
In the
Court of Appeal
of the
State of California
FOURTH APPELLATE DISTRICT
DIVISION ONE

D075028

SALAM RAZUKI,
Plaintiff-Respondent,

v.

NINUS MALAN, SAN DIEGO UNITED HOLDINGS GROUP, LLC,
FLIP MANAGEMENT, LLC, BALBOA AVE COOPERATIVE,
CALIFORNIA CANNABIS GROUP, DEVILISH DELIGHTS, INC.,
CHRIS HAKIM, MIRA ESTE PROPERTIES, LLC and ROSELLE PROPERTIES, LLC,
Defendants-Appellants.

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY
HONORABLE EDDIE C. STURGEON · CASE NO. 37-2018-000034229-CU-BC-CTL

APPELLANTS' APPENDIX
Volume 18 of 19 – Pages 5856 to 6295 of 6477

CHARLES F. GORIA, ESQ. (68944)
GORIA, WEBER & JARVIS
1011 Camino del Rio South, Suite 210
San Diego, California 92108
(619) 692-3555 Telephone
(619) 296-5508 Facsimile

*Attorney for Appellants,
Chris Hakim, Mira Este Properties, LLC
and Roselle Properties, LLC*

*DANIEL T. WATTS, ESQ. (277861)
LOUIS A. GALUPPO, ESQ. (143266)
G10 GALUPPO LAW, APLC
2792 Gateway Road, Suite 102
Carlsbad, California 92009
(760) 431-4575 Telephone
(760) 431-4579 Facsimile

*Attorneys for Appellants,
Ninus Malan, San Diego United Holdings Group, LLC,
Flip Management, LLC, Balboa Ave Cooperative,
California Cannabis Group and Devilish Delights, Inc.*



ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.: NAME: Steven A. Elia (#219700) | James Joseph (#309883) FIRM NAME: ELIA LAW FIRM, APC STREET ADDRESS: 2221 Camino Del Rio S, Ste 207 CITY: San Diego STATE: CA ZIP CODE: 92108 TELEPHONE NO.: 619-444-2244 FAX NO.: 619-440-2233 E-MAIL ADDRESS: steve@elialaw.com | james@elialaw.com ATTORNEY FOR (name): Respondent Salam Razuki	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central	
PLAINTIFF/PETITIONER: Ninus Malan, et al. DEFENDANT/RESPONDENT: Salam Razuki	
RESPONDENT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)	SUPERIOR COURT CASE NUMBER: 37-2018-00034229-CU-BC-CTL
Re: Appeal filed on (date): 10/30/2018	COURT OF APPEAL CASE NUMBER (if known):
Notice: Please read Judicial Council form APP-001 before completing this form. This form must be filed in the superior court, not in the Court of Appeal.	

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

The appellant has elected to use a clerk's transcript under rule 8.122.

- a. **Additional documents.** (If you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk's transcript, you must identify those documents here.)

In addition to the documents designated by the appellant, I request that the clerk include in the transcript the following documents from the superior court proceedings. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

	Document Title and Description	Date of Filing
(1)		
(2)		
(3)		

See additional pages.

- b. **Additional exhibits.** (If you want any exhibits from the superior court proceedings in addition to those designated by the appellant to be included in the clerk's transcript, you must identify these exhibits here.)

In addition to the exhibits designated by the appellant, I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. (For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence.)

	Exhibit Number	Description	Admitted (Yes/No)
(1)			
(2)			
(3)			

See additional pages.

CASE NAME:	SUPERIOR COURT CASE NUMBER: 37-2018-00034229-CU-BC-CTL
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1. c. Copy of clerk's transcript. I request a copy of the clerk's transcript. (check (1) or (2).)
- (1) I will pay the superior court clerk for this transcript when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, I will not receive a copy.
- (2) I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b)):
- (a) An order granting a waiver of court fees and costs under rule 3.50 et seq.; or
- (b) An application for a waiver of court fees and costs under rule 3.50 et seq. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)

2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

The appellant has elected to use a reporter's transcript under rule 8.130.

- a. **Designation of additional proceedings.** (If you want any oral proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.)
- (1) In addition to the proceedings designated by the appellant, I request that the following proceedings in the superior court be included in the reporter's transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings—for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions—the name of the court reporter who recorded the proceedings, and whether a certified transcript of the designated proceeding was previously prepared.)

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(a) 10/25/2018	C-67	Partial	Transcript from Ex Parte Hearing	Paula A. Rahn	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(b) 11/6/2018	C-67	Partial	Transcript from Ex Parte Hearing	Lois Mason (Currently finalizing the record)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(c) 11/30/2018	C-67	Partial	Transcript from Continued Status Conference Hearing	Leyla Jones (Currently finalizing the record)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(d)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(e)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(f)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(g)					<input type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages.

CASE NAME:	SUPERIOR COURT CASE NUMBER: 37-2018-00034229-CU-BC-CTL
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2. a. (2) **Deposit for additional proceedings**

I have (check a, b, c, or d):

- (a) Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).
- (b) Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(b)(3)(B).
- (c) Attached the reporter's written waiver of a deposit for (check either (i) or (ii)):
- (i) All of the designated proceedings.
- (ii) Part of the designated proceedings.
- (d) Attached a certified transcript under rule 8.130(b)(3)(C).

b. **Copy of reporter's transcript.**

- (1) I request a copy of the reporter's transcript.
- (2) I request that the reporters provide (check (a), (b), or (c)) :
- (a) My copy of the reporter's transcript in paper format.
- (b) My copy of the reporter's transcript in computer-readable format.
- (c) My copy of the reporter's transcript in paper format and a second copy of the reporter's transcript in computer-readable format.

(Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).)

Date:

12/7/2018

(TYPE OR PRINT NAME)



(SIGNATURE OF APPELLANT OR ATTORNEY)

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO
DEPARTMENT 67 BEFORE HON. EDDIE C. STURGEON, JUDGE

SALAM RAZUKI,)
)
 Plaintiff,) No. 37-2018-00034229-CU-BC-CTL
)
vs.)
)
NINUS MALAN,)
)
 Defendants.) EX PARTE HEARING
)
_____)

REPORTER'S TRANSCRIPT

October 25, 2018

APPEARANCES:

FOR THE PLAINTIFF: LAW OFFICES OF STEVEN A. ELIA
BY: STEVEN A. ELIA, ESQ.
 JAMES JOSEPH, ESQ.
 MAURA GRIFFIN, ESQ.
2221 Camino Del Rio South,
Suite 207
San Diego, California 92108

FOR SAN DIEGO NELSON HARDIMAN
BUILDING VENTURES: BY: SALVATORE J. ZIMMITTI, ESQ.
11835 West Olympic Blvd
Suite 900
San Diego, California 90064

FOR THE RECEIVER: RICHARDSON C. GRISWOLD
ATTORNEY AT LAW
444 S. Cedros Avenue, Suite 250
Solana Beach, California 92075

THE RECEIVER: CALSUR PROPERTY MANAGEMENT
MICHAEL ESSARY
8304 Clairemont Mesa Blvd.
Suite 207
San Diego, California 92111

1 APPEARANCES (continued)

2

3

FOR DEFENDANT:

GALUPPO & BLAKE

BY: DANIEL T. WATTS, ESQ.
2792 Gateway Road, Suite 102
Carlsbad, California 92009

5

AUSTIN LEGAL GROUP

BY: GINA M. AUSTIN, ESQ.
3990 Old Town Avenue, Suite A-112
San Diego, California 92110

6

7

8

GORIA WEBER & JARVIS

BY: CHARLES F. GORIA, ESQ. MILES
1011 Camino Del Rio South,
Suite 210
San Diego, California 92101

9

10

11

DART LAW

BY: MATTHEW B. DART, ESQ.
12526 High Bluff Drive, Suite 300
San Diego, California 92130

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REPORTED BY:

PAULA A. RAHN, RPR, CSR NO. 11510
OFFICIAL REPORTER PRO TEMPORE

28

1 SAN DIEGO, CALIFORNIA; THUR., OCTOBER 25, 2018; 8:31 A.M.

2

3 THE COURT: Let's spend a short period of time on
4 Razuki vs. Malan. Come on up, everybody.

5 We've got four motions -- five motions.

6 MR. WATTS: We have a written opposition we
7 didn't have a chance to file.

8 THE COURT: You can do it electronically.

9 MR. WATTS: Okay. Would you like a copy of it?

10 THE COURT: Not much is going to happen this
11 morning. I'm in trial. But it's good to see everybody.
12 Got a whole courtroom here. Oh, geez, we have charts.
13 When you start bringing charts, that's something else, all
14 right? Let's go ahead. I think I know most of you by now
15 and who you represent, but we're going to go one more
16 time.

17 Let's go. We're on the record. This is Razuki
18 vs. Malan, et al. And I don't mean to point, but let's
19 go.

20 MR. JOSEPH: James Joseph on behalf of Razuki,
21 plaintiff.

22 MR. ZIMMITTI: Salvatore Zimmitti for plaintiffs
23 in intervention.

24 THE COURT: Which is?

25 MR. ZIMMITTI: SoCal Building Ventures, LLC and
26 San Diego Building Ventures, LLC.

27 THE COURT: Thank you.

28 MS. GRIFFIN: Maura Griffin on behalf of

1 Plaintiff Salam Razuki.

2 MR. ELIA: Steven Elia on behalf of Mr. Razuki,
3 who's present in the courtroom.

4 THE COURT: Thank you.

5 MR. WATTS: Daniel Watts for Ninus Malan,
6 American Lending and Holding, specially appearing for
7 San Diego United Holdings Group, Balboa Avenue
8 Cooperative, Devilish Delights, California Cannabis Group.

9 THE COURT: And I appreciate that full
10 announcement.

11 MS. AUSTIN: Gina Austin on behalf of, let's see,
12 San Diego United Holding Groups, Balboa Avenue
13 Cooperative, Devilish Delights, California Cannabis Group.

14 MR. DART: Good morning, Your Honor. Matt Dart
15 specially appearing for Far West Management and the
16 individuals. I am new to the matter, Your Honor.

17 THE COURT: Welcome.

18 MR. DART: Thank you.

19 MR. GORIA: Good morning, Your Honor. Charles
20 Goria for Chris Hakim and Mira Este Properties, LLC.

21 THE COURT: So to summarize based on what I've
22 read, we have three of the parties, actually almost
23 everybody, that want to modify the receiver's order.

24 Is that kind of a fair statement?

25 MR. JOSEPH: Yes, Your Honor.

26 THE COURT: Everybody. Okay. I've got it.

27 First of all, we're not going to be able to do it
28 today. I'm in trial. And obviously, this takes time.

1 But I do have some thoughts and questions. I just can't
2 do it today. So I will try to -- I have a very full
3 calendar tomorrow afternoon, but I understand. Can we all
4 come back tomorrow probably I think about 2:30?

5 THE CLERK: You special set something else for
6 2:30.

7 THE COURT: Hold on.

8 (Discussion off the record)

9 THE COURT: We can do it. You probably won't be
10 heard exactly -- I've got a TRO that has to be heard.
11 Well, geez, another TRO. Surprise. So no, let's just say
12 3:00. That will give us an hour and a half. That should
13 be enough time; right? Well, first of all, can everybody
14 make it?

15 MS. AUSTIN: Your Honor, I absolutely cannot make
16 that. There's not any way I can move things around.

17 THE COURT: Can your --

18 MS. AUSTIN: And Ms. Leetham is out on her
19 surgical -- medical reasons.

20 THE COURT: She's okay.

21 MS. AUSTIN: She's okay. She can breathe.

22 THE COURT: Nothing serious. That's important.

23 Can everyone special appear?

24 Okay. Here's the deal. Here's the deal.

25 MS. AUSTIN: I might be able to call in. I
26 might.

27 THE COURT: If you want to phone in, yeah. It's
28 either -- I can't do these -- because of this, I can't do

1 these on my regular thing. So we're just going to start
2 picking Fridays. If you say "Judge, I can't go this
3 Friday," we'll go the Friday after that. Because I need
4 time for all of you. You know how it is. Because there's
5 some big decisions to be made.

6 MS. AUSTIN: My concern is pushing it out -- I'm
7 sorry to do this. I'm trying to figure out my schedule,
8 because I seem to be the only problem-maker here. And
9 Mr. Dart just coming in with FWO and their commitment only
10 to stay through today, but I don't know what -- what might
11 have changed on that.

12 MR. DART: I don't either. Mr. Henkes is here,
13 and he's not certain he can be here tomorrow. He's going
14 to check his calendar. But he would seem to be a
15 necessary participant or a beneficial one.

16 THE COURT: Oh, I want him here.

17 MR. GORIA: Your Honor, tomorrow would be a bit
18 inconvenient for me, also. I could rearrange some things.
19 But maybe Friday the 2nd.

20 THE COURT: Let's do it then.

21 MR. ELIA: Your Honor, I'm going to be in Chicago
22 for a wedding.

23 MR. ESSARY: I'm out of the country, but can
24 phone in if necessary.

25 THE COURT: Pick a Friday. I'm in trial until
26 the end of the year, so I'm just banging trials. You pick
27 a Friday, I'll make myself available. Seriously, I'll do
28 whatever you want.

1 MR. GORIA: Your Honor, just for context, we're
2 all going to be here on Friday, November 16th.

3 THE COURT: That sounds like a good day.

4 MS. AUSTIN: If we could get one management fee
5 paid, I bet -- I don't know, you guys, but I bet you -- I
6 mean, I tried to talk Adam down, so I don't know about
7 that. But I'm just saying there's -- you -- if you want
8 to stay open. Otherwise, I don't know what they'll do.

9 MR. DART: I agree. I think the management
10 company, as you were going to hear today, is operating
11 without getting paid, and it's become a problem. And
12 November 16 sounds like a good day, but it's another three
13 weeks out.

14 THE COURT: Since my last order, has \$50,000 left
15 been paid out without the court approval? That's what I
16 want to know. Anyone know what I'm talking about?

17 MR. ESSARY: Could you say that again, Your
18 Honor.

19 THE COURT: Has 50,000 been paid without a court
20 approval?

21 MR. ESSARY: Other -- for other expenses other
22 than management fee?

23 THE COURT: Yeah.

24 MR. ESSARY: Yes.

25 THE COURT: Without a court approval.

26 MR. ESSARY: I believe so. I mean, just on Mira
27 Este, I've just started approving things as of a week ago.

28 THE COURT: Well, I'm concerned about that. I

1 thought it was very clear in my order not one dime. I
2 mean, how many times do I have to say it? Not one dime.
3 And yet I just read -- did I not read it right? 50,000 --
4 well, it was 25- and 25- just went out that door.

5 Here's the problem. Here's -- and I'm glad we're
6 doing it, because -- first of all, has a P&L ever been
7 done yet? I'm looking at this side of the table.

8 MS. AUSTIN: For which entity, Your Honor?

9 And --

10 (Multiple speakers.)

11 THE COURT: The accountant, has a P&L been done?

12 MR. HENKES: Yes. For which entity are you
13 speaking about?

14 THE COURT: Mira Este; right?

15 MR. HENKES: Yes.

16 THE COURT: When was it done?

17 MR. HENKES: It was done and forwarded, I
18 believe, on Monday.

19 THE COURT: So Monday.

20 Has that gone to Brinig?

21 MR. BRINIG: Yes, Your Honor.

22 THE COURT: Oh, thank God.

23 MR. BRINIG: Brian Brinig, Your Honor.

24 THE COURT: Mr. Brinig, nice to see you here.

25 MR. BRINIG: Nice to see you, your Honor.

26 THE COURT: Let me give -- we're going to take a
27 little time.

28 How is the report going?

1 MR. BRINIG: The report is -- I have -- I'm able
2 to tell the Court generally the general amount of money
3 that Mr. Razuki has put into the entities. I have
4 representations about the amount of money Mr. Malan has
5 put into the entities. I don't have full documentation of
6 that yet. I have representations of the amount of money
7 Mr. Hakim has put into the entities. I don't have full
8 documentation of that yet. I can talk to you about the
9 financial statements that I have and the financial
10 statements that I don't have if you would like that.

11 THE COURT: Here's -- very frankly from the
12 Court, I keep hearing "Judge, money is going -- we've got
13 to pay this bill. We've got to pay this bill. We've got
14 to pay" -- but I don't know what money's coming in. No
15 one's -- I keep -- where's the money? I've said that 20
16 times. All this "Well, Judge, we've got to pay this bill,
17 this bill," and yet there's no -- are these people making
18 money? I just want to know what money is being collected.
19 I can't even get that.

20 MR. GORIA: Your Honor, just briefly from Mira
21 Este, there is no money coming in. That has been dead in
22 the water since the receiver was appointed.

23 THE COURT: Okay.

24 MR. WATTS: I've seen the financials for Balboa.
25 There's the preliminary -- those spreadsheets.

26 MS. AUSTIN: So attached to Ms. Reising's
27 declaration, you will see the money -- the cash sheets
28 that are given to the receiver every single day which

1 shows the amount of money coming in and the amount of
2 money that the operations itself just needs to spend to
3 survive.

4 And the only reason we got here was because some
5 of that operations money, specifically the monies for the
6 operator to operate and I think at one point -- not the
7 most recent security guard issue, but the prior one was
8 not being approved. So we said, "Can we just have a
9 budget so we know that the receiver is allowed to pay
10 those monies?"

11 THE COURT: Thank you.

12 Mr. Brinig, have you seen these documents?

13 MR. BRINIG: When you say "these documents," Your
14 Honor, I'm getting daily cash sheets --

15 THE COURT: Very good.

16 MR. BRINIG: -- from the -- and I've got a little
17 simple chart that helps everybody.

18 THE COURT: Bring it up. I just want to know
19 where the money is.

20 MR. BRINIG: And if you would hold --

21 MR. GORIA: Your Honor, while he's doing this,
22 let me make this slight correction: There is money coming
23 in from one manufacturer at Mira Este, but that is not
24 enough to cover debt service and the other expenses, but
25 there is money from that one manufacturer.

26 THE COURT: How much is that money coming in on a
27 month?

28 MR. GORIA: 30,000 per month.

1 MR. BRINIG: And that -- Your Honor, that --

2 THE COURT: That's a hunk of change.

3 MR. BRINIG: Every time I talk to any of these
4 folks, we talk about all these different entities. In
5 Mira Este, there is -- and please correct me if I say this
6 incorrectly -- there is one I'm going to call them a
7 tenant in Mira Este. That tenant is paying \$30,000 a
8 month and has been there for three months and paid 30,000
9 into one of those two entities. So there has been \$90,000
10 of revenue coming in here.

11 Over in the other entity, which I call Balboa,
12 the -- I'm getting the cash -- daily cash report on the
13 Balboa Avenue co-op. That's where they're selling
14 marijuana and getting cash. I am getting daily cash
15 reports on that. I have not ever seen a financial
16 statement for San Diego United Holdings Group.

17 And Flip Management, I am advised -- I have not
18 seen a financial statement for it. I'm advised it is
19 essentially no longer functioning since August -- I think
20 the date is August. Please correct me if I say any of
21 this wrong.

22 So it just helps me to know what entities we're
23 talking about. And here's where three months of 30,000 a
24 month is coming in here. Here's where the daily cash
25 reports are coming in. And this, I think, is where the
26 dispute is, if I can say it that way, where the operators
27 here want to be paying more expenses.

28 The receiver -- I don't mean to be arguing for or

1 against anybody. The receiver wants to approve the
2 expenses. And I think that's where -- also, one group has
3 proposed a budget for this entity. And I think they're
4 saying, "Please let us spend this much money." I think
5 it's 216,000 comes to mind. They want to spend that much.

6 THE COURT: They do.

7 MR. BRINIG: I think they want to spend that much
8 without receiver approval on a daily or regular basis.
9 That's not my business. So I'm just trying to separate
10 the issues for the Court.

11 MR. WATTS: Your Honor, Exhibit A to Reising's
12 declaration shows every single expenditure at Balboa since
13 August 2nd.

14 THE COURT: I got the expenditures.

15 Can you -- Mr. Brinig, can you give me a sense
16 of -- let's just -- how much money is coming in? The
17 money that's coming in, how much money is coming in in a
18 month?

19 MR. BRINIG: I will look to my associate Marilyn
20 Weber.

21 THE COURT: Ms. Weber, I read your name.

22 MR. BRINIG: This is Marilyn Weber, CPA, with
23 Brinig, Taylor, Zimmer.

24 MS. WEBER: Good morning, Your Honor.

25 THE COURT: Come on up.

26 MR. MAHONEY: And Your Honor, while she's coming
27 up, I didn't think there were enough attorneys here. My
28 name is Matt Mahoney. I'm representing and non-party, but

1 Synergy and Jerry Baca, who is the property manager at
2 Mira Este. I'm hoping to keep my mouth shut, but I'm here
3 just in case the Court has questions about operations.

4 THE COURT: I appreciate that.

5 MS. AUSTIN: And Mr. Henkes also has the numbers
6 of income coming in to Balboa, which I'm sure are exactly
7 the same as Ms. Weber's.

8 MR. HENKES: And those are on daily cash sheets
9 as well every day the income is coming in.

10 THE COURT: Thank you.

11 So give me -- how much money did they make last
12 month? That's what I want.

13 MS. WEBER: About \$212,000 revenue.

14 MR. GORIA: And just for the record, that's for
15 Balboa only?

16 MS. WEBER: Correct.

17 MR. BRINIG: To clarify, though, the only other
18 one -- just so we don't get confused, the only other
19 revenue would be in Mira Este from ediPure; right? So
20 there's those two boxes. That's it.

21 THE COURT: I got it. All right.

22 MS. AUSTIN: Can we ask Mr. Henkes if his number
23 was the same?

24 MR. HENKES: It's -- the exact number is
25 \$203,010.77.

26 THE COURT: Close enough for me. I'll tell you
27 that. Thank you.

28 Okay. So we're going to do this on the 16th;

1 correct? Correct.

2 MR. GORIA: Well, Your Honor, we have a bit of an
3 urgency with our situation.

4 THE COURT: I'm going to address that. Hold on.

5 So let's try this: We're all going to come back,
6 take whatever time so I can really sit in. And I need you
7 here.

8 MR. BRINIG: I can do it on the 16th, Your Honor.

9 THE COURT: With your charts.

10 And I would like somehow if you could put
11 together a P&L or something for me. "Here's what's coming
12 in; here's what's going out."

13 MR. BRINIG: We're planning to have numbers by
14 the 16th. We were not planning to have numbers by today.

15 THE COURT: So first off, can everybody make the
16 16th?

17 THE CLERK: They're on calendar for the 16th
18 already.

19 THE COURT: Never mind.

20 THE CLERK: For a status conference.

21 THE COURT: I want receiver -- here's what:
22 They're saying, "Judge, I need" -- how much money to run
23 for the next 16 days? Give me a number.

24 MS. AUSTIN: 16 days, I've got to divide and
25 multiply. I don't know how to do that.

26 MR. BRINIG: You said \$216,000 a month, which was
27 what I believed when I read your papers.

28 MS. AUSTIN: Right. So he's asking for 16 days.

1 So I guess that would be approximately half.

2 MR. BRINIG: Half a month.

3 MS. AUSTIN: But only out of revenues, not going
4 into other things.

5 THE COURT: I'm right on track. We're on the
6 same page on that one. On revenues coming in. All right?
7 All right. Receiver -- or the attorney. There's --
8 again, I've read this. They say, "Judge, if we don't do
9 something, you all are going to lose." That's what I'm
10 reading. Everybody loses here. So let's just take a
11 minute.

12 So I think it's being proposed, and I'm thinking
13 about it seriously, "Judge, let us have \$100,000 so we can
14 operate for the next 16 days." That's a broad --

15 MS. AUSTIN: And we want to give the information.
16 We don't want to keep it as a secret.

17 THE COURT: You're going to give everything to
18 Mr. Brinig. Thank you.

19 Receiver, how about -- what do you feel about
20 that, \$100,000 of incoming revenue go to?

21 MS. AUSTIN: The itemized -- the itemized --
22 replenishing the ATM, the vendors, the advertising, the
23 management, the security, the maintenance.

24 THE COURT: And that's all under Balboa.

25 MS. AUSTIN: That's correct.

26 THE COURT: And what entity would that check be
27 going to?

28 MS. AUSTIN: Well, "check" is a kind of a broad

1 term. It would be either check or cash or whatever way
2 that we can make it work. Because some of the vendors
3 need credit card payments, which we're still trying to
4 figure out. But it would go from -- into --

5 THE COURT: That's what I want to know.

6 MS. AUSTIN: -- Far West Management --

7 THE COURT: Okay.

8 MS. AUSTIN: -- and out of Far West Management,
9 because that's where it's coming --

10 MR. HENKES: It's really in and out of the
11 operating cash of Balboa Avenue Cooperative.

12 THE COURT: I want to know the specific entity.

13 MR. HENKES: Balboa Avenue Cooperative.

14 THE COURT: Who's Balboa?

15 MR. HENKES: Ninus.

16 MR. BRINIG: The dispensary, Your Honor. Can I
17 assist a little bit? And correct me if I'm wrong. The
18 money comes in to Balboa.

19 MS. AUSTIN: That's correct.

20 MR. BRINIG: Expenses, because of the unique
21 nature of this business -- please anybody correct me if I
22 say this wrong -- get paid in sort of a funny way. In
23 other words, some money goes to Far West to pay both Far
24 West and some expenses, and some other monies goes to
25 San Diego United Holdings to pay expenses.

26 Am I saying that correctly?

27 MS. AUSTIN: I don't --

28 MR. HENKES: Let me clarify. So from the daily

1 receipts of sales, we might take \$2,000 of the operating
2 cash if we sold \$10,000 in marijuana products, and then we
3 have \$10,000. We'll reduce that \$10,000 by \$2,000 and put
4 it in the ATM machine. That money is going to be
5 deposited in San Diego United's account, which we get
6 approval for every expense that we write out of that, the
7 checks that are coming out of that account.

8 The cash never comes to Far West. It's basically
9 just out of the operating cash of what Balboa is doing
10 itself for paying its expenses. So there's a combination
11 of cash expenditures. So if Heidi has \$8,000 left in
12 cash, she might pay the security company \$8,000 in cash.
13 Now we have --

14 THE COURT: From what account?

15 MR. HENKES: From her -- the cash sales.

16 MR. BRINIG: Your Honor --

17 MR. HENKES: Daily cash sheet.

18 MR. BRINIG: Your Honor, the funny business, if I
19 may help Mr. Henkes in that explanation, no question the
20 money comes in to Balboa. Some cash -- I'm asking, but
21 some cash expenses -- and that's what you're talking
22 about -- get directly paid literally out of the cash
23 drawer in Balboa; is that correct?

24 MR. HENKES: Correct.

25 MR. BRINIG: That's one. A second thing is some
26 cash money is taken from the cash drawer and put into the
27 ATM that is at Balboa. That's a second thing. The
28 ATM is -- when -- I don't do this, but when I -- if I go

1 in and take \$200 out of the ATM here, then my bank, Wells
2 Fargo, pays somebody.

3 MR. HENKES: San Diego United.

4 MR. BRINIG: So my bank -- of the hundred people
5 that go in there in a month, their banks pay -- repay the
6 withdrawals from the ATM to San Diego United Holdings. So
7 essentially, cash expenses go out of here, cash goes into
8 the ATM, and the repayment of the cash from the ATM from
9 everybody's bank comes in to San Diego Holdings. That's
10 two.

11 Then three, San Diego Holdings pays various
12 expenses of this entity. I'm just trying to help. Tell
13 me if I'm going too far. I think that's where we are in
14 the explanation so far.

15 MR. HENKES: That's accurate.

16 THE COURT: Are you comfortable with an
17 accounting like that?

18 MR. BRINIG: I don't love it, Your Honor, but
19 it's this funny business that they can't have a bank
20 account. So they can't take their \$200,000 a month the
21 way we would like to see and take it down and put it in a
22 bank and then, say, write checks to pay all the expenses.
23 They can't do that, I'm told. I have no reason to not
24 believe that.

25 So I do think we can get our arms around the
26 accounting if I have the accounting -- I have the cash
27 statements for this. If I have the accounting for this,
28 Flip is history. And if I also find out if any monies

1 that are going to Far West -- and this is kind of a
2 question -- are used to pay operating expenses of Balboa
3 or is the money that goes to Far West simply used for Far
4 West's fee.

5 MR. HENKES: Money going to Far West would only
6 be to repay our invoices. We give them an invoice for
7 \$15,000. That's about what it is per week. \$9,000 in
8 salaries and wages that they're reimbursing us for --

9 MR. BRINIG: Can I stop you there?

10 MR. HENKES: Yes.

11 MR. BRINIG: In other words, some of the money
12 going to Far West is to pay expenses of the operation.

13 Is that correct for that part?

14 MR. HENKES: Absolutely.

15 MR. BRINIG: And then the other part of the money
16 that's going to Far West is for Far West's fee.

17 MR. HENKES: Correct.

18 MS. AUSTIN: That's correct.

19 MR. BRINIG: So where do the expenses get paid?
20 Some cash --

21 THE COURT: I got it.

22 MR. BRINIG: -- then some expenses get paid from
23 San Diego United Holdings and some expenses get paid from
24 Far West.

25 THE COURT: Mr. Brinig -- everybody, I'll give
26 you two seconds to speak. I think I know where I'm going
27 to go.

28 Has SD United Holdings Group, have they provided

1 any information to you as to their -- i.e., "Judge, here's
2 what they're paying out. Here's the money we get."

3 MS. WEBER: We have bank statements.

4 MR. BRINIG: We have bank statements. We do not
5 have financial statements, Your Honor.

6 THE COURT: Who's SD?

7 MR. HENKES: So SD United's activity is actually
8 going to be incorporated into the Balboa financials,
9 because SD United is just housing the bank account for
10 this entity. The only activity that's happening is the
11 deposits and payment of expenses on behalf of CCG. So
12 when you get the financials that I said I'd be sending
13 over later on Balboa, you're going to have all those
14 deposits, the ATM, reflected in there --

15 MS. AUSTIN: That's --

16 MR. HENKES: -- and the expenditures.

17 MR. ESSARY: We don't have it today, Your Honor.

18 THE COURT: Hold on. "And if you get that,
19 Judge, I can give you what you need. I can give you an
20 accounting."

21 MR. BRINIG: I hear that. If that is correct and
22 I get it, then I can -- from what's represented, I will
23 have all the expenses of this entity. I'm going to have
24 some questions. Some are paid from here; some are paid
25 from here. But Mr. Henkes is telling me these financial
26 statements have all those expenses consolidated into them.

27 MS. AUSTIN: That is accurate.

28 THE COURT: Who's Far West? Far West.

1 Anything you need from Far West, Mr. Brinig, what
2 expenses they pay?

3 MR. BRINIG: Well, I'm -- from what Mr. Henkes
4 just said, I'm understanding that I'm going to see the
5 expenses of Balboa that Far West paid in Balboa's
6 financial statements. I may have some questions to make
7 sure that I'm understanding that. But if that is
8 accurate, then I theoretically have all the expenses of
9 Balboa.

10 THE COURT: Correct, Mr. Henkes?

11 MR. HENKES: Those are incorporated, and there's
12 an invoice every week that lays out every expense that
13 we're charging them for.

14 THE COURT: Well done. Thank you.

15 I'm ordering everybody to cooperate with
16 Mr. Brinig. That's a court order right now. If he calls
17 you up and says "I need to know this financial
18 information," court order, cooperate with him.

19 Anything else you think you need for the
20 November -- Ms. Weber, anything you need?

21 MS. WEBER: Well, I think that there's -- I mean,
22 other than San Diego United, we don't have a whole picture
23 of like all of the debt, the payments on the debt.
24 There's been representations by parties that they put
25 money into the entity.

26 MR. BRINIG: Can I help you there, Ms. Weber?
27 When we met with Mr. Malan, very helpful, and Mr. Hakim,
28 very helpful, I said specifically to them "I need a

1 summary from you guys' perspective of all of the dollars
2 you have put in."

3 I had the same meeting with Mr. Razuki, and he
4 has provided us that. Mr. Malan and Mr. Hakim have not
5 provided us with a summary from their respective
6 perspectives of what they put in. I would like that. Is
7 that not --

8 THE COURT: Who represents Malan? I assume
9 that's coming.

10 MR. HENKES: Didn't we provide that listing from
11 Mr. Hakim in the meeting we were at with you?

12 MR. BRINIG: Providing it orally in a meeting --

13 MR. HENKES: It wasn't orally. We gave you the
14 printout, I believe.

15 MR. ESSARY: It doesn't show the capital
16 contributions and mortgage payments.

17 MR. BRINIG: I accept your representation. Let's
18 get together and see if you -- we have what you think we
19 have or if I'm satisfied with what we have.

20 THE COURT: And how about Mr. Hakim? Who
21 represents him?

22 MR. GORIA: Yes, I represent him. And I was at
23 the same meeting that Mr. Henkes was at. And I saw the
24 document that he handed, which is a running -- like a
25 ledger sheet, in and out for the last three months that
26 has basically every expense and every bit of income for
27 Mira Este.

28 MR. BRINIG: I don't remember too much at this

1 age, Mr. Gorla. But I do remember that document, and I
2 accept your representation. You did give us some list.
3 I'm looking at Ms. Weber, and we're fine or we'll figure
4 it out if we don't have it. So I accept that
5 representation.

6 THE COURT: Okay. Here's the last thing:
7 Receiver --

8 MR. ESSARY: Yes, sir.

9 THE COURT: -- or counsel receiver, I'm thinking
10 about releasing \$100,000 to keep Balboa in business.

11 Position?

12 MR. ESSARY: The system today with me approving
13 the invoices has worked fine, and they've been paying
14 their bills on a regular basis. I approve them almost
15 immediately or very shortly thereafter.

16 The only exception which has caused some of this
17 angst is I was not approving the Far West management fee
18 specific invoice because other bills, including some
19 receivership expenses, were not being prioritized. And I
20 stated that very clearly in my e-mail.

21 So that system still works. And if you say "Give
22 them 110,000," I don't have control of it. It goes into
23 their operation, it comes out. And the only control that
24 I have that I've been giving to Marilyn, also, is those
25 daily cash sheets and requests for approval of invoices.
26 I don't have financials, but I do get to see the cash flow
27 coming into the operations. I'd like to maintain that,
28 Your Honor.

1 THE COURT: What's wrong with letting him do the
2 110,000?

3 MS. AUSTIN: We don't have --

4 MR. HENKES: I think part of the confusion arose
5 with the whole approval thing. When we left -- my
6 understanding when we left the Court was whatever the
7 management company was doing and putting on those daily
8 cash sheets, because we were providing that information
9 every day, we did not need to get approval for that
10 operating cash. We were cycling through. And there's
11 been no expenditures that we feel have been paid that
12 shouldn't have been paid.

13 The other side of the coin is the money that's
14 going into the bank accounts that the receiver does have
15 control over. And we were asked to get approval on every
16 single expenditure that we get from there -- or pay from
17 there, and we have.

18 So again, you have Synergy that was a management
19 company that was doing what they were doing with their
20 operating cash that they got from ediPure. You have Far
21 West Management that was doing the same thing on their
22 daily cash sheets.

23 And we weren't seeking approval for those pieces
24 of it because that was our understanding. If we need to
25 get approval for every expenditure, we can do that. It
26 puts, you know, some undue burden on us, but it's a
27 process that we can follow if that's what the Court wants.

28 MS. AUSTIN: Can I --

1 THE COURT: Let me give you my thoughts.

2 MS. AUSTIN: Well, I just -- yeah, because I just
3 got a text message from the woman from the -- Cyndee,
4 C-y-n-d-e-e, Ellis from the CDTFA, which is the California
5 Department of Tax and Fee Administration, saying that
6 because of the 170-plus thousand prior tax liability that
7 SoCal didn't pay, she's trying to get ahold of us. And if
8 she doesn't speak to us prior to Wednesday of next week,
9 she will shut down the shop herself.

10 THE COURT: Meaning Balboa.

11 MS. AUSTIN: Yes.

12 THE COURT: Okay.

13 MR. ZIMMITTI: Your Honor, I take exception that
14 SoCal should have paid. That's just -- there's no basis
15 for that.

16 THE COURT: So it seems --

17 MR. HENKES: Well, there is a basis. They were
18 operating the dispensary, they sold marijuana products,
19 they collected sales tax from people, and they spent the
20 money and they didn't remit it to the tax --

21 MR. ZIMMITTI: You're talking about property tax?

22 MR. HENKES: They had a fiduciary duty to submit
23 that tax to the State.

24 THE COURT: So --

25 MR. HENKES: By the way, we are remitting
26 Balboa's tax that's due as we should, the 50,000.

27 THE COURT: So we may have a \$170,000 issue
28 coming up?

1 MS. AUSTIN: Yes.

2 MS. GRIFFIN: Your Honor, I think it begs the
3 question where is the money -- the receiver has nothing to
4 do with the operations or how much -- how profitable these
5 businesses are. They're in control of profitability.
6 It's not making enough to cover its expenses and pay the
7 bills.

8 The receiver needs to take over and have
9 operational control. They've entered into horrible,
10 terrible agreements where as the money was coming in
11 sufficient to pay bills under SoCal, they've entered
12 lessor agreements with the two entities that are now
13 operating these. And where are we going to get the money
14 unless the receiver comes in and starts operating these
15 businesses the way they should be operated? It's as
16 simple as that.

17 MR. ZIMMITTI: I'd also like to request that we
18 get backup for some of these representations. Obviously,
19 we take exception with representations of money being put
20 in without backups. And we've been -- SoCal has been
21 burned before by literally fake invoices being pushed on
22 to us.

23 So we're very -- if this is going to be a
24 forensic analysis, we're not going to stop. It's just
25 some representation or a ledger provided by one of the
26 defendants.

27 THE COURT: No, I understand.

28 MR. GORIA: Your Honor, just briefly. The crisis

1 at least at Mira Este came about because SoCal stopped
2 making payments in May. So that left Mira Este on its own
3 kind of like an orphan child. And at that point when
4 there was no receiver, which was in the first part of
5 August, a deal was struck between Mira Este and Synergy.

6 Synergy goes out and lines up a dozen prospective
7 manufacturers to come in. And as soon as the receiver was
8 reappointed, those guys just vanished. The one that had
9 been signed up before the receiver was reappointed was
10 ediPure. They're paying 30,000.

11 We're here because we have a deal lined up with
12 Cream of the Crop to pay 50,000 a month. That will put
13 income at Mira Este at 80,000. That will be enough to
14 cover debt service and it will be enough to cover the
15 expenses.

16 But the deal is not going to be around
17 November 16th. That's why we brought this ex parte,
18 because we need to get the receiver out of Mira Este.
19 Mira Este is like Roselle. There's nothing going on there
20 at this point. There's a single manufacturer, ediPure,
21 and nobody is going to join them with the receiver in.

22 We're not saying anything about Mr. Essary or
23 certainly not Mr. Griswold. It's not their fault. It was
24 an unforeseen consequence that these manufacturers would
25 not deal with a facility where there was a receiver in
26 charge. None of them are. It's kind of a -- it's not
27 really a joke, but it's just kind of an unforeseen
28 circumstance that they all refuse to deal with the

1 receiver. So that's why we need the receiver out. We
2 have the opportunity to put Mira Este in the black, but it
3 has to be done quickly.

4 MR. WATTS: Your Honor, and Balboa --

5 THE COURT: And then we're done.

6 MR. WATTS: -- has the money to keep afloat. If
7 you look at the daily expenditures, you can track all the
8 money that's coming in and where it's going out and what
9 the carryover amount is on a daily basis.

10 But the receiver, his attorney, and the, you
11 know, forensic accountant said \$50,000 charge in
12 September --

13 THE COURT: Yeah.

14 MR. WATTS: -- and revenues are around 200,000 at
15 Balboa. So this is a 25 percent overhead. So they're
16 complaining that Far West isn't making it profitable.
17 They just had to take a 25 percent overhead that didn't
18 exist before. And they're talking about SoCal being
19 profitable back in the day. That's when Ninus was
20 personally subsidizing the mortgage and paying the
21 mortgage and paying these other bills.

22 The business has never been profitable. They've
23 always had lots of money coming in, but they've also had
24 lots of money going out. So every time we talk about
25 \$200,000 that's coming in as revenue, that's not profit.
26 The businesses have never been profitable. They've always
27 had to be subsidized by capital infusions from the owners.

28 And Razuki himself said he's owed over a million

1 dollars for improvements. SoCal thinks they're owed
2 hundreds of thousands of dollars for contributing. These
3 businesses are not profitable. They're surviving, but
4 they don't survive when their employees are supposed to --
5 are told that they have to work for free and then they
6 don't get paid and so they quit. There's a 13th
7 Amendment. They're not going to work for free.

8 So Far West Management's fee that we're talking
9 about, that's to pay wages and salaries of people that are
10 working there and the business. They need to be paid in
11 order to do their jobs. And the receiver, I understand
12 from his perspective he wants to pay himself with the
13 receivership expenses. He says they take priority.

14 That's not true. He's a fiduciary of the
15 parties, not the other way around. The businesses take
16 priority. The defendants and the plaintiffs, our
17 interests in the property take priority. Those business
18 expenses that are necessary to keep these businesses alive
19 and preserve the property, those need to get paid first.

20 And if the receiver has -- respectfully, if the
21 receiver has a problem with that, maybe we shouldn't have
22 a receiver so that the businesses can preserve themselves.

23 THE COURT: Thank you.

24 MS. GRIFFIN: Your Honor --

25 THE COURT: No, we're done. I have a trial. In
26 fact, I'm already late.

27 Here's what we're going to do. Ready? Can you
28 give me a report? I just want to know where the money --

1 Mr. Brinig?

2 MR. BRINIG: Yes.

3 THE COURT: I really do. I've had
4 representations from everybody here. I don't know. So if
5 I could have a nice report. "Judge, here's what's coming
6 in." And maybe they're not profitable, you know. Maybe
7 they're all going to lose business. I don't know. Maybe
8 they shouldn't even be in business, I don't know, if they
9 can't make money. Huh? Everybody has to subsidize. But
10 if you could do that for me.

11 MR. BRINIG: I will give you a report.

12 THE COURT: And there's a court order for
13 everyone to cooperate with you. If somebody doesn't
14 cooperate with you, let me know about it.

15 MR. BRINIG: Yes, sir.

16 THE COURT: Here we go. I'm going to release
17 \$110,000. Mr. Henkes?

18 MR. HENKES: Yes, sir.

19 THE COURT: Are you going to be paying the
20 \$110,000?

21 MR. HENKES: I don't pay them specifically.
22 Heidi would pay them specifically.

23 THE COURT: Who will?

24 MR. HENKES: Heidi, the general manager of
25 Balboa.

26 THE COURT: Okay. But you keep track of all
27 that; right?

28 MR. HENKES: Of course.

1 THE COURT: You keep track of that. You send it
2 to the receiver. This is a one-time thing only until I
3 find out where we're going on the 16th.

4 MR. HENKES: Sure.

5 THE COURT: Everybody good?

6 Mr. Griswold, I want an order on that.

7 MR. GRISWOLD: And Your Honor, one more point of
8 clarification. The \$110,000 --

9 THE COURT: Comes out of Balboa.

10 MR. GRISWOLD: At Balboa. There's authority to
11 utilize that \$110,000 to pay the ongoing expenses of the
12 operation.

13 THE COURT: Yes.

14 MR. GRISWOLD: Related to that, it's the
15 receiver's understanding that Synergy and Far West, as
16 managers of the operation, must still notify the receiver
17 of all expenses being paid.

18 THE COURT: Yeah.

19 MS. AUSTIN: That's right.

20 MR. GRISWOLD: Yes.

21 THE COURT: That's what he's going to do.

22 MR. GRISWOLD: Okay. That was a big -- that was
23 a huge discrepancy in e-mails over the last two weeks.

24 MS. AUSTIN: And just to be clear, I just want to
25 make sure we don't have to go over and over this draft
26 order, everybody -- anybody on your chart is going to
27 notify of the payments. And if FWO, if Balboa Avenue
28 Cooperative pays the management fee and that comes out of

1 that 110- that they are spending out of the revenues that
2 are coming in, that is okay; correct?

3 THE COURT: Why do we need to pay a management
4 fee? Let's pay the people that work there. Is that the
5 management fee, the people that work there?

6 MS. AUSTIN: Part -- there's two pieces to it:
7 There is part of the operations of Far West, part of the
8 people get paid through the management fee.

9 THE COURT: That work there.

10 MS. AUSTIN: Yes. Heidi is one of them. Part of
11 them get paid for the management fee, part of them get
12 paid the salary. So there's two pieces, two buckets.

13 THE COURT: Is there a \$25,000 fee in there?

14 MS. AUSTIN: Yes, because Heidi -- part of
15 Heidi's salary comes out of that \$25,000 fee.

16 MR. ESSARY: All the other employees have been
17 approved on every request immediately by me, and those are
18 the on-site employees doing -- running it.

19 MS. AUSTIN: Yes.

20 MR. ESSARY: Heidi is a management person who
21 works for Far West who does send me the reports. So the
22 system you want, Your Honor, is already in place and has
23 been working until I said that the 6,250 every week for
24 four weeks to Far West as the management company I did not
25 approve based on other bills that were outstanding.

26 MS. AUSTIN: So Heidi doesn't get paid.

27 THE COURT: Correct. At least for 16 days.

28 MS. AUSTIN: Well, that's up to you whether

1 they'll stay or not.

2 THE COURT: That's going to be up to them.

3 MR. GRISWOLD: And, Your Honor, as to the other
4 management company, Synergy, the Mira Este facility, I
5 think we need clarification from the Court that before
6 Synergy spends money from operational funds, they need to
7 get approval from the receiver.

8 I will give you two very quick examples. There
9 have now been -- it's understood now that there have now
10 been two vans, vehicles, purchased for I think in total at
11 least \$8500. Receiver never knew about it until we got
12 historical documents.

13 Further, there have been payments to accountants.
14 I assume Mr. Henkes. There have been payments to
15 consultants. We don't know who those people are.
16 Synergy's position, from what I understand, is that they
17 do not have to get permission from the receiver before
18 spending operational funds.

19 MR. ZIMMITTI: We've been sending all of our
20 expenses as of late to Mr. Essary. He's been approving
21 them in a timely fashion. My understanding is none of --
22 none of the budget pertains to Mira Este. So we're --
23 we're still seeking authority prior to the expenditure of
24 funds.

25 THE COURT: Counsel, thank you. Keep that
26 process. Keep that procedure in order.

27 All right. We'll take -- and I really mean it,
28 we're going to get to the bottom of this on the 16th. I

1 don't care how long it takes.

2 MS. GRIFFIN: Your Honor, one question. If Far
3 West vacates the property, what authority do the
4 defendants have or the receiver have to try to fill in and
5 replace them?

6 THE COURT: One wonders if they can even do that.

7 MS. GRIFFIN: One does wonder.

8 THE COURT: Why don't you come see me if that
9 happens.

10 Thank you. Good luck to everyone.

11 - - -

12 (The proceedings were adjourned at 9:10 a.m.)

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1 STATE OF CALIFORNIA)
 : SS.
2 COUNTY OF SAN DIEGO)

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I, Paula A. Rahn, RPR, CSR NO. 11510, hereby certify that I reported in shorthand the above proceedings on Thursday, October 25, 2018, and I do further certify that the above and foregoing pages numbered 1 to 35, inclusive, contain a true and correct transcript of said proceedings.

I further certify that I am a disinterested person and am in no way interested in the outcome of said proceeding.

Dated: November 2, 2018.



Paula A. Rahn
RPR, CSR No. 11510

Case Name: Razuki v. Malan
Case No.: 37-2018-00034229-CU-BC-CTL

PROOF OF SERVICE

I am employed in the County of San Diego, State of California. I am over the age of 18 years, and not a party to the within action. I am an employee of or agent for the ELIA LAW FIRM, APC, whose business address is 2221 Camino Del Rio South, Suite 207, San Diego CA 92108. On Friday, December 07, 2018, I served the following document(s):

- RESPONDENT'S NOTICE DESIGNATING RECORD ON APPEAL

on the following party(ies) in this action addressed as follows:

See attached list

(BY MAIL) I caused a true and correct copy of each document, placed in a sealed envelope with postage fully paid, to be placed in the United States mail at San Diego, California. I am "readily familiar" with this firm's business practice for collection and processing of mail, that in the ordinary course of business said document(s) would be deposited with the U.S. Postal Service on that same day. I understand that the service shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

(BY PERSONAL SERVICE) I delivered each such document by hand to each addressee above.

(BY E-MAIL) I delivered each such document via emailed PDF to the address listed above, per counsels' agreement.

(BY OVERNIGHT DELIVERY) I caused a true and correct copy of each document, placed in a sealed envelope with delivery fees provided for, to be deposited in a box regularly maintained by United Parcel Service (UPS). I am readily familiar with this firm's practice for collection and processing of documents for overnight delivery and know that in the ordinary course of LAW OFFICES OF STEVEN A. ELIA, APC's business practice the document(s) described above will be deposited in a box or other facility regularly maintained by UPS or delivered to a courier or driver authorized by UPS to receive documents on the same date it is placed at LAW OFFICES OF STEVEN A. ELIA, APC for collection.


(BY FACSIMILE) By use of facsimile machine number (619) 440-2233, I served a copy of the within document(s) on the above interested parties at the facsimile numbers listed above. The transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine.

(BY E-SERVICE) By utilizing the e-service feature through One Legal when filing the documents with the Court.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(FEDERAL) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 7, 2018 at San Diego, California.



James Joseph

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Razuki v. Malan, et al.

37-2018-00034229-CU-BC-CTL

<p>Charles F. Gorla GORIA, WEBER & JARVIS 1011 Camino Del Rio South, Suite 210 San Diego, CA 92108 chasgoria@gmail.com</p>	<p>Robert Fuller Zachary Rothenberg Salvatore J. Zimmitti NELSON HARDIMAN, LLP 11835 W. Olympic Blvd., 9th Floor Los Angeles, CA 90064 rfuller@nelsonhardiman.com szimmitti@nelsonhardiman.com zrothenberg@nelsonhardiman.com</p>
<p>Gina Austin Tamara Leetham AUSTIN LEGAL GROUP 3990 Old Town Ave, Ste A-112 San Diego, CA 92110 gaustin@austinlegalgroup.com tamara@austinlegalgroup.com admin@austinelegalgroup.com</p> <p>Steven Blake Daniel Watts GALUPPO & BLAKE, ACPLC 2792 Gateway Road, Suite 102 Carlsbad, CA 92009 sblake@galuppolaw.com dwatts@galuppolaw.com</p>	<p>Richardson Griswold GRISWOLD LAW, APC 444 S. Cedros Ave., Ste 250 Solana Beach, CA 92075 rgriswold@griswoldlawsandiego.com</p> <p><i>Attorney for Receiver, Mike Essary</i></p>

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

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

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

SALAM RAZUKI, an individual
Plaintiff

vs

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

Defendants.

AND RELATED CROSS-ACTIONS

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

(Unlimited Civil Action)

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

Hearing Date: December 14, 2018

Time: 1:30 PM

Dept.: C-67

I/C Judge: Hon. Eddie C. Sturgeon

Complaint Filed: July 10, 2018

Trial Date: Not Set

IMAGED FILE

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

5 **1. Introduction.**

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

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

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

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

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

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

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

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

20 "Upon the second issue of good faith, the court made no finding although it is the duty of
21 a court of equity, ***upon any suggestion that a plaintiff has not acted in good faith***
22 concerning the matters upon which he bases his suit, to inquire into the facts in that
23 regard. For it is not only fraud or illegality which will prevent a suitor from obtaining
24 equitable relief. Any unconscientious conduct upon his part which is connected with the
25 controversy will repel him from the forum whose very foundation is good
26 conscience. (*Johnston v. Murphy*, 36 Cal. App. 469 [172 Pac. 616].)
27 * * *

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

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

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

14 “On or about October 17, 2018, SALAM RAZUKI and SYLVIA GONZALES
15 met with a Confidential Human Source (CHS1) requesting CHS1 arrange to kill one of
16 their business associates, N.M.¹ **According to RAZUKI and GONZALES, they had**
17 **invested in multiple properties and business ventures together and were now**
18 **involved in a civil dispute over their assets.** RAZUKI and GONZALES told CHS1
19 that they wanted CHS1 to “shoot him [N.M.] in the face,” “to take him to Mexico and
20 have him whacked,” or kill him in some other way. **RAZUKI and GONZALES**
21 **provided CHS1 a picture of N.M., which CHS1 provided to the FBI.**

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 19 1. **Conscious Flowers.** (The principal at Conscious Flowers, Robert Torrales,
20 submitted his own declaration (attached for the convenience of the Court to
21 Defendants' Req. Jud. Notice as Exhibit 3) wherein he explained why he would not
22 work under a receiver.)
- 23 2. **Eureka Oil (Vape Cartridges):** Baca was told by the principal of Eureka Oil
24 that having a third-party receiver would be a "deal breaker." He made it clear he will
25 only work directly with Mr. Hakim. Potential revenues lost amount to more than
26 \$40,000 per month based on anticipated sales.
- 27 3. **Bomb Xtracts (Vape Cartridges, Pre Rolls, Flower, Moonrocks, Candy,
Concentrates, Drinks, Edibles and chip).** Baca was told by the principal that he refused
to work with any receiver. He stated that his company had too many trade secrets and

1 recipes that could potentially be monitored and copied by a receiver. Potential revenues
2 lost amount to more than \$70,000 per month based on anticipated sales.

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

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

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

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

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

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

24 10. **Cannabis Presidentials** (Premium Pre Rolls, Vape Cartridges, Flower,
25 Moonrocks, Candies). Baca was told by the principal that he is not willing to work
26 with a third-party receiver and that "once things are cleared up", they would be willing
27 to sign a sublicense agreement. He was also told by the principal that he is concerned
that his company's trade secrets would be jeopardized with a receiver or other third-

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

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

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

19 **4. Conclusion.**

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

22 Respectfully submitted,

23 **GORIA, WEBER & JARVIS**

24 Dated: 12/7/18

25 By: 

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

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

MINUTE ORDER

DATE: 12/17/2018

TIME: 02:26:00 PM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Patricia Ashworth

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

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

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

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

APPEARANCES

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

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

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

The court sets the appellate bond as follows:

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

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

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

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

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

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

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

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

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

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

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

The motion to appoint Kevin Singer as receiver is denied.

DATE: 12/17/2018

MINUTE ORDER

Page 1

DEPT: C-67

Calendar No.

5908

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

Eddie C. Sturgeon

Judge Eddie C Sturgeon

1 Andrew W. Hall, Esq., SBN 257547
2 Daniel Watts, Esq. SBN 277861
3 **G10 GALUPPO LAW**
4 A Professional Law Corporation
2792 Gateway Road, Suite 102
Carlsbad, California 92009
Phone: (760) 431-4575
Fax: (760) 431-4579

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
02/20/2019 at 05:36:00 PM
Clerk of the Superior Court
By Ines Quirarte, Deputy Clerk

5 Attorneys for Defendants

7 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

8 CENTRAL DIVISION

9 SALAM RAZUKI, an individual,

10 Plaintiff,

11 vs.

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

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

Assigned: Hon. Judge Sturgeon
Dept.: C-67

**Opposition of Ninus Malan to dissolved
company RM Property Holdings, LLC's ex
parte application; Request for Judicial
Notice**

Date: February 21, 2019
Time: 8:30 a.m.
Judge: Sturgeon
Dept.: C-67

Malan's opposition to Ex Parte Application of Dissolved Company RM Property Holdings, LLC

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Opposition

“RM Property Holdings, LLC” apparently intends to appear ex parte “to present an application for an order prohibiting Ninus Malan from acting unilaterally on behalf of RM Property Holdings.” It cannot happen.

1. RM Property Holdings, LLC is not a valid company. It has been dissolved and canceled.

RM Property Holdings’ manager filed certificates of dissolution and cancellation in January 2019, and “Upon filing a certificate of cancellation,” a company “shall be canceled and its powers, rights, and privileges shall cease.” Corp. Code §17707.02(c). See *Request for Judicial Notice*.

As an officer of the court, the attorney claiming to represent the dissolved company is, of course, duty bound to notify the court and opposing counsel of his client’s non-existence. See *City of San Diego v. San Diegans for Open Government* (2016) 3 Cal.App.5th 568, 578, as modified on denial of reh'g (Oct. 17, 2016), review denied (Jan. 11, 2017) (sanctioning attorney who represented suspended corporation and failed to notify court). *City of San Diego v. San Diegans for Open Gov't* affirmed that an attorney’s “explicit approval of [a suspended corporation’s] appearance and representation of [it] was, as described by the superior court, unethical.” *City of San Diego v. San Diegans for Open Government* (2016) 3 Cal.App.5th 568, 578, as modified on denial of reh'g (Oct. 17, 2016), review denied (Jan. 11, 2017). See also *Palm Valley Homeowners Assn., Inc. v. Design MTC* (2000) 85 Cal.App.4th 553, 562 (“The firm urges that it could not discharge its ethical duties to represent its client, if it had to reveal the client's suspended status to the court and counsel. Not so. If the corporation had been suspended for nonpayment of taxes, the client's disability would have been clear, and the attorney's duty to report that to the court would also have been clear.”).


The ex parte application should be denied because it was brought by a non-existent entity with no capacity to maintain a claim for relief.

2. RM Property Holdings, LLC has not been granted leave to file a cross-complaint.

Malan’s opposition to Ex Parte Application of Dissolved Company RM Property Holdings, LLC

1 A trial court cannot grant injunctive relief without a pleading on file demanding it. *Shell*
2 *Oil Co. v. Richter* (1942) 52 Cal.App.2d 164, 168 (“a cause of action must exist before
3 injunctive relief may be granted.”). RM Property Holdings, LLC cannot prosecute a cause of
4 action because it has not filed a cross-complaint and *cannot* file a cross-complaint, since it is a
5 dissolved, canceled company with no legal standing to do anything.

6
7 Date: February 20, 2019

8 BY: 
9 Daniel Watts
10 **G10 Galuppo Law**
11 Attorney for Defendant Malan
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Request for Judicial Notice

Defendant Ninus Malan asks the court to take judicial notice of the following facts and documents, which are either official documents maintained by the California Secretary of State or facts not subject to reasonable dispute:

1. RM Property Holdings, LLC's status is "CANCELED," according to the California Secretary of State:

The screenshot shows the California Secretary of State's website. The header includes the state seal and the name "Alex Padilla, California Secretary of State". The navigation menu includes "About", "Business", "Notary & Authenticators", "Elections", "Campaign & Lobbying", "State Archives", "Registries", "News", and "Contact". The main content area is titled "Business Search - Entity Detail" and displays information for the entity "201717710044 RM PROPERTY HOLDINGS, LLC".

Entity Information:

- Registration Date: 05/20/2017
- Jurisdiction: CALIFORNIA
- Entity Type: DOMESTIC
- Status: CANCELED
- Agent for Service of Process: NINUS MALAN, 7507 BROADWAY, LEWIS GROVE CA 91945
- Entity Address: 7507 BROADWAY, LEWIS GROVE CA 91945
- Entity Mailing Address: 7507 BROADWAY, LEWIS GROVE CA 91945
- LLC Management: Member Managed

Document History:

Document Type	File Date	PDF
DISSOLUTION	01/24/2019	
CANCELLATION	01/24/2019	
SH-COMplete	07/24/2017	
REGISTRATION	05/20/2017	


* Indicates the information is not recorded in the California Secretary of State's database.

Malan's opposition to Ex Parte Application of Dissolved Company RM Property Holdings, LLC

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- 2. The Certificate of Dissolution of RM Property Holdings, LLC filed on January 24, 2019 with the California Secretary of State, file number 201717710044, attached as **Exhibit A**.
- 3. The Certificate of Cancellation of RM Property Holdings, LLC filed on January 24, 2019 with the California Secretary of State, file number 201717710044, attached as **Exhibit B**.

Date: February 20, 2019

BY: 
Daniel Watts
G10 Galuppo Law
Attorney for Defendant Malan

Ex A

 Secretary of State Certificate of Dissolution Limited Liability Company (LLC) (California LLC ONLY)	LLC-3
	<p>IMPORTANT — Read Instructions before completing this form.</p> <p>There is No Fee for filing a Certificate of Dissolution</p> <p>Copy Fees – First page \$1.00; each attachment page \$0.50; Certification Fee - \$5.00 plus copy fees</p>
<p>1. Limited Liability Company Name (Enter the exact name of the LLC as it is recorded with the California Secretary of State)</p> <p>RM PROPERTY HOLDINGS, LLC</p>	<p>2. 12-Digit Secretary of State File Number</p> <p>201717710044</p>

FILED *CS/KMK*
 Secretary of State
 State of California
JAN 24 2019

lcc This Space For Office Use Only

3. Dissolution (Check the applicable statement. This Form LLC-3 is not required when the vote to dissolve was made by all of the members and that fact is noted on the Certificate of Cancellation (Form LLC-4/7).)

