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

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**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.*

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

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**APPELLANTS' APPENDIX**  
**Volume 6 of 19 – Pages 1425 to 1820 of 6477**

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



# Exhibit B

## MANAGEMENT SERVICES AND OPTION AGREEMENT

This MANAGEMENT SERVICES AND OPTION AGREEMENT (the "Agreement") is made, entered into and effective as of January 2, 2018 (the "Effective Date") by and among **SoCal Building Ventures, LLC** ("Manager" and "Optionee" as context requires), and **Balboa Ave Cooperative**, a California nonprofit mutual benefit corporation, and **San Diego United Holdings Group, LLC**, a California limited liability company (collectively, the "Company" and "Optionor" as context requires), **Monarch Management Consulting, Inc.**, a California corporation (individually referred to herein as "Monarch"), **Chris Hakim**, an individual, and **Ninus Malan**, an individual (together, the "Old Operators") (collectively, the "Parties").

### RECITALS

WHEREAS,

A. Company is a California mutual benefit corporation (which may also be referred to herein as the "Nonprofit") which operates a medical marijuana dispensary for the benefit of its members (the "Operations"), and is in need of business consulting, accounting, administrative, technological, managerial, human resources, financial, intellectual property, and related services in order to provide services to its patients. The Company operates its dispensary at 8863 Balboa Avenue, Suite E., San Diego CA 92123 and 8861 Balboa Avenue, Suite B, San Diego, CA 92123 (collectively, the "Facility"), for which a CUP has been submitted with the City of San Diego for such purposes. San Diego United Holdings Group, LLC owns the Facility in fee simple, as well five (5) other parcels within the HOA where the Facility is located. The Facility needs to receive HOA approval before commencing Operations at the site.

B. Manager is engaged in the business of providing administrative and management services to health care entities and has the capacity to manage and administer the operations of Company and to furnish Company with appropriate managerial, administrative, financial, and technological support (the "Administrative Services"). Manager may assign its obligations hereunder to an affiliate, San Diego Building Ventures, LLC, which shall also be "Manager" hereunder as if an initial party hereto.

C. Company desires management assistance in the Operations. To accomplish this goal, Company desires to engage Manager to provide Administrative Services as are necessary and appropriate for the day-to-day administration and management of the Operations, and Manager desires to provide Administrative Services to Company, all upon the terms and subject to the conditions set forth in this Agreement.

D. Manager is also seeking an option to acquire a 50% ownership interest in the Facility, and Company is willing to grant such an option as provided herein.

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NOW, THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties agree as follows:

## TERMS OF AGREEMENT

### 1. ENGAGEMENT

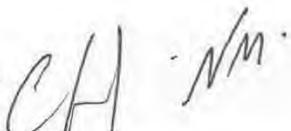
1.1. Engagement of Manager. Company hereby engages Manager to provide the Administrative Services for the Operations on the terms and conditions described herein, and Manager accepts such engagement. Manager shall be the sole and exclusive provider of the administrative, management, and other services to be provided to or on behalf of Company for the Operations as more particularly outlined herein. Manager in its sole discretion shall determine which services shall be provided to Company from time-to-time so long as the Administrative Services are provided in compliance with this Agreement. For purposes of this Agreement, "Administrative Services" shall not include any management services relating to ownership of the Facility by San Diego United Holdings Group, LLC unless and until Manager exercises the option to purchase 50% of the Facility as more particularly outlined in this Agreement.

1.1.1. No Warranty or Representations. Company acknowledges that Manager has not made and will not make any express or implied warranties or representations that the Administrative Services provided by Manager will result in any particular amount or level of income to the Company. Specifically, Manager has not represented that its Administrative Services will result in higher revenues, lower expenses, greater profits, or growth in the number of clients receiving services or purchasing goods at the Facility.

1.2. Agency. Company hereby appoints Manager as Company's true and lawful agent throughout the Term of this Agreement, and Manager hereby accepts such appointment.

1.3. Power of Attorney. In connection with billing, collection, banking, and related services incident to or under the Administrative Services to be provided hereunder, Company, in accordance with applicable law, hereby grants to Manager a limited power of attorney and appoints Manager as Company's true and lawful agent and attorney-in-fact consistent with Manager's duties under this Agreement, and Manager hereby accepts such special power of attorney and appointment, for the following purposes:

- i. To submit bills in Company's name and on Company's behalf, including all claims for reimbursement or indemnification from, health plans, all other third party payors, and its patients and customers for all services provided to patients and customers.
- ii. To collect and deposit all amounts received, including all cash received, patient co-payments, cost reimbursements, co-insurance and deductibles, and accounts receivable, into the "Manager's Account," which shall be and at all



times remain in Company's name through accrual on Company's accounting records.

