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COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION ONE

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SALAM RAZUKI, )  
 )  
Plaintiff/Respondent, )  
 ) FROM SAN DIEGO COUNTY  
vs. ) HON. EDDIE C. STURGEON  
 )  
NINUS MALAN, et al., ) COA NO. D075028  
 ) SUPERIOR COURT NO.  
Defendants/Appellants. ) 37-2018-  
----- ) 00034229-CU-BC-CTL

REPORTER'S TRANSCRIPT ON APPEAL

Friday, November 30, 2018

(Pages 704 through 858, Inclusive)

Volume 7

330 West Broadway, Department 67  
San Diego, California

Reported By:  
Leyla S. Jones  
CSR No. 12750

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.

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Hon. Eddie C. Sturgeon

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

Hearing

TRANSCRIPT OF PROCEEDINGS

November 30, 2018

1:00 p.m.

330 West Broadway, Dept. 67

San Diego, California

REPORTED BY:

Leyla S. Jones

CSR No. 12750

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15 Cannabis Group, Balboa Avenue Cooperative,  
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24 Also present: Michael Essary  
25 Brian Brinig  
26 Ninus Malan  
27 Christopher Morris  
28 Justus Henkes  
Mandy Hexom  
Matt Mahoney  
Chris Hakim  
Dustin Milner  
Betsy Goodman  
Mr. Goodman  
Michael Hickman  
Dustin Milner

INDEX OF WITNESSES

(None.)

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SAN DIEGO, CALIFORNIA;

FRIDAY, NOVEMBER 30, 2018; 1:00 P.M.

THE COURT: Here we go. This is Razuki vs. Malan, et al. I need full appearances, everybody.

MR. FULLER: Robert Fuller for plaintiff in intervention SoCal Building Ventures.

MS. GRIFFIN: Maura Griffin on behalf of the plaintiff, Salam Razuki.

MR. ELIA: Steven Elia on behalf of the plaintiff, Salam Razuki.

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

MR. WATTS: Daniel Watts on behalf of defendants Ninus Malan and American Lending and Holdings.

MR. GORIA: Charles Goria on behalf of defendants Chris Hakim, Mira Este Properties, LLC, and Roselle Properties, LLC.

MS. LEETHAM: Tamara Leetham and Gina Austin for Ninus Malan; San Diego United Holdings Group; Flip Management, LLC; Balboa Ave. Cooperative; California Cannabis Group; and Devilish Delights, Inc.

MS. AUSTIN: The same.

THE COURT: What's your name?

MS. AUSTIN: Gina Austin.

THE COURT: Thank you, Counsel.

1           MR. JAFFE: Doug Jaffe on behalf of Sunrise  
2 Property Investments, LLC.

3           MR. BRINIG: Brian Brinig, Court's  
4 appointed forensic accountant.

5           MR. ESSARY: Michael Essary, court  
6 receiver.

7           MR. GRISWOLD: Richardson Griswold, counsel  
8 for receiver.

9           MS. LEETHAM: Can I just -- for the record,  
10 just a couple other participants here.

11          THE COURT: Absolutely.

12          MS. LEETHAM: My client, Ninus Malan, is  
13 present before the Court. His criminal defense  
14 attorney, Christopher Morris, is here. Justus  
15 Henkes is here again, and the Montgomery Field  
16 Business Association attorney, Mandy Hexom, is also  
17 here.

18          MR. MORRIS: I'm not his criminal defense  
19 lawyer.

20          MS. LEETHAM: Sorry.

21          MR. MORRIS: I'm monitoring the criminal  
22 matter. If the Court would like any information  
23 regarding the federal criminal matter, I'm here for  
24 that.

25          THE COURT: And who are you? I don't mean  
26 to point.

27          MS. HEXOM: Mandy Hexom from Epsten  
28 Grinnell & Howell representing Montgomery Field



1 Business Condominiums Association.

2 THE COURT: Thank you for coming, and I  
3 know who you are, meaning Montgomery.

4 Can you give me a seven-minute synopsis of  
5 how money flows or doesn't flow or just -- I've been  
6 asking for four months, "Where's the money?"

7 MR. BRINIG: I can tell the Court,  
8 Your Honor, and I provided a report.

9 MR. GRISWOLD: Just to clarify for the  
10 Court, so on, I think, November 13th, a few days  
11 before our November 16th hearing that was continued  
12 to today, a report was filed along with the  
13 receiver's report, which is Brinig's report.

14 A couple days later, a supplemental report  
15 was created. All parties and counsel have a copy of  
16 that. The Court does not have a copy of that. Very  
17 minor change that he can explain.

18 THE COURT: Real quick, now that you've  
19 refreshed my -- I read the original report. I have  
20 not read the supplemental report. If you could give  
21 a copy. I assume all counsel have seen that?

22 MR. GRISWOLD: They have.

23 THE COURT: And, Mr. Brinig, let's go.  
24 What have you got?

25 MR. BRINIG: Sure. So, Your Honor, if  
26 you -- the quick summary -- the two-minute summary,  
27 if you would take a look at the amended Schedule 1,  
28 which is page -- right after the letter. It's

1 page 8 in the report in front of you. When you get  
2 there, I will overview it.

3 THE COURT: My pages aren't numbered, so  
4 tell me --

5 MR. BRINIG: The letter is numbered and the  
6 first page after the letter will be the eighth page  
7 of the report.

8 THE COURT: Got it.

9 MR. WATTS: Just for the record, Your  
10 Honor, we object to consideration of the report in  
11 that it's hearsay based on hearsay.

12 THE COURT: So noted for the record.  
13 Overruled.

14 Go.

15 MR. BRINIG: So, Your Honor, if you -- if I  
16 can just narrate that for a minute -- and I won't go  
17 too long -- until you stop me and ask me questions.  
18 What I have done is looking at all of the data that  
19 has been provided to me, to the best of my ability,  
20 I have attempted to figure out the contributions and  
21 distributions to the Balboa facility and the  
22 Mira Este operation.

23 And stay on the top half of the page for  
24 the moment, if you would. And across the top, I've  
25 listed the players: Razuki, Malan, Hakim, San Diego  
26 Building Ventures, and operations.

27 What you see looking about in the middle of  
28 the page where I have identified total before other

1 possible contributions, the net total contribution  
2 of Razuki is a million four oh three. The net  
3 negative contribution of Malan is 629,000. The  
4 net negative --

5 THE COURT: Hold on. Stop.

6 MR. BRINIG: Yes, sir.

7 THE COURT: To get to that net number, can  
8 I assume that the 670,000 is money that has been  
9 pulled out? Explain that to me.

10 MR. BRINIG: That is -- that is correct,  
11 Your Honor.

12 THE COURT: So Malan put in about 164- and  
13 he's pulled out over a half million? Fair enough?

14 MR. BRINIG: That is correct, Your Honor.

15 THE COURT: Go.

16 MR. BRINIG: And Hakim -- the net negative  
17 for Hakim is \$263,000. The net positive  
18 contribution from San Diego Building Ventures is  
19 \$2,090,000. The operations have sucked up, or  
20 negatively, \$2,560,000.

21 And when you sum all of that across the  
22 board, we have a net positive \$42,000, which, if you  
23 look at it across that line, has been funded by  
24 Razuki and San Diego Business Ventures and eaten up  
25 by operations and withdrawals, net withdrawals, by  
26 Malan and Hakim.

27 THE COURT: So let me just jump in here for  
28 a minute. How long -- how long is this? Is this

1 three months? four months? five months? years?

2 MR. BRINIG: This is beginning to as  
3 recently -- I can't be precise on the end date, but  
4 it's until the end of October.

5 THE COURT: When you say beginning,  
6 beginning when?

7 MR. BRINIG: June of -- about June of '17,  
8 Your Honor.

9 THE COURT: So in June of --

10 MR. GORIA: I think it was June 2016.

11 MR. BRINIG: Oh, '16. I'm sorry.

12 MR. GORIA: That's when they purchased the  
13 property, the first property.

14 THE COURT: So I want to make sure I  
15 understand, and I want to talk just broadly. We've  
16 got rents to be paid. We've got licenses/taxes to  
17 be paid. And what you're telling this Court, in  
18 that 2 1/2 year period, Razuki has taken out 72,000,  
19 correct?

20 MR. BRINIG: Yes, 72- and 27- above.

21 THE COURT: And Malan has taken out  
22 670,000?

23 MR. BRINIG: And 188- above.

24 THE COURT: 800,000.

25 MR. BRINIG: Yes, sir.

26 THE COURT: How did they take that out?

27 MR. BRINIG: Essentially, cash.

28 THE COURT: So someone gave them all that

1 money?

2 MR. BRINIG: Your Honor, so when you -- so  
3 for instance, when -- I was looking at 2017, for  
4 instance. And if I may --

5 THE COURT: You may.

6 MR. BRINIG: So as a little subschedule --  
7 and there are a lot of schedules, so let me get  
8 there, if I may.

9 For instance, in 2017, Malan -- if I was  
10 to -- if I was Malan, I would say in 2017, he put in  
11 655,000. You don't see it on the final schedule.  
12 He took out 370,000 for a net 288-, but all of that  
13 is embedded in the final answer, where you're asking  
14 me questions about the final answer. He put money  
15 in and he took money out.

16 But at the end of the day, Malan is a net  
17 negative 628-. I haven't told you about the bottom  
18 part of the schedule, which changes it  
19 significantly, but it's still a net negative. So --

20 THE COURT: So he's ahead 800,000? Am --  
21 I'm just trying to get the bottom picture.

22 MR. BRINIG: No. If I can go to the bottom  
23 of Schedule 2, Malan is ahead \$469,000.

24 THE COURT: Talk to me about the bottom.

25 MR. BRINIG: The bottom, I have -- I'm  
26 calling "other possible contributions." It is --  
27 for instance, if I can look at an individual one,  
28 the \$498,000 in Razuki's column, \$498,000 is a

1 payment that Razuki made to NM Investments. So it's  
2 between Razuki and Malan.

3 THE COURT: Uh-huh.

4 MR. BRINIG: One could say it wasn't a  
5 payment directly into the deal, so should I give  
6 Razuki credit for that or not? That's why I put it  
7 in the other possible contributions.

8 THE COURT: Got it.

9 MR. BRINIG: And the next one, the million  
10 five seventy-five, that is -- Razuki claims that he  
11 sold the dispensary to Malan for million five  
12 seventy five and Malan didn't pay him. So that's  
13 down there in the other possible -- so that's -- but  
14 the fact is, even if you stay on the top line, you  
15 can see the relative contributions and distributions  
16 of the players.

17 THE COURT: Got it. Anything else?

18 MR. BRINIG: That's the big, sad picture,  
19 that, in summary, the operations have sucked up  
20 \$2.6 million that had been funded by Razuki and  
21 San Diego Building Ventures, and Malan and Hakim  
22 have taken some significant distributions from it.  
23 That's my take.

24 There's no question -- and I think counsel  
25 will have a few questions for me. There's no  
26 question that these numbers could move a little bit,  
27 but I don't think they're going to move  
28 dramatically.

1           So that's my story and at this point I'm  
2 sticking to it, Your Honor.

3           THE COURT: Thank you. All right. Very  
4 insightful. For months, I've been asking where the  
5 money is, and I think I'm beginning --

6           MR. BRINIG: Or isn't, as the case may be,  
7 Your Honor.

8           THE COURT: I think I'm beginning to get a  
9 picture, which is helpful for the Court. So let's  
10 just start one at a time. We've counsel on --

11           Who's raising your hand?

12           MR. HENKES: This is Justus Henkes.

13           THE COURT: Yeah.

14           MR. HENKES: Just to clarify, a lot of the  
15 money was from cash-out refies of the properties  
16 too. So properties were refinanced and money came  
17 from that.

18           THE COURT: I just want to know who it went  
19 to.

20           MR. HENKES: Yeah, sure.

21           THE COURT: That's what I'm interested in.  
22 So let's just each get about -- what? --  
23 seven minutes. Obviously, we're going to be coming  
24 back, because this is important.

25           You've got seven minutes, Counsel. What do  
26 you want to say on behalf of Razuki?

27           MR. JOSEPH: Your Honor, at this time, I'm  
28 imagining you really only want to get our

1 conclusions.

2 THE REPORTER: You have to speak up.

3 MR. JOSEPH: Sorry.

4 THE COURT: And what should I do. Two  
5 issues: What should I do with Balboa? What should  
6 I do with Mira Este?

7 MR. JOSEPH: Yes, Your Honor. I believe  
8 our original request from October 25, 2018, is  
9 exactly what we still want. With respect to Balboa,  
10 we would ask that the Court modify the current  
11 receivership order to allow Mr. Essary to appoint  
12 any operator he wishes to be into -- be and operate  
13 the Balboa facility, including SoCal, as they have  
14 experience with it and they actually can step in.  
15 They've -- we have representations that they can do  
16 it very, very quickly.

17 Considering that Balboa is currently not  
18 operating, according to the declaration that we got  
19 from Mr. Essary, as well the representations from  
20 Far West that they have decided to leave it, is  
21 imperative that the Court put in SoCal, because  
22 they're the ones who have the experience. They know  
23 about it, and they can step in ASAP to actually save  
24 the business.

25 THE COURT: What about Mira Mesa [sic]?

26 MR. JOSEPH: In terms of Mira Este, we  
27 would ask --

28 THE COURT: Mira Este.



1           MR. JOSEPH: -- we would ask again exactly  
2 what we asked for in the October 25 ex parte, that  
3 the receivership -- the receiver be given discretion  
4 to appoint a new operator that is not Synergy and  
5 can again operate and finds new tenants or work with  
6 the current tenants who are there to direct  
7 contracts to work with California Cannabis Group or  
8 Mira Este Properties, LLC, directly. In terms of  
9 our arguments, we've already -- I think when we come  
10 back, we can explain the very thorough example of  
11 why Synergy should not be there.

12           Two other things.

13           THE COURT: Go.

14           MR. JOSEPH: Absolutely no contact with the  
15 businesses with Mr. Malan or Mr. Hakim. They have  
16 to be out. This needs to be run exclusively by the  
17 receivership. They should not have any ability to  
18 make -- approving payments, to do anything. Nothing  
19 should be run through them. Everything should be  
20 run by Mr. Essary.

21           The other thing as well in terms of -- the  
22 order still requires that Mr. Essary work with  
23 Mr. Henkes. We would ask that Mr. Henkes be  
24 terminated and be relieved from that order and,  
25 again, allow Mr. Essary to have discretion to  
26 appoint whoever he wants.

27           And then finally, we would ask that the  
28 Austin Legal Group be relieved of their position as

1 count -- as consulting regarding to licensing issues  
2 and the receiver be able to appoint counsel that he  
3 feels necessary for all consulting necessary --  
4 consulting needs.

5 THE COURT: One question, yes or no. Is  
6 Balboa worth saving?

7 MR. JOSEPH: Yes.

8 THE COURT: Can it be saved?

9 MR. JOSEPH: Yes, Your Honor. We  
10 actually --

11 THE COURT: That's all I need. I'm tight.  
12 Thank you.

13 Mr. Blake [sic]?

14 MR. WATTS: Watts.

15 THE COURT: That's who I meant. Who do you  
16 represent again?

17 MR. WATTS: Ninus Malan and American  
18 Lending and Holdings.

19 THE COURT: Perfect. You're up.  
20 Seven minutes.

21 MR. WATTS: We're first going to ask the  
22 Court to reconsider the ruling on the hearsay  
23 objection. And also, we object on the basis of  
24 speculation, lack of foundation, and lack of  
25 personal knowledge for the information that is in  
26 both the receiver's supplemental declaration, which  
27 was not signed under penalty of perjury, and  
28 Mr. Brinig's report, which is also not signed under

1 penalty of perjury. The Court should not consider  
2 it.

3 And then second --

4 THE COURT: Hold on. Overruled. Next.

5 MR. WATTS: We'd ask the Court to set an  
6 appellate bond today on application. Rondos vs.  
7 Superior Court says that the Court should set a bond  
8 upon application. We're applying again for that.

9 If the Court will not set the bond, we ask  
10 the Court to stay the receivership order until the  
11 appeal is done, waive the requirement for a bond.  
12 These companies are indigent, and they deserve to  
13 have their day in court in the appellate court, and  
14 they deserve to have -- they have a right to have  
15 the receivership order stayed. And if they cannot  
16 pay a bond, then the Court should waive the bond  
17 requirement. That's in Number 2.

18 Number 3, we'd ask the Court to dismiss the  
19 receiver. Receivership is an equitable remedy, and  
20 you have to maintain clean hands throughout the  
21 entire litigation. The evidence we've submitted to  
22 the Court shows that they tried to murder my client  
23 because of an appeal --

24 MR. JOSEPH: Your Honor, objection as to  
25 any mention of the criminal record, though.

26 THE COURT: Shh, shh, shh. Hold on. It's  
27 his turn.

28 MR. WATTS: As a litigation --

1 THE COURT: So noted for the record.

2 Go.

3 MR. WATTS: -- as a litigation tactic.

4 That's the evidence. The undisputed evidence before  
5 the Court is that they tried to murder my client as  
6 a litigation tactic. They have unclean hands.

7 It says in the criminal complaint the  
8 probable cause statement. Also, the restraining  
9 order that we got -- the judge in the other  
10 department found clear and convincing evidence based  
11 on that probable cause statement, my client's  
12 testimony, that they tried to murder my client to  
13 gain an advantage in this litigation.

14 And that's unclean hands, and it's related  
15 to this transaction. They have to have un -- they  
16 have to have clean hands throughout the litigation.  
17 They did that because we filed an appeal. That's a  
18 quote in the probable cause statement. They did it  
19 because this litigation was costing too much money  
20 and because Razuki wanted to take out loans against  
21 the cannabis dispensaries and couldn't. All that  
22 information is in there.

23 So the Court should dismiss the receiver  
24 for that reason, also because the other reasons:  
25 The contract was illegal. They can't show  
26 likelihood of success on the merits.

27 THE COURT: Anything else? Any more  
28 requests?

1           MR. WATTS:  If the Court keeps the  
2 receiver, continues it here, they should appoint a  
3 neutral receiver, one that was not given explicit  
4 instructions at the beginning of this litigation to  
5 rehire SoCal.  That was in Mr. Razuki's July 16th  
6 declaration, that he said that if the receiver is  
7 appointed, they will rehire SoCal and they did.

8           They're not allowed to have an arrangement  
9 with a receiver before he's appointed.  They're  
10 asking again another arrangement to rehire SoCal.  
11 They're not allowed do that.  We ask that Kevin  
12 Singer be provided.  We provided his CV and his  
13 resume.

14           THE COURT:  Read it.

15           MR. WATTS:  He knows how to run marijuana  
16 dispensaries.  If the receiver stays, it should be  
17 Kevin Singer.

18           SoCal -- and finally, SoCal should not be  
19 put back in.  There's no reason to put them in when  
20 Synergy can step in or some other operator that's  
21 not a party to this action.  The receiver is  
22 supposed to act as a fiduciary and not favor one  
23 party over the other.  SoCal is a plaintiff.  Giving  
24 the fox a henhouse is not what the receiver is  
25 supposed to do as a fiduciary to my clients, to  
26 Tamara's clients, and to the Court.

27           THE COURT:  Is Balboa worth saving, yes or  
28 no?

1 MR. WATTS: Yes.

2 THE COURT: Thank you.

3 Mr. Gorla?

4 MR. GORLA: Yes. Thank you, Your Honor.

5 THE COURT: You're Mira Mesa [sic], right?

6 MR. GORLA: Mira Este, yes.

7 THE COURT: Mira Este.

8 MR. GORLA: Just briefly on the information  
9 but -- from Mr. Brinig, he found a net amount that  
10 my client had benefited in the amount of about  
11 263,000. Of course, we dispute a lot of that. But  
12 we have also submitted a second supplemental  
13 declaration explaining that 235,000 was not included  
14 in the report and should have been, which reduces my  
15 client's net take, if you will, to about 18,000.

16 THE COURT: Give me one second. So  
17 \$235,000 for what? What?

18 MR. GORLA: A hundred thousand dollars paid  
19 down on one of the mortgages and a hundred --

20 THE COURT: Which mortgage?

21 MR. GORLA: Second trust deed on Mira Este.

22 THE COURT: Do you know about this, Mr. --

23 MR. BRINIG: I do, Your Honor. I'll  
24 comment if you want me to.

25 THE COURT: Stop right there. Let him keep  
26 going.

27 MR. GORLA: Another hundred thousand that  
28 was paid to even the respective contributions

1 between Mr. Malan and Mr. Razuki on the one hand and  
2 my client on the other. Malan and Razuki were  
3 considered a single unit in the Mira Este operating  
4 agreement, and so he paid a hundred thousand to  
5 Mr. Malan on the assumption, and as directed by the  
6 operating agreement, that that would be divided up  
7 between Mr. Malan and Mr. Razuki, according to their  
8 own side deal. So --

9 THE COURT: Are you aware of that?

10 MR. BRINIG: I am, Your Honor.

11 THE COURT: I'll let you comment later.

12 That's two. What's the other one?

13 MR. GORIA: The 35,000 were for additional  
14 improvements paid for out of my client's own pocket.

15 THE COURT: Are you aware of that?

16 MR. BRINIG: I am.

17 THE COURT: I'll give you time to respond.

18 What should we do, Mr. Goria?

19 MR. GORIA: Well, first, we should remove  
20 the receiver from Mira Este. It is totally  
21 counterproductive to have a receiver in Mira Este.  
22 It's not saving anybody. It's not protecting  
23 anybody's rights. What it's doing is it's blocking  
24 producers and manufacturers from signing up at the  
25 Mira Este facility.

26 Now, my client has been accused of a whole  
27 lot of bad things in this litigation. But in  
28 actuality, he hasn't done anything. And I can stand

1 on that, and I'd be happy to walk the Court through  
2 every one of these accusations made against him.

3 What he has done is he's followed the  
4 July 2016 operating agreement to the T, and we  
5 provided that operating agreement to the Court. The  
6 operating agreement provided a 50-50 split between  
7 him and Mr. Malan.

8 It also provided for the possibility --  
9 because in June -- in July of 2016, there was no  
10 agreement. There was no RM Holdings agreement  
11 with -- between Razuki and Malan, but it did provide  
12 for the potential that there might be. And it  
13 provided for a further division of the profits in  
14 the event that there was an agreement that was  
15 presented to my clients.