The dissolution of this LLC was caused by one of the following circumstances (**check one**):

The happening of an event as set forth in the Articles of Organization or in the LLC's written Operating Agreement.

The vote of 50 percent or more of the voting interests of the members of the LLC or a greater percentage of the voting interests of members as specified in the Articles of Organization or written Operating Agreement.

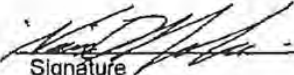
The passage of 90 consecutive days during which the LLC has no members, except on the death of a natural person who is the sole member of the LLC, the status of the member, including a membership interest, may pass to the heirs, successors and assigns of the member by will or applicable law.

The entry of a decree of judicial dissolution pursuant to California Corporations Code section 17707.03.

The Certificate of Dissolution puts all on notice that the LLC has elected to wind up the business of the LLC and is in the process of paying liabilities and distributing assets. In order to terminate the LLC, the LLC also **must file a Certificate of Cancellation (Form LLC-4/7)**.

4. Read and Sign Below (See instructions for signature requirements. Do not use a computer generated signature.)

By signing this document, I certify that the information is true and that I am authorized by California law to sign.

 _____ Signature	Ninus Malan _____ Type or Print Name
_____ Signature	_____ Type or Print Name

E x B

 Secretary of State Certificate of Cancellation Limited Liability Company (LLC)	LLC-4/7
	<p>IMPORTANT — Read Instructions before completing this form.</p> <p>There is No Fee for filing a Certificate of Cancellation</p> <p>Copy Fees – First page \$1.00; each attachment page \$0.50; Certification Fee - \$5.00 plus copy fees</p>
<p>1. Limited Liability Company Name (Enter the exact name of the LLC as it is recorded with the California Secretary of State)</p> <p>RM PROPERTY HOLDINGS, LLC</p>	<p>2. 12-Digit Secretary of State File Number</p> <p>201717710044</p>

FILED CSD/KVK
Secretary of State
State of California
JAN 24 2019

lcc This Space For Office Use Only

3. Dissolution (California LLCs ONLY: Check the box if the vote to dissolve was made by the vote of ALL the members.)

The dissolution was made by a vote of **ALL** of the members of the California Limited Liability Company.

Note: If the above box is not checked, a **Certificate of Dissolution** (Form LLC-3) must be filed prior to or together with this Certificate of Cancellation. (California Corporations Code section 17707.08(a).)

4. Tax Liability Statement (Do not alter the Tax Liability Statement.)

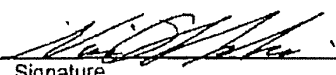
All final returns required under the California Revenue and Taxation Code have been or will be filed with the California Franchise Tax Board.

5. Cancellation Statement (Do not alter the Cancellation Statement.)

Upon the effective date of this Certificate of Cancellation, the Limited Liability Company's registration is cancelled and its powers, rights and privileges will cease in California.

6. Read and Sign Below (See Instructions for signature requirements. Do not use a computer generated signature.)

By signing this document, I certify that the information is true and that I am authorized by California law to sign.

	Ninus Malan
Signature	Type or Print Name
_____	_____
Signature	Type or Print Name
_____	_____
Signature	Type or Print Name
_____	_____

1 Andrew W. Hall, Esq., SBN 257547
2 Daniel Watts, Esq. SBN 277861
3 **G10 GALUPPO LAW**
4 A Professional Law Corporation
5 2792 Gateway Road, Suite 102
6 Carlsbad, California 92009
7 Phone: (760) 431-4575
8 Fax: (760) 431-4579

9 Attorneys for Defendant Ninus Malan

10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

11 CENTRAL DIVISION

12 SALAM RAZUKI, an individual,

13 Plaintiff,

14 vs.

15 NINUS MALAN, an individual; MONARCH
16 MANAGEMENT CONSULTING, INC., a
17 California corporation; SAN DIEGO
18 UNITED HOLDING GROUP, LLC, a
19 California limited liability company; MIRA
20 ESTE PROPERTIES, LLC, a California
21 limited liability company; ROSELLE
22 PROPERTIES, LLC, a California limited
23 liability company; and DOES 1-100,
24 inclusive,

25 Defendants.

26 AND ALL RELATED CROSS-ACTIONS

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

PROOF OF SERVICE

27 I am employed in San Diego County. I am over the age of 18 and not a party to this action.
My business address is 2792 Gateway Road, Suite 102, Carlsbad, California 92009.

PROOF OF SERVICE

1 On **February 20, 2019**, I served the foregoing document(s) in this action described as:

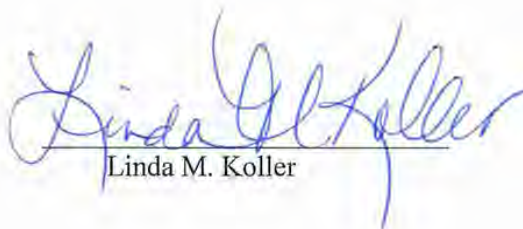
2
3 **OPPOSITION OF NINUS MALAN TO DISSOLVED COMPANY RM PROPERTY**
4 **HOLDINGS, LLC'S EX PARTE APPLICATION; REQUEST FOR JUDICIAL**
5 **NOTICE**

6 **[X]** addressed as follows:

7
8 **SEE ATTACHED SERVICE LIST**

9 **[X]** **VIA ELECTRONIC FILING SERVICE:** Complying with Code of Civil Procedure
10 section 1010.6, my electronic business address is lkoller@galuppolaw.com and I caused
11 such document(s) to be electronically served through the e-service system for the above
12 entitled case to those parties on the Service List maintained on its website for this case.
13 The file transmission was reported as complete and a copy of the Filing/Service Receipt
14 will be maintained with the original document(s) in our office.

15 Executed on **February 20, 2019** at Carlsbad, California

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Linda M. Koller

PROOF OF SERVICE

1 **SALAM RAZUKI v. NINUS MALAN, et al.**
2 Superior Court of California, County of San Diego
3 Case No. 37-2018-00034229-CU-BC-CTL

4 **SERVICE LIST**

5 6 7 8 9 10 11 12 13 14 15 16	Gina Austin Tamara M. Leetham Austin Legal Group, APC 3990 Old Town Avenue, Suite A-101 San Diego, CA 92110 gaustin@austinlegalgroup.com tamara@austinlegalgroup.lcom	<u>Co-Counsel</u>
17 18 19 20 21 22 23	Law Offices of Steven A. Elia, APC Steven A. Elia Maura Griffin James Joseph 2221 Camino Del Rio South, Suite 207 San Diego, CA 92108 Telephone: 619-444-2244 Fax: 619-440-2233 E-mail: steve@elialaw.com maura@elialaw.com james@elialaw.com	<u>Attorney for Plaintiff</u> Salam Razuki
24 25 26 27 28	Robert E. Fuller Zachary E. Rothenberg Salvatore J. Zimmitti NELSON HARDIMAN LLP 1100 Glendon Avenue, Suite 1400 Los Angeles, CA 90024 Telephone: 310-203-2800 Fax: 310-203-2727 rfuller@nelsonhardiman.com ZRothenberg@NelsonHardiman.com szimmitti@nelsonhardiman.com	<u>Attorneys for Plaintiffs-In-Intervention</u> SoCal Building Ventures and San Diego Building Ventures, LLC
	Charles F. Gorla GORIA, WEBER & JARVIS 1011 Camino del Rio South, #210 San Diego, CA 92108 Telephone: 619-692-3555 chasgoria@gmail.com	<u>Attorneys for Defendants and Cross-Complainants</u> Mira Este Properties, LLC, Monarch Management Consulting, Inc. and Chris Hakim

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<p>Richardson C. Griswold GRISWOLD LAW, APC 444 S. Cedros Avenue, Suite 250 Solana Beach, CA 92075 Telephone: 858-481-1300 Fax: 888-624-9177 rgriswold@griswoldlawsandiego.com</p>	<p><u>Attorneys for Court-Appointed Receiver</u> Michael Essary</p>
<p>Douglas Jaffe Law Offices of Douglas Jaffe 501 West Broadway, Suite 800 San Diego, CA 92101 Telephone: 619-400-4945 Fax: 619-400-4947 douglasjaffe@aol.com</p>	<p><u>Attorneys for Cross-Defendants</u> Sunrise Property Investments, LLC, Matthew Razuki, Marvin Razuki and Sarah Razuki, Super 5 Consulting Group, LLC; Alternative Health Cooperative, Inc; Goldn Bloom Ventures, Inc.</p>
<p>Matthew B. Dart DART LAW 12526 High Bluff Drive, Suite 300 San Diego, CA 92130 Telephone: 858-792-3616 Fax: 858-408-2900 matt@dartlawfirm.com</p>	<p><u>Attorney for Defendants</u> Far West Management, LLC; Heidi Rising; Matthew Freeman; Alexis Bridgewater; Adam Knopf</p>
<p>Timothy J. Daley Michael J. Hickman MUSICK, PEELER & GARRETT LLP 225 Broadway, Suite 1900 San Diego, CA 92101-5028 Telephone: 619-525-2500 Fax: 619-231-1234 t.daley@musickpeeler.com m.hickman@musickpeeler.com</p>	<p><u>Attorneys for Cross-Defndant and Cross-Complainant</u> RM Property Holdings, LLC</p>

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: 277861 NAME: Daniel Watts SBN 277861 FIRM NAME: G10 Galuppo Law STREET ADDRESS: 2792 Gateway Rd. Suite 102 CITY: Carlsbad STATE: CA ZIP CODE: 92009 TELEPHONE NO.: 760-431-4575 FAX NO.: 760-431-4579 E-MAIL ADDRESS: dwatts@galuppolaw.com ATTORNEY FOR (name): Ninus Malan, et. al.		<i>FOR COURT USE ONLY</i> ELECTRONICALLY FILED Superior Court of California, County of San Diego 02/28/2019 at 02:58:00 PM Clerk of the Superior Court By Tamara Parra, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego BRANCH NAME: Central		
Plaintiff/Petitioner: Salam Razuki Defendant/Respondent: Ninus Malan		
REQUEST FOR (Application)	<input checked="" type="checkbox"/> Entry of Default <input type="checkbox"/> Clerk's Judgment <input type="checkbox"/> Court Judgment	CASE NUMBER: 37-2018-00034229-CU-BC-CTL
Not for use in actions under the Fair Debt Buying Practices Act (Civ. Code, § 1788.50 et seq.) (see CIV-105)		

1. TO THE CLERK: On the complaint or cross-complaint filed
- a. on (date): 9/20/2018
 - b. by (name): Cross-Complainants see Attachment 1
 - c. Enter default of defendant (names):
RM Property Holdings, LLC
 - d. I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)
 - e. Enter clerk's judgment
 - (1) for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
 Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Prejudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
 - (2) under Code of Civil Procedure section 585(a). (Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)
 - (3) for default previously entered on (date):

2. Judgment to be entered.

	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint	\$	\$	\$
b. Statement of damages*			
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	\$	\$	\$

g. Daily damages were demanded in complaint at the rate of: \$ _____ per day beginning (date): _____
(* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

3. (Check if filed in an unlawful detainer case.) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).
Date: 2/28/2019

Daniel Watts (TYPE OR PRINT NAME)  (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

FOR COURT USE ONLY	(1) <input checked="" type="checkbox"/> Default entered as requested on (date): 02/28/2019	<i>Tamara Parra</i> T. Parra Deputy
	(2) <input type="checkbox"/> Default NOT entered as requested (state reason): Clerk, by _____, Deputy	

5921

Plaintiff/Petitioner: Defendant/Respondent:	Salam Razuki Ninus Malan	CASE NUMBER: 37-2018-00034229-CU-BC-CTL
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4. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant did did not for compensation give advice or assistance with this form. If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state:

- a. Assistant's name:
- b. Street address, city, and zip code:
- c. Telephone no.:
- d. County of registration:
- e. Registration no.:
- f. Expires on (date):

5. **Declaration under Code Civ. Proc., § 585.5 (for entry of default under Code Civ. Proc., § 585(a)).** This action

- a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

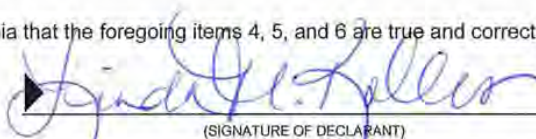
6. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this Request for Entry of Default was

- a. not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names):
- b. mailed first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
 - (1) Mailed on (date): 2/28/2019
 - (2) To (specify names and addresses shown on the envelopes): See Proof of Service Attached

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.

Date: 2/28/2019

Linda M. Koller
(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

7. **Memorandum of costs (required if money judgment requested).** Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- a. Clerk's filing fees \$
- b. Process server's fees \$
- c. Other (specify): \$
- d. \$
- e. TOTAL \$ _____

- f. Costs and disbursements are waived.
- g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

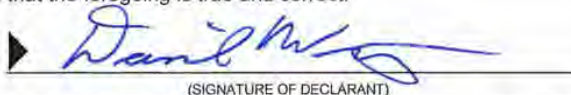

(SIGNATURE OF DECLARANT)

8. **Declaration of nonmilitary status (required for a judgment).** No defendant named in item 1c of the application is in the military service as that term is defined by either the Servicemembers Civil Relief Act, 50 U.S.C. App. § 3911(2), or California Military and Veterans Code section 400(b).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 2/28/2019

Daniel Watts
(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

Salam Razuki v. Ninus Malan, et. al.

Case Number: 37-2018-00034229-CU-BC-CTL

ATTACHMENT 1 TO REQUEST FOR ENTRY OF DEFAULT

- 1 (b) NINUS MALAN; an individual ; CALIFORNIA CANNABIS GROUP, a California nonprofit mutual benefit corporation; DEVILISH DELIGHTS, INC., a California nonprofit mutual benefit corporation; BALBOA AVE COOPERATIVE, a California nonprofit mutual benefit corporation; AMERICAN LENDING AND HOLDINGS, LLC, a limited liability company; MONARCH MANAGEMENT CONSULTING, INC., a California corporation; FLIP MANAGEMENT, LLC, a limited liability company; SAN DIEGO UNITED HOLDINGS GROUP, LLC, a limited liability company

1 Daniel Watts, Esq. SBN 277861
2 **G10 GALUPPO LAW**
3 A Professional Law Corporation
4 2792 Gateway Road, Suite 102
5 Carlsbad, California 92009
6 Phone: (760) 431-4575
7 Fax: (760) 431-4579

8 Attorneys for Defendant Ninus Malan

9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

10 CENTRAL DIVISION

11 SALAM RAZUKI, an individual,

12 Plaintiff,

13 vs.

14 NINUS MALAN, an individual; MONARCH
15 MANAGEMENT CONSULTING, INC., a
16 California corporation; SAN DIEGO
17 UNITED HOLDING GROUP, LLC, a
18 California limited liability company; MIRA
19 ESTE PROPERTIES, LLC, a California
20 limited liability company; ROSELLE
21 PROPERTIES, LLC, a California limited
22 liability company; and DOES 1-100,
23 inclusive,

24 Defendants.

25 AND ALL RELATED CROSS-ACTIONS

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

PROOF OF SERVICE

26 I am employed in San Diego County. I am over the age of 18 and not a party to this
27 action. My business address is 2792 Gateway Road, Suite 102, Carlsbad, California 92009.

PROOF OF SERVICE

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On **February 28, 2019**, I served the foregoing document(s) in this action described as:

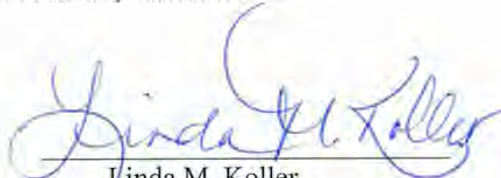
REQUEST FOR ENTRY OF DEFAULT

addressed as follows:

SEE ATTACHED

BY U.S. MAIL I deposited such envelopes in the mail at Carlsbad, California. The envelopes were mailed with postage thereon fully prepaid. I am readily familiar with G10 GALUPPO LAW's practice of collection and processing correspondence for mailing. Under that practice, documents are deposited with the United States Postal Service on the same day which is stated in the proof of service, with postage fully prepaid at Carlsbad, California in the ordinary course of business.

Executed on **February 28, 2019** at Carlsbad, California


Linda M. Koller

PROOF OF SERVICE

1 SALAM RAZUKI v. NINUS MALAN, et al.
2 Superior Court of California, County of San Diego
3 Case No. 37-2018-00034229-CU-BC-CTL

4 **SERVICE LIST**

5 6 7 8 9 10 11 12 13 14 15 16	Gina Austin Tamara M. Leetham Austin Legal Group, APC 3990 Old Town Avenue, Suite A-101 San Diego, CA 92110 gaustin@austinlegalgroup.com tamara@austinlegalgroup.com	<u>Co-Counsel</u>
17 18 19 20 21 22 23	Law Offices of Steven A. Elia, APC Steven A. Elia Maura Griffin James Joseph 2221 Camino Del Rio South, Suite 207 San Diego, CA 92108 Telephone: 619-444-2244 Fax: 619-440-2233 E-mail: steve@elialaw.com maura@elialaw.com james@elialaw.com	<u>Attorney for Plaintiff</u> Salam Razuki
24 25 26 27 28	Robert E. Fuller Zachary E. Rothenberg Salvatore J. Zimmitti NELSON HARDIMAN LLP 1100 Glendon Avenue, Suite 1400 Los Angeles, CA 90024 Telephone: 310-203-2800 Fax: 310-203-2727 rfuller@nelsonhardiman.com ZRothenberg@NelsonHardiman.com szimmitti@nelsonhardiman.com	<u>Attorneys for Plaintiffs-In-Intervention</u> SoCal Building Ventures and San Diego Building Ventures, LLC
	Charles F. Goria GORIA, WEBER & JARVIS 1011 Camino del Rio South, #210 San Diego, CA 92108 Telephone: 619-692-3555 chasgoria@gmail.com	<u>Attorneys for Defendants and Cross-Complainants</u> Mira Este Properties, LLC, Monarch Management Consulting, Inc. and Chris Hakim

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Richardson C. Griswold GRISWOLD LAW, APC 444 S. Cedros Avenue, Suite 250 Solana Beach, CA 92075 Telephone: 858-481-1300 Fax: 888-624-9177 rgriswold@griswoldlawsandiego.com	<u>Attorneys for Court-Appointed Receiver</u> Michael Essary
Douglas Jaffe Law Offices of Douglas Jaffe 501 West Broadway, Suite 800 San Diego, CA 92101 Telephone: 619-400-4945 Fax: 619-400-4947 douglasjaffe@aol.com	<u>Attorneys for Cross-Defendants</u> Sunrise Property Investments, LLC, Matthew Razuki, Marvin Razuki and Sarah Razuki, Super 5 Consulting Group, LLC; Alternative Health Cooperative, Inc; Goldn Bloom Ventures, Inc.
Matthew B. Dart DART LAW 12526 High Bluff Drive, Suite 300 San Diego, CA 92130 Telephone: 858-792-3616 Fax: 858-408-2900 matt@dartlawfirm.com	<u>Attorney for Defendants</u> Far West Management, LLC; Heidi Rising; Matthew Freeman; Alexis Bridgewater; Adam Knopf
Timothy J. Daley Michael J. Hickman MUSICK, PEELER & GARRETT LLP 225 Broadway, Suite 1900 San Diego, CA 92101-5028 Telephone: 619-525-2500 Fax: 619-231-1234 t.daley@musickpeeler.com m.hickman@musickpeeler.com	<u>Attorneys for Cross-Defndant and Cross-Complainant</u> RM Property Holdings, LLC

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

8 Attorneys for Defendants Chris Hakim,
9 Mira Este Properties, LLC, and
10 Roselle Properties LLC

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

11 SALAM RAZUKI, an individual	)	Case No.: 37-2018-00034229-CU-BC-CTL
12 Plaintiff)	
13 vs	)	(Unlimited Civil Action)
14 NINUS MALAN, an individual; CHRIS	)	DEFENDANTS CHRIS HAKIM'S, MIRA
15 HAKIM, an individual; MONARCH	)	ESTE PROPERTIES LLC'S, AND
16 MANAGEMENT CONSULTING, INC., a	)	ROSELLE PROPERTIES LLC's EX
17 California corporation; SAN DIEGO	)	PARTE APPLICATION TO REMOVE
18 UNITED HOLDINGS GROUP, LLC, a	)	RECEIVER FROM MIRA ESTE
19 California limited liability company; FLIP	)	FACILITY OR IN THE ALTERNATIVE
20 MANAGEMENT, LLC, a California limited	)	TO CLARIFY AND MODIFY 12/17/2018
21 liability company; MIRA ESTE	)	ORDER SETTING BOND AMOUNTS;
22 PROPERTIES LLC, a California limited	)	DECLARATION OF CHARLES F.
23 liability company; ROSELLE PROPERTIES,	)	GORIA
24 LLC, a California limited liability company;	)	Hearing Date: March 12, 2019
25 BALBOA AVE COOPERATIVE, a	)	Time: 8:30 AM
26 California nonprofit mutual benefit	)	Dept.: C-67
27 corporation; CALIFORNIA CANNABIS	)	I/C Judge: Hon. Eddie C. Sturgeon
28 GROUP, a California nonprofit mutual benefit)	
corporation; DEVILISH DELIGHTS, INC. a	)	Complaint Filed: July 10, 2018
California nonprofit mutual benefit	)	Trial Date: Not Set
corporation; and DOES 1-100, inclusive;)	
Defendants.)	
AND RELATED CROSS-ACTIONS AND	)	IMAGED FILE
ACTIONS IN INTERVENTION.)	

1 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

2 Defendants and Cross-complainants CHRIS HAKIM, MIRA ESTE PROPERTIES
3 LLC, and ROSELLE PROPERTIES LLC (hereinafter, sometimes collectively, "Moving
4 Defendants") hereby apply for an ex parte order modifying the September 26, 2018 Order
5 Granting Preliminary Injunction and Appointing Receiver ("9/26/2018 Receivership Order") by
6 removing the Mira Este Facility from the receivership. Alternatively, Moving Defendants hereby
7 apply for an ex parte order clarifying and/or modifying the Court's December 17, 2018 Minute
8 Order setting bond amounts ("12/17/2018 Order").
9

10
11 This application is brought on the grounds that good cause exists for the granting of the
12 application in that Edipure, the sole producer and manufacturer that has located its operations at
13 the Mira Este Facility ("Facility"), has vacated the facility and ended its relationship with Mira
14 Este Properties LLC. As a result, there will be insufficient income to meet monthly debt service
15 and overhead obligations.

16 Good cause also exists in that the existence of the receivership at the Facility has blocked
17 and prevented the Facility from entering into profitable licenses and subcontracts with
18 manufacturers and producers and therefore has prevented the Facility from earning income
19 necessary to meet its overhead and debt service obligations.

20 Good cause also exists for the granting of the application in that the receiver is not
21 currently performing any supervisory functions at the Facility, so removing the Facility from the
22 scope of the receivership will not result in any negative consequences to any of the parties.


23 Good cause also exists for the granting of the alternative ex parte order to clarify and/or
24 modify the 12/17/2018 Order in that said order seems to require that parties that have no interest
25 in the Facility post undertakings in order to stay the receivership order at the Facility. Such a
26 requirement is also not authorized by law, and it effectively blocks any removal of the
27 receivership pending appeal of the 9/26/2018 Order. Said 12/17/2018 order also requires a party
28 who has not filed an appeal (American Lending and Holding LLC) to post a bond in order to

1 remove the receivership at the Facility. As such, Moving Defendants have been deprived of their
2 right to post a bond in order to suspend the receivership at the Facility pending appeal.

3 This application is based upon this application, the accompanying declaration of Chris
4 Hakim, the following Declaration of Charles F. Gorla, the accompanying memorandum of points
5 and authorities, and accompanying request for judicial notice, the records and file in this case,
6 and such other oral and documentary evidence as may be presented at or before the hearing
7 hereof.

8
9 Gorla, Weber & Jarvis

10
11 Dated: 3/11/19

12 
13 Charles F. Gorla
14 Attorneys for Moving Defendants

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DECLARATION OF CHARLES F. GORLA

I, Charles F. Gorla, declare:

1. I am an attorney at law duly licensed to practice before the courts of the State of California and am a partner in the law firm of Gorla, Weber & Jarvis, retained by Moving Defendants Chris Hakim, Mira Este Properties LLC, and Roselle Properties LLC to represent them in the above entitled action.

2. Notice of this ex parte hearing was provided on Saturday March 9, 2019 by correspondence sent electronically to attorneys for the receiver, Plaintiff, Defendants other than Moving Defendants, and Plaintiffs-in-Intervention. A true and correct copy of said correspondence with the names and addresses of the counsel receiving same is attached hereto as Exhibit 1 and, by this reference, made a part hereof. On Saturday, March 9, 2019, counsel for Plaintiff communicated to me by electronic mail that she would be appearing and opposing the ex parte application.

1
2 3. For the convenience of the Court, attached to the Moving Defendants' Request for
3 Judicial Notice, filed concurrently herewith, are true, correct, and verbatim copies of the
4 following documents: (a) Declaration of Jerry Baca in Opposition to Motion for Preliminary
5 Injunction to Appoint Receiver (Exhibit 1); (b) Declaration of Robert Torrales in in Opposition
6 to Motion for Preliminary Injunction to Appoint Receiver (Exhibit 2); (c) September 26, 2018
7 Order Granting Preliminary Injunction (Exhibit 3); (d) portions of the transcript of the December
8 14, 2018 hearing on motion to set bond amounts (Exhibit 4); (e) December 17, 2018 Order
9 setting bond on appeal (Exhibit 5); (f) portion of Amended Receiver's Second Report (Exhibit 6);
10 (g) Notice of Appeal filed on October 30, 2018 (Exhibit 7); and, (h) Notice of Cross-Appeal filed
11 on November 2, 2018 (Exhibit 8).

12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct and that this declaration was executed at San Diego County,
14 California, this // day of March 2019.

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16 
17 _____
18 Charles F. Gorla
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EXHIBIT 1

**LAW OFFICES OF
GORIA, WEBER & JARVIS
ATTORNEYS AT LAW**

DANIEL S. WEBER
CHARLES F. GORIA
DAVID C. JARVIS

1011 Camino del Rio South, Suite 210
San Diego, California 92108

TEL (619) 692-3555
FAX (619) 296-5508

March 9, 2019

Via Electronic Mail Only

Steven Elia
steve@elialaw.com
Maura Griffin
Maura@elialaw.com
Law Offices of Steven Elia
2221 Camino Del Rio So., Suite 207
San Diego, CA 92108

Daniel Watts
dwatts@galuppolaw.com
Lou Galuppo, Esq.
lgaluppo@galuppolaw.com
Galuppo Law
2792 Gateway Road, Suite 102
Carlsbad, CA 92009

Robert Fuller
rfuller@nelsonhardiman.com
Salvatore J. Zimmitti
szimmitti@nelsonhardiman.com
Nelson Hardiman, LLP
11835 West Olympic Blvd, Suite 900
Los Angeles, CA 90064

Richardson Griswold
rgriswold@griswoldlawsandiego.com
Griswold Law APC
444 S. Cedros Ave #250
Solana Beach, CA 92075

Gina Austin
gaustin@austinlegalgroup.com
Tamara M. Leetham
tamara@austinlegalgroup.com
Austin Legal Group, APC
3990 Old Town Ave., Ste A-112
San Diego, CA 92110

Timothy Daley, Esq.
T.Daley@musicckpeeler.com

Matthew Dart, Esq.
matt@dartlawfirm.com

Matt Mahoney Esq.
mahoney@wmalawfirm.com

**Re: *Salam Razuki v. Ninus Malan et al,*
SDSC Case No. 37-2018-0034229**

Dear Counsel:

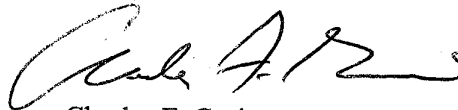
Please be advised that Defendants and Cross-complainants Mira Este Properties, LLC, Chris Hakim, and Roselle Properties LLC will be appearing ex parte in the above-entitled matter on their application for an order modifying the September 27, 2018 preliminary injunction by removing the receiver from the Mira Este Facility; or in the alternative, for an order modifying/clarifying the December 17, 2019 order setting bond amounts.

March 9, 2019
Page 2

The ex parte application will be heard on Tuesday, March 12, 2019 at 8:30 a.m. in Department C-67 of the San Diego County Superior Court - Central Division located at 330 W. Broadway, San Diego, California 92101 before the Honorable Eddie C. Sturgeon.

Please let me know at your earliest convenience if you will be appearing and if you will be opposing said application.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Charles F. Goria", written in a cursive style.

Charles F. Goria

CFG:tls

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

5 Attorneys for Defendants CHRIS HAKIM,
MIRA ESTE PROPERTIES, LLC,
6 AND ROSELLE PROPERTIES LLC
7

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

10 SALAM RAZUKI, an individual	) Case No.: 37-2018-00034229-CU-BC-CTL
11 Plaintiff)
12 vs	) (Unlimited Civil Action)
13 NINUS MALAN, an individual; CHRIS)
14 HAKIM, an individual; MONARCH	) REQUEST FOR JUDICIAL NOTICE OF
15 MANAGEMENT CONSULTING, INC.,	) DEFENDANTS CHRIS HAKIM, MIRA
16 California corporation; SAN DIEGO	) ESTE PROPERTIES LLC, AND
17 UNITED HOLDINGS GROUP, LLC, a	) ROSELLE PROPERTIES LLC IN
18 California limited liability company; FLIP	) SUPPORT OF EX PARTE HEARING TO
19 MANAGEMENT, LLC, a California limited	) REMOVE RECEIVER FROM MIRA
20 liability company; MIRA ESTE PROPERTIES	) ESTE FACILITY OR IN THE
21 LLC, a California limited liability company;	) ALTERNATIVE TO CLARIFY AND
22 ROSELLE PROPERTIES, LLC, a California	) MODIFY 12/17/2018 ORDER SETTING
23 limited liability company; BALBOA AVE	) BOND AMOUNTS
24 COOPERATIVE, a California nonprofit mutual)
25 benefit corporation; CALIFORNIA CANNABIS	) Hearing Date: March 12, 2019
26 GROUP, a California nonprofit mutual benefit	) Time: 8:30 AM
27 corporation; DEVILISH DELIGHTS, INC. a	) Dept.: C-67
and DOES 1-100, inclusive;	) I/C Judge: Hon. Eddie C. Sturgeon
Defendants.)
	) Complaint Filed: July 10, 2018
	) Trial Date: Not Set
<hr/> AND RELATED CROSS-ACTIONS AND)
ACTIONS IN INTERVENTION.	) IMAGED FILE

1 TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

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

Exhibit Number	Description
Exhibit 1	Declaration of Jerry Baca in Opposition to Appointment of Receiver, filed September 4, 2018 in this action.
Exhibit 2	Declaration of Robert Torrales in Opposition to Appointment of Receiver, filed September 4, 2018 in this action.
Exhibit 3	9/26/2018 Order Granting Preliminary Injunction
Exhibit 4	Portions of transcript of 12/14/2018 hearing on motion to set bond amounts
Exhibit 5	12/17/2018 Order setting bond amounts
Exhibit 6	Receiver's Amended Report, Schedule 5, Mira Este Operation, Statement of Cash Received and Disbursed from Operations
Exhibit 7	Notice of Appeal filed October 30, 2018
Exhibit 8	Notice of Cross-Appeal filed November 2, 2018

21 **GORIA, WEBER & JARVIS**

22
23 Dated: 3/11/19

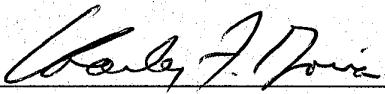
23 By: 
24 Charles F. Gorla
25 Attorneys for Defendants
26 Chris Hakim, Mira Este Properties
27 LLC, and Roselle Properties LLC

EXHIBIT 1

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

Attorneys for Defendant CHRIS HAKIM
5
6
7

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

10 SALAM RAZUKI, an individual)
11 Plaintiff)

12 vs)

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

23 Defendants.)
24)
25)

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

(Unlimited Civil Action)

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

Hearing Date: September 7, 2018

Time: 1:30 PM

Dept.: C-67

I/C Judge: Hon. Eddie C. Sturgeon

Complaint Filed: July 10, 2018

Trial Date: Not Set

IMAGED FILE

1 I, Jerry Baca, declare:

2 1. I am over the age of 18.

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

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

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

17 5. The business model at the Mira Este Facility consists of at least 3 different
18 activities, none of which involve the retail sale of cannabis products. First, the Mira Este
19 Facility, consisting of approximately 16,000 square feet of space, is a licensed cannabis
20 manufacturer. As such, the Mira Este Facility has the opportunity to enter into sub-license
21 agreements with other producers and manufacturers so long as the safeguards and practices
22 and procedures at the Mira Este Facility are followed. Those safeguards include providing
23 security at the Facility 7 days a week and 24 hours a day. It also includes documenting all
24 items that come into the Facility by manifest, taking control of those items, and placing
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1 them in a safe. When a sub licensee producer or manufacturer requires those items for the
2 manufacture of its product, Synergy handles the paperwork, including the documenting of
3 the release of such materials with at least two (2) persons present at all times. Additionally,
4 Synergy coordinates the testing of products with an outside testing company, again with two
5 (2) witnesses present at all times. As noted, Synergy also provides staffing for the building,
6 which includes not only security and a compliance manager, but also all maintenance and
7 cleaning staff. Synergy has also prepared formal written practices and policies that all sub
8 licensees are required to follow. The second business activity at the Facility involves
9 Synergy's distribution of cannabis products for the sub licensees. The third business
10 activity involves the production by MEP of its own set of cannabis products for distribution.
11

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

17 7. In regards to income from sub licensees, that is also virtually nonexistent as
18 explained below because of the presence of the receiver. The business model with sub
19 licensees involved a guarantee per month of no less than \$20,000, as against a percentage of
20 business of the sub licensee of no less than 10%. Therefore, and by way of example, the
21 first and only producer/sub licensee procured by Synergy was a company known as Edipure.
22 Edipure expended tens of thousands of dollars in preparation for the start of its production
23 activities at the Facility. It also entered into a sublicense agreement to utilize approximately
24 4000 square feet at the Facility. The sublicense agreement was made after the receiver was
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1 removed on or about July 31, 2018 and before the receiver was re-appointed on or about
2 August 20, 2018. During that time, Edipure generated approximately \$200,000 in “pre—
3 orders”. Since 10% of that amount or \$20,000 was less than the \$30,000 per month
4 minimum guarantee under the sublicense agreement with Edipure, Edipure will be
5 responsible to pay the sum of \$30,000 to continue its operations at the Facility for the first
6 month of its operation. At this time, Edipure is the one and only sub licensee. The Facility
7 cannot survive on Edipure’s \$30,000 per month, given the extensive overhead that is
8 involved in the operation of the Facility.
9

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

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

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

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

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

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

22 C. Bomb Xtracts (Vape Cartridges, Pre Rolls, Flower, Moonrocks, Candy,
23 Concentrates, Drinks, Edibles and chip). I was told by the principal that he refused to
24 work with any receiver. He stated that his company had too many trade secrets and
25 recipes that could potentially be monitored and copied by a receiver. Potential revenues
26 lost amount to more than \$70,000 per month based on anticipated sales.
27

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

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

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

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

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

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

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

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

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

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

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

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

13 This declaration was executed on 9-3-18 at San Diego County, California.
14

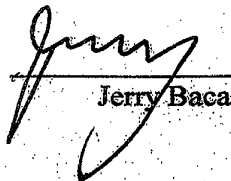
15 
16 _____
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EXHIBIT 2

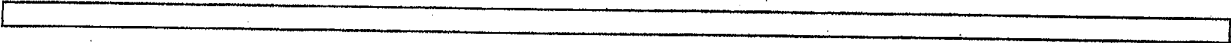
1 Charles F. Goria, Esq. (SBN68944)
GORIA, WEBER & JARVIS
2 1011 Camino del Rio South, Suite 210
San Diego, CA 92108
3 Tel.: (619) 6923555
Fax: (619) 2965508

4 Attorneys for Defendant CHRIS HAKIM
5

6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

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

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I, Robert Torrales declare:

1. I am over the age of 18 years.

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

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

I declare under penalty of perjury that the foregoing is true and correct. This declaration was executed on 8/31/18 at Riverside County, California.

Robert Torrales

EXHIBIT 3

F I L E D
Clerk of the Superior Court

SEP 26 2018

By: I. QUIARTE, Deputy

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

SALAM RAZUKI, an individual,

Plaintiff,

v.

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

Defendants.

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

**[PROPOSED] ORDER CONFIRMING
RECEIVER AND GRANTING
PRELIMINARY INJUNCTION**

Judge: Hon. Eddie C. Sturgeon

Dept: C-67

Date: September 7, 2018

Time: 1:30 p.m.

This matter came on for hearing on September 7, 2018 at 1:30 p.m. in Department C-67, the Honorable Judge Eddie C. Sturgeon, presiding. Upon reviewing the papers and records filed in this matter and taking into account argument by counsel at the hearing, and good cause appearing,

1 NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

2 1. Michael W. Essary is confirmed as this Court's appointed Receiver in this matter and
3 shall retain control and possession of the following business entities:

- 4 a. San Diego United Holdings Group, LLC;
- 5 b. Mira Este Properties, LLC;
- 6 c. Balboa Ave Cooperative;
- 7 d. California Cannabis Group;
- 8 e. Devilish Delights, Inc.;
- 9 f. Flip Management, LLC.

10 Collectively, these business entities will be referred to as the "Marijuana Operations."

11 2. The Court finds that Plaintiff has established a likelihood of success on the merits
12 and the probability of irreparable injury if a preliminary injunction is not issued. The Court grants
13 Plaintiff's request for the issuance of a preliminary injunction, thereby confirming the appointment
14 of Receiver.

15 3. Plaintiff shall post its injunction bond in the amount of \$350,000.00 no later than
16 September 21, 2018.

17 4. Receiver shall maintain and oversee the current management agreement in place with
18 Far West Management, LLC for the marijuana dispensary operations at the property located at 8861
19 Balboa Avenue, Suite B, San Diego, California 92123 and 8863 Balboa Avenue, Suite E, San Diego,
20 California 92123 ("Balboa Ave Dispensary"). The Court permits Receiver to pay the management
21 fee and/or minimum guarantee payments, according to the management agreement, if funds are
22 available.

23 5. Receiver shall maintain and oversee the current management agreement in place with
24 Synergy Management Partners, LLC for the production facility operations at the property located at
25 9212 Mira Este Court, San Diego, California 92126 ("Mira Este Property"). The Court permits
26 Receiver to pay the management fee and/or minimum guarantee payments, according to the
27 management agreement, if funds are available.

28

1 6. Receiver shall continue to work with Certified Public Accountant Justus Henkus IV
2 to provide accounting services for the Marijuana Operations, specifically including the active
3 operations at the Balboa Ave Dispensary and the Mira Este Property. All outgoing payments made
4 in the course of business for the Marijuana Operations shall first be approved by the Receiver.

5 7. Receiver shall retain Brian Brinig of Brinig Taylor Zimmer, Inc. to conduct a
6 comprehensive forensic audit of the Marijuana Operations, as well as of all named parties in this
7 matter as it relates to financial transactions between and among such parties related to the issues in
8 dispute.

9 8. From the proceeds that shall come into Receiver's possession from the Balboa Ave
10 Dispensary, Receiver shall apply and disburse said monies in the following general order, subject to
11 Receiver's discretion:

- 12 a. To pay the expenses and charges of Receiver, and his counsel Richardson
13 Griswold of Griswold Law, APC, in the carrying out of Receiver's Court-ordered
14 duties and obligations;
- 15 b. To pay all expenses reasonably necessary or incidental to the continued operation,
16 care, preservation and maintenance of the Balboa Ave Dispensary to maintain the
17 status quo;
- 18 c. To pay all installments of principal and interest presently due or to become due
19 pursuant to notes secured against the Balboa Ave Dispensary property.

20 9. From the proceeds that shall come into Receiver's possession from the Mira Este
21 Property, Receiver shall apply and disburse said monies in the following general order, subject to
22 Receiver's discretion:

- 23 a. To pay the expenses and charges of Receiver, and his counsel Richardson
24 Griswold of Griswold Law, APC, in the carrying out of Receiver's Court-ordered
25 duties and obligations;

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- 1 b. To pay all expenses reasonably necessary or incidental to the continued operation,
- 2 care, preservation and maintenance of the Mira Este Property to maintain the
- 3 status quo;
- 4 c. To pay all installments of principal and interest presently due or to become due
- 5 pursuant to notes secured against the Mira Este Property.

6 10. Receiver shall hold all proceeds derived from the Marijuana Operations, less all costs,
7 expenses and payments outlined above.

8 11. To the greatest extent reasonably possible, Receiver shall ensure the Marijuana
9 Operations remain operating at status quo. All parties to this matter shall cooperate with Receiver
10 and keep the Receiver informed regarding all updates, statuses, notices or otherwise regarding the
11 Marijuana Operations.

12 12. Receiver shall take possession of all funds held for or arising out of the real property
13 owned by any of the Marijuana Operations, the operation of the Marijuana Operations, and/or on
14 deposit in any and all bank and savings demand deposit accounts, including without limitation,
15 money on deposit at any bank, or located elsewhere, certificates of deposit, warrants, Letter(s) of
16 Credit, drafts, notes, deeds of trust and other negotiable instruments, choses in action, chattel paper,
17 accounts receivable, collateral of any kind and otherwise, in the name of, or held for the benefit of
18 the Marijuana Operations. All of the foregoing shall include, without limitation, such accounts
19 and/or instruments held in the name of the Marijuana Operations for which any director, officer or
20 employee of the Marijuana Operations is a signatory or authorized agent of the Marijuana
21 Operations, notwithstanding the actual name under which the account or instrument is held. The
22 Receiver shall exercise full control over said assets and Receiver shall have the right to assume any
23 existing accounts.

24 13. Each and every banking, savings and thrift institution having funds on deposit for, or
25 held for the benefit of the Marijuana Operations, shall cede control of all of such funds and accrued
26 interest, if any, and all certificates and/or books, statements and records of account representing said
27 funds, directly to the Receiver without further inquiry or impediment to the exercise of the powers
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1 of the Receiver herein. Receiver shall have the right to establish new bank accounts and transfer
2 existing Marijuana Operations account funds from their current account locations into the new bank
3 accounts established by Receiver as he deems necessary. Receiver is empowered to establish such
4 accounts as he may deem necessary at such federally insured bank(s) as he may determine
5 appropriate. Specifically, Receiver may open and maintain separate bank accounts for the operations
6 at the Balboa Ave Dispensary and may open and maintain separate bank accounts for the operations
7 at the Mira Este Property.

8 14. All rents, issues and profits that may accrue from the Marijuana Operations,
9 Marijuana Operations Property, or any part thereof, or which may be received or receivable from
10 any hiring, operating, letting, leasing, sub-hiring, using, subletting, subleasing, renting thereof shall
11 be subject to this Order and controlled by the Receiver. Rents, issues and profits shall include,
12 without limitation, gross receipts from business operations, all rental proceeds of the Marijuana
13 Operations' premises, if any, discounts and rebates of every kind, any right arising from the
14 operation of the Marijuana Operations and/or Marijuana Operations Property and payment for
15 storage, product development and preparation of any kind, equipment rental, delivery, commercial
16 rental of any Marijuana Operations Property and any other service or rental rendered, whether or not
17 yet earned by performance including, but not limited to, accounts arising from the operations of the
18 Marijuana Operations Property, rent, security and advance deposits for use and/or hiring, in any
19 manner, of the Marijuana Operations, and to payment(s) from any consumer, credit/charge card
20 organization or entity (hereinafter collectively called "Rents and Profits").

21 15. Receiver is empowered to execute and prepare all documents and to perform all
22 necessary acts, whether in the name of the Marijuana Operations, named parties in this matter and/or
23 directors, officers, or members of the Marijuana Operations or in the Receiver's own name, that are
24 necessary and incidental to demanding, collecting and receiving said money, obligations, funds,
25 licenses, Rents and Profits and payments due the Marijuana Operations and/or named parties in this
26 matter and subject to enforcement under this Order.

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1 16. Receiver is authorized to endorse and deposit into his receiver account(s) all of said
2 funds, cash, checks, warrants, drafts and other instruments of payment payable to the Marijuana
3 Operations, named parties in this matter and/or the agents of the Marijuana Operations as such
4 payments relate to the Marijuana Operations.

5 17. Plaintiff, Plaintiffs-In-Intervention, Defendants, and members of the Marijuana
6 Operations and their servants, agents, attorneys, accountants, employees, successors-in-interest and
7 assigns, and all other persons acting under and/or in concert with any of them shall provide, turn
8 over and deliver to the Receiver within forty-eight (48) hours of entry of this Order any and all
9 instruments, profit and loss statements, income and expense statements, documents, ledgers, receipts
10 and disbursements journals, books and records of accounts, including canceled checks and bank
11 statements, for all Marijuana Operations and Marijuana Operations Property, including electronic
12 records consisting of hard and floppy disks, checking and savings records, cash register tapes and
13 sales slips and all check book disbursement registers and memoranda and savings passbooks.

14 18. Plaintiff, Plaintiffs-In-Intervention, Defendants, and/or any of the directors, officers,
15 members of the Marijuana Operations shall notify the Receiver forthwith whether there is sufficient
16 insurance coverage in force on the Marijuana Operations Property, including the Marijuana
17 Operations premises, if any. Said persons shall inform the Receiver of the name, address and
18 telephone number of all insurance agents and shall be responsible for and are ordered to cause the
19 Receiver to be named as an additional insured on such policy(ies) of liability, casualty, property loss
20 and Worker's Compensation for the period the Receiver shall be in possession of the Marijuana
21 Operations and the Marijuana Operations Property, if any such insurance exists.

22 19. If there is insufficient or no insurance, the Receiver shall have thirty (30) business
23 days from entry of this Order within which to procure such insurance, if possible, provided he has
24 funds from the business to do so. During this "procurement" period, the Receiver shall not be
25 personally liable for any and all claims arising from business operations nor for the procurement of
26 said insurance. The cost thereof shall be payable by and become an obligation of the receivership,
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1 and not at the personal expense of the Receiver. If there is insufficient operating revenue to pay for
2 such insurance, the Receiver shall apply to the Court for instructions.

3 20. Plaintiff, Plaintiffs-In-Intervention, Defendants, and their respective agents,
4 employees, servants, representatives, and all other persons and entities acting in concert with them
5 or under their direction or control, or any of them, shall be, and hereby are, enjoined and restrained
6 from engaging in or performing, directly or indirectly, any of the following acts:

7 a) Expending, disbursing, transferring, assigning, selling, conveying, devising,
8 pledging, mortgaging, creating a security interest in, encumbering, concealing, or in any
9 manner whatsoever disposing of the whole or any part of the Marijuana Operations or
10 Marijuana Operations Property, without the written consent of the Receiver first obtained;

11 b) Doing any act which will, or which will tend to impair, defeat, divert, prevent
12 or prejudice the preservation of the proceeds of the Marijuana Operations or the receivership's
13 interest in the subject Marijuana Operations Property in whatever form the interest is held or
14 used; and,

15 c) Destroying, concealing, transferring, or failing to preserve any document
16 which evidences, reflects or pertains to any aspect of the Marijuana Operations or Marijuana
17 Operations Property;

18 d) Entering into any contract, lease, or agreement with any third party in relation
19 to the Marijuana Operations without the written consent of the Receiver first obtained.

20 21. Receiver is authorized to make entry onto any and all business premises utilized by
21 the Marijuana Operations and/or the Marijuana Operations Property.

22 22. Plaintiffs-In-Intervention SoCal Building Ventures, LLC and San Diego Building
23 Ventures, LLC are authorized to retrieve its equipment from the Mira Este Property. Receiver shall
24 coordinate and attend the retrieval from the Mira Este Property.

25 23. Receiver shall attempt in good faith to coordinate Plaintiffs-In-Intervention SoCal
26 Building Ventures, LLC and San Diego Building Ventures, LLC's retrieval of any equipment or
27 personal property located at the Balboa Ave Property. Plaintiffs-In-Intervention SoCal Building
28 Ventures, LLC and San Diego Building Ventures, LLC will first be required to provide appropriate

1 documentation proving ownership of its equipment and property to Receiver for review and
2 confirmation. Receiver shall use his discretion in determining whether the removal of any such
3 equipment or property would substantially affect the Marijuana Operations.

4 24. This Court will hold a receivership status hearing on November 16, 2018 at 1:30 p.m.
5 in Department C-67 before the Honorable Judge Eddie C. Sturgeon, presiding.

6 25. Additional Orders: _____
7 _____
8 _____
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10 _____

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12 IT IS SO ORDERED.
13 Dated: September 26, 2018

Eddie C. Sturgeon

Judge Eddie C Sturgeon
Judge of the Superior Court

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EXHIBIT 4

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

SALAM RAZUKI, an
individual,

Plaintiff,

vs.

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

Defendants.

Hon. Eddie C. Sturgeon

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

Hearing

TRANSCRIPT OF PROCEEDINGS

December 14, 2018

2:16 a.m.

330 West Broadway, Dept. 67

San Diego, California

REPORTED BY:

Leyla S. Jones

CSR No. 12750

CAEI 0216

5959

1 APPEARANCES:

2 For Plaintiff Salam Razuki:

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

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

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

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

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

For Defendant Ninus Malan:

29 GALUPPO & BLAKE
30 LOUIS A. GALUPPO, ESQ.
31 DANIEL T. WATTS, ESQ.
32 2792 Gateway Road, Suite 102
33 Carlsbad, California 92009
34 760.431.4575
35 dwatts@galuppolaw.com
36 lgaluppo@galuppolaw.com

27

28

1 APPEARANCES (Continued):

2
3 For Defendants Chris Hakim, Mira Este
4 Properties, Roselle Properties, and Monarch
Management Consulting, Inc.:

5 GORIA, WEBER & JARVIS
6 CHARLES F. GORIA, ESQ.
7 1011 Camino Del Rio South, Suite 210
8 San Diego, California 92108
9 619.692.3555
10 chasgoria@gmail.com

11 For Sunrise Property Investments, LLC:

12 LAW OFFICE OF DOUGLAS JAFFE
13 DOUGLAS JAFFE, ESQ.
14 501 West Broadway, Suite 800
15 San Diego, California 92101
16 619.400.4945
17 douglasjaffe@aol.com

18 For Receiver, Michael Essary:

19 GRISWOLD LAW
20 RICHARDSON C. GRISWOLD, ESQ.
21 444 S. Cedros Avenue, Suite 250
22 Solana Beach, California 92075
23 858.481.1300
24 rgriswold@griswoldlawsandiego.com

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

28 DART LAW
29 MATTHEW B. DART, ESQ.
30 12526 High Bluff Drive, Suite 300
31 San Diego, California 92130
32 858.792.3616
33 matt@dartlawfirm.com

34 Also present: Michael Essary
35 Matt Mahoney
36 Kyle Yaege
37 Joe Salas
38 Ninus Malan
39 Brian Brinig
40 Michael Hickman
41 Salam Razuki
42 Chris Hakim

1 SAN DIEGO, CALIFORNIA;

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

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

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

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

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

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

18 THE COURT: Thank you.

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

23 THE COURT: Thank you.

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

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

CAEI 0219

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

4 THE COURT: Devilish Delights?

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

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

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

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

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

15 MR. ESSARY: Michael Essary, receiver.

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

18 MR. DART: Matthew Dart. Excuse me.

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

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

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

28 THE COURT: Thank you. First of all,

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

3 MS. LEETHAM: Yeah.

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

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

15 MR. WATTS: I understood the question.

16 THE COURT: Good.

17 You understood it?

18 MR. JOSEPH: Yes, Your Honor.

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

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

28 Everybody understand the issue? Let's put

1 it right out on the table.

2 MR. JOSEPH: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 bonds. Everybody agree?

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

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

7 MR. WATTS: Sure.

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

11 It's on this side of the table.

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

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

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

EXHIBIT 5

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO

CENTRAL

MINUTE ORDER

DATE: 12/17/2018

TIME: 02:26:00 PM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Patricia Ashworth

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

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

CASE TITLE: Razuki vs Malan [IMAGED]

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

APPEARANCES

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

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

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

The court sets the appellate bond as follows:

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

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

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

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

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

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

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

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

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

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

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

The motion to appoint Kevin Singer as receiver is denied.

DATE: 12/17/2018

MINUTE ORDER

DEPT: C-67

Page 1
Calendar No.

5970

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

Eddie C. Sturgeon

Judge Eddie C Sturgeon

EXHIBIT 6

AMENDED SCHEDULE 5
MIRA ESTE OPERATION
STATEMENT OF CASH RECEIVED AND DISBURSED FROM OPERATIONS
From Inception to the Present
Note 1

Summary of Mira Este Operations

	Mira Este 2016 [A]	Mira Este 2017 [A]	Mira Este 2018 (Thru June) [A]	Mira Este 2018 July-Oct [B]
Operating Receipts & Disbursements				
Sublease Income				\$ 90,000.00
Mira Este Loan Payment	\$ (44,245.00)	\$ (240,415.10)	\$ (240,736.51)	\$ (92,327.50)
Legal Fees		\$ (35,796.00)	\$ (20,000.00)	\$ (64,161.00)
TRH (CUP - Mira)		\$ (10,000.00)	\$ (56,479.50)	\$ -
Mira Este Improvements		\$ (46,358.00)		\$ -
Unknown		\$ (860.00)	\$ (40,000.00)	\$ -
Property Tax		\$ (24,917.35)	\$ (15,369.46)	\$ -
Conditional Use Permit-ME		\$ (23,399.00)	\$ (10,815.50)	\$ -
Cash		\$ (23,500.00)		\$ -
Security				\$ (22,848.00)
Cleaning & Maintenance				\$ (14,958.95)
Sales Tax		\$ (12,471.07)	\$ (123.00)	\$ (1,047.17)
Insurance		\$ (3,895.34)	\$ (1,262.00)	\$ (7,675.57)
Utilities		\$ (4,795.71)	\$ (2,059.77)	\$ (2,879.50)
Outside Services				\$ (6,094.00)
Office Supplies & Software				\$ (3,397.63)
License & Permits				\$ (3,224.90)
Income Tax		\$ (1,652.19)	\$ (800.00)	\$ -
Salaries & Wages				\$ (2,282.48)
Accounting		\$ (450.00)	\$ (1,450.00)	\$ -
Bank Fee	\$ (162.43)	\$ (529.00)	\$ (320.00)	\$ -
Misc			\$ -	\$ (1,200.90)
Total Expenses	\$ (44,407.43)	\$ (429,038.76)	\$ (389,415.74)	\$ (222,097.60)
Net Operations	\$ (44,407.43)	\$ (429,038.76)	\$ (389,415.74)	\$ (132,097.60)
		\$ (994,959.53)		

[1] This cash received and cash disbursed summary is prepared from the best records available from different managing entities during the relevant periods of time. The summaries are not audited; they are a compilation of the available receipts and disbursements data.

[A] Computed from Mira Este Bank Activity

[B] Computed from Mira Este Bank Activity and California Cannabis Group Profit and Loss provided by Far West Management

EXHIBIT 7


ATTORNEY OR PARTY WHO HAS ATTORNEY Name: Daniel Watta, SDN 277001 | Steven Dale, SDN 230002 Address: Daley & Dale 2792 Gateway Rd, Suite 102 City: Carlsbad Telephone: 760-431-4576 E-mail: dale@calcourtlaw.com Attorney: Appellate: Nissa Malin, et al. SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO Street Address: 330 W Broadway Mail Stop: 310 W Broadway City And Zip Code: San Diego 92101 Telephone: Central	STATE BAR NO. 277601 DATE OF BIRTH: 02/02/69 FAX NO: 760-431-4572	ELECTRONICALLY FILED Superior Court of California, County of San Diego 10/30/2018 at 05:02:00 PM Clerk of the Superior Court By Greg Hohman, Deputy Clerk
PLAINTIFF/PETITIONER: Galen Rasuli DEFENDANT/RESPONDENT: Nissa Malin	<input checked="" type="checkbox"/> NOTICE OF APPEAL <input type="checkbox"/> CROSS APPEAL (UNLIMITED CIVIL CASE)	CASE NUMBER: 17-2018-0024228-CV-20-CTL

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal. You may use an applicable Judicial Council form (such as APP-005 or APP-006) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

1. NOTICE IS HEREBY GIVEN that (name): **Nissa Malin, et al.** (See Exhibit A for full list of appealing parties) appeals from the following judgment or order in the case, which was entered on (date): **December 26, 2018**
- Judgment after jury trial
 - Judgment after summary trial
 - Default judgment
 - Judgment after an order granting a summary judgment motion
 - Judgment of dismissal under Code of Civil Procedure, §§ 581d, 583.250, 583.260, or 583.430
 - Judgment of dismissal after an order sustaining a demurrer
 - An order after judgment under Code of Civil Procedure, § 509, (a)(2)
 - An order or judgment under Code of Civil Procedure, § 901, (a)(3)-(13)
 - Other (describe and specify code section that authorizes this appeal)

2. For cross appeals only:
- a. Date notice of appeal was filed in original appeal:
 - b. Date superior court clerk mailed notice of original appeal:
 - c. Court of Appeal case number (if known):

Date: **October 30, 2018**

Daniel Watta _____  _____
(Print Name) (Signature)

NOTICE OF APPEAL/CROSS APPEAL (UNLIMITED CIVIL CASE)
(Appellate)

1 Steven W. Blake, Esq., SBN 235502
Andrew W. Hall, Esq., SBN 257547
2 Daniel Watts, Esq. SBN 277861
3 **GALUPPO & BLAKE**
A Professional Law Corporation
2792 Gateway Road, Suite 102
4 Carlsbad, California 92009
Phone: (760) 431-4575
5 Fax: (760) 431-4579

6 Gina M. Austin (SBN 246833)
E-mail: gaustin@austinlegalgroup.com
7 Tamara M. Leetham (SBN 234419)
E-mail: tamara@austinlegalgroup.com
8 **AUSTIN LEGAL GROUP, APC**
3990 Old Town Ave, Ste A-112
9 San Diego, CA 92110
10 Phone: (619) 924-9600
Facsimile: (619) 881-0045

11 Attorneys for Defendants

12
13 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**
14 **CENTRAL DIVISION**

15 **SALAM RAZUKI, an individual,**
16 **Plaintiff,**
17 **vs.**
18 **NINUS MALAN, an individual; MONARCH.**
19 **MANAGEMENT CONSULTING, INC., a**
20 **California corporation; SAN DIEGO UNITED**
21 **HOLDING GROUP, LLC, a California limited**
22 **liability company; MIRA ESTE**
23 **PROPERTIES, LLC, a California limited**
24 **liability company; ROSELLE PROPERTIES,**
25 **LLC, a California limited liability company;**
and DOES 1-100, inclusive,
Defendants.

Case No.: 37-2018-00034229-CU-BC-CTL
Assigned: Hon. Judge Sturgeon
Dept.: C-67
Exhibit A to Notice of Appeal

List of Appealing Parties

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List of Appealing Parties

1. Ninus Malan
2. San Diego United Holdings Group, LLC
3. Flip Management, LLC
4. California Cannabis Group
5. Balboa Ave Cooperative
6. Devilish Delights, Inc.

