este Properties LLC, and Roselle Properties LLC for order setting appellate bond amount is granted, in part.

The court sets the appellate bond as follows:

Ninus Malan appellate bond is set at \$350,000.

San Diego United Holdings Group's appellate bond is set at \$350,000.

American Lending and Holdings LLC's appellate bond is set at \$350,000.

Flip Management LLC's appellate bond is set at \$350,000.

Balboa Ave Cooperative's appellate bond is set at \$50,000.

Devilish Delights Inc.'s appellate bond is set at \$50,000.

California Cannabis Group's appellate bond is set at \$50,000.

Chris Hakim's appellate bond is set at \$350,000.

Mira Este Properties LLC's appellate bond is set at \$350,000.

Rosell Properties LLC's appellate bond is set at \$350,000.

Based upon various representations during oral argument that all parties must cooperate in order to be effective, in order to vacate the receiver, each party must post bond.

The motion to appoint Kevin Singer as receiver is denied.

---

DATE: 12/17/2018

MINUTE ORDER

Page 1

DEPT: C-67

CAEI 0321

Calendar No.

---

The motion to add Sunrise Property Investments, LLC to the receivership is denied.

*Eddie C. Sturgeon*

---

Judge Eddie C Sturgeon

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

Central  
330 West Broadway  
San Diego, CA 92101

**SHORT TITLE:** Razuki vs Malan [IMAGED]

**CLERK'S CERTIFICATE OF SERVICE BY MAIL**

**CASE NUMBER:**  
**37-2018-00034229-CU-BC-CTL**

I certify that I am not a party to this cause. I certify that a true copy of the Minute Order Dated 12/17/2018 was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at San Diego, California, on 12/17/2018.

Clerk of the Court, by: *P. Ashworth* P. Ashworth, Deputy

MAURA GRIFFIN  
2221 2221 CAMINO DEL RIO, STE 207 # STE 207  
SAN DIEGO, CA 92108

GINA M AUSTIN  
AUSTIN LEGAL GROUP APC  
3990 OLD TOWN AVE, SUITE A-112  
SAN DIEGO, CA 92110

STEVEN W BLAKE  
GALUPPO & BLAKE APLC  
2792 GATEWAY ROAD # 102  
CARLSBAD, CA 92009

DANIEL WATTS  
GALUPPO & BLAKE  
2792 GATEWAY ROAD, SUITE 102  
CARLSBAD, CA 92009

RICHARDSON C GRISWOLD  
GRISWOLD LAW APC  
444 S CEDROS AVENUE # 250  
SOLANA BEACH, CA 92075

JAMES JOSEPH  
ELIA LAW FIRM, APC  
2221 CAMINO DEL RIO SOUTH, SUITE 207  
SAN DIEGO, CA 92108

ROBERT E FULLER  
1100 GLENDON AVENUE # 1400  
LOS ANGELES, CA 90024

ZACHARY E ROTHENBERG  
11835 W OLYMPIC BOULEVARD # SUITE 900  
LOS ANGELES, CA 90064

SALVATORE ZIMMITTI  
1100 GLENDON AVENUE # 1400  
LOS ANGELES, CA 90024

CHARLES F GORIA  
GORIA, WEBER & JARVIS  
1011 CAMINO DEL RIO SOUTH, SUITE 210  
SAN DIEGO, CA 92108

STEVEN A ELIA  
2221 CAMINO DEL RIO SOUTH SUITE 207  
SAN DIEGO, CA 92108

DOUGLAS JAFFE  
501 W BROADWAY  
SAN DIEGO, CA 92101

Additional names and address attached.



# EXHIBIT K

**07/13/2018** at 08:00:00 PM

Clerk of the Superior Court  
By Erika Engel, Deputy Clerk

1 Steven A. Elia (State Bar No. 217200)  
2 Maura Griffin (State Bar No. 264461)  
3 James Joseph (State Bar No. 309883)  
4 LAW OFFICES OF STEVEN A. ELIA, APC  
5 2221 Camino Del Rio South, Suite 207  
6 San Diego, California 92108  
7 Telephone: (619) 444-2244  
8 Facsimile: (619) 440-2233  
9 Email: steve@elialaw.com  
10 maura@elialaw.com  
11 james@elialaw.com

12 Attorneys for Plaintiff  
13 SALAM RAZUKI

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

16 SALAM RAZUKI, an individual,

17 Plaintiff,

18 v.

19 NINUS MALAN, an individual; CHRIS  
20 HAKIM, an individual; MONARCH  
21 MANAGEMENT CONSULTING, INC. a  
22 California corporation; SAN DIEGO  
23 UNITED HOLDING GROUP, LLC, a  
24 California limited liability company; FLIP  
25 MANAGEMENT, LLC, a California limited  
26 liability company; MIRA ESTE  
27 PROPERTIES, LLC, a California limited  
28 liability company; ROSELLE PROPERTIES,  
INC., a California limited liability company;  
BALBOA AVE COOPERATIVE, a  
California nonprofit mutual benefit  
corporation; CALIFORNIA CANNABIS  
GROUP, a California nonprofit mutual  
benefit corporation; DEVILISH DELIGHTS,  
INC., a California nonprofit mutual benefit  
corporation; and DOES 1-100, inclusive,

Defendants,

CASE NO. 37-2018-00034229-CU-BC-CTL

**FIRST AMENDED COMPLAINT FOR  
DAMAGES FOR:**

- (1) BREACH OF CONTRACT
- (2) BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING
- (3) BREACH OF ORAL AGREEMENT
- (4) BREACH OF FIDUCIARY DUTY
- (5) FRAUD AND DECEIT
- (6) MONEY HAD AND RECEIVED
- (7) CONVERSION
- (8) ACCOUNTING
- (9) APPOINTMENT OF RECEIVER
- (10) INJUNCTIVE RELIEF
- (11) DECLARATORY RELIEF
- (12) CONSTRUCTIVE TRUST
- (13) DISSOLUTION
- (14) INTENTIONAL INTERFERENCE WITH AN ECONOMIC RELATIONSHIP
- (15) INTENTIONAL INTERFERENCE WITH A CONTRACTUAL RELATIONSHIP

**DEMAND FOR JURY TRIAL**

1 Plaintiff SALAM RAZUKI complains and alleges as follows:

2  
3 **I.**  
**INTRODUCTION**

4 1. For years, Salam Razuki ("Razuki") and Ninus Malan ("Malan") engaged in numerous  
5 business dealings and property investments. The two entered into certain oral agreements whereby  
6 Razuki would provide the initial cash investment to purchase a certain asset while Malan would manage  
7 the assets. The parties agreed that after reimbursing the initial investment to Razuki, Razuki would be  
8 entitled to seventy-five percent (75%) of the profits & losses of that particular asset and Malan would  
9 be entitled to twenty-five percent (25%) of said profits & losses. Unfortunately, due to Malan's refusal  
10 to be completely forthcoming with the Partnership Assets (as defined below in Section III), this oral  
11 agreement became untenable and disputes arose. Instead of litigating the matter, Razuki and Malan  
12 decided to enter into an Agreement of Compromise, Settlement and Mutual General Release (referred  
13 to herein as the "Settlement Agreement") to memorialize their prior oral agreements and to describe  
14 additional duties and obligations for each of them. Under the Settlement Agreement, Razuki and Malan  
15 agreed to transfer all Partnership Assets into one entity, RM Property Holdings, LLC ("RM Holdings")  
16 which was formed for that particular business purpose. After recuperating any initial investments  
17 related to the Partnership Assets, Razuki would be entitled to seventy-five percent (75%) of the profits  
18 & losses of RM Holdings and Malan would be entitled to twenty-five percent (25%) of the profits &  
19 losses of RM Holdings.

20 2. Even with the Settlement Agreement in place and RM Holdings formed, Malan  
21 continued to deceive Razuki and manipulate the Partnership Assets for his own gain. Shortly after the  
22 Settlement Agreement was signed, Malan began negotiations to sell some of the Partnership Assets  
23 while they were still under his name. During these sale negotiations, Malan never informed the potential  
24 buyer of Razuki's interest in the Partnership Assets. Based on information and belief, Malan  
25 intentionally stole and/or redirect revenue from the Partnership Assets to a new entity owned by Malan  
26 (*i.e.* Monarch). Malan conspired with another individual named Hakim in order to carry out this scheme  
27 as well. Given Malan's blatant breach of the Settlement Agreement and his clear intentions to conceal  
28 the profits of the Partnership Assets, Razuki now brings this instant First Amended Complaint in order  
to enforce the terms of the Settlement Agreement and take control of his Partnership Assets.

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

**II.**  
**PARTIES AND JURISDICTION**

3. Plaintiff SALAM RAZUKI ("Razuki") is an individual residing in the County of San Diego, State of California.

4. Defendant NINUS MALAN ("Malan") is an individual residing in the County of San Diego, State of California.

5. Defendant CHRIS HAKIM ("Hakim") is an individual residing in the County of San Diego, State of California.

6. Defendant MONARCH MANAGEMENT CONSULTING, INC. ("Monarch") is a California corporation organized under the laws of the State of California. Monarch's principal place of business is in the County of San Diego, State of California. Razuki is informed and believes and thereon alleges that Monarch has two shareholder, Hakim and Malan who are the officers and directors of said corporation.

7. Defendant SAN DIEGO UNITED HOLDING GROUP, LLC ("SD United") is a California limited liability company organized under the laws of the State of California. SD United's principal place of business is in the in the County of San Diego, State of California.

8. Defendant FLIP MANAGEMENT, LLC ("Flip") is a California limited liability company organized under the laws of the State of California. Flip's principal place of business is in the in the County of San Diego, State of California.