16 THE COURT: So I don't -- what's your  
17 bottom line?

18 MR. GORIA: The bottom line is that the  
19 receivership should be removed. If the Court wants  
20 to make the further order that the profits that  
21 would otherwise have been distributed to Mr. Malan  
22 be somehow distributed in accordance with the  
23 RM Holdings agreement -- 37 percent to Mr. Razuki,  
24 12 1/2 percent to Mr. Malan -- so be it.

25 If the Court wants to make the further  
26 order that that money be sent over to the receiver,  
27 that's fine. We just need to get the receiver out  
28 because everybody, all three of these parties, will



1 benefit once the receiver is out and these producers  
2 can go in.

3 THE COURT: Thank you.

4 Balboa?

5 MS. LEETHAM: Hello, Your Honor. We'll be  
6 brief since we're coming back.

7 THE COURT: Well, give me your bottom line,  
8 Counsel.

9 MS. LEETHAM: Bottom line, the Brinig  
10 report, page 1, says, "The parties have complex  
11 claims in this matter. My summary of those claims  
12 is not intended to be complete and is intended to  
13 introduce the forensic accounting analysis I have  
14 undertaken."

15 I've tried to be very careful about what  
16 I've said about Mr. Brinig in court. It is  
17 incomplete. I've not had the opportunity to get my  
18 client's information, and we would ask the Court to  
19 refrain from relying on it until we have an  
20 understanding of what of my clients Mr. Brinig  
21 included, part of which is my fault, because I was  
22 out on medical leave. So I'd ask the Court not to  
23 prejudice him of that.

24 THE COURT: I am reluctant because of the  
25 urgency that this Court senses. And if I'm wrong,  
26 you tell me. I see these businesses going down.  
27 And if I don't do something, I don't know. And I  
28 don't -- so, "Judge, I need a continuance to do all

1 this." I'm just reluctant. If you -- so I  
2 understand your issue, but I think I've got to do  
3 something today.

4 MS. LEETHAM: I think you can do something  
5 today. I think you can, but I think --

6 THE COURT: So what do you want?

7 MS. LEETHAM: So what do I want? I want  
8 you to wait on the report until we have an  
9 understanding of what Mr. Brinig put in it. But in  
10 the meantime -- in the meantime, I want you to put  
11 Sunrise into receivership.

12 THE COURT: Say that again.

13 MS. LEETHAM: Sunrise needs to go into  
14 receivership. We have continued to say this. That  
15 is a gaping hole in the accounting. So we don't  
16 have any information whatsoever on Sunrise, and it  
17 is a huge part of this picture. It is a huge part  
18 of this picture to what Razuki has taken out of the  
19 venture.

20 THE COURT: Just give me the bottom line.

21 MS. LEETHAM: Okay. Bottom line, Sunrise  
22 in receivership. Sunrise must be part of the  
23 accounting. The Court cannot rely on the accounting  
24 until Sunrise and my clients' information is  
25 included, because it will change the scenario. As  
26 far as -- I made notes. Let me go through them  
27 quickly.

28 THE COURT: Take your time.

1 MS. LEETHAM: If the Court keeps a  
2 receiver, we ask for a different receiver, one that  
3 does not have a pre-existing relationship in this  
4 case, for the benefit of all, Your Honor. And that  
5 would be the one that we introduced.

6 I do not think Balboa Avenue is viable, and  
7 I think I'm going to be the only one that's going to  
8 stand in here and tell you this isn't insolvent  
9 [sic]. And I've been saying it the entire time this  
10 litigation has commenced until I'm blue in the face.  
11 I think the manufacturing facility probably is, and  
12 Ms. Austin is in a better position, I think, to  
13 explain to the Court why.

14 THE COURT: I don't want -- I just want the  
15 bottom line.

16 MS. AUSTIN: I have part of the bottom line  
17 with regard --

18 THE COURT: What's the request then, not  
19 the argument? Give me the request. Go.

20 MS. AUSTIN: The request would be to -- all  
21 of what Ms. Leetham said with regard to the request,  
22 but the -- there's no way, whatever the Court  
23 decides to do with all of this information, for  
24 Balboa to be viable.

25 The extra units can be viable. They  
26 haven't even started yet. They're just income right  
27 now. But there's no way for Balboa to be viable  
28 given the expenses and everything that's out there

1 with the dispensary portion of it today, counting  
2 the -- and we would ask the Court to whatever it  
3 did, not put SoCal back in, because that's where the  
4 problem started.

5 I also have to get this on the record,  
6 Your Honor. I have the keys -- they were given to  
7 me this morning -- and the pass codes for the Balboa  
8 dispensary to be given to Mr. Essary. I wanted to  
9 make sure that he has received these, and so I'm  
10 going to go walk over, if that's okay with the  
11 Court, and go hand them to him.

12 THE COURT: Go. All right. Thank you,  
13 Ms. Austin.

14 And you -- who are you?

15 MR. FULLER: Rob Fuller for SoCal Building  
16 Ventures.

17 THE COURT: What's your position?

18 MR. FULLER: Our position is that the  
19 receiver, Mr. Essary, can stay in place for  
20 Mira Este and for the Balboa facility. We believe  
21 both are viable.

22 We also believe he should be given the  
23 freedom to rehire us. We were thrown out on the  
24 basis of a forgery, and we were the only ones who  
25 ran the place well and we had the deep pocket.  
26 We're willing to invest. We put up \$2 million  
27 trying to get the thing straightened out, and we're  
28 willing to go back in as long as Hakim and Malan are

1 not associated with any part of the operation or  
2 management. And so that is our request, to maintain  
3 Mr. Essary and allow him to rehire us.

4 THE COURT: Got it. Mr. -- again, remind  
5 me who you represent.

6 MR. JAFFE: Doug Jaffe on behalf of  
7 Sunrise, Your Honor.

8 THE COURT: There we go. What's Sunrise's  
9 position?

10 MR. JAFFE: The receiver should stay with  
11 new operators, as counsel for Razuki stated. No  
12 involvement by Mr. Malan and Mr. Hakim. Mr. Henkes  
13 should be terminated. No Sunrise into receiver.  
14 Sunrise has four other owners other than Mr. Razuki.  
15 It's -- the settlement agreement indicates that  
16 Mr. Razuki has to be reimbursed before there's any  
17 talk of Mr. Malan getting any money from Sunrise, so  
18 they shouldn't be --

19 THE COURT: Let me go back to SoCal. Do  
20 you think Balboa is viable?

21 MR. FULLER: Yes, we do, Your Honor.

22 THE COURT: How much money are you going to  
23 put into it?

24 MR. FULLER: How much more money?

25 THE COURT: Yeah.

26 MR. FULLER: Probably another million.

27 THE COURT: Thank you.

28 All right. Mr. Essary? Or who's going to

1 speak, counsel or you, Mr. Essary?

2 MR. ESSARY: Go.

3 THE COURT: You want to? Go ahead.

4 MR. GRISWOLD: Thank you, Your Honor.

5 Richardson Griswold for the receiver, Michael  
6 Essary. I guess one issue we'd want addressed by  
7 the Court at today's hearing is handling of the --  
8 the receivership costs. There are fees for the  
9 receiver. There are fees for the receiver's  
10 counsel. There are fees due to the Court's  
11 appointed forensic accountant.

12 I don't bring that up in some sort of -- I  
13 don't think it's the highest priority for today's  
14 hearing, but I want to alert the Court that those  
15 costs are not being paid currently, no matter what's  
16 being reported in other filings.

17 THE COURT: And? Number 1 -- and I guess  
18 let me speak to Mr. Essary.

19 MR. GRISWOLD: Sure.

20 THE COURT: Mr. Essary, how are you doing?

21 MR. ESSARY: Pretty good, Your Honor.  
22 Thank you.

23 THE COURT: Question: Do you perceive that  
24 Balboa is viable?

25 MR. ESSARY: It seemed to be viable before,  
26 and based on some of the numbers that Mr. Brinig and  
27 Ms. Webber have done on the operation is when SoCal  
28 was entirely a producing line. I honestly don't

1 think the current operators have been doing a good  
2 job. Obviously, I've stated that. I think that's  
3 part of the problem. I don't think it's as  
4 professionally run as it could be.

5           There are other -- as Mr. Henkes and his  
6 company said, there are other viable dispensaries in  
7 San Diego. There's demand. So I would like to try  
8 to run it with a different set of eyes and ears or  
9 maybe the same set of eyes and ears. I just think  
10 it needs to be changed.

11           THE COURT: This could be a loaded  
12 question, but I'm going to ask it. Do you still  
13 want to be the receiver with all this?

14           MR. ESSARY: I do, Your Honor, because I  
15 feel like I can make a difference and I honest -- no  
16 offense to the Court. I feel like I've been  
17 hampered a little bit in some of the things I  
18 normally do as a receiver. I have done a few in the  
19 past, and I've been patient with that, but I really  
20 would like to try to preserve these assets.

21           THE COURT: Number 2, what's your position  
22 if I cut out Mira Este? Should I do that or not?

23           MR. ESSARY: I'm not qualified to say that.  
24 I would say if there's any involvement of monies  
25 between the two or with Mr. Razuki currently right  
26 now -- I can ask Mr. Brinig to chime in. We really  
27 don't know what's going on up there, and that's not  
28 acceptable to me.

1           THE COURT: "Up there" meaning at  
2 Mira Este?

3           MR. ESSARY: Mira Este. I mean, we -- I  
4 get it right now. I'm approving some invoices and  
5 things. I really don't have any idea how much money  
6 they have, how much money they have spent. I have  
7 no -- very few financial reports. I'm not happy  
8 with how it's being operated under my receivership.  
9 If it stays in receivership, again, I would like to  
10 have more control.

11          THE COURT: Do you have a position on that,  
12 though? And I -- you don't have to have one.

13          MR. ESSARY: A position?

14          THE COURT: Of if I take Mira Este and take  
15 them out of the receivership.

16          MR. ESSARY: That's a legal decision for  
17 Mira. But if it's considered part of an asset, I  
18 think I could do a better job of making sure it's  
19 neutral, that they run neutrally.

20          THE COURT: Do you have any comment on  
21 that, Mr. Brinig?

22          MR. BRINIG: If I could back up one  
23 sentence, and I don't have an ax to grind or a dog  
24 to fight here, Your Honor. If San Diego Building  
25 Ventures is willing to invest money -- there's  
26 obviously a need for the investment of money. They  
27 did that in the past, and that was one of the major  
28 sources of funding. So I think that would be a



1 plus. I'm --

2 THE COURT: Well, when you say that, can I  
3 assume -- have the back taxes been paid?

4 MR. BRINIG: No, I don't believe so.

5 THE COURT: Is that -- how much is that? A  
6 hundred and --

7 MR. ESSARY: 175,000, approximately.  
8 That's related to Balboa, though, Your Honor. We  
9 just recently found out we have corporation issues  
10 on Mira Este with the California Cannabis Group.  
11 The corporation's expired due to nonfiling of taxes.

12 MR. GORIA: That's the nonprofit,  
13 California Cannabis Group, Your Honor.

14 MR. ESSARY: Which technically means that  
15 we're not operating legally, and I'm going to be  
16 attempting to fix that.

17 So again, what would I think? If you want  
18 to have good information and control, you need to  
19 keep me in charge of it and give me more control.  
20 If it's not that relevant to your decision,  
21 Your Honor, then you can carve it out.

22 THE COURT: All right. Let me just -- this  
23 Court has a great concern. But what I'm hearing,  
24 half the table says, Yes, it's viable. The other  
25 half says, Judge -- I'm real concerned about that.

26 MR. ESSARY: One of the other things I've  
27 noticed in this in talking both with SoCal and with  
28 the defendants too is the end game is not the

1 income. The end game is the sale. If it's shut  
2 down, you can't sell it, at least not without a fire  
3 sale.

4 If I can get it operating and where it's  
5 operating breaking even, then have you a more viable  
6 asset to sell if you need money to be able to  
7 enforce whatever you're going to enforce in your  
8 decision.

9 MS. AUSTIN: I -- from an expert's opinion,  
10 I have to say that the sale of dispensaries in  
11 San Diego county are -- is not relevant to whether  
12 they're operating or not operating. If they were  
13 doing a lot of revenue, at least a million a month,  
14 there would be a premium on it. But the most recent  
15 dispensary that hasn't even opened up yet,  
16 doesn't -- hasn't finished its entitlement and  
17 hasn't built out, sold for 7 million, Your Honor.

18 THE COURT: I assume the license is what's  
19 valuable.

20 MS. AUSTIN: The license is what's  
21 valuable, Your Honor.

22 THE COURT: And the last one sold for how  
23 much?

24 MS. AUSTIN: Seven million.

25 THE COURT: Mr. Brinig, you're going to get  
26 the last word, and then I'm going to move. I mean,  
27 I've got -- as you can see, I've got a whole  
28 courtroom. Anything you want to add?

1           MR. BRINIG: Well, the only thing -- I  
2 would absolutely concede my report is less than  
3 perfect. It always is. The changes that are  
4 proposed -- I won't respond specifically; I could,  
5 but I don't think the Court needs to hear it --  
6 don't materially move the needle even if I -- I went  
7 with all of them, and I don't agree with all of  
8 them. But anyway, so the basic big numbers don't  
9 dramatically change by any stretch of the  
10 imagination.

11           THE COURT: Okay. Thank you. Let's  
12 reconvene at 4:00.

13           (Brief recess.)

14           THE COURT: First of all, I apologize for  
15 the inconvenience. I booked it eight months ago,  
16 but it was a fun time. I must say it was a good  
17 group. But let's -- let me give you my thoughts  
18 first. We're going to take whatever -- does anyone  
19 have to be out of here at 5:00? Let's start with  
20 that.

21           So now we can slow down. We're going to go  
22 through these issues. Actually, I want to start  
23 with Mr. Brinig first, if that's all right, Counsel.

24           And I just want you to take your time and  
25 walk me through it. I've got two questions I will  
26 ask you at the end.

27           And then each counsel, take your time.  
28 Whatever time it takes, it takes. This is an

1 important decision that the Court has to make.

2 Are you just waving to me?

3 MR. MAHONEY: I wasn't able to make my  
4 appearance at the 1 o'clock session, Your Honor. I  
5 apologize. Matt Mahoney on behalf of nonparty  
6 Synergy Management Partners. We're here for  
7 whatever informational purposes you might need  
8 Synergy to --

9 THE COURT: I may have a question for you.

10 MR. MAHONEY: Thank you.

11 THE COURT: You're Synergy. You're Mira --

12 MR. GORIA: Mira Este.

13 THE COURT: See, I got it. I probably will  
14 have a question for you, Counsel.

15 MR. MAHONEY: And also, just a brief  
16 introduction. We have representatives from EdiPure  
17 and also Cream of the Crop. EdiPure is one of the  
18 manufacturers who's currently operating at the --  
19 Mira Este, and EdiPure is one of the manufacturers  
20 who has proposed to operate at the -- Mira Este.  
21 They're also here just for informational --

22 THE COURT: Thank you, whoever they are. I  
23 don't know who I'm looking at.

24 MR. MAHONEY: Sorry. Cream of the Crop is  
25 Mr. Milner and Mr. Goodman from EdiPure.

26 THE COURT: Gentlemen, thank you for  
27 appearing. I may have -- I'll wait and see.

28 MR. JOSEPH: May I grab a chair from the

1 jury box, Your Honor?

2 THE COURT: Sure. Matthew?

3 Where did he go?

4 THE CLERK: He stepped out.

5 Have you signed in?

6 MR. MAHONEY: I have not signed in. I will  
7 do so.

8 THE COURT: Yeah, pull up a chair and sit  
9 down.

10 Okay. Everybody good? Maybe you should --  
11 let's just -- if you feel comfortable, could I [sic]  
12 introduce everybody in the courtroom so I know who  
13 they are? Would that be too much?

14 MR. GORIA: Your Honor, that's Chris  
15 Hakim --

16 MR. HAKIM: Chris Hakim.

17 THE COURT: I know some of you.

18 MR. GORIA: -- Mira Este properties.

19 THE COURT: Yeah, yeah.

20 MR. MALAN: Ninus Malan.

21 THE COURT: I know you.

22 MR. MORRIS: Good afternoon, Your Honor,  
23 Chris Morris.

24 THE COURT: I know -- again, you represent?

25 MR. MORRIS: I represent Mr. Malan, but I'm  
26 monitoring the federal criminal matter.

27 THE COURT: Other issues. Got it, sir.

28 And you don't have to introduce yourself --

1 I just -- if you feel uncomfortable.

2 UNIDENTIFIED SPEAKER: I'll pass.

3 THE COURT: You can.

4 UNIDENTIFIED SPEAKER: Just a fly on the  
5 wall.

6 THE COURT: That's absolutely your right.  
7 And young lady, would you like to introduce  
8 yourself or not?

9 MS. GOODMAN: Betsy Goodman, the mother.

10 THE COURT: Okay. Thank you.

11 That's counsel, so I know counsel.

12 Sir, in the back.

13 MR. HICKMAN: Michael Hickman -- I'm here  
14 on behalf of RM Property Holdings. We haven't  
15 actually appeared yet.

16 THE COURT: RM Property.

17 Again, young lady, I know who -- I  
18 represent Montgomery Field business condominiums,  
19 which is where Balboa Ave. is operating.

20 THE COURT: And I may have some questions  
21 for you.

22 THE REPORTER: Can we get your name,  
23 please?

24 MS. HEXOM: Mandy Hexom.

25 THE COURT: So I thank everybody for  
26 coming. It's important and we're going to take our  
27 time. Okay. Everybody is here.

28 Should we do -- do you need appearances one

1 more time?

2 THE REPORTER: No. I think I've got it,  
3 Your Honor.

4 THE COURT: Okay. Let's go.

5 MR. BRINIG: Your Honor, what would you  
6 like to hear from me? I have a report that I  
7 believe --

8 THE COURT: I read your report.

9 MR. BRINIG: -- everyone has seen.

10 THE COURT: Okay. Here's my question.

11 MR. BRINIG: Yes, sir.

12 THE COURT: Let's talk about November 1 or  
13 2nd. That's 29 days ago.

14 MR. BRINIG: Yes.

15 THE COURT: Were there distributions made?  
16 Do you know what I mean? Were there?

17 MR. BRINIG: At that date --

18 THE COURT: Around that date.

19 MR. BRINIG: I can -- I think I can tell  
20 you. I --

21 THE COURT: What I want to know -- let  
22 me -- and I'll try not to --

23 MR. BRINIG: Let me be looking through my  
24 file here.

25 THE COURT: Were there distributions made  
26 to Mr. Malan --

27 What's your name again, sir?

28 MR. HAKIM: It's Hakim.

1 THE COURT: -- and Mr. Hakim monthly?  
2 Under the agreement, there were some payments to be  
3 made. Help me out here. Is that correct?

4 MR. GORIA: Your Honor, the payments or the  
5 distributions under the operating agreement were  
6 only of net profits. Now, going back to the time  
7 SoCal was in there, yes, but that was in May. But  
8 under the operating agreement, no, not on a regular  
9 monthly basis, just as net profits occur.

10 THE COURT: So I want -- correct me if I'm  
11 wrong, but let me hold back on the -- looks like  
12 25,000 a month. Am I on the right number?

13 MS. LEETHAM: Your Honor, I think --

14 MR. GORIA: That's the debt service.

15 MS. LEETHAM: -- that's Balboa.

16 THE COURT: Okay. So -- so what I want to  
17 know in my mind, in October or November, yes, were  
18 those distributions made, if you know, Mr. Goria?

19 MR. GORIA: There were no distributions  
20 made at all. The --

21 THE COURT: Okay.

22 MR. GORIA: -- 25,000 was for debt service  
23 that Mr. my client and Mr. Malan actually  
24 contributed to the company to keep it afloat.

25 THE COURT: Do you know the last time there  
26 was a draw under that agreement out of Mira Este?

27 MR. GORIA: I believe it was back in May,  
28 which was -- I think Mr. Brinig will confirm that.



1 THE COURT: Thank you. This is important  
2 stuff. I'm good. That's all I needed to know.

3 Do you want to say something else?

4 MR. BRINIG: No, Your Honor. I was  
5 looking --

6 THE COURT: Mr. Brinig, as usual, you're  
7 always very helpful to the Court.

8 Okay. Who wants to go next?

9 MR. GORIA: I'll go first.

10 MR. BRINIG: I'll go home.

11 THE COURT: You're useless now.

12 So here's what we're going to -- we're  
13 going to start on this side of the table and go that  
14 way, because this is on the Court.

15 MS. LEETHAM: I thought I was putting  
16 myself at the end here, but I'll go first.

17 THE COURT: You don't have to.

18 MS. LEETHAM: No. It's fine. I'm ready.  
19 I'm going to take the podium, though.

20 THE COURT: Absolutely.

21 MS. LEETHAM: I think we're each going to  
22 try to address different things, just not to take up  
23 all your time, so --

24 THE COURT: Let's make sure we have a good  
25 record.

26 MS. LEETHAM: Absolutely.

27 THE COURT: I know you will, Counsel.

28 MS. LEETHAM: So what I want to talk about

1 is information missing from Mr. Brinig's report, if  
2 not to -- I want to be careful about this. I'm not  
3 saying he did anything wrong, but we did not have  
4 the opportunity to give him information. And I  
5 don't want to mischaracterize it, so I'm going to be  
6 try to be careful about how I say this.

7           So I just want to make some notations for  
8 the record. So on page 1 of Mr. Brinig's report,  
9 which is attached as Exhibit A to receiver Michael  
10 Essary's second receiver's report, Mr. Watts has  
11 objected to. I had flagged the fact that the  
12 summary is intended to introduce the forensic  
13 accounting analysis that I've undertaken. That's  
14 the footnote at the bottom of page 1.

15           THE COURT: Uh-huh.

16           MS. LEETHAM: Something similar on page 2  
17 where he talks about having detailed schedules and  
18 the schedules are not included in the report.

19           Moving over to page 4 -- the numbers are at  
20 the top left of the page -- it says again at the  
21 bottom of the paragraph, "Summary of financial  
22 accounting. It should be noted that Schedule 3 is  
23 compiled from the best accounting data available  
24 from the management sources and is prepared without  
25 audit." And I want to flag that, because that's  
26 crucially important when you're dealing with  
27 forensic accounting of this magnitude.

28           Direct the Court's attention to page 6 --

1 and I'm talking too fast for the court reporter,  
2 please tell me -- there is a category at the bottom  
3 called "Other Possible Claimed Contributions."