List of Appealing Parties

EXHIBIT 8

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: SBN68044 NAME: Charles F. Goris, Esq. FIRM NAME: Goris, Weber & Jarvis STREET ADDRESS: 1011 Camino del Rio South, Suite 210 CITY: San Diego STATE: CA ZIP CODE: 92108 TELEPHONE NO.: 619-692-3555 FAX NO.: 619-296-5506 E-MAIL ADDRESS: chasgoris@gmail.com ATTORNEY FOR (name): Defs. Chris Hakim, Roselle Properties LLC, Mira Este Properties LLC		FOR COURT USE ONLY F I L E D Clerk of the Superior Court NOV 02 2018 A. LUNA
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central Division (Hall of Justice)		
PLAINTIFF/PETITIONER: SALAM RAZUKI DEFENDANT/RESPONDENT: NINUS MALAN ET AL.		CASE NUMBER: 37-2018-00034229-CU-SC-CTL
<input type="checkbox"/> NOTICE OF APPEAL <input checked="" type="checkbox"/> CROSS-APPEAL (UNLIMITED CIVIL CASE)		

Notice: Please read Information on Appeal Procedures for Unlimited Civil Cases (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal. You may use an applicable Judicial Council form (such as APP-009 or APP-009E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

1. NOTICE IS HEREBY GIVEN that (name): Chris Hakim, Roselle Properties LLC, Mira Este Properties LLC
 appeals from the following judgment or order in this case, which was entered on (date): September 26, 2018

- Judgment after jury trial
 Judgment after court trial
 Default judgment
 Judgment after an order granting a summary judgment motion
 Judgment of dismissal under Code of Civil Procedure, §§ 581d, 583.250, 583.300, or 583.430
 Judgment of dismissal after an order sustaining a demurrer
 An order after judgment under Code of Civil Procedure, § 904.1(a)(2)
 An order or judgment under Code of Civil Procedure, § 904.1(a)(3)-(13)
 Other (describe and specify code section that authorizes this appeal):

2. For cross-appeals only:

- a. Date notice of appeal was filed in original appeal: October 30, 2018
 b. Date superior court clerk mailed notice of original appeal:
 c. Court of Appeal case number (if known):

Date: November 2, 2018

Charles F. Goris

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY)

 **COPY**

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

7 Attorneys for Defendants CHRIS HAKIM,
8 MIRA ESTE PROPERTIES LLC, and
9 ROSELLE PROPERTIES LLC
10

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

11	SALAM RAZUKI, an individual	)	Case No.: 37-2018-00034229-CU-BC-CTL
12	Plaintiff)	
13	vs	)	(Unlimited Civil Action)
14	NINUS MALAN, an individual; CHRIS)	
15	HAKIM, an individual; MONARCH	)	PROOF OF SERVICE
16	MANAGEMENT CONSULTING, INC.,)	
17	California corporation; SAN DIEGO)	
18	UNITED HOLDINGS GROUP, LLC, a	)	Dept.: C-67
19	California limited liability company; FLIP	)	I/C Judge: Hon. Eddie C. Sturgeon
20	MANAGEMENT, LLC, a California limited)	
21	liability company; MIRA ESTE)	
22	PROPERTIES LLC, a California limited	)	Complaint Filed: July 10, 2018
23	liability company; ROSELLE PROPERTIES,	)	Trial Date: Not Set
24	LLC, a California limited liability company;)	
25	BALBOA AVE COOPERATIVE, a)	
26	California nonprofit mutual benefit)	
27	corporation; CALIFORNIA CANNABIS)	
	GROUP, a California nonprofit mutual)	
	benefit corporation; DEVILISH DELIGHTS,)	
	INC. a California nonprofit mutual benefit	)	IMAGED FILE
	corporation; and DOES 1-100, inclusive;)	
	Defendants.)	

PROOF OF SERVICE

I, Charles F. Gorla, declare that: I am, and was at the time of service of the papers herein referred to, over the age of eighteen years, not a party to this action, and am employed in the County of San Diego, California, in which County the within mentioned mailing occurred. My business address is 1011 Camino del Rio South, Suite 210, San Diego, California 92108. I served the following document(s):

- Defendants Chris Hakim's, Mira Este Properties LLC's, and Roselle Properties LLC's Ex Parte Application to Remove Receiver from Mira Este Facility or in the alternative, to Clarify and Modify the 12/17/2018 Order Setting Bond Amounts, Declaration of Charles F. Gorla;
Declaration of Chris Hakim in Support of Ex parte Application to Remove Receiver from Mira Este Facility or in the alternative, to Clarify and Modify the 12/17/2018 Order Setting Bond Amounts;
Request for Judicial Notice in Support of Ex parte Application to Remove Receiver from Mira Este Facility or in the alternative, to Clarify and Modify the 12/17/2018 Order Setting Bond Amounts
Memorandum of Points and Authorities in Support of Ex parte Application to Remove Receiver from Mira Este Facility or in the alternative, to Clarify and Modify the 12/17/2018 Order Setting Bond Amounts

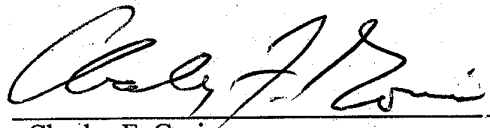
on the following addressees:

Table with 2 columns and 3 rows of contact information for various attorneys and law firms, including Steven A. Elia, Robert Fuller, Gina M. Austin, and Daniel Watts.

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XX VIA ELECTRONIC FILING SERVICE: Complying with Code of Civil Procedure section 1010.6, my electronic business address is chasgoria@gmail.com and I caused such document(s) to be electronically served through the One Legal e-service system for the above entitled case to those parties on the Service List maintained on its website for this case on March 11, 2019. The file transmission was reported as complete and a copy of the Filing/Service Receipt will be maintained with the original document(s) in our office.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 11, 2019, at San Diego County, California.



Charles F. Gorla

1 Steven A. Elia (State Bar No. 217200)
Maura Griffin, *Of Counsel* (State Bar No. 264461)
2 James Joseph (State Bar No. 309883)
ELIA LAW FIRM, APC
3 2221 Camino Del Rio South, Suite 207
San Diego, California 92108
4 Telephone: (619) 444-2244
Facsimile: (619) 440-2233
5 Email: steve@elialaw.com
maura@elialaw.com
james@elialaw.com

7 Attorneys for Plaintiff
SALAM RAZUKI, et al.

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

11 SALAM RAZUKI, an individual,

12 Plaintiff,

13 v.

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

23 Defendants.
24

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

**PLAINTIFF SALAM RAZUKI'S
JOINER IN RECEIVER'S
APPLICATION FOR ORDER
AUTHORIZING OPERATION AND
FUNDING OF BALBOA AVE
DISPENSARY OPPOSITION TO
DEFENDANT CHRIS HAKIM, ET AL.'S
EX PARTE APPLICATION TO REMOVE
RECEIVER FROM THE MIRA ESTE
FACILITY AND MODIFY 12 17 18
ORDER SETTING BOND AMOUNTS
DECLARATION OF MAURA GRIFFIN,
ES .**

Date: March 12, 2019
Time: 8:30 a.m.
Dept: C-67
Judge: Hon. Eddie C. Sturgeon

25
26 Plaintiff SALAM RAZUKI ("Plaintiff" or "Razuki"), by and through his counsel, hereby submits
27 the following notice of joinder in Receiver's Ex Parte Application for Order Authorizing Operation and

1 Funding of Balboa Ave Dispensary (the “Receiver’s Application”) and opposition to Defendant CHRIS
2 HAKIM’S, MIRA ESTE PROPERTIES, LLC’S, and ROSELLE PROPERTIES, LLC’S ex parte
3 application to remove the receiver from Mira Este Facility or in the alternative to clarify and modify the
4 12/17/18 order setting bond amounts (the “Hakim Application”).

5
6 **I.**
INTRODUCTION

7 Defendants have attempted to vacate, hinder and delay the receivership by any and all means.
8 Meanwhile, Razuki has (i) entered into a Payment Agreement with the HOA to cure the Balboa
9 Dispensary’s default (the “HOA Agreement”) to ensure the use variance is protected; (ii) has personally
10 made all payments under the HOA Agreement (*i.e.* approximately \$124,642.63 to date); (iii) has offered
11 to purchase the Salas Financial loan in the amount of approximately \$500,000 in order to resolve the
12 Balboa Dispensary’s default and forestall foreclosure on the properties; and, (iv) has offered to loan the
13 Balboa Dispensary an additional \$200,000 in capital to pay certain outstanding debts and infuse capital so
14 the Receiver can try and re-open the business.

15 Defendants and their agents have continued to regard the receivership order with disdain by failing
16 to comply with its requirements regarding both the Balboa Dispensary and the Mira Este Facility. In fact,
17 Defendants have largely ignored the Order regarding Mira Este and **CONTINUE** to refuse to turn over
18 critical information requested by the Receiver including, but not limited to, reporting additional income
19 which they have admitted is being generated by the facility. Now, Hakim seeks an order vacating the
20 Order as to Mira Este. Notably, this is not the first time Defendants have sought to vacate the receivership
21 in some capacity with all such requests having been denied by this Court. ***HAKIM’S APPLICATION***
22 ***REGARDING THIS REQUEST SHOULD BE SUMMARILY DENIED BECAUSE NOTHING HAS***
23 ***CHANGED SINCE DEFENDANTS LAST MADE SUCH A REQUEST WITH THE EXCEPTION***
24 ***OF THE FACT THAT SYNGERY HAS ADMITTED IT IS RECEIVING MORE THAN \$30,000 IN***
25 ***MONTHLY INCOME BUT HAS REFUSED TO PROVIDE FURTHER INFORMATION***
26 ***REQUESTED BY THE RECEIVER.*** If any modification should be made regarding Mira Este, it should
27 be to **INCREASE** the Receiver’s powers related to Mira Este so that the Receiver can finally have the

1 power to determine the true financial status of the facility.

2 Defendants have contributed absolutely nothing to the Marijuana Operations for months despite
3 admittedly mismanaging the businesses and have only continued to obfuscate the finances being generated
4 by the Mira Este Facility. The million dollar question is why are Defendants so reluctant to be open and
5 honest about what business is being conducted at Mira Este and what income is being generated there?
The most obvious answer is they continue to hope that the receivership is vacated before the Court finds
7 out the truth about the financial condition of Mira Este (*i.e.* what money is being generated and where it
8 is going.)

9 To complicate matters, Defendants appealed the September 26, 2018 Order Confirming Receiver
10 and Granting Preliminary Injunction (the “Order”). A true and correct copy of the Order is attached to
11 the Declaration of Maura Griffin (“Griffin Dec.”) at E **hibit 1**. Malan has argued that the Order cannot
12 be modified **BECAUSE THEY FILED AN APPEAL**. Hakim’s counsel previously stated in open court
13 at the hearing on December 14, 2018 that they believe that the Order can be modified absent the posting
14 of the Appellate Bonds and, based on Hakim’s Application, they continue to believe so. *See* the transcript
15 from the December 14, 2018 hearing (“12/14/18 Transcript”), a true and correct copy of which is attached
1 to the Griffin Dec. as E **hibit 2**, at 10:11-17.¹ Razuki believes that the Order can and should be modified
17 to increase the Receiver’s powers for both the Balboa Dispensary and the Mira Este Facility because
18 Defendants, having had almost **THREE MONTHS** to post their respective Appellate Bonds, have failed
19 to do so.

20 There are four essential issues being addressed in Receiver’s and Hakim’s Applications, as
21 follows: (i) Can the Court modify the Order with the appeal pending minus the posting of the Appellate
22 Bonds?; (ii) Should the Court increase the Receiver’s powers regarding the Balboa Dispensary to allow
23 him to proceed with negotiating a new management contract and obtain additional funding in furtherance
24

25 ¹ At the December 14, 2018 hearing, Mr. Gorla, counsel for Hakim, stated: “Your honor, I break ranks with Mr. Watts. I
2 agree with Mr. Joseph, and I know the case he’s talking about. The name of it escapes me, and that is the authority...but I
27 think that that allows the Court to modify the appointment of the receiver until the bond is posted.” *See* the 12/14/18
Transcript at 10:11-17.

1 of reopening the business?; (iii) Should the Court vacate the Order as it relates to Mira Este?; and, (iv)
2 Should the Court modify the amount of the Appellate Bonds?

3 The Receiver’s hands have been tied from an operational stand point since the Order was signed.
4 The Receiver has been relegated to its current role of hall monitor of the business’ financials because
5 Defendants convinced the Court to allow them to maintain control over the Marijuana Operations. Since
the Receivership began, Defendants have shown nothing but defiance of both the Order and the Receiver.
7 While Defendants have continued to cast blame on the Receiver, in reality, the Balboa Dispensary is facing
8 a potential total loss because: (i) Defendants specifically requested that the Court order Far West as the
9 manager of the Balboa Dispensary and the Court agreed; and, (ii) Far West then unilaterally cancelled the
10 management agreement in late November and abandoned the business leaving the Receiver unable to
11 reopen the business. Moreover, although Defendants have accused the Receivership of impairing
12 opportunities to bring additional businesses into the Mira Este Facility, they have declined to involve the
13 Receiver whatsoever in the negotiation of said contracts. The fact that the Receiver has apparently had
14 no problem getting operators to submit proposals to operate the Balboa Dispensary under the Receivership
15 makes this claim somewhat dubious.

1 In the event that the Court is even willing to entertain Hakim’s Application and because the Receiver
17 is unable to attend the ex parte hearing on the matter, Plaintiff requests that the Court set Hakim’s
18 Application for a full hearing so that the respective parties can have a fair opportunity to introduce facts
19 to support a modification of the Receiver’s bond and their respective requested modifications. The Court
20 should not grant Hakim’s Application until and unless it is satisfied that the Receiver has had the chance
21 to advise the Court as to Defendants’ non-compliance of the Order, specifically in relation to Mira Este.

22 **II.**
23 **RELEVANT FACTS REGARDING THE RECEIVERSHIP**

24 This Court confirmed Michael Essary as the receiver in the Order. *See Ehibit 1* to Griffin Dec.
25 (the Order). Rather than afford the Receiver with the extensive and broad powers typical of receiverships,
2 based on the request of Defendants, the Court specifically ordered that the Receiver instead “maintain and
27 oversee the current management agreement” in place with Far West Management, LLC (“Far West”), as

1 to the Balboa Dispensary, and Synergy Management Partners, LLC (“Synergy”), as to the Mira Este
2 Facility. *Id.* at ¶¶4 and 5. Prior to the filing of Defendants’ appeal of the Order, Plaintiff argued on
3 numerous occasions that both Far West and/or Synergy should be removed as operators because they were
4 not cooperating with the Receiver, however, the Court declined to do so. Griffin Dec. at ¶3.

5 The following parties are appealing the Order: Malan; Monarch Management Consulting, Inc.
6 (“Monarch”); San Diego United Holdings Group, LLC (“SD United”); Flip Management, LLC (“Flip”);
7 Balboa Ave Cooperative (“Balboa Ave Coop.”); California Cannabis Group (“CA Cannabis”); Devilish
8 Delights, Inc. (“Devilish”); Hakim; Mira Este Properties, LLC (“Mira Este”); and, Roselle Properties,
9 LLC (“Roselle”) (referred to individually as “Appellant” or collectively as “Appellants”). *Id.* at ¶4.
10 American Lending and Holdings, LLC (“ALH”) is not an Appellant nor subject to the Order.

11 In late November 2018 and without notice, Far West unilaterally vacated the Balboa Dispensary
12 and cancelled its management agreement. *Id.* at ¶5. At the hearing on December 14, 2018, Malan’s
13 counsel specifically argued against the requests of both the Receiver and Plaintiff to modify the Order to
14 allow the Receiver to hire new operators so that the Balboa Dispensary, in particular, could re-open for
15 business and start generating funds to support its debt obligations. *Id.* The Court declined to modify the
16 Order indicating concern over whether it was entitled to do so given Defendants’ appeal and the fact that
17 they had not yet had an opportunity to post an appellate bond. *Id.*

18 At the December 14, 2018 hearing, the Court also heard extensive argument from all parties
19 regarding the Appellate Bond amounts and took the matter under consideration. *Id.* at ¶6. The Court
20 issued a Minute Order on December 17, 2018, which set the Appellate Bonds as follows: Malan
21 (\$350,000); SD United (\$350,000), ALH (\$350,000), Flip (\$350,000); Balboa Ave Coop. (\$50,000);
22 Devilish (\$50,000); CA Cannabis (\$50,000); Hakim (\$350,000); Mira Este (\$350,000); and, Roselle
23 (\$350,000). *See* the Court’s December 17, 2018 Minute Order (the “12/17/18 Minute Order”), a true and
24 correct copy of which is attached to the Griffin Dec. as **E exhibit 3**. Therefore, the aggregate bond amount
25 set for the above-mentioned Defendants is \$2,600,000. *Id.* The Court specifically required that all parties
26 must post their respective bond in order to vacate the Receiver. *Id.*

27 None of the Appellants, much less all of them, have posted their respective Appellate Bonds. *Id.*
28 at ¶7. Therefore, pursuant to the 12/17/18 Minute Order, the Appellant Bond is not effectuated and the

1 receivership cannot be vacated.

2 **III.**

3 **DEFENDANTS' CONTINUED NON-COMPLIANCE WITH THE ORDER**

4 Unfortunately, the Receiver has advised that he is unable to personally attend the ex parte hearings
5 on March 12, 2019, although his counsel will be presenting his ex parte application and be available to
6 update the Court on the status of the Marijuana Operations. Griffin Dec. at ¶8. Plaintiff has significant
7 concerns if the Court even considers Hakim's request to reduce the Receiver's powers and/or vacate the
8 Order (in whole or in part) without providing the Receiver a fair opportunity to update the Court
9 specifically on the status of the Balboa Dispensary and the Mira Este Facility. *Id.* The following merely
10 provides certain information on some issues that Plaintiff is currently aware of that should be considered
11 by the Court, but the Receiver is in the best position to advise the Court as to issues of non-compliance
12 with the Order. *Id.*

13 **A. The Balboa Dispensary.**

14 The Balboa Dispensary has been shut down since on or about November 27, 2018. *Id.* at ¶9.

15 California Code of Regulations §5022(a), which went into effect this year, says any licensee
16 who surrenders, abandons, quits or closes the licensed premises for a period exceeding thirty (30) days
17 is at risk of losing its license. Cal. Code Regs. §5022(a). As the Balboa Dispensary has been shut down
18 for over four months, the license is in significant jeopardy making the re-opening of the business of the
19 utmost priority.

20 As the Court is aware, both Plaintiffs' filings and Receiver's reports and declarations have been
21 rife with examples of Defendants' ongoing non-compliance with the Order. Griffin Dec. at ¶10.
22 According to the Receiver and upon information and belief, as to the Balboa Dispensary, more recent
23 examples of Defendant's non-compliance with the Order include, as follows:

- 24 •The unilateral shut down of the dispensary with no notice or warning to the
25 Receiver shortly after Receiver noticed his intent to conduct a cash audit of
26 the business;
- 27 •Failure to submit financial reports (including ALL receivables and
28 expenses) to the Receiver and/or Brinig such that they could assess the true
financial condition of the business;
- Submittal of minimal, non-detailed accounting information from Judd
Henkes prior to November 5, 2018 and none since;

- 1 •Defendants allowed multiple insurance policies to lapse due to nonpayment without properly submitting payment requests to Receiver;
- 2 •Failure to inform Receiver that they were not buying new inventory for the business and/or were removing inventory prior to their unilateral shutdown
- 3 of the business;
- 4 •Failure to submit a final accounting detailing remaining inventory, outstanding invoices or cash remaining after Defendants' unilateral shut
- 5 down of the business; and,
- 6 •Failure to notify the Receiver of the exact extent of the delinquency with the HOA fees resulting in the potential loss of the business's license and CUP, an issue which was subsequently resolved by Razuki pursuant to the HOA Agreement. *Id.*

9 Meanwhile, Razuki (and Razuki Investments, LLC) resolved the HOA default by entering into the
10 HOA Agreement committing to pay a total \$218,872.26 to the HOA, of which approximately \$124,642.63
11 has already been paid by Razuki. *Id.* at ¶11. A true and correct copy of the HOA Agreement is attached
12 to the Griffin Dec. as **E hibit 4**.

13 In addition, in response to both the Receiver's and his counsel's requests for suggestions to resolve
14 the pressing need for additional financing in order to get the dispensary reopened, only Razuki has
15 presented a viable option by proposing that he invest additional funding secured by the Balboa properties.
16 *See* Griffin Dec. at ¶12. Razuki has offered to buy the Salas Financial note which is currently in default
17 in the amount of at least \$56,000. *Id.* Razuki has also offered to loan an additional \$200,000 to the Balboa
18 Dispensary to pay certain bills and provide some capital in furtherance of getting the dispensary reopened.
19 *Id.* A true and correct copy of Razuki's March 6, 2019 initial proposal regarding the above is attached to
20 the Griffin Dec. at **E hibit 5**.

21 The Receiver and his counsel have also been requesting proposals from various operators who are
22 willing to manage the Balboa Dispensary and has forwarded the letters of intent he has received from said
23 operators. *See* Griffin Dec. at ¶13. Plaintiff agrees that the Receiver should continue to vet and negotiate
24 said proposals. Plaintiff's primary concern with the proposals received to date is the inclusion of options
25 to purchase (which are also under fair market value.) As Plaintiff-in-Intervention SoCal is currently trying
26 to enforce its option to purchase the Balboa Dispensary via this litigation, agreeing to a second option to
27 purchase by another operator will undoubtedly lead to additional and protracted litigation and will
28 complicate this case even more. This is likely not an issue lost on anyone. Of course, the sale of the

1 Balboa Dispensary could also raise potential issues with SoCal claims unless SoCal is the buyer.
2 Otherwise, Plaintiff is generally receptive to either (i) entering into a new management agreement with a
3 third-party operator at the best terms possible and/or (ii) selling the Balboa Dispensary (property and
4 business) for fair market value with the Receiver holding sale proceeds until this case is resolved.
5 However, Plaintiff impresses upon the Court the need to remove Malan and/or Hakim from any
involvement in the Balboa Dispensary and provide the Receiver with sufficient authority and powers to
gain full operational control over the business.

7
8 **B. The Mira Este Facility.**

9 On February 25, 2019, the Receiver conducted a site inspection of the Mira Este Facility. *Id.* at
10 ¶14. Present at the site inspection were the Receiver, Plaintiff’s counsel, Synergy’s counsel and both Jerry
11 Baca and Brad Grimes of Synergy. *Id.* At the meeting, it was represented by Synergy and its counsel that
12 Edipure would soon be vacating the premises because it had found a more convenient location in Los
13 Angeles. *Id.* It was also represented that Edipure was in default under its agreement and that Synergy
14 was pursuing the amount in default. *Id.* Synergy’s counsel represented that it was in negotiations with
15 another company to replace Edipure and that he would forward a copy of any negotiated agreement to the
Receiver before it was executed. *Id.* Plaintiff is informed and believes that said contract has yet to be
provided to the Receiver. *Id.*

17 More importantly, during the site inspection, Synergy confirmed what prior e-mails had suggested-
18 that there was additional capital being generated other than that provided by the Edipure agreement, that
19 there were “hand shake” deals that were happening, and that Synergy, under CA Cannabis’s license, was
20 producing more products than just the Edipure brand. *Id.* at ¶15. No additional information was provided
21 during the meeting. *Id.* Moreover, the Receiver expressed concern and dismay with the “accounting
22 reports” submitted by Synergy because they were essentially unintelligible. *Id.* Synergy represented that
23 it would be hiring a qualified bookkeeper to produce standard accounting reports – past, present and future.
24 *Id.* Mr. Baca expressed displeasure with Austin Legal and further represented that Synergy was seeking
25 new cannabis counsel. *Id.* It is Plaintiff’s understanding from the meeting that certain licenses for Mira
Este need to be renewed in short order making the Receiver’s involvement necessary to ensure this is
accomplished properly. *Id.*

1 On February 27, 2019, the Receiver sent an e-mail following up on the items discussed at the site
2 inspection and requesting certain additional information. *Id. at ¶16*. A true and correct copy of the
3 Receiver’s February 27, 2019 e-mail to Mr. Baca and Synergy’s counsel is attached to the Griffin Dec. as
4 **E hibit** . The Receiver has confirmed to Plaintiff’s counsel that while Synergy did provide a check in
5 the amount of \$2,500 for the tax filing as requested by him, other than providing normal bills for approval,
he has not received anything else from Synergy or anyone else regarding the status of Mira Este. *Id.*

7 So, in sum, the status of outstanding and/or recent Edipure payments are unknown as Defendants
8 (and Synergy) have failed to provide this information in an intelligible format despite the Receiver’s
9 request; the status of a possible new occupant discussed amongst the Defendants/Synergy and the Receiver
10 is unknown as Defendants/Synergy have failed to provide updated information as to whether a new
11 contract was entered into and/or the status of negotiations; Defendants/Synergy have refused to provide
12 the revised, signed Edipure contract after it was approved by the Receiver so we cannot even confirm the
13 final terms after execution; and, Defendants/Synergy have refused to provide information as to how
Edipure is handling reimbursements of expenses paid by Synergy and/or CA Cannabis. *Id. at ¶17*.

14 **IV.**

15 **THE COURT HAS THE POWER TO MODIFY THE ORDER GIVEN**
DEFENDANTS’ FAILURE TO POST THE RE UISITE APPELLATE BONDS

16 Most judgment and orders are stayed on appeal only if the appellant posts security. *See,*
17 *generally*, CCP §§917.1-922. Security typically takes the form of an undertaking or a bond.² In this
18 case, California Code of Civil Procedure §917.5 applies and states as follows:

19 “The perfecting of an appeal shall not stay enforcement of the judgment
20 or order in the trial court if the judgment or order appealed from appoints
21 a receiver, unless an undertaking in a sum fixed by the trial court is given
22 on condition that if the judgment or order is affirmed or the appeal is
withdrawn, or dismissed, the appellant will pay all damages which the
respondent may sustain by reason of the stay in the enforcement of the
judgment.” CCP §917.5.

23 Therefore, under CCP §917.5, **an undertaking must be posted to stay a judgment or order**
24 **appointing a receiver**. CCP §917.5; *see also City of Riverside v. Horspool* (2014) 223 CA4th 670, 682,
25 167 CR3d 440, 452 (property owner’s failure to post undertaking to obtain stay left appellate court

26 _____
27 ² For purposes of this application, the terms “undertaking” and “bond” shall be interchangeable.

1 “unable to fashion any meaningful relief” from order appointing receiver and authorizing sale of
2 property.) For the Court’s convenience, a copy of the *City of Riverside v. Horspool* ruling is attached
3 to the Griffin Dec. as **E hibit 7**. In that case, the Court on appeal ruled as follows:

4 “Because the receivership proceedings were not automatically stayed by the
5 appeal..., the receiver was fully authorized to proceed with attempts to
6 rehabilitate the property and, failing that (due to defendants’ interference),
7 apply for authorization to sell the property. Likewise, **because no valid stay
was in effect, the trial court could properly make appropriate orders
respecting the property.**” [Emphasis Added.] *City of Riverside v. Horspool*,
8 *supra*, 223 CA4th at 682, 167 CR3d at 452.

9 Therefore, this Court is able to modify and/or make further orders regarding the Receivership
10 until and unless Defendants satisfy the requisite bond requirements.

11 The purpose of requiring an undertaking is to provide monetary protection to a prevailing
12 respondent (in this case Plaintiff) the assurance that if the judgment or order is affirmed or the appeal
13 abandoned, appellant will pay all damages sustained by respondent as a result of the stay. CCP §917.5.
14 Only when the undertaking is properly posted is the authority of the receiver suspended and the right to
15 control and possession to be restored to the appealing party. *See Hibernia Savings & Loan Soc. v.*
16 *Belcher*, 4 Cal. 2d 268, 48 P.2d 681 (1935); *Jacobs v. Superior Court of San Joaquin County*, 133 Cal.
17 364, 65 P. 826 (1901).

18 Given that the appointment of a receiver is discretionary, Appellant’s chance of success on
19 appeal is unlikely. This renders Appellant’s appeal more of a litigation tactic to continue to thwart the
20 Receivership which is commensurate with their actions since the initial appointment of the Receiver in
21 July of 2018. The law is clear that if Appellants fail to post the required undertaking, the Receivership
22 is never stayed.

23 **V.**
THE RECEIVER’S POWERS MUST BE EXPANDED TO
PROTECT THE RECEIVERSHIP ASSETS

24 A. **The Court Should Authori e the Receiver to Negotiate a Contract for Management of the**
25 **Balboa Dispensary Seek Additional Funding Necessary to Pay Debts and Reopen the**
Balboa Dispensary.

26 Given the serious risk that the Balboa Dispensary’s state license might be revoked due to its
27

1 closure, the Receiver needs the expanded authority to get the dispensary reopened and preserve the
2 Receivership assets. On February 4, 2019, Receiver’s counsel e-mailed counsel for the parties confirming
3 that all parties had advised him that they were “generally open to the receiver reopening the Balboa
4 dispensary with a new operator” and, therefore, Defendants should not now object to the Receiver’s
5 request for more powers related to the Balboa Dispensary. Griffin Dec. at ¶19. A true and correct copy
of Receiver’s counsel’s e-mail of February 4, 2019 is attached to the Griffin Dec. as **E hibit 8**.

7 Defendants have now had more than ample time (*i.e.* **ALMOST THREE MONTHS!!!**) to post
8 their respective bonds and have failed to do so. Given the Order specifically provides that Far West
9 manage the Balboa Dispensary and that Far West has abandoned the business, it is essential that the Court
10 revisit a modification of the Order or a new order affording the Receiver more liberal powers to run the
11 business. Defendants confirm the necessity in doing so by **admitting** that the Balboa Dispensary is in dire
12 financial straits and at risk of losing its license. There has been zero indication that Defendants have any
13 intention to post the Appellate Bonds. The Court should not leave these valuable businesses and the
14 Receivership in limbo because Defendants have failed to post the Appellate Bond after having had a fair
and reasonable opportunity to do so.

15 **B. The Court Should Deny Hakim’s Request to Vacate the Receivership as to the Mira Este**
1 **Facility Should Instead Increase the Receiver’s Powers Over Management of the**
Operations.

17 First and foremost, Hakim’s Application should be denied on an ex parte basis because it fails
18 to justify this request being brought ex parte. All but one of the facts presented in support of the
19 application have previously been argued and addressed by this Court. The only new information is
20 that Edipure vacated the premises on March 8, 2019. However, while Mira Este apparently will not
21 generate any future capital from Edipure, we still don’t know how much they paid historically, where it
22 went, what it was used for and if there is any balance remaining because Defendants/Synergy have
23 refused to provide intelligible accounting records substantiating this. While Plaintiff is aware of some
24 of the general non-compliance of Defendants/Synergy, the Receiver is in the best position to comment
25 to the Court on past, current and anticipated future issues related to Mira Este. And, the Court should
2 keep in mind that at the site inspection, Synergy represented to both the Receiver and Plaintiff’s counsel
27

1 that additional products were being manufactured and additional income was being generated. In fact,
2 there was a reference to “hand shake deals” made by Mr. Baca and/or his counsel.

3 Hakim’s Application states that “Plaintiff’s position can also be adequately protected if the
4 disputed amount of profits to which he claims entitlement...is placed into the Dedicated Account and
5 held there until resolution of this case.” See Hakim’s Application at 8:8-20. Given
6 Defendants/Synergy’s refusal to report income generated since the Receiver was appointed, it is
7 reasonable to suspect that the reporting will become even worse without the Receiver. Plaintiff’s
8 position can never be protected with Defendants remaining in control of the properties and/or
9 businesses.

10 It seems highly convenient that Hakim’s Application rests largely on their assertion that
11 companies are unwilling to enter into sublicense agreements because of the Receivership and yet
12 Defendants have made zero effort to invite the Receiver to participate in said negotiations. Moreover,
13 the fact that the Receiver has had a significant amount of interest from operators to run the Balboa
14 Dispensary raises questions about the authenticity of this allegation as to Mira Este. One must wonder
15 about the veracity of these claims especially given the history of Defendants’ noncompliance with the
16 Order.

17 Hakim’s Application further argues that the Receiver is performing virtually no supervisory
18 functions at the Facility. However, this is simply not the case. It is clear from the communications
19 between Receiver and Defendants that the Receiver continues to request information from
20 Defendants/Synergy in order to monitor and supervise the finances at Mira Este. Defendants/Synergy
21 seem to simply ignore such requests.

22 Simply put, Defendants and their agents (*i.e.* Synergy) have refused to provide sufficient
23 information such that the true financial condition of Mira Este can be ascertained. This is despite the
24 fact that the Order was issued in September of 2018! At this point and because of Defendants’ utter
25 lack of cooperation with the Receiver, not only should Hakim’s request to vacate the Order be denied
26 in whole, the Court should actually modify the Order to increase the Receiver’s ability to control the
27

1 Mira Este Facility. The Receivership was granted in large part so that there would be transparency as
2 to the finances of the businesses and to ensure that there was a proper accounting of funds going in and
3 out of the business. Since the Order was issued, there have only been more and more questions about
4 the income being generated at Mira Este and what it is being spent on. To abandon the Receivership
5 now would give Defendants free reign in controlling the business's finances and render them
unaccountable for past accounting issues.

7 If we do not know what is happening at the Mira Esta Facility while the Receiver is appointed,
8 how will we possibly know what is going on if the Receivership is vacated? Nothing has changed since
9 the Order was executed to suggest that the businesses are being managed properly, that all income is
10 being properly recorded and accounted for, and that no disbursements of profits are being made to
11 Defendants.

12 **VI.**
13 **THERE ARE NO NEW FACTS SUFFICIENT TO WARRANT DECREASING THE**
14 **APPELLATE BOND BUT FOR REASSIGNING THE ALH BOND AMOUNT TO MONARCH**

14 A bond or undertaking must be posted to stay a judgment or order appointing a receiver. CCP
15 §917.5; *see City of Riverside v. Horspool, supra*, 223 CA4th at 682, 167 CR3d at 452. The security is
16 given on condition that, if the judgment or order is affirmed or the appeal abandoned or dismissed,
17 **appellant will pay all damages sustained by respondent as a result of the stay.** CCP §917.5. The amount
18 of the bond or undertaking is *fixed by the trial court* upon appellant's motion. *Id.* Whether to apportion
19 an undertaking among multiple appellants lies within the trial court's discretion. *See Gallardo v. Specialty*
20 *Restaurants Corp.* (2000) 84 CA4th 463, 470, 100 CR2d 884, 889; *see also* CCP §1032(a)(4).

21 Therefore, this Court had the discretion to apportion the bond amongst Appellants and, in the
22 interests of justice, require them to all post the bond to cover **all** damages Plaintiff might sustain as a result
23 of any stay imposed. Other than a correction as to the bond set for APH, as further discussed below, no
24 changes or modifications should be made to the bond amount.

25 Unfortunately, because there are so many parties and related cases, Plaintiff believes that the Court
26 mistakenly and inadvertently included ALH in the 12/17/18 Minute Order rather than Appellant Monarch.
27 As ALH is not subject to the Order, to the extent that Hakim requests that the Court correct the error in

1 requiring ALH to post an Appellate Bond, Plaintiff agrees. However, instead of requiring a \$350,000
2 Appellate Bond to be posted by ALH, Monarch should be required to post said bond in its stead as it is an
3 Appellant and was excluded from the 12/17/18 Order. This is the only modification to the 12/17/18
4 Minute Order that should be considered by the Court.

5 However, this modification should not extend the time in which the Court feels reasonable to give
6 Appellants to post their respective appellate bonds since not a single one of the 10 Appellants has posted
7 a bond and all are required to do so prior to the Appellant Bond being effective. There has been no
8 indication whatsoever that Appellants intend to post any bonds in this case. To afford more time to
9 Appellants to post their respective bonds before increasing the Receiver's powers will put the
10 Receivership assets of serious risk of loss, waste and conversion.

11 **VII.**
CONCLUSION

12 For the reasons stated above, the Court should approve the Receiver's Application and either deny
13 Hakim's Application outright or continue the matter to afford the Receiver a fair opportunity to report on
14 the status of the Receivership. Indeed, rather than vacating the Receivership as to Mira Este, given the
15 facts presented, the Court should actually expand the Receiver's powers so he can finally take full control
1 over the business. Lastly, the Appellant Bond requirements should remain the same other than correcting
2 the error and setting the \$350,000 bond for Monarch rather than ALH.

18 Dated: March 11, 2019

19 ELIA LAW FIRM, APC
By: Maura Griffin
20 Maura Griffin, Attorneys for Plaintiff
21 Salam Razuki
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23
24
25
26
27

1 Steven A. Elia (State Bar No. 217200)
Maura Griffin, *Of Counsel* (State Bar No. 264461)
2 James Joseph (State Bar No. 309883)
ELIA LAW FIRM, APC
3 2221 Camino Del Rio South, Suite 207
San Diego, California 92108
4 Telephone: (619) 444-2244
Facsimile: (619) 440-2233
5 Email: steve@elialaw.com
maura@elialaw.com
6 james@elialaw.com

7 Attorneys for Plaintiff
SALAM RAZUKI

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

11 SALAM RAZUKI, an individual,
12 Plaintiff,

13 v.

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

23 Defendants.
24

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

**DECLARATION OF MAURA GRIFFIN,
ESQ. IN SUPPORT OF PLAINTIFF
SALAM RAZUKI'S JOINDER AND
OPPOSITION TO RECEIVER AND
HAKIM'S EX PARTE APPLICATIONS,
RESPECTIVELY**

Date: March 12, 2019
Time: 8:30 a.m.
Dept: C-67
Judge: Hon. Eddie C. Sturgeon

25 I, Maura Griffin, declare:

26 1. I am an attorney duly licensed to practice law in the State of California. I am of counsel
27

1 for the Elia Law Firm, APC which represents Plaintiff Salam Razuki (“Plaintiff”) in the above-entitled
2 matter. All facts stated within the Declaration are within my personal knowledge or based upon
3 information and belief if so stated and, if called as a witness, I would and could competently testify to
4 them.

5 2. On September 26, 2018, the Court entered its Order Confirming Receiver and Granting
6 Preliminary Injunction (the “Order”). A true and correct copy of the Order is attached hereto as **Exhibit**
7 **1**.

8 3. This Court confirmed Michael Essary as the receiver (“Receiver”) in the Order. Rather
9 than afford the Receiver with the extensive and broad powers typical of receiverships, based on the request
10 of Defendants, the Court specifically ordered that the Receiver instead “maintain and oversee the current
11 management agreement” in place with Far West Management, LLC (“Far West”), as to the Balboa
12 Dispensary, and Synergy Management Partners, LLC (“Synergy), as to the Mira Este Facility. See
13 **Exhibit 1** at ¶¶4 and 5. Prior to the filing of Defendants’ appeal of the Order, Plaintiff argued on numerous
14 occasions that both Far West and/or Synergy should be removed as operators because they were not
15 cooperating with the Receiver, however, the Court refused to do so.

16 4. The following parties are appealing the Order: Malan; Monarch Management Consulting,
17 Inc. (“Monarch”); San Diego United Holdings Group, LLC (“SD United”); Flip Management, LLC
18 (“Flip”); Balboa Ave Cooperative (“Balboa Ave Coop.”); California Cannabis Group (“CA Cannabis”);
19 Devilish Delights, Inc. (“Devilish”); Hakim; Mira Este Properties, LLC (“Mira Este”); and, Roselle
20 Properties, LLC (“Roselle”) (referred to individually as “Appellant” or collectively as “Appellants”).
21 American Lending and Holdings, LLC (“ALH”) is not an Appellant nor subject to the Order.

22 5. In late November 2018 and without notice, Far West unilaterally vacated the Balboa
23 Dispensary and cancelled its management agreement. At the hearing on December 14, 2018, Malan’s
24 counsel specifically argued against the requests of both the Receiver and Plaintiff to modify the Order to
25 allow the Receiver to hire new operators so that the Balboa Dispensary, in particular, could re-open for
26 business and start generating funds to support its debt obligations. The Court declined to modify the Order
27 indicating concern over whether it was entitled to do so given Defendants’ appeal and the fact that they
28 had not yet had an opportunity to post an appellate bond.

6. At the December 14, 2018 hearing, the Court also heard extensive argument from all

1 parties regarding the Appellate Bond amounts and took the matter under consideration. A true and correct
2 copy of the transcript from the December 14, 2018 hearing (“12/14/18 Transcript”) is attached hereto as
3 **Exhibit 2**. The Court issued a Minute Order on December 17, 2018, which set the Appellate Bonds as
4 follows: Malan (\$350,000); SD United (\$350,000), ALH (\$350,000), Flip (\$350,000); Balboa Ave Coop.
5 (\$50,000); Devilish (\$50,000); CA Cannabis (\$50,000); Hakim (\$350,000); Mira Este (\$350,00); and,
6 Roselle (\$350,000). See the Court’s December 17, 2018 Minute Order (the “12/17/18 Minute Order”), a
7 true and correct copy of the is attached hereto as **Exhibit 3**. Therefore, the aggregate bond amount set for
8 the above-mentioned Defendants is \$2,600,000. The Court specifically required that all parties must post
9 their respective bond in order to vacate the Receiver.

10 7. None of the Appellants, much less all of them, have posted their respective Appellate
11 Bonds.

12 8. Unfortunately, the Receiver has advised that he is unable to personally attend the ex parte
13 hearings on March 12, 2019, although his counsel will be presenting his ex parte application and be
14 available to update the Court on the status of the Marijuana Operations. Plaintiff has significant concerns
15 with the Court reducing the Receiver’s powers and/or vacating the Order (in whole or in part) without
16 providing the Receiver a fair opportunity to update the Court specifically on the status of the Balboa
17 Dispensary and the Mira Este Facility. The following merely provides certain information that Plaintiff
18 is currently aware of that should be considered by the Court, but the Receiver is in the best position to
19 advise the Court as to issues of non-compliance with the Order.

20 **The Balboa Dispensary**

21 9. The Balboa Dispensary has been shut down since on or about November 27, 2018.

22 10. As the Court is aware, both Plaintiffs’ filings and Receiver’s reports and declarations have
23 been rife with examples of Defendants’ ongoing non-compliance with the Order. According to the
24 Receiver and upon information and belief, as to the Balboa Dispensary, more recent examples of
25 Defendant’s non-compliance with the Order include, as follows:

- 26 •The unilateral shut down of the dispensary with no notice or warning to the
27 Receiver shortly after Receiver noticed his intent to conduct a cash audit of
28 the business;
- Failure to submit financial reports (including ALL receivables and
expenses) to the Receiver and/or Brinig such that they could assess the true

1 financial condition of the business;

2 •Submittal of minimal, non-detailed accounting information from Judd
3 Henkes prior to November 5, 2018 and none since;

4 •Defendants allowed multiple insurance policies to lapse due to
5 nonpayment without properly submitting payment requests to Receiver;

6 •Failure to inform Receiver that they were not buying new inventory for the
7 business and/or were removing inventory prior to their unilateral shutdown
8 of the business;

9 •Failure to submit a final accounting detailing remaining inventory,
10 outstanding invoices or cash remaining after Defendants' unilateral shut
11 down of the business; and,

12 •Failure to notify the Receiver of the exact extent of the delinquency with
13 the HOA fees resulting in the potential loss of the business's license and
14 CUP, an issue which was subsequently resolved by Razuki pursuant to the
15 HOA Agreement.

16 11. Meanwhile, Razuki (and Razuki Investments, LLC) resolved the HOA default by entering
17 into the HOA Agreement committing to pay a total \$218,872.26 to the HOA, of which approximately
18 \$124,642.63 has already been paid by Razuki. A true and correct copy of the HOA Agreement is attached
19 hereto as **Exhibit 4**.

20 12. In addition, in response to both the Receiver and Receiver's counsel requests for
21 suggestions to resolve the pressing need for additional financing in order to get the dispensary reopened,
22 only Razuki has presented a viable option by proposing that he invest additional funding secured by the
23 Balboa properties. Razuki has offered to buy the Salas Financial note which is currently in default in the
24 amount of at least \$56,000. Razuki has also offered to loan an additional \$200,000 to the Balboa
25 Dispensary to pay certain bills and provide some capital in furtherance of getting the dispensary reopened.
26 A true and correct copy of my March 6, 2019 e-mail to the Receiver which included Razuki's initial
27 proposal regarding the above is attached hereto as **Exhibit 5**.

28 13. The Receiver and his counsel have also been requesting proposals from various operators
who are willing to manage the Balboa Dispensary and has forwarded the letters of intent he has received
from said operators. Plaintiff agrees that the Receiver should continue to vet and negotiate said proposals.
Plaintiff's primary concern with the proposals received to date is the inclusion of options to purchase
(which are also under fair market value.) As Plaintiff-in-Intervention SoCal is currently trying to enforce
its option to purchase the Balboa Dispensary via this litigation, agreeing to a second option to purchase

1 by another operator will undoubtedly lead to additional and protracted litigation and will complicate this
2 case even more. This is likely not an issue lost on anyone. Of course, the sale of the Balboa Dispensary
3 could also raise potential issues with SoCal claims unless SoCal is the buyer. Otherwise, Plaintiff is
4 generally receptive to either (i) entering into a new management agreement with a third-party operator at
5 the best terms possible and/or (ii) selling the Balboa Dispensary (property and business) for fair market
6 value with the Receiver holding sale proceeds until this case is resolved. However, Plaintiff impresses
7 upon the Court the need to remove Malan and/or Hakim from any involvement in the Balboa Dispensary
8 and provide the Receiver with sufficient authority and powers to gain full operational control over the
9 business.

10 **The Mira Este Facility**

11 14. On February 25, 2019, the Receiver conducted a site inspection of the Mira Este Facility
12 which I personally attended. Also present at the site inspection were the Receiver, Synergy’s counsel and
13 both Jerry Baca and Brad of Synergy. At the meeting, it was represented by Synergy and its counsel that
14 Edipure would soon be vacating the premises because it had found a more convenient location in Los
15 Angeles. It was also represented that Edipure was in default under its agreement and that Synergy was
16 pursuing the amount in default. Synergy’s counsel represented that it was in negotiations with another
17 company to replace Edipure and that he would forward a copy of any negotiated agreement to the Receiver
18 before it was executed. Plaintiff is informed and believes that said contract has yet to be provided to the
19 Receiver.

20 15. More importantly, during the site inspection, Synergy confirmed what prior e-mails had
21 suggested-that there was additional capital being generated other than that provided by the Edipure
22 agreement, that there were “hand shake” deals that were happening and that Synergy, under CA
23 Cannabis’s license, was producing more products than just the Edipure brand. No additional information
24 was provided during the meeting. Moreover, the Receiver expressed concern and dismay with the
25 “accounting reports” submitted by Synergy because they were essentially unintelligible. Synergy
26 represented that it would be hiring a qualified bookkeeper to produce standard accounting reports – past,
27 present and future. Mr. Baca expressed displeasure with Austin Legal and further represented that
28 Synergy was seeking new cannabis counsel. It is Plaintiff’s understanding from the meeting that certain
licenses for Mira Este need to be renewed in short order making the Receiver’s involvement necessary to

1 ensure this is accomplished properly.

2 16. On February 27, 2019, the Receiver sent an e-mail following up on the items discussed at
3 the site inspection and requesting certain additional information. A true and correct copy of the Receiver's
4 February 27, 2019 e-mail to Mr. Baca and Synergy's counsel is attached hereto as **Exhibit 6**. The
5 Receiver has confirmed to me that while Synergy did provide a check in the amount of \$2,500 for the tax
6 filing as requested by him, other than providing normal bills for approval, he has not received anything
7 else from Synergy or anyone else regarding the status of Mira Este.

8 17. So, in sum, the status of outstanding and/or recent Edipure payments are unknown as
9 Defendants (and Synergy) have failed to provide this information in an intelligible format despite the
10 Receiver's request; the status of a possible new occupant discussed amongst the Defendants/Synergy and
11 the Receiver is unknown as Defendants/Synergy have failed to provide updated information as to whether
12 a new contract was entered into and/or the status of negotiations; Defendants/Synergy have refused to
13 provide the revised, signed Edipure contract after it was approved by the Receiver so we cannot even
14 confirm the final terms after execution; and, Defendants/Synergy have refused to provide information as
15 to how Edipure is handling reimbursements of expenses paid by Synergy and/or CA Cannabis.

16 18. Attached hereto as **Exhibit 7** is a true and correct a copy of the *City of Riverside v.*
Horspool ruling.

17 **All Parties Have Expressed General Approval of Reopening**
Balboa Dispensary With A New Operator

18 19. On February 4, 2019, Receiver's counsel e-mailed counsel for the parties confirming that
19 all parties had advised him that they were "generally open to the receiver reopening the Balboa dispensary
20 with a new operator" and, therefore, Defendants should not now object to the Receiver's request for more
21 powers related to the Balboa Dispensary. A true and correct copy of Receiver's counsel's e-mail of
22 February 4, 2019 is attached hereto as **Exhibit 8**.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing is
24 true and correct, and that this declaration is executed on March 11, 2019, at San Diego, California.


25
26 By: 
27 Maura Griffin, Attorney for Plaintiff Salam
28 Razuki

EXHIBIT 1

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F I L E D
Clerk of the Superior Court

SEP 26 2018

By: I. QUIARTE, Deputy

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

SALAM RAZUKI, an individual,

Plaintiff,

v.

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

Defendants.

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

**[PROPOSED] ORDER CONFIRMING
RECEIVER AND GRANTING
PRELIMINARY INJUNCTION**

Judge: Hon. Eddie C. Sturgeon

Dept: C-67

Date: September 7, 2018

Time: 1:30 p.m.

This matter came on for hearing on September 7, 2018 at 1:30 p.m. in Department C-67, the Honorable Judge Eddie C. Sturgeon, presiding. Upon reviewing the papers and records filed in this matter and taking into account argument by counsel at the hearing, and good cause appearing,

1 NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

2 1. Michael W. Essary is confirmed as this Court's appointed Receiver in this matter and
3 shall retain control and possession of the following business entities:

- 4 a. San Diego United Holdings Group, LLC;
- 5 b. Mira Este Properties, LLC;
- 6 c. Balboa Ave Cooperative;
- 7 d. California Cannabis Group;
- 8 e. Devilish Delights, Inc.;
- 9 f. Flip Management, LLC.

10 Collectively, these business entities will be referred to as the "Marijuana Operations."

11 2. The Court finds that Plaintiff has established a likelihood of success on the merits
12 and the probability of irreparable injury if a preliminary injunction is not issued. The Court grants
13 Plaintiff's request for the issuance of a preliminary injunction, thereby confirming the appointment
14 of Receiver.

15 3. Plaintiff shall post its injunction bond in the amount of \$350,000.00 no later than
16 September 21, 2018.

17 4. Receiver shall maintain and oversee the current management agreement in place with
18 Far West Management, LLC for the marijuana dispensary operations at the property located at 8861
19 Balboa Avenue, Suite B, San Diego, California 92123 and 8863 Balboa Avenue, Suite E, San Diego,
20 California 92123 ("Balboa Ave Dispensary"). The Court permits Receiver to pay the management
21 fee and/or minimum guarantee payments, according to the management agreement, if funds are
22 available.

23 5. Receiver shall maintain and oversee the current management agreement in place with
24 Synergy Management Partners, LLC for the production facility operations at the property located at
25 9212 Mira Este Court, San Diego, California 92126 ("Mira Este Property"). The Court permits
26 Receiver to pay the management fee and/or minimum guarantee payments, according to the
27 management agreement, if funds are available.

28

1 6. Receiver shall continue to work with Certified Public Accountant Justus Henkus IV
2 to provide accounting services for the Marijuana Operations, specifically including the active
3 operations at the Balboa Ave Dispensary and the Mira Este Property. All outgoing payments made
4 in the course of business for the Marijuana Operations shall first be approved by the Receiver.

5 7. Receiver shall retain Brian Brinig of Brinig Taylor Zimmer, Inc. to conduct a
6 comprehensive forensic audit of the Marijuana Operations, as well as of all named parties in this
7 matter as it relates to financial transactions between and among such parties related to the issues in
8 dispute.

9 8. From the proceeds that shall come into Receiver's possession from the Balboa Ave
10 Dispensary, Receiver shall apply and disburse said monies in the following general order, subject to
11 Receiver's discretion:

- 12 a. To pay the expenses and charges of Receiver, and his counsel Richardson
13 Griswold of Griswold Law, APC, in the carrying out of Receiver's Court-ordered
14 duties and obligations;
- 15 b. To pay all expenses reasonably necessary or incidental to the continued operation,
16 care, preservation and maintenance of the Balboa Ave Dispensary to maintain the
17 status quo;
- 18 c. To pay all installments of principal and interest presently due or to become due
19 pursuant to notes secured against the Balboa Ave Dispensary property.

20 9. From the proceeds that shall come into Receiver's possession from the Mira Este
21 Property, Receiver shall apply and disburse said monies in the following general order, subject to
22 Receiver's discretion:

- 23 a. To pay the expenses and charges of Receiver, and his counsel Richardson
24 Griswold of Griswold Law, APC, in the carrying out of Receiver's Court-ordered
25 duties and obligations;

- 1 b. To pay all expenses reasonably necessary or incidental to the continued operation,
2 care, preservation and maintenance of the Mira Este Property to maintain the
3 status quo;
- 4 c. To pay all installments of principal and interest presently due or to become due
5 pursuant to notes secured against the Mira Este Property.
- 6 10. Receiver shall hold all proceeds derived from the Marijuana Operations, less all costs,
7 expenses and payments outlined above.
- 8 11. To the greatest extent reasonably possible, Receiver shall ensure the Marijuana
9 Operations remain operating at status quo. All parties to this matter shall cooperate with Receiver
10 and keep the Receiver informed regarding all updates, statuses, notices or otherwise regarding the
11 Marijuana Operations.
- 12 12. Receiver shall take possession of all funds held for or arising out of the real property
13 owned by any of the Marijuana Operations, the operation of the Marijuana Operations, and/or on
14 deposit in any and all bank and savings demand deposit accounts, including without limitation,
15 money on deposit at any bank, or located elsewhere, certificates of deposit, warrants, Letter(s) of
16 Credit, drafts, notes, deeds of trust and other negotiable instruments, choses in action, chattel paper,
17 accounts receivable, collateral of any kind and otherwise, in the name of, or held for the benefit of
18 the Marijuana Operations. All of the foregoing shall include, without limitation, such accounts
19 and/or instruments held in the name of the Marijuana Operations for which any director, officer or
20 employee of the Marijuana Operations is a signatory or authorized agent of the Marijuana
21 Operations, notwithstanding the actual name under which the account or instrument is held. The
22 Receiver shall exercise full control over said assets and Receiver shall have the right to assume any
23 existing accounts.
- 24 13. Each and every banking, savings and thrift institution having funds on deposit for, or
25 held for the benefit of the Marijuana Operations, shall cede control of all of such funds and accrued
26 interest, if any, and all certificates and/or books, statements and records of account representing said
27 funds, directly to the Receiver without further inquiry or impediment to the exercise of the powers
28

1 of the Receiver herein. Receiver shall have the right to establish new bank accounts and transfer
2 existing Marijuana Operations account funds from their current account locations into the new bank
3 accounts established by Receiver as he deems necessary. Receiver is empowered to establish such
4 accounts as he may deem necessary at such federally insured bank(s) as he may determine
5 appropriate. Specifically, Receiver may open and maintain separate bank accounts for the operations
6 at the Balboa Ave Dispensary and may open and maintain separate bank accounts for the operations
7 at the Mira Este Property.

8 14. All rents, issues and profits that may accrue from the Marijuana Operations,
9 Marijuana Operations Property, or any part thereof, or which may be received or receivable from
10 any hiring, operating, letting, leasing, sub-hiring, using, subletting, subleasing, renting thereof shall
11 be subject to this Order and controlled by the Receiver. Rents, issues and profits shall include,
12 without limitation, gross receipts from business operations, all rental proceeds of the Marijuana
13 Operations' premises, if any, discounts and rebates of every kind, any right arising from the
14 operation of the Marijuana Operations and/or Marijuana Operations Property and payment for
15 storage, product development and preparation of any kind, equipment rental, delivery, commercial
16 rental of any Marijuana Operations Property and any other service or rental rendered, whether or not
17 yet earned by performance including, but not limited to, accounts arising from the operations of the
18 Marijuana Operations Property, rent, security and advance deposits for use and/or hiring, in any
19 manner, of the Marijuana Operations, and to payment(s) from any consumer, credit/charge card
20 organization or entity (hereinafter collectively called "Rents and Profits").

21 15. Receiver is empowered to execute and prepare all documents and to perform all
22 necessary acts, whether in the name of the Marijuana Operations, named parties in this matter and/or
23 directors, officers, or members of the Marijuana Operations or in the Receiver's own name, that are
24 necessary and incidental to demanding, collecting and receiving said money, obligations, funds,
25 licenses, Rents and Profits and payments due the Marijuana Operations and/or named parties in this
26 matter and subject to enforcement under this Order.

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1 16. Receiver is authorized to endorse and deposit into his receiver account(s) all of said
2 funds, cash, checks, warrants, drafts and other instruments of payment payable to the Marijuana
3 Operations, named parties in this matter and/or the agents of the Marijuana Operations as such
4 payments relate to the Marijuana Operations.

5 17. Plaintiff, Plaintiffs-In-Intervention, Defendants, and members of the Marijuana
6 Operations and their servants, agents, attorneys, accountants, employees, successors-in-interest and
7 assigns, and all other persons acting under and/or in concert with any of them shall provide, turn
8 over and deliver to the Receiver within forty-eight (48) hours of entry of this Order any and all
9 instruments, profit and loss statements, income and expense statements, documents, ledgers, receipts
10 and disbursements journals, books and records of accounts, including canceled checks and bank
11 statements, for all Marijuana Operations and Marijuana Operations Property, including electronic
12 records consisting of hard and floppy disks, checking and savings records, cash register tapes and
13 sales slips and all check book disbursement registers and memoranda and savings passbooks.

14 18. Plaintiff, Plaintiffs-In-Intervention, Defendants, and/or any of the directors, officers,
15 members of the Marijuana Operations shall notify the Receiver forthwith whether there is sufficient
16 insurance coverage in force on the Marijuana Operations Property, including the Marijuana
17 Operations premises, if any. Said persons shall inform the Receiver of the name, address and
18 telephone number of all insurance agents and shall be responsible for and are ordered to cause the
19 Receiver to be named as an additional insured on such policy(ies) of liability, casualty, property loss
20 and Worker's Compensation for the period the Receiver shall be in possession of the Marijuana
21 Operations and the Marijuana Operations Property, if any such insurance exists.

22 19. If there is insufficient or no insurance, the Receiver shall have thirty (30) business
23 days from entry of this Order within which to procure such insurance, if possible, provided he has
24 funds from the business to do so. During this "procurement" period, the Receiver shall not be
25 personally liable for any and all claims arising from business operations nor for the procurement of
26 said insurance. The cost thereof shall be payable by and become an obligation of the receivership,
27
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1 and not at the personal expense of the Receiver. If there is insufficient operating revenue to pay for
2 such insurance, the Receiver shall apply to the Court for instructions.

3 20. Plaintiff, Plaintiffs-In-Intervention, Defendants, and their respective agents,
4 employees, servants, representatives, and all other persons and entities acting in concert with them
5 or under their direction or control, or any of them, shall be, and hereby are, enjoined and restrained
6 from engaging in or performing, directly or indirectly, any of the following acts:

7 a) Expending, disbursing, transferring, assigning, selling, conveying, devising,
8 pledging, mortgaging, creating a security interest in, encumbering, concealing, or in any
9 manner whatsoever disposing of the whole or any part of the Marijuana Operations or
10 Marijuana Operations Property, without the written consent of the Receiver first obtained;

11 b) Doing any act which will, or which will tend to impair, defeat, divert, prevent
12 or prejudice the preservation of the proceeds of the Marijuana Operations or the receivership's
13 interest in the subject Marijuana Operations Property in whatever form the interest is held or
14 used; and,

15 c) Destroying, concealing, transferring, or failing to preserve any document
16 which evidences, reflects or pertains to any aspect of the Marijuana Operations or Marijuana
17 Operations Property;

18 d) Entering into any contract, lease, or agreement with any third party in relation
19 to the Marijuana Operations without the written consent of the Receiver first obtained.

20 21. Receiver is authorized to make entry onto any and all business premises utilized by
21 the Marijuana Operations and/or the Marijuana Operations Property.

22 22. Plaintiffs-In-Intervention SoCal Building Ventures, LLC and San Diego Building
23 Ventures, LLC are authorized to retrieve its equipment from the Mira Este Property. Receiver shall
24 coordinate and attend the retrieval from the Mira Este Property.

25 23. Receiver shall attempt in good faith to coordinate Plaintiffs-In-Intervention SoCal
26 Building Ventures, LLC and San Diego Building Ventures, LLC's retrieval of any equipment or
27 personal property located at the Balboa Ave Property. Plaintiffs-In-Intervention SoCal Building
28 Ventures, LLC and San Diego Building Ventures, LLC will first be required to provide appropriate

1 documentation proving ownership of its equipment and property to Receiver for review and
2 confirmation. Receiver shall use his discretion in determining whether the removal of any such
3 equipment or property would substantially affect the Marijuana Operations.

4 24. This Court will hold a receivership status hearing on November 16, 2018 at 1:30 p.m.
5 in Department C-67 before the Honorable Judge Eddie C. Sturgeon, presiding.

6 25. Additional Orders: _____
7 _____
8 _____
9 _____
10 _____

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12 IT IS SO ORDERED.

13 Dated: September 26, 2018

Eddie C. Sturgeon

Judge Eddie C Sturgeon

Judge of the Superior Court

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EXHIBIT 2

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

SALAM RAZUKI, an
individual,

Plaintiff,

vs.

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

Defendants.

Hon. Eddie C. Sturgeon

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

Hearing

TRANSCRIPT OF PROCEEDINGS

December 14, 2018

2:16 a.m.