9. Defendant MIRA ESTE PROPERTIES, LLC ("Mira Este") is a California limited liability company organized under the laws of the State of California. Mira Este's principal place of business is in the in the County of San Diego, State of California.

10. Defendant ROSELLE PROPERTIES, LLC ("Roselle") is a California limited liability company organized under the laws of the State of California. Roselle's principal place of business is in the in the County of San Diego, State of California.

11. Defendant BALBOA AVE COOPERATIVE ("Balboa") is a California nonprofit mutual benefit corporation that is organized under the laws of the State of California. Balboa's principal place of business is in the in the County of San Diego, State of California. Malan serves as President and CEO of this entity.

1 12. Defendant CALIFORNIA CANNABIS GROUP (“CCG”) is a California nonprofit  
2 mutual benefit corporation that is organized under the laws of the State of California. CCG’s principal  
3 place of business is in the in the County of San Diego, State of California. Malan serves as President  
4 and CEO of this entity.

5 13. Defendant DEVILISH DELIGHTS, INC. (“Devilish”) is a California nonprofit mutual  
6 benefit corporation that is organized under the laws of the State of California. Devilish’s principal place  
7 of business is in the in the County of San Diego, State of California. Malan serves as President and CEO  
8 of this entity.

9 14. The true names and capacities of defendants sued as DOES (the “DOE Defendants”) are  
10 unknown to Razuki and therefore are sued under such fictitious names. Razuki is informed and believes,  
11 and based upon such information and belief alleges that defendants sued as DOES are in some manner  
12 responsible for the acts and damages alleged. Razuki will amend this complaint when the true names  
13 and capacities of such fictitiously named defendants are ascertained.

14 15. Malan, Hakim, Monarch, SD United, Flip, Mira Este, Roselle, Balboa, CCG, Devilish  
15 and DOE Defendants are collectively referred to as “Defendants” hereinafter

16 16. Razuki is informed and believes, and thereon alleges that at all times mentioned  
17 Defendants were acting as the agent, employee, attorney, accountant, and/or representative of each other  
18 and within the scope of the above-mentioned agency, employment, relationship, and/or representation.  
19 In doing the acts alleged, each defendant was acting with the full authority and consent of each other  
20 defendant.

21 17. Razuki is informed and believes and thereon alleges that some of the corporations,  
22 limited liability companies, and entities named as defendants herein including, but not limited to,  
23 Monarch, SD United, Flip, Mira Este, Roselle, Balboa, CCG, Devilish and DOES 1 through 100,  
24 (hereinafter occasionally collectively referred to as the “Alter Ego Entities”), and each of them, were at  
25 all times relevant the alter ego of Malan and/or Hakim (hereinafter occasionally collectively referred to  
26 as the “Individual Defendants”) by reason of the following:

- 27 a. Razuki is informed and believes and thereon alleges that said Individual Defendants,  
28 at all times herein mentioned, dominated, influenced, and controlled each of the Alter  
Ego Entities and the officers thereof as well as the business, property, and affairs of

1 each of said corporations.

2 b. Razuki is informed and believes and thereon alleges that, at all times herein  
3 mentioned, there existed and now exists a unity of interest and ownership between  
4 said Individual Defendants and each of the Alter Ego Entities; the individuality and  
5 separateness of said Individual Defendants and each of the Alter Ego Entities have  
6 ceased.

7 c. Razuki is informed and believes and thereon alleges that, at all times since the  
8 incorporation of each, each Alter Ego Entities has been and now is a mere shell and  
9 naked framework which said Individual Defendants used as a conduit for the conduct  
10 of their personal business, property and affairs.

11 d. Razuki is informed and believes and thereon alleges that, at all times herein  
12 mentioned, each of the Alter Ego Entities was created and continued pursuant to a  
13 fraudulent plan, scheme and device conceived and operated by said Individual  
14 Defendants, whereby the income, revenue and profits of each of the Alter Ego  
15 Entities were diverted by said Individual Defendants to themselves.

16 e. Razuki is informed and believes and thereon alleges that, at all times herein  
17 mentioned, each of the Alter Ego Entities was organized by said Individual  
18 Defendants as a device to avoid individual liability and for the purpose of substituting  
19 financially irresponsible corporations in the place and stead of said Individual  
20 Defendants, and each of them, and accordingly, each Alter Ego Entities was formed  
21 with capitalization totally inadequate for the business in which said entities was  
22 engaged.

23 f. By virtue of the foregoing, adherence to the fiction of the separate corporate  
24 existence of each of the Alter Ego Entities would, under the circumstances, sanction  
25 a fraud and promote injustice in that Razuki would be unable to realize upon any  
26 judgment in his favor.

27 18. Jurisdiction is proper with the above-entitled Court as all parties are residents of this  
28 county and any contract/agreement that is the subject of this action was entered into in this jurisdiction  
and was to be performed entirely within the jurisdiction of this Court.

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

**III.**  
**GENERAL ALLEGATIONS**

19. Since 2016, Razuki and Malan have engaged in numerous business dealings relating to property investments in San Diego County. The oral agreements between Razuki and Malan was simple; Razuki would provide the initial investment to purchase the property and Malan would manage the property (e.g. ensure upkeep and acquire tenants). After Razuki was paid back for his initial investment, Razuki would receive seventy-five percent (75%) of any profits while Malan would receive twenty-five percent (25%) of any profits.

20. Under this oral agreement, Razuki trusted Malan to provide proper accounting of the revenue generated from the various properties and provide him with the agreed upon profit split.

21. Over the years, Razuki and Malan have acquired the following interests, directly or indirectly, (the "Partnership Assets") in the following businesses and/or entities:

- a. One hundred percent (100%) interest in SD United. SD United owns real property located at 8859 Balboa Avenue, Suites A-E, 8861 Balboa Avenue, Suite B, and 8863 Balboa Avenue, Suite E. Razuki and Malan own, directly or indirectly, a marijuana retail business located at 8861 Balboa Avenue and 8863 Balboa Avenue. Razuki provided all the initial monetary investment for SD United. However, on paper, Malan owned a one-hundred percent (100%) in and to SD United.
- b. One hundred percent (100%) interest in Flip. Flip served as the operating entity for Razuki and Malan's marijuana retail businesses located at 8861 Balboa Avenue and 8863 Balboa Avenue. Razuki provided all the initial monetary investment for this business. On paper, Malan owned a one-hundred percent (100%) in Flip.
- c. Fifty percent (50%) interest in Mira Este. Mira Este owns real property located at 9212 Mira Este Court, San Diego, CA 92126. Razuki and Malan own, directly or indirectly, a marijuana distribution and manufacturing business located at 9219 Mira Este Court. Razuki provided fifty percent (50%) of the initial monetary investment for Mira Este. On paper, Malan owns a fifty percent (50%) ownership interest in Mira Este.
- d. Fifty percent (50%) interest in Roselle. Roselle owns real property located at 10685

1 Roselle Street, San Diego, CA 92121. Razuki and Malan own, directly or indirectly,  
2 a marijuana cultivation business located at 10685 Roselle Street. Razuki provided  
3 fifty percent (50%) of the initial monetary investment for Roselle. On paper, Malan  
4 owns a fifty percent (50%) ownership interest in Roselle.

5 e. A twenty percent (20%) interest in Sunrise Property Investments, LLC ("Sunrise").  
6 Sunrise owns real property located at 3385 Sunrise Street, San Diego, CA 92102.

7 f. A twenty-seven percent (27%) in Super 5 Consulting Group, LLC ("Super 5"). Super  
8 5 is the operator of a marijuana dispensary located at 3385 Sunrise Street, San Diego,  
9 CA 92102.

10 22. For all the Partnership Assets, regardless of the paperwork, Razuki and Malan had an  
11 oral agreement that after recuperating the initial investments, Razuki would share in seventy-five  
12 percent (75%) of the profits & losses and Malan would share in twenty-five percent (25%) of the profits  
& losses.

13 23. For Mira Este and Roselle, Hakim provided fifty percent (50%) of the initial investment  
14 and owns a fifty percent (50%) ownership in Mira Este and Roselle.

15 24. SD United, Flip, Mira Este, and Roselle are all entities involved in Razuki and Malan's  
16 marijuana operations. The marijuana operations were structured as such:

17 a. Balboa, CCG, and Devilish hold the California State Licenses for the marijuana  
18 operations.

19 b. Flip served as the operator for the marijuana operations.

20 c. SD United, Mira Este, and Roselle are the property owners for the physical location  
21 of the businesses and hold the Conditional Use Permits (CUPs), which are obtained  
22 from the City of San Diego, for the marijuana operations.

23 25. Under this structure, Razuki believed all revenue and profits from the marijuana  
24 operations would be deposited into accounts owned by either SD United, Flip, Mira Este, or Roselle.

25 **A. Dispute Regarding the Partnership Assets**

26 26. Unfortunately, this oral agreement was untenable. The agreement provided Malan  
27 would maintain proper records of all the profits & losses from the businesses, which was not done.

28 27. Additional problems arose. In early 2017, Mira Este required capital for building



1 renovations. Malan, as the property manager, approached The Loan Company of San Diego, LP to  
2 acquire a hard money loan for approximately one million dollars (\$1,080,000). Mira Este was the  
3 named borrower on the loan and Razuki signed on as the guarantor of the loan. Razuki provided  
4 additional property (property that was solely owned by Razuki) for collateral on the loan.

5 28. Because Razuki agreed to be guarantor and provided collateral, the loan was approved.