- iii. To make demand with respect to, settle, and compromise such claims and to coordinate with collections agencies in the name of Company or Manager.
- iv. To take possession of and endorse in the name of Company on any note, check, money order, insurance payment or any other instrument received.
- v. To effectuate the payment of Company expenses, including to the Manager for the Management Fee as it becomes due.
- vi. To sign checks, drafts, bank notes or other instruments on behalf of Company and to make withdrawals from the Manager's Account for other payments specified in this Agreement and as determined appropriate by the Manager.

1.4. Documentation to Bank. Upon request of Manager, Company shall execute and deliver to the financial institution wherein the Manager's Account is maintained, such additional documents or instruments as may be necessary to evidence or effect the limited power of attorney granted to Manager. Company will not take any action that interferes with the transfer of funds to or from Manager's Account, nor will Company or its agents remove, withdraw or authorize the removal or withdrawal of any funds from the Manager's Account for any purpose. Manager agrees to hold all funds in the Manager's Account in accordance with California agency law.

1.5. Expiration of Power of Attorney. The power of attorney shall expire on the date that this Agreement is terminated. Upon termination or expiration of this Agreement, Manager further agrees to execute any and all documentation confirming the termination of this limited power of attorney.

1.6. Manager Payment to Company on Effective Date. From and after the Effective Date, Manager shall lend Company up to the sum of \$150,000 for working capital. Such amount shall be a short term working line of credit to facilitate purchase of new inventory and operational costs. Manager shall thereafter take possession of the Facility, the Operations, and FF&E. Further, upon the Effective date Manager shall pay the Company \$125,000 for the FF&E, which amount shall also serve as a credit against the purchase price if Manager exercises its option under Section 8 below. Manager shall lend Company an additional ~~\$83,000~~ <sup>(\$144,000)</sup> for reimbursement for old inventory, which shall be payable by Company to Old Operators. Lastly, upon the Effective Date hereof, Manager shall pay the Old Operators \$66,000 for reimbursement of legal and mitigation costs. Except for the \$15,000 monthly payments referenced in Section 5.2 and the monthly Balboa-Guaranteed Payments, all loans discussed in this Section 1.6 shall have priority for repayment from available funds more particularly referenced in Article 5 below.

## 2. DUTIES AND RESPONSIBILITIES OF MANAGER

2.1. General Responsibilities. During the Term of this Agreement Manager shall, in a manner determined at the Manager's sole discretion, provide such services as are necessary and appropriate for the day-to-day administration and management of Company's business in a manner consistent with good business practice, including without limitation: Human Resources, Information Technology, Equipment and Supplies, Banking, Accounting and Finance, Insurance Procurement, Risk Management, Contract Negotiation, Marketing, Management of Patient Records, and Licensing of Intellectual Property, Trade Names and Trademarks, as all are more specifically set forth below.

2.1.1. Personnel. Manager has full right, obligation, and authority to hire and retain personnel and other persons or entities needed to perform the Administrative Services for Manager under this Agreement. All personnel will be employees, agents, or independent contractors of the Company, and all costs (including payroll and withholding taxes and expenses, any employment insurance costs, health insurance expenses and insurance, and other customary expenses) associated with such personnel shall be paid by Manager from Company funds managed by Manager, or by Manager if such funds are insufficient.

2.1.2. Manager Personnel. Manager may employ or contract with and provide all necessary personnel ("Manager Personnel") it reasonably needs to provide the Administrative Services hereunder. Such personnel shall be under the direction, supervision, and control of Manager, and shall be employees of Manager. Manager shall be responsible for setting and paying the compensation and providing the fringe benefits of all Manager Personnel. Company shall be not responsible in any way for Manager Personnel, and Manager indemnifies, defends, and holds Company harmless from any such liability.

2.1.3. Training. Manager shall provide reasonable training to personnel in all aspects of the Operations material to the role of such personnel, including but not limited to administrative, financial, and equipment maintenance matters.

2.1.4. Insurance. Manager shall assist Company in Company's purchase of necessary insurance coverage, with the cost of such insurance paid from Company's funds managed by Manager.