330 West Broadway, Dept. 67

San Diego, California

REPORTED BY:

Leyla S. Jones

CSR No. 12750

1 APPEARANCES:

2 For Plaintiff Salam Razuki:

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

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

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

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

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

For Defendant Ninus Malan:

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

27

28

1 APPEARANCES (Continued):

2

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

5 GORIA, WEBER & JARVIS
6 CHARLES F. GORIA, ESQ.
7 1011 Camino Del Rio South, Suite 210
San Diego, California 92108
8 619.692.3555
chasgoria@gmail.com

8

9 For Sunrise Property Investments, LLC:

10 LAW OFFICE OF DOUGLAS JAFFE
11 DOUGLAS JAFFE, ESQ.
12 501 West Broadway, Suite 800
San Diego, California 92101
619.400.4945
douglasjaffe@aol.com

13 For Receiver, Michael Essary:

14 GRISWOLD LAW
15 RICHARDSON C. GRISWOLD, ESQ.
16 444 S. Cedros Avenue, Suite 250
Solana Beach, California 92075
858.481.1300
rgriswold@griswoldlawsandiego.com

17

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

19

20 DART LAW
21 MATTHEW B. DART, ESQ.
22 12526 High Bluff Drive, Suite 300
San Diego, California 92130
858.792.3616
matt@dartlawfirm.com

23 Also present: Michael Essary
24 Matt Mahoney
25 Kyle Yaeger
26 Joe Salas
27 Ninus Malan
28 Brian Brinig
Michael Hickman
Salam Razuki
Chris Hakim

28

1 SAN DIEGO, CALIFORNIA;
2 FRIDAY, DECEMBER 14, 2018; 2:16 P.M.

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

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

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

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

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

18 THE COURT: Thank you.

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

23 THE COURT: Thank you.

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

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

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

4 THE COURT: Devilish Delights?

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

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

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

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

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

15 MR. ESSARY: Michael Essary, receiver.

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

18 MR. DART: Matthew Dart. Excuse me.

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

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

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

28 THE COURT: Thank you. First of all,

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

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

9 MR. ELIA: No, Your Honor.

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

12 Who's Avail? Are they even here?

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

15 THE COURT: Are you Avail?

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

18 THE REPORTER: I need your name.

19 MR. YAEGE: Kyle Yaege for Avail Shipping.

20 THE COURT: What's the appellate issue?

21 MR. YAEGE: The appellate issue --
22 Mr. Jaffe would be better suited to address that.

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

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

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

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

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

10 MS. LEETHAM: Yes, Your Honor.

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

14 MR. WATTS: Yes, Your Honor.

15 THE COURT: Let's talk about that.

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

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

1 MR. WATTS: No, Your Honor.

2 THE COURT: -- under your analysis?

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

5 THE COURT: Go ahead.

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

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

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

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

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

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

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

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

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

10 THE COURT: We did that.

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

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

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

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

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

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

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

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

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

20 THE COURT: Go ahead.

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

28 However, as soon as someone files an

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

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

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

20 MR. JOSEPH: Your Honor --

21 THE COURT: Shh, shh, shh.

22 Go ahead.

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

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

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

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

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

17 THE COURT: For the record, of course.

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

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

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

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

11 Did I get that right?

12 MR. WATTS: Yes, Your Honor.

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

17 MS. LEETHAM: Yes, Your Honor.

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

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

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

28 MS. LEETHAM: Okay.

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

3 MS. LEETHAM: Yeah.

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

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

15 MR. WATTS: I understood the question.

16 THE COURT: Good.

17 You understood it?

18 MR. JOSEPH: Yes, Your Honor.

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

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

28 Everybody understand the issue? Let's put

1 it right out on the table.

2 MR. JOSEPH: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 bonds. Everybody agree?

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

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

7 MR. WATTS: Sure.

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

11 It's on this side of the table.

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

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

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

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

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

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

20 Does that make sense?

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

26 THE COURT: Uh-huh.

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

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

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

9 THE COURT: It's up on appeal.

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

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

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

18 THE COURT: And your suggestion is 800-?

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

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

24 MR. WATTS: Yeah.

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

27 THE COURT: Keep going.

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

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

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

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

18 THE COURT: Okay.

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

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

24 MR. GALUPPO: Lou Galuppo.

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

26 MR. GALUPPO: I'm with Malan.

27 MR. WATTS: My boss also.

28 THE COURT: Thank you.

1 Go.

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

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

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

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

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

4 THE COURT: Correct.

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

7 THE COURT: It is.

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

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

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

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

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

25 THE COURT: So total 1.3 million?

26 MR. GORIA: No. Total 1.67 --

27 MR. WATTS: Six five.

28 MR. GORIA: Yeah, six five.

1 THE COURT: Thank you.

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

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

7 THE COURT: Please don't.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 THE COURT: I know that.

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

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

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

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

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

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

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

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

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

28 THE COURT: Sustained.

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

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

3 MS. LEETHAM: No?

4 THE COURT: Their side of the table.

5 MS. LEETHAM: Okay.

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

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

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

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

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

5 All right. Anyone else? Thank you.

6 I may get to you, Mr. Brinig.

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

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

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

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

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

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

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

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

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

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

1 the manager to purchase an interest in the business.

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

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

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

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

20 THE COURT: How much is that?

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

1 THE COURT: Who's SoCal?

2 MS. CARDER: I am, Your Honor.

3 THE COURT: Is that right?

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

5 I apologize.

6 THE COURT: Good answer by an attorney.

7 MR. JOSEPH: Your Honor --

8 THE COURT: So 10 million, right --

9 MR. JOSEPH: Your Honor --

10 THE COURT: -- for Mira Este?

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

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

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

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

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

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

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

28 And this is not something that is a risk

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

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

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

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

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

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

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

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

28 Here we're talking about trial damages,

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

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

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

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

19 THE COURT: What's your total bond?

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

22 THE COURT: All right.

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

28 The case that we cited is the Williams case

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

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

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

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

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

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

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

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

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

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

2 MR. JOSEPH: Your Honor, I'll -- sorry,

3 Your Honor. I did not address that issue.

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

7 THE COURT: Around 12 million?

8 MR. JOSEPH: Yes, Your Honor.

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

11 MR. JOSEPH: 12,750,000.

12 THE COURT: Okay.

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

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

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

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

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

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

25 THE COURT: Okay. Anybody else?

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

28 THE COURT: Sure.

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

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

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

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

1 paying their attorneys.

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

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

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

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

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

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

28 THE COURT: Thank you. Anybody else?

1 Shall we go to this side of the table.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 THE COURT: Cite that case.

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

1 THE COURT: Somebody find it for me.

2 Go ahead. They'll look it up.

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

10 Tammy, go ahead.

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

13 THE COURT: You may. Hold on.

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

17 Thank you.

18 Counsel?

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

27 THE COURT: So 36 and 12?

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

1 that logic.

2 THE COURT: All right.

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

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

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

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

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

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

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

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

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

10 MS. LEETHAM: Correct.

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

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

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

21 MS. LEETHAM: Six million, absolutely.

22 THE COURT: Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 THE COURT: You were talking about Sunrise.

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

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

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

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

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

27 MS. LEETHAM: Yes, absolutely.

28 THE COURT: So is your analysis going to be

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

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

8 THE COURT: How much for Malan?

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

12 THE COURT: San Diego United Holdings?

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

16 THE COURT: I read it.

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

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

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

27 THE COURT: Uh-huh.

28 MS. LEETHAM: That's big.

1 THE COURT: So on San Diego United?

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

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

7 MS. LEETHAM: Okay.

8 THE COURT: Thank you.

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

13 Leyla, are you okay?

14 THE REPORTER: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 MS. CARDER: Do I what?

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

19 MS. CARDER: If we can purchase it.

20 THE COURT: Yeah.

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

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

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

28 THE COURT: 2.1 million for this losing

1 business? All right.

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

5 THE COURT: Yeah.

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

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

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

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

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

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

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

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

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

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

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

22 And so, for example, if you --

23 Am I talking too fast?

24 THE REPORTER: No.

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

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

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

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

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

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

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

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

6 MS. LEETHAM: Five thousand dollars.

7 THE COURT: How much for Flip Management?

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

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

17 MS. LEETHAM: It is appealing.

18 THE COURT: So how much, Counsel?

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

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

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

1 Balboa to operate.

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

9 THE COURT: So the amount requested is?

10 MS. LEETHAM: A thousand.

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

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

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

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

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

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

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

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

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

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

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

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

15 THE COURT: Just one second, Counsel.
16 All right. Proceed. Thank you.

17 MS. LEETHAM: I'm almost done.

18 THE COURT: Take your time.

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

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

27 (Brief recess.)

28 THE COURT: Go ahead and finish. Then

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

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

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

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

12 THE COURT: How much?

13 MS. LEETHAM: None.

14 MR. BRINIG: Zero, Your Honor.

15 THE COURT: Good. Okay. Thank you.

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

23 THE COURT: Go ahead.

24 MS. LEETHAM: Okay. Are you there?

25 THE COURT: Close enough.

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

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

3 THE COURT: There we go. Go.

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

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

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

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

28 First of all, this is not a credit to

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

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

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

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

18 MS. LEETHAM: They're all nonprofits.

19 THE COURT: Same analysis.

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

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

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

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

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

25 THE COURT: No, not at all.

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

1 indigent clients pay an exorbitant bond.

2 THE COURT: Okay. Thank you.

3 Okay. Have I covered the money issues?

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

9 Is that it?

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

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

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

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

18 MR. GORIA: Roselle.

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

21 MR. GORIA: Yes.

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

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

26 Let's go.

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

1 THE COURT: And --

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

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

7 MR. BRINIG: It was.

8 THE COURT: I know.

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

10 THE COURT: Huh?

11 MS. LEETHAM: Thank you.

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

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

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

18 THE COURT: Okay.

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

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

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

28 MR. GORIA: No. All three parties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 THE COURT: Did SoCal do a good job?

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

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

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

28 They turned to SoCal, Can we get reimbursed

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

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

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

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

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

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

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

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

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

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

28 MS. LEETHAM: Yes.

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

3 MR. GORIA: Yes.

4 THE COURT: Thank you, Counsel.

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

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

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

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

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

28 THE COURT: In 20 minutes we have another

1 hearing?

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

4 THE COURT: Is that Westpoint?

5 MR. JOSEPH: Westpoint, SH Westpoint.

6 THE COURT: I got it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 THE COURT: Uh-huh.

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

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

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

11 THE COURT: Go.

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

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

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

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

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

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

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

24 THE COURT: Got it.

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

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

1 SD Holdings? I'm looking for numbers.

2 MR. JOSEPH: It should be the same,

3 Your Honor. It's still --

4 THE COURT: Flip?

5 MR. JOSEPH: The same, Your Honor.

6 THE COURT: Twelve million, right?

7 MR. JOSEPH: Yes, 12 million.

8 THE COURT: Balboa?

9 MR. JOSEPH: Same, Your Honor.

10 THE COURT: Is it the same for everybody?

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

12 THE COURT: Including Mira Este?

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

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

19 Balboa, how much is your request?

20 MR. JOSEPH: Twelve seven.

21 THE COURT: California?

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

25 THE COURT: For Devilish Delights?

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

28 THE COURT: Mira Este? Three seven five?

1 MR. JOSEPH: Three seven five.

2 THE COURT: Mr. Hakim?

3 MR. JOSEPH: Three seven five.

4 THE COURT: And Roselle?

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

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

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

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

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

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

18 THE COURT: No, no. I know.

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

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

25 Mr. Jaffe, are you good?

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

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

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

3 THE COURT: Just the bonds.

4 SoCal, do you want to say anything?

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

7 THE COURT: You don't.

8 MS. CARDER: Okay.

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

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

13 THE COURT: Well said.

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

18 THE COURT: Got it.

19 MR. WATTS: And I --

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

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

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

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

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

7 MR. BRINIG: Good afternoon, Your Honor.

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

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

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

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

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

11 MR. BRINIG: Yes, sir.

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

14 MR. BRINIG: Sure.

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

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

21 THE COURT: We went through that.

22 MR. BRINIG: Right.

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

27 MR. BRINIG: Sure.

28 THE COURT: He put in 470-?

1 MR. BRINIG: Four twenty-seven --

2 THE COURT: Go ahead.

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

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

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

10 THE COURT: Oh, operations?

11 MR. BRINIG: Yes, sir.

12 THE COURT: Not the sale of a property?

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

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

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

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

26 THE COURT: "He" being?

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

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

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

6 THE COURT: Okay. Go ahead.

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

9 THE COURT: Okay.

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

12 THE COURT: And then keep going.

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

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

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

20 THE COURT: Can you use this one?

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

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

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

28 THE COURT: There we go. Where did that

1 come from?

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

10 THE COURT: Uh-huh.

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

14 THE COURT: Uh-huh.

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

19 THE COURT: And that source was?

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

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

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

28 THE COURT: Got it.

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

7 THE COURT: That's all right.

8 MR. BRINIG: Does that help?

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

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

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

15 MS. LEETHAM: Yes, Your Honor.

16 MR. JOSEPH: Yes, Your Honor.

17 THE COURT: Mira Este, is it viable?

18 MR. JOSEPH: Yes, Your Honor.

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

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

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

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

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

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

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

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

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

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

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

26 MR. GORIA: Understood, Your Honor.

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

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

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

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

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

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

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

19 THE COURT: Yeah.

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

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

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

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

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

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

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

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

28 MR. WATTS: Sunrise also.

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

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

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

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

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

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

26 THE COURT: Four attorneys.

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

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

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

5 THE COURT: There we go.

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

10 THE COURT: Slow down.

11 MR. WATTS: Alternative Health --

12 THE COURT: Has this been filed, Counsel?

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

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

16 MR. WATTS: Tammy will look it up.

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

19 MR. WATTS: We have --

20 THE COURT: So go ahead.

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

28 THE COURT: Are they in the lawsuit?

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

3 THE COURT: Have they responded?

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

6 THE COURT: How about the others?

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

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

11 MS. LEETHAM: Default.

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

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

25 THE COURT: Who represents them?

26 MR. WATTS: Mr. Jaffe right now.

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

1 MR. JAFFE: Only Sunrise, Your Honor.

2 THE COURT: Who represents the others?

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

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

8 THE COURT: Yeah, you did.

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

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

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

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

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

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

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

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

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

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

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

23 MS. GRIFFIN: Objection.

24 THE COURT: Shh, shh, shh.

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

28 MS. GRIFFIN: Whatever.

1 MR. WATTS: It is. It is.

2 MR. ELIA: And we dispute the evidence.

3 THE COURT: Let's --

4 MR. WATTS: That's --

5 THE COURT: I've heard enough.

6 MR. WATTS: In criminal, but --

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

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

11 THE COURT: Okay. I got your argument.

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

14 THE COURT: Thank you very much.

15 MS. LEETHAM: I think so.

16 MR. JAFFE: Your Honor --

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

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

22 THE COURT: How much?

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

25 THE COURT: Got it. Do you know what the
26 ROA on that is? I'll find it. Never mind. Go
27 ahead. It's around there probably.

28 MR. JAFFE: All they have done is brought

1 an ex parte. And what's happened is there was a
2 settlement agreement that says that Mr. Malan only
3 possibly gets money out of the Sunrise money that
4 Mr. Razuki had, which might get -- if and when
5 Mr. Razuki gets all his money back. So they don't
6 have any interest right now at all in Sunrise.

7 The reason that you put in a receiver, as I
8 understand it, is because Mr. Razuki put in all this
9 money and there was money that was being taken by
10 Mr. Malan from the Balboa dispensary. None of that
11 is going on at Sunrise. This is an operating
12 dispensary with other owners that has nothing to do
13 with money being taken in any broad -- not even an
14 allegation in any way that Mr. Malan's money is
15 being taken and therefore he needs to have some
16 interest in Sunrise.

17 You have declarations that the Sunrise
18 people put in that after the charges were brought
19 against Mr. Razuki, the federal authorities
20 questioned them and they have -- they asked for some
21 information about Razuki, and they have done nothing
22 else. They're not pursuing any type of -- anything
23 against this dispensary, Sunrise, with regard to any
24 of those criminal issues that they have brought up.
25 There's no emergency and they could bring this on a
26 noticed motion.

27 THE COURT: Thank you.

28 MR. ELIA: Your Honor, I have a suggestion

1 if you want to hear it briefly. Here's my
2 suggestion, Your Honor. Under the terms of the
3 settlement agreement, in three different places, it
4 states -- and for the record, it's Section 1.2,
5 Sections 2.2 and 2.3.

6 Those three sections state that no one --
7 when I say "no one," I mean Mr. Razuki and
8 Mr. Malan -- are to take profits until the
9 contributions are repaid.

10 My suggestion is I think a receivership is
11 inappropriate, because there's four other owners.
12 We would be happy to report to Mr. Essary
13 Mr. Razuki's contributions that he receives every
14 month.

15 MR. WATTS: They said they'd do that three
16 months ago, and they didn't.

17 THE COURT: Thank you. Understand.

18 Any other -- so that's ten bonds, one
19 ruling on Mr. Singer. Anything else?

20 MS. LEETHAM: For the record, my client has
21 an actual conflict of interest with Mr. Jaffe.
22 We'll be filing a motion to have him disqualified.
23 I just want the Court to know that. Huge problem.

24 THE COURT: Fire that baby.

25 MS. LEETHAM: I'm going to fire that baby
26 away.

27 THE COURT: There you go. Are you going to
28 do it before you get relieved?

1 MS. LEETHAM: Well, I'm hoping I don't get
2 relieved, but yes.

3 THE COURT: There you go. Well, I would
4 hope you don't get relieved --

5 MS. LEETHAM: Thank you.

6 THE COURT: -- would be my opinion, because
7 you all are -- I'd hate to have to gear somebody up
8 again, and I mean that. I need all of you. I can't
9 say that more strongly.

10 Okay. We're done. I'll let you know if I
11 need you anymore.

12 (The proceedings concluded at 4:25 p.m.)

13 * * *

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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: January 4, 2018

22

23 
24 _____
Leyla S. Jones
CSR No. 12750

25

26

27

28

EXHIBIT 3

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 12/17/2018

TIME: 02:26:00 PM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Patricia Ashworth

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2018-00034229-CU-BC-CTL** CASE INIT.DATE: 07/10/2018

CASE TITLE: **Razuki vs Malan [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

APPEARANCES

The Court, having taken the above-entitled matter under submission on 12/14/2018 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The request to add Sunrise Property Investments, LLC to be included in the receivership proceedings is denied.

Defendants Ninus Malan, Monarch Management Consulting Inc., San Diego United Holdings Group, Balboa Ave Cooperative, Devilish Delights Inc., and California Cannabis Group's for order setting appellate bond amount is granted, in part. Defendants Chris Hakim, Mira Este Properties LLC, and Roselle Properties LLC for order setting appellate bond amount is granted, in part.

The court sets the appellate bond as follows:

Ninus Malan appellate bond is set at \$350,000.

San Diego United Holdings Group's appellate bond is set at \$350,000.

American Lending and Holdings LLC's appellate bond is set at \$350,000.

Flip Management LLC's appellate bond is set at \$350,000.

Balboa Ave Cooperative's appellate bond is set at \$50,000.

Devilish Delights Inc.'s appellate bond is set at \$50,000.

California Cannabis Group's appellate bond is set at \$50,000.

Chris Hakim's appellate bond is set at \$350,000.

Mira Este Properties LLC's appellate bond is set at \$350,000.

Rosell Properties LLC's appellate bond is set at \$350,000.

Based upon various representations during oral argument that all parties must cooperate in order to be effective, in order to vacate the receiver, each party must post bond.

The motion to appoint Kevin Singer as receiver is denied.

DATE: 12/17/2018

MINUTE ORDER

Page 1

DEPT: C-67

Calendar No.

6118

The motion to add Sunrise Property Investments, LLC to the receivership is denied.

Eddie C. Sturgeon

Judge Eddie C Sturgeon

EXHIBIT 4

PAYMENT AGREEMENT AND LIMITED RELEASE

This Payment Agreement ("Payment Agreement") is entered into by and between Montgomery Field Business Condominiums Association ("Association"), Razuki Investments, LLC ("Razuki LLC") and Salam Razuki ("Razuki"). The Association, Razuki LLC and Razuki are sometimes referred to in this Payment Agreement individually as a "Party" or collectively as the "Parties." The Parties agree as follows:

1. Recitals. This Payment Agreement is made with reference to the following recitals:

1.1 The Association is a California mutual benefit corporation. The Association was organized and operates as a Commercial or Industrial Common Interest Development as defined by Civil Code section 6531. The Association is also a "Condominium Project" as defined by Civil Code section 6542. The Association consists of certain commercial real property, including 62 office and industrial units, located within the City of San Diego, State of California ("Units").

1.2 The Units are subject to the Association's governing documents (as that term is defined in Civil Code section 6552), including, but not limited to, the Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums ("CC&Rs") recorded on July 31, 1981, as Document Number 1981-242889, in the official records of the San Diego County Recorder, as amended from time to time. The Units are also subject to a valid and enforceable 2015 Amendment to Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums Association, dated February 26, 2015, recorded on March 2, 2015 as Document Number 2015-0093872 ("2015 Amendment"). The 2015 Amendment generally prohibits marijuana activities within the Association including the Units. In the 2015 Amendment, "Marijuana Activities" are defined as the "consumption, cultivation, manufacture, processing, possession, sale and/or distribution of marijuana and/or cannabis-related or cannabis-containing products and/or the operation of a medical marijuana collective, a medical marijuana cooperative, a medical marijuana dispensary, or a marijuana business for the sale of any marijuana product."

1.3 On March 20, 2017, upon the recording of a Grant Deed, dated March 2, 2017 (recorded in the Official Records of the San Diego County Recorder), San Diego United Holdings Group, LLC ("ADUHG") became the record owner of two units within the Association located at 8863 Balboa Ave #E and 8861 Balboa Ave #B (the "SDUHG Units"). The SDUHG Units were transferred from Razuki LLC to SDUHG pursuant to this Grant Deed. In addition, Razuki LLC obtained a Deed of Trust with Assignment of Rents, which was recorded against the SDUHG Units on March 20, 2017 as Document Number 2017-0126557 recorded in the Official Records of the San Diego County Recorder.

1.4 In or about April 2017, pursuant to Conditional Use Permit No. 1296130 8863 Balboa Ste. E MMCC – Project No. 368347 ("CUP"), granted by City of San Diego Planning Commission, Marijuana Activities were occurring within the SDUHG Units. Accordingly, on May 26, 2017, the Association commenced a civil enforcement action against various defendants, including but not limited to Razuki LLC and Razuki, in the San Diego

County Superior Court, case number 37-2017-00019384-CU-CO-CTL (“Enforcement Action”) to enforce the CC&Rs and the 2015 Amendment against the named defendants related to the Marijuana Activities occurring at the SDUHG Units.

1.5 On or about February 15, 2018, the parties involved in the Enforcement Action settled the Enforcement Action pursuant to a Settlement Agreement between, on one hand, the Association, and on the other hand, Balboa Ave Cooperative, SDUHG, Ninus Malan (“Malan”), Razuki LLC and Razuki (collectively “Defendants”). This Payment Agreement in no way amends or modifies the Settlement Agreement.

1.6 Subsequent to entering into the Settlement Agreement with the Association, Razuki commenced a civil action against Malan and other persons and entities in the San Diego County Superior Court, case number 37-2018-00034229-CU-BC-CTL (“Dispensary Action”). On September 26, 2018, the Court appointed Michael Essary (“Receiver”) to serve as the receiver over, *inter alia*, SDUHG and Balboa Ave Cooperative in order to manage the Marijuana Activities during the pending Dispensary Action. As of the execution of the Payment Agreement, Mr. Essary is still the appointed receiver over SDUHG and Balboa Ave Cooperative.

1.7 On December 10, 2018, the Association filed a Motion or Application to Enforce the Settlement Agreement (“Enforcement Motion”) in the Enforcement Action. The purpose of this Payment Agreement is to try to resolve the present defaults or breaches under the terms of the Settlement Agreement as set forth in the Enforcement Motion and to have the Enforcement Motion and its related hearing date that is scheduled for January 10, 2019 to be taken off calendar with the court upon performance of certain terms of this Payment Agreement as set forth more fully herein.

1.8 Nothing in this Payment Agreement releases any rights or obligations of the parties to the Settlement Agreement nor does this Payment Agreement modify the terms of the Settlement Agreement. Furthermore, nothing herein shall waive or release any rights, claims, defenses and actions that Razuki and Razuki, LLC may have against any third parties including, but not limited to, to Malan, SDUHG and Balboa Ave Cooperative.

1.9 The Association represents that it has not assigned any of its rights under the Settlement Agreement to any other persons or entities. Razuki and Razuki LLC represent that they have not assigned any of its rights or obligations under the Settlement Agreement to any other persons or entities, other than any rights or obligations the Receiver may have been granted by the Court in the Dispensary Action.

2. Agreement.

In consideration of the recitals, terms, promises, conditions, and mutual covenants contained herein, which are also part of this Payment Agreement, the Parties agree as follows:

2.1 Payments. Razuki LLC and/or Razuki shall pay to the Association the following sums due on the following dates listed below:

Due Date	Payments Due	Due Date	Reoccurring Settlement Payments Due Per Settlement Agreement	Total Monthly Payments in Columns 2 and 4
12/31/2018	\$ 66,247.27	1/1/2019	\$ 12,342.94	\$ 78,590.21
1/30/2019	\$ 16,854.74	2/1/2019	\$ 6,171.47	\$ 23,026.21
2/28/2019	\$ 16,854.74	3/1/2019	\$ 6,171.47	\$ 23,026.21
3/30/2019	\$ 16,854.74	4/1/2019	\$ 6,171.47	\$ 23,026.21
4/30/2019	\$ 16,854.74	5/1/2019	\$ 6,171.47	\$ 23,026.21
5/30/2019	\$ 16,854.74	6/1/2019	\$ 6,171.47	\$ 23,026.21
6/30/2019	To be deposited into the Association's Reserve Account to account for additional attorneys' fees and costs incurred and required in the future related to this Payment Agreement and the Enforcement Motion and to demonstrate returned confidence in the Marijuana Activities being operated within the Association.			\$ 25,000.00

2.2 Use Variance. In exchange for execution of this Payment Agreement and the timely payments of the sums in the table listed above and upon compliance with Sections 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10 and 2.11 of the Settlement Agreement, the Association shall permit Defendants to conduct Marijuana Activities and have armed guards as permitted by State and local law including the applicable governmental authorities from the City of San Diego. The Marijuana Activities may only occur within the SDUHG Units and/or the Proposed Production Facility as allowed by state and local law ("Use Variance"). The Use Variance shall be applicable to and run with Defendants only. The Use Variance shall be immediately and automatically revoked upon sale or transfer of the SDUHG Units or the Proposed Production Facility described in the Settlement Agreement. However, the Board of Directors of the Association may approve a transfer of the Use Variance or approve a new Use Variance to another person or entity ("Transferee") for the SDUHG Units, but such transfer will require a new written agreement between the Association and any Transferee under the same terms and conditions of this Agreement including compliance with Sections 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10 and 2.11 of the Settlement Agreement (unless performance is complete as to those specific provisions). Furthermore, an agreed transfer of the Use Variance to a Transferee will not waive or dispose of any other obligations imposed on Defendants pursuant to the Settlement Agreement or this Payment Agreement that may be due or performed prior to any transfer.

2.3 Dismissal of Enforcement Motion. Immediately upon the receipt of a fully executed copy of this Agreement and receipt by the Association (through its attorney, Mandy D. Hexom of Epsten Grinnell & Howell, APC) of the certified funds or cashier's check in the amount of \$78,590.21 representing the first payments due by January 1, 2019, the Association will contact the court to withdraw its Enforcement Motion.

2.4 Cure of Prior Breaches. The Parties acknowledge that payments made in accordance with Section 2.1 will cure any and all breaches of the Settlement Agreement (including any breaches of the Settlement Agreement not mentioned in the Enforcement Motion) that have or may have occurred prior to the execution of the Payment Agreement.

2.5 Attorneys' Fees. Should either Party initiate any action at law or in equity to enforce or interpret the terms of this Payment Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees, costs, and necessary disbursements against the non-prevailing Party, in addition to any other appropriate relief.

2.6 Limited Release of Claims. With the exception of its or his respective rights and obligations created pursuant to this Payment Agreement, and as otherwise set forth in this Payment Agreement, upon execution of this Payment Agreement, and upon completed performance of Section 2.1 herein, the Association hereby forever releases and discharges Razuki LLC, Razuki, Receiver, and all parties to the Settlement Agreement and the Enforcement Action and their predecessors, successors, assigns as well as their respective officers, agents, directors, employees, other representatives and shareholders from any and all claims including, without limitation, rights, defenses, demands, causes of action, liabilities, suits, obligations, controversies, damages, losses, expenses, penalties, costs, attorney's fees, and expenses of each and every kind and nature whatsoever, whether known or unknown, suspected or unsuspected, fixed or contingent, based upon, related to, or arising out of any and all past and present defaults under the Settlement Agreement known or unknown as of the Effective Date of this Payment Agreement. This limited release does not and is not intended to release any defaults or breaches of this Payment Agreement or any defaults or breaches of the Settlement Agreement that occur after the Effective Date of this Agreement. Furthermore, this release does not release or waive any rights, claims, obligations that the Association has concerning any unpaid Association assessments related to the SDUHG Units. However, the failure to pay assessments by SDUHG is not a ground to revoke the Use Variance under the terms of the Settlement Agreement or this Payment Agreement.

2.7 Receiver Reporting. The Receiver, as mentioned in Section 1.6 of the Payment Agreement, is not a party to the Payment Agreement. However, the Receiver, upon his execution of this Payment Agreement, has reviewed and approved of said Payment Agreement. The Receiver will have full discretion to report the contents of the Payment Agreement and the payments made pursuant to the Payment Agreement to the Court presiding over the Dispensary Action.

3. General Provisions

3.1 Independent Counsel. The Parties have been represented or have had the opportunity to be represented by independent counsel of their own choice throughout any and all negotiations which preceded the execution of this Payment Agreement. Each Party executed this Agreement with the consent and upon the advice of said independent counsel. The Parties have conducted their own independent investigation and relied upon their own advisors and attorneys regarding the settlement and terms of this Agreement and are entering into this Payment Agreement on their own free will.

3.2 Waiver of Attorney's Fees and Costs. Except as otherwise set forth herein, each Party shall bear their/its/his/her own costs and attorneys' fees in any way related to the Enforcement Motion, and the negotiation, documentation, and consummation of this Payment Agreement.

3.3 Authorized Signatory. The Parties, or the authorized representative thereof, has read this Payment Agreement and understands the contents set forth herein. Each individual signing this Payment Agreement on behalf of its respective entity or individual Party warrants and represents that each has the full power and authority to do so and thereby binds such respective Party.

3.4 No Oral Modification or Modification by Interested Defendants. This Payment Agreement may only be amended or modified by a writing signed by the Parties to this Payment Agreement.

3.5 Cooperation and Drafting. Each Party has cooperated in the drafting and preparation of this Payment Agreement. Hence, if any construction is made of this Payment Agreement, the same shall not be construed against any Party.

3.6 California Law. This Payment Agreement shall be deemed to have been executed and delivered within the County of San Diego, State of California, and the rights and obligations of the parties hereto shall be governed and enforced in accordance with the laws of the State of California.

3.7 Further Assurances. The Parties shall perform any further acts and execute and deliver any documents which may be reasonably necessary to carry out the intent of this Payment Agreement.

3.8 Captions. Sections, paragraphs, captions and/or headings contained in this Payment Agreement are inserted for reference and convenience, and are not intended to define, limit, extend or otherwise define the scope or content of this Payment Agreement or any provision hereof and shall not affect in any way the meaning or interpretation of this Payment Agreement.

3.9 Counterparts. This Payment Agreement may be executed in counterparts and when each Party has signed and delivered one such counterpart, each counterpart shall be deemed an original and, when taken together with other signed counterparts, shall constitute one Payment Agreement which shall be binding upon and effective as to all Parties.

3.10 Electronic Signatures. This Payment Agreement may be executed and signature pages exchanged via facsimile. Upon receipt via facsimile by all Parties, each executed signature page, combined with other original signature pages, shall be deemed an original and shall constitute one Agreement which shall be binding upon and effective as to all parties. A signed copy of the Agreement transmitted by facsimile machine, or other electronic image, will have the same force and effect as an original signature.

3.11 No Waiver. No delay or omission on the part of either Party in exercising or enforcing any rights under this Payment Agreement shall constitute a waiver of the right, or of any right, including, but not limited to, the right to enforce any continuing breach of this Payment Agreement.

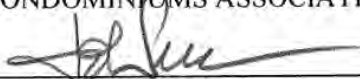
3.12 Effective Date of Agreement. This Payment Agreement shall become effective upon the date it is last signed by the Parties (the "Effective Date").

3.13 Time is of the Essence. Time is of the essence as to each and every term, covenants and condition of this Payment Agreement in which time is a factor.

3.14 No Third Party Beneficiaries. Except as otherwise stated, this Payment Agreement is intended for the benefit of the Parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

EACH OF THE UNDERSIGNED HEREBY DECLARES THAT THE TERMS OF THIS AGREEMENT HAVE BEEN COMPLETELY READ AND ARE FULLY UNDERSTOOD, AND BY EXECUTION HEREOF VOLUNTARILY ACCEPT THE TERMS WITH THE INTENT TO BE LEGALLY BOUND THEREBY.

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

Dated: January 9, 2019 By: 
John Peek, Board President

RAZUKI INVESTMENTS, LLC

Dated: _____ By: _____
Title: Salam Razuki, President

Dated: _____
SALAM RAZUKI

Acknowledged, Reviewed and Approved by:

Dated: _____
MIKE ESSARY, Receiver

3.11 No Waiver. No delay or omission on the part of either Party in exercising or enforcing any rights under this Payment Agreement shall constitute a waiver of the right, or of any right, including, but not limited to, the right to enforce any continuing breach of this Payment Agreement.

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MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

Dated: _____ By: _____
John Peek, Board President

RAZUKI INVESTMENTS, LLC

Dated: 1/9/19 By: _____
Title: Salam Razuki, President

Dated: 1/9/19 _____
SALAM RAZUKI

Acknowledged, Reviewed and Approved by:

Dated: _____
MIKE ESSARY, Receiver

3.11 No Waiver. No delay or omission on the part of either Party in exercising or enforcing any rights under this Payment Agreement shall constitute a waiver of the right, or of any right, including, but not limited to, the right to enforce any continuing breach of this Payment Agreement.

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MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

Dated: _____ By: _____
John Peek, Board President

RAZUKI INVESTMENTS, LLC

Dated: _____ By: _____
Title: Salam Razuki, President

Dated: _____
SALAM RAZUKI

Acknowledged, Reviewed and Approved by:

Dated: 1/9/19
MIKE ESSARY, Receiver

EXHIBIT 5

From: [Richardson Griswold](#)
To: [Austin, Gina](#)
Cc: [Salvatore J. Zimmitti](#); [Daniel T. Watts \(dwatts@galuppolaw.com\)](#); [Lou Galuppo](#); [Leetham, Tamara](#); [James Joseph](#); [Maura Griffin](#); [Steven Elia](#); [charles gorla](#); [Matt Mahoney](#); [Douglas Jaffe](#); [Matthew Dart](#); [Hickman, Michael](#); [Mike](#); [Jamie Eberhardt](#)
Subject: Re: Razuki v. Malan-Razuki's Proposal Re: the Balboa Dispensary
Date: Friday, March 8, 2019 8:22:53 AM

Understood. As you can imagine, I am dealing with lots of overlapping issues/potentials as I review the Razuki funding proposal, the two pending operator proposals and the lingering chance that SoCal purchases Balboa. My focus today is to gather perspectives/insights from all parties and our potential operators...and then put it all into a clear recommendation to the Court within my ex parte papers. I want to be as transparent as possible.

I am happy to share some additional info/clarifications I have received from counsel for Razuki. I would also encourage all counsel to tell me what clarifications they want on any aspects of what I am presenting (operators, funding options, etc.).

I want to find areas where we can all agree (yep, I am still optimistic about this case!). I understand it is not likely we are all going to agree on every aspect of an operator proposal and/or a funding proposal. But if I can understand the concerns/wishes of the parties, I can work extra hard to try to put a puzzle together that is palatable and saves the Balboa operations. And even if there are parties that will take the position..."I object to any Razuki funding"...or..."I will never agree to any operator agreement that includes a sale option"...I would rather just get that out in the open now, as opposed to a 5pm opposition filing the night before the ex parte hearing (but I understand I can't control anyone's litigation strategy!).

A few clarifying details on the proposed Razuki funding proposal:

- 1) I confirmed with counsel for Razuki that Razuki has obtained confirmation directly from Salas that Salas is on board with the note purchase.
- 2) I am attempting to narrow down a priority plan for how the \$200K is used via the receivership (receivership costs, debts, taxes, unpaid vendors, cannabis product purchasing) and when the receivership estate would be required to pay back the \$200K. My perspective is that the receivership should negotiate terms for stalled loan payment terms until the dispensary is profitable and/or a deferred future pay-off date.
- 3) Similar the #2, I want to negotiate stalled loan payment terms until the dispensary is profitable and/or a deferred future pay-off date for the existing mortgage note that would be held by Razuki.

I welcome your thoughts.

Red

Richardson C. Griswold, Esq.
Griswold Law, APC
444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300

Fax: 888.624.9177
rgriswold@griswoldlawca.com
www.griswoldlawca.com

On Fri, Mar 8, 2019 at 7:17 AM Austin, Gina <gaustin@austinlegalgroup.com> wrote:

Red,

I was referencing your statement below that “Mike and I are currently reviewing and **plan to get clarification on some of the proposed terms from counsel for Razuki.**”[emphasis added]. I was just checking to see if you had any further clarification on any of the terms.

From: Richardson Griswold [mailto:rgriswold@griswoldlawca.com]
Sent: Friday, March 8, 2019 7:15 AM
To: Austin, Gina <gaustin@austinlegalgroup.com>
Cc: Salvatore J. Zimmitti <szimmitti@nelsonhardiman.com>; Daniel T. Watts (<dwatts@galuppolaw.com> <dwatts@galuppolaw.com>); Lou Galuppo (<lgaluppo@galuppolaw.com>); Leetham, Tamara <tamara@austinlegalgroup.com>; James Joseph <james@elialaw.com>; Maura Griffin <MG@mauragriffinlaw.com>; Steven Elia <steve@elialaw.com>; charles gorla <chasgoria@gmail.com>; Matt Mahoney <mahoney@wmalawfirm.com>; Douglas Jaffe <douglasjaffe@aol.com>; Matthew Dart <matt@dartlawfirm.com>; Hickman, Michael <M.Hickman@musicpeeler.com>; Mike <Calsur@aol.com>; Jamie Eberhardt <jeberhardt@griswoldlawca.com>
Subject: Re: Razuki v. Malan-Razuki's Proposal Re: the Balboa Dispensary

Gina, not sure what you are asking. Happy to discuss.

Richardson C. Griswold, Esq.
Griswold Law, APC
444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300
Fax: 888.624.9177
rgriswold@griswoldlawca.com
www.griswoldlawca.com

On Fri, Mar 8, 2019 at 7:05 AM Austin, Gina <gaustin@austinlegalgroup.com> wrote:

Did you receive the clarification you mentioned in your email?

Gina

From: Richardson Griswold [mailto:rgriswold@griswoldlawca.com]

Sent: Friday, March 8, 2019 6:28 AM

To: Salvatore J. Zimmitti <szimmitti@nelsonhardiman.com>; Daniel T. Watts (<dwatts@galuppolaw.com>) <dwatts@galuppolaw.com>; Lou Galuppo (<lgaluppo@galuppolaw.com>; Austin, Gina (<gaustin@austinlegalgroup.com>; Leetham, Tamara (<tamara@austinlegalgroup.com>; James Joseph (<james@elialaw.com>; Maura Griffin (<MG@mauragriffinlaw.com>; Steven Elia (<steve@elialaw.com>; charles goria (<chasgoria@gmail.com>; Matt Mahoney (<mahoney@wmalawfirm.com>; Douglas Jaffe (<douglasjaffe@aol.com>; Matthew Dart (<matt@dartlawfirm.com>; Hickman, Michael (<M.Hickman@musickpeeler.com>

Cc: Mike (<Calsur@aol.com>; Jamie Eberhardt (<jeberhardt@griswoldlawca.com>

Subject: Re: Razuki v. Malan-Razuki's Proposal Re: the Balboa Dispensary

Counsel,

Following up. Does anyone have feedback/objections or alternative proposals regarding Razuki's funding proposal?

Thanks,

Red

Richardson C. Griswold, Esq.
Griswold Law, APC
444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300
Fax: 888.624.9177
rgriswold@griswoldlawca.com
www.griswoldlawca.com

On Thu, Mar 7, 2019 at 6:19 AM Richardson Griswold <rgriswold@griswoldlawca.com> wrote:

Counsel,

See below proposal from counsel for Razuki. Mike and I are currently reviewing and plan to get clarification on some of the proposed terms from counsel for Razuki. In short, it is a proposal for Razuki to purchase the Salas note on the Balboa Dispensary Ave property (not the additional 5 units; just the dispensary & storage unit property) and also provide receivership certificate funding of \$200,000 (plus continue to pay the HOA settlement obligations).

Please review. The benefits of the proposal are that it eliminates the immediate foreclosure concerns at the Balboa Ave Dispensary. Also, the receivership certificate funding terms are superior to the terms we have received in proposals from outside 3rd party receivership certificate lenders (8% instead of the 11% range). Further, without this proposal, the receivership would need to proceed by noticed motion to attempt subordinate the Salas loan to new outside receivership certificate funding, which would likely result in further heavy litigation. Here, given that Razuki will purchase the Salas note and provide additional receivership certificate funding, we avoid that costly fight.

We would welcome counter-proposals whereby any other party to this matter proposes their own self-funding plan that matches or beats the terms that Razuki proposes. To be clear, the receivership does not care who funds, our focus is on obtaining necessary funds to stave off foreclosure and get the dispensary up and running again.

I intend to appear ex parte on Tuesday, March 12th at 8:30am in this matter to present a plan for the Balboa Ave Dispensary. Subject to further review of the below proposal, it will likely be a combined application requesting authority to a) place a new operator at Balboa (should have 2 proposals by end of day today from MJIC and KBH Consulting, which I will forward to you all), and b) oversee and execute Razuki's financing/funding proposal.

Thanks,

Red

Richardson C. Griswold, Esq.
Griswold Law, APC

444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300
Fax: 888.624.9177
rgriswold@griswoldlawca.com
www.griswoldlawca.com

----- Forwarded message -----

From: **Maura Griffin** <MG@mauragriffinlaw.com>
Date: Wed, Mar 6, 2019 at 11:39 AM
Subject: Razuki v. Malan-Razuki's Proposal Re: the Balboa Dispensary
To: Richardson Griswold <rgriswold@griswoldlawca.com>, Mike <calsur@aol.com>
Cc: Steven Elia <Steve@elialaw.com>, James Joseph <james@elialaw.com>, Maria <maria@elialaw.com>

Red and Mike,

Understanding that reopening of the Balboa Dispensary is of the utmost priority, Mr. Razuki is offering the following proposal for court approval:

1. Razuki agrees to buy the existing Salas loan (and will pay the maximum interest rate allowed by law) thereby securing the property from foreclosure, with the following terms and conditions:
 - Razuki (individually or through an entity of which he is the principal) will hold the first deed of trust;
 - This is conditioned on the Court giving the Receiver full operational and financial control of the Balboa Dispensary (including full authority to hire any new operator of his choosing); and,
 - This is further conditioned on the Court prohibiting Malan and/or Hakim and/or any other related operator from being involved in the Balboa Dispensary. The Receiver shall be the sole point of contact for all lenders, vendors, operators, state officials, etc. and/or has the power to delegate operational control in the best interest of the business.
2. Razuki (individually or through an entity of which he is the principal) agrees to loan \$200,000 in operating capital to the Balboa Dispensary to pay **certain** outstanding debts, as described below, with the following terms and conditions:
 - This loan is conditioned on the Court giving the Receiver full operational and financial control of the Balboa Dispensary. If at any point the receivership is vacated, the outstanding loan principal loan balance plus accrued interest shall

be due and payable within thirty (30) days.

- This is further conditioned on the Court prohibiting Malan and/or Hakim and/or any other related operator from being involved in the Balboa Dispensary.

- In addition, this offer is contingent on said loan being secured by a second deed of trust resulting in Razuki holding both the first and the second deeds of trust on the Balboa Dispensary properties.

- Razuki's contribution to the HOA Settlement shall also be incorporated into the Promissory Note Secured by Deed of Trust making the principal loan balance \$418,721.26 (\$200,000 plus HOA Settlement Funds of \$218,721.26). Please note, Razuki has already paid the HOA \$124,642.63 under the new settlement agreement for the benefit of the Balboa Dispensary. Razuki agrees to continue to pay the HOA settlement payments on behalf of the business with said payments already being incorporated into the loan balance reflected above (\$418,721.26).

- Razuki is willing to loan this amount at 8% interest. Further terms to be negotiated. However, this loan is conditioned on the Court authorizing this to be a priority loan to take priority repayment over the payment of other debts (other than receivership costs) to be repaid once Balboa begins generating profits.

- This loan is further conditioned on the \$200,000 capital infusion being used to pay the following expenses **ONLY**: (i) 50% of the Receiver's Costs and Fees; (ii) 50% of Receiver's counsel's costs and fees; (iii) 50% of Brinig's costs and fees; and, (iv) Balance of funds to be used for necessary business expenses to get the Balboa Dispensary open and operating. The Court must specifically acknowledge that none of these funds shall be used to pay any attorneys' fees claimed by any Defendant including, but not limited to, those of Austin Legal Group. Furthermore, loan funds shall not be used to make payments against the existing unpaid taxes owed related to the Balboa Dispensary (estimated to be approximately \$175,000) but shall rather be paid from profits generated from the business after it reopens. In addition, no loan funds shall be used in relation to 8859 Balboa Ave, Units A-E, Mira Este or Roselle and shall solely be used for the Balboa Dispensary.

- Lastly, the Court must agree to reserve the right to reallocate the costs of the receivership (including, but not limited to, Receiver's costs and fees, Receiver's counsel's costs and fees and Brinig's costs and fees) amongst the parties as it deems appropriate. Razuki does not waive any right to apply to the Court for reimbursement of any receivership costs paid by him.

We are hopeful that the Court will approve Mr. Razuki's proposal so that we can get Balboa operating again. Please feel free to contact me if you have any questions or wish to discuss this proposal further.

Thanks,

Maura Griffin

Attorney At Law



2221 Camino Del Rio South, Suite 207 | San Diego, CA 92108

Telephone (619) 444-2244 | Fax (619) 440-2233

Website www.elialaw.com | Email maura@elialaw.com

[Click Here to Add Me to Your Contacts](#)

EXHIBIT 6

From: calsur@aol.com
To: mahoney@wmalawfirm.com; jrbaca@cox.net
Cc: rgriswold@griswoldlawsandiego.com; [Maura Griffin](#)
Subject: Synergy & Mira Este
Date: Wednesday, February 27, 2019 10:03:28 AM

Matt & Jerry,

Thank you for taking your time to meet with me and show me the facility. You have made quite a few improvements over my last inspection and they look great.

As we discussed at our meeting, I am expecting several items from you so that I get up to speed on your operations under CCG which is under my control:

1. You are going to retain a bookkeeper so that they can produce standard financials with bank statements going back to October 2018 and then coming forward to the current period. I'd also like to receive those reports on a monthly basis.
2. Purchase/registration/insurance information on the 2 vans you are using for deliveries and material pick up.
3. A check for \$2,500 payable to Michael Essary, Receiver to be used for the state tax filing that is delinquent.
4. Immediate updates on any new products being manufactured and any potential new producers who want to work under CCG.
5. Continued presentation of invoices for approval by me.
6. Discussion of your new cannabis counsel when you secure one - possible shared use by me for CCG needs.
7. Eventual payment of receivership expenses per the court order - to be discussed further.

I think our meeting was very productive and I plan on interacting more often to keep our communication lines open.

As I mentioned at the meeting, my previous position has not been positive about Synergy's operations due to the lack of information provided to me. Providing the items above will allow me to report differently to the court. Also, remember that if we get a new producer we can possibly approve the contract via stipulation between the parties and avoid the time necessary to set a hearing.

Thank you again and I look forward to hearing from you soon.

Mike

EXHIBIT 7

223 Cal.App.4th 670 (2014)
167 Cal.Rptr.3d 440

CITY OF RIVERSIDE, Plaintiff and Respondent,

v.

WILLIAM F. HORSPOOL, Defendant and Appellant.

CITY OF RIVERSIDE, Plaintiff and Respondent,

v.

WILLIAM F. HORSPOOL et al., Defendants and Appellants; KEVIN RANDOLPH, as Receiver, etc., Movant and Respondent.

Nos. E051500, E053605.

Court of Appeals of California, Fourth District, Division Two.

January 16, 2014.

673 *673 Robinson-Legal and Raymond G. Robinson for Defendants and Appellants.

Gregory P. Priamos, City Attorney, and Brandon S. Mercer, Deputy City Attorney, for Plaintiff and Respondent.

Gresham Savage Nolan & Tilden, Nicholas Firetag and Marlene Allen-Hammarlund for Movant and Respondent.

OPINION

RAMIREZ, P. J. —

The City of Riverside (City) filed a nuisance abatement action as to property owned by William F. and Kelly Horspool, and sought the appointment of a receiver pursuant to Health and Safety Code section 17980 et seq. Defendant William F. Horspool (William)^[1] appealed from the order appointing the receiver in case No. E051500,^[2] but failed to obtain an undertaking on appeal. Kevin Randolph, in his capacity of receiver, obtained an order permitting the sale of the property to a party who rehabilitated the property after defendants frustrated his efforts to do so. A notice of appeal on behalf of both Horspools was filed in case No. E053605, from the order permitting the sale of the property and an order awarding the receiver extraordinary costs and fees. J.P. Morgan Chase Bank, the holder of the mortgage on the property, did not appeal.

On appeal, William raises 12 issues challenging the adequacy of the prelitigation notice of the proposed receivership, the appointment of the receiver, the propriety of the order for posting bond to challenge the appointment of the receiver, the entry of the defaults of both Horspools, the orders precluding them from opposing the receiver's ex parte application to sell and the order permitting the sale of the property, and asserting error in allowing the receiver to sell the property for less than its fair market value, in precluding them
674 from opposing the loan stripping effect of the sale of the *674 property, in awarding the receiver \$114,000 in fees and costs, and in allowing the receiver to conduct a private sale of the property. We affirm.

BACKGROUND^[3]

On December 10, 2008, the City received a complaint regarding a vacant house on Mt. Vernon Avenue. A code enforcement officer conducted an aerial inspection of the property and observed a dilapidated roof. The

following day, the officer inspected the property from a public right of way and observed the landscaping and house were in a condition of dilapidation and disrepair ranging from landscape maintenance issues, including structural maintenance issues, and fire hazards caused by overgrown and dried weeds, as well as accumulated dead leaves. The officer posted a notice of violation instructing defendants William and Kelly to remediate specified issues before December 30, 2008.

On December 30, 2008, the code enforcement officer reinspected the property and observed no changes or improvements. On January 8, 2009, an administrative civil penalties notice and order (ACPNO) was issued for violations of sections 6.14.020, subdivision B, 6.14.030, 6.15.020, subdivisions B, C, and 6.11.040 of the Riverside Municipal Code. Notice of the ACPNO was sent by mail to the property owners and interested parties on January 8, 2009.^[4] William was personally served with the ACPNO on January 10, 2009. On February 18, 2009, the officer reinspected the property and observed the violations had not been corrected.

675 On March 5, 2009, a notice of the administrative civil penalties hearing was sent to the property owners and interested parties, seeking an order assessing administrative costs incurred. The notice was served by certified *675 mail to William and Kelly, as well as the banks having a security interest in the property. An attorney for defendants William and Kelly appeared at the hearing for defendants. After the hearing, an administrative order was issued assessing daily civil penalties against defendants.

On June 11, 2009, the Horspools filed for chapter 13 bankruptcy (it was converted to a chapter 7 bankruptcy on June 29, 2009, case No. 6:09-bk-22815-PC) and obtained a stay, preventing the City from moving forward with the receivership. Between April 1 and September 29, 2009, the code enforcement officer reinspected the property once per month, but no changes or improvements were observed.

On October 2, 2009, another notice of hearing was served by certified mail on defendants regarding a new ACPNO. On November 6, 2009, an administrative hearing order was issued assessing daily civil penalties in the amount of \$500 a day. Additionally, the property was determined to be a public nuisance.

On April 20, 2010, the City obtained relief from the automatic stay in bankruptcy. On June 9, 2010, the City filed a complaint for nuisance abatement and an injunction, and a petition for appointment of a receiver, pursuant to Health and Safety Code section 17980.7. Proofs of service show the complaint was personally served on William. After three successive attempts to serve Kelly on different dates, substitute service was effected by leaving the summons and complaint with William, followed by mailing a copy of the summons and complaint to Kelly at her address.

On July 30, 2010, a hearing on the City's motion to appoint a receiver was held. William personally appeared at the hearing (in propria persona) to request additional time to respond to the complaint. He represented to the court that he was in the process of refurbishing the property, although the City provided photographs taken the day before the hearing, which showed no improvements had been undertaken. The court agreed to postpone the hearing until August 2, 2010, on the condition William provide pictures showing significant improvement.

On August 2, 2010, the court held a hearing on the City's motion for appointment of a receiver. William appeared with counsel and made a general appearance. William's counsel informed the court William could not do anything to the property due to the fact he had filed for bankruptcy. The City demonstrated it had obtained an order exempting these proceedings from the automatic stay by the bankruptcy court. The court granted the City's motion and appointed Kevin Randolph as receiver.

676 On August 3, 2010, a notice of appeal was filed by William. On August 6, 2010, William filed an ex parte motion for an order fixing the amount of the *676 appeal bond or dispensing with the bond pending appeal. On August 13, 2010, the court ordered an appeal bond in the amount of \$80,000 to be posted within 10 days. No bond or undertaking on appeal was posted.

On the same day William filed his first appeal, he also filed a notice of related case, *Horspool v. City of Riverside*. Another action, apparently seeking an injunction against the City to prevent it from proceeding with the receivership, was also filed in superior court under case No. INC080588. The trial court in the injunction action recognized that the action was in response to the appointment of the receiver in the instant action by another judge and refused to grant a temporary restraining order on August 24, 2010, informing William that the pending appeal was the appropriate remedy.

On August 20, 2010, the receiver submitted his initial inventory of property and initial report. The report indicated that William had refused to allow access to the property, under the belief that the appeal automatically stayed the receivership. Although William had represented he lived on the property, there was no evidence of human occupancy: the kitchen was gutted, asbestos debris was piled on the floor, there was mold on the walls of the den/patio, exposed wiring, no functioning bathroom due to lack of toilets, sinks and bathtubs, and there were no beds in the bedrooms.

On August 23, 2010, the clerk entered the defaults of both William and Kelly. On August 28, 2010, the Horspools filed a second chapter 13 bankruptcy petition (case No. 6:10-bk-37614-MJ), obtaining a stay of all proceedings. On September 17, 2010, the bankruptcy court granted relief to the City, and issued an order declaring the automatic stay is not in effect as to the City's nuisance actions "pursuant to 11 U.S.C. § 362(b) (4)." Because the motion for relief did not specifically address the receiver's authority to proceed with the receivership, the City sought a more specific order (its third application for relief) from the bankruptcy court, which granted the relief on October 8, 2010, and made the relief binding on any future bankruptcy.

On October 18, 2010, a motion to set aside default was filed as to both Horspools along with a motion to quash the complaint as to Kelly. The motion was not immediately heard because on November 19, 2010, defendants filed an ex parte application in the bankruptcy court to reopen their chapter 7 bankruptcy in case No. 6:09-bk-22815-PC, requiring the City to file a fourth motion for relief from the automatic stay on December 16, 2010. On December 22, 2010, the bankruptcy court issued an order confirming that the City's action to enforce code violations was exempt from the automatic stay.

677 On January 7, 2011, the receiver filed an ex parte application for an order approving the receiver's proposed rehabilitation plan, outlining the steps to be *677 taken to bring the property up to code. On January 14, 2011, the Horspools filed a notice of removal of the receivership action to the bankruptcy court, but the bankruptcy court remanded the matter to the superior court on March 3, 2011, because the matter was not a removable claim.

On April 6, 2011, the receiver filed an ex parte application for an order approving the sale of the property. The application was made on the ground that the Horspools' actions had made it impossible for the receiver to obtain financing to pay for the rehabilitation of the property. Further, the multiple bankruptcy filings prevented the receiver from filing the motion earlier and required the City to seek four separate applications for relief from the bankruptcy stays.

The delays resulted in further deterioration and vandalism of the property, increasing the expense of rehabilitation. The estimated cost of rehabilitation ranged from \$123,550 to \$131,650, but the property was appraised, "as is," at a value of only \$117,000. Thus, an as-is sale to an investor-buyer with the personal resources and willingness to complete repairs was the best option. The receiver had identified a buyer who was willing to purchase the Mt. Vernon property, "as is," for \$75,000, and to fund the cost of repairs, under the oversight of the receiver.

William opposed the proposed sale of the property on the ground his due process rights had been violated due to failure to serve the ex parte application on him.⁶⁵¹ On April 28, 2011, the court granted his motion to set aside the default. However, because William's counsel had substituted in as attorney for William only, he was deemed to lack standing to make the motion on Kelly's behalf. The court made no ruling as to Kelly.

The following day, the court granted the receiver's motion for an order approving the sale of the Mt. Vernon property "as is," free and clear of all liens and encumbrances. On May 9, 2011, William filed a motion for reconsideration of the order approving the sale of the property. Before that motion could be heard, William filed a notice of appeal in case No. E053605, from the order approving the sale, purportedly on behalf of both defendants William and Kelly. The motion to reconsider could not be heard because the filing of the appeal deprived the trial court of jurisdiction.

On June 21, 2011, the receiver filed a motion for approval of fees, as well as attorney fees and costs. Escrow closed on the sale of the Mt. Vernon property on June 30, 2011.

678 Following the filing of a substitution of attorney on behalf of Kelly on May 6, 2011, the court set a hearing date to consider Kelly's motion to set aside *678 the default. On June 6, 2011, Kelly's motion to set aside the default was denied. Kelly made a motion to reconsider the order denying her motion to set aside the default, but that motion was denied on July 26, 2011. On that same date, the court granted the receiver's motion for approval of fees, attorney fees, and costs. On August 23, 2011, defendants (both) filed a notice of appeal from the rulings of July 26, 2011.^[6]

DISCUSSION

1. Standing Issues

William purports to appeal on behalf of J.P. Morgan Chase Bank, but cites no authority in support of his assertion of standing. He also argues issues other than the denial of the motion to set aside default on behalf of his wife, Kelly, notwithstanding the fact her default was never vacated and counsel did not appear on her behalf in the trial court. In his reply brief, he argues for the first time that the bankruptcy trustee was an indispensable party who was deprived of notice.^[7]

(1) William has standing to appeal on his own behalf as an aggrieved party, but he lacks standing to appeal from any portion of the judgment affecting J.P. Morgan Chase Bank, the bankruptcy trustee, or Kelly. (9 Witkin, Cal. Procedure, *supra*, Appeal, § 329, pp. 376-377; Garrison v. Board of Directors (1995) 36 Cal.App.4th 1670, 1679 [43 Cal.Rptr.2d 214] (dis. opn. of Yegan, J.) [an appellant cannot urge error that affects only another party who does not appeal], citing In re Vanessa Z. (1994) 23 Cal.App.4th 258, 261 [28 Cal.Rptr.2d 313]; Rebney v. Wells Fargo Bank (1990) 220 Cal.App.3d 1117, 1128 [269 Cal.Rptr. 844].) Where only one of several parties appeals from a judgment, the appeal includes only that portion of the judgment adverse to the appealing party's interest, and the judgment is considered final as to the nonappealing parties. (Estate of McDill (1975) 14 Cal.3d 831, 840 [122 Cal.Rptr. 754, 537 P.2d 874]; Warren v. Merrill (2006) 143 Cal.App.4th 96, 108 [49 Cal.Rptr.3d 122].)

679 The general rule is subject to an important exception: Where the part of the judgment appealed from is so interwoven and connected with the remainder *679 that the appeal from a part of it involves consideration of the whole, such that if a reversal is ordered, it should extend to the entire judgment. (Carson Citizens for Reform v. Kawagoe (2009) 178 Cal.App.4th 357, 371 [100 Cal.Rptr.3d 358], citing Estate of McDill, supra, 14 Cal.3d at p. 840.) William's interests might be deemed interwoven with those of his wife, Kelly, as to the orders appointing the receiver and approving the sale of the residence. Unfortunately, the appeal from the appointment of the receiver names William only. Kelly defaulted and, absent a judgment by default, an order denying a motion to set aside a clerk's entry of default is nonappealable. (First American Title Co. v. Mirzaian (2003) 108 Cal.App.4th 956, 960 [134 Cal.Rptr.2d 206].)

William's interests are not so interwoven with J.P. Morgan Chase Bank, whose interest in the property is the security for a defaulted loan, or the bankruptcy trustee as to grant him standing to appeal on their behalf. Because William has not provided any authority to support his standing, we do not reach any claims that the

bank or the bankruptcy trustee might have asserted. We will separately address any claim Kelly may have brought.