6 29. However, shortly after the funds were deposited into Mira Este's account, Malan  
7 intended and did take \$390,000 of the new funds for his personal use. Hakim intended and did take  
8 \$540,000 of the new funds for his personal use as well.

9 30. To date, the funds Malan withdrew from Mira Este's account have not been repaid.

10 **B. The Settlement Agreement**

11 31. In order to memorialize the oral agreement and resolve any ambiguities in Razuki and  
12 Malan's business relationship, Razuki and Malan decided to enter into the Settlement Agreement. A  
13 copy of the Settlement Agreement is attached as **Exhibit A**.

14 32. The Settlement Agreement had three central components:

- 15 a. Razuki and Malan would transfer all the Partnership Assets into a newly created  
16 entity, RM Holdings within thirty (30) days;  
17 b. Razuki and Malan would work together to calculate Razuki's cash investments  
18 related to Partnership Assets within thirty (30) days; and,  
19 c. After recuperating any initial cash investments, Razuki would receive seventy-five  
20 (75%) of the profits & loses of RM Holdings and Malan would receive twenty-five  
21 percent (25%) of the profits & loses of RM Holdings. This would essentially  
22 formalize the prior oral agreement Razuki and Malan had with respect to all their  
23 previous dealings regarding the Partnership Assets.

24 33. Razuki and Malan signed the Settlement Agreement on November 9, 2017.

25 34. Shortly after Razuki and Malan entered into the Settlement Agreement, Hakim was made  
26 aware of the Settlement Agreement and of Malan's promise to transfer the Partnership Assets to RM  
27 Holdings.

28 **C. Malan's Refusal to Perform on the Settlement Agreement and Fraudulent Conduct**

35. Even after signing the Settlement Agreement, problems continued. After the thirty-day

1 deadline to transfer Partnership Assets to RM Holdings had passed, Malan requested additional time to  
2 perform an accounting of the Partnership Assets.

3 36. Malan also made changes relating to the marijuana operations. Starting around late 2017,  
4 Malan contracted SoCal Building Ventures, LLC ("SoCal Building") to serve as the new operator for  
5 the marijuana operations located at SD United, Mira Este, and Roselle. This arrangement was  
6 memorialized in three separate agreement:

- 7 a. The "SD United Management Agreement" was between SoCal Building on one hand  
8 and Balboa, SD United, Monarch, Hakim and Malan on the other.
- 9 b. The "Roselle Management Agreement" was between SoCal Building on one hand  
10 and Roselle, Hakim, and Malan on the other.
- 11 c. The "Mira Este Management Agreement" was between SoCal Building on one hand  
12 and CCG, Devilish, Mira Este, Hakim and Malan on the other.
- 13 d. Collectively, these agreements will be referred to as the "Management Agreements"  
14 hereafter.

15 37. Under the terms of the Management Agreements, SoCal Building would retain all  
16 revenue from the marijuana business. SoCal Building would then pay a monthly guaranteed payment  
17 to Monarch for the opportunity to manage and profit from the marijuana business. Despite this contract  
18 that required payment to Monarch, Malan informed Razuki that monthly guaranteed payment would be  
19 deposited into either SD United, Flip, Mira Este, or Roselle.

20 38. The contract with SoCal Building also entitled SoCal Building to an option to purchase  
21 a fifty percent (50%) interest in SD United, Mira Este, and Roselle.

22 39. Starting around January 2018, Malan and his counsel, David Jarvis, represented that  
23 Malan was close to completing the sale of SD United, Mira Este, and Roselle to SoCal Building. Malan  
24 and his counsel represented that transferring the properties to RM Holdings prior to the sale would  
25 "complicate" the deal and recommended holding off on the transfer.

26 40. Based on these representations, Razuki trusted Malan and agreed to extend the time in  
27 which the parties were required to transfer all Partnership Assets to RM Holdings. Between January  
28 2018 to May 2018, Malan consistently ensured Razuki that he was negotiating the sale and intended to  
split the proceeds 75/25.

1 41. While waiting for the sale to SoCal Building to be completed, Razuki requested  
2 information regarding the current cash flow for SD United, Flip, Mira Este, and Roselle. Malan  
3 informed Razuki that SD United, Flip, Mira Este, and Roselle were not producing any profits and were  
4 just breaking even. When asked for accounting, Malan said he would provide the accounting but never  
5 did.

6 42. On or about the second week of May 2018, Razuki met with the owner of SoCal  
7 Building, Dean Bornstein.

8 43. Mr. Bornstein informed Razuki that he was unaware of Flip. Rather, pursuant to the  
9 contract with Malan, SoCal Building deposited the monthly guarantee payment to Monarch.

10 44. Malan never informed Razuki of the existence of Monarch. Rather, Malan would  
11 consistently tell Razuki that revenue was being deposited to either SD United, Flip, Mira Este, or  
12 Roselle.

13 45. Mr. Bornstein also confirmed that the business was thriving and producing a significant  
14 profit (directly contradicting what Malan told Razuki between January 2018 and May 2018).

15 46. Mr. Bornstein was also unaware that Razuki had a substantial interest in SD United, Flip,  
16 Mira Este, and Roselle. Malan had concealed Razuki's involvement with the Partnership Assets and  
17 did not disclose the existence of RM Holdings to Mr. Bornstein. Rather, Mr. Bornstein believed he  
18 would be purchasing assets that solely belonged to Malan.

19 47. After having discovered this, Razuki learned of Malan's true intention, which was to cut  
20 Razuki out of any deal to sell SD United, Flip, Mira Este, and Roselle to SoCal Building thereby  
21 avoiding paying Razuki's his 75% share.

22 48. Razuki is informed and believes and thereon alleges that Malan intentionally concealed  
23 Razuki's interest in SD United, Flip, Mira Este, and Roselle as a member of RM Holdings.

24 49. To date, Malan has never transferred any of the Partnership Assets to RM Holdings. Nor  
25 has Malan signed any supplemental written agreements that would promise the proceeds of the sale of  
26 SD United, Flip, Mira Este, and Roselle to which Razuki was entitled.

27 **D. Malan's Recent Attempts to Sabotage the Marijuana Businesses and RM Holdings**

28 50. On May 24, 2018, SoCal Building requested Malan and Hakim provide documents to  
conduct a due diligence proving their ownership of SD United, Mira Este, and Roselle. SoCal Building

1 wished to execute their option to purchase fifty percent (50%) of these entities under the Management  
2 Agreements.

3 51. On June 22, 2018, SoCal Building again requested Malan provide additional information  
4 regarding his ownership of SD United, Mira Este, and Roselle. SoCal Building specifically mentioned  
5 that it knew about Razuki's claim of ownership regarding these entities, contrary to Malan's previous  
6 representations.

7 52. On July 9, 2018, Malan withdrew twenty-four thousand, twenty-eight dollars and ninety-  
8 three cents (\$24,028.93) from RM Holdings' bank account. Razuki had individually deposited this  
9 money into RM Holdings. Malan withdrew this money without obtaining consent from RM Holdings.

10 53. Razuki is informed and believes and thereon alleges that Malan withdrew these funds  
11 from RM Holding for his personal use.

12 54. In the evening of July 9, 2018, Malan went to the retail dispensary located at 8863 Balboa  
13 Ave. ("Tree House Balboa"). Malan took the key from the employee who was locking up and then  
14 changed the locks, changed the password for the camera system, and blocked access to the Point of Sale  
15 system at Tree House Balboa.

16 55. On July 10, 2018, a letter was sent to SoCal Building informing SoCal Building that  
17 Management Agreements were immediately terminated for non-performance.

18 56. Razuki is informed and believes and thereon alleges that Malan individually does not  
19 have the right to cancel the Management Agreements. Rather:

- 20 a. SD United and Balboa possess the right to cancel the SD United Management  
21 Agreement;
- 22 b. Roselle possesses the right to cancel the Roselle Management Agreement; and
- 23 c. CCG, Devilish, and Mira Este possess the right to cancel the Mira Este Management  
24 Agreement.

25 57. On July 10, 2018, an employee of SoCal Building that worked at Tree House Balboa  
26 went to the retail location and found Malan in the store. Malan would not explain what he was doing  
27 there. Malan also used another employee's credentials to access backend data reports regarding the  
28 business. Malan also informed two other employees, Alexandra Clarke and Maria Ortega, to come to  
the Tree House Balboa on July 10 to take inventory and meet the "new management."

1 58. On this same day, SoCal Building learned that Malan had changed the locks and denied  
2 entry to SoCal Building employees to the Mira Este and Roselle properties as well.

3 59. On July 11, 2018, Malan began redesigning the interior of the store and changed the front  
4 sign of the store to read "Golden State Balboa."

5 60. Although Malan has locked out SoCal Building from the properties, Malan has not  
6 returned any equipment, inventory, security systems, or cash that belong to SoCal Building. Razuki is  
7 informed and believes and thereon alleges that Malan has converted over a million dollars' worth of  
8 equipment, inventory, security systems, and cash from SoCal Building.

9 61. Razuki is informed and believes and thereon alleges that on July 13, 2018, Malan and  
10 Hakim entered Mira Este in order to take SoCal Building's equipment.

11 62. San Diego Police Officers were called to the scene as Malan and Hakim's actions were  
12 reported as a theft. However, Malan and Hakim claimed that the property was their own and continued  
13 to remove SoCal Building's equipment and other possession from the property.

14 63. Razuki is informed and believes and thereon alleges Malan is attempting to end his  
15 relationship with SoCal Building because his fraudulent scheme to sell the Partnership Assets without  
16 Razuki was exposed. Malan and Hakim are now attempting to find new operators for the business in  
17 order to maintain the daily revenues from the business while avoiding any payments to SoCal Building,  
18 RM Holdings, or Razuki.