2.1.5. Accounting. Manager shall establish and administer accounting procedures and controls and systems for the development, preparation, and keeping of records and books of accounting related to the business and financial affairs of Company. Such books and records shall at all times be accessible and available to Company and the Old Operators.

2.1.6. Tax Matters. Manager shall oversee the preparation of the annual report and tax information returns required to be filed by Company. All of Company's tax obligations shall be paid by Manager out of Company's funds managed by Manager. Manager shall provide such information, compilations, and other relevant information to Company on a timely basis in order to file all returns with the taxing agencies. Company shall also make such reserves and set asides for taxes as directed by Manager throughout the year.



2.1.7. Reports and Information. Manager shall furnish Company in a timely fashion quarterly or more frequent operating reports and other business reports as reasonably requested by Company, including without limitation (i) copies of bank statements and checks relating to Company's bank accounts and (ii) all other financial information and financial statements relating to Operations.

2.1.8. Budgets. Manager shall prepare for review and approval by Company, all capital and annual operating budgets as needed, and such approval shall not be unreasonably withheld.

2.1.9. Expenditures. Manager shall manage all cash receipts and disbursements of Company, including the payment on behalf of Company for any of the items set forth in this Article 2, such as taxes, assessments, licensing fees, and other fees of any nature whatsoever in connection with the operation of the Operations as the same become due and payable, unless payment thereof is being contested in good faith by Company.

2.1.10. Contract Negotiations. Manager shall advise Company with respect to and negotiate, either directly or on Company's behalf, as appropriate and permitted by applicable law, such contractual arrangements with third Parties as are reasonably necessary and appropriate for Company's Operations.

2.1.11. Billing and Collection. On behalf of and for the account of Company, Manager shall establish and maintain credit and billing and collection policies and procedures, and shall exercise reasonable efforts to bill and collect in a timely manner all professional and other fees for all billable services provided by Company.

2.1.12. All Other Matters Reasonably Needed for Operations. The Manager shall perform all tasks required for the good governance and operation of the Operations, including making reasonable repairs, at Company's expense, for any facility used in the Operations as may be required under any lease or mortgage that encumbers the property, or to protect public safety.

2.1.13. Company Approval of Various Actions Relating to Operations. The parties agree Manager has authority to make decisions relating to the day-to-day business operations of the Operations and execute on behalf of Operations all instruments and documents needed in the course of the customary and ordinary operation of Operations, including the payment of ordinary expenses incurred during Operations and other related payments. Manager shall also coordinate any public statements or press interactions.

2.2. Responsibilities as Agent. In connection with the appointment of Manager as Agent of Company under Section 2.1 above, Manager shall further undertake the following:

2.2.1. Billing. Manager shall bill, in Company's name and on Company's behalf, any claims for reimbursement, cost offset, or indemnification from members or

Handwritten signatures and initials, including a large stylized signature and the initials 'MM'.

customers, insurance companies and plans, all state or federally funded benefit plans, and all other third party payors or fiscal intermediaries.

2.2.2. Collections. Manager shall collect and receive on Company's behalf, all accounts receivable generated by such billings and claims for reimbursement, to take possession of, and deposit into the Manager's Account (accruing such deposits on the general ledger of Company) any cash, notes, checks, money orders, insurance payments, and any other instruments received in payment of accounts receivable, to administer such accounts including, but not limited to, extending the time or payment of any such accounts for cash, credit or otherwise; discharging or releasing the obligors of any such accounts; assigning or selling at a discount such accounts to collection agencies; or taking other measures to require the payment of any such accounts.

2.2.3. Banking. The Parties shall cooperate in opening such bank accounts as shall be required for prudent administration of the Operations, including a Manager's Account, opened by and under the control and domain of Manager for the deposit of collections and the disbursement of expenses and other purposes as set forth herein, and (ii) such other accounts as Manager determines in its sole discretion are reasonable and necessary. Manager shall sign checks, drafts, bank notes or other instruments on behalf of Company, and make withdrawals from Manager's Account for payments specified in this Agreement. Manager, in its sole discretion, may make a pledge or assignment of Company's accounts to support financing instruments.

2.2.4. Litigation Management. Manager shall, in consultation with Company, (a) manage and direct the defense of all claims, actions, proceedings or investigations against Company or any of its officers, directors, employees or agents in their capacity as such, and (b) manage and direct the initiation and prosecution of all claims, actions, proceedings or investigations brought by Company against any person other than Manager.