2. All Notice and Due Process Issues Relating to the Manner of Service of Process on William Were Forfeited by William's General Appearance

Without any citation of authority, in arguments 1, 2, 3, and 4, William challenges the court's in personam jurisdiction over himself (and his wife) due to defective service of (a) the code violations, (b) the prelitigation notice, and (c) the complaint for the appointment of the receiver.^[8] He complains, in part, that he was personally served by a nonregistered process server and, in part, that his wife was served by substitute service. None of his complaints have merit.

(2) William made a general appearance in the proceedings in the trial court. Where a person makes a general appearance, such appearance operates as a consent to jurisdiction of his person. (Harrington v. Superior Court (1924) 194 Cal. 185, 189 [228 P. 15]; Dial 800 v. Fesbinder (2004) 118 Cal.App.4th 32, 52 [12 Cal.Rptr.3d 711].) A general appearance occurs when a defendant takes part in the action or in some manner recognizes the authority of the court to proceed. (Dial 800 v. Fesbinder, at p. 52; see In re Vanessa Q. (2010) 187 Cal.App.4th 128, 135 [114 Cal.Rptr.3d 294].)

680 (3) A request for a continuance constitutes a general appearance because the relief could only be requested on a theory that a defendant was submitting to general jurisdiction *680 of the court. (Knoff v. City etc. of San Francisco (1969) 1 Cal.App.3d 184, 201 [81 Cal.Rptr. 683], citing Zobel v. Zobel (1907) 151 Cal. 98, 100-102 [90 P. 191].)

William appeared (in propria persona) at the initial hearing on the City's motion for appointment of a receiver, where he requested a continuance to answer the complaint. He made a general appearance and cannot now complain.

(4) William argues at length about the manner of service by an unregistered process server, although he never made a motion to quash service in the trial court, and Kelly's motion is not before us because it was heard after the second notice of appeal was filed. There is no requirement that the person serving notices or a summons must be a registered process server and William cites no authority so holding. A summons may be served by any person who is at least 18 years of age and not a party to the action. (Code Civ. Proc., § 414.10.) A notice or other paper may be served by mail, express mail, facsimile transmission, or electronically. (Code Civ. Proc., § 1013.)

(5) A notice of code violations pursuant to Health and Safety Code section 17980.6 may be provided by both posting a copy of the order or notice to repair or abate in a conspicuous place on the property and by first class mail.

(6) Although William denies being served with or receiving notice, a review of the entire record shows otherwise. William relies upon Evidence Code section 647 providing that service by a registered process server raises a presumption that service was proper. This does not mean that other forms of service or notice are invalid. The City served the notice of the pending proceedings in person and by mail as provided by statute. (Code Civ. Proc., §§ 414.10, 1013.) William and Kelly were both properly served with all notices.

(7) Additionally, none of the issues relating to notice or due process were preserved for review by a timely motion to quash service *prior* to making a general appearance. (Code Civ. Proc., § 410.50; Zaragoza v. Superior Court (1996) 49 Cal.App.4th 720, 725 [57 Cal.Rptr.2d 1].) Failure to make a motion to quash constitutes a waiver of the issues of lack of personal jurisdiction, inadequacy of process, inadequacy of service

of process, inconvenient forum, and delay in prosecution. (Code Civ. Proc., § 418.10, subd. (e)(3); Factor Health Management v. Superior Court (2005) 132 Cal.App.4th 246, 251-252 [33 Cal.Rptr.3d 599] [defendant not permitted to take action that constitutes a general appearance and then negate the effect of that action by a subsequent motion to quash].) None of the issues relating to defective notices or service of process (issues 1-4) are cognizable on appeal.

681 *681 Finally, William's failure to make a proper challenge to jurisdiction in the trial court (as by a motion to quash service prior to any general appearance) forfeits any such challenge on appeal. (Mundy v. Lenc (2012) 203 Cal.App.4th 1401, 1406 [138 Cal.Rptr.3d 464] [failure to raise a point in the trial court constitutes a waiver and appellant is estopped to raise that objection on appeal].)

3. Kelly Cannot Appeal

Kelly was duly served by leaving a copy of the summons and complaint with her husband, William, at the address they used in all their correspondence and litigation, and was subsequently served by mail on July 6, 2010. On August 23, 2010, her default was entered. On October 18, 2010, counsel for William filed a motion to vacate the judgment (which William had appealed) and to quash the complaint as to Kelly. However, because counsel had substituted in as attorney for William only, the relief from default was granted only as to William.

On May 26, 2011, Kelly filed a supplemental motion to set aside her default, but on June 6, 2011, the court denied the motion without prejudice. Kelly subsequently sought reconsideration of the denial, but that request was denied as well. No default judgment was entered prior to the institution of these appeals.

On appeal, defendants (issue 5, which purports to be on behalf of both) claim that the court erred by entering their defaults. Defendants cite no legal authority in support of the argument that the orders were void, which renders the issues forfeited. Because William's default was set aside, the issue is moot as to him because he is no longer aggrieved by the entry of the default.

As to Kelly, the entry of the default terminates her rights to take any further affirmative steps in the litigation until either the default is set aside or a default judgment is entered. (Garcia v. Politis (2011) 192 Cal.App.4th 1474, 1479 [122 Cal.Rptr.3d 476], citing Devlin v. Kearny Mesa AMC/Jeep/Renault, Inc. (1984) 155 Cal.App.3d 381, 385 [202 Cal.Rptr. 204].) No judgment by default has been entered to date, so Kelly is barred from appealing the denial of her motion to set aside the default. The denial of such a motion is not appealable. (First American Title Co. v. Mirzaian, supra, 108 Cal.App.4th at p. 961.)

4. Issues Relating to the Appointment of a Receiver Are Moot

682 In issues 6 and 7, William argues that the appointment of the receiver was error, and he challenges the court's act of proceeding with the receiver's *682 motion for authority to sell the property after the notice of appeal had been filed. He acknowledges that he failed to file an appeal bond, a prerequisite to a stay of pending proceedings on appeal, and argues, without authority, that he was not required to post a bond. We note from the record that escrow closed on the subsequent sale of the property on June 30, 2011.

(8) It is true that William was not "required to post a bond" to the extent that the court could not force him to obtain an undertaking against his will. However, the posting of a bond is necessary to stay the proceedings in the trial court. (Code Civ. Proc., § 917.5.) Without such a bond or undertaking, the proceedings cannot be stayed. (Wilson v. Johnson (1934) 1 Cal.2d 288, 288-289 [34 P.2d 487] [in order to effect a stay of proceedings, compliance with statute requiring undertaking is required].)

Because the receivership proceedings were not automatically stayed by the appeal in case No. E051500, the receiver was fully authorized to proceed with attempts to rehabilitate the property and, failing that (due to

defendants' interference), apply for authorization to sell the property. Likewise, because no valid stay was in effect, the trial court could properly make appropriate orders respecting the property. (See Julian v. Schwartz (1934) 1 Cal.2d 269, 270-271 [34 P.2d 487] [appeal from judgment does not serve to divest trial court of jurisdiction to deal with ancillary receiver].)

(9) At this point, William's failure to obtain a stay by undertaking or bond on appeal has left us unable to fashion any meaningful relief from the order appointing the receiver. The trial court had continuing jurisdiction to grant the receiver's request for approval to sell the blighted property and, in fact, that property was sold. An order appointing a receiver is not subject to appellate review after the receiver has settled accounts and been discharged because, at that point, the receiver and the court no longer have control of the subject matter of the receivership. (First Federal Bank of California v. Fegen (2005) 131 Cal.App.4th 798, 801 [31 Cal.Rptr.3d 853].)

(10) In First Federal Bank of California v. Fegen, *supra*, 131 Cal.App.4th 798, the court noted that the defendant's failure to post an undertaking permitted the sale of property, rendering the issues moot. (*Id.* at p. 801.) A case is moot when the decision of the reviewing court can have no practical impact or provide the parties effectual relief. (MHC Operating Limited Partnership v. City of San Jose (2003) 106 Cal.App.4th 204, 214 [130 *683 Cal.Rptr.2d 564].)

(11) Here, William's failure to post an undertaking on appeal left the trial court free to grant the receiver's application for an order to sell the property, and the receiver proceeded to sell it to a purchaser. Because there is no relief we can grant, the appeal in case No. E051500 is moot.

5. Issues Relating to the Order Approving the Sale of the Property Are Not Cognizable

William argues the court did not allow him to oppose the receiver's motion for an order approving the sale of the property, but presents no legal argument or citation of authority on the points made. We deem the issue forfeited. (People v. Stanley (1995) 10 Cal.4th 764, 793 [42 Cal.Rptr.2d 543, 897 P.2d 481].) More significantly, William's contention is unfounded, insofar as a written opposition to the receiver's application was filed.

(12) Procedurally, the order approving the sale of the property is not appealable because such an order is not included in the list of appealable interlocutory orders found in Code of Civil Procedure section 904.1. Further, section 568.5 specifies that a sale is not final until confirmed by the court. However, while not expressly appealable, an interlocutory judgment is nevertheless appealable to the extent that it requires as a collateral matter the immediate payment of money or the performance forthwith of an act. (Koshak v. Malek (2011) 200 Cal.App.4th 1540, 1545 [136 Cal.Rptr.3d 1]; Stockton v. Rattner (1972) 22 Cal.App.3d 965, 968 [99 Cal.Rptr. 787].) Thus, it has been held that an order approving the sale of assets is final and appealable as a final determination in a special proceeding. (In re Bank of San Marino (1985) 167 Cal.App.3d 247, 250, fn. 1 [213 Cal.Rptr. 602], citing In re Bank of San Pedro (1934) 1 Cal.2d 675, 680 [37 P.2d 80] and Knoll v. Davidson (1974) 12 Cal.3d 335, 343 [116 Cal.Rptr. 97, 525 P.2d 1273].)

The court had authority to approve the sale of the property. (Code. Civ. Proc., § 568.5; Health & Saf. Code, § 17980.7, subd. (c)(4)(H); City of Santa Monica v. Gonzalez (2008) 43 Cal.4th 905, 930 [76 Cal.Rptr.3d 483, 182 P.3d 1027].) An order authorizing the receiver to sell substandard structures that pose a substantial health and safety risk is reviewed for abuse of discretion and is afforded considerable deference. (City of Santa Monica v. Gonzalez, at p. 931, citing Lesser & Son v. Seymour (1950) 35 Cal.2d 494, 503 [218 P.2d 536] [sale of partnership assets and real property]; People v. Riverside University (1973) 35 Cal.App.3d 572, 582 [111 Cal.Rptr. 68] [Fourth Dist., Div. Two] [confirming receiver's sale of university furniture and equipment].)

William argues in issue 8 that the court erred in allowing the receiver to proceed with a sale of the property for a nominal sum. This argument also *684 lacks any legal argument with relevant authority. He cites a single

case, Cohen v. Herbert (1960) 186 Cal.App.2d 488, 495 [8 Cal.Rptr. 922], for the proposition that appointment of a receiver is a drastic remedy and it is an abuse of discretion to deny a continuance. This issue is waived for lack of legal argument or citation of relevant authority. (People v. Stanley, supra, 10 Cal.4th at p. 793.) Additionally, that case is inapposite on the issue of the receiver's power to proceed with a sale authorized by the court. Further, William did not present any competent evidence at the hearing to counter the receiver's appraisal of the property, so his statement as to the value of the property is rejected. He has failed to show the court abused its discretion in ordering the sale of the property after his multifarious legal machinations prevented the receiver from rehabilitating the property.

William argues in issue 9 that the court erred in not allowing the Horspools to oppose the loan stripping, but again cites no relevant authority supporting the position that he had standing to take such a position. The only authority cited under this argument heading is an incomplete citation to Golden Pacific Bancorp v. FDIC (2d Cir. 2004) 375 F.3d 196, which he cites for the proposition that a receiver must endeavor to realize the largest amount for assets of an estate. This authority does not support the point for which it was cited. This issue is forfeited.

(13) In issue 10, a related argument, William again claims the court erred in allowing the loan stripping. He provides no authority for his premise that the court lacked authority to order a sale free of liens or encumbrances, and he provides no showing that he has standing to make this argument where he was not aggrieved by the order. A court of equity has the power to order the sale of property free and clear of liens and encumbrances. (Spreckels v. Spreckels Sugar Corp. (2d Cir. 1935) 79 F.2d 332, 334; Miners' Bank of Wilkes-Barre v. Acker (3d Cir. 1933) 66 F.2d 850, 853.)

In issue 12, William argues the court erred in allowing the receiver to proceed with a private sale of the home for the nominal sum of \$75,000 when it was worth \$200,000 more than that, similar to the argument he made under issue 8.^[9] We interpret the argument to be a claim that the court abused its discretion. There is nothing in the record to support the premise that the property was worth \$275,000 or that it was worth more than the selling price, especially where the sale was conditioned upon the buyer's obligation to rehabilitate the property at his own expense, under the receiver's oversight. The appraised value of the property in its dilapidated state was \$117,000, which was less than the lowest bid for the rehabilitation work in the amount of \$123,550. There is no showing that the court abused its discretion in ordering the sale.

685 *685 Additionally, this issue is moot because the sale became final due to William's inaction in obtaining an undertaking to stay the trial court proceedings. (First Federal Bank of California v. Fegen, supra, 131 Cal.App.4th at p. 801 [sale of the property renders appeal moot].)

6. Propriety of the Order for Costs and Fees of the Receiver

In argument 11, William argues that the trial court erred in awarding the receiver \$114,000 in fees and costs. He cites a single, incomplete authority,^[10] but the proposition for which the authority was provided is that the appointment of a receiver is often a "legal luxur[y]", frequently representing an extravagant cost to losing litigants, and requiring courts to weigh the appointment of a receiver carefully. (Elson v. Nyhan (1941) 45 Cal.App.2d 1, 5 [113 P.2d 474].) This authority does not address the propriety of receiver's fees and costs, and William has failed to cite any authority for the proposition that the trial court abused its discretion in awarding the receiver \$114,000. The issue is therefore forfeited.

Nevertheless, on the merits, the amount of fees awarded to a receiver is in the sound discretion of the trial court and in the absence of a clear showing of an abuse of discretion, a reviewing court is not justified in setting aside an order fixing fees. (Melikian v. Aquila (1998) 63 Cal.App.4th 1364, 1368 [74 Cal.Rptr.2d 739] [Fourth Dist., Div. Two], citing People v. Riverside University, supra, 35 Cal.App.3d at p. 587.)

Here, the trial court's findings are supported by the record and must therefore be accorded a deferential standard of review. (*Melikian v. Aquila*, *supra*, 63 Cal.App.4th at p. 1368.) William relentlessly abused the processes of both the state and bankruptcy courts in his efforts to thwart the City's attempts to correct structural defects on his property that were dangerous to health and safety. In fact, he has been deemed to be a vexatious litigant in the case of *Horspool v. Updike*, Riverside Superior Court case No. RIC10021157. In the bankruptcy court, his fourth and final effort at removal of the action was finally met with an order that the City's exception from the bankruptcy stay would apply to any future bankruptcy filing, and specifically directed that no subsequent filing would stay the actions of the City respecting the property.

Given the extraordinary actions the receiver was required to take, the award of fees to the receiver was reasonable.

686 *686 **DISPOSITION**

The judgment is affirmed. Respondents are entitled to costs on appeal.

Hollenhorst, J., and King, J., concurred.

[1] Because they have the same last name, we refer to William and Kelly by their first names for clarity, without disrespect.

[2] Kelly was dismissed from the appeal in case No. E051500 on November 17, 2010, because she was not named as an appellant on the notice of appeal, and did not separately appeal.

[3] We provide a detailed history because it is relevant to the receiver's costs claim. William's rendition of the background history of the case is replete with argument and is lacking in accurate material facts, presenting only information favorable to his position. An opening brief is not an appropriate vehicle for an attorney to "vent his spleen" after losing. (*Pierotti v. Torian* (2000) 81 Cal.App.4th 17, 32 [96 Cal.Rptr.2d 553].) An appellant has a duty to summarize the facts fairly in light of the judgment. (*Ajaxo Inc. v. E*Trade Group Inc.* (2005) 135 Cal.App.4th 21, 50 [37 Cal.Rptr.3d 221].) The appellant's brief must set forth *all* of the material evidence bearing on the issue, not merely the evidence favorable to the appellant. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 881 [92 Cal.Rptr. 162, 479 P.2d 362]; see *Weinstock v. Weinstock* (1962) 206 Cal.App.2d 683, 686 [24 Cal.Rptr. 136].) Here, an inordinate amount of time was spent attempting to determine what actually happened in the trial court, due to William's failure to include a proper rendition of the facts. (See *Evans v. Centerstone Development Co.* (2005) 134 Cal.App.4th 151, 166 [35 Cal.Rptr.3d 745] [a court may award sanctions for a party's unreasonable violations of the rules of appellate procedure].)

[4] The declaration of the code enforcement officer states the notice was sent on January 9, 2010, but the actual notice was dated January 8, 2009. We assume the date in the declaration is a typographical error and that the date on the actual notice is the correct date.

[5] At that time, William's default had not been set aside.

[6] Before filing the notice of appeal, William filed a notice of pendency of action (*lis pendens*). Consequently, the receiver had to file a request for instructions from the court, later deemed a motion to expunge the *lis pendens*, which was subsequently granted.

[7] We are not required to address issues raised for the first time in a reply brief. (9 Witkin, Cal. Procedure (5th ed. 2008) Appeal, § 722, pp. 789-790; *Campos v. Anderson* (1997) 57 Cal.App.4th 784, 794, fn. 3 [67 Cal.Rptr.2d 350]; *Scott v. CIBA Vision Corp.* (1995) 38 Cal.App.4th 307, 322 [44 Cal.Rptr.2d 902].) The reply brief raises a number of issues pertaining to the bankruptcy, but none are cognizable here.

[8] An appellate court is not required to examine undeveloped claims or to make arguments for the parties. (*Arce v. Childrens Hospital Los Angeles* (2012) 211 Cal.App.4th 1455, 1491 [150 Cal.Rptr.3d 735], citing *Paterno v. State of California* (1999) 74 Cal.App.4th 68, 106 [87 Cal.Rptr.2d 754].) Nevertheless, we have discretion to reach the points.

[9] This point heading is the same as issue 8.

[10] Counsel also misspelled one of the parties' names in the incomplete citation, making it more difficult to locate.

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EXHIBIT 8

From: [Richardson Griswold](#)
To: [Steven Elia](#); [Maura Griffin](#); [James Joseph](#); [Austin, Gina](#); [Leetham, Tamara](#); [Daniel T. Watts](#)
(dwwatts@galuppolaw.com); [Lou Galuppo](#); [charles gorla](#); [Matt Mahoney](#); [Matthew Dart](#); [Douglas Jaffe](#); [Salvatore J. Zimmitti](#)
Cc: [Jamie Eberhardt](#); [Mike](#)
Subject: Razuki v. Malan: potential stipulation to re-open Balboa with new operator
Date: Monday, February 4, 2019 11:55:26 AM

Counsel,

I have spoken with many of you over the last few weeks. It is my understanding that all parties now are generally open to the receiver re-opening the Balboa dispensary with a new operator. In my mind, this is a new (and productive) development. We will still need to discuss the details of such a stipulation (i.e. deciding on the operator, terms of the agreement with operator, etc.). However, I want to get this general confirmation crystal clear at the outset. Again, let me know if I am mistaken. Please respond to me if you are actually opposed to the idea of the receiver planning to re-open Balboa with a new operator.

If my understanding is confirmed, I will have the receiver proceed to collect formal proposals from the handful of 3rd party operators that have expressed interest in operating Balboa. In general, the operators we are interested in are those that are ready/able to infuse substantial \$\$ capital to stock up on product, pay off operational delinquencies and get the doors open right away.

Thanks,
Red

Richardson C. Griswold, Esq.
Griswold Law, APC
444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300
Fax: 888.624.9177
rgriswold@griswoldlawca.com
www.griswoldlawsandiego.com

1 Richardson C. Griswold, Esq. (CA Bar No. 246837)
2 GRISWOLD LAW, APC
3 444 S. Cedros Avenue, Suite 250
4 Solana Beach, California 92075
5 Phone: (858) 481-1300
6 Fax: (888) 624-9177

7 Attorney For
8 **Court-Appointed Receiver Michael Essary**

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
03/11/2019 at 04:43:00 PM
Clerk of the Superior Court
By Lee McAlister, Deputy Clerk

9 SUPERIOR COURT OF CALIFORNIA
10 FOR THE COUNTY OF SAN DIEGO

11 SALAM RAZUKI, an individual,
12 Plaintiff,

13 v.

14 NINUS MALAN, an individual; CHRIS
15 HAKIM, an individual; MONARCH
16 MANAGEMENT CONSULTING, INC. a
17 California corporation; SAN DIEGO UNITED
18 HOLDING GROUP, LLC, a California limited
19 liability company; FLIP MANAGEMENT,
20 LLC, a California limited liability company;
21 MIRA ESTE PROPERTIES, LLC, a California
22 limited liability company; ROSELLE
23 PROPERTIES, LLC, , a California limited
24 liability company; BALBOA AVE
25 COOPERATIVE, a California nonprofit mutual
26 benefit corporation; CALIFORNIA CANNABIS
27 GROUP, a California nonprofit mutual benefit
28 corporation; DEVILISH DELIGHTS, INC., a
California nonprofit mutual benefit corporation;
and DOES 1-100, inclusive,
Defendants.

CASE NO.: 37-2018-00034229-CU-BC-CTL

**RECEIVER MICHAEL ESSARY'S
DECLARATION IN RESPONSE TO
DEFENDANT HAKIM'S EX PARTE
APPLICATION REGARDING MIRA ESTE**

Judge: Hon. Eddie C. Sturgeon
Dept: C-67
Date: February 21, 2019
Time: 8:30 a.m.

DECLARATION OF RECEIVER MICHAEL ESSARY

1. I, Michael Essary, was appointed as the Receiver in the above-entitled matter by this Court on August 20, 2018. This declaration is submitted in response to Defendant Hakim's *ex parte*

1 application, which I received and reviewed on March 11, 2019 at approximately 11:00 a.m.

2 2. Due to ongoing failure by Synergy Management to provide any sort of consistent
3 financial or operational reporting regarding the Mira Este Facility, I am unable to provide a
4 meaningful update to the Court.

5 3. As reported previously to this Court, Defendant Mira Este Properties, LLC, through
6 its hired agent Synergy Management, have failed continuously to provide Court-ordered documents
7 and reports. I am unable to determine whether the reason for this failure is due to simple
8 mismanagement or some other bad faith motive.

9 4. On January 16, 2019, through my counsel, we demanded a list of documents and
10 information from Mira Este Properties, LLC and its agent Synergy. Attached as **Exhibit A** is a true
11 and correct copy of my attorney's January 16, 2019 email to all counsel. After Mira Este Properties,
12 LLC and Synergy failed to provide any information or documents in response to the email, my
13 attorney was forced to write a follow up email **three weeks later** to ask yet again for a response.
14 Attached as **Exhibit B** is a true and correct copy of my attorney's February 6, 2019 email to all
15 counsel.

16 5. On February 7, 2019, I learned for the first time from counsel for Far West that
17 accountant Justus Henkus ceased providing accounting services for the Mira Este Facility.
18 Apparently, he stopped providing accounting services at Mira Este in November 2018—around the
19 same time Far West abandoned the Balboa Ave Dispensary. It is my understanding there has not
20 been an accountant or bookkeeper assisting with the Mira Este Facility since Mr. Henkus quit. I was
21 never informed until February 7, 2019.

22 6. After Synergy provided some partial answers and responsive information, I notified
23 the parties that I needed to conduct a site visit at the Mira Este Facility. I conducted a site visit on
24 February 25, 2019. I was able to meet face-to-face with Synergy and its counsel. At that meeting, I
25 was informed that Synergy was having issues with Edipure and that they may be vacating due to a
26 location change. Following that site visit, I memorialized my expectations of improved reporting by
27 Synergy and specifically listed certain demanded items in an email on February 27, 2019. Attached
28

1 as **Exhibit C** is a true and correct copy of my email to Synergy director Jerry Baca and Synergy's
2 counsel Matthew Mahoney. Other than the requested check in the amount of \$2500 to facilitate
3 payment of certain taxes and presentation of select invoices and payments to be made, Synergy failed
4 to provide the requested information.

5 7. Upon reviewing paragraph 12 of Defendant Hakim's declaration in support of his ex
6 parte application, I was surprised to read that Synergy is contractually required to provide, among
7 other things, weekly reports regarding the Mira Este Facility. I have never seen a single weekly
8 report from Synergy. I am unsure if Synergy is producing those weekly reports and simply not
9 providing them to me, or in the alternative, if Synergy is producing the weekly reports in compliance
10 with their contract but choosing to not share them with me.

11 8. At 9:24 a.m. this morning (March 11, 2019), I received updated financial reports from
12 Synergy. Attached as **Exhibit D** is a true and correct of the Accounts Receivable/Accounts Payable
13 Summary for 2019 that was provided. I was only able to initially review before drafting this
14 declaration. Upon my initial review, the report brings up new questions regarding the operational
15 and financial status of the Mira Este Facility. Below are some initial questions/concerns I have after
16 reviewing the report:

- 17 a. Rent deposits from "Dustin BTG" received in the amount of approximately
18 \$141,135.23 during 2019. Who/what is "Dustin BTG?"
- 19 b. Total revenue deposits of approximately \$47,870.44 from Edipure during
20 2019, but report shows total deposits of \$208,115.76 in 2019. What makes up
21 this additional revenue above and beyond payments from Edipure?
- 22 c. Payments to counsel for Synergy in the amount of \$7000. Is this for general
23 litigation as it relates to this case?

24 9. During the recent site visit, Synergy explained to me that Synergy was doing some of
25 its own "producing" and generating revenue at the Mira Este Facility. I am unable to decipher
26 whether any of that revenue is noted in the reports provided this morning. Further, I did not notice
27 any mention of the fact that Synergy is "producing" and generating revenue at the Mira Este Facility
28

1 in Defendant Hakim's ex parte application.

2 10. I am currently out of the country and unable to attend the March 12, 2019 *ex parte*
3 hearing.

4
5 I declare, under penalty of perjury under the laws of the State of California, that the foregoing
6 is true and correct. Executed this 11th day of March 2019.

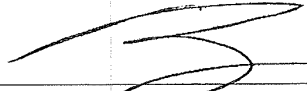
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9 Michael Essary
10 Court Appointed Receiver
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Exhibit A



Richardson Griswold <rgriswold@griswoldlawca.com>

Razuki v. Malan: Mira Este Status/Issues/Questions

Richardson Griswold <rgriswold@griswoldlawca.com>

Wed, Jan 16, 2019 at 4:49 PM

To: Steven Elia <steve@elialaw.com>, James Joseph <james@elialaw.com>, Maura Griffin <MG@mauragriffinlaw.com>, "Salvatore J. Zimmitti" <szimmitti@nelsonhardiman.com>, "Austin, Gina" <gaustin@austinlegalgroup.com>, "Leetham, Tamara" <tamara@austinlegalgroup.com>, "Daniel T. Watts (dwatts@galuppolaw.com)" <dwatts@galuppolaw.com>, Lou Galuppo <lgaluppo@galuppolaw.com>, Charles Goria <chasgoria@gmail.com>, Matthew Dart <matt@dartlawfirm.com>, Matt Mahoney <mahoney@wmalawfirm.com>, Douglas Jaffe <douglasjaffe@aol.com>
Cc: Mike <Calsur@aol.com>, Jamie Eberhardt <jeberhardt@griswoldlawca.com>

Counsel,

I write separately to address Mira Este. We seek the following information/documents. Again, I am including all counsel so we are on the same page. I am aware that only a few of the attorneys on this email will likely have answers for us.

- 1) The last financial reports we received for Mira Este were from approx. November 5, 2018. We are requesting P&L, bank statements, accounting reports compiled by Mr. Henkus, Synergy or others.
- 2) Does Edipure remain as the only operating sub-producer at the property? Do they continue to pay \$30K (or more based on calculation of revenue) monthly? This relates to our request above in #1 for accounting reports showing revenue at Mira Este.
- 3) Is Synergy operating as a producer at Mira Este?
- 4) What is the status of negotiations with Cream of the Crop, or any other potentially-interested sub-providers, to operate at Mira Este?
- 5) We never received the fully executed Edipure extension agreement. Was it executed? Please provide a copy if so.
- 6) Please provide purchase/lease documentation, as well as documentation of appropriate liability insurance, for the van(s).

I look forward to your responses.

Thanks,
Red

Richardson C. Griswold, Esq.
Griswold Law, APC
444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300
Fax: 888.624.9177
rgriswold@griswoldlawca.com
www.griswoldlawsandiego.com

Exhibit B



Richardson Griswold <rgriswold@griswoldlawca.com>

Razuki v. Malan: Mira Este Status/Issues/Questions

Richardson Griswold <rgriswold@griswoldlawca.com> Wed, Feb 6, 2019 at 1:14 PM

To: Steven Elia <steve@elialaw.com>, James Joseph <james@elialaw.com>, Maura Griffin <MG@mauragriffinlaw.com>, "Salvatore J. Zimmitti" <szimmitti@nelsonhardiman.com>, "Austin, Gina" <gaustin@austinlegalgroup.com>, "Leetham, Tamara" <tamara@austinlegalgroup.com>, "Daniel T. Watts (dwatts@galuppolaw.com)" <dwatts@galuppolaw.com>, Lou Galuppo <lgaluppo@galuppolaw.com>, Charles Goria <chasgoria@gmail.com>, Matthew Dart <matt@dartlawfirm.com>, Matt Mahoney <mahoney@wmalawfirm.com>, Douglas Jaffe <douglasjaffe@aol.com>

Cc: Mike <Calsur@aol.com>, Jamie Eberhardt <jeberhardt@griswoldlawca.com>

Chuck & Matt (Mahoney),

It has now been 3 weeks since my email request. You have both stated the info/docs are on the way. However, we still have not received any info/docs from either of you.

We are currently preparing a Receiver's Report and will be reporting this non-compliance to the Court.

Thanks,
Red

Richardson C. Griswold, Esq.
Griswold Law, APC
444 S. Cedros Ave., Suite 250
Solana Beach, CA 92075
Tel: 858.481.1300
Fax: 888.624.9177
rgriswold@griswoldlawca.com
www.griswoldlawca.com

On Wed, Jan 23, 2019 at 6:26 AM Richardson Griswold <rgriswold@griswoldlawca.com> wrote:

[Quoted text hidden]

Exhibit C



Richardson Griswold <rgriswold@griswoldlawca.com>

Synergy & Mira Este

calsur@aol.com <calsur@aol.com>

Wed, Feb 27, 2019 at 10:03 AM

To: mahoney@wmalawfirm.com, jrbaca@cox.net

Cc: rgriswold@griswoldlawsandiego.com, Maura@elialaw.com

Matt & Jerry,

Thank you for taking your time to meet with me and show me the facility. You have made quite a few improvements over my last inspection and they look great.

As we discussed at our meeting, I am expecting several items from you so that I get up to speed on your operations under CCG which is under my control:

1. You are going to retain a bookkeeper so that they can produce standard financials with bank statements going back to October 2018 and then coming forward to the current period. I'd also like to receive those reports on a monthly basis.
2. Purchase/registration/insurance information on the 2 vans you are using for deliveries and material pick up.
3. A check for \$2,500 payable to Michael Essary, Receiver to be used for the state tax filing that is delinquent.
4. Immediate updates on any new products being manufactured and any potential new producers who want to work under CCG.
5. Continued presentation of invoices for approval by me.
6. Discussion of your new cannabis counsel when you secure one - possible shared use by me for CCG needs.
7. Eventual payment of receivership expenses per the court order - to be discussed further.

I think our meeting was very productive and I plan on interacting more often to keep our communication lines open.

As I mentioned at the meeting, my previous position has not been positive about Synergy's operations due to the lack of information provided to me. Providing the items above will allow me to report differently to the court. Also, remember that if we get a new producer we can possibly approve the contract via stipulation between the parties and avoid the time necessary to set a hearing.

Thank you again and I look forward to hearing from you soon.

Mike

Exhibit D

CALIFORNIA CANNABIS GROUP

ACCOUNTS PAYABLE / RECEIVABLE

Balance

Date	Payee	Description	Amount Deposited	Amount Withdrawn	Received By	Approved By
1/2/2019	CCG	Dustin Payment BTG	\$14,443.85	\$0.00	Brad	Jerry
1/2/2019	CCG	Jennifer Payment EDIPURE	\$9,000.00		Brad	Jerry
1/3/2019	Intuit	Payroll Fees		\$60.00	Brad	Jerry
1/3/2019	Office Depot	OFFICE SUPPLIES		\$40.24	Brad	Jerry
1/4/2019	LEAF LOGIX	ERP SOFTWARE Check# 1073		\$3,043.55	Brad	Jerry
1/4/2019	Brad Grimes Payroll	Payroll -Check # 1074		\$1,141.16	Brad	Jerry
1/4/2019	Steve Sholl Payroll	Payroll -Check # 1075		\$369.19	Brad	Jerry
1/4/2019	Kristina Olson Payroll	Payroll - Check # 1076		\$415.64	Brad	Jerry
1/4/2019	Jennifer Hill Payroll	Payroll - Check # 1077		\$639.14	Brad	Jerry
1/4/2019	Elite Security	Monthly fees for Alarms		\$150.00	Brad	Jerry
1/4/2019	Over the counter	Over the counter		\$415.64	Brad	Jerry
1/5/2019	EDCO - Waste	Building Waste Management		\$355.00	Brad	Jerry

1/8/2019	Culligan Water	Water for building			\$253.38	Brad	Jerry
1/9/2019	Office Depot	OFFICE SUPPLIES			\$157.89	Brad	Jerry
1/10/2019	Intuit	Payroll fees			\$77.00	Brad	Jerry
1/10/2019	Edwards Security	Payroll - Check # 1078			\$5,376.00	Brad	Jerry
1/10/2019	FASTRAK	TOLL ROADS			\$25.00	Brad	Jerry
1/11/2019	CCG	Deposit		\$4,000.00		Brad	Jerry
1/11/2019	AT&T	Monthly charge			\$98.85	Brad	Jerry
1/14/2019	The Home Depot	Flooding supplies for building			\$60.39	Brad	Jerry
1/15/2019	EDIPURE Payment	Excise Tax - check 1077212736		\$7,343.85		Brad	Jerry
1/16/2019	IPFS IPFSPMTMOK				\$140.22	Brad	Jerry
1/17/2019	Bank direct Capit web				\$1,586.31	Brad	Jerry
1/18/2019	Steve Sholl Payroll	Payroll - Check # 1080			\$326.88	Brad	Jerry
1/18/2019	Kristina Olson Payroll	Payroll - Check # 1081			\$896.48	Brad	Jerry
1/18/2019	Jennifer Hill Payroll	Payroll - Check # 1082			\$832.73	Brad	Jerry
1/18/2019	Brad Grimes Payroll	Payroll - Check # 1083			\$1,141.16	Brad	Jerry
1/18/2019	Brad Grimes OT	Cash			\$550.00	Brad	Jerry
1/18/2019	Maintenance / contractor	Cash			\$1,610.00	Brad	Jerry

1/18/2019	Office Depot	OFFICE SUPPLIES			\$253.07	Brad	Jerry
1/19/2019	FASTRAK	TOLL ROADS			\$25.00	Brad	Jerry
1/22/2019	CCG	PETTY CASH		\$1,000.00		Brad	Jerry
1/22/2019	Bank direct Capit web				\$1,557.63	Brad	Jerry
1/23/2019	ULINE	maintenance Supplies			\$141.52	Brad	Jerry
1/23/2019	Maroon Print	Marketing			\$384.00	Brad	Jerry
1/23/2019	Labor Law Center	Labor Law Posters			\$64.54	Brad	Jerry
1/24/2019	CCG	PETTY CASH		\$2,000.00		Brad	Jerry
1/24/2019	Brinks Group	Emergency fix of roof			\$2,701.00	Brad	Jerry
1/24/2019	Custom products				\$46.31	Brad	Jerry
1/25/2019	CCG	Monthly dues or rent BTG		\$6,930.00		Brad	Jerry
1/25/2019	CCG	EXCISE TAXES BTG		\$50,000.00		Brad	Jerry
1/25/2019	Adobe Acrobat Pro	software			\$14.99	Brad	Jerry
1/25/2019	Smart Sign LLC				\$183.42	Brad	Jerry
1/26/2019	Csd Btax Online	Taxes			\$234.00	Brad	Jerry
1/28/2019	City Treasurer	Water Bill Check # 1079			\$3,783.32	Brad	Jerry
1/28/2019	AT&T - 831-000-8281 989	Fiber Optic Check # 1084			\$1,399.95	Brad	Jerry

1/28/2019	Knight Termite	PEST CONTROL Check # 1085		\$49.00	Brad	Jerry
1/28/2019	RECON	Environmental Check # 1086		\$50.50	Brad	Jerry
1/28/2019	RECON	Environmental Check # 1087		\$528.00	Brad	Jerry
1/28/2019	SDGE GAS/ELECT	Suite 101 Check # 1088		\$193.61	Brad	Jerry
1/28/2019	SDGE GAS/ELECT	Suite 100 Check # 1089		\$97.35	Brad	Jerry
1/28/2019	SDGE GAS/ELECT	Suite Home Meter Check # 1090		\$366.84	Brad	Jerry
1/28/2019	SDGE GAS/ELECT	Suite 101A Check # 1091		\$170.42	Brad	Jerry
1/28/2019	SDGE GAS/ELECT	Suite 200 Check # 1092		\$339.08	Brad	Jerry
1/28/2019	SDGE GAS/ELECT	Suite 202 Check #1093		\$344.33	Brad	Jerry
1/28/2019	Edwards Security	Check # 1094		\$5,376.00	Brad	Jerry
1/28/2019	TD Auto Finance	Check # 1095 Jerry's van		\$616.92	Brad	Jerry
1/28/2019	The Loan Company	Check # 1096 Mortgage		\$23,081.50	Brad	Jerry
1/28/2019	The Loan Company	Check # 1097 Mortgage		\$6,600.00	Brad	Jerry
1/28/2019	Descriptive withdrawal			\$10.00	Brad	Jerry
1/28/2019	CCG	EDIPURE (Wired)	\$15,000.00		Brad	Jerry
1/31/2019	Spectrum Labs			\$162.14	Brad	Jerry
1/31/2019	Spectrum Labs			\$0.01	Brad	Jerry

1/31/2019	Jerry Withdrawal	Withdrawal			\$6,000.00	Brad	Jerry
1/31/2019	CCG	Deposit		\$0.01		Brad	Jerry
1/31/2019	CCG	Deposit		\$6,000.00		Brad	Jerry
2/1/2019	Personal Concepts				\$92.49	Brad	Jerry
2/1/2019	FASTRAK	TOLL ROADS			\$25.00	Brad	Jerry
2/1/2019	Descriptive withdrawel				\$10.00	Brad	Jerry
2/1/2019	Witham Mahoney	Check # 1098 (legal services)			\$7,000.00	Brad	Jerry
2/1/2019	Brad Grimes Payroll	Check # 1099			\$1,012.56	Brad	Jerry
2/1/2019	Jennifer Hill Payroll	Check # 1100			\$903.36	Brad	Jerry
2/1/2019	Kristina Olson Payroll	Check #1101			\$965.22	Brad	Jerry
2/1/2019	Steve Sholl Payroll	Check # 1102 (Last Check)			\$778.84	Brad	Jerry
2/1/2019	Illuminate Tax, LLC	Check # 1103 Payroll services			\$912.75	Brad	Jerry
2/1/2019	GWR CA, LLC	Check # 1104 Waste Management			\$500.00	Brad	Jerry
2/1/2019	EDIPURE Payment	Outstanding AP (wired)		\$10,673.41		Brad	Jerry
2/1/2019	Coastal Labs	QA Lab test for Synergy			\$189.00	Brad	Jerry
2/2/2019	Ed Electronics				\$107.74	Brad	Jerry
2/2/2019	Ed Electronics				\$107.74	Brad	Jerry

2/2/2019	STAPLES	OFFICE SUPPLIES			\$82.51	Brad	Jerry
2/3/2019	INTUIT QB	QB Payroll services			\$60.00	Brad	Jerry
2/3/2019	Personal Concepts	Deposit		\$92.49		Brad	Jerry
2/5/2019	EDCO - Waste	Building Waste Management			\$355.00	Brad	Jerry
2/6/2019	ULINE- Custodian	Custodian Supplies			\$695.45	Brad	Jerry
2/6/2019	Coastal Analytical lab	laboratory testing			\$189.00	Brad	Jerry
2/6/2019	FASTRAK	TOLL ROADS			\$25.00	Brad	Jerry
2/7/2019	ULINE	Custodian Supplies			\$444.27	Brad	Jerry
2/8/2019	Maintenance / contractor	Payroll - cash			\$1,760.00	Brad	Jerry
2/8/2019	Brad Grimes OT	Payroll - cash			\$550.00	Brad	Jerry
2/8/2019	Edwards Security	Check # 1105			\$5,376.00	Brad	Jerry
2/8/2019	Employment Development	Check # 1106			\$197.85	Brad	Jerry
2/8/2019	GO DADDY	Website			\$12.17	Brad	Jerry
2/8/2019	In Gwr Ca	Ask my accountant			\$1,000.00	Brad	Jerry
2/8/2019	QUICKBOOKS	QUICKBOOKS			\$0.33	Brad	Jerry
2/12/2019	AT&T BILL	ATT - BILL			\$96.05	Brad	Jerry
2/13/2019	Intuit	Intuit Payrol fees			\$79.00	Brad	Jerry

2/13/2019	ULINE- Custodian	ULINE Custodian / Maintenance			\$251.17	Brad	Jerry
2/13/2019	Managed Learning Sol	Education			\$1.00	Brad	Jerry
2/12/2019	The Home Depot	twist locks			\$3.38	Brad	Jerry
2/15/2019	Culligan Water	Auto deduct on 2/15/19			\$107.50	Brad	Jerry
2/15/2019	Maintenance / contractor	Payroll - cash			\$1,610.00	Brad	Jerry
2/15/2019	Brad Grimes OT	Payroll - cash			\$550.00	Brad	Jerry
2/15/2019	Brad Grimes Payroll	Check # 1108			\$1,012.56	Brad	Jerry
2/15/2019	Jennifer Hill Payroll	Check # 1109			\$917.98	Brad	Jerry
2/15/2019	Kristina Olson Payroll	Check # 1110			\$981.08	Brad	Jerry
2/15/2019	FASTRAK	TOLL ROADS			\$25.00	Brad	Jerry
2/15/2019	External Deposit	owner pay / personal expenses		\$0.33		Brad	Jerry
2/15/2019	James Gang Company	Company T shirts			\$318.40	Brad	Jerry
2/15/2019	Dixieline Lumber	Bathroom locks			\$198.22	Brad	Jerry
2/16/2019	Managed Learning Sol	Education			\$37.00	Brad	Jerry
2/16/2019	ULINE- Custodian	ULINE Custodian / Maintenance			\$1,013.02	Brad	Jerry
2/16/2019	Culligan Water	Culligan water			\$53.90	Brad	Jerry
2/19/2019	FASTRAK	TOLL ROADS			\$25.00	Brad	Jerry

2/19/2019	HOME DEPOT	Custodian Supplies			\$459.66	Brad	Jerry
2/19/2019	Custom products	Custom Products			\$243.29	Brad	Jerry
2/19/2019	The Home Depot	twist locks for anchors for smoke detectors			\$25.80	Brad	Jerry
2/19/2019	HOME DEPOT	maintenance Supplies			\$213.28	Brad	Jerry
2/20/2019	Edwards Security	Check # 1111			\$5,376.00	Brad	Jerry
2/20/2019	Maintenance / contractor	Payroll - cash			\$1,450.00	Brad	Jerry
2/20/2019	Brad Grimes OT	Payroll - Cash			\$550.00	Brad	Jerry
2/20/2019	CCG	Dustin Payment BTG Rent		\$15,000.00		Brad	Jerry
2/20/2019	CCG	Dustin Payment BTG Payroll		\$14,761.38		Brad	Jerry
2/20/2019	CCG	Jennifer EDIPURE Payment		\$11,502.61		Brad	Jerry
2/20/2019	Bank direct Capit web	bank direct capit web			\$1,586.31	Brad	Jerry
2/20/2019	Bank direct Capit web	bank direct capit web			\$1,557.63	Brad	Jerry
2/20/2019	IPFS Unemployment	IPFS Unemployment			\$140.22	Brad	Jerry
2/20/2019	OFFICE DEPOT	OFFICE SUPPLIES			\$280.97	Brad	Jerry
2/21/2019	CA Franchise Tax brd	taxes online			\$5.75	Brad	Jerry
2/21/2019	CA Franchise Tax brd	taxes online			\$250.00	Brad	Jerry
2/21/2019	The Home Depot	Smoke Detectors			\$86.88	Brad	Jerry

2/25/2019	The Loan Company	Check # 1112			\$23,081.50	Brad	Jerry
2/25/2019	The Loan Company	Check # 1113			\$6,600.00	Brad	Jerry
2/25/2019	FASTRAK	TOLL ROADS			\$25.00	Brad	Jerry
2/25/2019	ADOBE PRO	ADOBE PRO SOFTWARE			\$14.99	Brad	Jerry
2/25/2019	ULINE	HAZMAT Compliance			\$1,141.17	Brad	Jerry
2/26/2019	CCG	EDIPURE PAYMENT		\$12,367.83		Brad	Jerry
2/26/2019	Maintenance / contractor	FUSES NEED REPLACEMENT			\$200.00	Brad	Jerry
2/26/2019	Maintenance / contractor	Payroll Cash			\$300.00	Brad	Jerry
2/27/2019	SDGE SUITE 101A	UTILITIES check # 1114			\$358.58	Brad	Jerry
2/27/2019	SDGE SUITE 100	UTILITIES check # 1115			\$207.58	Brad	Jerry
2/27/2019	SDGE SUITE 101	UTILITIES check # 1116			\$324.62	Brad	Jerry
2/27/2019	SDGE SUITE 202	UTILITIES check # 1117			\$861.09	Brad	Jerry
2/27/2019	SDGE SUITE 200	UTILITIES check # 1118			\$734.12	Brad	Jerry
2/27/2019	SDGE SUITE Home	UTILITIES check # 1119			\$831.29	Brad	Jerry
2/27/2019	Knight Pest Control	Monthly invoice check # 1120			\$49.00	Brad	Jerry
2/27/2019	Calsur Mgmt	Michael Essery check# 1121			\$2,500.00	Brad	Jerry
2/28/2019	GWR CA, LLC	Waste Management			\$500.00	Brad	Jerry

2/28/2019	Protective Insurance	Workmans comp			\$905.04	Brad	Jerry
2/29/19	Brad Grimes Payroll	Check # 1122			\$1,012.56	Brad	Jerry
2/29/19	Jennifer Hill Payroll	Check # 1123			\$722.76	Brad	Jerry
2/29/19	Kristina Olson Payroll	Check # 1124			\$855.04	Brad	Jerry
2/29/19	Maintenance / contractor	Payroll Cash			\$310.00	Brad	Jerry
2/29/19	Brad Grimes OT	Payroll Cash			\$550.00	Brad	Jerry
2/29/19	Jason Biggs - Cash	Last pay check - cash			\$800.00	Brad	Jerry
2/29/29	Distro Website build	Payment for Website build			\$900.00	Brad	Jerry
3/5/2019	EDCO Waste hauling	Waste Management			\$355.00	Brad	Jerry
3/6/2019	CCG Payroll	Contractor Payroll / Website		\$3,000.00		Brad	Jerry
3/8/2019	Edwards Security	Security Payroll Check # 1125			\$5,376.00	Brad	Jerry
3/8/2019	CCG-	Dustin Payment BTG Payroll		\$40,000.00		Brad	Jerry
3/1/2019	The Loan Company	Check # 1126			\$23,081.50	Brad	Jerry
3/1/2019	The Loan Company	Check # 1127			\$6,600.00	Brad	Jerry
				\$208,115.76	\$196,041.47		

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PROOF OF SERVICE

Salam Razuki v. Ninus Malan, et al.
San Diego County Superior Court Case No. 37-2018-00034229-CU-BC-CTL

I am employed in the County of San Diego, State of California. I am over the age of 18 and am not a party to the within action. I am employed by Griswold Law, APC and my business address is 444 S. Cedros Avenue, Suite 250, Solana Beach, California 92075.

On *March 11, 2019*, I served the documents described as **RECEIVER MICHAEL ESSARY'S DECLARATION IN RESPONSE TO DEFENDANT HAKIM'S EX PARTE APPLICATION REGARDING MIRA ESTE** on each interested party, as follows:

SEE ATTACHED SERVICE LIST

 (VIA MAIL) I placed a true and correct copy(ies) of the foregoing document in a sealed envelope(s) addressed to each interested party as set forth above. I caused each such envelope, with postage thereon fully prepaid, to be deposited with the United States Postal Service. I am readily familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

 (VIA OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to each interested party. I placed the envelope or package for collection and overnight delivery in the overnight delivery carrier depository at Solana Beach, California to ensure next day delivery.

 X **(VIA ELECTRONIC MAIL)** I caused true and correct copy(ies) of the foregoing document(s) to be transmitted via **One Legal e-service** to each interested party at the electronic service addresses listed on the attached service list.

 (BY FACSIMILE) I transmitted a true and correct copy(ies) of the foregoing documents via facsimile.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on *March 11, 2019*, in Solana Beach, California.



Katie Westendorf

SERVICE LIST

1 Counsel for Plaintiff Salam Razuki

2 Steven A. Elia, Esq.; Maura Griffin, Esq.
3 LAW OFFICES OF STEVEN A. ELIA, APC
4 2221 Camino Del Rio South, Suite 207, San Diego, CA 92108
5 Email: steve@elialaw.com; MG@mauragriffinlaw.com

6 Counsel for Defendant Ninus Malan

7 Lou Galuppo, Esq.; Daniel Watts, Esq.
8 G10 GALUPPO LAW
9 2792 Gateway Road, Suite 102, Carlsbad, CA 92009
10 Email: lgaluppo@galuppolaw.com; dwatts@galuppolaw.com; ahall@galuppolaw.com

11 Gina M. Austin, Esq.; Tamara M. Leetham, Esq.

12 AUSTIN LEGAL GROUP, APC
13 3990 Old Town Avenue, Suite A-101, San Diego, CA 92110
14 Email: gaustin@austinlegalgroup.com; tamara@austinlegalgroup.com

15 Counsel for Defendant Chris Hakim

16 Charles F. Gorla, Esq.
17 GORIA, WEBER & JARVIS
18 1011 Camino del Rio South, #210, San Diego, CA 92108
19 Email: chasgoria@gmail.com

20 Counsel for SoCal Building Ventures, LLC

21 Robert Fuller, Esq.; Salvatore Zimmitti, Esq.
22 NELSON HARDIMAN LLP
23 1100 Glendon Avenue, Suite 1400, Los Angeles, CA 90024
24 Email: rfuller@nelsonhardiman.com; szimmitti@nelsonhardiman.com

25 Counsel for Sunrise Property Investments, LLC

26 Douglas Jaffe, Esq.
27 LAW OFFICES OF DOUGLAS JAFFE
28 501 West Broadway, Suite 800, San Diego, CA 92101
Email: douglasjaffe@aol.com

Counsel for Far West Management, LLC

Matthew B. Dart, Esq.
DART LAW
12526 High Bluff Drive, Suite 300, San Diego, CA 92130
Email: matt@dartlawfirm.com

Counsel for RM Property Holdings, LLC

Timothy Daley, Esq.; Michael Hickman, Esq.
MUSICK, PEELER & GARRETT LLP
225 Broadway, Suite 1900, San Diego, CA 92101
Email: t.daley@musickpeeler.com; m.hickman@musickpeeler.com

1 Matthew M. Mahoney, Esq. (211184)
WITHAM MAHONEY & ABBOTT, LLP
2 401 B Street, Suite 2220
San Diego, California 92101
3 Telephone (619) 407-0505
E-Mail: mahoney@wmalawfirm.com
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7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO**
10

11 SALAM RAZUKI, an individual,
12 Plaintiff,

13 vs.

14 NINUS MALAN, an individual; CHRIS
15 HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC., a
16 California corporation; SAN DIEGO UNITED
HOLDINGS GROUP, LLC, a California
17 limited liability company; FLIP
MANAGEMENT, LLC, a California limited
18 liability company; MIRA ESTE
PROPERTIES, LLC, a California limited
19 liability company; ROSELLE PROPERTIES,
LLC, a California limited liability company;
20 BALBOA AVE COOPERATIVE, a California
nonprofit mutual benefit corporation;
21 CALIFORNIA CANNABIS GROUP, a
California nonprofit mutual benefit
22 corporation; DEVILISH DELIGHTS, INC., a
California nonprofit mutual benefit
23 corporation; and DOES 1-100, inclusive;

24 Defendants.

25 AND RELATED CROSS-COMPLAINTS
26 AND COMPLAINT IN INTERVENTION
27
28

CASE NO. 37-2018-00034229-CU-BC-CTL

Complaint Filed: July 10, 2018
Trial Date: Not Set

**DECLARATION OF NON-PARTY JERRY
BACA TO AID THE COURT'S
DETERMINATION OF THE MATTERS TO
BE HEARD ON MARCH 15, 2019**

Date: March 15, 2019
Judge: Hon. Eddie C. Sturgeon
Dept: C-67

IMAGED FILE

**DECLARATION OF NON-PARTY JERRY BACA TO AID THE COURT'S DETERMINATION OF THE
MATTERS TO BE HEARD ON MARCH 15, 2019**

1 I, Jerry Baca, declare:

2 1. I am the owner and sole member of Synergy Management Partners, LLC (õSynergyö). I
3 have personal knowledge of the matters set forth in this declaration, and if called upon to testify thereto,
4 could and would competently be able to do so.

5 2. Synergy has been the manager at the Mira Este facility since August 3, 2018.

6 3. The Mira Este Facility is located in Miramar, San Diego County (the õFacilityö). The
7 Facility has the necessary zoning to manufacture marijuana-based products. It is owned by Mira Este
8 Properties, LLC. However, the operations conducted at the Facility are licensed to California Cannabis
9 Group (õCCGö), who is approved by the State of California to manufacture marijuana products. Because
10 of my expertise in the cannabis field, CCG initially contracted with Synergy to act as a consultant for the
11 purpose of, among other things, (1) procuring agreements with marijuana manufacturers to obtain licenses
12 to manufacture their marijuana products at the Facility; (2) running the day-to-day operations at the
13 Facility; and (3) ensuring that the Facility is operated in compliance with all state and local laws and
14 regulations.

15 **The Management Services Agreement and the Right to Produce Manager Brands**

16 4. Synergy initially entered into a Management Services Agreement with CCG on August 3,
17 2018 (the õMSAö). The MSA set forth the rights and responsibilities of Synergy as the Manager of the
18 Facility.

19 5. One of the key provisions in the MSA is set forth in Section 1.9, entitled õManager
20 Brands.ö That provision provides that Synergy may itself manufacture cannabis products at the facility
21 under the brands of Synergy's industry contacts. Thus, this provision gave Synergy the right to
22 manufacture its own products at the Facility under the brands of any manufacturer authorizing Synergy to
23 market those products under its brand. Those products were collectively referenced as manager brands.

24 6. Although the Receiver has declined to renew a new long-term MSA with Synergy (because
25 the prior MSA has now expired), the parties continue to operate in good faith in accordance with the terms
26 of that agreement.

27 ///

28 ///

1 **The Steps Taken by Synergy to Bring the Facility into Compliance**

2 7. Before a facility like the Mira Este facility can be legally operated in California to
3 manufacture marijuana products, it must meet certain requirements. For example, a marijuana
4 manufacturing facility must have a camera system, capable of storing video for ninety (90) days, which
5 covers all areas of the facility to be used for distribution and manufacturing; the building must meet fire
6 and safety requirements; the facility must have the proper exit signage displayed; there must be fire
7 extinguishers every seventy-five (75) feet; there must be a fully-functioning and monitored alarm system;
8 the facility must have internet and phone systems; and it must have written policies and procedures setting
9 forth the requirements for operating a legally compliant operation. It is the function of the manager of the
10 facility to ensure that those requirements have been met.

11 8. It was my understanding that, prior to Synergy having contracted with CCG to manage the
12 operations, SoCal had been acting as the manager for nine (9) months. However, when I first came to the
13 Facility in August 2018 to replace SoCal, the requisite camera system had not been installed at the facility;
14 there were no written policies and procedures; the building did not meet fire safety requirements; the
15 building lacked the necessary exit signage and did not have fire extinguishers every seventy-five (75) feet;
16 there was no working monitored alarm system; and there was no internet and phone system. Thus, the
17 facility was in no way prepared for legal operations.

18 9. When Synergy took over the management of the Facility, my staff and I immediately began
19 to take measures to bring the Facility into compliance so that it would be able to operate legally as a
20 marijuana manufacturing facility. We installed the camera systems; prepared written policies and
21 procedures; hired a company to ensure that the building met all fire safety requirements, including the
22 proper exit signage and fire extinguishers; installed a monitored alarm system; and installed internet and
23 phone systems. In approximately two weeks, we had the Facility ready for legal operations.

24 **Synergy Has Entered Into Agreements with Manufacturer Brands to Generate Revenue at the**
25 **Facility**

26 10. Within two weeks of Synergy having assumed its position as the manager at the Mira Este
27 Facility, it was able to procure a contract with a manufacture named Edipure. Under the licensing
28 agreement between Edipure and CCG, Edipure was contractually obligated to pay the greater of \$30,000

1 per month or 10% of its gross revenue per month. It was also obligated to reimburse the expenses paid
2 for products costs.

3 11. Although Edipure satisfied its contractual obligations for some time, for the past several
4 months, Edipure has failed to meet its full payment obligations on a routine basis. Since January, the most
5 recent accounting shows Edipure has paid the total amount of \$58,543.85 in product costs and monthly
6 fees, and also \$7,343.85 in excise taxes. Synergy has pursued efforts to collect all payments owed by
7 Edipure. But in the process, Edipure has opted to vacate the premises as soon as its outstanding arrearage
8 is paid off.

9 12. Synergy has also brought another brand, Better than Good (öBTGö), to the Facility. Unlike
10 Edipure, BTG was unwilling to enter into a written licensing agreement directly with CCG because of the
11 imposition of the Receiver. However, it was willing to permit Synergy to manufacture several manager
12 brands under the BTG brand. BTG would then permit Synergy to retain amounts sufficient to pay for
13 certain operational costs, and also the greater of \$30,000 per month or 5% of gross revenue. Synergy has
14 in turn remitted all funds paid by BTG to the Facility to cover operational expenses.

15 13. Thus, since January 1, 2019, the most recent accounting shows BTG has paid \$91,135.23
16 for operations costs and monthly fees. It has also separately paid excise taxes in the amount of \$50,000.
17 BTG has also recently fallen into arrears with respect to certain of its payments, and Synergy continues to
18 pursue the full amounts owed by BTG.

19 14. Synergy has applied all revenue from Edipure and BTG towards the costs of running the
20 Facility and servicing the debt on the property.

21 **Synergy is Currently Negotiating Deals with Two New Manufacturer Brands to License the**
22 **Production of Cannabis Products at the Facility**

23 15. Synergy has continued in its efforts to bring other manufacturer brands to the Facility. In
24 fact, I am currently in negotiations with two other brands who are prepared to have their brands
25 manufactured at and distributed from the Facility.

26 16. One of those brands is Presidential Rx (öPresidentialö). Presidential has expressed a strong
27 interest in licensing the production of its products at the Mira Este facility. To that end, it has expressed
28 its desire to enter into a written licensing agreement with CCG. I anticipate that the additional revenue

1 generated from the sale of Presidential products could ultimately fall within the range of \$20,000 - \$30,000
2 per month. Any deal negotiated with Presidential on behalf of CCG would, of course, be presented to the
3 Receiver for approval before being finalized and executed.

4 17. I have also been in negotiations with a brand called 2020. 2020 has also expressed an
5 interest in having its brand manufactured at the Facility, though it has been unwilling to enter into a written
6 agreement with CCG because of the Receiver. Thus, I have discussed with 2020 an arrangement similar
7 to what is done with BTG, whereby Synergy would produce a new manufacture brand with 2020's
8 authorization to market that line using the 2020 brand. Synergy would then retain a certain percentage of
9 the gross revenue for CCG and the Facility. I anticipate that the additional revenue generated from the
10 sale of 2020 products could ultimately fall within the range of \$20,000 - \$30,000 per month. I believe the
11 finalization of an agreement with 2020 is imminent.