19 **IV.**  
20 **CAUSES OF ACTION**

21 **FIRST CAUSE OF ACTION**  
22 **Breach of Written Contract**  
23 **(Against Malan and DOES 1-100)**

24 64. Razuki realleges each and every paragraph of this First Amended Complaint as though  
25 fully set forth here.

26 65. Razuki and Malan voluntarily entered into the written Settlement Agreement.

27 66. Razuki performed all duties required under the Settlement Agreement. Any duties  
28 Razuki may have failed to perform were excused either by circumstance or waived by Malan.

67. The Settlement Agreement requires Malan to:

a. transfer all the Partnership Assets into RM Holdings within thirty (30) days;



- 1 d. intentionally lying about the profits generated from the Partnership Assets; and  
2 e. intentionally attempting to deny Razuki profits from the potential sale of the  
3 Partnership Assets.

4 74. As a direct and proximate cause of Malan's breach of the implied covenant, Razuki has  
5 suffered substantial compensatory, incidental, and consequential damages.

6 **THIRD CAUSE OF ACTION**  
7 **Breach of Oral Agreement**  
8 **(Against Malan and DOES 1-100)**

9 75. Razuki realleges each and every paragraph of this First Amended Complaint as though  
10 fully set forth here.

11 76. Pleading in the alternative, if the Court finds that the Settlement Agreement is not  
12 enforceable, Razuki and Malan previously entered into a valid oral agreement regarding the ownership  
13 interest for all Partnership Assets.

14 77. The oral agreement dictated that Razuki would provide the initial investment for the  
15 Partnership Assets and Malan would manage the assets. After recuperating the initial investment,  
16 Razuki would share in seventy-five percent (75%) of all the profits & losses and Malan would share in  
17 twenty-five percent (25%) of all the profits & losses.

18 78. The oral agreement also required Malan, as the manager of the properties and businesses,  
19 to provide Razuki with a proper accounting of all the Partnership Assets.

20 79. Razuki has fulfilled all obligations and duties required under the oral agreement by  
21 providing the initial investment for the Partnership Assets.

22 80. Malan has breached the oral agreement by not distributing the revenue and profits to  
23 Razuki and by not providing a proper accounting for Razuki.

24 81. As a direct and proximate cause of Malan's breach of the oral agreement, Razuki has  
25 suffered substantial compensatory, incidental, and consequential damages.

26 **FOURTH CAUSE OF ACTION**  
27 **Breach of Fiduciary Duty**  
28 **(Against Malan, Hakim, Monarch, and DOES 1-100)**

82. Razuki realleges each and every paragraph of this First Amended Complaint as though  
fully set forth here.

1 83. Malan, as a member of RM holding and as Razuki's agent/business partner, owed a  
2 fiduciary duty to Razuki.

3 84. Malan has breached his fiduciary duty in multiple ways including, but not limited to, the  
4 following:

- 5 a. failing to transfer ownership of the Partnership Assets to RM Holdings;
- 6 b. intentionally creating Monarch in order to divert revenue and profits away from Flip  
7 and/or RM Holdings for his own personal interest;
- 8 c. intentionally lying about the profits generated from the Partnership Assets;
- 9 d. intentionally concealing his intentions to maintain his sole ownership of the  
10 Partnership Assets by lying about his inability to provide proper accounting and  
11 delaying the transfer of Partnership Assets to RM Holdings; and
- 12 e. taking \$24,000 out of RM Holdings bank account for his personal use.

13 85. These actions were not in the best interest of the business and constitute a blatant act of  
14 self-dealing.

15 86. Additionally, Hakim and Monarch conspired with Malan to carry out these actions.

16 87. Hakim was aware of Malan's actions. He was aware that Razuki owned a substantial  
17 interest in the Partnership Assets and was aware that the Partnership Assets should have been transferred  
18 to RM Holdings. Hakim created Monarch with Malan in order to divert funds away from the Partnership  
19 Assets as well.

20 88. Monarch, by way of its owners Hakim and Malan, was fully aware of the scheme to  
21 defraud Razuki and directly participated in the scheme by accepting funds that were intended for the  
22 Partnership Assets.

23 89. Because both were aware of and participated in Malan's scheme, Hakim and Monarch  
24 are liable for a breach of fiduciary duty under a theory of civil conspiracy.

25 90. As a direct and proximate cause of Malan's breach of his fiduciary duty, Razuki has  
26 suffered substantial compensatory, incidental, and consequential damages.

27 91. These actions were also intentional and fraudulent, entitling Razuki to seek punitive  
28 and/or exemplary damages against Malan.



**FIFTH CAUSE OF ACTION**  
**Fraud and Deceit**  
**(Against Malan and DOES 1-100)**

1  
2  
3 92. Razuki realleges each and every paragraph of this First Amended Complaint as though  
4 fully set forth here.

5 **Intentional Misrepresentation**

6 93. Malan made a number of representations to Razuki. Specifically:

- 7 a. Between January 2018 and May 2018, on multiple occasions, Malan told Razuki that  
8 the Partnership Assets were not producing profits and were merely breaking even;  
9 b. Between January 2018 and May 2018, on multiple occasions, Malan told Razuki that  
10 he was preparing an accounting of the Partnership Assets as per the Settlement  
11 Agreement; and  
12 c. Between January 2018 and May 2018, on multiple occasions, Malan told Razuki that  
13 it was necessary to delay the transfer of the Partnership Assets to RM Holdings  
14 because effectuating the transfer immediately would sabotage the sale of the  
15 Partnership Assets to SoCal Building.

16 94. These representations made by Malan were false.

17 95. Malan knew these representations were false:

- 18 a. Since January 2018, Malan was fully aware of the truthful financial information  
19 regarding the Partnership Assets and knew they were producing profits;  
20 b. Since January 2018, Malan knew he was not preparing the accounting for the  
21 Partnership Assets; and  
22 c. Since January 2018, Malan knew that transferring the Partnership Assets to RM  
23 Holdings would not affect the deal with SoCal Building.

24 96. Malan intended to have Razuki to rely on these representations. Malan knew that telling  
25 Razuki these fraudulent misrepresentations would placate Razuki and would allow Malan to hide the  
26 profits and cash flow from the Partnership Assets.

27 97. Razuki reasonably reliable on these representations. He believed that he could trust  
28 Malan and that Malan would honor the Settlement Agreement. Because of this trust, Razuki did not  
attempt to litigate this matter or make further demands upon Malan.

1           **Intentional Concealment**

2           98.     Malan, as a fiduciary and business partner to Razuki, owed a duty to truthfully inform  
3 Razuki of all relevant information regarding the Partnership Assets.

4           99.     Malan intentionally concealed a number of material facts from Razuki. Specifically:

- 5           a.     Malan never informed Razuki that Malan created Monarch and directed SoCal  
6           Building to deposit all profits of the retail business into Monarch's account instead  
7           of Flip's account;
- 8           b.     Malan never informed Razuki of his intention to sell off SD United, Flip, Mira Este,  
9           and Roselle without the agreed upon compensation owed to Razuki under both their  
10           oral agreement, as well as the Settlement Agreement.

11          100.    Malan also concealed material facts from Razuki by denying Razuki access to the  
12 financial records of SD Untied, Flip, Mira Este, and Roselle.

13          101.    Before May 2018, Razuki had no knowledge of Monarch or of Malan's true intention  
14 regarding the Partnership Assets. To date, Razuki is still being denied access to the accounts for SD  
15 Untied, Flip, Mira Este, and Roselle.

16          102.    Malan intentionally concealed these facts in order to deceive Razuki into thinking that  
17 Malan would continue to honor their agreement (*i.e.* agreed upon profit split). Had Malan properly  
18 disclosed these facts, Razuki would have acted differently (*e.g.*, he likely would not have allowed any  
19 delay in transferring all Partnership Assets to RM Holdings).

20           **False Promise**

21          103.    In November 2017, Malan agreed to the terms of the Settlement Agreement. However,  
22 when Malan agreed to this promise, he never intended on carrying out the terms of the Settlement  
23 Agreement. This is evidenced by Malan's immediate attempts to delay the execution of the Settlement  
24 Agreement in order to carry out the sale of SD United, Flip, Mira Este, and Roselle to SoCal Building.

25          104.    Malan intended to have Razuki rely on this promise. Specifically, Malan believed that  
26 making this promise would placate Razuki so that Razuki would not demand further review or  
27 accounting of the Partnership Assets.

28          105.    Razuki relied on the Settlement Agreement and assumed Malan would agree to the stated  
promises.

1 106. Malan did not perform his promise, as he never performed any of the duties outlined in  
2 the Settlement Agreement.

3 107. As a direct and proximate cause of Malan's fraudulent misrepresentations, intentional  
4 concealment and false promises, Razuki has suffered substantial compensatory, incidental, and  
5 consequential damages.

6 108. These actions were also intentional and fraudulent, entitling Razuki to seek punitive or  
7 exemplary damages against Malan.

8 **SIXTH CAUSE OF ACTION**

9 **Money Had and Received**

10 **(Against SD United, Flip, Mira Este, Roselle and DOES 1-100)**

11 109. Razuki realleges each and every paragraph of this First Amended Complaint as though  
12 fully set forth here.

13 110. Pleading in the alternative, if the Court finds that the Settlement Agreement and the oral  
14 agreement are not enforceable, Razuki is entitled to have his initial investment returned or his ownership  
15 interest secured.

16 111. Over the course of his business relationship with Malan, Razuki has given money into  
17 SD United, Flip, Mira Este, and Roselle.