4 "Further investigation is necessary to verify other  
5 possible contributions in both the amounts and the  
6 propriety of allowing credit to the contributing  
7 party."

8           Final page on 7, Mr. Brinig states he's  
9 issuing this report with the intention of -- while  
10 having numerous questions and comments about the  
11 data, and we absolutely do. And what I want to talk  
12 about is this net negative concept that has been  
13 notated in the report to my client, Mr. Malan, of  
14 approximately \$600,000.

15           What line item is that?

16           MR. BRINIG: That would be on Schedule 1  
17 in -- which is the -- the page after the end of the  
18 letter. So it starts with page 8, and it's -- under  
19 Malan, it's negative 628-. And then there's an  
20 additional contribution of 159,000 which is in  
21 Schedule 6. So he's negative 469,000.

22           MS. LEETHAM: So I want to focus on that.  
23 That figure right there is money from a cash-out  
24 refi of Mira Este. And what --

25           THE COURT: Go ahead. I'm processing.

26           MS. LEETHAM: Okay. It's important. So  
27 they took a second or a third --

28           THE COURT: They?

1 MS. LEETHAM: "They" meaning Mr. Hakim.  
2 Mira Este Properties -- let me be very accurate.  
3 Mira Este Properties took out a second loan on the  
4 property at 9212 Mira Este Court as a cash-out refi.

5 That money was split. My client received  
6 some or all of this amount, I believe, which he took  
7 and put back into the businesses, and that is not  
8 accounted for here. And we have not had the  
9 opportunity to sit down with Mr. Brinig and  
10 Ms. Webber and go through those figures, and I  
11 attribute much of that to my medical leave. We  
12 talked in the hall and --

13 THE COURT: I'm going to interrupt.

14 MS. LEETHAM: Yes.

15 THE COURT: Obviously, this is an issue I  
16 have to understand.

17 MS. LEETHAM: Yes.

18 THE COURT: Do you understand what she just  
19 said --

20 MR. BRINIG: Yes, I do, Your Honor.

21 THE COURT: -- about the second TV [sic]?  
22 Did you take -- just yes or no, did you that into  
23 account or not?

24 MR. BRINIG: I did. The money coming out  
25 is on one of the schedules that -- charged to him as  
26 money distributed to him.

27 MS. LEETHAM: As I understand it, the money  
28 was distributed, but it was not taken into account

1 the fact that it went right back into the  
2 properties, because we have not had an opportunity  
3 to give them that source documentation, loans,  
4 mortgage payment, insurance payments.

5 THE COURT: So she's saying out of that  
6 money, Judge, they re -- I'm going to say reinvested  
7 it. They paid bills. They did stuff like that with  
8 all that money. Do you know that?

9 MR. BRINIG: In fairness to the argument,  
10 Your Honor, Mr. Malan has indicated to me that he  
11 has some detailed information that he has not -- was  
12 not provided to me that -- and I would say I know  
13 I've considered some of this money going back in. I  
14 think I've considered all monies going in. There  
15 may be some moneys from these distributions that he  
16 spent towards the property that did not go in that  
17 should be considered.

18 THE COURT: Thank you. Do you have a  
19 chair?

20 MR. BRINIG: I do not.

21 THE COURT: Matthew, get Mr. Brinig a  
22 chair.

23 THE BAILIFF: (Complying.)

24 MR. BRINIG: Thank you, Your Honor.

25 THE COURT: Always. All right. Counsel, I  
26 understand that argument.

27 MS. LEETHAM: All right. And so my point  
28 to that is -- and it goes back to what I put in my

1 declaration that this is a serious impactful  
2 decision you're making today.

3 THE COURT: I know.

4 MS. LEETHAM: And our side of the table  
5 says that forensic accounting is incomplete and that  
6 you are attributing money and receipts in a way that  
7 doesn't allow my client to even paint the broader  
8 picture. So right now we're focused on the  
9 dispensaries, and we're focused only on Mira Este  
10 and only on Balboa. We have --

11 THE COURT: Go ahead.

12 MS. LEETHAM: Okay. Am I talking too fast?

13 THE COURT: No. It's just I want -- if  
14 you're starting to go down that path -- and,  
15 Counsel, you're representing your client. Never  
16 offensive to the Court. In fact, we all agree that  
17 there's a -- but when you start down that path of  
18 one must say to the judge, I haven't had an  
19 accounting, stuff like that, here's what my --

20 MS. LEETHAM: Okay.

21 THE COURT: It sounds like to me, Judge, we  
22 need a continuance so we can bring this over and do  
23 it. That's what that says to me, because we've got  
24 to analyze this and we've got to have input. I just  
25 want to -- is that what you're saying?

26 MS. LEETHAM: Yeah. I think we need time  
27 to consider it. I do. And if -- I can confer with  
28 him, but I understand what you're saying. And

1 that -- I guess in a way, that is what I'm saying,  
2 because it's so important, because you're going to  
3 make --

4 THE COURT: Give me an idea.

5 MS. LEETHAM: Of how much time?

6 THE COURT: Yeah.

7 MS. LEETHAM: Given the holidays are upon  
8 us --

9 THE COURT: Take a minute.

10 MS. LEETHAM: Can I --

11 THE COURT: Counsel, take a minute.

12 MS. LEETHAM: I guess it depends on  
13 Mr. Brinig's schedule too, because I know he's busy  
14 and Ms. Webber is busy. And obviously, it's very  
15 important to get it done as quickly as possible.

16 MR. BRINIG: May I comment, Your Honor?

17 THE COURT: I'm still trying to get a  
18 time frame, Counsel. Ballpark.

19 MS. LEETHAM: My gut reaction is 30 days,  
20 but we do have hearings on the 14th and the 21st. I  
21 don't know what Mr. Brinig's schedule is like. We  
22 have, like, five hearings coming up. We have the  
23 data now. We've compiled it. I think we've taken  
24 some of it. This part, I don't know. I'd have to  
25 confirm, but I think it's a matter of sitting down  
26 with them.

27 THE COURT: Real quick, and then -- what's  
28 on the 14th?

1 MS. LEETHAM: I have motions to consolidate  
2 two related cases.

3 THE COURT: That's easy.

4 MS. LEETHAM: And the bond hearing.

5 THE COURT: Ah.

6 MS. LEETHAM: That's a big one.

7 THE COURT: There we go. That's important.

8 And what about -- what's on the 21st? Who's that?

9 MS. LEETHAM: My motions to be relieved.

10 THE COURT: Oh, come on, Counsel. Hang in  
11 there.

12 MS. LEETHAM: Your Honor, Christmas is  
13 coming. I can't work for free.

14 THE COURT: I know. I got it. You got to  
15 do what you got to do, Counsel, but you will be  
16 missed and I'll say no more. Let's go on.

17 MS. LEETHAM: Hopefully, we can figure out  
18 something so it doesn't come to that.

19 THE COURT: Okay. So --

20 MS. LEETHAM: So yes, I am saying that.

21 THE COURT: What's today? Okay. Let's  
22 keep going.

23 MS. LEETHAM: Okay. So I guess I can end  
24 that argument and I can --

25 THE COURT: I get nervous when I have  
26 counsel standing. So do you want a chair too?

27 MR. MAHONEY: I've got a seat here. I'll  
28 take a seat.



1 THE COURT: If you can do that. That way,  
2 I can focus.

3 Let's go.

4 MS. LEETHAM: I have to focus now. I think  
5 you know where I'm going with this. I --

6 THE COURT: I do.

7 MS. LEETHAM: And I don't need to beat a  
8 dead horse, so I'll leave that issue.

9 A couple more things about the accounting  
10 report. One thing I want to highlight is Razuki is  
11 being given credit of 1.75 million to sell the  
12 dispensary business, just the business, to my  
13 client. So I don't know how you can sell a business  
14 and then retain equity in a business. So those two  
15 are absolutely contradictory.

16 So Razuki is being given credit for selling  
17 the dispensary to my client. But at same time, he's  
18 here suing my client to own the business that he  
19 sold to my client, and I haven't figured that one  
20 out yet. Just from a legal position, it doesn't  
21 make sense.

22 THE COURT: Isn't it alleged under some  
23 agreement?

24 MS. LEETHAM: There's a Bill of Sale that  
25 went through escrow, right.

26 THE COURT: Okay. You've read the  
27 pleadings. You know what I meant when I said that.  
28 Go ahead.

1 MS. LEETHAM: Yes. So anyway, I flagged  
2 that again. I flagged that again in the accounting.  
3 I'm focusing on the accounting just on a higher  
4 level, because it's so untraditional to sit there  
5 and have this done in this matter. Normally, it's  
6 adversarial. We have the whole litigation lifestyle  
7 to do it. I can depose Mr. Brinig. You know what I  
8 mean. It's a vetted process.

9 We haven't had the opportunity to  
10 understand the documentary support on this side. I  
11 have no idea what they gave. I have no idea what  
12 they relied. It's untested. And that's another  
13 thing I would like to sit down and talk to them  
14 about, and I think they can talk to me about that.

15 THE COURT: Get them, sure.

16 MS. LEETHAM: I just want to talk to them.

17 THE COURT: Fair enough. Go ahead.

18 MS. LEETHAM: Okay. And then what I want  
19 to talk about is SoCal. So SoCal is being credited  
20 for this amount of money. I don't have it at my  
21 fingertips. I think it's somewhere around  
22 2 million.

23 The interesting part about that is those  
24 were contractually obligated payments. I don't know  
25 why they're being counted as a contribution or an  
26 equity. There was a contract. They're required to  
27 pay it. They bought equipment. They were given the  
28 equipment back.

1           So to me, standing here, I don't know why  
2 they're even part of this argument. I don't know  
3 why that would play into the Court's decision,  
4 because they don't get that money back. They had to  
5 pay it. They had to pay it the whole time, and they  
6 were fired when they didn't pay it.

7           So why they have a dog in this fight, I  
8 don't know. I think that's extremely important to  
9 the Court's consideration, and it's extremely  
10 important to the report. So I guess in terms of the  
11 continuance, I don't know what that means in terms  
12 of your decision with the receiver, but I think it's  
13 necessary.

14           THE COURT: Give me -- Counsel, thank you.  
15 And you're Balboa, right?

16           MS. LEETHAM: I am Balboa.

17           THE COURT: I just want to make sure,  
18 because I made my notes. And your position on -- if  
19 I -- you don't break it down between Mira Este and  
20 Balboa, Judge, receiver done. No receiver at all.

21           MS. LEETHAM: No receiver at all. That's  
22 our priority.

23           THE COURT: Which one is -- what's Mr. --  
24 is it Singer? Who was it?

25           MS. LEETHAM: We do, Your Honor.

26           THE COURT: So if I -- so let -- so that's  
27 my thought pro -- so if you are going to stick with  
28 one, Judge, first of all, we don't want -- we

1 want -- is it Singer?

2 MR. WATTS: Singer.

3 MS. LEETHAM: Kevin Singer.

4 THE COURT: Okay. But your first position  
5 is, Judge, we don't want any of this?

6 MS. LEETHAM: Absolutely.

7 THE COURT: And again, I know I asked this  
8 question. Is Balboa resurrectible? I guess -- is  
9 that a good word? You know what I mean.

10 MS. LEETHAM: It works. I know what you  
11 mean. So I think we have to remember to look at  
12 Balboa in two pieces, because we have the  
13 manufacturing entitlement, which is currently a  
14 building that has five units with renters and  
15 tenants. So there's no construction or improvement  
16 that's started there to start that manufacturing  
17 facility, but we have the entitlement. That  
18 property doesn't need a receiver. There's tenants.  
19 There's rents. Like, there's nothing to be done  
20 there that requires the time and expense of the  
21 receiver. And we have Balboa.

22 And your question is loaded, because I  
23 would say no at this point. It's not viable. It's  
24 insolvent. It has tremendous debt. It has no  
25 inventory. It's been closed. It's been opened.  
26 It's been closed. It's been opened. It's at the  
27 point where I don't know what we do with it. And  
28 I've been its attorney for a long time. So --

1 THE COURT: I want to ask Ms. Austin a  
2 question.

3 MS. LEETHAM: Yeah.

4 THE COURT: Ms. Austin, give me a sense of  
5 what the license -- the status of the license at  
6 Balboa is.

7 MS. AUSTIN: Status. So --

8 THE COURT: Judge, it's --

9 MS. AUSTIN: -- are you bringing --

10 THE COURT: -- fine. It's good. Don't  
11 worry.

12 MS. AUSTIN: -- pieces of -- a variety of  
13 pieces of information.

14 At the local level, there's a conditional  
15 use permit that runs with the land. Ms. Hexom has  
16 another proceeding in another court where she could  
17 revoke that based on the settlement agreement.

18 THE COURT: Ms. Hexom is?

19 MS. AUSTIN: The HOA.

20 THE COURT: Got it. And she can revoke it?

21 MS. AUSTIN: Well, she could go back into  
22 court for breach of a settlement agreement, and the  
23 judge --

24 THE COURT: I'm waving for her to sit down.  
25 Go ahead.

26 MS. AUSTIN: We're both --

27 THE COURT: Okay.

28 MS. AUSTIN: So that's at the local level.

1 So the City would still allow the CUP to stand, but  
2 there's a civil dispute between those two.

3 At the state level, the -- it is currently  
4 good, operational. The state doesn't have any  
5 problems with it as it stands today. They have got  
6 a temporary permit that expires sometime, I believe,  
7 in February or so, which will then turn into a  
8 provisional permit and will -- they'll go down that  
9 path of -- or the new regulations will come out, and  
10 we'll figure out what the world's going to look like  
11 in January.

12 THE COURT: But right now Balboa's license  
13 is good, if I can use --

14 MS. AUSTIN: It's good.

15 THE COURT: -- that term?

16 Ms. Austin, thank you.

17 Anything else?

18 MS. LEETHAM: I don't believe so,  
19 Your Honor, at least not on -- not on my side.

20 THE COURT: Is the whole firm -- is it just  
21 you or is it the firm?

22 MS. LEETHAM: It's the firm and --

23 MS. AUSTIN: I'm going to address a few of  
24 those things.

25 MS. LEETHAM: Yeah. It's, unfortunately, a  
26 casualty of the insolvency.

27 THE COURT: No, I got it.

28 MS. LEETHAM: Thank you.

1           THE COURT: We're just going to go across  
2 the table.

3           MS. AUSTIN: I'm -- I'd just like to  
4 address a few things that -- almost a -- preemptory  
5 arguments for what I expect to come and what I  
6 think -- I think personally -- and I've talked to my  
7 client out in the hallway right before this -- is a  
8 solution that should be out on the table.

9           So first, I want to address the issue of  
10 California Cannabis Group and it not being --

11          THE COURT: And they are?

12          MS. AUSTIN: That is the nonprofit entity  
13 that is us, is Ninus. It is the entity that is  
14 licensed by the State of California that currently  
15 was notified somewhere somehow. We found out that  
16 the notice came out on November 1st that the  
17 Secretary of State had suspended their business  
18 tax return -- business license for failure to file  
19 tax returns for the 2016 and 2017 tax year.

20          THE COURT: And that is suspended as -- as  
21 of --

22          MS. AUSTIN: As of this moment.

23          THE COURT: Thank you.

24          MS. AUSTIN: So I sent an information  
25 e-mail to the receiver and to his attorney with the  
26 steps that we identified would need to be taken  
27 talk -- speaking to the State in order to reinstate  
28 it.

1           I believe the tax returns that are  
2 delinquent have already been paid for to be filed by  
3 Mr. Yeager. It's our understanding that they  
4 weren't actually filed. Well, the State says they  
5 weren't filed. I don't know whether they were  
6 prepared or not, but that's the status of the  
7 California Cannabis Group. So it's not something  
8 that is insurmountable. My understanding it's --  
9 Was that around 5- or \$6,000 to reinstate it?  
10 Something like that. We get that back. So that's  
11 the first thing.

12           The second thing is that -- this idea of  
13 insolvency and what is viable. Is it viable? Is it  
14 not viable? Separating Balboa from Mira Este,  
15 separating Balboa from the rental units. Is it a  
16 viable entity? Would somebody buy it? Should we  
17 sell it? Should we resurrect it? What should we do  
18 with this?

19           I spent a lot of time thinking about this,  
20 and I thought what if I was in your shoes? What I  
21 would I do? How would I resolve this? You've got  
22 our side saying, Get the receiver out. It's  
23 miserable. We're all going to fail.

24           Their side's saying, No, we'll come in.  
25 We'll come in. We can solve it. In fact, I believe  
26 counsel for SoCal said they're willing to put a  
27 million dollars in right now.

28           So I talked to my client, and he said, Hmm,



1 SoCal wants to come in. They want me out. I want  
2 out, because I haven't been paid. And they want to  
3 come in and they want to put a million dollars in.

4 Mr. Malan said he's willing, on the Balboa  
5 piece of it, to go ahead, let them put the million  
6 dollars in, let them pay all the backstanding  
7 expenses, reinstate that management agreement. Let  
8 them have the --

9 THE COURT: Reinstate with who?

10 MS. AUSTIN: With SoCal --

11 THE COURT: I got it.

12 MS. AUSTIN: -- with their option.

13 Reinstate that -- let -- all of the terms of that  
14 agreement. Mr. Malan continues to get paid. They  
15 continue to go on their merry way running the  
16 operation. I don't have to do anything anymore on  
17 that -- on the Balboa operation. Everybody works  
18 out handy -- they want the receiver? They want to  
19 operate it under it? Great. He's agreed to allow  
20 that to happen.

21 So that's something for Your Honor to think  
22 about while we're in this process. I wanted to put  
23 it out here early. Maybe it works. Maybe it  
24 doesn't, but at least we're on the same page or  
25 we're close to the same page at this point. It's  
26 something to throw out there.

27 As far -- with that, Mira Este -- that's  
28 its own -- Mr. Hakim has all this interest in it,

1 and so Mr. Malan would not want that piece being  
2 part of the receivership. It -- we've got currently  
3 in the courtroom Mr. Goodman, who is currently  
4 operating EdiPure there today, went and did a --

5 Mr. Goodman, raise your hand.

6 THE COURT: This is --

7 MS. AUSTIN: We -- I went and did a  
8 compliance check on Wednesday of this week at the  
9 facility to determine whether or not, as we're  
10 filing the state applications, they are in  
11 compliance.

12 You know, there's always things that can be  
13 improved upon, but they are doing what is supposed  
14 to be done. They're there. They're operating.  
15 It's not a phantom business model. And I felt  
16 comfortable with that in the further representations  
17 I had to make to the State.

18 I then spoke with Dustin, which is --

19 THE COURT: Raise your hand. Thank you.

20 And he is --

21 MS. AUSTIN: Last name Miller, which is --  
22 he's -- the brand is Cream of the Crop and the name  
23 of the company is Good -- Better Than Good? Better  
24 Than Good. And they're willing to come in and do  
25 the same similar separation at the Mira Este  
26 facility. We have a site plan. The State would  
27 allow that to happen.

28 And Synergy itself has a brand that they're

1 willing to put in. It's their prerolls, and you  
2 just mush up a bunch of trim and stick it in a joint  
3 and sell it. So that -- and they can do that, and  
4 they can make money there too.

5 So those three operations, in and of  
6 themselves, I think if they were all going, would  
7 make Mira Este a very viable situation.

8 THE COURT: All three them?

9 MS. AUSTIN: They would all three operate  
10 within the same building. This is a very large  
11 building.

12 How many square feet is it?

13 UNIDENTIFIED SPEAKER: Sixteen thousand.

14 MS. AUSTIN: Sixteen thousand square feet.  
15 And so each one takes --

16 THE COURT: I'm going to ask the three of  
17 you, not now, if that's viable in your world. And I  
18 don't know your names.

19 But, Mr. Milner, Synergy? You're Synergy,  
20 right?

21 MR. MAHONEY: I'm Synergy right here,  
22 Your Honor.

23 THE COURT: Okay. Who's -- and who's Cream  
24 of the Crop?

25 MS. AUSTIN: Right there.

26 THE COURT: And then who's the other third  
27 party here?

28 MS. AUSTIN: EdiPure.

1           THE COURT: Think about that, gentlemen.  
2 I'm going to want some input on that.

3           MS. AUSTIN: And so it -- and I know that  
4 there have been representations we have to get  
5 Synergy out. They're doing a terrible job.  
6 Mr. Essary represented he could run it better if he  
7 had more controls.

8           And I don't -- I mean, I've been in the  
9 cannabis space for a little over six years, and that  
10 is a really long time in the cannabis space. I  
11 don't believe, truly do not believe, that there is a  
12 possibility that someone without cannabis experience  
13 could come in and make sure that you're in  
14 compliance; that the right people are in there; that  
15 they're doing the right thing; that the State's not  
16 going to come in and shut them down. It's a very  
17 complicated space.

18           And as Dustin represented to me -- you  
19 know, when he came in -- I said, "Oh, I represent  
20 those -- that group too."

21           And he's like, "I think you represent at  
22 least half of the people here in San Diego in the  
23 cannabis space." And we do, and we understand the  
24 business.

25           So I think it would be a grave mistake if  
26 the Court took out Synergy and put somebody else in  
27 there or removed our compliance division from  
28 helping Synergy and Mira Este continue to move

1 forward. So those were the things that I had to  
2 say.

3 THE COURT: Question, I was thinking as I  
4 was writing about your comment, is the license alone  
5 at Balboa -- let's say the business goes down. But  
6 that license loan, is it sellable for \$7 million?

7 MS. AUSTIN: So there's -- there's a lot of  
8 hoops you have to jump through to make it work,  
9 but -- so we've got to notify the State. We've got  
10 to do all those things we had to do. But doing all  
11 those things, yes, there is -- if there's a willing  
12 buyer. I mean, this facility is tainted. The very  
13 first owner committed suicide, right.

14 THE COURT: I saw that.

15 MS. AUSTIN: So there's a lot of -- there's  
16 a lot of bad juju on this.

17 THE COURT: But I also assume there's a lot  
18 of money to be made.

19 MS. AUSTIN: There's a lot of money to be  
20 made, so I believe you could get a buyer in there  
21 for -- and that -- and that price is really very  
22 similar to what SoCal's option was, 3 1/2 -- 3 1/2  
23 million for 50 percent.

24 THE COURT: Counsel, you've been very  
25 informative. Thank you. Let me interrupt.

26 SoCal, is this the first time you've heard  
27 of that proposal?

28 MR. FULLER: They mentioned it in the

1 hallway a few minutes before the hearing.