2.2.5. Marketing, Advertising, and Public Relations Programs. Manager shall propose, with Company's consultation, marketing and advertising programs to be implemented by Company to effectively notify the community of the services offered by Company. Manager shall advise and implement such marketing and advertising programs, including, but not limited to, analyzing the effectiveness of such programs, preparing marketing and advertising materials, negotiating marketing and advertising contracts on Company's behalf, and obtaining services necessary to produce and present such marketing and advertising programs. Manager and Company agree that all marketing and advertising programs shall be conducted in compliance with all applicable standards of ethics, laws, and regulations.

2.2.6. Information Technology and Computer Systems. Manager shall set up workstations and other information technology required for the Operations.

2.2.7. Supplies. Manager shall order and purchase all supplies in connection with the Administrative Services and the Operations, including all necessary forms, supplies and postage, provided that all such supplies acquired shall be reasonably necessary in connection with the Operations.

2.2.8. Retention Payments. Manager shall make payments to Monarch in the aggregate of \$35,000 per month (the “Balboa-Guaranteed Payment”) which shall be due on the 15<sup>th</sup> of each month starting on January 15, 2018. The Balboa-Guaranteed Payment shall be increased by 12.5% on December 1, 2018, and increased again by 12.5% on December 1, 2019. Monarch shall be responsible for all income and other taxes due relating to the monthly Balboa-Guaranteed Payment paid to Monarch. Further provided, the Balboa-Guaranteed Payment shall continue to be paid to Monarch from and after Manager’s exercise of the Option, and by execution of this Agreement the Company consents to all such payments to Monarch.

### 3. RELATIONSHIP OF THE PARTIES

3.1. Relationship of the Parties. Nothing contained herein shall be construed as creating a partnership, trustee, fiduciary joint venture, or employment relationship between Manager and Company. In performing all services required hereunder, Manager shall be in the relation of an independent contractor to Company, providing Administrative Services to the Operations operated by Company.

### 4. RESPONSIBILITIES OF COMPANY

4.1. General Responsibilities of Company. Company shall own and operate the Operations during the Term of this Agreement, with Manager managing the day-to-day Operations as provided herein. At all times during this Agreement, the Manager and Company shall coordinate to obtain and maintain in full force and effect all available and necessary licenses, approvals, permits and/or certificates (collectively “Approvals”) required under any and all local and state laws allowing the Company to engage in the Operations at the Facility, and the Company’s performance of its respective obligations pursuant to this Agreement. Company agrees to promptly deliver to Manager any notice of denial or revocation of any such Approvals within three (3) calendar days of receipt by the Company. From and after the Effective Date, Company and Manager shall coordinate and insure, at Company’s expense, that the Operations are in compliance with all Approvals issued by any and all local or state government regarding the Company’s legal standing and ability to engage in the Operations at the Facility, including but not limited to all requirements of any insurance or underwriters or any other body which may exercise similar functions. Company agrees to promptly deliver to Manager any notice of violation of any said Approvals within three (3) calendar days of receipt by the Company.

4.2. Exclusivity. During the term of this Agreement, Manager shall serve as Company’s sole and exclusive manager and provider of the Administrative Services, and Company shall not engage any other person or entity to furnish Company with any sites for conduct of its Operations, any policies or procedures for conduct of the Operations, or any of the financial or other services provided hereunder by Manager. Manager may assign its rights hereunder to manage the operations (but not under the Option) to San Diego Building Ventures, LLC, or such other entity formed for such purpose by Manager, and Company and Old Operators acknowledge its approval of such assignment.

4.3. Representations and Warranties of Company.

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4.3.1. Company represents and warrants to Manager as follows:

4.3.2. Company is duly organized, validly existing and in good standing under the laws of California. The Company represents and warrants that, to Company's knowledge, it holds or is pursuing all required Approvals, which for purposes of this Agreement means collectively all applicable California San Diego City and San Diego County licenses, approvals, permits, authorizations, registrations and the like required by any governmental organization or unit having jurisdiction over Company or the Facility necessary to permit the Company to own and operate the Facility as a cannabis retail store.

4.3.3. The Company has full power, authority and legal right to execute, perform and timely observe all of the provisions of this Agreement. The Company's execution, delivery and performance of this Agreement have been duly authorized.

4.3.4. This Agreement constitutes a valid and binding obligation of the Company and does not and will not constitute a breach of or default under the [charter documents, membership agreements or bylaws] of Company or the terms, conditions, or provisions of any law, order, rule, regulation, judgment, decree, agreement, or instrument to which Company is a party or by which it or any of its assets is bound or affected.