18 112. This money given to SD United, Flip, Mira Este, and Roselle by Razuki was intended to  
19 be an investment for Razuki for which he would receive substantial returns. Specifically, Razuki gave  
20 this money to secure a seventy-five percent (75%) ownership interest in SD United and Flip and a thirty-  
21 seven and one half percent (37.5%) ownership interest in Mira Este and Roselle.

22 113. The money given was not used for the benefit of Razuki, as Razuki still has not secured  
23 an ownership interest in these entities, nor have the entities been transferred to RM Holdings pursuant  
24 to the terms of the Settlement Agreement.

25 114. SD United, Flip, Mira Este, and Roselle have not returned to Razuki the funds which he  
26 contributed to the Partnership Assets.

27 115. Razuki is entitled to have any money given to these entities returned in full or have his  
28 ownership interest secured.

1 **SEVENTH CAUSE OF ACTION**

2 **Conversion**

3 **(Against Malan, Hakim, Monarch, and DOES 1-100)**

4 116. Razuki realleges each and every paragraph of this First Amended Complaint as though  
5 fully set forth here.

6 117. Razuki holds a seventy-five percent (75%) interest in RM Holdings. RM Holdings,  
7 pursuant to the Settlement Agreement has a right to full ownership of all the Partnership Assets, and all  
8 revenue generated from the Partnership Assets. Therefore, any conduct that interferes with, devalues,  
9 or converts property of RM Holdings would directly interfere with Razuki's property rights.

10 118. Malan, Hakim, and Monarch have interfered with RM Holdings' property. Specifically:

- 11 a. Malan has refused to transfer all Partnership Assets to RM Holdings as per the  
12 Settlement Agreement;
- 13 b. Malan and Hakim intentionally withdrew \$1,000,000 from Mira Este's account that  
14 was intended for construction renovations;
- 15 c. Malan, Hakim, and Monarch have diverted funds away from Flip and towards  
16 Monarch thereby stealing money that belonged to RM Holdings and Razuki; and
- 17 d. Malan has withdrawn \$24,000 from RM Holdings' bank account without permission  
18 from RM Holdings or Razuki and used said money for his personal gain.

19 119. Razuki has never consented to any of these actions by Malan, Hakim, or Monarch. In  
20 fact, Malan, Hakim, and Monarch have done most of these actions without even informing Razuki.

21 120. As a direct and proximate cause of Malan's fraudulent misrepresentations, intentional  
22 concealment and false promises, Razuki has suffered substantial compensatory, incidental, and  
23 consequential damages.

24 121. These actions were also intentional and fraudulent, entitling Razuki to seek punitive or  
25 exemplary damages against Malan.

26 **EIGHTH CAUSE OF ACTION**

27 **Accounting**

28 **(Against Malan, Hakim, and DOES 1-100)**

122. Razuki realleges each and every paragraph of this First Amended Complaint as though  
fully set forth here.

1 123. Malan and Hakim has maintained exclusive control and possession of the Partnership  
2 Assets' books and accounts. Razuki is informed and believes that Malan and Hakim has taken, for his  
3 own use, large sums of money from the receipts and profits of the Partnership Assets exceeding his  
4 rightful share. It is impossible to know the amount owned to Razuki or whether outstanding debts are  
5 sufficient to exhaust the Partnership Assets without said accounting.

6 124. The Settlement Agreement required Malan to provide proper accounting for all  
7 Partnership Assets. Despite this written agreement, Malan has refused and continues to refuse to  
8 account to Razuki concerning their allocation of Partnership Assets profits/loses.

9 125. Razuki demands a full and proper accounting of the Partnership Assets to properly assess  
10 potential damages.

11 **NINTH CAUSE OF ACTION**

12 **Appointment of Receiver**  
13 **(Against All Defendants)**

14 126. Razuki realleges each and every paragraph of this First Amended Complaint as though  
15 fully set forth here.

16 127. Razuki is informed and believes and upon such information and belief alleges that unless  
17 a receiver is appointed, the property and accounts of the Partnership Assets are in danger of being lost,  
18 removed or materially injured since Malan are in control of all Partnership Assets and is applying those  
19 assets to their own use.

20 128. Razuki is informed and believes and thereon alleges that Malan and Hakim is  
21 intentionally concealing his true intention with the hope of diverting funds away from the Partnership  
22 Assets and towards other entities that are separate from Razuki. In order to protect these entities from  
23 further waste and, the Court must appoint a receiver to take control of SD United, Flip, Mira Este,  
24 Roselle, Balboa, CCG, Devilish, and Monarch.

25 129. Razuki requests that a temporary restraining order and preliminary and permanent  
26 injunctions in aid of the receiver prohibiting Malan, Hakim and their agents, employees, and/or  
27 representatives from engaging in, or performing, directly or indirectly, any or all of the following acts:

28 a. committing or permitting any waste of the SD United, Flip, Mira Este, Roselle,  
Balboa, CCG, Devilish, and Monarch;

b. interfering, hindering or molesting in any way whatsoever the receiver in the

1 performance of the receiver's duties and in this performance of any duties incidental  
2 thereto;

- 3 c. transferring, directly or indirectly, any interest by sale, assignment or encumbrance  
4 in any manner any of SD United, Flip, Mira Este, Roselle, Balboa, CCG, Devilish  
5 and Monarch, and all proceeds thereof;
- 6 d. moving any of the assets of SD United, Flip, Mira Este, Roselle, Balboa, CCG,  
7 Devilish, and Monarch from any location;
- 8 e. transferring, concealing, destroying, defacing and altering any of SD United, Flip,  
9 Mira Este, Roselle, Balboa, CCG, Devilish, and Monarch's books and records;
- 10 f. demanding, collecting, receiving or in any way diverting or using the assets of SD  
11 United, Flip, Mira Este, Roselle, Balboa, CCG, Devilish, and Monarch or proceeds  
12 therefrom;
- 13 g. Failing or refusing to immediately turn over to the receiver all assets (including  
14 licenses) of SD United, Flip, Mira Este, Roselle, Balboa, CCG, Devilish, and  
15 Monarch, and all moneys, checks, funds or proceeds belonging to or for the benefit  
16 of Razuki.

17  
18 **TENTH CAUSE OF ACTION**

19 **Injunctive Relief**

20 **(Against All Defendants)**

21 130. Razuki realleges each and every paragraph of this First Amended Complaint as though  
22 fully set forth here.

23 131. Currently, revenue that is meant for Flip is wrongly being diverted to Monarch.

24 132. In addition, there is a genuine possibility that Malan and Hakim will transfer a substantial  
25 portion of the Partnership Assets before the conclusion of this instant litigation.

26 133. Unless Malan and Hakim are immediately enjoined from selling, transferring,  
27 conveying, or otherwise secreting receipts, profits, and/or property of the Partnership Assets, Razuki  
28 will suffer great irreparable harm, as selling the Partnership Assets will make it impossible for Razuki  
to determine and receive his share of the Partnership Assets.

1 134. For this reason, we ask the Court to impose an injunction that:

- 2 a. Prohibits sale of SD United, Flip, Mira Este, Balboa, CCG, Devilish, and Roselle  
3 until the conclusion of this litigation;
- 4 b. Prohibits the sale of Monarch and imposes a freeze on all accounts associated with  
5 Monarch;
- 6 c. Requires that all future monies paid to Monarch be transferred and deposited into an  
7 account owned by Flip;
- 8 d. Requires the transfer of all Partnership Assets to RM Holdings; and
- 9 e. Require Malan to return the \$24,000 he withdrew from RM Holdings' account.

10 **ELEVENTH CAUSE OF ACTION**  
11 **Declaratory Relief**  
12 **(Against Malan and DOES 1-100)**

13 135. Razuki realleges each and every paragraph of this First Amended Complaint as though  
14 fully set forth here.

15 136. An actual controversy has arisen and now exists between Razuki and Malan concerning  
16 their respective interest, rights and duties related to the Partnership Assets and RM Holding.

17 137. A judicial declaration is necessary and appropriate at this time under the circumstances  
18 in order that Razuki may ascertain the rights and duties of the parties.

19 138. Razuki has suffered, and continues to suffer, financially by the unsettled state of affairs.  
20 Malan's actions in denying Razuki's interest in the Partnership Assets has been to Razuki's detriment  
21 and Razuki has incurred damages in an amount to be proven at trial.

22 139. Razuki desires a judicial determination of his rights and duties, and a declaration as to  
23 the ownership and management of the Partnership Assets. Specifically, Razuki request the Court  
24 declares:

- 25 a. Razuki has a seventy-five percent (75%) ownership interest in all Partnership Assets;
- 26 b. Razuki has not fully recuperated his initial investment in the Partnership Assets and  
27 is entitled to full recuperation before any additional profits or revenue are distributed;
- 28 c. Malan and Hakim wrongfully utilized the tenant improvement funds intended for

- 1 Mira Este for their own personal gain; and,  
2 d. All funds currently owned or possessed by Monarch are ill-gotten gains and truly  
3 belong to Flip or RM Holdings.

4 **TWELFTH CAUSE OF ACTION**  
5 **Constructive Trust**  
6 **(Against Malan and Monarch and DOES 1-100)**

7 140. Razuki realleges each and every paragraph of this First Amended Complaint as though  
8 fully set forth here.

9 141. Malan and Hakim has gained an ownership interest in the Partnership Assets by fraud,  
10 accident, mistake, undue influence, the violation of a trust, or other wrongful act.

11 142. Malan and Hakim have wrongfully taken money designated for use by Mira Este for his  
12 personal gain.