12 **Synergy Has Covered All Costs Necessary to Run the Facility and Has Occasionally had to Advance**
13 **Its Own Funds to Cover any Shortfall**

14 18. From August 2018 through the present, Synergy has paid all of the expenses associated
15 with the operation of the Facility. CCG is not in arrears on any of its bills (of which Synergy is aware),
16 and Synergy has timely serviced the mortgage on the Facility.

17 19. There have been times when the revenue generated by the operations at the Facility has
18 been insufficient to cover operation costs, or the costs associated with bringing the Facility into legal
19 compliance. On those occasions, Synergy has advanced the amounts necessary to cover any shortfall in
20 order to ensure that CCG stays current on all of its financial obligations.

21 20. I believe that once we can finalize deals with 2020 and Presidential, as noted above, the
22 Facility will be operating at a profit, and there will be no need for Synergy to advance amounts for future
23 expenses.

24 **Synergy Complied with the Receiver's Varied Requests**

25 21. Since Synergy has been operating at the Facility, it has complied with the Receiver's to the
26 best of its abilities, and has endeavored to work in a collaborative manner with the Receiver and the
27 Receiver's advisors.

28 ///

1 22. Synergy submits all of its monthly invoices (with the exception of minor office expenses)
2 to the Receiver for approval before those expenses are paid.

3 23. Synergy has prepared and sent an accounting of expenses to the Receiver on two separate
4 occasions.

5 24. At the Receiver's request, Synergy has now hired a company to provide bookkeeping
6 services for the Facility and to prepare monthly financials that can be provided to the Receiver. The
7 company is a locally owned and operated San Diego company called Bookkeeping.

8 25. When the Receiver wanted a tour of the Facility on February 25, 2019, Synergy provided
9 unrestricted access to the entire Facility, and gave the Receiver a tour of all the production activity.

10 26. When the Receiver sent to Synergy a list of questions that it had about the operations at the
11 Facility, Synergy provided a written response to each and every question.

12 27. Synergy has been totally transparent with the Receiver in all of its operations at the Facility.
13 We are committed to continuing to work collaboratively with the Receiver for so long as the Receiver
14 remains at the Facility.

15 **The Most Recent Accounting that Was Prepared by Synergy at the Request of the Receiver**

16 28. As noted above, at the February 25th meeting with the Receiver at the Facility, the Receiver
17 asked for an accounting of all expenses paid since January 1, 2019.

18 29. Neither Synergy nor CCG has had the benefit of an accountant to help account for its
19 financial activities since November 2018. Prior to that time, accounting services were provided by Far
20 West's accountant, Judd Henckes. However, when Far West ceased providing services at the Balboa
21 facility, Mr. Henckes stopped providing assistance to the Mira Este Facility.

22 30. Thus, all accounting or bookkeeping functions have been covered in the short term by Brad
23 Grimes, an employee of Synergy who is not a trained accountant.

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SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 03/15/2019 TIME: 02:00:00 PM DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon
CLERK: Patricia Ashworth
REPORTER/ERM: Lois Mason Thompson CSR# 3685
BAILIFF/COURT ATTENDANT: M. Micone

CASE NO: **37-2018-00034229-CU-BC-CTL** CASE INIT.DATE: 07/10/2018
CASE TITLE: **Razuki vs Malan [IMAGED]**
CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

EVENT TYPE: Ex Parte

APPEARANCES

Charles F Gorla, counsel, present for Defendant,Cross - Complainant,Appellant(s).
Daniel Watts, counsel, present for Defendant,Cross - Complainant,Appellant(s).
James Joseph, counsel, present for Respondent on Appeal,Cross - Defendant,Plaintiff(s).
Maura Griffin, counsel, present for Respondent on Appeal,Cross - Defendant,Plaintiff(s).
Timothy J Daley, counsel, present for Cross - Defendant(s).
Steven A Elia, counsel, present for Respondent on Appeal,Cross - Defendant,Plaintiff(s).
Salvatore J. Zimmitti, specially appearing for counsel Zachary E Rothenberg, present for Cross -
Defendant,Intervenor,Interested Party,Plaintiff(s).
Richardson Griswold, Court Appointed Receiver, is present.
Matt Mahoney present for non-party Jerry Baca and Synergy

Court Appointed Receiver's Ex Parte for Approval of Receivership's Plan is granted.

Mira Esta's Ex Parte Request to Vacate Receivership or Modify Bond Order is denied.

The Motion Hearing (Civil) is scheduled for 04/05/2019 at 01:30PM before Judge Eddie C Sturgeon.

The Motion Hearing (Civil) is scheduled for 05/31/2019 at 01:30PM before Judge Eddie C Sturgeon.

Eddie C. Sturgeon

Judge Eddie C Sturgeon

DATE: 03/15/2019
DEPT: C-67

MINUTE ORDER

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1 Charles F. Gorla, Esq. (SBN68944)
GORIA, WEBER & JARVIS
2 1011 Camino del Rio South, Suite 210
3 San Diego, CA 92108
4 Tel.: (619) 692-3555
5 Fax: (619) 296-5508
6 Email: chasgoria@gmail.com

7 Attorneys for Defendants Chris Hakim,
8 Mira Este Properties, LLC, and
9 Roselle Properties LLC

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11	SALAM RAZUKI, an individual	)	Case No.: 37-2018-00034229-CU-BC-CTL
12	Plaintiff)	
13	vs	)	(Unlimited Civil Action)
14	NINUS MALAN, an individual; CHRIS	)	DEFENDANTS CHRIS HAKIM'S, MIRA
15	HAKIM, an individual; MONARCH	)	ESTE PROPERTIES LLC'S, AND
16	MANAGEMENT CONSULTING, INC., a	)	ROSELLE PROPERTIES LLC'S EX
17	California corporation; SAN DIEGO	)	PARTE APPLICATION TO REMOVE
18	UNITED HOLDINGS GROUP, LLC, a	)	RECEIVER FROM MIRA ESTE
19	California limited liability company; FLIP	)	FACILITY OR IN THE ALTERNATIVE
20	MANAGEMENT, LLC, a California limited	)	TO CLARIFY AND MODIFY 12/17/2018
21	liability company; MIRA ESTE	)	ORDER SETTING BOND AMOUNTS
22	PROPERTIES LLC, a California limited	)	Hearing Date: May 9, 2019
23	liability company; ROSELLE PROPERTIES,	)	Time: 8:30 AM
24	LLC, a California limited liability company;	)	Dept.: C-67
25	BALBOA AVE COOPERATIVE, a	)	I/C Judge: Hon. Eddie C. Sturgeon
26	California nonprofit mutual benefit)	
27	corporation; CALIFORNIA CANNABIS	)	Complaint Filed: July 10, 2018
28	GROUP, a California nonprofit mutual benefit	)	Trial Date: 2/21/2020
	corporation; DEVILISH DELIGHTS, INC. a)	
	California nonprofit mutual benefit)	
	corporation; and DOES 1-100, inclusive;	)	IMAGED FILE
	Defendants.)	
)	
)	
	AND RELATED CROSS-ACTIONS AND)	
	ACTIONS IN INTERVENTION.)	

1 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

2 Defendants and Cross-complainants CHRIS HAKIM, MIRA ESTE PROPERTIES
3 LLC, and ROSELLE PROPERTIES LLC (hereinafter, sometimes collectively, "Moving
4 Defendants") hereby apply for an ex parte order modifying the September 26, 2018 Order
5 Granting Preliminary Injunction and Appointing Receiver ("9/26/2018 Receivership Order") by
6 removing the Mira Este Facility from the receivership. Alternatively, Moving Defendants hereby
7 apply for an ex parte order clarifying and/or modifying the Court's December 17, 2018 Minute
8 Order setting bond amounts ("12/17/2018 Order").
9

10
11 This application is brought on the grounds that good cause exists for the granting of the
12 application in that the licensing entity for the Mira Este Facility ("Facility") has been suspended
13 and has lost its corporate powers for failure to pay the amounts due to the Franchise Tax Board
14 and to file the required tax returns with the Franchise Tax Board. In addition, the sole licensed
15 producer, Edipure, has withdrawn its personnel, has ceased production at the Facility, and is
16 currently indebted to the Facility in the amount of approximately \$107,000.00. In addition, the
17 only other third-party producer, BTG, also is in arrears and owes the Facility the sum of
18 approximately \$80,000-\$100,000. In addition, negotiations with two other third-party producers
19 who were represented to be very close to completing a licensing agreement at the Facility,
20 Presidential and 2020, have failed to enter into any such agreement. In addition, Presidential has
21 categorically ruled out locating its manufacturing facilities at the Facility because of the
22 uncertainty at the Facility.

23 Good cause also exists in that the existence of the receivership at the Facility has blocked
24 and prevented the Facility from entering into profitable licenses and subcontracts with
25 manufacturers and producers and therefore has prevented the Facility from earning income
26 necessary to meet its overhead and debt service obligations.

27 Good cause also exists for the granting of the alternative ex parte order to clarify and/or
28 modify the 12/17/2018 Order in that said order requires that parties that have no interest in the

1 Facility to post undertakings in order to stay the receivership order at the Facility, and the
2 12/17/2018 Order effectively blocks any removal of the receivership pending appeal of the
3 9/26/2018 Order. Said 12/17/2018 order also requires a party who has not filed an appeal
4 (American Lending and Holding LLC) to post a bond in order to remove the receivership at the
5 Facility.

6 This application is based upon this application, the accompanying declarations of Chris
7 Hakim, Jerry Baca, and Charles F. Gorla, the accompanying Request for Judicial Notice, the
8 accompanying Memorandum of Points and Authorities, the records and file in this case, and such
9 other oral and documentary evidence as may be presented at or before the hearing hereof.

10
11 Gorla, Weber & Jarvis

12
13 Dated: 5/8/19

14 
15 Charles F. Gorla
16 Attorneys for Moving Defendants
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1 Charles F. Gorla, Esq. (SBN68944)
2 GORIA, WEBER & JARVIS
3 1011 Camino del Rio South, Suite 210
4 San Diego, CA 92108
5 Tel.: (619) 692-3555
6 Fax: (619) 296-5508
7 Email: chasgoria@gmail.com
8 Attorneys for Defendants Chris Hakim,
9 Mira Este Properties, LLC, and
10 Roselle Properties LLC

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 SALAM RAZUKI, an individual)
14 Plaintiff)

15 vs)

16 NINUS MALAN, an individual; CHRIS)
17 HAKIM, an individual; MONARCH)
18 MANAGEMENT CONSULTING, INC.,)
19 California corporation; SAN DIEGO)
20 UNITED HOLDINGS GROUP, LLC, a)
21 California limited liability company; FLIP)
22 MANAGEMENT, LLC, a California limited)
23 liability company; MIRA ESTE)
24 PROPERTIES LLC, a California limited)
25 liability company; ROSELLE PROPERTIES,)
26 LLC, a California limited liability company;)
27 BALBOA AVE COOPERATIVE, a)
28 California nonprofit mutual benefit)
corporation; CALIFORNIA CANNABIS)
GROUP, a California nonprofit mutual benefit)
corporation; DEVILISH DELIGHTS, INC. a)
California nonprofit mutual benefit)
corporation; and DOES 1-100, inclusive;)

Defendants.)

AND RELATED CROSS-ACTIONS AND)
ACTIONS IN INTERVENTION)

Case No.: 37-2018-00034229-CU-BC-CTL

(Unlimited Civil Action)

**DEFENDANTS CHRIS HAKIM'S, MIRA
ESTE PROPERTIES LLC'S, AND
ROSELLE PROPERTIES LLC'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPPORT OF EX
PARTE APPLICATION TO REMOVE
RECEIVER FROM MIRA ESTE
FACILITY OR IN THE ALTERNATIVE
TO CLARIFY AND MODIFY 12/17/2018
ORDER SETTING BOND AMOUNTS**

Hearing Date: May 9, 2019

Time: 8:30 AM

Dept.: C-67

I/C Judge: Hon. Eddie C. Sturgeon

Complaint Filed: July 10, 2018

Trial Date: 2/21/2020

IMAGED FILE

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1. INTRODUCTION2

2. THE COURT SHOULD REMOVE THE RECEIVERSHIP AT THE MIRA ESTE FACILITY BECAUSE PLAINTIFF HAS NOT AND CANNOT ESTABLISH A LIKELIHOOD THAT HE WILL PREVAIL OVER MEP (THE OWNER OF THE FACILITY), CCG (THE OWNER OF THE LICENSING), OR HAKIM IN THAT NONE OF THOSE PARTIES OWED PLAINTIFF ANY OF THE DUTIES ALLEGED IN THE FAC.....6

3. THE COURT SHOULD MODIFY THE PRELIMINARY INJUNCTION AND REMOVE THE RECEIVERSHIP FROM THE MIRA ESTE FACILITY BECAUSE THE RECEIVERSHIP IS BLOCKING PRODUCERS FROM OPERATING AT THE FACILITY AND THE RECEIVER HAS FAILED IN HIS BASIC DUTY TO PAY THE REQUISITE TAXES AND FILE THE REQUIRED RETURNS TO ALLOW CCG TO OPERATE LEGALLY10

4. IN THE ALTERNATIVE, REQUEST IS MADE THAT THE COURT RECONSIDER THE 12/17/2018 MINUTE ORDER TO REQUIRE ONLY MEP AND CALIFORNIA CANNABIS GROUP TO POST BONDS IN REMOV THE RECEIVERSHIP FROM THE FACILITY12

CONCLUSION15

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1
2 Defendants and Cross-complainants Chris Hakim, Mira Este Properties LLC (“MEP”),
3 and Roselle Properties LLC (“Roselle”) (hereinafter, sometimes collectively, “Moving
4 Defendants”) respectfully submit the following memorandum of points and authorities in support
5 of their application for removal of receivership from the Mira Este Facility or in the alternative,
6 for clarification and modification of the Court's Minute Order dated December 17, 2018 setting
7 bond amounts on appeal.

8 **1. INTRODUCTION**

9 According to the latest entry on the California Secretary of State’s Business Search
10 Web Site, the corporate status of defendant California Cannabis Group (“CCG”) is “FTB-
11 Suspended” due to nonpayment of taxes and/or failure to file the required tax returns with
12 the Franchise Tax Board. That same status existed as of November 2018, and was brought
13 to the attention of the receiver at that time. It is highly probable that CCG, the **licensing and**
14 **contracting entity** at the cannabis manufacturing and production facility at 9212 Mira Este,
15 San Diego, California ("Mira Este Facility" or "Facility"), has had no legal ability to transact
16 business since before November 2018. All income and production at the Facility under the
17 CCG license transacted at least since November 2018 is therefore invalid and at least
18 voidable if not void under Revenue and Taxation Code Section 23301.

19 Even more egregious is that on April 1, 2019, the receiver had already been provided
20 with the necessary tax returns and had already been paid the funds by the manager at the
21 Facility, Synergy Management Partners, LLC (“Synergy”) necessary to reinstate CCG. That
22 email from Ms. Marilyn Weber, an accountant at the receiver’s forensic accounting firm
23 Brinig Taylor Zimmer (“BTZ”), reads in part as follows:

24 “According to Mike the returns have not been filed. Synergy paid him just prior to
25 him leaving the country. He is planning on setting an appointment for filing/paying
26 and then Red will work on reinstatement.” (Exhibit 4 to Declaration of Charles F.
27 Gorla (“Gorla Dec.”)).

28 There is no indication that the receiver has undertaken any action to reinstate CCG.
In effect, given the suspended status of CCG, the receiver has allowed the Facility to
continue its business activities, including production and distribution of cannabis products,

1 Beyond that, there were representations made to this Court at the March 15, 2019
2 hearing on a similar application to remove the receivership from the Mira Este Facility to the
3 effect that production agreements with two third party producers, Presidential and 2020,
4 were “imminent”. However, Presidential has completely ceased all negotiations and has
5 never entered into any agreement, even a “handshake” agreement for production at the
6 Facility. The reason given by Presidential also harkens back to the same reason that
7 virtually all other producers have provided, namely, the uncertainty surrounding the
8 existence of the receivership at the Facility. The other producer, 2020, also, was stated to be
9 “very close” to entering into a production agreement at the Facility. Again, however, no
10 such production agreement has materialized. Further, no other manufacturer or producer is
11 currently in operation at the Facility, and **there are no negotiations currently in existence**
12 **to bring in any other manufacturer.** Therefore, the only income to the Facility is being
13 generated by Synergy under the CCG licensure. However, even that income is in serious
14 doubt because of the suspended status of CCG.

15 Moreover, there is no reason to continue the receivership at the Facility. The receiver
16 himself has indicated that he is performing only minimal duties in an effort to maintain a
17 “low-profile” at the Facility. The receiver’s nominal activity at the Facility is a recognition
18 that the receivership continues to represent a barrier to income producing activity and a
19 disincentive for producers who might otherwise enter into profitable sublicense agreements
20 with the Facility.

21 The within application proposes a modification of the preliminary injunction to
22 remove the Facility from the receivership, but also require one-half of the distributions from
23 the Facility to be delivered to the Receiver.

24 In particular, and as is made clear by the accompanying declarations and even
25 Plaintiff’s own documentation submitted in this case, there is no dispute that Chris Hakim
26 owns one-half of MEP, and is therefore entitled to one half of the distributions earned at the
27 Facility. Plaintiff’s claim relates only to the other half of MEP.

28 The Operating Agreement of MEP shows that Ninus Malan (“Malan”) is the owner
of one-half of MEP. However, Plaintiff claims that by a separate agreement, Malan agreed
to share his one half interest in MEP with Plaintiff on a split in which Plaintiff receives 75%

1 of the subject one half, or 37 ½%; and Malan receives 25% of the subject one half, or 12
2 ½%. The within modification would still amply protect the claims of both Plaintiff and
3 Malan to one-half of the Facility's distributions by delivering that amount each month to the
4 Receiver. Such a modification would serve to protect Plaintiff's claimed interest in the net
5 profits of the Facility. Also, by removing the Facility from the receivership, it would also
6 allow the Facility to finally begin operating profitably.

7 A brief review of the pertinent background matters in this litigation, with particular
8 attention to the events happening since August 20, 2018, shows the following:

9 1. MEP acquired the Mira Este Facility in August 2016 for the purchase price of
10 approximately \$2,625,000.00. The purchase price consisted of a down payment of
11 approximately \$637,500.00, and a new loan in the approximate amount of \$1,987,500.00.
12 Hakim paid from his own personal funds the amount of \$420,000.00 towards the down
13 payment of \$637,500.00. Plaintiff Salam Razuki and Defendant Malan paid the rest of the
14 down payment.

15 2. The Operating Agreement of MEP provided that Hakim would receive one-
16 half of the profits, and the other one half would be distributed to Malan. Plaintiff has never
17 made any claim or contention that Hakim was **not entitled** to one-half of the net profits of
18 the Mira Este Facility. When the Mira Este Facility was acquired, Plaintiff did not want to
19 be part of the management or operation of the Facility, but only wanted to share in the
20 profits that Malan was to receive pursuant to an alleged agreement that he had with Malan.

21 3. Malan is the sole owner of the Balboa Dispensary, subject to Plaintiff's
22 similar claim for three-fourths of the distributions from the Balboa Dispensary. The receiver
23 presently oversees the Balboa Dispensary as well as the Mira Este Facility. Hakim has
24 never had any ownership interest in the Balboa Dispensary. In that regard, the Balboa
25 Dispensary is a retail Facility that sells cannabis products to the public. By contrast, the
26 Mira Este Facility is a manufacturing and production Facility that does not sell to the public.
27 The business model of MEP is therefore completely different from that of the Balboa
28 dispensary.

4. As MEP's managing member, Hakim negotiated the management agreements
with SoCal Building Ventures, LLC ("SoCal"). In or about May 2018, however, SoCal

1 stopped making its required payments under its management agreement with MEP. As a
2 result of that as well as other defaults and breaches, SoCal was terminated in July 2018.
3 During its tenure as manager, SoCal had not even opened the Facility for business. SoCal
4 failed to generate any income or profits whatsoever from operations at the Facility.

5 5. In early August 2018 (before the receivership was put in place at the Facility),
6 Hakim on behalf of MEP and Jerry Baca ("Baca") on behalf of Synergy agreed to a
7 management agreement whereby Synergy would manage the Facility. Almost immediately,
8 and in sharp contrast to SoCal, Synergy opened the Facility and contracted with a sub
9 licensee, Edipure, for its use of the Facility. As soon as the sub license agreement with
10 Edipure was made, Edipure invested between \$50,000 and \$100,000 in equipping its space
11 at the Mira Este Facility. Under its sub license agreement, Edipure was paying \$30,000 per
12 month or 10% of its revenues, whichever was greater for its use of the Facility. However, as
13 of in or about March 2019, Edipure ceased its production at the Facility. It is currently
14 indebted to the Facility in the amount of some \$107,000.

15 6. Synergy also had something of a "handshake" production agreement with
16 another third-party producer, BTG. Again, however, that producer is also indebted to the
17 Facility for past due payments in the amount of between \$80,000 and \$100,000.
18 Additionally, the suspended status of CCG, under which BTG operates, has thrown any
19 further production by BTG into serious question.

20 7. Recently, Synergy engaged in negotiations with two other producers,
21 Presidential and 2020, in hopes that those producers would locate their production activities
22 at the Facility. In fact, in March 2019, Synergy represented to the court that transactions
23 were "imminent" with these two producers. However, within the last two weeks,
24 Presidential has ceased all negotiations and will not be entering into any transaction to locate
25 its production at the Facility. Similarly, no agreement with 2020 was ever consummated.
26 Presently, there are no negotiations going on with any third-party producers to locate their
27 production activities at the Facility.

28 8. The Synergy management agreement requires that Synergy maintain extensive
accounting, recordkeeping, and reporting requirements on a monthly basis and pay itself
management fees and distributions on the 5th of each month. Synergy has hired an

1 accountant or bookkeeper to handle the accounting required by the management agreement.
2 Under the management agreement with Synergy, all revenues are to be deposited into a
3 "Dedicated Bank Account". Any checks or withdrawals from the Dedicated Bank Account
4 must be signed by both a representative of MEP and Synergy.

5 9. Over the years, both Baca and Hakim have developed a number of contacts
6 among producers and manufacturers in the cannabis industry. In addition to Edipure, they
7 also had a number of other contacts who communicated a strong interest in locating their
8 production and manufacturing activities at the Mira Este Facility. Many of these producers
9 and manufacturers were very close to reaching an agreement for a sub license agreement
10 with MEP similar to Edipure's sub license agreement before the receiver was appointed on
11 August 20, 2018. **As a result of the appointment of the receiver on August 20, 2018, not**
12 **one of these producers and manufacturers with whom Baca and Hakim were**
13 **negotiating continued negotiations.**

14 10. Because there is only one third party producer, BTG, operating at the Facility,
15 and that producer is in serious arrears with its payments, the operation of the Facility is in
16 jeopardy. Only because Synergy has advanced monies to cover debt service and overhead
17 has the Facility been able to avoid foreclosure.

18 The suspension of CCG is the latest in a long line of obstacles and barriers that the
19 receivership has caused the Facility. The rights of all parties will be preserved by removing
20 the Facility from the scope of the receivership, and requiring one half of the distributions to
21 be paid to the Receiver on a monthly basis, with full accounting information. This
22 modification would also allow for the operation of the Mira Este Facility business model on
23 a profitable basis, as it was designed.

24 **2. THE COURT SHOULD REMOVE THE RECEIVERSHIP AT THE MIRA ESTE**
25 **FACILITY BECAUSE PLAINTIFF HAS NOT AND CANNOT ESTABLISH A**
26 **LIKELIHOOD THAT HE WILL PREVAIL OVER MEP (THE OWNER OF THE**
27 **FACILITY), CCG (THE OWNER OF THE LICENSING), OR HAKIM IN THAT NONE**
28 **OF THOSE PARTIES OWED PLAINTIFF ANY OF THE DUTIES ALLEGED IN THE**
FAC.

Initially, it should be noted that Plaintiff has not even alleged a claim against CCG in his

1 First Amended Complaint (FAC). Therefore, it can hardly be said that Plaintiff has established a
2 probability of success against CCG. As such, making CCG subject to the harsh injunctive
3 appointment of the receiver is without any support in the FAC or in the facts of the case.

4 Beyond that, the claims asserted by Plaintiff against MEP and Hakim are similarly
5 groundless and will not support the continuation of the receiver at the Mira Este Facility. Simply
6 put, neither Hakim nor MEP owed any duty to Plaintiff.¹

7 First and notably, the Operating Agreement of MEP was only between the members,
8 Hakim and Malan. Plaintiff decided not to become a member, and therefore, removed himself
9 from the scope of any duties owed by Hakim as managing member of MEP to Plaintiff with
10 regard to the operations of the Mira Este Facility. Hakim's obligations run only to Malan as the
11 other member of MEP. Thus, such claims as interference with the MEP-SoCal management
12 agreement, conversion of MEP funds, or even the alleged unauthorized use of MEP funds at the
13 Facility do not implicate any obligation owing from MEP or Hakim to Plaintiff. In essence,
14 Plaintiff has not established the right to sue MEP, Hakim, or CCG for the causes of action
15 alleged in the FAC.

16 A complaint that fails to disclose the right to sue is not only subject to a general demurrer
17 (or to a motion for judgment on the pleadings) [*see* discussion in Ch. 206, Demurrers and
18 Motions for Judgment on the Pleadings], but may also be challenged at trial by an objection to
19 the introduction of any evidence [*Parker v. Bowron* (1953) 40 Cal. 2d 344, 351], or by a motion
20 for nonsuit [*see Pillsbury v. Karmgard* (1994) 22 Cal. App. 4th 743, 757-758], or on appeal,
21 despite a failure to demur [*Parker v. Bowron* (1953) 40 Cal. 2d 344, 351]; *see also Klopstock v.*
22 *Superior Court* (1941) 17 Cal. 2d 13, 18; *Color-Vue, Inc. v. Abrams* (1996) 44 Cal. App. 4th
23 1599, 1604 (lack of standing not waived by failure to timely object; lack of standing can be
24 raised at any time, even for first time on appeal)].

25 Here, Plaintiff's lack of standing to sue completely undermines any assertion that Plaintiff
26 has established or can establish the likelihood or probability of success against MEP or Hakim or
27 CCG, and for that reason, the receivership at the Mira Este Facility should be removed.
28

¹This absence of duty is not due solely to the technicality that even according to the FAC, only RM Holdings, LLC, and not Plaintiff was entitled to share in the profits of the Facility and has any standing in regards to any right to distributions from MEP. It is based also on the merits and lack of factual support in the FAC to establish any duty owed by MEP or Hakim to Plaintiff or to RM Holdings LLC.

1 More particularly, the charging allegations of the FAC against MEP and Hakim are
2 devoid of merit and do not support the continuation of the receivership at the Facility, as follows:

3 (1) At paragraph 27 through paragraph 29, the FAC alleges that MEP borrowed money
4 secured by the loan in the amount of approximately \$1,080,000. The loan was intended for
5 building renovations at the Mira Este Facility. However, after the funds were deposited into the
6 Mira Este account, Malan took \$390,000 of the funds and Hakim took \$540,000 of the funds for
7 their personal use.

8 Even if true, the FAC fails to allege that Plaintiff was in any way harmed or damaged by
9 such conduct. However, as specified in the accompanying Declaration of Chris Hakim (“Hakim
10 Dec.”) at ¶¶5-7, the true facts were quite different. First, because the entire loan transaction was
11 in the name of MEP, the loan proceeds were paid to MEP and quite properly deposited into the
12 MEP account. Secondly, distributions from the loan proceeds had to be made in accordance with
13 the MEP Operating Agreement, to wit, one half to Malan and one half to Hakim. Thirdly, the
14 amount distributed to Malan was identical to the amount distributed to Hakim, namely, \$518,000
15 (which represented the net loan proceeds of \$1,036,000). Further, while the subject loan was
16 initially intended for renovations to the Mira Este Facility, it was decided by all three parties
17 (Hakim, Plaintiff, and Malan) to utilize the funds for different purposes. In fact, the loan
18 proceeds distributed to Malan were actually used by both Malan and Plaintiff to purchase
19 licenses for their other cannabis production operations in California City. This alleged
20 “misconduct” of Hakim or MEP or CCG cannot and does not support any of the claims alleged
21 by Plaintiff in his FAC.

22 (2) At paragraph 34 of the FAC, it is alleged that shortly after the alleged RM Holdings
23 “settlement agreement” was executed on November 9, 2017, Hakim was made aware of it. The
24 FAC goes on to allege that because of such knowledge, Hakim was part of a civil conspiracy
25 with Malan.

26 However, there is no basis for that assertion and in fact, Hakim has specifically denied
27 knowledge of the RM holdings “settlement agreement” until the within action was filed.
28 (Hakim Dec., ¶11). Therefore, the alleged conspiracy with Malan to withhold monies and
property that were due RM Holdings also fails.

Moreover, even if Hakim had wanted to withhold distributions from RM Holdings by
reason of his purported knowledge of the alleged settlement agreement, he would not have been

1 able to do so. His sole duty was to distribute monies in accordance with the MEP Operating
2 Agreement, which required all distributions to be made to Malan and himself until such time as
3 Malan assigned or transferred all or a portion of his membership position to Plaintiff under
4 section 8.8 of the MEP Operating Agreement. Since that never happened and still has not
5 happened, Hakim as managing member and MEP as the limited liability company must follow
6 the Operating Agreement and make all distributions to Hakim and Malan.

7 (3) The FAC also alleges misconduct in several places arising from the creation of
8 Monarch Management Consulting, Inc. ("Monarch"). In particular, it is alleged that neither
9 Hakim nor Malan informed Plaintiff of the existence of Monarch. It is further alleged that
10 Monarch was used as something of a "vehicle" to conceal and divert profits away from Plaintiff.

11 Again, however, Hakim had no duty to disclose the existence of Monarch to Plaintiff. In
12 fact, since Plaintiff was not a member of MEP and also was not an officer, director, or
13 shareholder of Monarch, disclosure obligations to third parties would have been improper as a
14 disclosure of private corporate or limited liability company affairs.

15 Further, the creation of Monarch had nothing to do with Plaintiff and especially had
16 nothing to do with the purported concealment of profits from Plaintiff. (Hakim Dec., ¶8).
17 Indeed, whether the distributions of profits were made directly to Malan and Hakim pursuant to
18 the MEP Operating Agreement of which Plaintiff was not a member and not entitled to any
19 information or distributions directly from MEP; or were made indirectly by payments to
20 Monarch, Plaintiff's claim is the same. That claim is predicated upon the failure of Malan to
21 either account for or otherwise pay monies over to Plaintiff in accordance with their alleged
22 agreement. It has nothing to do with the operations of Monarch or MEP.

23 From a practical standpoint, it is also clear that Hakim had no knowledge of either this
24 so-called secret agreement between Plaintiff and Malan involving RM Holdings LLC, or any
25 alleged chicanery on the part of Malan towards Plaintiff. After the June 2017 incident in which
26 Plaintiff threatened to burn down the Mira Este Facility because of a dispute with Hakim, the
27 personal relationship between Plaintiff and Hakim was changed and communication between
28 them became rare. (Hakim Dec., ¶7). Since Hakim owed no duties to Plaintiff and certainly
none of a fiduciary nature, Hakim had no occasion to discuss the negotiations that he, as
managing member of MEP, was undertaking with SoCal. Moreover, to the extent that it was
even an issue, Hakim could naturally rely on Malan to keep Plaintiff, his long-time business

1 partner, informed of any relevant matters.

2 From another standpoint, since Hakim was never apprised of the actual accounting
3 between Plaintiff and Malan on their 50+ properties and investments, and in particular, who
4 might have been indebted to whom, Hakim was entitled to rely on the presumption that the party
5 in whom title was taken, namely Malan, was and is presumed to be the beneficial owner. (See,
6 e.g., Evidence Code Section 662: "The owner of the legal title to property is presumed to be the
7 owner of the full beneficial title. This presumption may be rebutted only by clear and convincing
8 proof.")

9 Even if it be conceded that Plaintiff paid a portion of the purchase price, it still would not
10 give Plaintiff any beneficial interest or entitlement to distributions as something of a beneficiary
11 of a resulting trust. Plaintiff's alleged contributions to the acquisition of the Mira Este Facility
12 might just as readily be considered a loan to Malan; or alternatively, a repayment of monies owed
13 to Malan on their other investments. In either case, no resulting trust would arise. See, e.g.,
14 *Haskell v. Wood*, 256 Cal. App. 2d 799, 805 ("(W)here the grantee of the deed borrows the
15 money, and the lender seeks a resulting trust on account of the loan and the use of the proceeds of
16 the loan to pay for the land, the courts universally deny the lender the benefit of a resulting trust.
17 (cit.omit.) Thus, in California, "[no] trust results in favor of one who lends money to
18 another with which to buy land." *Perry v. Ross*, 104 Cal. 15, 18 [37 P. 757, 43 Am.St.Rep. 66];
19 see also *Vogel v. Bankers Bldg. Corp.*, 112 Cal.App.2d 160, 168 [245 P.2d 1069].))

20 In short, Plaintiff's claims in his FAC against Hakim and MEP are of dubious merit. The
21 evidence underlying such claims is clearly insufficient to establish a probability of success at
22 trial. From that standpoint as well, the injunctive order appointing the receiver at the Mira Este
23 Facility should not be continued and should be modified to remove the receiver from the Facility.

24 **3. THE COURT SHOULD MODIFY THE PRELIMINARY INJUNCTION AND
25 REMOVE THE RECEIVERSHIP FROM THE MIRA ESTE FACILITY BECAUSE THE
26 RECEIVERSHIP IS BLOCKING PRODUCERS FROM OPERATING AT THE
27 FACILITY AND THE RECEIVER HAS FAILED IN HIS BASIC DUTY TO PAY TH
28 REQUISITE TAXES AND FILE THE REQUIRED TAX RETURNS TO ALLOW CCG
TO OPERATE LEGALLY.**

1 Revenue and Taxation Code Section 23301 strips a corporation of its corporate powers to
2 act if it does not pay the fees and taxes and file the necessary returns with the Franchise Tax
3 Board.

4 Here, the receiver, was put in charge of this basic function in September 2018. He has
5 failed not only to pay the required fees and file the required returns, but has also failed to even
6 bring this matter to the attention of the Court. As a result, since at least November 2018, CCG
7 has been operating illegally under the auspices of the court – appointed receiver.

8 Moreover, this is not a situation where there was inadvertence or excusable neglect by the
9 receiver. The receiver was specifically apprised of this situation as early as November 28, 2018.
10 Thereafter, the receiver was given yet another opportunity by his own accounting firm, BTZ,
11 before April 1, 2019. In fact, all of the returns necessary to accomplish the reinstatement of CCG
12 and all monies necessary to reinstate CCG were in the hands of the receiver no later than April 1,
13 2019. Yet the receiver still has failed to act and still continues to allow CCG to operate illegally
14 while under suspension. Simply put, the receiver has acted with inexcusable neglect and should
15 be forthwith removed from the Mira Este Facility.

16 At the same time, rather than go through with the appointment of a new receiver, it is
17 submitted that the receivership at least at the Mira Este Facility and regardless of who holds that
18 position has failed to preserve the assets and business of the Facility. As made clear by a long
19 litany of producers who refused to locate at that Facility, a receivership overseeing that cannabis
20 production Facility simply does not work. *After some nine months of failure, there has still not
21 been a single producer who has signed a licensing agreement with the receiver to locate its
22 production activities at the Facility.*

23 In *Golden State Glass Corp. v. Superior Ct.* (1939) 13 Cal. 2d 384, 90 P.2d 75, a
24 stockholders' derivative suit, defendants sought a writ of prohibition to prevent the enforcement
25 of respondent court's ex parte order appointing a receiver and its subsequent orders denying their
26 motion to vacate the appointment and confirming the appointment. **The Supreme Court issued
27 the writ, finding that no sufficient grounds existed for continuing the receivership during
28 litigation** and that the trial court exceeded its jurisdiction in confirming its ex parte order
29 appointing the receiver (*13 Cal. 2d 384, 396*). The Court noted the drastic character of the
30 remedy of receivership and held that, ordinarily, if there is any other remedy less severe in its
31 results that will adequately protect the rights of the parties, a court should not take property out of

1 the hands of its owners (13 Cal. 2d 384, 393).

2 As previously noted, and because the appointment of a receiver is a drastic remedy, a
3 court should carefully weigh the propriety of appointment in exercising its discretion to appoint a
4 receiver and should not make the appointment when a remedy less drastic in nature and scope
5 will adequately protect the interests of the litigants (A.G. Col Co. v. Superior Court (1925) 196
6 Cal. 604, 613; *Dabney Oil Co. v. Providence Oil Co.* (1913) 22 Cal. App 233, 239).

7 In the present case, the emergency caused by the suspended status of CCG needs urgent
8 court attention. This is a critical moment for the Facility in that if CCG is not immediately
9 reinstated, then it is likely the Facility will fail.

10 Further, no sufficient grounds exist for continuing the receivership at this point in time.
11 The receiver is performing virtually no supervisory functions at the Facility. Continuing the
12 receivership at the Facility will result in a tremendous waste of resources and a continuing
13 disincentive for producers and manufacturers from entering into subcontracts with the Facility.

14 Against that backdrop, the modification of the preliminary injunction to require MEP to
15 transfer to the Receiver one half of the net distributions generated at the Facility will fully protect
16 the rights and interests of Plaintiff. Indeed, Plaintiff's only interest is in fact in the net profits of
17 the Facility. Plaintiff's election to avoid any formal or managerial role in the Facility at its
18 inception means that Plaintiff's claim is only to a share of the distributions and not in the
19 operational aspects of Facility. Plaintiff's claimed interest can adequately be protected without
20 the drastic existence of a receiver at the Facility.

21 **4. IN THE ALTERNATIVE, REQUEST IS MADE THAT THE COURT
22 CLARIFY OR MODIFY THE 12/17/2018 MINUTE ORDER TO REQUIRE ONLY MEP
23 AND CALIFORNIA CANNABIS GROUP TO POST BONDS IN ORDER TO REMOVE
24 THE RECEIVERSHIP FROM THE MIRA ESTE FACILITY.**

25 The court has the inherent power to reconsider and act to change, modify, or clarify a
26 prior interim order on the request of a party.

27 In *Le Francois v. Goel* (2005) 35 Cal. 4th 1094, the California Supreme Court was called
28 upon to decide whether a trial court may ever, either on its own motion or on the motion of a
party, reconsider its interim orders in the absence of new facts or new law. The court noted that
separation of powers principles were applicable in this instance: "The Legislature may regulate
the courts' inherent power to resolve specific controversies between parties, but it may not defeat

1 or materially impair the courts' exercise of that power" [*Le Francois v. Goel*, at 35 Cal.4th 1103].
2 After examining the legislative history, the court concluded that the Legislature did not want to
3 hinder the courts' ability to act, but rather to protect the courts from repetitive motions. The
4 legislature purpose of conserving judicial resources is advanced by an interpretation of Code Civ.
5 Proc. § 1008(e) consistent with the line of cases limiting the parties' power to file repetitive
6 motions but not a court's authority to reconsider interim rulings on its own motion, even in the
7 absence of new facts or law [*Le François v. Goel*, at 35 Cal.4th 1107].

8 In the present case, it cannot reasonably be disputed that the trial court's 12/17/2018 order
9 was erroneous in at least one respect, namely, requiring that American Lending and Holdings
10 LLC ("ALH"), post a bond in order to remove the receivership from the Mira Este Facility. ALH
11 is not a party to the appeal, and requiring it to post an undertaking appears to be a clerical error.

12 Beyond that, the 12/17/2018 Minute Order states in part that in order to vacate the
13 receiver at either facility, each and every one of the 10 parties listed in that order must post a
14 bond, a so-called "aggregation condition". In the 12/17/2018 Order, the trial court stated that this
15 condition was, "Based upon various representations during oral argument that all parties must
16 cooperate in order to be effective."

17 At the December 14, 2018 hearing on the motions to set bond amounts, counsel's
18 argument on all sides was to the effect that only those defendants and appealing parties with
19 an interest in each facility should be required to post a bond in order to stay the receivership
20 at that facility. In particular, Plaintiff's counsel, James Joseph, had the following exchange
21 with the Court at the December 14, 2018 hearing on the motion to set the bond amount:

22 "THE COURT: So my first question is: Are we going to have a stipulation, Judge,
23 we're going to let you do it, that, Judge, everybody must post a bond to get a vacate
24 of the order? And if not, that's fine, we'll go through and I'll start giving everybody
25 one. Everybody understand? I'll listen to argument on that issue.

26 Go.

27 MR. JOSEPH: To -- our position on that, Your Honor -- I think our briefing papers
28 and the way that the parties have dealt with it is we've always been treating Balboa as
one sort of group of people and then Mira Este as one sort of group.

And our specific requests requested a \$9 million bond for the Balboa entities,

1 which would be San Diego United, Flip, Balboa Avenue Cooperative, all of those
2 entities that control that business. And then for Mira Este, we have a different bond
3 amount for those entities." (Exh. 4 to RJN).
4

5 Similarly, counsel for defendants and appellants Malan et al., Tamara Leetham
6 argued at the hearing that the appeal rights of the parties on appeal are different. She
7 mentioned that the First Amended Complaint does not even charge California
8 Cannabis Group or Devilish Delights, Inc. in any of the causes of action. As such, the
9 appeal rights are going to run differently to different entities, and it would not be
10 appropriate to "lump them in as one" when they are not. (Exh. 4 to RJN).

11 The law is in accord that the posting of a bond in the context of a receivership over
12 multiple properties such as in the present case should not be aggregated. The reasoning is that
13 the receiver has essentially taken away control and possession of a business or property from a
14 party at the request of another party pending the resolution of a dispute over entitlement to the
15 business or property. **When the receivership ends or is vacated by the posting of a bond, the
16 receiver is obligated to restore the business or property only to the person from whom it
17 was taken.** *Baughman v. Superior Court of Calaveras County*, 72 Cal. 572, 575.

18 **In this case, the only party or parties entitled to receive back the Mira Este Facility
19 once the receivership is vacated are MEP and CCG. Therefore, the only two parties that
20 should be required to post a bond in order to vacate the receivership at the Mira Este
21 Facility are MEP and CCG.**

22 From a slightly different perspective, the authorities indicate that where a receiver is
23 appointed over more than one property or more than one business, and the trial court imposes a
24 bond requirement for each business owner, *the posting of a bond by one business-owner
25 will stay the order appointing the receiver over that business even if the business-owners
26 of the other businesses do not file a stay bond.*

27 This particular point was addressed by the Fourth District Court of Appeal in *Highland
28 Sec. Co. v. Superior Court of Orange County*, 119 Cal. App. 107, 111-112. In that case, as in
the present case, there were two separate businesses run by separate parties, both of which were

1 placed in the hands of a receiver. As in this case, both defendants appealed the order appointing
2 the receiver but only one of the defendants filed a stay bond. The court there held that even
3 though both defendants had not filed a stay bond, the receivership would be stayed and the
4 court's jurisdiction over the receivership proceedings against the party posting the bond would
5 be suspended during the pendency of the appeal.²

6 In the present case, Moving Defendants are appealing from the 9/26/2018 Order insofar
7 as it established the receivership over the Mira Este Facility alone. **Once the owners of the
8 Mira Este Facility post the stay bond, then the jurisdiction of the court over the
9 receivership proceedings at the Mira Este Facility is suspended regardless of whether a
10 bond is posted by the owners of the Balboa Ave Dispensary..**

11 In the present case, the only parties whose property was taken from the Facility and
12 placed in the hands of the receiver were MEP and CCG. As such, they should be the only
13 parties required to post a bond in order to stay the receivership at the Facility.

14 **5. CONCLUSION**

15 For all of the foregoing reasons, it is requested that the Court grant Moving Defendants'
16 ex parte application for modification of the 9/26/2018 preliminary injunction to: (1) remove the
17 Facility from the receivership; and, (2) Order that one half of the distributions of the Facility be
18 retained in the Dedicated Account pending the outcome of this litigation or paid over to the
19 Receiver.

20 Alternatively, it is requested that the Court clarify and/or modify the 12/17/2018
21 Minute Order by eliminating any requirement that all parties listed in that order post a bond in

22 ² See, also, *Hale v. Southern California IPA Medical Group, Inc.* (2001) 86 Cal.App.4th 919,
23 927–928. In that case, the analogous situation involving the posting of a bond under Corporations Code
24 section 800 was at issue. There, the court held that the statutorily – prescribed amount of \$50,000 to
25 protect a defendant sued in a shareholder derivative action is properly interpreted to require only a
26 single bond of \$50,000 no matter how many defendants have been sued in the action. Otherwise, an
27 absurdity would result if numerous defendants were joined, and separate bond amounts of \$50,000 each
28 were required.

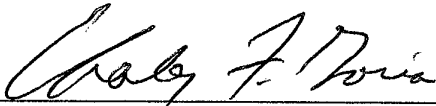
29 Here, an absurdity also exists because under the Court's 12/17/2018 Minute Order, if only one
30 of the 10 appellants and cross-appellants refuse to post a bond, then the right of the two parties to a
31 return of the assets of the Facility on the posting of a bond, MEP and CCG, would be thwarted.

1 order to vacate the receivership at the Mira Este Facility. Instead, the bond amounts for MEP
2 and CCG should be the only bonds required in order to remove the receiver at the Mira Este
3 Facility.

4
5 Respectfully submitted,

6 GORIA, WEBER & JARVIS

7
8 Dated: 5/7/19

9 By: 
10 Charles F. Gorla
11 Attorneys for Moving Defendants
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1 Charles F. Gorla, Esq. (SBN68944)
GORIA, WEBER & JARVIS
2 1011 Camino del Rio South, Suite 210
3 San Diego, CA 92108
4 Tel.: (619) 692-3555
5 Fax: (619) 296-5508
6 Email: Chasgoria@gmail.com
7 Attorneys for Defendants CHRIS HAKIM,
8 MIRA ESTE PROPERTIES LLC, and
9 ROSELLE PROPERTIES LLC

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

SALAM RAZUKI, an individual
Plaintiff

vs

NINUS MALAN, an individual; CHRIS
HAKIM, an individual; MONARCH
MANAGEMENT CONSULTING, INC.,
California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
California limited liability company; FLIP
MANAGEMENT, LLC, a California limited
liability company; MIRA ESTE
PROPERTIES LLC, a California limited
liability company; ROSELLE PROPERTIES,
LLC, a California limited liability company;
BALBOA AVE COOPERATIVE, a
California nonprofit mutual benefit
corporation; CALIFORNIA CANNABIS
GROUP, a California nonprofit mutual
benefit corporation; DEVILISH DELIGHTS,
INC. a California nonprofit mutual benefit
corporation; and DOES 1-100, inclusive;

Defendants.

) Case No.: 37-2018-00034229-CU-BC-CTL

) (Unlimited Civil Action)

) **DECLARATION OF CHARLES F.**
) **GORIA IN SUPPORT OF EX PARTE**
) **APPLICATION TO REMOVE**
) **RECEIVER FROM MIRA ESTE**
) **FACILITY OR IN THE ALTERNATIVE**
) **TO CLARIFY AND MODIFY 12/17/2018**
) **ORDER SETTING BOND AMOUNTS**

) Hearing Date: May 9, 2019

) Time: 8:30 AM

) Dept.: C-67

) I/C Judge: Hon. Eddie C. Sturgeon

) Complaint Filed: July 10, 2018

) Trial Date: February 21, 2020

) IMAGED FILE

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I, Charles F. Gorla, declare:

1. I am an attorney at law duly licensed to practice before the courts of the State of California and am a partner in the law firm of Gorla, Weber & Jarvis, retained by defendants Chris Hakim (“Hakim”), Mira Este Properties LLC (“MEP”), and Roselle Properties LLC (“Roselle”) (collectively, “Moving Defendants”) to represent them in the above entitled action.

2. In late November 2018, I discovered by a search of the California Secretary of State’s website that California Cannabis Group, a California Nonprofit Mutual Benefit Corporation (“CCG”) had been suspended for nonpayment of monies due the Franchise Tax Board. CCG has at all times herein mentioned held the applicable license entitling the cannabis production facility located at 9212 Mira Este Court, San Diego, California 92126 (“Mira Este Facility” or “Facility”) to manufacture and produce cannabis products and to sublicense other producers and manufacturers to manufacture and produce cannabis products at the Facility.

3. As a suspended corporation, the corporate powers, rights and privileges of CCG have been suspended under Revenue and Taxation Code Section 23301, and CCG has been rendered unable to engage in business at the Facility.

4. The same day I made such discovery (November 28, 2018), I communicated the suspended status of CCG to Richardson Griswold, attorney for the receiver, Michael Essary. Thereafter, and by email correspondence, Mr. Essary sent a reply email to me and also informed other parties of CCG’s suspended status, including Ms. Gina Austin, attorney for CCG. A true and correct copy of Mr. Essary’s November 29, 2018 email is attached hereto as Exhibit 1 and, by this reference, made a part hereof.

5. The next morning (November 30, 2018), I received another email directly from the receiver that suggested that defendant Ninus Malan and I handle the reinstatement of CCG. My response was that I would want to discuss it with him further after the hearing

1 later on November 30, 2018. (The hearing that I was referencing was a hearing that was
2 scheduled for November 30, 2018, on my client's application for removal of the receiver at
3 the Mira Este Facility. If the application were granted and my client, MEP were put back in
4 charge of the Facility, I would be willing to do what I could to reinstate CCG even though
5 CCG was represented by the Austin Law Firm. The hearing on said application was
6 continued to December 14, 2019, where it was denied for lack of jurisdiction). A true and
7 correct copy of the receiver's email and my reply email are attached hereto collectively as
8 Exhibit 2 and, by this reference, made a part hereof.

9
10 6. After my reply email, Tamara Leetham, attorney for CCG, intervened and
11 circulated an email herself stating that her office represented CCG, and if anyone was going
12 to help in reinstating CCG besides the receiver, it would be her office. A true and correct
13 copy of her email is attached hereto as Exhibit 3 and, by this reference, made a part hereof.
14 At or about the same time, I am informed and believe and thereon declare that Ms. Gina
15 Austin, counsel for CCG and certain other defendants, had her office staff research the
16 matter further with the Franchise Tax Board. She then circulated an email to all interested
17 parties discussing the requirements for reinstatement. A true and correct copy of Ms.
18 Austin's November 29, 2018 email is attached hereto as Exhibit 4 and, by this reference,
19 made a part hereof.

20 7. Because the receiver has remained in control and possession of the Mira Este
21 Facility and CCG pursuant to the September 26, 2018 order appointing the receiver, the receiver
22 did not inquire further of me or, to my knowledge, anyone else about handling the reinstatement
23 of CCG, it being understood that it was the receiver's responsibility.

24 8. On or about April 1, 2019, I received an email that was authored by Marilyn
25 Weber, one of the accountants at Brinig Taylor Zimmer ("BTZ"). In the email, she said she had
26 been tasked by the receiver with the obligation to prepare tax returns in order to reinstate CCG
27

1 and eliminate the suspension. A true and correct copy of said email is attached hereto as Exhibit
2 5 and, by this reference, made a part hereof. As indicated in the email, BTZ had prepared the
3 needed tax returns and Synergy Management Partners LLC (“Synergy”) had paid to the
4 receiver the amounts necessary for the reinstatement of CCG

5 9. Recently, I researched the status of the suspension of CCG on the California
6 Secretary of State's website. As of May 6, 2019, the suspension was still in effect. A true and
7 correct copy of a print out of the Secretary of State's website showing the existence of the
8 suspension for CCG is attached as Exhibit 6 and, by this reference, made a part hereof.

9 10. The alternative order sought herein by Moving Defendants is for a clarification or
10 modification of the December 17, 2018 order setting bond amounts. A true and correct copy of
11 said order is attached to the accompanying Request for Judicial Notice (“RJN”) as Exhibit 5.
12 The initial application for this alternative order was set for hearing on March 12, 2019. At the
13 hearing on March 12, 2019, the court continued the ex parte proceedings to March 15, 2019.
14 Before doing so, however, the Court commented that one aspect of the December 17, 2018 Order
15 was clearly erroneous and should be stricken, namely, the bond amount ordered for American
16 Lending and Holdings LLC (“ALH”). Since ALH is not a party to the appeal, no bond amount
17 should have been set. At the hearing on March 15, 2019, the court did not hear any further
18 argument or make any decisions regarding the December 17, 2019 Minute Order. The court only
19 ruled that it was denying without prejudice the application for the removal of the receiver. A
20 true and correct copy of a portion of the transcript of the March 15, 2019 hearing is attached to
21 the RJN as Exhibit 6 and by this reference, made a part hereof.

22 11. Because no ruling was made at the March 15, 2019 hearing on this alternative
23 aspect of the ex parte application to “disaggregate” the bonds, Moving Defendants renew their
24 request that the Court clarify or modify the December 17, 2018 Minute Order. Moving
25 Defendants are being blocked from posting a bond to remove the receiver from the Mira Este
26

1 Facility because of the aggregation of the bonds by all parties appealing the September 26, 2018
2 Order Appointing Receiver. The result of the aggregation of the bonds is that even if Moving
3 Defendants could post the entire amount of approximately \$2.6 million in bonds, not all of the
4 listed parties have an interest in posting a bond and would not necessarily approve or consent to
5 the posting of his or its respective bond amount. This particular matter was discussed at the
6 December 14, 2018 hearing leading up to the December 17, 2018 Minute Order. A true and
7 correct copy of a portion of the transcript of the December 14, 2018 hearing is attached to the
8 RJN as Exhibit 4 and by this reference, made a part hereof.

9
10 12. The effect of the December 17, 2018 order is to deprive Moving Defendants of
11 their right to post a bond to remove the receiver at the Mira Este Facility. Moving Defendants
12 therefore request that the bond amounts required for the vacation of the receivership at the Mira
13 Este Facility be clarified and/or modified so that the posting of the bonds by the only two parties
14 entitled to a return of the assets at the Mira Este Facility, namely MEP in the amount of
15 \$350,000, and CCG in the amount of \$50,000, be the bonds necessary in order to vacate the
16 receivership at the Mira Este Facility.

17 13. Notice of this ex parte hearing was provided on Tuesday May 7, 2019, by
18 correspondence sent electronically to attorneys for the receiver, Plaintiff, Defendants other than
19 Moving Defendants, and Plaintiffs in Intervention. A true and correct copy of said
20 correspondence with the names and addresses of the counsel receiving same is attached hereto as
21 Exhibit 7 and, by this reference, made a part hereof.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct and that this declaration was executed at San Diego County,
24 California, this 7 day of May 2019.

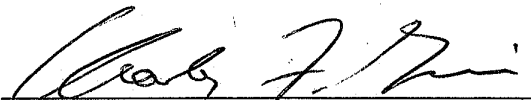
25 
26 Charles F. Gorla

EXHIBIT 1

Your 11/28 correspondence to receiver

calsur@aol.com <calsur@aol.com>

Thu, Nov 29, 2018 at 9:13 AM

To: chasgoria@gmail.com, mahoney@wmalawfirm.com

Cc: rgriswold@griswoldlawsandiego.com, gaustin@austinlegalgroup.com

Chuck,

Red and I are reviewing both emails. However, I've copied Gina on this since your statement about the suspended status of CCG really concerns me! This is the first I have heard anything about this - Gina, can you investigate and elaborate asap please?

Thank you

Mike

[Quoted text hidden]

EXHIBIT 2



charles goria <chasgoria@gmail.com>

Your 11/28 correspondence to receiver

calsur@aol.com <calsur@aol.com>

Fri, Nov 30, 2018 at 10:12 AM

To: gaustin@austinlegalgroup.com, chasgoria@gmail.com

Cc: rgriswold@griswoldlawsandiego.com, NinusMalan@yahoo.com,
tamara@austinlegalgroup.com, dwatts@galuppowlaw.com

Chuck and Nenus,

Do you want to take the lead on this? If not then I will assign an accountant to get the tax returns completed with the information we have from Brinig and get this resolved.

Mike

[Quoted text hidden]



charles goria <chasgoria@gmail.com>

Your 11/28 correspondence to receiver

charles goria <chasgoria@gmail.com>

Fri, Nov 30, 2018 at 10:24 AM

To: Mike <calsur@aol.com>

Cc: "Austin, Gina" <gaustin@austinlegalgroup.com>, Richardson Griswold <rgriswold@griswoldlawsandiego.com>, Ninus Malan <NinusMalan@yahoo.com>, "Leetham, Tamara" <tamara@austinlegalgroup.com>, "Daniel T. Watts (dwatts@galuppolaw.com)" <dwatts@galuppolaw.com>

Mike-Can we discuss this after the hearing this afternoon? Thanks, Chuck

[Quoted text hidden]

EXHIBIT 3



charles gorla <chasgoria@gmail.com>

Your 11/28 correspondence to receiver

Leetham, Tamara <tamara@austinlegalgroup.com> Fri, Nov 30, 2018 at 10:18 AM
To: "calsur@aol.com" <calsur@aol.com>, "Austin, Gina" <gaustin@austinlegalgroup.com>, "chasgoria@gmail.com" <chasgoria@gmail.com>
Cc: "rgiswold@griswoldlawsandiego.com" <rgiswold@griswoldlawsandiego.com>, "NinusMalan@yahoo.com" <NinusMalan@yahoo.com>, "dwatts@galuppolaw.com" <dwatts@galuppolaw.com>

I don't know why Chuck would take the lead. He represents Mira Este and Roselle. My firm solely represents CCG. Mr. Malan is the principal for CCG.

As I've indicated in prior correspondence, I do not know if Mr. Brinig has all the information to provide an accountant for tax purposes as we have made it clear our side that Mr. Malan has information to provide and discuss that has not been considered. I also believe Mr. Yaeger was paid to prepare the tax information and there is no money to hire an additional accountant to start over. If he was paid to do it, why are you not having him do it?

How exactly do you intend on paying for this?

[Quoted text hidden]

EXHIBIT 4



charles goria <chasgoria@gmail.com>

Your 11/28 correspondence to receiver

Austin, Gina <gaustin@austinlegalgroup.com>

Thu, Nov 29, 2018 at 2:29 PM

To: charles goria <chasgoria@gmail.com>, Mike <calsur@aol.com>

Cc: Richardson Griswold <rgriswold@griswoldlawsandiego.com>, "NinusMalan@yahoo.com" <NinusMalan@yahoo.com>, "Leetham, Tamara" <tamara@austinlegalgroup.com>, "Daniel T. Watts (dwatts@galuppolaw.com)" <dwatts@galuppolaw.com>

All,

I had my office reach out to the Franchise Tax Board regarding California Cannabis Group's FTB Suspension. We were informed that as of the beginning of November, the entity was suspended due to a failure to file tax returns. As I understand it this was something the prior accountant Mr. Yaeger was supposed to do.

In order to revive the entity, the person in control of the entity would need to go to the San Diego Field Office before 2 p.m. (Monday-Friday) with the following items:

1. Copies of the completed 2016 and 2017 Tax Returns for CCG [2015 is not necessary due to the entity being formed on December 30, 2015 – 15 days before the end of the year. The FTB should have been informed that there was no business conducted]
2. Certified funds for \$1,136.03
 - a. \$81 fee for the 2016 filing
 - b. \$1,055.03 for the 2017 filing (\$800 plus interest and penalties for non-filing)
3. An additional \$56 payment for the expedited walkthrough
4. Copy of the Complaint naming California Cannabis Group – active litigation allows for an expedited walkthrough and revival
5. Form 3557 [found here: <https://www.ftb.ca.gov/forms/misc/3557BC.pdf>]

An appointment at the San Diego Field Office can be scheduled via telephone, at 619-688-3109. Otherwise, it is first-come, first-served.

Our office will not be handling any of this. As you are aware we have a motion to be relieved as counsel for non-payment so we are limiting our activity to only what is absolutely necessary and required pursuant to our obligations as officers of the court.

Gina

Gina M. Austin

AUSTIN LEGAL GROUP, APC | 3990 Old Town Ave., Ste A112, San Diego, CA 92110 |
Ofc: 619-924-9600 | Cell 619-368-4800 | Fax 619-881-0045

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-----Original Message-----

From: charles gorla [mailto:chasgorla@gmail.com]
Sent: Thursday, November 29, 2018 9:25 AM
To: Mike
Cc: Richardson Griswold; Austin, Gina
Subject: Re: Your 11/28 correspondence to receiver

[Quoted text hidden]

EXHIBIT 5



charles gorla <chasgoria@gmail.com>

Fw: California Cannabis

Ninus Malan <ninusmalan@yahoo.com>

Mon, Apr 1, 2019 at 5:16 PM

Reply-To: Ninus Malan <ninusmalan@yahoo.com>

To: Lou Galuppo <lgaluppo@galuppolaw.com>

Cc: Chris Hakim <symbolicrealestate@gmail.com>, "Daniel T. Watts" <dwatts@galuppolaw.com>, Charles Gorla <chasgoria@gmail.com>

See below

----- Forwarded Message -----

From: Marilyn P. Weber <MPW@btzforensics.com>**To:** ninusmalan@yahoo.com <ninusmalan@yahoo.com>**Cc:** calsur@aol.com <calsur@aol.com>; Brian Brinig <BPB@btzforensics.com>; Kate Kowalewski <KK@btzforensics.com>**Sent:** Monday, April 1, 2019, 3:36:27 PM PDT**Subject:** California Cannabis

Ninus,

According to Mike the returns have not been filed, Synergy paid him just prior to him leaving the country. He is planning on setting an appointment for filing/paying and then Red will work on restatement.