2 THE COURT: I'd like you to start  
3 processing that now. When it gets to you, Judge,  
4 not viable, is viable, whatever.

5 MR. FULLER: Sure.

6 THE COURT: Just try to think about it. I  
7 appreciate that.

8 MR. FULLER: Thank you, Your Honor.

9 THE COURT: All right. Let's hear from  
10 Mira Este, and I said it right.

11 MR. GORIA: Your Honor, I almost feel like  
12 I'm shooting in the dark because I don't know what  
13 the Court is considering as being important,  
14 relevant to this -- to the issue of the removal of  
15 the receiver.

16 THE COURT: Is -- well, I can help you  
17 there. Is Mira Este truly viable on its own?

18 MR. GORIA: Absolutely, yes. Absolutely.

19 THE COURT: Okay. Now I'm getting into the  
20 legal part, but I'll go ahead and ask it anyway.  
21 Does Mr. Razuki have any type, under any theory, of  
22 an interest in Mira Este?

23 MR. GORIA: Well, Your Honor, they have  
24 alleged that under their agreement --

25 THE COURT: With?

26 MR. GORIA: -- forming RM Holdings with  
27 Mr. Malan --

28 THE COURT: There we go. That's my

1 question.

2 MR. GORIA: -- did they have a --  
3 RM Holdings, right, has a 50 percent interest in  
4 Mira Este along with Mr. Hakim. Nobody has  
5 challenged Mr. Hakim's ownership interest. But the  
6 RM Holdings combo, if you will, is made up, as  
7 understand it, of Mr. Razuki and Mr. Malan.  
8 Mr. Razuki has a three-fourths interest in  
9 RM Holdings.

10 So that's why I had suggested that if the  
11 Court was concerned about protecting the rights of  
12 Mr. Razuki in the net profits, which we believe will  
13 occur at Mira Este as soon as the receiver's out, we  
14 have -- as we've said over and over again, we have a  
15 list of manufacturers who want to go in there. We  
16 believe it will be profitable. We believe there  
17 will be net profits.

18 And to account for Mr. Razuki's alleged  
19 position, we would be willing to abide by the  
20 Court's order to set aside 37 1/2 percent of the net  
21 profits at Mira Este, put it into a blocked account.  
22 We'd even go so far as, if the Court were willing to  
23 make that decision to get the receiver out, to just  
24 pay the 37 1/2 percent over to Mr. Razuki.  
25 That's --

26 THE COURT: Well, I won't do that.

27 MR. GORIA: Yeah. So --

28 THE COURT: But hold on.

1 MR. GORIA: -- we just need the receiver  
2 out, because we have this list of manufacturers who  
3 will not --

4 THE COURT: And who are they?

5 MR. GORIA: Well, I --

6 THE COURT: Give me two.

7 MR. GORIA: Well --

8 MS. AUSTIN: Since I'm the one who's  
9 dealing with it --

10 MR. GORIA: Go ahead.

11 MS. AUSTIN: But we've got -- 2020 and  
12 Better than Good are two of them right now.

13 THE COURT: I just want to make sure.  
14 Thank you. And let --

15 MR. GORIA: And --

16 THE COURT: Go ahead.

17 MR. GORIA: And the Court --

18 THE COURT: When you say -- let me  
19 interrupt. And I -- I don't mean to be rude. Okay.  
20 When you say, Judge, we'll give 37 1/2 percent of  
21 the profits, when has Mira Este ever been  
22 profitable?

23 MR. GORIA: The answer is yes, to the  
24 extent that you consider SoCal's management fees to  
25 constitute income. SoCal paid -- under their  
26 management agreement, they were obligated to pay  
27 \$110,000 per month, which they did until May of this  
28 year. They stopped paying as of May of this year.



1           So the 110- per month for about seven  
2 months is what they paid. So if you want to  
3 consider that as income and the net profits, yes,  
4 that accounts for the distributions that Mr. Brinig  
5 talked about lasting up until May of this year. It  
6 was all made up of SoCal's management fees that they  
7 were paying.

8           Has Mira Este been profitable on its own  
9 aside from SoCal? No, but we believe we can do it.  
10 There's enough interest among these manufacturers to  
11 fill the Mira Este facility.

12           And the Court had inquired about whether  
13 there are two or three of the current manufacturers  
14 that can share the place. It's a 16,000-square foot  
15 facility, and there are -- there is room in that  
16 facility for at least four manufacturers at 4,000  
17 square feet a piece.

18           And I don't think EdiPure was ever under  
19 the impression that there -- that they would be the  
20 only one or that there would be a limited number. I  
21 think that EdiPure and probably Cream of the Crop  
22 knows that there may be other manufacturers there.  
23 Synergy would be another manufacturer.

24           So we think we can fill -- Synergy is both  
25 a manager and a manufacturer who would be selling  
26 their own products and giving a percent of the --

27           MS. AUSTIN: Pretty awesome.

28           MR. GORIA: -- proceeds to the Mira Este

1 Properties, LLC.

2 THE COURT: Got it.

3 MR. GORIA: So we think that it's certainly  
4 better than shutting it down. We think we can make  
5 a go of it, but not with the receiver. With the  
6 receiver in there, we can't get the people in.

7 THE COURT: I understand.

8 MR. GORIA: Okay. I spoke with Mr. Brinig  
9 out in the hall, and he confirmed that over the last  
10 three or four months since the receiver has been in  
11 there, Mira Este has lost \$132,000. The only basis  
12 for debt service being made is from Mr. Hakim and  
13 Mr. Malan's pocket. They're the ones that are  
14 supporting Mr. Mira Este right now. No  
15 contributions from Mr. Razuki. Let's see. Again,  
16 if the Court has any questions --

17 THE COURT: I do not, Counsel. I got your  
18 issue.

19 MR. GORIA: Okay. Thank you.

20 THE COURT: Finally, and remind me who you  
21 represent.

22 MR. WATTS: I am Daniel Watts. I represent  
23 Ninus Malan and American Lending and Holdings.

24 THE COURT: Gotcha. Go.

25 MR. WATTS: So I usually talk about the  
26 law, so I wanted to talk about -- I can -- we've  
27 sort of put the cart before the horse when we talk  
28 about should the receiver be kept. The receiver

1 should not have been appointed in the first place  
2 and should now be dismissed.

3           The receivership statute is jurisdictional.  
4 The Court does not have jurisdiction to appoint a  
5 receiver unless the plaintiff proves that they have  
6 a property interest that's at stake that's at --  
7 that's -- they're going be to irreparably harmed  
8 without a receiver and the likelihood of success on  
9 the merits.

10           The case that we cited in our brief before  
11 the November 16th hearing, Rundos vs. Superior  
12 Court, was very on point. It talked about two  
13 partners that owned this thing called the Stork  
14 Club. This guy Rundos owned -- and somebody --  
15 Caesar, they had the Stork Club. They made an  
16 agreement that they were going to transfer Stork  
17 Club, part of it, to somebody else and then put it  
18 into a holding company that was basically a  
19 partnership. However, there's a condition precedent  
20 to that transfer. There had to be a transfer of the  
21 liquor license that had to occur.

22           Now, they -- one party sued the other for  
23 not transferring the -- his shares in the agreement  
24 in the -- in Stork Club to a holding company, just  
25 like this case where one party sued the other for  
26 not transferring their shares. But on appeal, the  
27 Court said, by expressed of the contract, title of  
28 Caesar's interest was not to pass until the

1 condition precedent was set. So the license was  
2 transferred.

3 Here, in their opposition to our ex parte  
4 application where we asked for a receiver to be  
5 appointed over Sunrise, they say Malan has a  
6 questionable property interest, at best. Under the  
7 settlement agreement and the oral agreement, Malan  
8 is entitled to 25 percent of the profits and losses  
9 of all the assets mentioned after Razuki has -- they  
10 use the word -- recuperated his initial investment.

11 Given the findings from Brinig, it's clear  
12 Razuki is not (unintelligible) --

13 THE REPORTER: Can you slow down, please.  
14 I didn't understand the end.

15 MR. WATTS: That Brinig -- that Razuki has  
16 not recouped his initial investment; therefore,  
17 Malan is currently entitled to nothing.

18 That same clause applies to Mr. Razuki's  
19 interest. Mr. Razuki is entitled to 25 --  
20 75 percent of the profits and losses of RM Holdings.  
21 He is not entitled to those profits and losses until  
22 Razuki recoups his initial investment and Malan  
23 recoups his initial investment and other condition  
24 precedents are satisfied.

25 It says in the agreement in Section 1.2  
26 that they need to be paid their initial investments.  
27 It says in Section 2.1 that within 30 days,  
28 Mr. Razuki has to transfer his shares in Sunrise and

1 Super 5 to a holding company. He didn't do that  
2 within 30 days. It says within 30 days, both  
3 partners have to perform an accounting of their cash  
4 investments in the property and then execute an  
5 amendment to the transfer agreement. That's  
6 Section 2.2. They have to do that within 30 days.  
7 They didn't. Mr. Razuki didn't even start doing  
8 that.

9 They have to -- and then Section 4.13 says  
10 that time is of the essence for all of these.  
11 Within 30 days, all of these things are supposed to  
12 be done. These are all conditions of precedent.  
13 None of them were satisfied.

14 In Rundos vs. Superior Court, the Court  
15 overturned the Trial Court's decision and said, No,  
16 he -- the -- he has no property interest. The  
17 receiver was improper.

18 They also granted a peremptory writ in that  
19 case in a companion case, Rundos vs. Superior Court,  
20 when the Court did not set an appellate bond upon  
21 application, and not noticed motion, but upon  
22 application.

23 So the statute is jurisdictional. They  
24 held the Trial Court didn't even have jurisdiction  
25 to appoint the receivership, because under those  
26 circumstances where two parties claim interest in a  
27 holding company, rather than the Stork Club itself,  
28 and the conditions precedent didn't happen to get

1 those interests transferred to the holding company,  
2 they had no property interest in there at all. So  
3 the Court had no jurisdiction to appoint a receiver.  
4 That's exactly what's happening here.

5 If you read the complaint, accept  
6 100 percent of what they say is true, they have the  
7 right to the losses of RM Holdings once conditions  
8 precedent had been satisfied. And they haven't, so  
9 there's no likelihood of success on the merits.

10 Now, they say there's an oral agreement  
11 that was somehow more expansive. But if you read  
12 the transfer agreement, it says in there that it  
13 supersedes all oral agreements and that it  
14 incorporates -- that that writing is the only  
15 agreement between the parties. There is no oral  
16 agreement. They say there is, but there's a -- the  
17 truthful -- truthful pleading doctrine, if you've  
18 got a contract attached to the complaint that is  
19 specific and says something that contradicts one of  
20 the allegations, then the contract is what takes  
21 precedence.

22 You also have the problem that testimony  
23 from Mr. Razuki -- in March of this year, he was  
24 asked, "San Diego United Holding Group is  
25 Mr. Malan's company, correct?"

26 And he said correct.

27 "Did you help him set that up?"

28 And he asked, "What do you mean by 'help

1 him?'"

2 "Help him set that company up."

3 Mr. Razuki said no.

4 They asked him, "Do you know how he did  
5 it?"

6 And he said no.

7 And they asked, Does Mr. Malan owe you or  
8 his -- or your companies any other money?

9 And he said, I don't know. I can't -- I  
10 can't recall.

11 This is in March of this year, March of  
12 2008 [sic], just a month before we started talking  
13 to SoCal and got them to stop paying Mr. Malan. So  
14 the allegations in his -- in his complaint cannot be  
15 trusted because it's -- it says right here he  
16 doesn't own San Diego United and that Mr. Malan owes  
17 him no money.

18 So that's the likelihood of success that  
19 the -- and the property interest. The -- we also  
20 have the problem that there are cooperatives that  
21 are in receivership that are not part of the  
22 contract, that are not mentioned in the -- in  
23 Mr. Razuki's complaint, that are nonprofits. Balboa  
24 Ave. Cooperative, Devilish Delights, California  
25 Cannabis Group -- those companies shouldn't be in  
26 receivership.

27 Mr. Razuki does not claim that RM Holdings  
28 has a property interest in them or that he has a

1 property interest in them. No one in this case has  
2 a property interest in them except for their  
3 members. They are member-owned and operative --  
4 operated nonprofit collectives.

5           Whether they own the title or the licenses  
6 or the permits at these facilities to make money is  
7 irrelevant to whether a receiver can be appointed  
8 over them, because they're not anyone's property.  
9 They don't -- no one on this side of the table has a  
10 property interest in them. The only people that do  
11 are the members. Mr. Malan is a member. They are  
12 not, and so they can't be in receivership.

13           If you split them, does the Balboa  
14 dispensary, as an overall entity -- does it have a  
15 problem continuing to operate? I don't know. Maybe  
16 it does. But you have these companies -- San Diego  
17 United Holdings Group also has land, and so it is --  
18 it's an LLC. And its sole purpose can't be to sell  
19 cannabis, because it can't do that. The  
20 member-owned cooperatives are the only ones who can  
21 have a license to do that.

22           So if you put San Diego United in a  
23 receivership and release Balboa Avenue Cooperative,  
24 at least Razuki has claimed some kind of interest --  
25 some property interest in San Diego United, but he's  
26 claimed no interest at all in Balboa Avenue  
27 Cooperative, Devilish Delights, or California  
28 Cannabis.



1           So those cooperatives need to be released  
2 from the receivership because the Court doesn't have  
3 jurisdiction to put them in there because they're  
4 not anybody's property, except for their members.  
5 No one has an interest in them.

6           The likelihood of irreparable harm? We've  
7 had months of accounting and receivership control  
8 over the assets. You've heard today that Mr. Malan  
9 has not taken any withdrawals since May. Nobody's  
10 spending money on frivolous things.

11           Mr. Gorla said -- and this is in the  
12 declarations too -- that the draws that were taken  
13 before May were the management fees that SoCal was  
14 contractually obligated to pay. There's not any  
15 evidence of wrongdoing by any of the clients.  
16 There's not any evidence that they are -- that our  
17 clients are trying to destroy the businesses or get  
18 rid of them or do anything problematic with them.

19           And the receiver itself is not protecting  
20 the assets. It is destroyed them by imposing  
21 25 percent overhead that wasn't there before and  
22 complicating their contracts with third parties that  
23 are willing to step in and grow the business. But  
24 with the receiver there, it's a problem for them.

25           The receiver's job is to protect the  
26 property and -- and they have argued in their  
27 pleadings it's literally impossible for the receiver  
28 to harm these businesses because his job is to

1 preserve them.

2 That's correct. His job is to preserve  
3 them. But in this case, he can't. He's hurting  
4 them because of the overhead. Even if he's trying  
5 his best, he's still hurting them because he's  
6 charging them money. And other people don't want to  
7 do business with them when you have a  
8 court-appointed receiver over a cannabis business.  
9 So in this case, it's not helping.

10 They -- a receiver is an equitable remedy.  
11 One must have clean hands when you come into court  
12 seeking an equitable remedy and must maintain clean  
13 hands the entire time.

14 The probable cause statement says that  
15 they -- that the plaintiff tried to hire a hitman  
16 because we filed an appeal in this case, because  
17 they wanted to get loans against the cannabis  
18 businesses and this case was interfering with it.

19 Sylvia Gonzales said that she was hiring a  
20 hitman to kill Ninus because there was a hearing  
21 coming up on or about November 15th, 2018, where  
22 this Court was going to make a decision and it  
23 needed to be done before then. These were actions  
24 that were taken and that -- the evidence of it is  
25 undisputed. They have submitted no declarations  
26 disputing this. None.

27 My client was taken into FBI protective  
28 custody for his own safety by the FBI. The U.S.

1 Attorney prosecuted their client. Their client is  
2 in prison, tried to get out on bail. He's -- bail  
3 was posted at 800,000. The evidence that Judge  
4 Mandabach found clear and convincing enough to issue  
5 a five-year restraining order against him shows that  
6 they came into this court not just with unclean  
7 hands, but with hands that they tried to stain with  
8 blood, but ended up failing at it. Thank goodness.  
9 But you cannot get equitable relief if your hands  
10 are not clean.

11 We have them lying under oath about  
12 whether -- or perhaps telling the truth, saying that  
13 they have no interest at all in San Diego United.  
14 We have them trying to hire some -- hire gang  
15 members to intimidate my client -- that's also in  
16 the restraining order -- at his taco shop to try to  
17 coerce him into settlement. We have them hiring the  
18 hitman.

19 And this isn't just my opinion. Judge  
20 William Gallo signed off on the probable cause  
21 statement. They -- the -- another judge sat over --  
22 Mr. Morris can explain what went on there, but it's  
23 not just me that's saying this.

24 They -- we don't have control over the FBI.  
25 Remember Mr. Elia accused us of using this as a  
26 ploy. I don't recall the FBI. I don't control the  
27 U.S. Attorney. They make their own decisions. They  
28 have made decisions that their client tried to kill

1       ours because of the receivership, because of the  
2       appeal, because of us resisting this lawsuit.

3               So you can't have equitable relief. It  
4       needs that -- he shouldn't -- he shouldn't be able  
5       to profit from his misdeeds. And it's specifically  
6       related to this case. That's why we filed a 128.5  
7       motion, because it's -- the ultimate bad faith  
8       litigation tactic is trying to murder the other  
9       side.

10              And even if you don't believe anything that  
11       I just said, if you take none of this -- if you  
12       think that they're completely right on the law and  
13       the facts, you still have our ex parte application  
14       to put the Sunrise companies into receivership.

15              This Court said that you were reluctant to  
16       put them in the forensic accounting early because  
17       they weren't represented. They're now represented.  
18       They have been served. All of them have been  
19       served. They've -- proof of services were on file.  
20       They're also in our -- in our briefing.

21              The Sunrise entities, if they're -- if they  
22       say that our client breached the agreement by not  
23       putting his stuff into the holding company -- so did  
24       their client. They don't mention that at all in  
25       their complaint. They just totally ignore that they  
26       had to contribute Sunrise and Super 5 to the holding  
27       company, and they didn't do that.

28              And so if Razuki has a probability of

1 success on his claims, so does Ninus Malan. Look,  
2 we don't think that they do have a probability of  
3 success, because the contract is void. It deals  
4 with marijuana dispensaries, and it was signed in  
5 November of 2017 when public policy made those  
6 contracts void.

7           The contract was rescinded in January.  
8 Mr. Razuki said in March that he has no property  
9 interest in San Diego United. But if we believe  
10 them and them only, then the contract is valid and  
11 both parties were supposed to do these things, put  
12 their money and assets into a holding company, and  
13 they didn't do it.

14           And we have a probable cause statement  
15 showing that Sunrise -- we don't know anything about  
16 their accounting. It's completely opaque. We  
17 know -- we suspect that Razuki is getting money from  
18 Sunrise, because the company is still operating.

19           But what we also know is that a thousand  
20 dollars of the money was used to try to hire someone  
21 to kill our client. And that thousand dollars,  
22 according to their own theory of the case,  
23 25 percent of that belongs to my client. So \$250 of  
24 his own money was used to try to murder him -- to  
25 hire someone to murder him. That can't happen. And  
26 if a receiver were in charge, it wouldn't happen.

27           They submitted two declarations saying that  
28 it didn't happen. I'd object to those because the

1     guy that declared didn't even name the right  
2     companies.     He said he's -- it's by Sammy Younan  
3     and Masso Yussef.     He says that he's a member of  
4     Sunrise Properties, LLC, which is not a party to  
5     this case.     The other guy says Sunrise Properties,  
6     LLC, and Super 5 Consulting, LLC.     Neither of those  
7     are parties to this case.

8             The parties to this case are Sunrise  
9     Property Investments, LLC, a different LLC, and  
10    Super 5 Consulting Group, LLC.     But these are  
11    also -- the entities they described are owned by  
12    someone named Luning Chen in Alhambra, California.

13            So I have the relevance that this case is  
14    questionable at best.     But we have a probable cause  
15    statement, multiple findings by multiple judges that  
16    this probably happened, that they probably tried to  
17    kill my client, and they probably tried to do it  
18    using money from Sunrise.     So if there's any  
19    equities here that weigh in anyone's favor, the  
20    Court should, out of abundance of caution, appoint  
21    Kevin Singer, who is an expert at cannabis law, to  
22    run the Sunrise dispensary.     We have no prior  
23    arrangement with him about who he can hire or not  
24    hire.     We've talked to him and know that he can be  
25    hired, but unlike --

26            THE COURT:     To run Sunrise?

27            MR. WATTS:     To run Sunrise, to run Sunrise.  
28    I mean, he can hire whoever he wants, you know,

1 consistent with his fiduciary duties.

2 THE COURT: So you want me to expand? Is  
3 that what I'm understanding you just said?

4 MR. WATTS: No. I -- expand?

5 THE COURT: The receiver. You want me to  
6 appoint another receiver to do Sunrise.

7 MR. WATTS: Our --

8 THE COURT: Did you just say that?

9 MR. WATTS: If you keep -- Your Honor, if  
10 you keep the receiver in place over Balboa,  
11 Mira Este, and these others under this transfer --

12 THE COURT: Right.

13 MR. WATTS: -- agreement, because you  
14 believe that that agreement survives, then you  
15 should and I argue must put it over the other  
16 entities that are named in their complaint and our  
17 cross-complaint, Sunrise.

18 THE COURT: So you want me to expand it?

19 MR. WATTS: Option 1 is to get rid of the  
20 receiver.

21 THE COURT: Uh-huh.

22 MR. WATTS: Option 2 is to put Kevin Singer  
23 in place as the receiver, substitute in the expert,  
24 somebody who has a lot of experience with this, and  
25 have him get control of the Sunrise entities.

26 THE COURT: Let's make very clear what  
27 you're saying. Substitute the receiver in for all  
28 the entities or just for Sunrise?

1           MR. WATTS: I would like our companies to  
2 be released from the receivership, Kevin Singer,  
3 appointed receiver over Sunrise entities only.