13 143. Monarch has received ill-gotten funds by Malan's scheme to wrongfully divert funds  
14 intended for Flip to Monarch.

15 144. Razuki is entitled to seventy-five percent (75%) of all Partnership Assets, including  
16 seventy-five percent (75%) of all money transferred to Monarch.

- 17 145. Razuki is entitled to relief in the form of a constructive trust and asks the Court to declare:
- 18 a. Seventy-five (75%) ownership interest in Partnership Assets were wrongfully  
19 obtained by Malan and are therefore held in involuntary trust for the benefit of  
20 Razuki, pursuant to Civ. Code. §2223 and §2224; and
  - 21 b. All proceeds of Monarch received by SoCal Building were wrongfully obtained by  
22 Monarch and are therefore held in involuntary trust for the benefit of Flip and/or RM  
23 Holdings.
  - 24 c. All money taken by Malan and Hakim from Mira Este that were supposed to be used  
25 for renovations were wrongfully obtained and therefore held in involuntary trust for  
26 the benefit of Mira Este.
  - 27 d. The \$24,000 withdrawn from RM Holdings' account by Malan was wrongfully  
28 obtained and therefore held in involuntary trust for the benefit of RM Holdings.



**THIRTEENTH CAUSE OF ACTION**

**Dissolution of RM Holdings  
(Against Malan and DOES 1-100)**

1  
2  
3 146. Razuki realleges each and every paragraph of this First Amended Complaint as though  
4 fully set forth here.

5 147. For the reasons stated in this First Amended Complaint, dissolution of RM Holdings is  
6 necessary to protect the rights of Razuki, the majority interest member.

7 148. For the reasons stated in this First Amended Complaint, dissolution of RM Holdings is  
8 necessary as Malan is guilty of persistent fraud mismanagement and abuse of his authority.

9 149. Razuki request the Court issue a judicial decree dissolving RM Holdings after all  
10 Partnership Assets are transferred to RM Holdings.

**FOURTEENTH CAUSE OF ACTION**

**Intentional Interference with a Prospective Economic Relationship  
(Against Malan, Hakim, Balboa, CCG, Devilish, and DOES 1-100)**

11  
12  
13 150. Razuki realleges each and every paragraph of this First Amended Complaint as though  
14 fully set forth here.

15 151. By way of the Settlement Agreement and the oral agreement (which gave Razuki/RM  
16 Holdings an ownership interest in SD United, Mira Este, and Roselle) Razuki had an indirect  
17 relationship with SoCal Building pursuant to the Management Agreements. This relationship would  
18 have resulted in an economic benefit to Razuki since any revenue or proceeds from a sale would have  
19 benefit RM Holdings.

20 152. Malan, Hakim, Balboa, CCG, and Devilish were parties to the Management Agreements  
21 and aware of Razuki's ownership interest in SD United, Mira Este and Roselle.

22 153. Malan, Hakim, Balboa, CCG, and Devilish intentionally engaged in conduct that  
23 disputed this relationship. Specifically:

24 a. Malan, Hakim, Balboa, CCG, and Devilish wrongfully terminated the Management  
25 Agreements;

26 b. Malan, Hakim, Balboa, CCG, and Devilish wrongfully precluded SoCal Building  
27 entry onto the SD United, Roselle, and Mira Este properties;  
28

1 c. Malan, Hakim, Balboa, CCG, and Devilish wrongfully converted SoCal Building's  
2 equipment, inventory, security systems, or cash; and

3 d. Malan, Hakim, Balboa, CCG, and Devilish wrongfully misrepresented the ownership  
4 interests of SD United, Mira Este, and Roselle.

5 154. By engaging in this conduct, SoCal Building is not able to perform its duties under the  
6 Management Agreement. This conduct has immediately stop all business activity and threatens any  
7 potential sale of the SD United, Roselle, or Mira Este to SoCal Building under the Management  
8 Agreements.

9 155. As a direct and proximate cause of Malan, Hakim, Balboa, CCG, and Devilish's  
10 conduct, Razuki has suffered substantial compensatory, incidental, and consequential damages.

11 156. These actions were also intentional and fraudulent, entitling Razuki to seek punitive  
12 and/or exemplary damages.

13 **FIFTEENTH CAUSE OF ACTION**

14 **Intentional Interference with a Contractual Relationship**  
15 **(Against Hakim, Monarch, and DOES 1-100)**

16 157. Razuki realleges each and every paragraph of this First Amended Complaint as though  
17 fully set forth here.

18 158. Razuki and Malan entered into the Settlement Agreement and oral agreements that  
19 governed their business relationship.

20 159. Hakim and Monarch will fully aware of these contracts and agreements.

21 160. Hakim and Monarch prevented performance of these contracts and agreements by:

22 a. Intentionally diverting funds away from the Partnership Assets;

23 b. Intentional devaluing the Partnership Assets (e.g. taking the construction renovation  
24 funds from Mira Este); and

25 c. Intentionally delaying and preventing the transfer of the Partnership Assets to RM  
26 Holdings.

27 161. Hakim and Monarch intended to disrupt the performance of the Settlement Agreement  
28 and oral agreements.

162. As a direct and proximate cause of Hakim and Monarch's conduct, Razuki has suffered

1 substantial compensatory, incidental, and consequential damages

2 163. These actions were also intentional and fraudulent, entitling Razuki to seek punitive  
3 and/or exemplary damages.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays the court for judgment as follows:

6 **For the First Cause of Action (Breach of Written Contract)**

- 7 1. For just compensation as determined by the Court;
- 8 2. For attorneys' fees as permitted by contract and/or law;
- 9 3. For costs incurred in this action;
- 10 4. For such other and further relief as the Court may deem proper.

11 **For the Second Cause of Action (Breach of the Implied Covenant)**

- 12 1. For just compensation as determined by the Court;
- 13 2. For attorneys' fees as permitted by contract and/or law;
- 14 3. For costs incurred in this action;
- 15 4. For such other and further relief as the Court may deem proper.

16 **For the Third Cause of Action (Breach of the Oral Agreement)**

- 17 1. For just compensation as determined by the Court;
- 18 2. For attorneys' fees as permitted by contract and/or law;
- 19 3. For costs incurred in this action;
- 20 4. For such other and further relief as the Court may deem proper.

21 **For the Fourth Cause of Action (Breach of Fiduciary Duty)**

- 22 1. For just compensation as determined by the Court;
- 23 2. For attorneys' fees as permitted by contract and/or law;
- 24 3. For punitive/exemplary damages;
- 25 4. For costs incurred in this action;
- 26 5. For such other and further relief as the Court may deem proper.

27 **For the Fifth Cause of Action (Fraud and Deceit)**

- 28 1. For just compensation as determined by the Court;
2. For attorneys' fees as permitted by contract and/or law;

- 1 3. For punitive/exemplary damages;
- 2 4. For costs incurred in this action;
- 3 5. For such other and further relief as the Court may deem proper.

4 **For the Sixth Cause of Action (Money Had and Received)**

- 5 1. For just compensation as determined by the Court;
- 6 2. For attorneys' fees as permitted by contract and/or law;
- 7 3. For punitive/exemplary damages;
- 8 4. For costs incurred in this action;
- 9 5. For such other and further relief as the Court may deem proper.

10 **For the Seventh Cause of Action (Conversion)**

- 11 1. For just compensation as determined by the Court;
- 12 2. For attorneys' fees as permitted by contract and/or law;
- 13 3. For punitive/exemplary damages;
- 14 4. For costs incurred in this action;
- 15 5. For such other and further relief as the Court may deem proper.

16 **For the Eighth Cause of Action (Accounting)**

- 17 1. For just compensation as determined by the Court;
- 18 2. For attorneys' fees as permitted by contract and/or law;
- 19 3. For an accounting of all Partnership Assets.
- 20 4. For costs incurred in this action;
- 21 5. For such other and further relief as the Court may deem proper.

22 **For the Ninth Cause of Action (Appointment of Receiver)**

- 23 1. For just compensation as determined by the Court;
- 24 2. For attorneys' fees as permitted by contract and/or law;
- 25 3. For costs incurred in this action;
- 26 4. For an appoint of a Receiver to take control of SD United, Flip, Mira Este, Roselle and Monarch  
27 until the parties' rights to each entity are determined.
- 28 5. For a temporary restraining order and preliminary and permanent injunctions in aid of the  
receiver prohibiting Malan and his agents, employees, and/or representatives from engaging in,

1 or performing, directly or indirectly, any or all of the following acts:

- 2 a. committing or permitting any waste of the SD United, Flip, Mira Este, Roselle, and  
3 Monarch;
- 4 b. interfering, hindering or molesting in any way whatsoever the receiver in the  
5 performance of the receiver's duties and in this performance of any duties incidental  
6 thereto;
- 7 c. transferring, directly or indirectly, any interest by sale, assignment or encumbrance in  
8 any manner any of SD United, Flip, Mira Este, Roselle, and Monarch, and all proceeds  
9 thereof;
- 10 d. moving any of the assets of SD United, Flip, Mira Este, Roselle, and Monarch from any  
11 location;
- 12 e. transferring, concealing, destroying, defacing and altering any of SD United, Flip, Mira  
13 Este, Roselle, and Monarch's books and records;
- 14 f. demanding, collecting, receiving or in any way diverting or using the assets of SD  
15 United, Flip, Mira Este, Roselle, and Monarch or proceeds therefrom;
- 16 g. Failing or refusing to immediately turn over to the receiver all assets of SD United, Flip,  
17 Mira Este, Roselle, and Monarch, and all moneys, checks, funds or proceeds belonging  
18 to or for the benefit of Razuki.