I have attached a copy of the return we prepared as you requested.

Let me know if you need additional information.

Marilyn P. Weber, CPA

Brinig Taylor Zimmer, Inc.

401 B Street, Suite 2150

San Diego, Ca 92101

619-687-2600

mpw@btzforensics.com

Notice: Written communications to Brinig Taylor Zimmer, Inc. are **not privileged** under the attorney-client privilege or the attorney work product rule. All written communications to Brinig Taylor Zimmer, Inc. are subject to discovery by parties to litigation matters in which Brinig Taylor Zimmer, Inc. is designated as an expert witness.

 **Copy of combined forms.pdf**
713K

6221

EXHIBIT 6

Alex Padilla
California Secretary of State

Business Search - Entity Detail

The California Business Search is updated daily and reflects work processed through Monday, May 6, 2019. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity. Not all images are available online.

C3857559 CALIFORNIA CANNABIS GROUP

Registration Date: 12/30/2015
Jurisdiction: CALIFORNIA
Entity Type: DOMESTIC NONPROFIT
Status: FTB SUSPENDED
Agent for Service of Process: DAVID C JARVIS
 1011 CAMINO DEL RIO SOUTH, SUITE 210
 SAN DIEGO CA 92108
Entity Address: 8865 BALBOA AVENUE, UNIT A
 SAN DIEGO CA 92123
Entity Mailing Address: 8865 BALBOA AVENUE, UNIT A
 SAN DIEGO CA 92123

Document Type	↑↓ File Date	↓↑ PDF
SI-COMPLETE	03/02/2018	
SI-COMPLETE	12/13/2016	
REGISTRATION	12/30/2015	

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- If the image is not available online, for information on ordering a copy refer to [Information Requests](#).
- For information on ordering certificates, status reports, certified copies of documents and copies of documents not currently available in the Business Search or to request a more extensive search for records, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Frequently Asked Questions](#).

[Modify Search](#)

[New Search](#)

[Back to Search Results](#)

Alex Padilla
California Secretary of State

Business Search - Results







The California Business Search is updated daily and reflects work processed through Monday, May 6, 2019. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

- Select an entity name below to view additional information. Results are listed alphabetically in ascending order by entity name, or you can select a column title to change the sort order.
- To refine the search results, enter a word or a string of words in the "Narrow search results" box. The "Narrow search results" will search on all fields of the initial search results.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on requesting a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Frequently Asked Questions](#).

Results of search for Corporation Name keyword "california cannabis group" returned 22 entity records (out of 22 records found).

Show entities per page

Narrow search results:

 Entity Number	 Registration Date	 Status	 Entity Name	 Jurisdiction	 Agent for Service of Process
C3243653	03/10/2010	DISSOLVED	<u>"MEDICAL CANNABIS PATIENTS GROUP"</u>	CALIFORNIA	FABIAN DAVE VILLAVISENCIO
C3823109	09/03/2015	SOS SUSPENDED	<u>BLACK BERRY CANNABIS GROUP</u>	CALIFORNIA	ADRIANE LEE
C3232181	07/31/2009	DISSOLVED	<u>C.H.A.N.G.E. CANNABIS HEALTH A NON-PROFIT GROUP EFFORT</u>	CALIFORNIA	DAVID FLOYD BUSBY
C3857559	12/30/2015	FTB SUSPENDED	<u>CALIFORNIA CANNABIS GROUP</u>	CALIFORNIA	DAVID C JARVIS
C4123973	03/01/2018	DISSOLVED	<u>CALIFORNIA CANNABIS LAW GROUP, PC</u>	CALIFORNIA	DOREEN R CURTZE

Entity Number	Registration Date	Status	Entity Name	Jurisdiction	Agent for Service of Process
C2076797	09/24/1999	ACTIVE	<u>CALIFORNIA CANNABIS RESEARCH MEDICAL GROUP</u>	CALIFORNIA	JEFFERY YATES HERGENRATHER
C3854622	12/22/2015	SOS SUSPENDED	<u>CALIFORNIA CANNABIS VETERAN'S GROUP</u>	CALIFORNIA	GEORGE MULL
C3674474	05/09/2014	FTB SUSPENDED	<u>CALIFORNIA CANNABIS VOICE EDUCATIONAL GROUP</u>	CALIFORNIA	MATTHEW KUMIN
C3937094	08/17/2016	ACTIVE	<u>CALIFORNIA FOR CANNABIS GROUP</u>	CALIFORNIA	KEVIN A EDWARDS
C3955484	10/17/2016	ACTIVE	<u>CANNABIS AG GROUP, INC.</u>	CALIFORNIA	ROBERT KAPLAN

Showing 1 to 10 of 22 entities

[Previous](#)
1
2
3
[Next](#)

[Modify Search](#)

[New Search](#)

EXHIBIT 7

**LAW OFFICES OF
GORIA, WEBER & JARVIS
ATTORNEYS AT LAW**

DANIEL S. WEBER
CHARLES F. GORIA
DAVID C. JARVIS

1011 Camino del Rio South, Suite 210
San Diego, California 92108

TEL (619) 692-3555
FAX (619) 296-5508

May 7, 2019

Via Electronic Mail Only

Steven Elia
steve@elialaw.com
Maura Griffin
Maura@elialaw.com
Law Offices of Steven Elia
2221 Camino Del Rio So., Suite 207
San Diego, CA 92108

Daniel Watts
dwatts@galuppolaw.com
Lou Galuppo, Esq.
lgaluppo@galuppolaw.com
Galuppo Law
2792 Gateway Road, Suite 102
Carlsbad, CA 92009

Robert Fuller
rfuller@nelsonhardiman.com
Salvatore J. Zimmitti
szimmitti@nelsonhardiman.com
Nelson Hardiman, LLP
11835 West Olympic Blvd, Suite 900
Los Angeles, CA 90064

Richardson Griswold
rgriswold@griswoldlawsandiego.com
Griswold Law APC
444 S. Cedros Ave #250
Solana Beach, CA 92075

Gina Austin
gaustin@austinlegalgroup.com
Tamara M. Leetham
tamara@austinlegalgroup.com
Austin Legal Group, APC
3990 Old Town Ave., Ste A-112
San Diego, CA 92110

Timothy Daley, Esq.
T.Daley@musickeeler.com

Matthew Dart, Esq.
matt@dartlawfirm.com

Matt Mahoney Esq.
mahoney@wmalawfirm.com

Re: *Salam Razuki v. Ninus Malan et al.*
SDSC Case No. 37-2018-0034229

Dear Counsel:

Please be advised that Defendants and Cross-complainants Mira Este Properties, LLC, Chris Hakim, and Roselle Properties LLC will be appearing ex parte in the above-entitled matter on their application for an order modifying the September 27, 2018 preliminary injunction by removing the receiver from the Mira Este Facility; or in the alternative, for an order modifying/clarifying the December 17, 2019 order setting bond amounts.

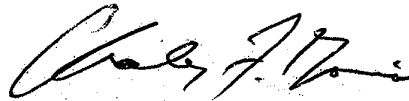
May 7, 2019

Page 2

The ex parte application will be heard on Thursday May 9, 2019 at 8:30 a.m. in Department C-67 of the San Diego County Superior Court - Central Division located at 330 W. Broadway, San Diego, California 92101 before the Honorable Eddie C. Sturgeon.

Please let me know at your earliest convenience if you will be appearing and if you will be opposing said application.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Charles F. Gorla". The signature is written in a cursive style with a large initial "C".

Charles F. Gorla

CFG:tls

1 Charles F. Gorla, Esq. (SBN68944)
2 GORIA, WEBER & JARVIS
3 1011 Camino del Rio South, Suite 210
4 San Diego, CA 92108
5 Tel.: (619) 692-3555
6 Fax: (619) 296-5508
7 Email: chasgoria@gmail.com

8 Attorneys for Defendants Chris Hakim,
9 Mira Este Properties, LLC, and
10 Roselle Properties LLC

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11	SALAM RAZUKI, an individual)	Case No.: 37-2018-00034229-CU-BC-CTL
12	Plaintiff)	
13	vs)	(Unlimited Civil Action)
14	NINUS MALAN, an individual; CHRIS)	DECLARATION OF DEFENDANT
15	HAKIM, an individual; MONARCH)	CHRIS HAKIM IN SUPPORT OF EX
16	MANAGEMENT CONSULTING, INC.,)	PARTE APPLICATION TO REMOVE
17	California corporation; SAN DIEGO)	RECEIVER FROM MIRA ESTE
18	UNITED HOLDINGS GROUP, LLC, a)	FACILITY OR IN THE ALTERNATIVE
19	California limited liability company; FLIP)	TO CLARIFY AND MODIFY 12/17/2018
20	MANAGEMENT, LLC, a California limited)	ORDER SETTING BOND AMOUNTS
21	liability company; MIRA ESTE)	Hearing Date: May 9, 2019
22	PROPERTIES LLC, a California limited)	Time: 8:30 AM
23	liability company; ROSELLE PROPERTIES,)	Dept.: C-67
24	LLC, a California limited liability company;)	I/C Judge: Hon. Eddie C. Sturgeon
25	BALBOA AVE COOPERATIVE, a)	
26	California nonprofit mutual benefit)	
27	corporation; CALIFORNIA CANNABIS)	Complaint Filed: July 10, 2018
	GROUP, a California nonprofit mutual benefit)	Trial Date: February 21, 2020
	corporation; DEVILISH DELIGHTS, INC. a)	
	California nonprofit mutual benefit)	
	corporation; and DOES 1-100, inclusive;)	
)	
	Defendants.)	IMAGED FILE
	AND RELATED CROSS-ACTIONS AND)	
	ACTIONS IN INTERVENTION)	
)	

1 I, Chris Hakim, declare:

2 1. I am one of the defendants in the above-referenced matter, and I am over the
3 age of 18.

4 **Formation of Mira Este Properties LLC and June 2017 Refinance:**

5 2. At all times herein mentioned, I have been and still am one of two members
6 of Mira Este Properties LLC (MEP). Ninus Malan ("Malan") is the other record member of
7 MEP. At all times since MEP was formed, I have been and still am the managing member
8 of MEP. A true and correct copy of the Operating Agreement for MEP, executed in July
9 2016, is attached hereto as Exhibit 1 and by this reference, made a part hereof. Plaintiff
10 Salam Razuki ("Plaintiff") was aware of and agreed to the provisions of the Operating
11 Agreement. In particular, at that time, Plaintiff agreed that the only two members of MEP
12 would be Malan and myself, and that I would be a 50% owner of MEP, entitled to one-half
13 of all distributions. Plaintiff also agreed at that time that the other one half of all
14 distributions of MEP would be paid to Malan. Any further allocation of Malan's one half
15 share of distributions would be left solely between Malan and Plaintiff. In fact, **provision**
16 **was made for any change in the allocation of net profits in the Operating Agreement.**

17 **Section 8.8 of the Operating Agreement provides:**

18 "8.8. Transfer of Economic Interest From Member Ninus Malan to Salam Razuki.
19 Notwithstanding anything in this Agreement to the contrary, by signing this
20 Agreement, the Manager, and each Member approves the absolute right to the
21 Transfer of a Membership Interest, Transferable Interest, and/or the Economic
22 Interest held by Member Ninus Malan, as Assigning Member, to Salam Razuki or his
23 designee, as Assignee, on terms agreed upon between them at any time from and
24 after the date of this Agreement. Such Transfer shall be on terms agreed upon
25 between them, and the Manager and each Member further approve the terms and
26 conditions of such Transfer, and waive all rights, prohibitions and procedures
27 otherwise set forth in this Article 8 to that Transfer. Provided, however, such

1 Transfer between Member Ninus Malan and Salam Razuki shall not materially affect
2 the ownership interest of the other Member(s), increase, or materially alter the
3 Manager's duties and obligations, and Member Ninus Malan and Salam Razuki
4 agree to release the Manager and the other Member(s) from any liabilities relating to
5 such Transfer. On behalf of the Company, the Manager agrees to acknowledge
6 receipt of a copy of the agreement between Member Ninus Malan and Salm Razuki,
7 and agrees that the Company shall be bound by and comply with the provisions
8 contained therein, including, but not limited to, those regarding distributions to
9 Member Ninus Malan or his successor in interest. Any new Member of the
10 Company further agrees to execute a consent to be bound to the terms and conditions
11 of this Agreement as a condition to becoming a Member of the Company."

8 At no time was I ever asked by either Malan or Plaintiff to make any change to the
9 allocation of net profits. At no time was I ever provided with any type of an agreement
10 between Malan and Plaintiff assigning or transferring any interest from Malan to Plaintiff.
11 Therefore, I was required to make all distributions solely to Malan and myself, as the only
12 two members of MEP. Further, since I was never apprised of the actual accounting between
13 Plaintiff and Malan as to their more than 50 investments in properties and businesses, I was
14 not in any position to determine who was indebted to whom as between Malan and Plaintiff.
15 For all I knew, Plaintiff was indebted to Malan for these various investments, and therefore
16 was allowing Malan to retain all of the distributions from MEP as repayment of that
17 indebtedness.
18

19 3. The assets of MEP consist of certain real estate located at 9212 Mira Este
20 Court, San Diego, California 92126 ("Mira Este Facility" or "Facility"). The Facility was
21 acquired in or about August 2016, shortly after the Operating Agreement was executed. The
22 real estate is improved with a structure in the nature of a warehouse. MEP acquired the
23 Mira Este Facility for the purchase price of approximately \$2,625,000.00. There are
24 currently approximately \$2 million in loans against the property. The purchase price
25
26
27

1 required a down payment of approximately \$637,500.00. I paid \$420,000.00 of the down
2 payment, and Plaintiff and Malan paid the rest. **Plaintiff was aware of and agreed that**
3 **title to the Mira Este Property would be taken in the name of MEP alone.**

4 4. The Mira Este Facility was designed to accommodate two types of
5 manufacturing activities. One part of the design of the Facility was to accommodate
6 manufacturing by MEP or its designee. That part of the Facility consists of approximately
7 1200 ft.² out of the 16,000 ft.² Facility. The balance of the Facility was designed to
8 accommodate third-party manufacturers and producers.

9
10 5. Prior to June 2017, MEP and California Cannabis Group (CCG) obtained
11 licensing for the Facility. Once licensing was obtained, it was decided among Malan,
12 Plaintiff, and myself that additional funds would be procured by a refinance of the second
13 trust deed note on the Facility in order to undertake improvements to the Facility and to
14 purchase equipment to begin production at the Facility. It was contemplated at that time
15 that MEP or its affiliated company would manage the Facility itself, and not contract with
16 an outside management company.

17
18 6. The refinance was accomplished in or about June 2017, with “cash out”
19 proceeds of approximately \$1.036 million. Pursuant to the MEP Operating Agreement, two
20 checks were drafted and issued directly from escrow, each in the amount of approximately
21 \$518,000. One was issued to me and the other to Malan. Because of a prior pay-down in
22 the encumbrances on the Facility, and in order to “even out the contributions”, I paid Malan
23 a check in the amount of \$101,500 from my share of the \$518,000 refinance proceeds. A
24
25
26
27

1 true and correct copy of the check for \$101,500 is attached hereto as Exhibit 2 and, by this
2 reference, made a part hereof.

3 7. Plaintiff was well aware of the refinance, the two checks paid by escrow, and
4 my payment to Malan of \$101,500. In fact, at the time that the checks were delivered from
5 escrow, Plaintiff was present at the Facility with myself and Malan to discuss the disposition
6 of the proceeds. At that time, Plaintiff was in the process of attempting to acquire certain
7 real property in a court proceeding where the property was apparently being auctioned in
8 open court. Plaintiff asked me to give him my check for \$518,000 so that he could deposit it
9 in his account. He requested that in order to be able to present to the court documentation
10 from his bank establishing that he had adequate funds in his bank account to acquire the
11 property being auctioned. When I declined to do so, Plaintiff became irate. He first
12 threatened to contact the FBI to have the Mira Este Facility closed. When I told him that we
13 had already obtained our licensing and the Facility could not be closed, he then angrily
14 threatened to burn down the Facility. At that point, I asked Plaintiff to leave.

17 8. As indicated, the primary reason for the refinance was to obtain money to
18 improve the Facility and purchase equipment for production purposes. As of June 2017, it
19 was our intention to undertake production activities on our own and without an outside
20 manager. In or about July 2017, and in connection with that intention, a new corporation,
21 Monarch Management Consulting, Inc. ("Monarch"), was formed. At all times, I was and
22 am the president of Monarch. Malan and I are the sole shareholders of Monarch. A true
23 and correct copy of the Articles of Incorporation filed with the Secretary of State is attached
24 hereto as Exhibit 3 and by this reference, made a part hereof. The formation of Monarch
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1 had nothing to do with trying to conceal or divert monies away from Plaintiff, as Plaintiff
2 has alleged. The purpose was to create an MEP-affiliated management company to handle
3 the management activities at the Facility. Monarch was thus formed in July 2017, months
4 before SoCal Building Ventures, LLC ("SoCal") came onto the scene. Plaintiff's claim that
5 Monarch was formed in order to conceal monies received from SoCal under the various
6 management agreements is untrue. Monarch was formed before SoCal came onto the scene,
7 and for the contemplated purpose of handling the management functions at Mira Este and
8 Roselle.
9

10 9. A few months after the formation of Monarch, I began negotiations with
11 SoCal. Because the offer that SoCal made was more favorable than undertaking our own
12 management functions, we decided to hire SoCal as a management company rather than
13 undertake management of the Facility on our own. As with our original arrangement,
14 Plaintiff did not want to be part of any operating entity of the facilities, whether it was
15 Monarch, MEP, California Cannabis Group, Balboa, or Roselle.
16

17 10. Additionally, after negotiations with SoCal began, it became apparent that
18 SoCal had its own equipment, and we would not need to purchase equipment for which a
19 portion of the June 2017 refinance loan had been obtained. (Of course, that equipment has
20 since been retrieved by SoCal in or about September 2018.) Because we no longer intended
21 to use proceeds from the refinance to purchase equipment, not all of the proceeds from the
22 June 2017 refinance were re – invested into the Mira Este Facility. For example, I am
23 informed and believe and thereon declare that Plaintiff and Malan used their portion of the
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1 refinance proceeds to invest in certain cannabis licenses in California City, in an amount in
2 excess of \$400,000.

3 11. After the June 2017 incident where Plaintiff threatened to burn down the
4 Facility, my relationship with Plaintiff became strained. Communication between Plaintiff
5 and I became infrequent, at least until the within lawsuit was filed in July 2018. (As I stated
6 in my prior declaration filed in connection with the March 2019 ex parte application, I
7 began having further contacts with Plaintiff in or about October 2018. During the course of
8 the conversations in October and early November 2018, Plaintiff repeatedly threatened to
9 render Malan insolvent and homeless, and then post his homeless condition on social
10 media.) Since I rarely communicated with Plaintiff after the June 2017 incident, Plaintiff
11 never told me about the alleged RM Holdings document dated November 2017 that
12 purportedly created some type of profit-sharing arrangement between Plaintiff and Malan.
13 Malan also never advised me of it. In fact, as I have come to learn, Malan has asserted in
14 this litigation that the November 2017 RM Holdings document was never operative between
15 Plaintiff and himself.
16
17

18 12. In regards to the tenant improvements made at the Facility, a large portion of
19 the tenant improvements were paid by Malan and I from the proceeds from the June 2017
20 refinance. SoCal has falsely accused me of forging a document in an attempt to defraud
21 SoCal. Nothing could be further from the truth. After SoCal ignored my repeated requests
22 for reimbursement in the amount of \$125,000 for the tenant improvements, I spoke with
23 SoCal's bookkeeper, John Yeager in or about March 2018. He told me that what SoCal
24 wanted was an itemized list as is found in a contractor's proposal format. Following his
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1 instruction, I used the contractor's proposal provided by Element Builders in June 2017,
2 which had a breakdown of the estimates for the items of work to be done. The Element
3 Builders Proposal from in or about June 2017 was never accepted by MEP, and I never
4 represented to anyone that it had. SoCal knew (or at least should have known, if SoCal had
5 ever been present at the Facility during the build-out) that Element Builders had not done
6 the build-out at the Mira Este Facility. I inserted the amounts on that contractor proposal
7 based on my estimates of the amounts that had actually been paid to the best of my
8 knowledge and recollection. Many of the amounts paid were not paid by check or credit
9 card, but were paid by cash, so I did not have exact amounts at that time. The document
10 itself bore the date of July 3, 2017, which I did not insert. I signed my name only, and did
11 not sign any other name. The figures that I used on the itemized list were fairly accurate,
12 and were actually an understatement of the amounts actually spent. This is evident from
13 reference to a list of most of the actual amounts expended by MEP, Malan and myself for
14 the tenant improvements and that was provided to Brinig Taylor Zimmer in October 2018.
15 The list is not complete, since additional items paid in cash and for which no documentary
16 evidence could be found are not listed). For the convenience of the court, the list is attached
17 as Exhibit 4 and, by this reference, made a part hereof.

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21 13. At the time of SoCal's termination and because the Mira Este Facility was not
22 operational, I was put in the position of needing to quickly negotiate a management
23 agreement with a new manager. The new manager would need to make the Facility
24 operational and then attempt to procure producers and manufacturers to locate their
25 operations at the Facility. I contracted with Synergy Management Partners LLC
26

1 (“Synergy”) in early August 2018. The Synergy management agreement is attached hereto
2 as Exhibit 5 and by this reference made a part hereof.

3 **Edipure begins operations at the Facility, but has now ended the relationship:**

4 14. Almost immediately, and in sharp contrast to SoCal, Synergy opened the Mira
5 Este Facility and contracted with a sub licensee, Edipure, to locate its operations at the Mira
6 Este Facility. Edipure agreed to pay approximately \$30,000 per month or 10% of its
7 revenues, whichever was greater for its use of the Facility. Edipure has since vacated its
8 personnel and ceased operations at the Facility. I am informed and believe and thereon
9 declare that Edipure is currently indebted to the Facility in the amount of approximately
10 \$107,000.00.
11

12 15. I am informed and believe and thereon declare that as of the court
13 proceeding on the application to remove the receiver in March 2019, Synergy was
14 negotiating with two producers, 2020 and Presidential, to locate their production
15 activities at the Facility. However, Presidential has recently terminated all talks about
16 locating at the Facility. I am also informed and believe and thereon declare that 2020,
17 another manufacturer with whom Synergy has negotiated and who was represented to
18 be “imminently” locating its production activities to the Facility in March 2019, has
19 still not located any production activities at the Facility. I am also informed and
20 believe and thereon declare that Synergy is not engaged in any other negotiations with
21 any other producers or manufacturers to locate their production activities at the
22 Facility.
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1 **16. The only source of income presently at the Facility is the production and**
2 **distribution work being done by Synergy through CCG.**

3 **Removal of the Receivership, procurement of other producers, and protection of**
4 **Plaintiff's claim of interest in MEP profits.**

5 17. As specified in the prior Declaration of Jerry Baca filed September 4, 2018
6 (attached to the accompanying Request for Judicial Notice ("RJN") as Exhibit 1), Mr. Baca
7 (owner of Synergy) and myself engaged in promising negotiations with more than ten
8 cannabis producers and manufacturers, each of whom were very close at one time or another
9 to reaching an agreement for a sub license agreement with CCG similar to Edipure's sub
10 license agreement. However, as a result of the appointment of the receiver on August 20,
11 2018, **not one of these producers and manufacturers with whom we were negotiating**
12 **continued negotiating with us. But for the appointment of the receiver on or about**
13 **August 20, 2018, I have no doubt that the Mira Este Facility would already be fully**
14 **occupied with sub licensees, paying at least substantial minimum payments to MEP as**
15 **Edipure was doing.**

16 **Protection of Plaintiff's alleged interests by alternative means.**

17 18. The Synergy management agreement requires that Synergy maintain
18 extensive accounting, recordkeeping, and reporting requirements on a monthly basis and pay
19 itself management fees and distributions on the 5th of each month. Under the Synergy
20 management agreement, at section 1.1., Synergy is required to: maintain proper accounts
21 and ledgers of the Mira Este Facility, including accounts payable and receivable; keep all
22 records required by and in accordance with applicable law on behalf of MEP; generate
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1 customary reports for MEP and provide same on a weekly basis; collect, report and remit all
2 taxes required of the Mira Este Facility on behalf of MEP; maintain proper insurance for the
3 Mira Este Facility; ensure compliance with all conditions and requirements for the state
4 license; and create an operational budget for the Mira Este Facility. At section 3.4, the
5 Synergy is required to deposit all revenues into a "Dedicated Bank Account". Any checks
6 or withdrawals from the Dedicated Bank Account must be signed by both a representative of
7 MEP and Synergy.

9 19. With the accounting requirements of the Synergy management agreement,
10 Plaintiff's position and any alleged interest in net profits or distributions from MEP or CCG
11 can be adequately protected by the safeguards under which Synergy operates without the
12 damaging effects of the receivership.

13
14 **Thwarting of Posting of Undertaking on Appeal.**

15 20. In connection with the filing of a cross-appeal by myself, Roselle Properties
16 LLC, and MEP on or about November 2, 2018, a motion was filed to have the court set a
17 bond for the appeal. The order made by the court on the setting of the bond has made it
18 impossible for the receivership to be removed at the Mira Este Facility. In particular, **the**
19 **court listed some 10 different parties who were all required to post a bond in order to**
20 **for the receivership to be vacated from the Mira Este Facility. Eight out of 10 of these**
21 **parties have no ownership interest in the Mira Este Facility or any of its assets.** These
22 parties and their lack of interest in the Mira Este Facility are as follows (the language in
23 quotations is from the Court's 12/17/2018 Order, attached to the RJN as Exhibit 5):
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1 A. "Ninus Malan appellate bond is set at \$350,000." While Malan is a member of
2 MEP, Malan individually has no ownership interest in the Mira Este Facility. The Mira
3 Este Facility is owned exclusively by MEP.

4 B. "San Diego United Holdings Group's appellate bond is set at \$350,000."
5 San Diego United Holdings Group is the owner of record of the Balboa Dispensary. It
6 has no interest in either MEP or the Mira Este Facility. It is a company owned
7 exclusively by Malan.
8

9 C. "American Lending and Holdings LLC's appellate bond is set at \$350,000."
10 American Lending and Holdings LLC is a company owned exclusively by Malan. It has
11 no interest in either MEP or the Mira Este Facility. Further, American Lending and
12 Holdings LLC has not appealed the 9/26/2018 preliminary injunction.
13

14 D. "Flip Management LLC's appellate bond is set at \$350,000." Flip Management
15 LLC has no interest in either MEP or the Mira Este Facility. It was formed to provide
16 ATM services at the Balboa Dispensary.

17 E. "Balboa Ave Cooperative's appellate bond is set at \$50,000." Balboa Ave.,
18 Cooperative is the licensing entity for the Balboa Dispensary. It has no interest in either
19 MEP or the Mira Este Facility.
20

21 F. "Devilish Delights Inc.'s appellate bond is set at \$50,000." Devilish Delights Inc.
22 has no interest in either MEP or the Mira Este Facility. Devilish Delights Inc. was
23 formed as a nonprofit to "hold" the license for the Roselle Facility once the Roselle
24 Facility was developed as a cannabis manufacturing Facility. Since the Roselle Facility
25 was never developed as a cannabis production Facility, Devilish Delights Inc. has never
26

1 been operational. It holds no licenses and is essentially a "shell" corporation. The only
2 reason that Devilish Delights Inc. filed an appeal was because it was included as an
3 entity subject to the receivership.

4 G. "California Cannabis Group's appellate bond is set at \$50,000." California
5 Cannabis Group holds the business tax certificate for the Mira Este Facility. Other than
6 MEP, California Cannabis Group is the only other entity that holds any interest in the
7 Mira Este Facility. California Cannabis Group stands ready, willing, and able to post
8 the required undertaking of \$50,000.

9
10 H. "Chris Hakim's appellate bond is set at \$350,000." As with Malan, I am a
11 member of MEP but do not hold any interest in the Mira Este Facility itself. The only
12 reason I have joined in the notice of cross-appeal relative to the 9/26/2018 preliminary
13 injunction was because I was included in certain of the general orders made in the
14 9/26/2018 preliminary injunction, such as being enjoined from undertaking certain
15 actions in regards to the operations of the Mira Este Facility.

16
17 I. "Mira Este Properties LLC's appellate bond is set at \$350,000." MEP owns the
18 Mira Este Facility. Other than California Cannabis Group, MEP is the only other entity
19 that holds any interest in the Mira Este Facility. MEP stands ready, willing, and able to
20 post the required undertaking of \$350,000.

21
22 J. "Rosell Properties LLC's appellate bond is set at \$350,000." Roselle Properties
23 LLC has no interest in either MEP or the Mira Este Facility. The only reason it has
24 joined in the appeal is that its licensing affiliate, Devilish Delights Inc., has been placed
25 under the receivership. Additionally, clarification is needed regarding the 9/26/2018
26

1 preliminary injunction and the temporary restraining order dated August 28, 2018. The
2 TRO ordered that Roselle Properties LLC shall not sell or encumber any of its assets
3 pending further order of the court.

4 21. The only entities that hold or own any property interest in the Mira Este
5 Facility are MEP and CCG. If the receivership is vacated or if it is stayed pending appeal, then
6 only MEP and California Cannabis Group are entitled to receive back the assets of the Mira Este
7 Facility.
8 Facility.

9 22. Request is made that the court vacate the receivership at the Mira Este Facility
10 because of the immediate threat caused by the suspended status of CCG, the relocation of
11 Edipure, and the refusal of the only two remaining producers, Presidential and 2020, to locate at
12 the Facility. Alternatively, request is made that the court clarify its 12/17/2018 order setting
13 bond amounts, so that the receivership at the Mira Este Facility may be vacated upon the posting
14 of the specified bond amounts by MEP and California Cannabis Group.
15

16 I declare under penalty of perjury that the foregoing is true and correct except as to
17 those matters stated on information and belief and as to those matters I believe it to be true.
18 This declaration was executed on May 7th, 2019, at San Diego County,
19 California.
20

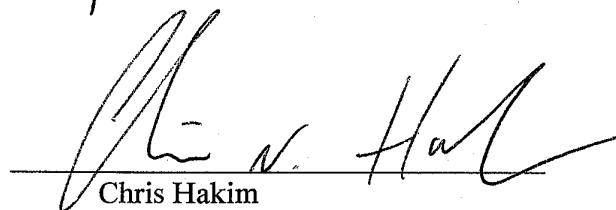
21
22 
Chris Hakim

EXHIBIT 1

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THESE SECURITIES HAVE NOT BEEN REGISTERED OR QUALIFIED PURSUANT TO THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE AND MAY BE OFFERED AND SOLD ONLY IF SO REGISTERED AND QUALIFIED OR IF AN EXEMPTION FROM SUCH REGISTRATION AND QUALIFICATION EXISTS.

**OPERATING AGREEMENT FOR
MIRA ESTE PROPERTIES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY**

This Amended and Restated Operating Agreement is entered into as of the 8th day of July, 2016 by **Ninus Malan**, an individual, and **Chris N. Hakim**, an individual (referred to individually as a Member and collectively as the Members) with reference to the following:

WHEREAS, the Members desire to form a limited liability company (Company) under the California Revised Limited Liability Company Act.

WHEREAS, the Members enter into this Operating Agreement in order to form and provide for the governance of the Company and the conduct of its business and to specify the Members' relative rights and obligations.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged by the Members, the Members hereby agree as follows:

ARTICLE I: DEFINITIONS

The following capitalized terms used in this Agreement have the meanings specified in this Article or elsewhere in the Agreement and when not so defined shall have the meanings set forth in California Corporations Code section 17001.

1.1 "Act" means the California Revised Uniform Limited Liability Company Act (Corporations Code sections 17701.01-17713.13), including amendments from time to time.

1.2 "Agreement" means this operating agreement, as originally executed and as amended from time to time.

1.3 "Articles of Organization" is defined in California Corporations Code section 17701.02(b), as applied to this Company.

1.4 "Assignee" means a person who has acquired a Member's Economic Interest in the Company, by way of a Transfer in accordance with the terms of this Agreement, but who has not become a Member.

1.5 "Assigning Member" means a Member who by means of a Transfer has transferred

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an Economic Interest in the Company to an Assignee.

1.6 "Bankruptcy" shall mean, and a Member shall be deemed a "Bankrupt Member," on: (i) the filing of an application by a Member for relief by a Member, or that Member's consent to the appointment of a trustee, receiver, or custodian of the Member's other assets; (ii) the entry of a decree or order for relief against the Member by a court of competent jurisdiction in any involuntary case brought against the Member under any bankruptcy, insolvency, or other similar law (collectively, "debtor relief laws") generally affecting the rights of creditors and relief of debtors now or hereafter in effect; (iii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, or other similar agent under applicable debtor relief laws for the Member or for any substantial part of that Member's assets or property; (iv) the ordering of the winding up or liquidation of the Member's affairs; (v) the filing of a petition in any such involuntary Bankruptcy case, which petition is not dismissed within 180 days of filing or which is not dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of future United States debtor relief law now or hereafter in effect); (vi) the consent by the Member to the entry of an order for relief in an involuntary case under any such law or the appointment of or the taking of possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator, or other similar agent under any applicable debtor relief law for the Member or for any substantial part of that Member's assets or property; or (vii) the making by a Member of any general assignment for the benefit of creditors.

1.7 "Capital Account" means, as to any Member, a separate account maintained and adjusted in accordance with Article III, Section 3.3 of this Agreement.

1.8 "Capital Contribution" means, with respect to any Member, the amount of money, services, and the fair market value of any property (other than money) contributed to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take "subject to" under IRC section 752) in consideration of a Percentage Interest held by such Member. A Capital Contribution shall not be deemed a loan. The value of all services rendered must be agreed upon by all Members and the Manager in writing.

1.9 "Capital Event" shall mean and include all receipts from a sale, mortgage, or refinancing of a mortgage, foreclosure, abandonment, condemnation (other than a temporary taking) or other disposition or encumbrance of all or substantially all of the Company's real and/or personal property (including sales of easements, rights of way or other interest in the Company's real estate), and any insurance proceeds for reimbursement of a loss (other than a temporary loss) as a result of fire, flood, or other casualty to all or substantially all of the Company's property, less all expenses and losses attributable to such Capital Events, any mortgage or other indebtedness or portion thereof satisfied out of proceeds from such Capital Events, the cost of any improvement, repair or replacement of such property, and any Capital Contributions or other contributions made to the Company by its Members. Any item included or deducted in determining the proceeds of a Capital Event shall not be included or deducted in determining net cash flow. In the event property is distributed to a Member in kind, the Member shall be deemed to have received a distribution of an amount equal to the fair market value of the property and the unrealized appreciation or

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unrecorded depreciation in value shall be treated as part of proceeds from a Capital Event realized or incurred by the Company at the time of distribution.

1.10 "Code" or "IRC" means the Internal Revenue Code of 1986, as amended, and any successor provision.

1.11 "Company" means the company named in Article II, Section 2.1 of this Agreement.

1.12 "Economic Interest" means a Person's right to share in the income, gains, losses, deductions, credit or similar items of, and to receive distributions from, the Company, but does not include any other rights of a Member, including the right to Vote or to participate in management.

1.13 "Encumber" means the acts of creating or purporting to create an Encumbrance, whether or not perfected under applicable law.

1.14 "Encumbrance" means, with respect to any Membership Interest, or any element thereof, a mortgage, pledge, security interest, lien, proxy coupled with an interest (other than as contemplated in this Agreement), option, or preferential right to purchase.

1.15 "Gross Asset Value" means, with respect to any item of property of the Company, the item's adjusted basis for federal income tax purposes, except as follows:

(a) The Gross Asset Value of any item of property contributed by a Member to the Company shall be the fair market value of such property, as mutually agreed by the contributing Member and the Company; and

(b) The Gross Asset Value of any item of Company property distributed to any Member shall be the fair market value of such item of property on the date of distribution, as mutually agreed upon by the distributee Member and the Company.

1.16 "Initial Members" means those Members first referenced above in this Agreement. Reference to an "Initial Member" means any of the Initial Members.

1.17 "Involuntary Transfer" means, with respect to any Membership Interest, or any element thereof, any Transfer or Encumbrance, whether by operation of law, pursuant to court order, foreclosure of a security interest, execution of a judgment or other legal process, or otherwise, including a purported transfer to or from a trustee in bankruptcy, receiver, or assignee for the benefit of creditors.

1.18 "Losses." See "Profits and Losses."

1.19 "Majority of Members" means a Member or Members whose Percentage Interest represent more than 50 percent of the Percentage Interests of all the Members.

1.20 "Manager" or "Managers" shall mean the Person or Persons named as such in Article II, Section 2.6 of this Agreement or a Person who from time to time shall succeed a Person as the Managers and who, in either case, is serving at the relevant time as a Manager.

1.21 "Member" means an Initial Member or Person who otherwise acquires a Membership Interest, as permitted under this Agreement, and who remains a Member.

1.22 "Membership Interest" as used in this Agreement means a Member's entire, rights, title, interest, and all other rights in the Company, collectively, including the Member's Transferable Interest, any right to Vote or participate in management, and any right to information concerning the business and affairs of the Company.

1.22 "Notice" means a written notice required or permitted under this Agreement. A notice shall be deemed given or sent when deposited, as certified mail or for overnight delivery, postage and fees prepaid, in the United States mails; when delivered to Federal Express, United Parcel Service, DHL WorldWide Express, Airborne Express or other overnight delivery or courier service for overnight delivery, charges prepaid or charged to the sender's account; when personally delivered to the recipient; when transmitted by electronic means, and such transmission is electronically confirmed as having been successfully transmitted; or when delivered to the home or office of a recipient in the care of a person whom the sender has reason to believe will promptly communicate the notice to the recipient.

1.23 "Percentage Interest" means a fraction, expressed as a percentage, the numerator of which is the total of a Member's Capital Account and the denominator of which is the total of all Capital Accounts of all Members as described on Exhibit "A" attached hereto.

1.24 "Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

1.25 "Profits and Losses" means, for each fiscal year or other period specified in the Agreement, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with IRC section 703(a).

1.26 "Proxy" means a written authorization signed or an electronic transmission authorized by a member or the Member's attorney-in-fact giving another Person the power to exercise the voting rights of that Member. A Proxy may not be transmitted orally.

1.27 "Regulations" or "Reg" means the income tax regulations promulgated by the United States Department of the Treasury and published in the Federal Register for the purpose of interpreting and applying the provisions of the Code, as such Regulations may be amended from time to time, including corresponding provisions of applicable successor regulations.

1.28 "Substituted Member" is defined in Article VIII, Section 8.4 of this Agreement.

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1.29 "Successor in Interest" means an Assignee, a successor of a Person by merger or otherwise by operation of law, or a transferee of all or substantially all of the business or assets of a Person.

1.30 "Transfer" means, with respect to a Membership Interest, or any element of a Membership Interest, any sales, assignment, gift, Involuntary Transfer, or other disposition of a Membership Interest or any element of such a Membership Interest, directly or indirectly, other than an Encumbrance that is expressly permitted under this Agreement.

1.31 "Transferable Interest" means the right, as originally associated with a Person's capacity as a Member, to receive distributions from the Company in accordance with the terms of this Agreement, whether or not the Person remains a Member or continues to own any equity or other rights in the Company. For purposes of this Agreement, and to the extent permitted by law, the term "Transferable Interest" shall not be distinguished from Membership Interest as used in this Agreement as to the agreements of the Members contained herein, regardless of whether there is a separate definition for this term in the Act.

1.31 "Triggering Event" is defined in Article VIII, Section 8.6 of this Agreement.

1.32 "Vote" means a written consent or approval, a ballot cast at a Meeting, or a voice vote.

1.33 "Voting Interest" means, with respect to a Member, the right to Vote or participate in management and any right to information concerning the business and affairs of the Company provided under the Act, except as limited by the provisions of this Agreement. The Members' Voting Interest shall be directly proportional to the Members' Percentage Interest.

ARTICLE II: ARTICLES OF ORGANIZATION

2.1 The name of the Company shall be **MIRA ESTE PROPERTIES, LLC**.

2.2 The initial principal executive office of the Company shall be at 1011 Camino del Rio South, Suite 210, San Diego, CA 92108, or such other place or as may be determined by the Manager from time to time. The mailing address for the Company shall be the same as above.

2.3 The agent for service of process of the Company shall be **David C. Jarvis**, located at 1011 Camino del Rio South, Suite 210, San Diego, CA 92108. The Manager or all the Members may from time to time change the Company's agent for service of process.

2.4 The Company shall be formed for the purposes of real estate ownership of the specific piece of real property already owned by the Company, or to be acquired by the Company, commonly known as 9212 Mira Este Court, #B, San Diego, CA 92126 (the "Property"). It is not the purpose or intention of the Members that the Company participate in any other business activities other than ownership of the above-referenced Property; provided, however, the Company

MIRA ESTE PROPERTIES, LLC OPERATING AGREEMENT

may also engage in any other lawful purpose as may from time to time be determined by the Manager and the Members.

2.5 The term of existence of the Company shall commence on the effective date of filing the Articles of Organization with the California Secretary of State, and shall continue until December 31, 2056, unless sooner terminated by the provisions of this Agreement, or as provided by law.

2.6 **Chris N. Hakim** shall be the manager (the "Manager") of the Company. No other person or Member shall act as Manager, or have any management or agency role, with or on behalf of the Company.

ARTICLE III: CAPITALIZATION

3.1 The Members' Capital Contributions to the Company is as outlined in Exhibit "A" of this Agreement. The Members shall receive a credit to their Capital Accounts equal to the value of their capital contribution to the Company. The Members' Membership Interest in the Company shall be as stated in Exhibit "A" of this Agreement. In order to obtain additional funds or for other business purposes, Members may contribute additional capital to the Company, but only upon the written consent of the Manager and the other Members.

3.2 The Manager may determine from time to time that additional Capital Contributions in addition to the Members' Initial Capital Contributions are needed to enable the Company to conduct its business. In the event of such a determination, the Manager shall give notice to all Members in writing at least ninety (90) days before the date on which such additional Capital Contribution is due. The Notice shall set forth the amount of additional Capital Contribution needed, the purpose for which it is needed, and the date by which the Members shall contribute. Each Member shall be required to make an additional Capital Contribution in an amount that bears the same proportion to the total additional Capital Contribution that such Member's Capital Account balance bears to the total Capital Account balances of all Members. No Member may voluntarily make any additional Capital Contributions except with the written consent of the Manager.

3.3 If a Member fails to make an Initial Capital Contribution or additional Capital Contribution required under Article III of this Agreement within thirty (30) days after such Capital Contribution is due, the Manager shall within ten (10) days after said failure notify all other Members in writing of the total amount of Capital Contributions not made by the defaulting Member, and shall specify a number of days within which each non-defaulting Member may make a supplemental Capital Contribution. Such supplemental Capital Contribution shall not be more than the amount of the Capital shortfall not so contributed by the defaulting Member. The Manager may use any reasonable method to provide non-defaulting Members the opportunity to make supplemental Capital Contributions in an amount that bears the same ratio to their Percentage Interest until the Capital shortfall is as fully contributed as possible. Following the supplemental Capital Contribution by the non-defaulting Members, each Members' Percentage Interest shall be

adjusted to reflect the ratio that the Members' Capital Account bears to the total Capital Accounts of all the Members. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the Company may have against the defaulting Member.

3.4 An individual Capital Account shall be maintained for each Member consisting of that Member's Capital Contribution, (1) increased by that Member's share of Profits, (2) decreased by the Member's share of Losses, and (3) adjusted as required in accordance with applicable provisions of the Code and Regulations.

3.5 A Member shall not be entitled to withdraw any part of the Member's Capital Contribution or to receive any distributions, whether of money or property, from the Company except as provided for in this Agreement.

3.6 No interest shall be paid on funds or property contributed to the capital of the Company or on the balance of a Member's Capital Account.

3.7 A Member shall not be bound by, or be personally liable for, the expenses, liabilities, or obligations of the Company except as otherwise provided in the Act or in this Agreement.

3.8 Except as provided in Article IV below, no Member shall have priority over any other Member with respect to the return of a Capital Contribution, or distributions or allocations of income, gain, losses, deductions, credits, or items thereof.

3.9 In the event a Member has incurred any indebtedness or obligation before the date of this Agreement that relates to or otherwise affects the Company, neither the Company nor any other Member has any liability or responsibility with respect to the indebtedness or obligation unless the indebtedness or obligation is assumed by the Company pursuant to a written instrument signed by all Members. Furthermore, neither the Company nor any Member is responsible or liable for any indebtedness or obligation that is subsequently incurred by any other Member. In the event that a Member, whether before or after the date of this Agreement, incurs any debt or obligation that neither the Company nor any of the other Members is to have any responsibility or liability for, the liable Member must indemnify and hold harmless the Company and the other Members from any liability or obligation they may incur in respect of the debt or obligation.

3.10 Further provided, Exhibit "A" shall further include funds contributed by either or both Members in furtherance of the purchase of the real property referenced in Section 2.4 above, and upon verification by the Manager such funds shall be part of that Member's Capital Contribution.

ARTICLE IV: ALLOCATIONS AND DISTRIBUTIONS

4.1 Except as provided herein, the Profits and Losses of the Company, as well as all

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items of Company income, gain, loss, deduction, distributions, or credit shall be allocated, for Company book purposes and for tax purposes, to a Member in accordance with the Member's Percentage Interest.

4.2 If any Member unexpectedly receives any adjustment allocation, or distribution described in Reg sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6), items of Company gross income and gain shall be specifically allocated to that Member in an amount and manner sufficient to eliminate any deficit balance in the Member's Capital Account created by such adjustment, allocation, or distribution as quickly as possible. Any special allocation under this Section 4.2 shall be taken into account in computing subsequent allocations of Profits and Losses so that the net amount of allocations of income and loss and all other items shall, to the extent possible, be equal to the net amount that would have been allocated if the unexpected adjustment, allocation, or distribution had not occurred. The provisions of this Section 4.2 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Reg sections 1.704-1(b) and 1.704-2 and shall be interpreted and applied in a manner consistent with such Regulations.

4.3 Any unrealized appreciation or unrealized depreciation in the values of Company property distributed in kind to all the Members shall be deemed to be Profits or Losses realized by the Company immediately prior to the distribution of the property and such Profits or Losses shall be allocated to the Members' Capital Accounts in the same proportions as Profits are allocated under Section 4.1. Any property so distributed shall be treated as a distribution to the Members to the extent of the Fair Market Value of the property less the amount of any liability secured by and related to the property. Nothing contained in this agreement is intended to treat or cause such distributions to be treated as sales for value. For the purposes of this Section 4.3, "unrealized appreciation" or "unrealized depreciation" shall mean the difference between the Fair Market Value of such property and the Company's basis for such property.

4.4 In the case of a Transfer of an Economic Interest during any fiscal year, the Assigning Member and Assignee shall each be allocated this Economic Interest's share of Profits and Losses based on the number of days each held the Economic Interest during that fiscal year.

4.5 All cash resulting from the normal business operations of the Company and from a Capital Event shall be distributed among the Members in proportion to their Percentage Interests in the timeframe determined by the Manager.

4.6 If the proceeds from a sale or other disposition of a Company asset consist of property other than cash, the value of such property shall be as determined by the Members. Such non-cash proceeds shall then be allocated among all the Members in proportion to the Percentage Interest. If such non-cash proceeds are subsequently reduced to cash, such cash shall be distributed to each Member in accordance with Section 4.5.

4.7 Notwithstanding any other provisions of this Agreement to the contrary, when there is a distribution in liquidation of the Company, or when any Member's interest is liquidated, all

items of income and loss first shall be allocated to the Members' Capital Accounts under this Article IV, and other credits and deductions to the Members shall be made to the Members to the extent of and in proportion to their positive Capital Account balances.

4.8 Notwithstanding any provision of this Agreement to the contrary, all distributions of taxable income, net income, net cash flow, net capital proceeds, cash from any Capital Events, or any other distributions or items outlined in Section 4.1 above (collectively, a "Distribution") to the Members of the Company described above shall first be distributed to the Members in satisfaction of all Capital Contributions made to the Company, along with an amount equal to ten percent (10%) annual interest of such Capital Contribution amount as determined by the Company's accountant. Upon satisfaction of the return of the Members' Capital Contributions (plus the 10% annual rate of return on such Capital Contributions), all Distributions shall be made to the Members as provided in Section 4.1 above.

ARTICLE V: MANAGEMENT

5.1 The business of the Company shall be solely managed by the Manager named in Article II, Section 2.6 of this Agreement, or a successor Manager selected in the manner provided in Section 5.3 of this Agreement. The Members shall not have any management role in the Company.

5.2 Unless a Manager resigns or is removed, the Manager shall hold office until a successor is elected and qualified. The Manager need not be a Member, an individual, a resident of the State of California, or a citizen of the United States.

(a) A Manager may resign at any time by giving written notice to the Members without prejudice to the rights, if any, of the Company under any contract to which a Manager is a party. The resignation of a Manager shall take effect upon receipt of that notice or at such later time as shall be specified in the notice. Unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a dissociation of a Member.

(b) A Manager may be removed at any time, with cause, by the Vote of a Majority of Members at a meeting called expressly for that purpose, or by the written consent of all Members. Any removal shall be without prejudice to the rights, if any, of a Manager under any employment contract and, if the Manager is also a Member, shall not affect the Manager's rights as a Member or constitute a dissociation of the Manager as a Member. For purposes of this Section, "cause" shall mean fraud, gross negligence, willful misconduct, embezzlement or a breach of such Manager's obligations under this Agreement or any employment contract with the Company.

5.3 The appointment of a successor Manager shall be made by a Majority of Members for (a) a term expiring with the appointment of a successor, or (b) a term expiring at a definite time specified by a Majority of Members in connection with such an appointment. A successor Manager who is not also a Member may be removed with or without cause at any time by action of a

Majority of Members. A successor Manager who is a Member may be removed only on the Vote of a Majority of Members and the execution and filing of a Certificate of Amendment of the Article of Organization of the Company in conformity with California Corporations Code Section 17054, if necessary, to provide that the Company is to be managed by Manager.

5.4 The day-to-day business, property and affairs of the Company shall be managed exclusively by the Manager. Except for situations in which the approval of the Members is expressly required by this Agreement or by law, the Manager shall have complete and exclusive authority, power, and discretion to manage and control the day-to-day business, property and affairs of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the day-to-day management of the Company's business, property and affairs. Notwithstanding the foregoing, the Manager shall not take any of the following actions on behalf of the Company unless a Majority of Members has consented to the taking of such action:

- (a) Any amendment to the Articles of Organization of the Company;
- (b) The dissolution of the Company;
- (c) The disposition of all or a substantial part of the Company's assets not in the ordinary course of business;
- (d) The entering into, on behalf of the Company, of any transaction constituting a "reorganization" within the meaning of California Corporations Code Section 17600;
- (e) The Company entering into any single transaction, or series of transactions, which obligate the Company in excess of \$20,000, including but not limited to any real property financing or lease arrangements;
- (f) The borrowing of funds by the Company in excess of \$20,000, including but not limited to any loans or other financing obtained by the Company and secured by the Property; and
- (g) The termination, assignment, subletting, or modification of any lease or occupancy between the Company, on the one hand, and third party tenants or occupants, on the other hand, regarding the Property; provided, however, the Manager may terminate any lease that is in default for more than six (6) months, and the Members further release Manager from any liability for not exercising a Company right or remedy available to Company relating to such tenancies or occupancy.

5.5 It is acknowledged that the Manager may have other business interests which the Manager devotes part of his or her time. The Manager shall devote such time to the conduct of the business of the Company as the Manager, in his or her own good faith and discretion, deems necessary. Limitations on the Manager's duties to the Company are further subject to the following so long as such limitations are not manifestly unreasonable:

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(a) A Manager is **not** obligated to commit a specific portion of his or her time to the business of the Company;

(b) A Manager is free to engage in other business activities in which the Company and the other Member(s) have no direct interest;

(c) A Manager is free to engage in business activities that compete with the Company, including but in no way limited to the ownership of investment real property.

(d) A Manager need not offer business opportunities to the Company or the other Member(s), and may take advantage of those other unrelated business opportunities for his or her own account, and neither the Company nor any other Member has a right to any income or equity opportunities derived by the Manager from those other unrelated business activities.

5.6 The Manager may further, after full disclosure to all Members of all material facts and the Vote of a Majority of Members, the Manager may enter into the following acts even though it would violate the Manager's duty of loyalty to the Company and to the Members:

(a) Enter into a transaction for the purchase of other commercial or residential real property for the purpose of Manager's personal investment in which the Manager takes direct or indirect ownership interest in any such real property without the participation of the Company or the other Member(s).

(b) Own, manage, control, operate, or otherwise participate in any business activities similar or dissimilar to the business of the Company without the participation of the Company or the other Member(s).

It is the specific intention of the Members to grant the Manager authority to engage in business opportunities, competing activities, and otherwise devote time to such other business activities in addition to, and potentially in direct competition with, the business activities of the Company.

5.7 The Manager shall be entitled to reimbursement for all expenses reasonably incurred by the Manager in the performance of the Manager's duties. In addition, in the event the fiduciary duties of the Manager require the Manager to bring any business opportunity to the Company pursuant to, or as required by, applicable California law, then the Manager shall further be entitled to reasonable compensation and reimbursement for arranging, developing, or finding such other business opportunity in addition to any other reimbursement or compensation the Manager is otherwise entitled to receive by law, including but not limited to brokers fees or finders fees.

5.8 Subject to Section 5.4 of this Agreement, the Manager shall have all necessary powers to carry out the purposes, business, and objectives of the Company, including, but not limited to, the right to enter into and carry out contracts of all kinds; to employ employees, agents,

consultants and advisors on behalf of the Company; to lend or borrow money and to issue evidences of indebtedness; to bring and defend actions in law or at equity; to buy, own, manage, sell, lease, mortgage, pledge or otherwise acquire or dispose of Company property. The Manager may also deal with any related person, firm or corporation on terms and conditions that would be available from an independent responsible third party that is willing to perform. Subject to Section 5.4 of this Agreement, the Manager shall have the authority to sign agreements and other documents on behalf of the Company provided that the Manager act within the customary scope of authority of a manager of a limited liability company.

Without limiting the generality of this Section 5.8, the Manager shall have the power and authority to act on behalf of the Company in executing all loan documents, escrow instructions, purchase and sale documents, and all other documents necessary or advisable relating to real property, leasehold interest, or personal property acquired by the Company. The Manager shall also have the power and authority to act on behalf of the Company to the extent permitted by the law and this Agreement to do the following:

(a) To acquire property from any Person as the Manager may determine. The fact that a Member is directly or indirectly affiliated or connected with any such Person shall not prohibit the Manager from dealing with that Person or Entity;

(b) To borrow money for the Company from banks, other lending institutions, the Members, or Affiliates of the Members or the Manager on such terms as he deems appropriate, and in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums. Except as otherwise provided in the act, no debt shall be contracted or liability incurred by or on behalf of the Company, except by the Manager, and the terms of which will be subject to approval by a Majority of the Members;

(c) To purchase liability and other insurance to protect the property and business of the Company;

(d) To hold and own any Company real and personal properties in the name of the Company;

(e) To invest any funds of the Company temporarily (by way of example but no limitation) in time deposits, short-term governmental obligations, commercial papers or other investments;

(f) To execute on behalf of the Company all instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments, mortgages or deeds of trust, security agreements, financing statements, documents providing for the acquisition, mortgage or disposition of property of the Company, assignments, bills of sale, leases, partnership agreements and any other instruments or documents necessary, in the opinion of the Manager, to the business of the Company;

(g) To employ accountants, legal counsel, managing agents or other experts to perform services for the Company and to compensate them from Company funds;

(h) To retain and compensate employees and agents generally, and to define their duties;

(i) To enter into any and all other agreements on behalf of the Company, with any Person for any purpose necessary or appropriate to the conduct of the business of the Company;

(j) To pay reimbursement from the Company of all expenses of the Company reasonably incurred and paid by the Manager on behalf of the Company; and

(k) To do and perform all other acts as may be necessary or appropriate to the conduct of the business of the Company.

5.8 The Manager shall cause all assets of the Company (excepting the Company's funds which are held in Trust) to be held in the name of the Company, whether such assets are real or personal.

5.9 All funds of the Company shall be deposited in one or more accounts with one or more recognized financial institutions at such locations as shall be determined by the Manager.

5.10 Each Member, by execution of this Agreement, irrevocably constitutes and appoints the Manager as such Members' true and lawful attorney-in-fact and agent, with full power and authority in such Member's name, place, and stead to execute, acknowledge, and deliver, and to file or record in any appropriate public office: (a) any certificate or other instrument that may be necessary, desirable, or appropriate to qualify the Company as a limited liability company or to transact business as such in any jurisdiction in which the Company conducts business; (b) any certificate or amendment to the Company's Articles of Organization or to any certificate or other instrument that may be necessary, desirable, or appropriate to reflect an amendment approved by the Members in accordance with the provisions of this Agreement; (c) any certificates or instruments that may be necessary, desirable, or appropriate to reflect the dissolution and winding up of the Company; and (d) any certificates necessary to comply with the provisions of this Agreement. This power of attorney will be deemed to be coupled with an interest and will survive the Transfer of the Member's Economic Interest. Notwithstanding the existence of this power of attorney, each Member agrees to join in the execution, acknowledgement, and delivery of the instruments referred to above if requested to do so by the Manager. This power of attorney is a limited power of attorney and does not authorize the Manager to act on behalf of a Member except as described in this Section 5.10.

5.9 Management responsibilities and fiduciary duties of the Manager may not be materially altered except by the unanimous written consent of all Members and the Manager.

5.10 Except as specified in this Agreement, no Manager or affiliate of a Manager is

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entitled to remuneration for services rendered or goods provided to the Company. The Manager and his affiliate shall receive only the following payments:

(a) The Company shall pay a Manager or the Manager's affiliate for services rendered or goods provided to the Company to the extent that the Manager is not required to render such services or goods themselves without charge to the Company, and to the extent that the fees paid to such Manager or the Manager's affiliate does not exceed the fees that would be payable to an independent responsible third party that is willing to perform such services or provide such goods.

(b) The Company shall reimburse a Manager or a Manager's affiliate for the actual cost of materials used for or by the Company. The Company shall also pay or reimburse the Manager or the Manager's affiliate for organizational expenses (including, without limitation, legal and accounting fees and costs) incurred to form the Company and prepare and file the Articles and this Agreement. Except as otherwise provided herein, a Manager and a Manager's affiliate shall not be reimbursed by the Company for the following expenses: (1) salaries, compensation or fringe benefits of directors, officers or employees of a Manager or a Manager's affiliate; (2) overhead expenses of a Manager or a Manager's affiliate, including, without limitation, rent and general office expenses; and (3) the cost of providing any service or goods for which a Manager or a Manager's affiliate are entitled to received compensation from the Company.

ARTICLE VI: ACCOUNTS AND RECORDS

6.1 The Tax Matters Partner shall be the Manager, as defined for federal income tax purposes, and shall be solely responsible for representing the Company in all dealings with the U.S. Internal Revenue Service and any state, local, and foreign tax authorities. The Tax Matters Partner shall keep the other Members reasonably informed of any Company dealings with any tax agency.

6.2 Complete books of account of the Company's business in which each Company transaction shall be fully and accurately entered, shall be kept at the Company's principal executive office and shall be open to inspection and copying by each Member or the Member's authorized representatives on reasonable Notice during normal business hours. The costs of such inspection and copying shall be borne by the requesting Member.

6.3 Financial books and records of the Company shall be kept on the cash method of accounting, which shall be method of accounting followed by the Company for federal income tax purposes. A balance sheet and income statement of the Company shall be prepared promptly following the close of each fiscal year in a manner appropriate to and adequate for the Company's business and for carrying out the provisions of this Agreement. The fiscal year of the Company shall be January 1 through December 31.

6.4 At all times during the term of existence of the Company, and beyond that term if a Majority of Members deem it necessary, the Manager shall keep or cause to be kept the books of account referred to in Section 6.2, and the following:

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(a) A current list of the full name and last known business or residence address of each Member, together with the Capital Contribution and the share in Profits and Losses of each Member;

(b) A copy of the Articles of Organization, as amended;

(c) Copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the six (6) most recent taxable years;

(d) Executed counterparts of this Agreement, as amended;

(e) Any powers of attorney under which the Articles of Organization or any amendments thereto were executed;

(f) Financial statements of the Company for the six most recent fiscal years; and

(g) The Books and Records of the Company as they relate to the Company's internal affairs for the current and past four fiscal years.