4.3.5. Company shall, at its own expense, keep in full force and effect its legal existence; and Company shall make commercially reasonable efforts to obtain, as and when required for the performance of its obligations under this Agreement, and to maintain the Approvals required for it timely to observe all of the terms and conditions of this Agreement.

4.3.6. Company is the sole owner of the real property on which the Facility is located and is the sole owner of the improvements comprising the Facility and all real and personal property located therein. The Company has full power, authority and legal right to own such real and personal property.

4.3.7. There is no litigation or proceeding pending or threatened against Company that could reasonably be expected to adversely affect the validity of this Agreement or the ability of Company to comply with its obligations under this Agreement.

4.3.8. The Company nor any of its agents or subsidiaries has received any notice of revocation, modification, denial or legal or administrative proceedings relating to the denial, revocation or modification of any local or state approvals, which, singly or in the aggregate, would prohibit the Company's Operations at the Facility.

## 5. FINANCIAL ARRANGEMENTS

5.1. All net income, revenue, cash flow, and other distributions from Operations will be held by Manager as a Management Fee, subject to Manager's further obligations to make payments and pay rent and expenses as otherwise provided herein.

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5.2. Starting on December 1, 2017, Manager shall make monthly payments of \$15,000 to Balboa Ave Cooperative.

5.3. Both before and after the closing of Manager's exercise of the Option, such monthly payments by Manager shall include (i) the monthly Balboa-Guaranteed Payments payable to Monarch, (ii) the \$15,000 monthly payments to Balboa Ave Cooperative prior to the Option as referenced in Section 5.2, and after the Option to San Diego United Holdings Group, LLC as monthly rent payments to the then-title holder of the Facility, (iii) reimbursement to any party as a preferential payment the reimbursement of sums spent for tenant improvements, and (iv) Manager's Operations expenses. Prior to the closing of Manager's exercise of the Option, one third (1/3) of any remaining net income is to be paid to Company (it being understood and agreed that the Balboa-Guaranteed Payments are credited toward this payment of 1/3 of remaining net income sharing.) All such payments constitute a material part of Manager's obligations under this Agreement.

5.4 Notwithstanding anything else herein, the Old Operators and Manager will split the costs of CUP and other mitigations 50/50, and once the Option is exercised, the Manager (or its assignee) and the Old Operators will own the property and cash flows from Manager on a 50/50 basis.

## 6. TERM AND TERMINATION

6.1. Term. Subject to the provisions contained in this Agreement, this Agreement shall commence as of the Effective Date and continue in full force and effect for a period of twenty (20) years.

6.2. Termination. Except as provided herein, this Agreement is not terminable by any Party and may only be not-renewed at the option of the Manager at the expiration of the term hereunder through the provision of ninety (90) days' advance written notice. This Agreement may be terminated through mutual consent of Manager and Company. This Agreement may also be terminated at the option of the Manager if the Operations fail to obtain either (i) any HOA or other local approvals, or (ii) the required California State permissions and licenses, in each case to allow the operation of a retail, non-medical cannabis business. This Agreement may be terminated at the option of the Company upon the failure by Manager to make any payments as are required herein, and such failure has gone uncured for twenty-five (25) days following notice to Manager by Company and/or the Old Operators.

## 7. RECORDS AND RECORD KEEPING

7.1. Access to Information. Company hereby authorize and grants to Manager full and complete access to all information, instruments, and documents relating to Company which may be reasonably requested by Manager to perform its obligations hereunder, and shall disclose and make available to representatives of Manager for review and photocopying all relevant books, agreements, papers, and records of Company. Manager shall further timely provide Company with all books and records generated from Operations. This shall be a continuing

obligation of the Parties following the termination of this Agreement to the extent needed to implement the terms contained herein.

## 8. OPTION TO PURCHASE

8.1 Grant of Option. Company hereby grants Manager an option to acquire a 50% interest in the Facility, as well as a 50% interest in all applicable permits and rights thereto, that constitutes the land, buildings and improvements owned by the Company at and for the Facility location ("Option"). The Option is granted for and in consideration of Manager's payment of a non-refundable Option fee towards the Option Exercise Price of Seventy Five Thousand Dollars (\$75,000.00), which \$75,000 shall be paid to Old Operators on March 15, 2018, regardless of whether Option has been exercised.