19 6. For such other and further relief as the Court may deem proper.

20 **For the Tenth Cause of Action (Injunctive Relief)**

21 1. For an injunction that:

- 22 a. Prohibits sale of SD United, Flip, Mira Este, and Roselle until the conclusion of this  
23 litigation;
- 24 b. Prohibits the sale of Monarch and imposes a freeze on all accounts associated with  
25 Monarch;
- 26 c. Requires that all future monies paid to Monarch be transferred and deposited into an  
27 account owned by Flip; and,
- 28 d. Requires the transfer of all Partnership Assets to RM Holdings.

1 e. Require Malan to return the \$24,000 he withdrew from RM Holdings' account.

2 2. For costs incurred in this action;

3 3. For such other and further relief as the Court may deem proper.

4 **For the Eleventh Cause of Action (Declaratory Relief)**

5 1. For a judicial declaration stating:

6 a. Razuki has a seventy-five percent (75%) ownership interest in all Partnership Assets;

7 b. Razuki has not fully recuperated his initial investment in the Partnership Assets and is  
8 entitled to full recuperation before any additional profits or revenue are distributed;

9 c. Malan wrongfully utilized the tenant improvement funds intended for Mira Este for their  
10 own personal gain; and,

11 d. All funds currently owned or possessed by Monarch are ill-gotten gains and truly belong  
12 to Flip or RM Holdings.

13 2. For costs incurred in this action;

14 3. For such other and further relief as the Court may deem proper.

15 **For the Twelfth Cause of Action (Constructive Trust)**

16 1. For a judicial declaration stating:

17 a. Seventy-five (75%) ownership interest in Partnership Assets were wrongfully obtained  
18 by Malan and are therefore held in involuntary trust for the benefit of Razuki, pursuant  
19 to Civ. Code. §2223 and §2224; and

20 b. All proceeds of Monarch received by SoCal Building were wrongfully obtained by  
21 Monarch and are therefore held in involuntary trust for the benefit of Flip and/or RM  
22 Holdings.

23 c. All money taken by Malan from Mira Este that were supposed to be used for renovations  
24 were wrongfully obtained and therefore held in involuntary trust for the benefit of Mira  
25 Este.

26 d. The \$24,000 withdrawn from RM Holdings' account by Malan was wrongfully obtained  
27 and therefore held in involuntary trust for the benefit of RM Holdings.

28 2. For costs incurred in this action;

3. For such other and further relief as the Court may deem proper.

1 **For the Thirteenth Cause of Action (Dissolution)**

- 2 1. For a judicial decree dissolving RM Holdings after all Partnership Assets have been  
3 transferred to RM Holdings.  
4 2. For costs incurred in this action;  
5 3. For such other and further relief as the Court may deem proper.

6 **For the Fourteenth Cause of Action (Interventional Interference with a Prospective Economic  
7 Relationship)**

- 8 1. For just compensation as determined by the Court;  
9 2. For attorneys' fees as permitted by contract and/or law;  
10 3. For punitive/exemplary damages;  
11 4. For costs incurred in this action;  
12 5. For such other and further relief as the Court may deem proper.

13 **For the Fifteenth Cause of Action (Intentional Interference with a Contractual Relationship)**

- 14 1. For just compensation as determined by the Court;  
15 2. For attorneys' fees as permitted by contract and/or law;  
16 3. For punitive/exemplary damages;  
17 4. For costs incurred in this action;  
18 5. For such other and further relief as the Court may deem proper.

19  
20 DATED: 7/13/18

LAW OFFICES OF STEVEN A. ELIA, APC

21  
22 By: 

23 Steve A. Elia  
24 Maura Griffin  
25 James Joseph  
26 Attorneys for Plaintiff SALAM RAZUKI  
27  
28


DEMAND FOR JURY TRIAL

Plaintiff hereby respectfully requests a trial by jury.

DATED: 7/13/18

LAW OFFICES OF STEVEN A. ELIA, APC

By:

  
\_\_\_\_\_  
Steve A. Elia  
Maura Griffin  
James Joseph  
Attorneys for Plaintiff SALAM RAZUKI

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



# EXHIBIT A

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

**AGREEMENT OF COMPROMISE, SETTLEMENT,  
AND MUTUAL GENERAL RELEASE**

This AGREEMENT OF COMPROMISE, SETTLEMENT, AND MUTUAL GENERAL RELEASE ("Agreement") is entered into by and between SALAM RAZUKI (hereinafter collectively "RAZUKI"), on the one hand, and NINUS MALAN (hereinafter "MALAN"), on the other. The persons to this Agreement may sometimes be referred to collectively as the "Parties" or separately as "Party". This Agreement is entered into with reference to the recitals set forth in the Article titled "Recitals" below and constitutes (i) a settlement agreement between the Parties and (ii) a mutual release of all liabilities of the Parties arising out of the matters described below and except as expressly otherwise noted herein.

**ARTICLE I.  
RECITALS**

This Agreement is entered into with reference to the following facts:

I.1 RAZUKI and MALAN have engaged in several business transactions, dealings, agreements (oral and written), promises, loans, payments, related to the acquisition of real property and interests in various medical marijuana businesses. Specifically, RAZUKI and MALAN have each invested certain sums of capital for the acquisition of the following assets (collectively hereinafter referred to as the "Partnership Assets"):

(a) MALAN'S one hundred percent (100%) membership interest in SAN DIEGO UNITED HOLDING GROUP LLC, a California Limited Liability Company, and record owner of the following properties:

- i. The real property commonly known as 8859 BALBOA AVE., STE. A, SAN DIEGO, CA 92123.
- ii. The real property commonly known as 8859 BALBOA AVE., STE. B, SAN DIEGO, CA 92123.
- iii. The real property commonly known as 8859 BALBOA AVE., STE. C, SAN DIEGO, CA 92123.
- iv. The real property commonly known as 8859 BALBOA AVE., STE. D, SAN DIEGO, CA 92123.
- v. The real property commonly known as 8859 BALBOA AVE., STE. E, SAN DIEGO, CA 92123.
- vi. The real property commonly known as 8861 BALBOA, STE. B, SAN DIEGO, CA 92123.
- vii. The real property commonly known as 8863 BALBOA, STE. E,

SAN DIEGO, CA 92123.

(b) One hundred percent (100%) membership interest in FLIP MANAGEMENT LLC, a California Limited Liability Company.

(c) MALAN'S fifty percent (50%) membership interest in MIRA ESTE PROPERTIES LLC, a California Limited Liability Company, and record owner of the real property commonly known as 9212 MIRA ESTE CT., SAN DIEGO, CA 92126.

(d) MALAN'S Fifty percent (50%) membership interest in ROSELLE PROPERTIES, LLC, a California Limited Liability Company, and record owner of the real property commonly known as 10685 ROSELLE ST., SAN DIEGO, CA 92121.

(e) RAZUKI'S twenty percent (20%) membership interest in SUNRISE PROPERTY INVESTMENTS, LLC, a California Limited Liability Company, the record owner of the real property located 3385 SUNRISE STREET, SAN DIEGO, CA 92012.

(f) RAZUKI'S twenty seven percent (27%) membership interest in SUPER 5 CONSULTING GROUP, LLC, a California Limited Liability Company, which is the operator of a medical marijuana dispensary located at 3385 SUNRISE STREET, SAN DIEGO, CA 92012.

1.2 RAZUKI and MALAN have an understanding such that regardless of which Party or entity holds title and ownership to the Partnership Assets, RAZUKI is entitled to a seventy-five percent (75%) interest in the capital, profits, and losses of each Partnership Asset and MALAN is entitled to a twenty five percent (25%) interest, and no Party is entitled to receive any profits whatsoever until, and unless the Parties have first been repaid their investment in full (hereinafter referred to as the "Partnership Agreement").

1.3 RAZUKI and MALAN have now formed RM PROPERTY HOLDINGS, LLC, a California Limited Liability Company (the "Company"), whereby RAZUKI and MALAN have agreed to transfer title to the Partnership Assets to the Company, and forever resolve any and all matters, claims or controversies that each Party may have against each other related to the Partnership Agreement as stated in this Agreement.

1.4 RAZUKI and MALAN have not recouped their financial investments in the Partnership Assets.

1.5 The Parties consider it to be in their best interests, in light of the cost of litigation, and to their best advantage, to forever dismiss, settle, adjust and compromise all claims and defenses which have been, or could have been asserted relative to their Partnership Agreement.

1.6 All claims are denied and contested, and nothing contained herein should be construed as an admission by any Party hereto of any liability of any kind to any other Party hereto or to any other person.

1.7 The Parties now wish to settle the dispute between them and forever release,

discharge, and terminate any and all liabilities arising out of, or existing or emanating from their Partnership Agreement, including all demands and causes of action, whether state, federal, or administrative, and whether actually raised or could have been raised by way of complaint, supplemental complaint, or cross-complaint except as expressly otherwise set forth within this Agreement. In order to effectuate this release, the Parties hereto enter into this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants, and upon the conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

## ARTICLE II TERMS OF SETTLEMENT

2.1 Transfer of Partnership Assets to the Company. The Parties shall use their best efforts to effectuate the transfer of the Partnership Assets to the Company within thirty (30) days, and shall execute any and all further documents as may be necessary to carry out the same.

2.2 Financial Accounting. The Parties agree to work in good faith to calculate each of their respective cash investment amounts in the Partnership Assets within thirty (30) days and shall execute an amendment or exhibit to this Agreement to memorialize the same. Once executed, the exhibit or amendment shall be incorporated and become a part of this Agreement as though set forth originally (the "Accounting"). For avoidance of doubt, the amount agreed to in the Accounting shall be the amount of cash capital investment that must be first repaid to the Parties by the Company before either Party receives any profits therein (each referred to as the "Partners' Cash Investment").