4           THE COURT: I understand.

5           MR. WATTS: If -- but if you keep the --  
6 our companies in receivership, any of them, we would  
7 still like Kevin Singer to be appointed --

8           THE COURT: Got it.

9           MR. WATTS: -- because Mr. Essary is not an  
10 expert in this area.

11          THE COURT: Okay.

12          MR. WATTS: And that's it for me.

13          MR. GORIA: Your Honor, before we leave  
14 this side of the table, I would just like to respond  
15 just about ten seconds to give the Court a further  
16 answer about what entities, what manufacturers, were  
17 dissuaded from going into Mira Este because of the  
18 existence of the existence of the receiver. The  
19 Court asked me --

20          THE COURT: I did.

21          MR. GORIA: -- to name two. Let's see. I  
22 didn't have that at the tip of my mind or tip of my  
23 tongue right there before. But now, according to  
24 the declaration of Jerry Baca, we have Conscious  
25 Flowers had negotiated but discontinued when they  
26 found out that there was a receiver. Same thing  
27 with Eureka Oil. Same thing with Bomb Extracts.  
28 Same thing with Ten-X. Same thing with Cannabis



1 Pros. Same thing with Royal Vape. Same thing with  
2 LOL Edibles. Same thing with Extreme Vape. Same  
3 thing with Bloom Farms, and same thing with Cannabis  
4 Presidents (phonetic). All of them discontinued  
5 negotiations as soon as they found out that the  
6 receiver was there.

7 THE COURT: Thank you, Counsel.

8 What's the status of the appeal?

9 MR. WATTS: The appeal has been filed. The  
10 filing fee has been paid. The -- we filed the  
11 notice of designation of the record using  
12 appellate's appendix and attaching the reporter's  
13 transcripts up until the date of the preliminary  
14 injunction hearing on September 27th. The Court has  
15 not set a briefing schedule yet that I'm aware of.

16 MR. GORIA: On our cross, we're not that  
17 far along, Your Honor.

18 THE COURT: So a year? Am I being  
19 realistic?

20 MR. GORIA: My limited experience on  
21 appeals from a preliminary injunctive order are not  
22 quite so long like --

23 THE COURT: Six months?

24 MR. GORIA: -- four or five months.  
25 Six months, perhaps.

26 THE COURT: All right. Thank you.

27 MR. ELIA: Your Honor, Steve Elia on behalf  
28 of Mr. Razuki. I'd like to defer arguments to

1 Mr. Joseph, and I may have some follow-up comments  
2 afterwards.

3 THE COURT: Sure. Now, this is Razuki?

4 MR. JOSEPH: Yes, yes, representing  
5 plaintiff, Mr. Razuki. Your Honor, we --

6 THE COURT: I'd like to ask, make sure --

7 MR. JOSEPH: Yes.

8 THE COURT: Counsel says, Judge, I have no  
9 jurisdiction to appoint this receiver. That's his  
10 double shot. Give me some analysis.

11 MR. JOSEPH: Of course, Your Honor. In  
12 terms of that question, it's a question of what does  
13 the statute say when you can appoint a receiver.  
14 And it essentially comes back to the fundamental  
15 argument of is there irreparable harm and likelihood  
16 of success? In terms of our papers, specifically --

17 THE COURT: Let me interrupt for a second.  
18 I've done tons of receivers.

19 MR. JOSEPH: Okay.

20 THE COURT: But I'm going to zero in on his  
21 analysis, and I understand the two step -- I've done  
22 it.

23 MR. JOSEPH: Yes.

24 THE COURT: But what he is saying is,  
25 Judge, wait a minute, respectfully. Judge, there's  
26 no property interest.

27 Am I misphrasing, Counsel?

28 MR. JOSEPH: I understand you.

1           THE COURT: No. I want to make sure I got  
2 his argument.

3           MR. WATTS: That's correct.

4           THE COURT: He's saying, Judge, there's no  
5 property in there, so you don't even get to the  
6 two-step process, Your Honor. If you would respond  
7 to that.

8           MR. JOSEPH: Two things: One, the question  
9 is first, there is other need grounds to allow for a  
10 statutory receivership to be in place, specifically  
11 B(1), which allows for when there's a dispute  
12 between partners over a business that they have  
13 ownership interest in, which is, from the oral  
14 agreement and the settlement agreement -- we have  
15 that norm --

16           THE COURT: Okay. Slow down. In terms --  
17 I apologize. Explain that to me. Walk me through  
18 that.

19           MR. JOSEPH: Yes. The property interest  
20 comes from two different contracts that we've  
21 alleged from the complaint.

22           THE COURT: Written and oral, correct?

23           MR. JOSEPH: Yes.

24           THE COURT: Talk to me about the oral one.

25           MR. JOSEPH: Oral contract is essentially  
26 what governed the relationship between Mr. Malan and  
27 Mr. Razuki when they initially started buying up  
28 these properties and these -- putting these LLCs

1 together. Started roughly around 2016 and kept  
2 going on.

3 And they had this mutual understanding.  
4 We're -- Mr. Razuki's going to be the financier.  
5 Mr. Malan was going to be the manager. After my --  
6 I, Mr. Razuki, get my money back, 75/25 split. Had  
7 an oral agreement and an oral understanding for how  
8 they would manage all of those properties. And  
9 that -- that contract, we would argue, is still  
10 governing their relationship right now --

11 THE COURT: And --

12 MR. JOSEPH: -- for this --

13 THE COURT: And defense counsel would say,  
14 Yes, Judge, but hold on. There were some conditions  
15 precedent --

16 MR. JOSEPH: So --

17 THE COURT: Let me finish.

18 MR. JOSEPH: Yes. Sorry.

19 THE COURT: -- that were not met;  
20 therefore, that contract is whatever, null and void  
21 or whatever. But because the property wasn't  
22 placed; therefore, Judge, no receiver.

23 Response?

24 MR. JOSEPH: I think the best way to  
25 understand this, Your Honor, is the oral agreement  
26 gives Mr. Razuki and Mr. Malan currently,  
27 immediately, as of right now today, 75/25 percent.  
28 The settlement --

1 THE COURT: In?

2 MR. JOSEPH: In SD United, Flip, Mira Este,  
3 Roselle, all of those entities that are listed on  
4 the settlement agreement.

5 THE COURT: Got it.

6 MR. JOSEPH: The settlement agreement,  
7 though -- the actual reason that this eight-page  
8 contract was drafted is because they wanted to put  
9 it all on paper. They didn't want Mr. Razuki to be  
10 able to go on title of everything.

11 So what they decided to do -- we're going  
12 to throw it all into RM Holdings, Razuki Malan  
13 Holdings, essentially. Mr. Razuki would own  
14 75 percent of RM. He would own 25 percent, and it  
15 would have the exact same condition. The 75/25  
16 happens after Mr. Razuki gets his investment back.

17 THE COURT: But none of that was done,  
18 correct?

19 MR. JOSEPH: They were not done because, as  
20 we alleged in our complaints, we had gone to  
21 Mr. Malan and said, We are ready to do the transfer.  
22 And Mr. Malan was the one who requested not yet, not  
23 yet. Specifically, he said that we wanted to work  
24 out our deals with SoCal. And so he asked for an  
25 extension, and we gave him that extension.

26 During this time, Mr. Razuki does not know  
27 if it's in RM or if it's his personal interest. He  
28 just knows that he has this ownership interest in

1 these businesses.

2 And during that time as well, the oral  
3 agreement is still governing it because the other  
4 agreement has not been executed yet. Performance  
5 has not been occurring, and performance is -- we did  
6 not perform because we were saying let's do it  
7 concurrent. These are not conditions precedent.  
8 They're concurrent obligations that have to happen  
9 at the same time.

10 It's equivalent of an informal escrow  
11 agreement, Your Honor. You don't just give the  
12 money and then hope that you get your house or  
13 anything like that. You put them in together at the  
14 same time. This was a holding company. That was  
15 the purpose of this agreement. So --

16 THE COURT: Counsel, you've answered my  
17 question. I interrupted you. Proceed with your  
18 argument.

19 MR. JOSEPH: Thank you, Your Honor. As I  
20 said, the Schedule 1 summary that we put up there,  
21 that's -- this is the name -- this is the entire  
22 case right here. You appointed Mr. Brinig and his  
23 firm to just do an analysis of what is going on.  
24 What we can figure out in 60 days. It is an  
25 independent analysis.

26 We tried to -- you know, in fact,  
27 Your Honor, it should be noted we actually think our  
28 number should be higher. This number is -- only

1 includes the cash contributions that Mr. Razuki  
2 made, actual cash put into the business. This  
3 ignores all of the collateral Mr. Razuki put up.  
4 For Mira Este alone, there are 22 of his personal  
5 residences that are on a second deed of trust for  
6 one of those loans. When it comes to --

7 MR. WATTS: Objection. Hearsay. Lacks  
8 foundation. Speculation. Lacks personal knowledge.  
9 None of this is in evidence. None of this is under  
10 oath.

11 MR. JOSEPH: Your Honor, if I may, this is  
12 all provided in Mr. Razuki's declaration that we  
13 filed back in August, I believe.

14 THE COURT: Go ahead.

15 MR. JOSEPH: In August, we explained the  
16 probably four properties -- I believe it's four  
17 properties that he has put up in collateral for  
18 Balboa. That is his properties that he has put up  
19 that -- they are encumbered. We believe that number  
20 should be higher.

21 We argued with Mr. Brinig and Ms. Webber  
22 about it. They said this was their method, and we  
23 said okay, but here's the rest of the documents that  
24 we have to show actual cash investments. If you  
25 even take away what we believe to be cash  
26 investments that Mr. Brinig has said are possible  
27 other contributions, we are still down \$1.4 million.

28 On the other hand, Mr. Malan is up half a

1 million dollars. Mr. Hakim is up \$580,000. SoCal  
2 is down \$2 million. This is what this case is about  
3 right here, those four numbers.

4 Now, I understand that Mr. Malan and  
5 Mr. Hakim say that they have not had time to put  
6 their documents and explain everything to  
7 Mr. Brinig, but I must say I don't understand why  
8 not. We had plenty of opportunities to talk to  
9 Mr. Brinig. They have been very, very helpful.

10 As I've said, we've actually discussed and  
11 asked that our number be higher, given the  
12 collateral that we have put up for the properties  
13 and everything, and we still got to our number and  
14 we were able to do everything.

15 I understand that Ms. Leetham had a medical  
16 emergency, and of course, that is a very valid  
17 excuse. But Mr. Malan has two law firms, not two  
18 lawyers, two law firms representing him on this  
19 case.

20 The Court has made it abundantly clear this  
21 needed to be done. You needed this information. A  
22 continuance is just another delay tactic,  
23 Your Honor, and these businesses will simply --  
24 cannot survive another continuance.

25 So when we say that this is the ballgame  
26 right here, I believe I'm pretty accurate in saying  
27 this is the reason why that there is the likelihood  
28 of success in term -- it proves the fact that there



1 was a legitimate oral agreement that my client put  
2 forward \$3.7 million in investing in these  
3 businesses. It does not make sense. It is  
4 illogical to assume that he simply rescinded it and  
5 just let it go off into the ether. It is --

6 THE COURT: So what do you want?

7 MR. JOSEPH: What do -- we want,  
8 Your Honor, is an actual receiver that has power  
9 over Balboa. And, Your Honor, they claim that  
10 they're not sabotaging the businesses. The evidence  
11 does not prove that. I think the second  
12 supplemental declaration from Mr. Essary especially  
13 proves this point. I think --

14 MR. WATTS: I object to that. It's not  
15 signed under penalty of perjury. It's hearsay.

16 THE COURT: Shh.

17 Go ahead.

18 MR. JOSEPH: Two days ago, Mr. Essary told  
19 her they -- I believe it was Tuesday. He told them  
20 that he was going to do a cash audit of the  
21 business.

22 THE COURT: I read it, counsel.

23 MR. JOSEPH: Your Honor, what other  
24 explanation do we have that five hours later the  
25 business is shut down?

26 MR. WATTS: Objection. Speculation.

27 THE COURT: I'll weigh the evidence.

28 MR. JOSEPH: It's important that we be able

1 to argue the evidence too, Your Honor, because this  
2 is exactly the problem that we've been having. For  
3 some reason, as soon as Far West went into the  
4 business, it started failing.

5 Maura, can you put the slide up.

6 The Brinig report also did a very good  
7 analysis between SoCal and Far West. They showed us  
8 was who actually able to run the business and who  
9 was not able to run the business.

10 Your Honor, these numbers come directly  
11 from the Brinig report, specifically Schedule 3, and  
12 it's certain excerpts that I wanted to point out.  
13 They took the numbers from January to June of 2018  
14 what -- the money that was coming in, money going  
15 out, that they were able to determine from the  
16 Balboa operation. And then they took the numbers  
17 from July to October. Essentially, the first part  
18 of the year was SoCal. The second part of the year  
19 was Far West.

20 In that time, the first month when SoCal  
21 was in, they were averaging \$288,000 a month in  
22 sales. From the Far West takeover, those sales  
23 dropped to 156,000 a month. SoCal bought more  
24 inventory. Far West bought less inventory. In  
25 terms of profits before expenses, SoCal was  
26 averaging \$148,000 a month. Far West was averaging  
27 61,000. Again, these are not our numbers. These  
28 are the numbers from Mr. Brinig.

1           In terms of the expenses, SoCal spent  
2 19,000, 16,000, and 12,000 on management, payroll,  
3 and advertising respectively. Every single one of  
4 those expenses were higher when it came to Far West:  
5 31,000 for management fees, 29,000 for payroll,  
6 15,000 for advertising. They spent more and they  
7 made less money. In short, the numbers are right  
8 there, the summary. The sales went down \$132,000  
9 while every other expense went up.

10           We already know the answer of who should be  
11 running Balboa, Your Honor. It's SoCal. They have  
12 a proven track record. I'm sure Mr. Fuller will be  
13 able to address all the other issues that -- the  
14 allegations against them, but this is who we want  
15 in.

16           We have a proven track record where [sic]  
17 numbers that have come from an independent source --  
18 get 60 days to do it, and then these are the numbers  
19 we got from them. This is the proven track record  
20 that we want. This is what is going to save the  
21 business, and that is why we said this is going to  
22 be a viable business.

23           THE COURT: Anything else, Counsel?

24           MR. JOSEPH: Yes, Your Honor. In terms of  
25 Mira Este, because we definitely need to talk about  
26 Mira Este, I understand that the Court is worried  
27 that people are not coming in. However, I would ask  
28 that you please turn to the declaration that was

1 filed right before this -- right before these  
2 hearings where Cream of the Crop is already working  
3 with the receiver.

4 In fact, there was an e-mail from Mr. Gorla  
5 who said that he noticed that Cream of the Crop was  
6 sending an agreement to the receiver for the  
7 receiver's approval, and the person objecting to  
8 that was Mr. Gorla. It was not Cream of the Crop.  
9 It was Cream of the Crop working with the receiver  
10 and the receiver trying to figure out what is this  
11 new tenant that we can get.

12 This notion that these people are so scared  
13 of the receiver they're not willing to work with  
14 them just is not true. We have Cream of the Crop  
15 trying to get in, EdiPure already in and working,  
16 and then Synergy, who has worked with Mr. Essary,  
17 has said that now they're going to start working.  
18 I'm curious of why they were not working and doing  
19 their own brand before so that this business could  
20 start to be profitable.

21 But I think the especially troubling part  
22 with Mira Este is what Mr. Essary said today,  
23 that -- when we were here at 1 o'clock, that he has  
24 no idea what is going on at the facility.

25 Maura, if you can put up -- now, we have  
26 looked at the Mira Este contract, the Synergy  
27 contract, and the EdiPure contract. This is what is  
28 supposed to happen. I put it in the diagram for the

1 Court's convenience.

2 The very top left right here is EdiPure.  
3 And according to their contract, they're supposed to  
4 be paying either 30,000 or 10 percent of revenue,  
5 \$45,000 in taxes, and reimbursed expenses. And  
6 those monies are supposed to go to California  
7 Cannabis Group. That's according to the contract  
8 between EdiPure and California Cannabis Group.

9 California Cannabis Group covers expenses  
10 and sales tax, and they give 33 percent of profits  
11 to Synergy management, and that is coming directly  
12 from the Synergy management contract. And then  
13 according to the Synergy management contract, they  
14 are supposed to be paying \$35,000 monthly payments  
15 to an entity affiliated with the principal, meaning  
16 Mr. Hakim.

17 Now, when I asked Mr. Essary, "When you --  
18 when you talk -- when you talked to Mr. Hakim and  
19 Synergy, where is this \$35,000 going to? because in  
20 the contract, I can't read anything," he said it's  
21 supposed to be going for debt services, properties,  
22 mortgages, and stuff like that. So I would assume  
23 it's going to Mira Este, the landlord, the owner of  
24 the land, and paying off mortgages and stuff.

25 This is what it is supposed to look like at  
26 the Mira Este facility. Your Honor, I'd like to  
27 show you what is actually happening compared to what  
28 I have learned from Mr. Essary. EdiPure is supposed

1 to be paying for reimbursement of expenses.

2 Mr. Essary has no receipts for any of these  
3 reimbursements ever being paid by EdiPure.

4 EdiPure is supposed to be paying \$45,000 a  
5 month in taxes to California Cannabis Group.

6 Mr. Essary has not seen these receipts. No idea  
7 where they're going.

8 EdiPure is supposed to be paying \$30,000 a  
9 month or 10 percent of revenue. It's supposed to be  
10 going to California Cannabis Group. What is  
11 actually happening is EdiPure is giving a bag of  
12 cash -- and I'm not exaggerating here, Your Honor.  
13 It is literally cash handed over to Synergy  
14 management.

15 And, Your Honor, this is not even something  
16 disputed. Mr. Gorla even admits that EdiPure is  
17 paying Synergy cash. They're completely ignoring  
18 the contract, and they're going under -- completely  
19 cutting out the actual facility.

20 And then Synergy's supposed to be making  
21 these \$35,000 monthly payments to this unaffiliated  
22 entity supposed to be Mira Este Properties. No idea  
23 where that money is going either.

24 Now, of course -- of course the Mira Este  
25 is not being profitable because this is what's  
26 actually happening there. There is no way that this  
27 business -- there's no way for the Court to truly  
28 tell this is a good business and it needs to be

1 operational. It needs to be going and the receiver  
2 needs to be out. This is what's happening, and we  
3 have no oversight.

4 If you ask Mr. Essary -- I'd ask that you  
5 ask -- he calls it "cigarette box accounting." They  
6 literally just put money, cash, in a box and they  
7 pay expenses.

8 Your Honor, it's simply unworkable.  
9 Mr. Gorla got up and he even admitted that he had  
10 made allegations and he is willing or his client is  
11 willing to ensure that we get a 32.5 percent  
12 interest, which would be the 75 percent of our  
13 50 percent interest and everything like that.

14 So they recognize that we may have -- and  
15 we have a pretty good chance of getting a  
16 32 percent -- 32.5 percent of what's going on at  
17 Mira Este.

18 MR. WATTS: Objection. Mischaracterizes  
19 our arguments. It's really --

20 THE COURT: Overruled. It's argument,  
21 Counsel.

22 MR. JOSEPH: It's argument. So given --

23 MR. WATTS: He's lying.

24 THE COURT: Counsel, don't say that word.  
25 Okay? Don't say that word. He's arguing for his  
26 client.

27 Go.

28 MR. JOSEPH: Thank you, Your Honor. This

1 is the reason why we have to have a receiver in  
2 Mira Este, Your Honor. Yes, it may be a profitable  
3 business, but the reason why the receiver was not  
4 able to hire new tenants and leases, please ask  
5 Mr. Essary about it.

6 We asked him, that -- when we saw this  
7 declaration for Mr. Hakim, this list of 20 entities  
8 who wanted to come in but they were scared away  
9 because of the receiver, we asked Mr. Essary about  
10 that. "Did you talk to any of them? Were you  
11 introduced to any of these people?" No.

12 How can they say that they're trying to run  
13 this business properly when they're not even  
14 introducing these people to Mr. Essary? And now it  
15 seems that they have at least two people who they  
16 have introduced to Mr. Essary: Cream of the Crop,  
17 who has now sent over a contract, working with  
18 Mr. Essary; and EdiPure, who has been working with  
19 Mr. Essary.

20 The idea that the receiver is scaring away  
21 people is simply contradicted by the evidence. We  
22 cannot believe that the receiver is the reason this  
23 business is not profitable. This graph explains why  
24 this business is not profitable. We have no  
25 accountability of what's going on here. This goes  
26 back to the reason why, Your Honor, that we would  
27 insist that a receiver be kept in at Mira Este.  
28 There's no question about it.



1 I believe that Mr. Essary says that --  
2 sorry. Excuse me. SoCal says that they're able to  
3 come into it. And as Mr. Gorla said, when they were  
4 in, the actual businesses, California Cannabis  
5 Group, Mira Este, those profitable ent -- those  
6 entities were receiving \$110,000 a month. And that  
7 is because SoCal has the resources, has the ability,  
8 and has the incentive to bring these businesses up.

9 Remember, Your Honor, going back to that  
10 first -- those four big numbers that really tell the  
11 story of this case, SoCal is the one who has skin in  
12 the game. They even offered to put in another  
13 million dollars because they have skin in the game.  
14 They want these businesses to succeed. They have  
15 more motivation than any -- just as much motivation  
16 to make sure that these businesses can succeed than  
17 anybody else at the table.

18 In terms of the other unnamed parties,  
19 Synergy, they simply don't have that motivation.  
20 SoCal is the only one who has, one, the experience.  
21 As even this side of the room said, that -- this  
22 business was profitable when SoCal was operating.  
23 It has not turned a profit under this current system  
24 that is going on. And they're asking the Court to  
25 simply ignore when it was profitable and let this  
26 mayhem continue in that facility.

27 My client has a property interest there.  
28 It is very -- it's clearly spelled out in the

1 contract of what the current interest is versus what  
2 it should be when we require specific performance  
3 and to get all of these entities in RM Property.

4 We need to make sure that this business  
5 doesn't go away, or we need to make sure that this  
6 money is actually going to where it needs to be  
7 going, because right now we have no idea of what's  
8 going on.

9 Now, in terms of the other -- in terms of  
10 the merits, issues of the -- likelihood of the  
11 success of the merits, Mr. Watts brought up the fact  
12 that the contract was illegal. That's simply not  
13 true for multiple reasons. As we've already briefed  
14 multiple times before and the Court has already  
15 ruled or considered this argument and ruled against  
16 it, mostly because public policy clearly, in  
17 California, shows that you can have a marijuana  
18 industry via -- we've provided case law, as well as  
19 public policy records, as well as previous laws that  
20 show that California does support having medical  
21 marijuana businesses, and that's exactly what that  
22 contract was. I don't want to rehash everything,  
23 because I believe the Court has already ruled on  
24 that issue.

25 Additionally, Mr. Watts brings up that  
26 there's testimony that Mr. Razuki claims to have  
27 disowned any interest. The few quotes that he says  
28 don't show that at all.