If a Majority of Members deem that any of the foregoing items shall be kept beyond the term of existence of the Company, the repository of said items shall be as designated by the Manager.

6.5 Within ninety (90) days after the end of each taxable year of the Company the Company shall send to each Member all information necessary for the Members to complete their federal and state income tax or information returns, and a copy of the Company's federal, state, and local income tax or information returns for such year.

ARTICLE VII: MEMBERS AND VOTING

7.1 There shall be only one class of membership and no Member shall have any rights or preferences in addition to or different from those possessed by any other Member. Each Member shall Vote in proportion to the Member's Percentage Interest as of the governing record date, determined in accordance with Section 7.2. Unless otherwise provided in this Agreement or required by applicable laws, any action that may or must be taken by the Members shall be by a Vote of a Majority of Members.

7.2 The Manager may call a Meeting of the Members when the Manager determines that such a Meeting is necessary or in the best interest of the Company. The record date for determining the Members entitled to Notice of any Meeting, to vote, to receive any distribution, or to exercise any right with respect to any other lawful action, shall be the date and at a location set by the Manager, provided that such record shall not be more than sixty (60) nor less than ten (10) days prior to the date of the Meeting, nor more than sixty (60) days prior to any other action.

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(a) In the absence of any action setting a record date, the record date shall be determined in accordance with the Act.

7.3 At all Meetings of Members, a Member may Vote in person or by Proxy. Such proxy shall be filed with the Manager or the Company before or at the time of the Meeting, and may be filed by facsimile transmission to the Manager or the Company at the principal executive office of the Company or such other address as may be determined by a Majority of Members for such purposes.

7.4 Any action that may be taken at any meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by Members having not less than the minimum number of Votes that would be necessary to authorize or take that action at a meeting at which all Members entitled to Vote thereon were present and Voted. If the Members are requested to consent to a matter without a meeting, each Member shall be given Notice of the matter to be Voted upon in the manner described in Section 7.3 of this Agreement. Any action taken without a meeting shall be effective when the required minimum number of Votes have been received. Prompt Notice of the action shall be given to all Members who have not consented to the action.

7.5 No Member acting solely in the capacity of a Member is an agent of the Company, nor can any Member acting solely in the capacity of a Member bind the Company or execute any instrument on behalf of the Company. Accordingly, each Member shall indemnify, defend, and hold harmless each other Member and the Company from and against any and all loss, cost, expense, liability, or damage arising from or out of any claim based on any action by the Member in contravention of the terms of this Section 7.5.

7.6 To the maximum extent permitted, the Members are further entitled to the rights and privileges granted to the Manager that are outlined in Sections 5.5, 5.6, and other provisions of this Agreement with respect to outside business activities that may be engaged in by the Members which are unrelated to the Company without participation by the Company or the other Members.

ARTICLE VIII: TRANSFERS OF MEMBERSHIP INTERESTS

8.1 A Member may dissociate from the Company at any time by giving Notice of Dissociation to all other Members at least one hundred eighty (180) calendar days before the effective date of dissociation. Dissociation shall not release a Member from any obligations and liabilities under this Agreement accrued or incurred before the effective date of dissociation, nor shall such dissociation affect the rights, duties, or responsibilities of the Manager or the other Member(s) in any way. A withdrawing Member shall divest the Member's entire Membership Interest before the effective date of dissociation in accordance with the transfer restrictions and option rights set forth below.

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8.2 Except as expressly provided in this Agreement, a Member shall not Transfer any part of the Member's Membership Interest in the Company, whether now owned or hereafter acquired unless the other Members unanimously approve the transferee's admission to the Company as a Substituted Member upon such Transfer. A Member shall not transfer the Member's Membership Interest in the Company if the Membership Interest to be transferred, when added to the total of all other Membership Interest transferred in the preceding 12 months, causes the termination of the Company under Section 708 or other provision of the Code. No Member may Encumber or permit or suffer any Encumbrance of all or any part of the Member's Membership Interest in the Company unless such Encumbrance has been approved in writing by all other Members. A Member shall not transfer the Member's Membership Interest in the Company without compliance with all federal and state securities laws. Unless otherwise provided for in this Agreement, any Transfer or Encumbrance of a Membership Interest without such approval shall be void. Unless otherwise provided for in this Agreement, upon (i) any attempt by a Member to transfer of the Member's Membership Interest in violation of this Agreement, (ii) the occurrence of a Dissolution Event as stated in Section 9.1 or a Triggering Event as outlined in Section 8.6, or (iii) the dissociation or resignation of a Member as stated in 8.1, the Membership Interest of a Member shall be terminated by the Manager and thereafter that Member shall hold only an Economic Interest, unless such Membership Interest is purchased by the Company and/or remaining Members as provided in this Article VIII. Each Member acknowledges and agrees that such termination or purchase of a Membership Interest upon the occurrence of any of the foregoing events is not unreasonable under the circumstances existing as of the date hereof.

(a) Notwithstanding any other provision of this Agreement to the contrary, a Member who is a natural person may transfer all or any portion of his or her Membership Interest to or from any revocable trust created for the benefit of the Member, or any combination between or among the Member, the Member's spouse, the Member's siblings or the Member's issue; provided that the Member retains a beneficial interest in the trust and all of the Voting Interest included in such Membership Interest. A transfer of a Member's entire beneficial interest in such trust or failure to retain such Voting Interest shall be deemed a Transfer of a Membership Interest. No transfer in this paragraph shall be effective if the Membership Interest to be transferred, when added to the total of all other Membership Interest transferred in the preceding 12 months, causes the termination of the Company under the Code. Further provided, for purposes of this Agreement the death of such initial Member shall cause the Company and/or the other Member(s) the right to purchase the Membership Interest of a Member who died or became disabled as provided in Section 8.8 below notwithstanding that such dead or disabled Member held all or a portion of their Membership Interest in trust.

(b) Notwithstanding any other provision of this Agreement to the contrary, a Member may transfer his or her Membership Interest to another Member unless the Membership Interest to be transferred, when added to the total of all other Membership Interest transferred in the preceding 12 months, causes the termination of the Company under the Code.

(c) Notwithstanding any other provision of this Agreement to the contrary, a Member may transfer his or her Membership Interest to his or her issue and lineal descendants, unless the

Membership Interest to be transferred, when added to the total of all other Membership Interest transferred in the preceding 12 months, causes the termination of the Company under the Code.

(d) Notwithstanding any other provision of this Agreement to the contrary, a Member may transfer his or her Membership Interest such Member's spouse, either during their life or after their death, unless the Membership Interest to be transferred, when added to the total of all other Membership Interest transferred in the preceding 12 months, causes the termination of the Company under the Code.

8.3 No Member shall participate in any Vote or decision in any matter pertaining to the disposition of that Member's Membership Interest in the Company under this Agreement.

8.4 Except as expressly permitted under Section 8.2, a prospective transferee (other than an existing Member) of a Membership Interest may be admitted as a Member with respect to such Membership Interest (a "Substituted Member") only (1) on the unanimous Vote of the Members, and (2) on such prospective transferee's executing a counterpart of this Agreement as a party hereto. To the extent permitted by this Article VIII, any prospective transferee of a Membership Interest shall be deemed an Assignee, and, therefore, the owner of only an Economic Interest until such prospective transferee has been admitted as a Substituted Member. Any person admitted to the Company as a Substituted Member shall be subject to all provisions of this Agreement.

8.5 The initial sale of Membership Interests in the Company to the Initial Members has not been qualified or registered under the securities laws of any state, or registered under the Securities Act of 1933, as amended, in reliance upon exemptions from the registration provisions of those laws. No attempt has been made to qualify the offering and sale of Membership Interest to Members under the California Corporate Securities Law of 1968, as amended, also in reliance upon an exemption from the requirement that a permit for issuance of securities be procured. Notwithstanding any other provision of this Agreement, Membership Interests may not be Transferred or Encumbered unless registered or qualified under applicable state and federal securities law or unless, in the opinion of legal counsel satisfactory to the Company, such qualification is not required. The Member who desires to Transfer a Membership Interest shall be responsible for all legal fees incurred in connection with said opinion.

8.6 Subject to the provisions above, upon the death of a Member, the Company shall have the option, for a period ending sixty (60) calendar days following the determination of the fair market value of the Membership Interest via an appraisal of the Company and its assets by a licensed appraiser, to purchase the Membership Interest in the Company held by the deceased Member at the fair market value of such Membership Interest unless such Membership Interest will be transferred to a permitted transferee outlined above. The other Members, pro rata in accordance with their Membership Interests in the Company, shall then have the option, for a period of sixty (60) days thereafter with regard to any Membership Interest of the deceased Member not acquired by the Company, to purchase the Membership Interest in the Company held by the deceased Member on the same terms and conditions as apply to the Company. If all Members do not elect to purchase the entire remaining Membership Interest in the Company of the deceased Member, then

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the Members electing to purchase shall have the right, pro rata in accordance with their prior Membership Interest in the Company, to purchase the additional Membership Interest in the Company that is not purchased and shall hold such Membership Interest in the Company subject to all of the provisions of this Agreement.

(a) Payment of the purchase price will be made over a period of five (5) years from the date the elections to purchase referenced in this Section 8.8 are finalized. The Company and/or the remaining Member(s) will execute a promissory note made payable to the successor and/or legal representative of the deceased Member's estate, or to their successors or assigns. Said promissory note shall bear an interest rate of the prime rate as published in the Wall Street Journal during the month in which the elections to purchase referenced in this Section are finalized, plus two percent (2%). The promissory note shall be fully amortized over five (5) years, with payments to the lender of said promissory note(s) made monthly. There shall further be no penalty for the prepayment of the principal balance and accrued interest under the promissory note(s). The promissory note shall provide that, in case of default, at the election of the holder, the entire sum of principal and interest immediately will be due and payable, and that the maker shall pay reasonable attorney's fees to the holder in the event suit is commenced because of default. As long as no default occurs in payments on the note, the purchaser(s) shall be entitled to vote the Membership Interest of the dead or disabled Member.

8.7 Transfers Upon Insolvency; Judicial Order Etc.

(a) Occurrence of any of the following events shall constitute an irrevocable offer (an "Irrevocable Offer"), which shall be irrevocable as long as any of the above conditions or events exist, by the Member to whom the event applies (the "Insolvent Participant") to sell all or part of the Insolvent Participant's Membership Interest in the Membership to the Company and/or the other Members:

(1) filing of voluntary or involuntary petition in bankruptcy by a Member, unless the petition is dismissed within sixty (60) days;

(2) a Member's or (1) insolvency; (2) assignment for the benefit of creditors; or (3) entering into any composition agreement with his creditors;

(3) the attempted involuntary transfer or passage of ownership of all or part of a Member's Membership Interest including without limitation, transfer pursuant to charging or other judicial order, legal process, execution, attachment, enforcement of pledge, trust, encumbrance or sale;

(4) the attempted transfer or passage of ownership of all or part of a Member's Membership Interest resulting from, or relating to, the dissolution or annulment of a Member's marriage to such Member's spouse or former spouse; provided, however, this provision does not apply to any Members married as of the date of this Agreement;

(5) the withdrawal of a Member; and

(6) any transfer of a Membership Interest in violation of this Agreement.

(b) Within fifteen (15) days after occurrence of any event or condition constituting an Irrevocable Offer, the Insolvent Participant shall deliver to the Company and the other Members a written Notice of Irrevocable Offer which contains a description of the condition or event giving rise to the Irrevocable Offer. The Notice of Irrevocable Offer shall state the Membership Interest subject to the Irrevocable Offer, any charges to which the Membership Interests are subject and the identity of any party which has obtained possession of the Membership Interests by legal process or otherwise. Notwithstanding any independent knowledge attributable to the Company or the other Members, failure to provide a Notice of Irrevocable Offer shall not give rise to a waiver or estoppel on the part of the Company or the other Members. Further, the options set forth herein may be exercised despite the failure to provide the Notice of Irrevocable Offer, and the time limitations set forth herein shall commence when the Company and the other Members actually receive the Notice of Irrevocable Offer.

(c) First Option. The Company shall have the first option to accept the Irrevocable Offer and to purchase all or part of the Insolvent Participant's Membership Interest identified therein for a thirty (30) day period following receipt of the Notice of Irrevocable Offer.

(d) Second Option. If the Company does not exercise its option for all of the Insolvent Participant's Membership Interest, the Other Members shall have the pro rata option to accept the Irrevocable Offer and to purchase all or part of the available Membership Interest for a thirty (30) day period commencing on the expiration of the first option granted.

(e) Any option to accept the Irrevocable Offer and purchase the Membership Interest subject thereto, shall be exercised by the timely delivery of written notice to the Insolvent Participant and any person who has obtained possession of the Units or Economic Interest as identified in the Notice of Irrevocable Offer.

(f) Purchase Price. Parties electing to exercise options pursuant to this subsection may elect to purchase the Insolvent Participant's Membership Interest at seventy percent (70%) of the fair market value of the subject Membership Interest, payable on the terms set forth in Section 8.6(a) above. The Company and each Member acknowledges that the foregoing terms and purchase price for an Insolvent Participant's Membership Interest is fair and reasonable under circumstances existing as of the date hereof given the significant inconvenience to the Company and the other Members resulting from the occurrence of any event or condition constituting an Irrevocable Offer by a Member, and to retain the continuity of the Company without interference or interruption from third parties.

(g) For purposes of this Agreement, "Membership Interest" includes any economic or other interest in a Member's Membership Interest, or a Transferrable Interest.

8.8 Transfer of Economic Interest From Member **Ninus Malan** to Salam Razuki. Notwithstanding anything in this Agreement to the contrary, by signing this Agreement the Manager and each Member approves the absolute right to the Transfer of a Membership Interest, Transferrable Interest, and/or the Economic Interest held by Member **Ninus Malan**, as Assigning Member, to Salam Razuki or his designee, as Assignee, on terms agreed upon between them at any time from and after the date of this Agreement. Such Transfer shall be on terms agreed upon between them, and the Manager and each Member further approve the terms and conditions of such Transfer and waive all rights, prohibitions and procedures otherwise set forth in this Article 8 to that Transfer. Provided, however, such Transfer between Member **Ninus Malan** and Salam Razuki shall not materially affect the ownership interest of the other Member(s), increase or materially alter the Manager's duties and obligations, and Member **Ninus Malan** and Salam Razuki agree to release the Manager and the other Member(s) from any liabilities relating to such Transfer. On behalf of the Company, the Manager agrees to acknowledge receipt of a copy of the agreement between Member **Ninus Malan** and Salam Razuki, and agrees that the Company shall be bound by and comply with the provisions contained therein including, but not limited to, those regarding distributions to Member **Ninus Malan** or his successor in interest. Any new Member of the Company further agrees to execute a consent to be bound to the terms and conditions of this Agreement as a condition to becoming a Member of the Company.

ARTICLE IX: DISSOLUTION AND WINDING UP

9.1 The Company shall be dissolved on the first to occur of the following events:

(a) The death, incapacity, dissociation, bankruptcy, or corporate dissolution of a Member; provided, however, that the remaining Members may, by the Vote of a Majority of Members within 90 days of the happening of that event, decide to continue the Company, in which case the Company shall not dissolve. If the remaining Members fail to so Vote, the Manager shall wind up the Company. For purposes of this Paragraph (a), in determining a Majority of Members, the Percentage Interest of the Member who has died, become incapacitated, withdrawn, become bankrupt, or dissolved shall not be taken into account;

(b) The expiration of the term of existence of the Company;

(c) The written agreement of all Members to dissolve the Company;

(d) The sale or other disposition of substantially all of the Company's assets;

(e) Entry of a decree of judicial dissolution pursuant to California Corporations Code section 27351; or

(f) At any earlier time at which dissolution may be required under any applicable law.

9.2 On the dissolution of the Company, the Company shall engage in no further business other than that necessary to wind up the business and affairs of the Company. The

MIRA ESTE PROPERTIES, LLC OPERATING AGREEMENT

Members who have not wrongfully dissolved the Company shall wind up the affairs of the Company. The Persons winding up the affairs of the Company shall give written Notice of the commencement of winding up by mail to all known creditors and claimants against the Company. After paying or adequately providing for the payment of all known debts of the Company (except debts owing to Members) the remaining assets of the Company shall be distributed or applied in the following order of priority:

- (a) To pay the expenses of liquidation.
- (b) To repay outstanding loans to Members. If there are insufficient funds to pay such loans in full, each Member shall be repaid in the ratio that the Member's respective loan, together with interest accrued and unpaid thereon, bears to the total of all such loans from Members, including all interest accrued and unpaid on those loans. Such repayment shall first be credited to unpaid principal and the remainder shall be credited to accrued and unpaid interest.
- (c) Among the Members in accordance with the provisions of Article IV, Section 4.7 of this Agreement.

9.3 Each Member shall look solely to the assets of the Company for the return of the Member's investment, and if the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the investment of any Member, such Member shall have no recourse against any other Members for indemnification, contribution, or reimbursement.

ARTICLE X: DISPUTE RESOLUTION AND INDEMNIFICATION

10.1 Except as otherwise provided in this Agreement, any controversy or claim arising out of or relating to this Agreement or the breach thereof shall be attempted to be settled by mediation before a single mediator, unless otherwise agreed, in San Diego, California.

(a) The mediation shall be administered by and held in accordance with the Commercial Mediation Rules of the American Arbitration Association.

(b) The parties shall, before the commencement of any proceedings, attempt in good faith to settle their dispute by mediation.

(c) The mediator shall be a retired Judge, familiar with the laws regarding the type of dispute to be mediated.

10.2 The substantive law of the State of California shall be applied to the resolution of this dispute.

10.3 The prevailing party shall be entitled to reimbursement of attorney's fees, costs, and expenses incurred in connection with any litigation.

10.4 Mediation shall not be the exclusive remedy of a Member or the Company. A Member or the Company may institute legal proceedings in a court of competent jurisdiction only after such party has attempted to resolve any controversy or claim arising out of or relating to this Agreement or the breach thereof through the use of mediation.

10.5 The Company shall indemnify the Manager or any officer of the Company who was or is a party or is threatened to be made a party to, or otherwise becomes involved in, any action nor proceeding to the maximum extent permitted by law.

ARTICLE XI: GENERAL PROVISIONS

11.1 This Agreement constitutes the whole and entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement replaces and supersedes all prior written and oral agreements by and among the Members or any of them.

11.2 This Agreement may be executed in one or more counterparts, each shall be deemed an original, but all of which together shall constitute one and the same instrument.

11.3 This Agreement shall be construed and enforced in accordance with the internal laws of the State of California. If any provision of the Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement shall remain in effect.

11.4 This Agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, and permitted successors and assigns.

11.5 Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, and the neuter gender shall include the male and female as well as a trust, firm, company, or corporation, all as the context and meaning of this Agreement may require.

11.6 The parties to this Agreement shall promptly execute and deliver any and all additional documents, instruments, notices, and other assurances, and shall do any and all other acts and things, reasonably necessary in connection with the performance of their respective obligations under this Agreement and to carry out the intent of the parties. In the event there is any dispute between the parties that should result in litigation or arbitration, the prevailing party in such dispute shall be entitled to recover from the other party all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses.

11.7 Except as provided in this Agreement, no provision of this Agreement shall be

MIRA ESTE PROPERTIES, LLC OPERATING AGREEMENT

construed to limit in any manner the Members rights in carrying on his, her or its own respective businesses or activities.

11.8 Except as provided in this Agreement, no provision of this Agreement shall be construed to authorize a Member, in the Member's capacity as such, as an agent of any other Member.

11.9 Each Member represents and warrants to the other Members that the Member has the capacity and authority to enter into this Agreement.

11.10 Article titles, sections and headings contained in this Agreement are inserted as a matter of convenience and for ease of reference only and shall be disregarded for all other purposes, including the construction or enforcement of this Agreement or any of its provisions.

11.11 The power to adopt, alter, amend, or repeal this Agreement or the Articles of Organization is vested entirely in the Manager of the Company, unless otherwise provided for in this Agreement or required by law.

11.12 Time is of the essence in every provision of this Agreement that specifies a time for performance.

11.13 This Agreement is made solely for the benefit of the parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement.

11.14 The Members intend the Company to be a limited liability company under the Act. No Member shall take any action inconsistent with the express intent of the parties to this Agreement. The Members further agree that no Member shall petition any Court for an action for partition, pursue any judicial other governmental dissolution of the Company, or otherwise take action intended to force the sale of the assets of the Company under any circumstance except as expressly provided for in this Agreement.

11.15 The Members acknowledge that the tax consequences of each Member's investment in the Company is dependent of each Member's particular financial circumstances. Each Member will rely solely on the Member's financial advisors and not the Company. The Company makes no warranties as to the tax benefits that the Members receive or will receive as a result of the Member's investment in the Company. The parties hereto, and all of them, represent and declare that in executing this Agreement, they rely solely upon their own judgment, belief, and knowledge, and the advice and recommendations of their own independently selected legal and tax counsel, concerning the nature, extent, and duration of their rights and claims, and that they have not been influenced to any extent whatsoever in executing the same by any representations or statements covering any matters made by the other party hereto or by any person representing him or it.

11.16 In the event a Member is not a natural person, neither the Company nor any Member

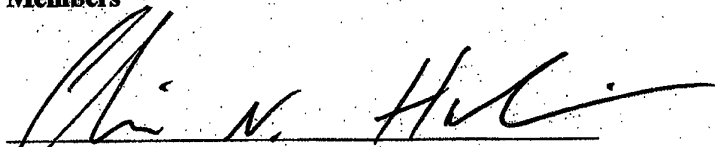
MIRA ESTE PROPERTIES, LLC OPERATING AGREEMENT

will (1) be required to determine the authority of the individual signing this Agreement to make any commitment or undertaking on behalf of the entity or to determine any fact or circumstance bearing on the existence of the authority of the individual, or (2) be required to see to the application or distribution of proceeds paid or credited to individuals signing this Agreement on behalf of the entity.

11.17 One or more attorneys at law may be selected from time to time by the parties to prepare the documentation for the Company, and to perform such other services as may be required. Counsel to a party may also be counsel to one or more other parties, and in accordance with the California Rules of Professional Conduct or similar rules in any other jurisdiction (the "Rules") this constitutes multiple representation. The Members, Manager, and the Company anticipate selecting the Law Offices of Gorla, Weber & Jarvis ("Company Counsel") as legal counsel to the Company. The parties further acknowledge that while communications by the parties with Company Counsel concerning any and matters relating to the business of the Company may be confidential with respect to third parties, no party has any expectation that such communications with Company Counsel are confidential with respect to disputes among or between the parties. The parties further agree and consent to the use of Company Counsel, and understand that Company Counsel has represented one or more of the matters is prior legal matters.

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Agreement on the day and year first above written.

Members



Chris N. Hakim

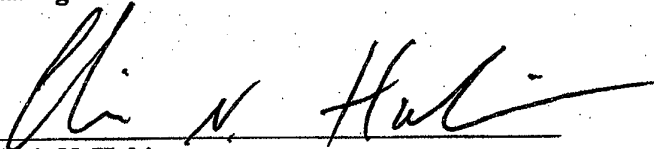
By signing this Agreement, the above Member further acknowledges review of Sections 5.5, 5.6, 5.7, and 7.6 of this Agreement, agrees that the Member is informed of these provisions, and consents to the terms of Sections 5.5, 5.6, 5.7, and 7.6 of this Agreement.



Ninus Malan

By signing this Agreement, the above Member further acknowledges review of Sections 5.5, 5.6, 5.7, and 7.6 of this Agreement, agrees that the Member is informed of these provisions, and consents to the terms of Sections 5.5, 5.6, 5.7, and 7.6 of this Agreement.

Manager



Chris N. Hakim

MIRA ESTE PROPERTIES, LLC OPERATING AGREEMENT

Exhibit "A"

Membership Interest of Members

Name and Address of Members/Membership Interest/Capital Contribution

Member #1

Ninus Malan

5065 Logan Ave Suite 101

San Diego CA 92113

Membership Interest: 50%

Capital Contribution:

\$ 325,000 contributed as follows: 1) Cash

2) _____

3) _____

4) Assignment of Contract Rights to Purchase the Property Described in Section 2.4

Member #2

Chris N. Hakim

1545 Hotel Circle South, Suite 145

San Diego, CA 92108

Membership Interest: 50%

Capital Contribution:

\$ 450,000 contributed as follows: 1) Cash

2) _____

3) _____

EXHIBIT 2

CHRIS N HAKIM D1-10
 VIANCA J HAKIM
 SAN DIEGO, CA 92101

1099
 90-43631222

6/19/2017


PAY TO THE ORDER OF MINUS Malan \$ 101,500.44
One Hundred One Thousand Five Hundred DOLLARS

TORREY PINES BANK
 4350 Executive Drive Suite 130
 San Diego, CA 92121

FOR Pay Down - Minus Malan
Loan

⑆ 122243835⑆ 1099

EXHIBIT 3

	Secretary of State Articles of Incorporation of a General Stock Corporation	ARTS-GS
	<p>IMPORTANT — Read instructions before completing this form.</p> <p>Filing Fee — \$100.00</p> <p>Copy Fees — First page \$1.00; each attachment page \$0.50; Certification Fee - \$5.00</p> <p><i>Note:</i> Corporations may have to pay minimum \$800 tax to the California Franchise Tax Board each year. For more information, go to https://www.ftb.ca.gov.</p>	

FILED *JC*
Secretary of State
State of California
JUL 17 2017 *WES*

lc
This Space For Office Use Only

1. Corporate Name (Go to www.sos.ca.gov/business/be/name-availability for general corporate name requirements and restrictions.)

The name of the corporation is MONARCH MANAGEMENT CONSULTING, INC.

2. Business Addresses (Enter the complete business addresses.)

a. Initial Street Address of Corporation - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
1011 Camino del Rio South, Suite 210	San Diego	CA	92108
b. Initial Mailing Address of Corporation, if different than Item 2a	City (no abbreviations)	State	Zip Code
1011 Camino del Rio South, Suite 210	San Diego	CA	92108

3. Service of Process (Must provide either Individual OR Corporation.)

INDIVIDUAL – Complete Items 3a and 3b only. Must include agent's full name and California street address.

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix
David	C.	Jarvis	
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
1011 Camino del Rio South, Suite 210	San Diego	CA	92108

CORPORATION – Complete Item 3c. Only include the name of the registered agent Corporation.

c. California Registered Corporate Agent's Name (if agent is a corporation) – Do not complete Item 3a or 3b

4. Shares (Enter the number of shares the corporation is authorized to issue. Do not leave blank or enter zero (0).)

This corporation is authorized to issue only one class of shares of stock.
The total number of shares which this corporation is authorized to issue is 100,000

5. Purpose Statement (Do not alter the Purpose Statement.)

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

6. Read and Sign Below (This form must be signed by each incorporator. See instructions for signature requirements.)

David C. Jarvis
Signature

David C. Jarvis, Incorporator
Type or Print Name

EXHIBIT 4

Tab
Number

8/30/16	10000	1204	Juvenal Demo	Labor/Material - See Cancelled Check & Invoice - Symbolic Real Estate
9/16/16	5500	1280	Juvenal Demo	Labor/Material - See Cancelled Check & Invoice - Symbolic Real Estate
12/20/16	6500	1286	Techno	Labor/Material - See Cancelled Check - American Lending & Holding
1/18/17	5000	1141	Evolution Engineering	Labor/Material - Mira Ests Account
2/9/17	600	1143	Techno	Labor/Material - Mira Ests Account
6/6/17	2946.07	1146	City Treasurer	Labor/Material - Mira Ests Account
6/26/17	2734.2	Debit Card	C2C Container Services	Labor/Material - See Proof of Payment - PAID BY NINUS
6/30/17	2734.2	Debit Card	C2C Container Services	Labor/Material - See Proof of Payment - PAID BY NINUS
7/8/17	10040	1116	Teague Framing	Labor/Material - Mira Ests Account
7/8/17	4788.06	Credit Card	Dixieline	Labor/Material - See Credit Card Statement - Lumber & CX Materials - See Invoice
8/24/17	3996.07	Credit Card	Dixieline	Labor/Material - See Credit Card Statement - Materials - See Invoice
9/11/17	1100	1125	Teague Framing	Labor/Material - Mira Ests Account
7/14/17	2550	Credit Card	Daryl Griffiths Acoustic	Labor/Material - See Credit Card Statement & Invoice
7/25/17	14700		Greg's Sealcoating	Labor/Material - See Invoice
8/24/17	5300	1123	Future Drywall	Labor/Material - Mira Ests Account
7/28/17	3500	1121	Oros Ornamental	Labor/Material - Mira Ests Account
8/5/17	2263	1122	Oros Ornamental	Labor/Material - Mira Ests Account
12/6/17	3100	1083	Oros Ornamental	Labor/Material - Paid Personal Account - See Statement
7/6/17	1994.13	Credit Card	IMS San Diego	Labor/Material - See Credit Card Statement - Materials
7/6/17	4950.36	Credit Card	FSI-Oceanside	Labor/Material - See Credit Card Statement - Materials
7/19/17	251.14	Credit Card	FSI-Oceanside	Labor/Material - See Credit Card Statement - Materials
7/19/17	661.4	Credit Card	American Fence Corp	Labor/Material - See Credit Card Statement - Materials
7/19/17	1907.77		FSI-Oceanside	Labor/Material - See Invoice
7/19/17	102.56		FSI-Oceanside	Labor/Material - See Invoice
7/19/17	271.97		FSI-Oceanside	Labor/Material - See Invoice
7/7/17	1500		Oros Ornamental	Labor/Material - See Invoice
7/20/17	6953.52		Oros Ornamental	Labor/Material - See Invoice
10/27/17	4683.98	Credit Card	HD Supply White Cap	Labor/Material - See Credit Card Statement - Materials
7/17/17	500	1118	Forklift Rental	Labor/Material - Mira Ests Account

EXHIBIT 5

MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT (the "Agreement") is entered into as of August 3, 2018 (the "Effective Date") in San Diego, California by and between Mira Este Properties, LLC, a California limited liability company (herein the "Company") on the one hand and Synergy Management Partners LLC on (herein "Manager") on the other hand. Each may be referred to herein individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, the Company has been issued licenses from the state of California ("State") to manufacture and distribute cannabis ("State License") at the real property located at 9212 Mira Este Court, San Diego, CA 92126 (the "Facility");

WHEREAS, Manager has expertise managing cannabis manufacturing and distribution operations; and

WHEREAS, the Company desires to engage Manager to provide the Services as more fully defined herein, and Manager desires to provide such Services to the Company based upon the terms as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and conditions set forth below, the Parties hereto enter this Agreement as follows:

ARTICLE 1.

DUTIES AND RESPONSIBILITIES

Section 1.1: Services. The Company hereby engages Manager to provide the following services (collectively, the "Services"), and Manager hereby accepts such appointment (Synergy Management Partners LLC will jointly act as Manager with all Manager decisions to be made jointly by them):

- a. Manage the day-to-day operations of the Facility.
- b. Provide all staff necessary to operate the Facility on behalf of the Company pursuant to the terms hereof.
- c. Maintain proper accounts and ledgers of the Facility, including accounts payable and receivable.
- d. Keep all records required by and in accordance with applicable law on the Company's behalf and as the manager of the Facility.
- e. Generate customary reports for the Company, which will be provided no less

CH JM NM [Signature]

d. Keep all records required by and in accordance with applicable law on the Company's behalf and as the manager of the Facility.

e. Generate customary reports for the Company, which will be provided no less frequently than weekly.

f. Procure all inventory and equipment needed for the Facility on the Company's behalf.

g. Collect, report and remit all taxes required of the Facility on the Company's behalf.

h. Pay all expenses of the Facility on the Company's behalf, subject to the restrictions contained herein.

i. Maintain proper insurance for the Facility on the Company's behalf.

j. Ensure compliance with all conditions and requirements for the State License.

k. Procure for the Company all vehicles necessary for it to operate its distribution division, whether by lease or purchase arrangement; provided that, the Company agrees in writing to all such arrangements prior to purchase, lease or rental.

l. Create an operational budget for the Facility.

m. Assist design and maintain a website for the Facility.

n. Promote and market the Facility and its services to customers, vendors and other potential sources of revenue.

o. Solicit licensing partners and customers to use the Facility's services and products.

p. Assist create and implement stand operating procedures for the Facility on behalf of the Company.

q. Provide such additional Services as reasonably requested by the Company.

Section 1.2: Inherent Services. The Parties acknowledge and agree that there are functions, responsibilities, activities and tasks not specifically described in this Agreement which are required for the proper performance and provision of the Services and are a necessary, customary or inherent part of, or a necessary sub-part included within, the Services. Manager is empowered to perform such inherent

CH M. R. G.

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Initials: _____

functions, responsibilities, activities and tasks to the same extent and in the same manner as if specifically described in this Agreement.

Section 1.3: Scope of Services. Manager will provide the Services in substantially the same manner it provides services to its other clients and in accordance with Industry standards. Manager will not be required to devote full time to the Services; however, it shall devote such time to the Services as is necessary to faithfully perform the Services in accordance with this Agreement. The Parties recognize that Manager may now or later render services to, with and on behalf of third parties.

Section 1.4: Compliance with Laws. Manager shall, in performing the Services, faithfully observe and comply with all State, and local laws, ordinances and regulations, applicable to the Services to be rendered under this Agreement and shall obtain any permits or licenses required. The Company agrees to faithfully observe and comply with all federal, State, and local laws, ordinances and regulations, applicable to its operation of the Facility and business and shall obtain any permits or licenses required. The Company agrees to faithfully observe and comply with all State, and local laws, ordinances and regulations, applicable to the Services to be rendered under this Agreement and shall obtain any permits or licenses required.

The Parties shall comply with all federal laws applicable to them as a result of this Agreement or operation of the Facility; provided, the Parties expressly acknowledge and agree that (i) the use, possession, cultivation, manufacture, transportation, purchase and sale of cannabis is federally illegal, (ii) the federal laws and certain states' laws regarding the use, possession, cultivation, transportation, manufacture and furnishing of cannabis (the "Industry") are in conflict; (iii) engaging in the lawful conduct of business operations in the Industry under state law may risk criminal or civil forfeiture, violation of federal law, and heightened risk of criminal or civil prosecution, crime and violence; and (iv) such inherent risks are assumed by each Party, and each Party has elected to execute and fulfill this Agreement despite such risks and waives any defense to enforcement of this Agreement based on cannabis being federally illegal. In the event either Party receives a cease and desist letter from the U.S. Government concerning the operation of cannabis businesses at the Facility or otherwise, it shall inform the other party and either party may immediately terminate this Agreement by written notice to the other Party.

Section 1.5: Exclusive Provider of Services. The Company shall exclusively utilize Manager for performance and delivery of its Services during the Term of this Agreement.

Section 1.6: Employee Leasing. Manager will be responsible for providing all personnel required to provide the Services. All such personnel may be leased to the Company by Manager in accordance with the provisions of this Section 1.6 or shall be employed directly by the Company, as decided agreed by the Parties. If the Parties cannot agree, all personnel will be engaged directly by the Company or through a third-party staffing company of its choosing.

- a. If the Company elects to lease employees from Manager, Manager will use

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Initials: _____

commercially reasonable efforts to supply to the Company the services of the persons identified on Exhibit A hereto, incorporated herein by reference ("Assigned Personnel"), which may be amended from time-to-time by the written agreement of the Manager and the Company. Manager shall fill out Exhibit A, either in type or print, including the name, address, email, telephone number, workers' compensation classification, job position, and compensation for each Assigned Personnel, which the Company will confirm and approve. Manager shall be fully responsible for notifying all Assigned Personnel of their leased employee status. Each Assigned Personnel shall be identified according to workers' compensation classification by proper code and according to pay status under the Fair Labor Standards Act or any other rule or regulation that may apply. The Company's signature shall be affixed to Exhibit A to indicate proper classification of workers' compensation code and pay status. No other employees shall become leased to the Company unless specifically agreed by Manager and the Company. Manager shall not be considered an employer for any employee who does not complete a Manager employment application and who is not accepted by Manager as a leased employee. Manager agrees to notify the Company immediately upon the release, termination or cessation of employment of any Assigned Personnel. The Company agrees to cooperate with Manager in all employment matters. Manager shall be responsible for tracking the hours of and processing payroll for all Assigned Personnel. Manager shall maintain a personnel file and personnel records for Assigned Personnel. All Assigned Personnel shall be considered employees of Manager. Manager shall assume sole and exclusive responsibility for the payment of wages to Assigned Personnel. Manager shall, with respect to said personnel, be responsible for withholding federal, state and local income taxes, withholding and paying over the employee share, and paying the employer share, of Social Security and Medicare taxes, unemployment insurance contributions, and any other payroll-related taxes required by law. Manager shall be responsible for maintaining workers' compensation insurance coverage for Assigned Personnel in an amount and under such terms as required by state law. Manager shall be responsible for ensuring that all applications and insurance enrollment forms are fully completed and returned to Manager by the Assigned Personnel.

b. The Company shall comply with all applicable federal, state and local laws in dealings with Assigned Personnel. Manager shall incur no liability for any violation or alleged violation of law or regulation by the Company.

c. In compliance with state law and federal guidelines, Manager shall, after consultation with the Company:

- i. Have a right to recruit, hire, direct and control Assigned Personnel,
- ii. Have a right to discipline, replace, and terminate the employment of Assigned Personnel and designate the date of separation from employment,
- iii. Have a right to reward, promote, reassign, evaluate and determine the wages, hours, terms and conditions of employment,
- iv. Have the right to resolve and decide employee grievances and disputes, and

CH Wm. D. G. Jm

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Initials: _____

v. Supervise and direct Assigned Personnel in a reasonable manner consistent with the practices of similar businesses and enterprises.

d. The Company may retain such sufficient direction and control over the Assigned Personnel as is necessary to conduct the Company's business and without which the Company would be unable to conduct its business, discharge any fiduciary responsibility that it may have, or comply with any applicable licensure, regulatory, or statutory requirement of the Company.

e. It shall be Manager's responsibility to implement a safety and training program that meets the standards of regulations issued by the state of California.

f. The Parties each agree that they will comply with all health and safety laws, right-to-know laws, regulations, ordinances, directives and rules imposed by controlling federal, state, and local government, and that they will immediately report all accidents and injuries to the other party.

g. Environmental factors, equipment, machinery and all other matters which affect employee health and safety shall be maintained in compliance with OSHA standards, which shall be the responsibility of Manager.

h. Roberto Sanz and Jerry Baca shall not be entitled to compensation as Assigned Personnel but rather will be compensated by Manager through its compensation due hereunder.

Section 1.7: Long-Term Agreement. The Parties acknowledge and agree that it is the Parties' intent to, during the Term of this Agreement, negotiate a definitive agreement whereby Manager would continue to operate the Facility, if the Parties can come to mutually agreed upon terms. The Parties agree to negotiate such agreement in good faith during the Term of this Agreement. The Parties acknowledge that a long-term agreement would be conditioned upon the results of the Litigation.

Section 1.8: Prior Agreements. The Parties acknowledge that the Company has recently terminated the services of SoCal Building Ventures, LLC as manager of the Facility pursuant to a management services and option to purchase agreement ("SoCal Agreement"), and that such termination has led to litigation regarding the management and ownership rights in the Facility, Case No. 37-2018-00034229-CU-bc-CIL in the Superior Court of San Diego, Central Division (the "Litigation"). Manager acknowledges and understands that the Litigation could affect Manager's ability to perform under this Agreement or ability to receive timely payment for services, should the court or other parties to the Litigation take certain actions. Excepting the right to indemnification as herein detailed, Manager hereby agrees to waive any breach of this Agreement resulting from the Litigation.

Section 1.9: Manager Brands. The Parties acknowledge and agree that the Manager has certain industry contacts and intends to introduce certain of those contacts to the Company as licensing partners for the Facility to manufacture the contacts' branded cannabis products (the "Manager Brands").

CH NM JY

ARTICLE 2.

TERM OF AGREEMENT; TERMINATION

Section 2.1: Term. This Agreement is entered into on the Effective Date hereof, shall take effect immediately, and shall remain in effect for a period of Ninety (90) days (the "Term"), unless earlier terminated by the Parties.

Section 2.2: Termination. This Agreement may be terminated by either Party with fifteen (15) days' prior written notice to the other Party or immediately upon the material breach of this Agreement by providing the breaching Party written notice of the termination and reason therefor.

Section 2.3: Effect of Termination. Upon termination of this Agreement, Manager shall promptly return all documents and information of the Company or relating to the Facility to the Company. The provisions of this Agreement relating to confidential information and indemnity shall survive termination of this Agreement. In addition, following termination of this Agreement, Manager shall be entitled to continue to receive compensation as detailed in Article 3 of this Agreement.

ARTICLE 3.

COMPENSATION AND EXPENSES

Section 3.1: Compensation. The Company shall pay for the Services provided by Manager as follows:

a. During the term of this Agreement, as compensation for its Services, Manager shall be entitled to receive thirty three percent (33%) of the net profits of the Facility each month ("Management Fee"). For purposes of this Agreement, "net profits" means all revenues generated by the Facility less all costs and expenses of the Facility each month.

b. Following termination of this Agreement, Manager will be entitled to receive two and a half percent (5%) of the net profits of the Facility generated by the Manager Contacts each month.

c. All fees due Manager hereunder will be payable in arrears on the fifth (5th) day of the month, beginning the month following the Effective Date.

Section 3.2: Advances; Reimbursement. Manager agrees to advance all funds, up to

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\$30,000.00, required by the Facility until the Facility has sufficient revenues to cover its ongoing expenses, which advances will be reimbursed by the Company. In connection with the Services, the Company shall reimburse Manager for any expenses or costs actually and reasonably incurred and paid by Manager on behalf of the Company. Notwithstanding anything to the contrary contained herein, all advances from the Manager for expenses prior to there being sufficient revenues of the Facility shall be reimbursed only sixty seven percent (67%), leaving thirty three percent (33%) of such expenses to be borne directly by the Manager, but only to the extent such reimbursed expenses have not been calculated within the net profits due Manager.

Section 3.3: Expenses. The Company shall be responsible for all costs and expenses of operating its Facility and providing products and services to customers, including but not limited to, payment of taxes, the Manager's direct costs associated with the Assigned Personnel, marketing, compliance, insurance, inventory, and rent, whether or not such costs and expenses are to be paid by directly by the Company or by the Manager on the Company's behalf. Otherwise, Manager shall be responsible for its costs associated with provision of its Services. The Parties specifically acknowledge that an entity affiliated with the principal of the Company is entitled to receive \$2,500 per month during the Term of this Agreement for rent, which shall be treated as an expense of the Facility prior to payment of any fee to Manager. (CH)
NM
GM

Section 3.4: Dedicated Account. The Company shall establish a dedicated bank account in its name ("Dedicated Account") and each party shall designate one person to act as signatory on such account. All revenues generated from the Facility shall be deposited into the Dedicated Account and all expenses relating to the Facility shall be paid from the Dedicated Account. Manager shall not be permitted to remove or permit an expense from the Dedicated Account in an amount in excess of \$5,000 without the Company's prior written consent. The Manager shall not use the Dedicated Account for its own purposes or for any other client of Manager and shall hold and use all funds in the Dedicated Account in trust for the benefit of the Company. The Company shall have the authority to remove the Manager's signatory from the Dedicated Account upon termination of this Agreement. The Company may not remove the Management Fee from the account without Manager's prior written permission. The Parties may agree to open more than one Dedicated Account; provided, all such accounts are subject to the provisions of this Section.

ARTICLE 4.

INDEPENDENT CONTRACTOR STATUS

Section 4.1: Relationship of Parties. It is understood and agreed that the Manager is an independent contractor in respect to Manager's relationship to Company, and that Manager is not and should not be considered an agent or employee of the Company for any purpose. Manager will have full control and discretion as to the ways and means of performing any and all Services to be provided under this Agreement. It is understood that in the performance of this Agreement, Manager is not in any way

CH NM AG JG

acting as an employee of Company, and Manager will be responsible for all taxes, social security payments, and other similar payments or contributions due as a result of any payments made pursuant to the terms of this Agreement. As an independent contractor, Manager agrees that Company has no obligation under the state or federal laws regarding employee liability, and that Company's total commitment and liability under this Agreement is the performance of its obligations and the payment of the fees as herein described.

Section 4.2: Contracts. Manager may not enter into any contract or binding agreement on behalf of the Company, written or oral, in an amount of \$2,500.00 or more or in duration to extend past the Term of this Agreement, without the prior written consent of the Company. The Company may enter into contracts without Manager's prior consent; however, the Company will consult with Manager prior to entering into any agreement that could materially impact the Facility or Manager's Services. The Parties agree that they will agree on the form manufacturing and distribution agreements to be used by the Facility and Manager will not enter into any manufacturing or distribution agreement substantially different from the forms agreed to by the Parties.

ARTICLE 5.

INDEMNIFICATION

Section 5.1: Company Indemnification. The Company agrees to indemnify and hold harmless Manager and its subsidiaries, partners, affiliates, principals, directors or agents ("Manager Indemnified Parties") from and against and in respect of any and all liabilities, obligations, assessments, suits, actions, proceedings, claims, or demands asserted against Company and/or Manager or any Manager Indemnified Party or any judgments, damages, losses, including any loss of business or credit costs, expenses and fees, including reasonable attorneys' fees incurred by the Manager Indemnified Parties as a result of the Company's conduct, litigation or Manager's provision of Services in accordance with this Agreement.

Section 5.2: Willful Misconduct. Company will not relieve or indemnify the Manager Indemnified Parties from liability caused by the willful misconduct, material breach of this Agreement, or negligence of Manager Indemnified Parties, their officers, agents, or servants.

Section 5.3: Manager Indemnification. The Manager agrees to indemnify and hold harmless the Company and its subsidiaries, partners, affiliates, principals, directors or agents ("Company Indemnified Parties") from and against and in respect of any and all liabilities, obligations, assessments, suits, actions, proceedings, claims, or demands asserted against Company and/or Manager or any Company Indemnified Party or any judgments, damages, losses, including any loss of business or credit costs, expenses and fees, including reasonable attorneys' fees incurred by the Company Indemnified Parties as a result of the Manager's willful misconduct, negligence or material breach of this Agreement.

ARTICLE 6.

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Initials: _____

GENERAL PROVISIONS

Section 6.1: Mediation. The Parties agree that, prior to litigation, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall first be mediated by the Parties. Mediation shall occur at a mutually agreed upon location in the State of California with a mediator mutually agreed by the Parties. If the Parties cannot agree to a date, location or mediator within ten (10) days from the date any Party gives the other Party written notice of the potential claim or controversy, then the controversy may be submitted directly to a court of appropriate jurisdiction.

Section 6.2: Attorneys' Fees. If any legal action is necessary to enforce or interpret the terms of this Agreement, the prevailing Party will be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which that party may be entitled. This provision will be construed as applicable to the entire contract.

Section 6.3: Integration. This instrument contains the entire Agreement of the Parties with respect to the subject matter hereof and there are no other promised representations or warranties affecting it. This Agreement supersedes any and all other agreements, either oral or in writing, between Manager and Company with respect to the engagement of Manager by Company and contains all of the covenants and agreements between the Parties with respect to that engagement in any manner whatsoever. Each Party to this Agreement acknowledges that no representation, inducements, promises, or agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party that are not embodied in the Agreement, and that no other agreement, statement, or promise not contained in this Agreement will be valid or binding on either Party.

Section 6.4: Modification. Any modification of this Agreement will be effective only if it is in writing and signed by the Party to be charged.

Section 6.5: Waiver. The failure of either Party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other Party will not be deemed a waiver of that term, covenant, or condition, nor will any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

Section 6.6: Severability. If any provision in this Agreement is held by a court of competent jurisdiction or arbitrator to be unreasonable, invalid, void, or unenforceable, then this Agreement will be deemed amended to provide for the modification of the unreasonable, invalid, void, or unenforceable provision to the extent that the court or arbitrator finds reasonable, and the remaining provisions of this Agreement will continue in full force without being impaired or invalidated in any way.

Section 6.7: Governing Law/No Adverse Construction. This Agreement will be governed by and construed in accordance with the laws of the State of California. The Parties agree that this Agreement was prepared by all signatories hereto and their counsel, and in case of ambiguity shall not be

CH - NM - KJ [Signature]

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Initials: _____

construed more strongly against one than against the others.

Section 6.8: Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing and deemed duly given, made and received when (a) personally delivered or (b) three (3) business days after said notice, request, demand and other communication is deposited in U.S. Mail, certified mail, return receipt requested or by overnight mail addressed as follows or at such other addresses as either Party may advise the other from time to time in writing in compliance with this section of this Agreement:

Section 6.9: Counterparts. This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed to be an original, and it shall not be necessary for the same counterpart of this Agreement to be signed by all of the Parties in order for it to be binding upon all of the Parties in accordance with the terms hereof. Electronic or facsimile delivery of this Agreement will be accepted and enforceable.

Section 6.10: Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and to their shareholders, subsidiaries, related and affiliated entities, representatives, successors, assigns, and every person (whether natural or artificial), firm, or entity now or previously affiliated with any of the Parties hereto, or who may become affiliated with any of the Parties hereto in the future. Notwithstanding, neither Party may assign this Agreement without the written consent of the other Party, and any purported assignment without such written consent shall be null and void.

Section 6.11: Representation of Authority. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Parties and enforceable in accordance with its terms.

Section 6.12: Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

Section 6.13: Confidentiality. The Parties agree that at no time (either during or subsequent to the term of this Agreement) will any Party disclose or use, except as required to fulfil its obligations under this Agreement, any Proprietary and Confidential Information of the other Party, or any subsidiary or affiliate of the other Party, acquired during the term of this Agreement. The term "Proprietary and Confidential Information" shall mean, but is not limited to, all information which is known or intended to be known only to the disclosing Party, its subsidiaries and affiliates, and their employees, including any document, record, financial or other information of the disclosing Party, or others in a confidential relationship with the disclosing Party, and further relates to specific business matters such as the

CH *Wm. K. G. Jones*

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Initials: _____

disclosing party's financial information, identity of customers and patients, policies and procedures, fee structures, trade secrets, proprietary know-how, account information, and other information relating to other business of the disclosing Party, its subsidiaries and affiliates, and their employees. Manager agrees not to remove from the Location except with approval of the Company or as necessary to perform services in accordance with the terms of this Agreement, any physical property item, document, record, or other information of the Company or its affiliates.

Each Party agrees to return, immediately upon termination of this agreement hereunder, any and all documentation or physical property and Proprietary and Confidential Information of the other Party that is in the possession of such Party, in whatever format it may be maintained, regardless of who it is, or developed by, and to destroy all said information and documentation if requested by the disclosing Party and provide a certificate of destruction upon request by the disclosing Party.

Notwithstanding the foregoing, the restrictions contained in this section shall not apply to any Proprietary and Confidential Information that is required by law or the order of any court or governmental agency, or in any litigation or similar proceeding to be disclosed; provided that the disclosing party shall, prior to making any such required disclosure, notify the other party with sufficient notice to permit that party to seek an appropriate protective order.

Section 6.14: Acts of God. No Party shall be liable in any respect for failure to comply with the terms of this Agreement due wholly or in part to acts of God, acts of the other party, acts or civil or military authority, fires, floods, epidemics, quarantine restrictions, war, armed hostilities, riots, strikes, lockouts, breakdown, differences with workers, accidents to machinery, delays in transportation, or any other cause beyond the reasonable control of the Party.

Section 6.15: Representation. The Parties acknowledge and agree that they have jointly drafted this Agreement through joint representation by Austin Legal Group, APC and that, if desired, each Party has had the opportunity to seek, and has sought, its own independent counsel to advise it as to the effects and consequences of entering into this Agreement.

Section 6.16: Non-Circumvention. The Parties hereby acknowledge that the Manager will be introducing the Company to certain Assigned Personnel. In consideration of the foregoing, the Company hereby agrees and warrants that it shall not, directly or indirectly, interfere with, circumvent, attempt to circumvent, or obviate or interfere with the relationship of the Manager and its Assigned Personnel for the purpose of gaining any benefit, whether such benefit is monetary or otherwise.

IN WITNESS WHEREOF, the Parties hereto have caused this Assignment to be duly executed by their duly authorized representatives as of the date of this Assignment. The undersigned, by their execution of this Agreement, represent and warrant that they have authority to execute this Agreement on behalf of its respective Party.

[Signature Page Follows]

CH Nm. 16/4 Gary

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Initials: _____

MANAGER:
Synergy Management Partners LLC

Dated: 8-3-18

By: [Signature]
Jerry R. Baca, Responsible Party

COMPANY:
Mira Este Properties, LLC

Dated: 8/3/18

By: [Signature]
Christopher Hakim, Responsible Party
Chris (CH)

Dated: 8/3/18

By: [Signature]
Ninus Malan, Responsible Party

CH

JB

Nm. NY

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Initials: _____

1 Charles F. Gorla, Esq. (SBN68944)
2 GORLA, WEBER & JARVIS
3 1011 Camino del Rio South, Suite 210
4 San Diego, CA 92108
5 Tel.: (619) 692-3555
6 Fax: (619) 296-5508
7 Email: chasgoria@gmail.com

8 Attorneys for Defendants Chris Hakim,
9 Mira Este Properties, LLC, and
10 Roselle Properties LLC

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

- VIA FAX -

13 SALAM RAZUKI, an individual
14 Plaintiff

15 vs

16 NINUS MALAN, an individual; CHRIS
17 HAKIM, an individual; MONARCH
18 MANAGEMENT CONSULTING, INC., a
19 California corporation; SAN DIEGO
20 UNITED HOLDINGS GROUP, LLC, a
21 California limited liability company; FLIP
22 MANAGEMENT, LLC, a California limited
23 liability company; MIRA ESTE
24 PROPERTIES LLC, a California limited
25 liability company; ROSELLE PROPERTIES,
26 LLC, a California limited liability company;
27 BALBOA AVE COOPERATIVE, a
28 California nonprofit mutual benefit
corporation; CALIFORNIA CANNABIS
GROUP, a California nonprofit mutual benefit
corporation; DEVILISH DELIGHTS, INC. a
California nonprofit mutual benefit
corporation; and DOES 1-100, inclusive;

Defendants.

AND RELATED CROSS-ACTIONS AND
ACTIONS IN INTERVENTION.

) Case No.: 37-2018-00034229-CU-BC-CTL

) (Unlimited Civil Action)

) **DECLARATION OF JERRY BACA**

) Hearing Date: May 9, 2019

) Time: 8:30 AM

) Dept.: C-67

) I/C Judge: Hon. Eddie C. Sturgeon

) Complaint Filed: July 10, 2018

) Trial Date: 2/21/2020

) IMAGED FILE

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1. I am over the age of 18.

2. I am the owner and sole member of Synergy Management Partners, LLC ("Synergy"). I have personal knowledge of the matters set forth in this declaration, and if called upon to testify thereto, could and would competently be able to do so.

3. I have been employed in the cannabis industry for more than 6 years. Among other past experiences in the cannabis industry, I have owned and operated a cannabis dispensary; and I have owned and operated a business in three states that facilitated the physician evaluation of patients for possible cannabis prescriptions.

4. Synergy has been the manager at the Mira Este Facility since August 3, 2018. The Mira Este Facility is located in Miramar, San Diego County (the "Facility"). The Facility has the necessary zoning to manufacture marijuana-based products. It is owned by Mira Este Properties, LLC. However, the operations conducted at the Facility are licensed to California Cannabis Group ("CCG"), which is approved by the State of California to manufacture marijuana products. Because of my expertise in the cannabis field, CCG initially contracted with Synergy to act as a consultant for the purpose of, among other things, (1) procuring agreements with marijuana manufacturers to obtain licenses to manufacture their marijuana products at the Facility; (2) running the day-to-day operations at the Facility; and (3) ensuring that the Facility is operated in compliance with all state and local laws and regulations.

5. Synergy initially entered into a Management Services Agreement with CCG on August 3, 2018 (the "MSA"). The MSA set forth the rights and responsibilities of Synergy as the Manager of the Facility.

6. One of the key provisions in the MSA is set forth in Section 1.9, entitled "Manager Brands." That provision provides that Synergy may itself manufacture cannabis

1 products at the Facility under the brands of Synergy's industry contacts. Thus, this provision
2 gave Synergy the right to manufacture its own products at the Facility under the brands of any
3 manufacturer authorizing Synergy to market those products under its brand. Those products
4 were collectively referenced as manager brands.

5 7. Within two weeks of Synergy having assumed its position as the manager of Mira
6 Este Facility, it was able to procure a contract with a manufacturer named Edipure. Under
7 the licensing agreement between Edipure and CCG, Edipure was contractually obligated to
8 pay the greater of \$30,000.00 per month or 10% of its gross revenue per month. It was also
9 obligated to reimburse the expenses paid for products costs.
10

11 8. Although Edipure satisfied its contractual obligations for some time, Edipure
12 ultimately failed to meet its full payment obligations on a routine basis. Edipure opted to vacate
13 the Facility. It has removed its personnel and has ceased all production at the Facility, though
14 certain of its equipment remains at the Facility pending resolution of the outstanding balance
15 owed by Edipure. As of May 2, 2019, the outstanding balance owed by Edipure is
16 approximately \$107,000.
17

18 9. Synergy has also brought another brand, Better than Good ("BTG"), to the
19 Facility. Unlike Edipure, BTG was unwilling to enter into a written licensing agreement directly
20 with CCG because of the imposition of the Receiver. However, it has been willing to permit
21 Synergy to manufacture several manager brands under the BTG brand. BTG would then permit
22 Synergy to retain amounts sufficient to pay for certain operational costs, excise taxes, and also
23 the greater of \$30,000 per month or 5% of gross revenue. BTG has also recently fallen into
24 arrears with respect to certain of its payments. As of May 1, 2019, BTG owes approximately
25 \$80,000 to \$100,000 in arrearages, primarily for excise taxes.
26

1 10. Synergy has applied all revenue from Edipure and BTG towards the costs of
2 running the Facility and servicing the debt on the property.

3 11. Synergy has continued in its efforts to bring other manufacturer brands to the
4 Facility.

5 12. As of March 2019, I was in negotiations with two other brands who expressed
6 interest in having their brands manufactured at and distributed from the Facility. One of those
7 brands was Presidential Rx ("Presidential"). Presidential had expressed a desire to enter into a
8 written licensing agreement with CCG. I anticipated that the additional revenue to the Facility
9 from the anticipated deal with Presidential to be between \$20,000 and \$30,000 per month.
10 However, within the last two weeks, Presidential stopped all negotiations. The reason that was
11 given to me was that there was uncertainty and a lack of stability at the Facility.
12

13 13. Also as of March 2019, I was in in negotiations with a brand called 2020. 2020
14 also expressed an interest in having its brand manufactured at the Facility, though it was
15 unwilling to enter into a written agreement with CCG because of the Receiver. Thus, I had
16 discussed with 2020 an arrangement similar to what is done with BTG, whereby Synergy would
17 produce a new manufacture brand with 2020's authorization to market that line using the 2020
18 brand. Synergy would then retain a certain percentage of the gross revenue for CCG and the
19 Facility. I anticipated that the additional revenue generated from the sale of 2020 products could
20 ultimately fall within the range of \$20,000 - \$30,000 per month. Although I believed in March
21 2019 that the finalization of an agreement with 2020 was imminent, there still has been no
22 agreement reached with 2020. 2020 has been unwilling thus far to enter into a "handshake" deal
23 similar to the arrangement with BTG.
24
25
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1 14. From August 2018 through the present, Synergy has paid all of the expenses
2 associated with the operation of the Facility, except for the most recent payment of excise taxes
3 because those amounts are owed by Edipure and BTG. CCG is not in arrears on any of its other
4 bills (of which Synergy is aware) and Synergy has timely serviced the mortgage on the Facility.
5

6 15. There have been times when the revenue generated by the operations at the
7 Facility has been insufficient to cover operation costs, or the costs associated with bringing
8 the Facility into legal compliance. On those occasions, Synergy has advanced the amounts
9 necessary to cover any shortfall in order to ensure that CCG stays current on all of its financial
10 obligations. Had the negotiations with 2020 and Presidential been successful, the revenue
11 would have been sufficient to make the operations at the Facility profitable, thus eliminating the
12 need for Synergy to advance amounts for future expenses.
13

14 16. In my opinion, and based on my experience in the cannabis industry and in
15 particular, in the management of production facilities such as the Mira Este Facility, I believe
16 there is a great challenge in bringing new producers to the Mira Este Facility under current market
17 conditions. Even aside from the existence of the receivership, another negative influence is the
18 overabundance of other locations available for cannabis production in San Diego.
19

20 I declare under penalty of perjury that the foregoing is true and correct except as to
21 those matters stated on information and belief and as to those matters I believe it to be true.

22 This declaration was executed on May 7, 2019 at San Diego County, California.
23
24

25 
26 _____
Jerry Baca