2.3 The Company's Operating Agreement. The Parties hereby reaffirm and acknowledge the terms of the Operating Agreement provide for repayment of the Partners' Cash Investment prior to any distribution of profits and losses. The Parties further reaffirm that once the Partners' Cash Contribution has been repaid by the Company, then RAZUKI shall receive seventy five percent (75%) of the profits and losses of the Company and MALAN shall receive twenty five percent (25%), all as set forth under the terms of the Operating Agreement. It is the Parties' intention that once the Partnership Assets have been transferred to the Company and the Accounting has been agreed upon, then all other business matters shall be governed and controlled by the terms of the Operating Agreement and the Parties shall thereafter be released from all further liability to each other arising under their Partnership Agreement as set forth below.

## ARTICLE III MUTUAL GENERAL RELEASE OF ALL CLAIMS

3.1 General Release. In consideration of the terms and provisions of this Agreement, the Parties hereto, on behalf of themselves, successors, and assigns, hereby forever relieve, release, and discharge each other, and their respective successors and assigns, and all of their respective present and former attorneys, accountants, agents, employees, representatives,

administrators, insurers, partners, directors, officers, shareholders, and heirs of and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses, including but not limited to attorney's fees, damages, actions, and causes of action of whatsoever kind or nature, specifically including those related to in any way, directly or indirectly, to any alleged past, present, or future claims for violations of any state, federal, or administrative code or statute, or any type of tort or conversion, or indemnification, contribution, or declaratory relief based on any type of allocation of fault, whether now known or unknown, suspected or unsuspected, based on, arising out of, or in connection with anything whatsoever done, omitted, or suffered to be done at any time, relating to, or in any matter connected with, directly or indirectly, the matters, facts or claims related to their Partnership Agreement as set forth in the Article of this Agreement titled "Recitals". This Agreement shall not be interpreted to bar any claims for the enforcement of the provisions of this Agreement or any provision of the Company's Operating Agreement. Furthermore, this release and settlement shall only be effective upon (i) the transfer to the Company of the Partnership Assets pursuant to section 2.1 above, and (ii) execution of an amendment or exhibit related to the Accounting. Thereafter, the Parties shall forever be barred from bringing any claims related to the Partnership Agreement as set forth herein, and all claims or controversies shall be governed by the terms of the Company's Operating Agreement.

3.2 Waiver under Section 1542 of the California Civil Code. The Parties hereto expressly waive any and all rights under Section 1542 of the Civil Code of the State of California, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

In connection with such waiver and relinquishment, the Parties acknowledge that it may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those which it now knows or believes to be true. Nevertheless, it is the intention of the Parties, through this Agreement, and with the advice of counsel, if any, to fully, finally, and forever settle this dispute. Pursuant to that intention, the Parties expressly consent that this release shall have the same full force and effect as to unknown and unsuspected claims, demands, and causes of action, if any, as to those terms and provisions relating to claims, demands, and causes of action hereinabove specified.

3.3 Representations and Warranties. The Parties hereby represent and warrant to, and agree with each other as follows:

(a) The Parties hereto, and each of them, represent and declare that in executing this Agreement they have relied solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, if any, concerning the nature, extent, and duration of their rights and claims, and that they have not been influenced to any extent whatsoever in executing the same by any representations or statements covering any matters made by the other party hereto or by any person representing him or it.

(b) Except as expressly stated in this Agreement, neither of the Parties have made any statements or representations regarding any fact relied upon in entering into this Agreement, and the Parties specifically do not rely on any statements, representations, or promises in executing this Agreement, or in making the settlement provided for herein, except as expressly stated in this Agreement;

(c) The Parties, and their attorneys, if desired, have made such investigation of the facts pertaining to this Agreement and all of the matters pertaining thereto, as they deem necessary;

(d) The terms of this Agreement are contractual, not a mere recital, and are the result of negotiations between the Parties;

(e) The Recitals to this Agreement are expressly made a part hereof;

(f) This Agreement has been carefully read by the Parties hereto, and if they choose, by their attorneys; it is signed freely by each person executing this Agreement and each person executing this Agreement is empowered to do so.

(g) In entering into this Agreement, the Parties recognize that no facts or representations are absolutely certain. The Parties acknowledge that they are aware that they may, after execution of this Agreement, discover facts different from or in addition to those they now know or believe to be true with respect to the liabilities, actions or causes of action to be released. Accordingly, the Parties each assume their own risk of any incomplete disclosure or mistake. If the Parties, or each of them, should subsequently discover that any fact it relied upon in entering into this Agreement was untrue, or that any understanding of the facts or of the law was incorrect, such party shall not be entitled to set aside this Agreement by reason thereof. This Agreement is intended to be final and binding between the Parties hereto, and is further intended to be effective as a final accord and satisfaction between the Parties. The Parties are relying on the finality of this Agreement as a material factor inducing the Parties' execution of this Agreement.

(h) The consideration specified herein is given for the purpose of (i) settling and compromising all claims and disputes which have arisen between the Parties, and (ii) releasing the Parties by operation of this Agreement from any an all claims and liabilities, past, present, and future, that have or may arisen out of the matters described in the Article titled "Recitals". Neither the payment nor tender of consideration, nor anything herein, shall be construed as an admission by any of the Parties, their agents, servants or employees, of any liability of any kind to the other.

(i) The Parties represent and warrant that they have not heretofore transferred or assigned or purported to transfer or assign to any person, firm, or corporation any claim, demand, damage, debt, liability, account, action or cause of action herein to be released.

(j) The Parties acknowledge the adequacy of the consideration given for the release

of all Parties in this Agreement and understands that irrespective of whether the consideration is expressly described herein, adequate consideration exists for the release of all Parties under this Agreement.

3.4 Non-Disparagement. The Parties further agrees not to make any statement or take any action, directly or indirectly, that harms, or could harm, the other Party's business interests, reputation or good will, including any statements that may be made to any past, current, or prospective employees, vendors, or any other third parties whatsoever. Accordingly, the Parties shall not make any statements, written or oral, which disparage the other; however, this provision shall not prevent the any Party from truthfully responding to any inquiry required by law or pursuant to a court order.

#### ARTICLE IV GENERAL PROVISIONS

4.1 Integration. This Agreement constitutes a single, integrated, written contract expressing the entire Agreement of the Parties hereto relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as specifically set forth in this Agreement. All prior discussions and negotiations, if any, are superseded by this Agreement.

4.2 No Construction Against Drafter. Each party to this Agreement and its legal counsel have reviewed and revised this Agreement. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or of any amendments or exhibits to this Agreement. This Agreement shall not be deemed prepared or drafted by one party or another, or its attorneys, and will be construed accordingly.

4.3 Modification. No modification, waiver, amendment, discharge, or any change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

4.4 Heirs, Successors, and Assigns. This Agreement shall inure to the benefit of, and shall be binding upon, the heirs, successors, and assigns of the Parties hereto, and each of them.

4.5 Severability. In the event that any term, covenant, condition, or provision of this Agreement should be held to be void, voidable, or unenforceable, the remaining portions hereof shall remain in full force and effect.

4.6 Governing Law. This Agreement shall be construed in accordance with, and be governed by the laws of California.

4.7 Venue and Jurisdiction. In the event that any action, suit, or other proceeding arising from this Agreement is instituted, the parties agree that venue for such action shall be in San Diego County, and that personal jurisdiction and subject matter jurisdiction shall be

exercised by the Superior Court of the State of California, in and for the County of San Diego, Central Division.

4.8 Execution in Counterparts. This Agreement may be executed and delivered in two or more counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement. This Agreement shall be deemed to be executed on the last date any such counterpart is executed.

4.9 Facsimile Signatures. This Agreement may be executed and a copy of such executed Agreement transmitted by facsimile, which when received can be used as an original of the Agreement for all purposes.

4.10 Costs and Attorney's Fees. The Parties hereto agree to bear his or its own costs and attorney's fees, and each party hereby waives any statute, rule of court, or other law, awarding costs, fees, or expenses relating to any litigation. Said waiver shall be effective with respect to the statutes, rules of court, or other laws or provisions of the United States and/or of each state, including, without limitation, the State of California. However, in the event that any action, suit, or other proceeding is instituted to interpret and/or enforce this Agreement, or arising out of a breach of this Agreement, the prevailing party shall recover all of such party's reasonable attorney's fees and costs incurred in each and every action, suit, or other proceeding, including any and all appeals or petitions therefrom.

4.11 Waiver. Any waiver of a default under this Agreement must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement. No delay or omission in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver. Consent to or approval of any act shall not be deemed to waive or render unnecessary consent to or approval of any other or a subsequent act.

4.12 Confidentiality. The terms of this Agreement are confidential. The Parties expressly understand and agree that it shall constitute a breach of this Agreement to disclose or communicate the terms of this settlement or to disseminate this Agreement to any third party (unless required by Court order or operation of law or to the Parties' respective attorneys, accountants or tax advisers).

4.13 Time of Essence. The Parties hereto agree and confirm that time is of the essence for execution, completion, and full performance of the terms and conditions of this agreement.

///

///

///

///



IN WITNESS WHEREOF, the Parties hereto have each approved and executed this Agreement on the dates set forth opposite their respective signatures.

Dated: 11/9/17

RAZUKI

By: 

SALAM RAZUKI

Dated: 11/9/17

MALAN

By: 

NINUS MALAN