1           Did he set up San Diego United Holdings?  
2           He probably didn't set it up, but he had an  
3           ownership interest into it as soon as he got into  
4           business with Mr. Malan.

5           Did he know that he -- how much money  
6           Mr. Malan owed him at March in 2018? No. They were  
7           still business partners. He did not think that  
8           there was money owed, because he thought that they  
9           were business partners who were still in a good  
10          relationship. So no, he's not going to say, "Yeah,  
11          my business partner owes me a million dollars," or  
12          anything. They still had a working relationship at  
13          that time.

14          And also, in terms of do you have any  
15          interest in SD United, Mr. Razuki believed that it  
16          was already done and put into RM. He assumed that  
17          he had an interest in RM, and RM has an interest in  
18          SD United. None of these are quotes that contradict  
19          the claim that he has a property interest here,  
20          whether it's under the oral agreement or the  
21          settlement agreement with RM Property Holdings.

22          Now, very quickly, I believe the Court has  
23          already addressed the reason why the cooperatives  
24          are in the receivership, California Cannabis Group,  
25          Devilish Delights, and Balboa Avenue. We just have  
26          to have them. It just doesn't make sense not to  
27          have them.

28          And the Court has considered that and knows

1 that in order to protect the property interest, in  
2 order to protect the actual businesses, all three of  
3 these entities need to be working in concert with  
4 each other. So therefore, that is the only way to  
5 do that. We've already brought them in as parties  
6 on the -- in the complaint; so therefore, that is  
7 completely legitimate with what the Court has done.

8 In terms of irreparable harm, they said  
9 there's no evidence of wrongdoing or anything like  
10 that. In terms of Mira Este, Your Honor, this  
11 scheme that they have put up here ensures that  
12 there's going to be cash that we're never going to  
13 see even though those are our profits. We will  
14 never be able to account for them or report for them  
15 or anything like that.

16 Also, in terms of Balboa, it must be  
17 pointed out that Far West decided to inform the  
18 receiver at 9:00 a.m. on Tuesday that they were  
19 going to shut down operations, and they did not  
20 inform him of such beforehand. Sorry. It was right  
21 around noon on that day that they would be closing  
22 down at 2:30.

23 How does Far West, who is supposed to be  
24 reporting to the receiver this whole time, not tell  
25 the receiver, "Mr. Essary, we need inventory right  
26 now, or else we've got to close the doors"? How do  
27 they not do that?

28 This is ridiculous, Your Honor, because of

1 the fact that the receiver has adopted a supervisory  
2 role, and he does not have full operational control  
3 of these businesses. That is what he needs, and  
4 that is what we're asking the Court to do.

5 In terms of that as well, Your Honor,  
6 Mr. Essary has told us that Mr. Henkes is just not a  
7 reliable accountant and that he cannot work with him  
8 anymore in terms of the numbers he is getting.  
9 Because of his accounting style, where he's  
10 combining entities and how they're actually getting  
11 cash flows and things like that, he has no idea  
12 what's going on with these businesses.

13 It is the reason that we're asking that  
14 Mr. Essary, who's now bound by the agreement -- by  
15 the order to give Mr. Henkes control of the  
16 accounting of it, we would ask that Mr. Essary be  
17 able to appoint someone else.

18 Finally, Your Honor, we have to talk about  
19 the unclean hands issue.

20 THE COURT: The what?

21 MR. JOSEPH: The unclean hands issue.

22 THE COURT: Sure.

23 MR. JOSEPH: Your Honor, when you told us  
24 what happened two weeks ago about what happened with  
25 Mr. Razuki, you could have essentially just dropped  
26 a ton of bricks on my head. We had no idea what was  
27 going on with our client. We were scrambling around  
28 for the past two weeks trying to make sure that he

1 had criminal counsel.

2           And as Mr. Watts said, he had a bond  
3 hearing on Tuesday. The U.S. Attorney's office  
4 agreed to grant him bond on a \$800,000 property  
5 bond. He should be released by tonight or Monday.  
6 We're still trying to figure out and make sure all  
7 the paperwork is good to go on that.

8           In terms of the probable cause statement,  
9 though, this is not evidence by any means. We've  
10 already filed objections to it. His probable cause  
11 statement is, one, hearsay within hearsay. Although  
12 the agent has signed it under penalty of perjury,  
13 all the relative statements come from some  
14 confidential informant who has not signed under  
15 penalty of perjury, and there's no exception to  
16 that.

17           Best evidence rule. Half of these things  
18 claim to be under recordings or video recordings.  
19 The Court has no access to that. Rule of  
20 completeness. You have seen pieces of audio  
21 recordings, video recordings, that the government  
22 puts forward in terms of their best foot forward.  
23 They're not trying to provide an objective story  
24 when they're doing a probable cause statement.

25           Again, there is no way that the Court has  
26 full context to truly understand or even weigh the  
27 merits of what is going on purely based off a  
28 probable cause statement. The purpose of a probable

1 cause statement is to get probable cause, not  
2 preponderance of the evidence, not clear and  
3 convincing, certainly not reasonable doubt. It's --  
4 a probable cause statement, by no evidentiary  
5 standards, is enough to prove what happens against  
6 my client. At this time the Court cannot consider  
7 it.

8 Our paperwork does an extensive legal  
9 analysis on this question. And in terms of unclean  
10 hands, it must be related to the specific  
11 transaction that we are seeking relief from. We are  
12 seeking relief.

13 There are fundamentally two questions: How  
14 much money did people put in and who owns what?  
15 Those are the transactions in question. Those are  
16 the transactions that have started from November of  
17 2017 through 2018, right around July when we filed  
18 the complaint.

19 Unclean hands is a very specific  
20 affirmative defense where the conduct that is  
21 relevant to the unclean hands defense is the conduct  
22 that occurs during the initial transaction.  
23 Ancillary conduct is not relevant to the unclean  
24 hands defense when it comes to equitable relief.  
25 That is the case law. The case law is crystal clear  
26 on this issue, Your Honor, and we briefed this  
27 extensively in our briefing on this matter.

28 Finally, of course, the evidence is

1     disputed.  We're still trying to get discovery and  
2     trying to understand.  We obviously dispute anything  
3     about the probable cause statement about our  
4     client's involvement in it, but we can't have a  
5     declaration from him.  That's -- he has  
6     Fifth Amendment rights.  He cannot -- he's not being  
7     forced to provide a declaration at this time.

8             But more importantly, Your Honor, Mr. Watts  
9     also brings up a restraining order that they got  
10    against my client.  I would ask that you look at the  
11    declaration that we provided just yesterday  
12    regarding this restraining order.

13            This restraining order -- this restraining  
14    order was filed by Mr. Malan.  Before that hearing,  
15    when we prepared to respond to this restraining  
16    order, we provided declarations and multiple pieces  
17    of evidence.  The Court asked Mr. Elia and Mr. Watts  
18    to mediate this matter, and they were willing to  
19    come to a settlement, but some things happened.  But  
20    at the end of the day, they agreed to dismiss the  
21    restraining order.  Your Honor, I have a  
22    dismissal -- a request from [sic] dismissal signed  
23    by Mr. Watts on --

24            THE COURT:  Is that true, just yes or no?

25            MR. WATTS:  Yes.  We withdrew it.

26            MR. ELIA:  And they went forward,  
27    Your Honor, without telling us.

28            MR. JOSEPH:  Your Honor, Your Honor,



1 this --

2 THE COURT: It's your turn. Go ahead.

3 MR. JOSEPH: Sorry. This is a dismissal  
4 signed by Mr. Watts. We provided the e-mail  
5 communications where we agreed to dismiss the three  
6 restraining orders.

7 He sent us this one, said, "Yes, this one  
8 is signed." He said, "Will you guys file it?" We  
9 agreed to file it. We have the e-mails where we  
10 tell Mr. Watts our assistant went down to court,  
11 filed the dismissals, and I explained -- as we  
12 explained in the declaration, I have personally  
13 called the civil business office and asked them,  
14 "Are these filed yet?" And they said, "No.  
15 Dismissals are backlogged."

16 I admit maybe I did not call last week, and  
17 I should have called last week, Your Honor. We had  
18 no idea that this restraining order hearing went  
19 through. We found out that this restraining order  
20 was against my client from Mr. Watts' declaration.  
21 We received no paperwork, absolutely none. We were  
22 ready to argue this. We had declarations disputing  
23 every single aspect of it. We even have the  
24 dismissal with Mr. Watts' signature on it.

25 This is ridiculous to provide -- to claim  
26 that this is unclean hands against my client. We  
27 were ready to defend this issue. This should not be  
28 an issue, and we ask that the Court completely give

1 no consideration whatsoever to that dismissal -- to  
2 that restraining order.

3 In terms of the criminal case itself, there  
4 are -- the evidentiary issues require the Court not  
5 to consider this. These are unproven allegations.  
6 My client has a presumption of innocence. He has no  
7 ability to respond to these when we have not even  
8 seen the evidence against him.

9 And for the evidentiary objections that  
10 we've already filed with the Court and that I've  
11 stated right here, there is no possible way that  
12 this is proper probable cause for any evidence for  
13 the Court to say that my client actually engaged in  
14 this criminal conduct.

15 Ask yourself this question, Your Honor: If  
16 the probable cause statement was excluded, what  
17 evidence is there of this supposed plot? We have  
18 declarations from Mr. Malan saying that he remembers  
19 seeing people with cell phones and that the FBI put  
20 him into custody. That is pure speculation.

21 In terms of the Court's determination, what  
22 they're essentially doing is they're alleging a tort  
23 against my client. They have not met any standard  
24 to justify alleging a tort against my client.

25 THE COURT: It's a little more than a tort,  
26 Counsel.

27 MR. JOSEPH: Your Honor, it's --

28 THE COURT: Counsel, move on.

1           MR. JOSEPH: Essentially. Finally,  
2 Your Honor, in terms of the Sunrise --

3           THE COURT: Yeah, there you go.

4           MR. JOSEPH: -- the new ex parte and  
5 everything, I simply do not understand their  
6 argument when it comes to justifying this ex parte.

7           Their grounds for that is claiming that a  
8 hundred -- a hundred -- \$1,000 was taken from the  
9 Golden Bloom dispensary and, therefore, used in this  
10 plot. I've already discussed the reasons why I do  
11 not believe one exists.

12           But more important than that, their  
13 argument is that these properties are subject to  
14 criminal forfeiture laws. There has been no  
15 indication whatsoever -- no indication whatsoever  
16 that the federal government has any intention to do  
17 so. In fact, we provided declarations to all  
18 parties here.

19           I'm not sure if we had a chance to get them  
20 to you, Counselor, because we just got them before.

21           Two owners of Sunrise and Super 5 -- I  
22 apologize. There is a typo on the declaration.  
23 They are the legitimate owners of Sunrise and  
24 Super 5 to respond to Mr. Watts' objection to those  
25 declarations. Both of those are owners of Sunrise  
26 and Super 5, and they say -- they talked to the  
27 federal agents when they did a search at the  
28 building.

1 Federal agents have told them, We are not  
2 interested in Sunrise or Super 5. We're not  
3 interested in the Golden Bloom dispensary. We are  
4 simply here for evidence regarding Salam Razuki.

5 MR. WATTS: Objection. Hearsay.

6 THE COURT: Now we're moving into hearsay.  
7 Sustained, Counsel.

8 MR. JOSEPH: In terms of anything on this  
9 evidence, there's simply no evidence whatsoever that  
10 the federal government has any intention whatsoever  
11 of requiring -- deeming these businesses as a  
12 criminal enterprise and, therefore, seizing them.  
13 That is just simply not true.

14 Second, I do not understand how a receiver  
15 would solve this problem whatsoever. How would a  
16 receiver -- if the federal government has deemed  
17 these businesses to be a criminal enterprise,  
18 they're not going to say, "Oh, no. It's okay to  
19 continue to operate because have you a receiver in  
20 place." A receivership is just a non -- illogical  
21 solution to this problem that they have raised;  
22 therefore, there is no reason for this.

23 More importantly, Your Honor, in terms of  
24 what we should do with Sunrise and Super 5, they  
25 needed counsel, but we were okay with them doing the  
26 accounting. They don't need a full receivership.  
27 There is no evidence that the businesses are at  
28 risk, that there is fraud going on in the

1 businesses. As we have proven with Mira Este, as  
2 well as Balboa, there's no evidence of that.

3 And if the Court wishes to put them into  
4 the account -- into the accounting so they can  
5 provide and explain their profits and the money that  
6 they have been giving to Mr. Razuki and everything,  
7 I have -- my client has no objection to that. My  
8 client has no problem saying that he's getting some  
9 money from these entities, absolutely not a problem  
10 whatsoever, Your Honor. But a receivership is  
11 simply a too much -- too drastic strategy for these.

12 Unlike the evidence and the clear examples  
13 that we have against Mira Este and the Balboa  
14 evidence -- and the Balboa facilities, there are  
15 no -- there are no allegations of Sunrise  
16 happening -- or no allegations of fraud going on in  
17 Sunrise at all.

18 As for Mr. Singer, the one thing -- I don't  
19 personally know Mr. Singer. I'm sure he is very  
20 qualified. Mr. Essary has the experience of what's  
21 going on in these businesses. Mr. Essary can hire  
22 SoCal to operate this entity for him, and that would  
23 be a -- sufficient for everybody's sakes to ensure  
24 that these businesses are able to thrive and as  
25 SoCal has proven in past.

26 Very last issue, Your Honor, regarding the  
27 HOA, the HOA, which Ms. Hexom is here for, has  
28 already indicated that they are in -- the business

1 is in arrears about \$132,000 and that they're going  
2 to revoke the use variance unless those payments are  
3 paid.

4 My client is willing to make those payments  
5 if he has the security of knowing that Mr. Malan and  
6 Mr. Hakim are completely out of business. If the  
7 receiver has full control --

8 THE COURT: Slow down. Okay. I got it  
9 now. I got it. So Mr. Razuki will pay 100 and how  
10 much? Thirty thousand?

11 MR. JOSEPH: 132,000 and change.

12 THE COURT: Within how long?

13 MR. JOSEPH: Depending on how much the  
14 payment plans -- we can work a deal with the HOA.

15 THE COURT: Payment plans or cash?

16 MR. JOSEPH: Pay cash in terms of --

17 THE COURT: Okay. I missed that. Like,  
18 within 30 days, they can pay 130K to the HOA?

19 MR. JOSEPH: My client -- yeah, my client  
20 is now that he is out and able to manage his  
21 finances.

22 THE COURT: I want to comment on that. Not  
23 now. Okay.

24 MR. JOSEPH: Your Honor, we have skin in  
25 the game. We have every reason to ration --  
26 continue to save these businesses as much as  
27 possible. We just need the security of knowing that  
28 these businesses will be protected.

1 THE COURT: I got it, Counsel.

2 MR. JOSEPH: The only way to do that is  
3 with the receivership.

4 THE COURT: I got it. In the argument, you  
5 indicated -- I want to make sure I got right -- that  
6 EdiPure is paying a bag of cash to Synergy, correct?

7 MR. JOSEPH: According to what I understand  
8 from what Mr. Essary has told me, they are giving  
9 cash in terms that \$30,000 payment.

10 THE COURT: EdiPure, who are? You stand  
11 up. First off, I appreciate that, sir. You're not  
12 under oath. I'm not going to put you under oath.

13 MR. GOODMAN: No worries.

14 THE COURT: So -- well, I'm not. And you  
15 don't even have to answer, but I would like an  
16 answer. He says you're putting a bag of cash and  
17 giving it to Synergy. Are you doing that?

18 MR. GOODMAN: We've paid with check and  
19 cash.

20 THE COURT: Okay. Has it literally gone  
21 into a bag and you handed it over?

22 MR. GOODMAN: We've given it to them  
23 bundled and up got a receipt, yeah.

24 THE COURT: Is there an accounting for  
25 that, I would assume?

26 MR. GOODMAN: Yes.

27 THE COURT: Thank you. And thank you for  
28 doing that, sir. I appreciate it.

1           Wrap it up, Counsel.

2           MR. JOSEPH: Your Honor, I'm --

3           THE COURT: I think I got it.

4           MR. JOSEPH: I'm done if you have no other  
5 questions.

6           THE COURT: I don't think so.

7           All right, SoCal.

8           MR. FULLER: Your Honor, good evening.

9           THE COURT: And it is evening.

10          MR. FULLER: It's still November 30th. We  
11 haven't made December quite yet.

12          THE COURT: That is a point.

13          MR. FULLER: Early 2018, my client,  
14 negotiating with Mr. Hakim and Mr. Malan, entered  
15 into three contracts for Roselle, for Mira Este, for  
16 Balboa. They had very specific interests in each,  
17 which was to acquire 50 percent of each of those  
18 businesses.

19                 And there were slightly varying terms, but  
20 the idea was SoCal would come in, build out  
21 infrastructure, start up business operations, and  
22 Mira Este was going to bring in its own  
23 manufacturing operations and maybe sublease out to a  
24 couple of other manufacturers.

25                 Balboa get the dispensary, expanded,  
26 marketed, offered good products, get the sales up.  
27 And Roselle, the -- a couple ideas on the long, but  
28 it hadn't really developed. But they agreed to pay



1 hundreds of thousands of dollars for the rights to  
2 get in to develop those businesses, to operate those  
3 businesses, and to get these valuable options, these  
4 property rights that we have, the options to acquire  
5 the properties and businesses.

6 Things were going pretty well, as far as we  
7 were concerned, until we were asked to reimburse  
8 \$256,000 of TIs that we didn't think had been done,  
9 tenant improvements. Mr. Hakim presented us an  
10 invoice, which turned out later on to be a forgery.  
11 It was a July 2017 piece of paper that had been  
12 doctored with some additional numbers, and we found  
13 out from the DocuSign people that it was signed by  
14 Mr. Hakim in March of 2018.

15 And on the basis of not paying for those  
16 TIs, they, in rapid fashion, in June, kicked us out.  
17 We came in saying, Wait a minute. What's going on?  
18 And at that same general time frame, May/June, we  
19 find out they weren't the only owners of these  
20 properties, which was quite an astounding breach of  
21 their representations in the contracts that they had  
22 good title to these businesses.

23 And we met our new best friend, Mr. Razuki,  
24 who's had issues, apparently, recently. But there's  
25 no doubt that we had done nothing but try to honor  
26 our contracts, come in, make the payments that were  
27 required of us, run the businesses well, because we  
28 wanted to acquire our 50 percent interest in those

1 businesses. And it turns out they couldn't perform  
2 their end of -- even if we --

3 THE COURT: They? I just --

4 MR. FULLER: Mr. Hakim --

5 THE COURT: It's for the record, Counsel.

6 MR. FULLER: -- and Mr. Malan could not  
7 perform on their end because they didn't own  
8 50 percent of the business to give us.

9 Now, why would we need a receiver for that?  
10 It's --

11 THE COURT: And I assume when you make that  
12 statement, that's base on the alleged oral  
13 agreement? written agreement?

14 MR. FULLER: I've seen oral agreements.  
15 I've seen settlement agreements. I've got  
16 RM Holdings coming out of the woodwork. We've got  
17 lots of different --

18 THE COURT: I got it.

19 MR. FULLER: So -- and maybe it will sort  
20 out that they could, but it really looked like they  
21 couldn't. But that's why we came in, intervened in  
22 this case brought by Mr. Razuki, and asked for a  
23 receiver to be put in, because we had no trust and  
24 faith that the people we dealt with actually could  
25 perform their part of the agreement.

26 So what we're coming here today,  
27 Your Honor, for is to ask that the receiver be given  
28 the power to perform their part of the agreement, to

1 move them out, put the receiver in their place, let  
2 him deal with us, re-establish us, if possible. We  
3 can operate. Give us our options back under terms  
4 that are acceptable to us.

5 THE COURT: Very clear. I'm assuming  
6 that -- when you say "leave them out," I'm assuming  
7 what you mean, but I don't want to assume. Move  
8 them out --

9 MR. FULLER: Mr. Hakim and Mr. Malan and  
10 their interest.

11 THE COURT: Out of Mira Este?

12 MR. FULLER: Out of Mira Este, out of  
13 Balboa, and have SoCal put back where it was back in  
14 April as the manager of the three properties, and  
15 re-establish their options and deal with the  
16 receiver in place of Mr. Hakim and Mr. Malan.

17 THE COURT: And what would happen to  
18 Synergy?

19 MR. FULLER: They would be thanked and  
20 excused, Your Honor. And that's our ask. We think  
21 we've given more than enough paper to make those  
22 determinations. If you have any questions, I'd be  
23 very happy to answer them.

24 THE COURT: I do. At the very beginning of  
25 this hearing, Ms. Austin said, Judge, I've got an  
26 idea for you. It was directed towards you. Do you  
27 remember what it was?

28 MR. FULLER: Yes, it was, Your Honor. They

1 want to have us give up on Mira Este if they let us  
2 come back in and be a personnel department for the  
3 Balboa dispensary and start to operate it. There  
4 was no -- no promise of an option. And then  
5 Mr. Watts, who I did talk to, cleared that up. He  
6 said, No, we'll throw the option back in.

7 And I talked to my client briefly, and we  
8 said, Well, we'd consider all that if Mr. Razuki  
9 approves it, because we will -- frankly, think you  
10 own this thing or best we can tell. We can't be  
11 sure you do. And what was important to us was our  
12 option. And we also wanted to own those out.

13 So that was our counteroffer. And that --  
14 you know, Mr. Watts said, Well, we're not trying to  
15 settle the whole case. We're just trying to get to  
16 by this injunction hearing.

17 And I said, Fine, we'll settle the  
18 injunction.

19 THE COURT: And it was only as to Balboa?

20 MR. FULLER: Yes.

21 THE COURT: Is that what it was?

22 MR. FULLER: The trade was we would give up  
23 on Mira Este, let the receiver lapse on Mira Este.  
24 We would forgo all our rights there, you know, left  
25 with our damages case. And then we would accede  
26 back to at least the management rights in Balboa,  
27 and then maybe if something could be worked out with  
28 Mr. Razuki, some option. And it was kind of more of

1 who could grant the option than --

2 MR. WATTS: Your Honor, it was more of a --  
3 if I could, I -- the suggestion was to remove the  
4 receiver from Mira Este and then reinstate SoCal as  
5 a compromise. It's not what we would prefer, but  
6 that would be it. And if you wanted to give up  
7 your -- you know, your lawsuit, this wouldn't be  
8 part of a settlement. This is just something we  
9 thought about for today.

10 MS. AUSTIN: And if I could add on as well?

11 THE COURT: Hold on.

12 It does include -- if I -- it does include  
13 Mira Este, because they're saying whatever the terms  
14 are, you, SoCal, will go back in and run Mira Este.

15 MR. FULLER: No. That was the not offer.

16 THE COURT: Never mind.

17 MR. FULLER: Yes. That -- good thinking,  
18 Your Honor. We like that, but that was not the  
19 offer. So unless you have anything further,  
20 Your Honor --

21 THE COURT: So the offer is you go in and  
22 run Balboa, and you give -- totally give up --

23 MR. FULLER: Receiver rights and rights to  
24 run Mira Este.

25 THE COURT: Agreed that that's it?

26 MS. AUSTIN: That was it. And as far as  
27 Roselle, I mean, Roselle is not a viable marijuana  
28 business anymore in any way, shape, or form, so I

1 don't know what the issue is with Roselle.

2 THE COURT: So what do you want?

3 MR. FULLER: I just explained, Your Honor.  
4 We would like Mr. Essary to stay in as the receiver  
5 over Mira Este and Balboa. We'd like him to be able  
6 to deal with us as if he were Mr. Hakim/Mr. Malan,  
7 reinstate us as the operator, and give us our option  
8 back.

9 THE COURT: Thank you, sir. Well, I can't  
10 go quite that far. That's got to be litigated,  
11 counsel, the last part.

12 All right. Mr. Essary -- well, hold on.  
13 Mr. Jaffe, do you want to say anything?

14 MR. JAFFE: I think Mr. Joseph handled and  
15 covered the issues regarding Sunrise.

16 THE COURT: Yeah. You're Sunrise, right?

17 MR. JAFFE: Right. I agree with you. The  
18 last thing you need to do is be expanding this  
19 receivership with Sunrise and all the issues there.  
20 I just direct you to paragraphs 40 and 41 of their  
21 cross-complaint against Sunrise. It says, On  
22 information and belief, when Razuki told Malan that  
23 Razuki owned part of Sunrise Property Investments,  
24 LLC, Razuki did not actually own any part of  
25 Sunrise. They -- so they're saying Razuki didn't  
26 even own any part of Sunrise.

27 And the same goes in paragraph 42 with  
28 regard to Super 5. Sunrise has four other owners.

1 Razuki only has a minority interest. There  
2 should -- not to be a receivership involved in --  
3 involving Sunrise. We agreed with this. There's no  
4 reason to believe this -- that the -- anything going  
5 on in the federal court has anything to do with  
6 Sunrise. Thank you.

7 THE COURT: Last but not least, who's going  
8 to speak? Mr. Essary? Counsel? Who?

9 MR. ESSARY: Well, I can't add very much.  
10 I've been quoted and misquoted and requoted. I have  
11 problems with control. I don't feel I'm getting  
12 right information. I think I could run the  
13 businesses better. I feel confident.

14 And again, I do want to make one statement  
15 for the Court. I didn't put SoCal in by choice. I  
16 put SoCal back in orig -- the first hearing by  
17 order. And so they're not -- they weren't my  
18 favorites or my friends or anything else.

19 However, I will say that looking at  
20 historically what Mr. Brinig and Ms. Webber  
21 provided -- they did a wonderful job, by the way --  
22 they were making money, and it's not been making  
23 money since.

24 I have many demands of me for money, which  
25 I have no money. I have no source of income. I  
26 have no way to validate cash deposits or anything  
27 else. I'm missing bank statements. I occasionally  
28 get financial statements. It's not how I'm used to

1 running businesses, Your Honor.

2 And I think -- I know I can do better,  
3 whether it's with SoCal, who obviously has a vested  
4 interest -- but those are all your decisions. I do  
5 want to continue as receiver, because I do know the  
6 parties and I feel I could make a benefit to the  
7 assets, which is what my job is.

8 THE COURT: What about the accountants?  
9 What about Mr. -- is it Henkes?

10 MR. ESSARY: Judd Henkes, yes. I'm not  
11 happy.

12 THE COURT: Why not?

13 MR. ESSARY: I don't get the reports that I  
14 want when I ask. It takes forever to compile them.  
15 They're very basic and simple. I don't have all the  
16 support that I need. I mean, I -- Mr. Brinig and  
17 Ms. Webber were in for 60 days, and I had books like  
18 this with tons of detail.

19 I'm not part -- I'm not a CPA, but I do  
20 have an accounting background too, Your Honor. And  
21 I don't feel that the accounting is being done.  
22 It's being done in an ad hoc basis. And by the way,  
23 the word was "cigar box," not "cigarette box."

24 So I just feel like it's being done very  
25 unprofessionally, and I feel like it could be done  
26 better, which is how I would report to you, the  
27 Court, and to the parties.

28 THE COURT: Okay.



1 MR. ESSARY: Thank you, Your Honor.

2 THE COURT: I'm afraid to ask this  
3 question, but I will. Do we want to do one last  
4 round maybe of two minutes apiece?

5 MR. GORIA: That would be fine, Your Honor.  
6 The same --

7 THE COURT: Well, hold on. Go in the same  
8 order.

9 MR. GORIA: Same order. I understand.

10 THE COURT: Judge -- it's complicated. We  
11 all know that. So let's start and I may -- we'll go  
12 piece by piece. Thank you.

13 You're up.

14 MS. LEETHAM: I didn't have the benefit of  
15 hearing what Mr. Joseph said. My client was  
16 inconsolable, so I excused myself. The one thing I  
17 did walk in on and I do want to address, first of  
18 all, with the HOA agreement, I just want to  
19 remind --

20 THE COURT: Can I interrupt real quick?

21 MS. LEETHAM: Yes.

22 THE COURT: HOA, I want to hear --

23 MS. HEXOM: It's not an HOA.

24 THE COURT: Whoever you --

25 MS. HEXOM: It's a commercial association.  
26 We can call it an HOA if you want.

27 THE COURT: It's being represented there  
28 may be a lot of money coming your way. Are you

1 going to -- is it -- will that satisfy you if you  
2 get paid up? What's your position?

3 MS. HEXOM: The position of the Association  
4 is this: They're not in the position to waive any  
5 rights that they have in terms of the settlement  
6 agreement that was reached between various parties  
7 here today and the association.

8 The Association granted various parties  
9 here to be allowed to operate the Balboa Ave.  
10 dispensary because there's a prohibition against  
11 marijuana activities within the CC&Rs of this  
12 Association.

13 So with this use variation, it's  
14 conditioned on several things in the settlement  
15 agreement. And for Your Honor's reference, the  
16 settlement agreement is attached to Mr. Malan's  
17 cross-complaint as the last exhibit.

18 So in that settlement agreement, it  
19 explains what the use variance is and explains that  
20 it can be revoked upon a breach of any term of the  
21 settlement agreement or most of the terms of the  
22 settlement agreement. Those terms have been  
23 breached.

24 So if the Association does not or does  
25 revoke the use variance, technically, the Balboa  
26 Ave. dispensary cannot -- or is not allowed to  
27 operate the dispensary.

28 THE COURT: In that area?

1 MS. HEXOM: Within that association.  
2 There's also the production or manufacturing  
3 facility. That's not --

4 THE COURT: And that's in that space,  
5 correct?

6 MS. HEXOM: Yeah.

7 THE COURT: My question -- and if you --  
8 you know, it's kind of -- if the rent is brought  
9 current, can you give the Court an inclination,  
10 Well, Judge that may satisfy it, so we may not go  
11 down the revocation road? Am I framing that right?  
12 Do you understand what I'm saying?

13 MS. HEXOM: Yes, Your Honor. I -- their --  
14 the Balboa Ave. -- the owner of the units, including  
15 the unit where the dispensary operates, is owned by  
16 San Diego United Holdings Group. That's an owner of  
17 the unit, so they pay monthly assessments.

18 THE COURT: Got it.

19 MS. HEXOM: They don't pay rent.

20 THE COURT: But they're still subject --

21 MS. HEXOM: There's a bunch of terms in the  
22 settlement agreement that they're behind on.

23 THE COURT: But they're still subject to  
24 the possible revocation? Would they not be?

25 MS. HEXOM: Yes, Your Honor, they are if  
26 they violate any of those terms.

27 THE COURT: That's my point.

28 MS. HEXOM: Nonpayment of the assessments

1 is not part of the settlement agreement, but there's  
2 other avenues that the Association can take to  
3 recover the unpaid assessments. That's just one  
4 component of it, which is not really before the  
5 Court.

6 But there is about, approximately today,  
7 \$117,000 of unpaid sums that various parties here  
8 today were supposed to pay, which are conditioned on  
9 the enforceability or the application of that use  
10 variance.

11 THE COURT: You've answered my question.  
12 Thank you.

13 I interrupted. I had to just get that  
14 cleared up.

15 MS. LEETHAM: It segues into our want to  
16 stay. And I actually worked with Ms. Hexom to  
17 negotiate this and litigate this case.

18 And so that settlement agreement, it has --  
19 it has things that continue to be due over time. So  
20 even if we get the outstanding current, which, by  
21 the way, Razuki and Razuki Investments are parties  
22 to that agreement. They have been obligated to make  
23 payments on that, and my client has paid up through  
24 today on that agreement. I don't know if he's been  
25 credited for that.

26 So even if we get current today, we  
27 continue to have monthly payments I think into  
28 2020 -- I haven't had the benefit of reviewing that

1 agreement -- that continue to be an obligation. So  
2 it doesn't go away. It remedies the immediate issue  
3 of the 664.6 motion with Judge Styn. It does  
4 nothing to ensure future payment.

5 So Razuki's offer, which I don't know how  
6 they got when he's in prison, to pay -- he has to  
7 pay anyway. He's a party to that agreement. So I  
8 don't know where that gets us.

9 Secondly --

10 THE COURT: Wait a minute. The point would  
11 be if they could pay it. That would be something,  
12 would it not, Counsel?

13 MS. LEETHAM: Yeah, because he hasn't done  
14 anything. He's been gone. My client has managed  
15 Balboa. Razuki's been in Sunrise. The parties have  
16 acted as if they divorced and they kept their  
17 things, Sunrise and Balboa. This is more evidence  
18 of that.

19 The other thing I would say is it was  
20 interesting that Mr. Fuller described Razuki as  
21 their new best friend. Not once did SoCal come to  
22 my client, not once that I know of did SoCal come to  
23 Mr. Hakim, and say, We have a problem with some  
24 information we found.

25 They went around the back door. They did a  
26 backdoor deal with Razuki, and they came in and  
27 asked my clients out of Balboa. Not once -- they  
28 didn't say, "We have a problem with it. We think

1 you're doing something wrong," none of it. They  
2 didn't say, "Who was this purported owner? Can you  
3 give us an explanation?"

4 So we're sitting here today as a construct  
5 of SoCal basically conspiring with Razuki to breach  
6 the contract. So they're saying breach, and we're  
7 saying breach. And in the meantime, the business is  
8 failing.

9 They didn't pay taxes. I'll remind the  
10 Court, \$175,000 we owed the State for excise taxes.  
11 SoCal did not pay it. SoCal did not do the tax  
12 returns. So when they sit and they say they made  
13 all this money, they didn't pay HOA. They didn't  
14 pay the mortgage. They didn't pay rent. They  
15 didn't pay taxes.

16 MR. FULLER: I object to this, Your Honor.  
17 This is completely false.

18 THE COURT: Okay.

19 MR. FULLER: I object that --

20 THE COURT: Objections for everybody. It's  
21 getting late.

22 MS. LEETHAM: It's getting late.

23 THE COURT: I understand.

24 MS. LEETHAM: It's extremely important.

25 THE COURT: And, Counsel, you'll be able to  
26 respond to that. Okay?

27 Go.

28 MS. LEETHAM: The other thing I wanted to

1 say is if they're worried good their clients  
2 Fifth Amendment rights, they can file a Pacers  
3 motion. We can stay the whole case. We can get rid  
4 of the receiver until the criminal case is over.

5 THE COURT: The Court smiles.

6 MS. LEETHAM: Thank you.

7 MS. AUSTIN: I only have two things to say.

8 Would it be possible, Mr. Joseph, to go  
9 back to your first exhibit? The one that had --

10 MR. JOSEPH: Four numbers?

11 MS. AUSTIN: No. The second one. Sorry.  
12 That one.

13 I just want to point out to the Court and  
14 for the record that -- I don't know if the numbers  
15 are right or the numbers are wrong. But what needs  
16 to be accounted for is January through June, SoCal  
17 was open every single day. July through October,  
18 the facility was shut down multiple times and --  
19 through the receiver, Golden State coming in, Golden  
20 State going out, Golden State coming in, Golden  
21 State going out, as well as they didn't even begin  
22 operations until -- I don't believe -- August.

23 Is that correct?

24 MS. LEETHAM: Of what year?

25 MS. AUSTIN: We're talking when Golden  
26 State came in to --

27 MS. LEETHAM: Correct.

28 MS. AUSTIN: Yeah. So that time frame is

1 not the same. You're looking at six months on the  
2 front end, and you're really only looking at four  
3 month on the back end. So they may have a lot more  
4 expenses, but I don't know that you can compare  
5 apples to apple -- apples to oranges.

6           Somebody said -- I believe it was  
7 Mr. Joseph said -- Well, these people are willing to  
8 come in. There's all of these people who are  
9 willing to come in. We've got two here. It's not a  
10 problem. Synergy can work under the receiver. And  
11 why didn't Synergy operate with these prerolls  
12 beforehand?

13           And I want to answer the question of why  
14 they didn't do that beforehand. Because we didn't  
15 have authorization from the State. We needed to  
16 modify the diagrams and modify the premises so that  
17 the State could come in and say, Yes, it's okay for  
18 you to do that in these locations. We have now got  
19 that authorization, and we're waiting for one final  
20 sign-off on that.

21           Last but not least, both -- Better Than  
22 Good -- we keep calling them Cream of the Crop,  
23 which is one of the brands. Better Than Good and  
24 EdiPure are willing to come in and -- well, I know  
25 Better Than Good -- on a very short period of time.

26           But I -- he spoke to me in the hallway and  
27 said, I don't want to operate under the receiver.  
28 I'm willing to do something because it's important



1 to get out in the market, but that's not where we  
2 want to be.

3 So I just want to say that the  
4 representations that, you know, all these people can  
5 come in -- we've told the Court who's unwilling to  
6 come in, and Mr. Joseph has yet to provide the Court  
7 with any evidence of somebody who's willing to come  
8 in other than our two plaintiffs, who are  
9 uncomfortable.

10 THE COURT: Thank you. Counsel, I've got  
11 to walk off this bit. I've got another appointment.  
12 At 6:15, I'm out the door. It's another little  
13 something I'm committed to.

14 MR. GORIA: Okay. Just real quick,  
15 Your Honor, just -- it ducktails into Ms. Austin's  
16 last point. I think that -- as I understood  
17 Mr. Joseph's argument, I think he's blaming me for  
18 producers not coming into Mira Este, pointing to  
19 some e-mail I wrote that said that I objected or  
20 that I had some misgivings about the Cream of the  
21 Crop tell. I think that's what he was referring to,  
22 as if that --

23 Yeah. The reality was that my misgiving  
24 was the fact that Cream of the Crop did, in fact,  
25 only sign up for a very short term deal under the  
26 proposed agreement, which isn't even an agreement  
27 yet.

28 But even more importantly, their original

1 deal that they had negotiated, not knowing about the  
2 receivership, was 50,000 a month. The new deal on a  
3 short-term basis was only 30,000, and that was all I  
4 was pointing out. I wasn't saying, "Don't come in."  
5 I wasn't saying, "You're not welcome." That's all I  
6 was pointing out, that it wasn't as favorable  
7 because the receiver was in there.

8 So that's some misinformation from  
9 Mr. Joseph to go along with some of the figures that  
10 he cited in that Mira Este actual cash flow, and I  
11 just want to make a couple of points on that.

12 Brian, would you mind putting that back up,  
13 that one there.

14 MR. BRINIG: The first one?

15 MR. GORIA: No. The one that you just --  
16 on the ground, yes.

17 First, he made some reference to the fact  
18 that EdiPure is supposed to pay 45,000 in taxes.  
19 They haven't been paying it. How in -- you know,  
20 how in the world would he know that?

21 The fact of the matter is that EdiPure is  
22 paying taxes in addition to the 30,000 a month.  
23 They're paying the actual amount that is due  
24 directly to the California Cannabis Group, and the  
25 California Cannabis Group is then turning around and  
26 paying the taxes.

27 THE COURT: Do you know that, Mr. Essary?

28 MR. ESSARY: I know of the tax payment made

1 from California Cannabis Group with the filing that  
2 was done by Mr. Henkes. I have no information or  
3 notification of any receipts of any other monies.

4 MR. GORIA: So there are no shenanigans  
5 going on with the payment of taxes. The \$35,000  
6 that he says is somehow missing or has never been  
7 paid, again, misinformation. The contract -- the  
8 management agreement between Synergy and Mira Este  
9 says that that 35,000 is to come from profits.

10 Well, you know what? Since Synergy has  
11 come in there, there have been no net profits. So  
12 that 35,000 has never become due. So there's  
13 nothing to -- nothing to that argument.

14 And again, I would like to point to the  
15 fact that in Mr. Brinig's report, he listed income  
16 from all sources of Mira Este since the receiver  
17 came in at 90,000, which corresponds with 30,000 per  
18 month from EdiPure.

19 He lists expenses well in excess of 200,000  
20 with a net loss of 132,000. We don't necessarily  
21 disagree with those figures. I don't. I think  
22 they're accurate. That's the situation at  
23 Mira Este. They are losing money at the rate of  
24 \$130,000 for every three months or about \$40,000 a  
25 month and --

26 THE COURT: Were they making money with  
27 SoCal?

28 MR. GORIA: Again, when you say "making

1 money," there was no income coming into the  
2 Mira Este facility. The only thing that was coming  
3 in was that SoCal was paying the management fee from  
4 its own bank account. They were not generating any  
5 income at that facility. There was no income being  
6 generated there.

7 And I think that -- as I understand SoCal,  
8 they're an L.A. investment firm. They don't have  
9 any -- any contacts down here not like Synergy does.  
10 Jerry Baca --

11 THE COURT: They ran the business.

12 MR. GORIA: No, no. They didn't run a  
13 business. They -- you know, not at Mira Este, they  
14 didn't.

15 MR. FULLER: Yeah. We have a large  
16 manufacturing -- and we were manufacturing and  
17 making money, but that's okay.

18 THE COURT: Hold --

19 MR. GORIA: Well, there was no  
20 manufacturing by SoCal at Mira Este. Nothing was  
21 being done. In fact, when I went up there -- I  
22 toured the facility long ago -- and SoCal's  
23 equipment was all down there. It was all nice and  
24 shiny. It was all in plastic wrap. It had never  
25 been undone. In nine months, it had never been  
26 implemented.

27 So again, we think that the best course of  
28 action at Mira Este is to treat that as Roselle.

1 It's not effective and it's not in really anybody's  
2 best interests to keep the receivership there,  
3 Your Honor.

4 And one last point. Mr. -- I think  
5 Mr. Joseph was shortchanging his own client. He  
6 kept referring to his client's interest at  
7 32.5 percent. Apparently, they're claiming in their  
8 complaint that he's entitled to 37 1/2 percent, not  
9 32.5.

10 THE COURT: Got it. Thank you, Counsel.

11 Mr. Watts?

12 MR. WATTS: A few points. SoCal's  
13 contracts -- they asked to be put back in because  
14 they think they were terminated for a wrong reason,  
15 and they think they have a right to stay there and  
16 keep managing it.

17 Contracts for personal services are not  
18 specifically enforceable in California under Civil  
19 Code 3390. So even if they win the lawsuit, they  
20 can't force anyone to put them back in. Their  
21 claims are for damages, so they should not be put  
22 back in.

23 SoCal says that they have the right to  
24 ownership. They didn't exercise those options in  
25 those contracts. They've exercised -- they bought  
26 the option at Balboa. You had to pay a fee to buy  
27 the option. They did not buy the option at the  
28 other two facilities, and then the options expired

1 because they never exercised them. They have  
2 claimed in the past that we've agreed to extend the  
3 options. We never did. That's not in evidence.

4 The Fifth Amendment argument -- they  
5 decided not to actually dispute anything except with  
6 argument and then claiming the Fifth Amendment. If  
7 they're going to claim the Fifth Amendment because  
8 they want to try to dispute the fact that the  
9 equities weigh against them now, then the Court  
10 should stay the case and, therefore, stay the  
11 receivership order. We have a right to have  
12 discovery done on what is equitable and what is not  
13 and --

14 THE COURT: Or I could leave the receiver  
15 in and stay the case, couldn't I?

16 MR. WATTS: I don't know that you could.

17 THE COURT: I could. Trust me.

18 MR. WATTS: Or do that. Do that, set an  
19 appellate bond --

20 THE COURT: I'm not going to do that.  
21 Trust me.

22 MR. WATTS: Okay. As for the restraining  
23 order, we did initially -- so the first restraining  
24 order -- the temporary restraining order in August  
25 was when they were merely hiring gang members to  
26 vandalize my client's businesses, and we achieved a  
27 temporary restraining order based on the  
28 declarations explaining that to the Court.

1           Then later on, when we were trying to  
2 discuss settlement, we agreed to dismiss the  
3 restraining order. That was, of course, before  
4 their client tried to murder mine.

5           When that happened, I called the clerk to  
6 see if they ever filed those dismissals. They were  
7 not on file. Those dismissals were not processed or  
8 registered.

9           So that November 19th hearing, which they  
10 had notice of -- they stood in front of the judge,  
11 and the judge said, We're going to continue this to  
12 November 19th. They had notice of that. I said,  
13 well, I'm going to show up to that and see if it  
14 goes forward. I showed up to it with my client, and  
15 we were both sworn in.

16           THE COURT: Were they there?

17           MR. WATTS: They were not there, no,  
18 because he was in prison across the street.

19           THE COURT: I got it.

20           MR. WATTS: And so based on that -- and I  
21 explained that to the judge and it was reported. So  
22 I -- we gave testimony and submitted the evidence,  
23 and the judge found clear and convincing evidence  
24 that he tried to murder my client. RM Holdings  
25 losses is what they're entitled to, not a property  
26 interest, just the losses.

27           And we're not trying to convict Mr. Razuki  
28 either, so the Fifth Amendment argument is

1 essentially irrelevant for those purposes. Innocent  
2 until proven guilty. We're not putting him in jail.

3 The oral contract that they're talking  
4 about that SoCal's lawyers said he has seen is  
5 superseded by the written contract, which is  
6 attached to their first amended complaint. And it  
7 says in there that it supersedes any oral contracts  
8 to the contrary or any oral contracts on the same  
9 subject.

10 The foreign account -- the forensic  
11 accounting is hearsay, and I want to make it very  
12 clear that I object to that and to these numbers.  
13 It's hearsay and inadmissible. Even if it was  
14 admissible, the size of the dollar amount doesn't  
15 mean that you're more likely to succeed or not.

16 For likelihood of success for the validity  
17 of a contract, the fact that there are big numbers  
18 on a chart doesn't mean that there is a contract  
19 there. It doesn't mean that anybody breached the  
20 contract. It just means there's big numbers.

21 And then receiver -- he said that he didn't  
22 have an initial arrangement to hire SoCal. He said  
23 that was done by order. The declaration of Salam  
24 Razuki that was filed in July said that his  
25 attorney, Mr. Elia, had talked to Mr. Essary and  
26 agreed that they would hire SoCal. That's in their  
27 declaration. That's an arrangement that was made  
28 with the receiver before he was hired, which, under



1 the rules of court, means that he's not supposed to  
2 be the receiver. That violates the rules of court.  
3 That's it.

4 THE COURT: Mr. Watts, thank you, sir.

5 MR. WATTS: Thank you.

6 MR. ELIA: Your Honor, I'll be less than  
7 two minutes, if I may.

8 THE COURT: It's your turn. Because in  
9 seven minutes, I'm walking off the bench.

10 MR. ELIA: Okay. I'll be quick.

11 Mr. Brinig, would you put up the first one  
12 with all the numbers with the four --

13 Your Honor, a few months ago, we were here  
14 before Your Honor, and Your Honor stated that  
15 eventually the truth will come out. And the truth  
16 did come out. As you may recall, they told us that  
17 we have an imaginary interest, that we didn't put in  
18 any money, and that they funded the entire thing.  
19 The truth has come out.

20 Now, why is this important, Your Honor?  
21 You can see that my client and SoCal put in  
22 \$5 million while they put in -- they took out money.  
23 Now, even if you were to believe their argument that  
24 they reinvested this money, that takes them to zero.  
25 It doesn't show that they put any money in.

26 Why do we want SoCal? Why have we been  
27 asking for SoCal to go in on the very first day we  
28 were here? The reason is they have -- their actions

1 have damaged the partnership. They put in  
2 \$2 million, Your Honor. They're not going away.  
3 I've been saying that from day one. We have to deal  
4 with them. They're not going to walk away from  
5 \$2 million.

6 If they go in, it benefits not only  
7 Mr. Razuki. It benefits Mr. Malan and Mr. Hakim,  
8 because someone's got to pay this amount. Their  
9 actions have caused them to come in, and they're  
10 just not going to let go of this amount.

11 Now, you've let --

12 THE COURT: Counsel --

13 MR. ELIA: Yes, Your Honor. Go ahead.

14 THE COURT: Can I assume because it's shut  
15 down, no one at this time is running Balboa? Is  
16 that a fair statement to everybody? No one?

17 MS. AUSTIN: Yes, Your Honor.

18 MR. ESSARY: I have the keys as of today,  
19 Your Honor.

20 THE COURT: So no one -- and I repeat -- I  
21 don't mean to repeat, but no one is running Balboa,  
22 period?

23 MR. ELIA: Yes.

24 THE COURT: I got it.

25 MR. ELIA: Okay. And, Your Honor, you've  
26 let them stay in for four months. They have been  
27 involved, Mr. Hakim and Mr. Malan. All we're asking  
28 at this point -- we've seen where that has taken us.

1 Balboa is closed down. They're claiming Mira Este  
2 isn't making any money. All we're asking is that  
3 they be taken out -- and when I say "they," I mean  
4 Mr. Malan and Mr. Hakim -- and that we go back to  
5 SoCal, because SoCal was profitable. They have  
6 demonstrated that. They have got skin in the game.

7 THE COURT: Why do I have to take anybody  
8 out? There's no one there.

9 MR. ELIA: I'm saying we've ought to put  
10 them back in.

11 THE COURT: There you go.

12 MR. ELIA: That's what I mean.

13 A couple other things, Your Honor. I think  
14 maybe if we came back in 60 days, as my  
15 recommendation, I think you would find that not only  
16 the Balboa distribution but Mira Este would be  
17 profitable. I think that's what you would see.

18 It's just a matter -- if this is -- I've  
19 been saying this from day one. If you have  
20 Mr. Malan and Mr. Hakim in these businesses, we're  
21 never going to get accurate numbers. Don't take my  
22 word for it. Ask the receiver. He's uncomfortable  
23 and he said so in his declaration.

24 With respect to Mr. Watts' argument about  
25 the receivership, Your Honor, Your Honor in this  
26 court has already ruled in favor of Mr. Razuki. The  
27 Court has already found in a previous hearing that  
28 they -- you have granted our preliminary injunction

1 and found a likelihood of success on the merits and  
2 irreparable harm. So I would object to any  
3 argument. This is not a motion for reconsideration  
4 or appeal. The Court has already ruled on that.

5 THE COURT: I'm going to address -- oh,  
6 man. Be thinking about this, because that crossed  
7 my mind too. I want each party before we leave  
8 today to say, Judge, here's what I think the issues  
9 are that are before the Court and I need to rule on.  
10 Because there's -- there's, like, a ton of things  
11 that people brought up that I'm concerned about.

12 Go ahead.

13 MR. ELIA: Your Honor --

14 THE COURT: Think about that, Counsel.

15 MR. ELIA: That's it, Your Honor. That's  
16 all I have to say. Thank you.

17 THE COURT: Yeah. Correct me if I'm wrong,  
18 isn't there already a preliminary injunction in --

19 MR. ELIA: There is, Your Honor. That's  
20 why I don't know why we're hearing this again.

21 THE COURT: Hold on.

22 Ms. Reporter, off the record.

23 (Brief recess.)

24 MR. FULLER: Your Honor, thank you. I  
25 really don't have anything further to add. You  
26 covered it.

27 THE COURT: Mr. Essary --

28 Or, Mr. Jaffe, do you want to say anything?

1           MR. JAFFE: Your Honor, just on Sunrise,  
2 the only interest that Mr. Malan has -- allegedly  
3 has is that he says he -- under the settlement  
4 agreement, but that only would possibly pay him only  
5 after Mr. Razuki gets reimbursed all of his money,  
6 and that hasn't happened.

7           THE COURT: Thank you.

8           Mr. Essary?

9           MR. ESSARY: Nothing further, Your Honor.

10          THE COURT: Okay. Here we go. I've got,  
11 like, five things, but let's start slowly. What  
12 issues does the Court need to decide? Let's start  
13 with Balboa --

14          MS. LEETHAM: Balboa.

15          THE COURT: -- who -- go ahead.

16          MS. LEETHAM: I think it's totally unclear,  
17 to be quite honest with you. And I think that --

18          THE COURT: Okay. Should the receiver stay  
19 in or out?

20          MS. LEETHAM: I -- my understanding of what  
21 we were doing today is the Court was going to  
22 revisit whether the receiver should be retained or  
23 not.

24          THE COURT: There we go.

25          MS. LEETHAM: And our position is he should  
26 not be retained.

27          THE COURT: I got everybody's position. I  
28 just want to know what issues this Court needs to

1 decide.

2 And I'm going to come back to you, Counsel,  
3 if I may.

4 So should the receiver be in --

5 MS. LEETHAM: Should the --

6 THE COURT: -- or stay?

7 MS. LEETHAM: Correct. And the Court was  
8 going to look at what Mr. Brinig supplied.

9 THE COURT: Uh-huh.

10 MS. LEETHAM: And --

11 THE COURT: I'll get back to you on that,  
12 Counsel.

13 MS. LEETHAM: It sort of opened up all this  
14 other stuff, so I don't know how else to answer  
15 that.

16 THE COURT: We're off to --

17 MR. GORIA: Your Honor, we had -- Mr. Hakim  
18 and Mira Este had filed an ex parte application --

19 THE COURT: Yeah.

20 MR. GORIA: -- to remove the receiver.  
21 That's before the Court today.

22 THE COURT: To do what?

23 MR. GORIA: To remove the receiver from  
24 Mira Este.

25 THE COURT: Yeah. Let's make it clear.  
26 Only from Mira Este?

27 MR. GORIA: Correct.

28 THE COURT: Thank you, sir.

1           Hold on.

2           Mr. Watts?

3           MR. WATTS:  Whether -- one issue is whether  
4 the order is void, the initial order, not whether to  
5 reconsider it, but whether it was void ab initio.

6           THE COURT:  Is that up on appeal?

7           MR. WATTS:  Not whether it's -- well, you  
8 always have the jurisdiction to vacate a void order.  
9 But the order is on appeal, yes, the September 27th  
10 order.

11          THE COURT:  As to where that was a valid  
12 orderer on not, correct?

13          MR. WATTS:  Yes.

14          THE COURT:  Thank you, sir.  Go ahead.

15          MR. WATTS:  And then second, whether the  
16 Court has jurisdiction to modify the order in light  
17 of the appeal, not whether you have to stay it, but  
18 whether you even have jurisdiction to do anything to  
19 it.

20                 Third, whether the equities have shifted so  
21 that the Court should modify the order if the Court  
22 has jurisdiction to do that, or does that make the  
23 order void if the equities are the opposite because  
24 of things that have happened.

25                 Another one is who -- if -- the original  
26 order from September 27th said that -- and you said  
27 this is on the record, that this hearing, you had --  
28 you'd say if you're going to reassess it.  You're

1 going to decide whether to keep a receiver and who  
2 the receiver is going to be. You said, "It might  
3 not be you, Mr. Essary." You said that on the  
4 record September 27th.

5 So who should the receiver be if you keep a  
6 receiver, whether you should keep a receiver. And  
7 then we have an ex parte application --

8 THE COURT: Here we go.

9 MR. WATTS: -- to add Sunrise, all those  
10 Sunrise Properties. And so should that be granted  
11 and, if so, who should that receiver be. And then  
12 finally, we also ask for the appellate bond to be  
13 set.

14 THE COURT: And there's another issue on  
15 the appellate bond. When is that set for?

16 MS. LEETHAM: Your Honor, it's set for  
17 December 14th.

18 THE COURT: I may continue that to the  
19 14th, Mr. Watts. Is that okay?

20 MR. WATTS: It's not okay, Your Honor, but  
21 I understand.

22 THE COURT: I still need to do it, though.  
23 I appreciate your courtesy.

24 Hold on. Let's make it clear. Over his  
25 objection. You're being very polite, though.

26 Anything else on that?

27 All right. Yeah, yeah. Here we go. Let's  
28 talk about -- hold on.



1 Balboa, your turn.

2 MR. JOSEPH: Property by property,  
3 Your Honor, Question 1 for Balboa: Should there be  
4 a receiver and who is that receiver?

5 THE COURT: Got it.

6 MR. JOSEPH: Question 2 for Balboa is: Who  
7 should be the operator? because the current order  
8 requires Far West.

9 In terms of the second property,  
10 Mira Este --

11 THE COURT: Hold on.

12 MR. JOSEPH: Sorry.

13 THE COURT: Go head.

14 MR. JOSEPH: And, Your Honor, sorry. I  
15 forgot. As to Balboa, should the receiver have  
16 expanded power to control the operations themselves  
17 or appoint a new operator himself?

18 THE COURT: And then as to -- you said  
19 Balboa, right, or --

20 MR. JOSEPH: That is to Balboa.

21 THE COURT: You want to expand the  
22 receiver?

23 MR. JOSEPH: To give him operational  
24 control, not simply be a supervisor or to appoint  
25 any operator that he chooses.

26 THE COURT: Go ahead. Anything else?

27 MR. JOSEPH: Including SoCal.

28 THE COURT: I got it.

1 MR. JOSEPH: In terms of Mira Este --

2 THE COURT: Yeah, there we go.

3 MR. JOSEPH: -- essentially, the same  
4 questions. One, is there a receiver and who should  
5 it be? And then two, same thing as before, expand  
6 the receiver's power for operational control so that  
7 Synergy can be dismissed and he can appoint who he  
8 wants. As to the appellate bond, we would agree  
9 with the continuance.

10 THE COURT: I'm going to do that on the  
11 14th.

12 MR. JOSEPH: That's on the 14th. As to  
13 Sunrise, no receivership. But also, Your Honor,  
14 there's one other thing. Your September 27th order  
15 does say that Sunrise has to be entered into the  
16 accounting once they have counsel, and we're fine  
17 with Sunrise being put into the accounting, just not  
18 a receivership.

19 THE COURT: I'm ordering that now.

20 So, Mr. Richardson, start making notes.  
21 I'm going to order that right now. Well, I assume.  
22 Hold on.

23 Receiver, any problem with that, putting  
24 Sunrise -- I want to know what their accounting is,  
25 what they're doing.

26 MR. ESSARY: Would you like me to use  
27 Mr. Brinig or do it myself?

28 THE COURT: Mr. Brinig.

1 Mr. Brinig, can you do that for the Court?

2 MR. BRINIG: Yes, Your Honor.

3 MR. ELIA: May I clarify? Is that what  
4 Mr. Razuki's con -- distributions are or the entire  
5 entity? because there's four other owners that are  
6 not related to this lawsuit.

7 THE COURT: Just his -- just his --

8 MR. BRINIG: Razuki --

9 THE COURT: -- distribution and --

10 MR. BRINIG: -- in and out.

11 THE COURT: Yeah, there you go.

12 Distributions and contributions, it would be.

13 Mr. Richardson, get that down.

14 MR. GRISWOLD: Your Honor, which entities  
15 are we specifically talking about? I know that's --

16 MR. WATTS: Your Honor, Sunrise -- the  
17 agreement was that the -- you know, the profits are  
18 derived from the Sunrise shares, and they're a  
19 percentage, presumably, of Sunrise's overall money.

20 And so if we don't have a complete  
21 accounting of Sunrise, we have no idea if Razuki's  
22 distributions or contributions are accurate or if  
23 they are based in a reasonable calculation of  
24 Sunrise's overall money.

25 THE COURT: Let me think about that one.  
26 I'm pulling that one back. Because how many  
27 entities are there?

28 MR. WATTS: There's Sunrise Property

1 Investments. There's Alternative Health  
2 Cooperative. There is Super 5 Consulting Group.

3 THE COURT: I'm going to think about that  
4 one.

5 MS. LEETHAM: And Golden Bloom, Your Honor.  
6 It operates very similarly to Balboa that we know.

7 THE COURT: I'm rescinding that order.  
8 I'll think about it.

9 All right. Anybody else want to say  
10 anything?

11 MR. FULLER: Yes. The only thing is that  
12 we would like to see the receiver to have plantary  
13 power and to be able to grant options.

14 THE COURT: To do what?

15 THE REPORTER: To have what power?

16 MR. FULLER: Plantary.

17 THE REPORTER: Thank you.

18 THE COURT: To do what?

19 THE REPORTER: Plantary power, Your Honor.

20 THE COURT: That's up to the Court,  
21 Counsel, respectfully.

22 MR. ESSARY: One last -- I know everybody  
23 has been very conscious of it too -- is the lack of  
24 cash flow and the piling up of the HOA or other  
25 bills and things too and also, as we mentioned  
26 before, expenses of the receivership, which have not  
27 been paid by the defendants or the operations. And  
28 so where do we get money is a big issue.

1 THE COURT: I'm getting there.

2 MR. ESSARY: I understand.

3 THE COURT: Let me just -- and now I'm  
4 going to go back. My decision is being influenced  
5 by this, Counsel, okay, by Mr. Brinig's report. And  
6 I'll tell you. It's -- a considerable amount of it.

7 My concern is -- when you say, "Judge, we  
8 haven't had enough time," that concerns me. And I  
9 understand the issues behind it. I'm  
10 contemplating -- everybody get this -- a short  
11 continuance to allow you, Counsel, to get the  
12 information you think that is important, because I  
13 tell you, this is affecting you. Time to give it to  
14 Mr. Brinig.

15 And, Mr. Brinig, I need a quick turnaround.

16 So I guess what I'm looking to you -- and  
17 I'm talking to Balboa -- is how much -- what's the  
18 fastest you can get this done? because I've got a  
19 courtroom of people that I are saying, Judge, do  
20 something.

21 MS. LEETHAM: We can get in everything by  
22 next Wednesday, December 5th.

23 THE COURT: Oh, that's good.

24 MS. LEETHAM: And --

25 THE COURT: That's good.

26 MS. LEETHAM: And then I guess it's --

27 THE COURT: Then I'm going to turn to  
28 Mr. Brinig and say, Mr. Brinig, you're going to get

1 everything to you by next Wednesday, which would be  
2 the --

3 MS. LEETHAM: December 5th.

4 THE COURT: -- the 5th.

5 Write that down, Mr. Griffin [sic].

6 How else -- it shouldn't take you long, I  
7 wouldn't think.

8 MR. BRINIG: About five working days.

9 THE COURT: Excellent.

10 Here's what we're going to do. And I --  
11 it's important to the Court that everybody gets  
12 their say, and that's why I'm doing this.

13 MS. LEETHAM: Thank you, Your Honor.

14 THE COURT: Because the orders are going to  
15 fall. I'll tell you. But it's complicated and I'm  
16 getting there. I will tell you.

17 Thank you, Mr. Brinig.

18 Thank you. You all have been very polite  
19 today.

20 But there's a lot of nuances in this case  
21 that this Court has to think about because of what's  
22 happened. And I understand the presumption. I've  
23 got all that. Trust me. I've got it all, but I'm  
24 going to have to think about it.

25 I understand your issues, Mr. Gorla, too,  
26 clearly.

27 So my thought process is this: We're  
28 going to -- and I've got my list. You will get

1 orders on the 14th. So let there be no excuses,  
2 because I'm going to make orders, about at least  
3 five or six of them. And I've got your list.

4 Ms. Reporter, you know when you started  
5 over there on that list of -- that's what I want.

6 Mr. Brinig?

7 MR. BRINIG: One comment, Your Honor. I  
8 will also address Mr. Hakim's and Mr. Gorla's  
9 submission to me that happened subsequent to my  
10 report.

11 THE COURT: Okay. So the 5th is good?

12 MS. LEETHAM: I will make it good, because  
13 it has to be done. Yes.

14 THE COURT: Mr. Brinig, I really -- and I'd  
15 like to read that -- I don't want to read it on the  
16 14th. Okay? So can you have it to me by the 12th?

17 MR. BRINIG: Okay. And it's a given,  
18 Your Honor, that I'm not going to get a shoebox. I  
19 mean, I'm going to get --

20 MS. LEETHAM: I can work offline with you  
21 in the format you prefer.

22 THE COURT: Okay. I've got my list. I'm  
23 50 percent of the way there. The Court understands  
24 the importance. What I really appreciate today,  
25 though, was all of the counsel. You were very  
26 polite under these difficult circumstances, and I  
27 mean difficult. You hear the Court speaking. We  
28 will get through this, and I will try to do -- I

1 can't say -- try to do what is best for all the  
2 parties. Okay? Be ready for me on the 14th. Give  
3 me one more second. Hold on.

4 1:30 -- can everybody just wait one second.  
5 I'm just pulling up my calendar on the 14th. I'm  
6 going to see if I can move stuff, so give me a  
7 second. And for security purposes, you all are  
8 going to have to walk down together. Don't talk  
9 outside. Get outside the building, because we're  
10 a -- you're in a secured building. All walk down  
11 together with that young lady right there. Everyone  
12 go outside, and then you can go into your groups and  
13 talk about what we did today. Okay. One second.  
14 I'm almost there.

15 Next, the 14th. That's easy. That's easy.  
16 Here we go. All right. Here's the good news.  
17 You're going to have -- I've got one OSC hearing.  
18 You have three hours. I do not think it will take  
19 three hours, but we'll start at 1:30. You'll have  
20 the whole afternoon. It won't take that long.

21 But let me -- just one other thing. I  
22 assume we're done with the pleadings now. This is  
23 it. Judge, everything we need to protect our record  
24 for any type of appellate review is in, Judge. You  
25 just need to make a decision, Judge Sturgeon.

26 Is that a fair enough analysis, except for  
27 Balboa?

28 MR. WATTS: The briefing?



1 THE COURT: Yeah.

2 MR. WATTS: If you consider everything  
3 we've filed, yeah.

4 MR. JOSEPH: Your Honor, we have an  
5 opposition to the appellate bond, which is due on  
6 Monday. Would it --

7 THE COURT: That's fine, but everything  
8 else is closed.

9 Everybody with me? Except for --

10 MS. LEETHAM: Balboa.

11 THE COURT: -- Balboa and Mr. Brinig and  
12 you.

13 MS. AUSTIN: Your Honor, I have Better Than  
14 Good sitting here, and they have been here all day  
15 to determine whether or not they can ink a deal.  
16 We've got two more weeks. We've got new regulations  
17 coming out. They want to know whether they come in  
18 or not. And Mr. Essary doesn't want to do anything  
19 until the Court makes some orders of what to do. So  
20 what should we do?

21 THE COURT: Well, who are -- I'll do that  
22 right now. Who am I speaking to?

23 MS. AUSTIN: Better Than Good.

24 MR. MILNER: Dustin.

25 THE COURT: Dustin. Is that your -- first  
26 and last name, sir?

27 MR. MILNER: Milner.

28 THE COURT: Mr. Milner, sir, whether there

1 is a receiver or not, will you come in?

2 MR. MILNER: By advice of counsel, we've  
3 been told to wait until there's no longer a  
4 receiver.

5 THE COURT: Then you're going to wait.

6 That answers -- no. That answered his  
7 question.

8 Mr. Griswold?

9 MR. GRISWOLD: Different issue. So I just  
10 want to get -- is it the Court's desire that the  
11 Balboa dispensary remain closed until December 14th?

12 THE COURT: That's a great issue. Yeah. I  
13 hate to say it.

14 MR. GRISWOLD: Okay, Your Honor.

15 THE COURT: All right. And again, the  
16 Court thanks you for your patience. Let's do this.  
17 I can get it done on the 14th. Thank you.

18 (The proceedings concluded at 6:25 p.m.)

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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: December 14, 2018

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Leyla S. Jones  
CSR No. 12750

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