8.2 Option Exercise Price. The Option for this 50% interest shall be exercised by the Manager sending notice of exercise to the Company. Thereafter, before the Closing Date, Manager shall deposit into Escrow the following amounts (each an independent "Option Exercise Price") depending upon the date of the notice of exercise as follows:

<u>Date of Option Exercise:</u>	<u>Option Exercise Price of 50% Interest in Facility:</u>
December 31, 2017 (or prior)	\$2,700,000 (50% of \$5,400,000 Facility valuation)
March 31, 2018 (or prior)	\$2,850,000 (50% of \$5,700,000 Facility valuation)
June 30, 2018 (or prior)	\$3,000,000 (50% of \$6,000,000 Facility valuation)

8.3 Closing of Escrow. Escrow shall close on the Date of the Option Exercise, at the mutual direction of the Parties, with a qualified escrow company located in San Diego County. The Parties shall cooperate and execute such documents as are required to transfer the 50% interest in the land, building, and improvements to the Manager at the time of Closing. San Diego United Holdings Group, LLC owns other real property in addition to the Facility also located within the HOA where the Facility is located. As such, the Parties agree to cooperate in holding title to the Facility separate from the other real property owned by San Diego United Holdings Group, LLC consistent with the terms of this Agreement.

8.4 Expiration of Option. If Manager does not exercise the Option prior to July 1, 2018, all of Manager's rights to exercise the Option shall expire. The expiration of the Option shall not affect or alter the non-Option related terms of this Agreement.

8.5 Manager's Operating Agreement – Old Operator's Ownership in Manager. It is the intent of the Parties to, upon exercise of the option hereunder at Section 8.1, grant Old Operators, or their designee, a 33% ownership interest in the Series applicable to the Balboa

Facility in San Diego Building Ventures, LLC, a Delaware Series Limited Liability Company upon . Such ownership interest shall become effective as of the closing of the Option, and the Parties shall incorporate into that Operating Agreement Series such terms as are reflected in that certain LOI dated October 17, 2017 among the Parties with respect to Managers of the Series and related issues set forth therein. The terms of the Operating Agreement for San Diego Building Ventures, LLC shall govern the operations of the Balboa Facility and the Manager upon the closing of the Option. The Parties shall cooperate on the final structural decisions and documentation consistent with the terms contained in the LOI. From and after the closing of Manager's exercise of the Option, this new management company shall further take over all of the Manager's duties and responsibilities as outlined in this Agreement.

8.6 Addition of up to Five Units in Commercial Park. As stated herein, there are five (5) other units in the HOA commercial park owned by San Diego United Holdings Group, LLC not covered by this Agreement and this Option. The "Facility" referenced in Recital A above is the only real property subject to this Agreement. Manager is considering the purchase of an additional four (4) units not owned by San Diego United Holdings Group, LLC in the HOA commercial park. . Further, in the event Manager desires to purchase one or more of these other five (5) units already owned by San Diego United Holdings Group, LLC , the parties agree to negotiate the purchase a 50% interest in one or more of these other units in addition to the Option Exercise Price referenced in Section 8.2 above, and held by Manager 50% with the Company.

8.7 HOA Resolution. Notwithstanding anything else contained in this Agreement, no obligation, passage of time, date, or other matter with respect to the Option shall become effective until the dispute with the Montgomery Field Business Condominiums Association (the "HOA Matter," which shall include Case No. 37-2017-00019384-CU-CO-CTL pending in the Superior Court of San Diego, the dispute underlying said action, and all related matters) is resolved to the satisfaction of Manager. In that regard each of the dates set forth in Section 8.2 above are tolled until the 30<sup>th</sup>, 90<sup>th</sup>, and 150<sup>th</sup> day, respectively, following the resolution of the HOA Matter, to Manager's satisfaction. The expiration date of the Option in section 8.4, above, is similarly tolled.

## 9. GENERAL

9.1. Conversion. At the option of Manager and in consultation with the Old Operators, any Nonprofit may be converted into a for-profit entity and owned as the Parties may otherwise agree, and as is required for compliance with law.

### 9.2. Indemnification.

9.2.1. Indemnification by Company. Company hereby agree to indemnify, defend, and hold harmless Manager, its officers, directors, owners, members, employees, agents, affiliates, and subcontractors, from and against any and all claims, damages, demands, diminution in value, losses, liabilities, actions, lawsuits and other proceedings, judgments, fines, assessments, penalties, awards, costs, and expenses (including reasonable attorneys' fees) related to third party claims, whether or not covered by insurance, arising from or relating to any willful misconduct relating to the breach of this Agreement by Company. The provisions of this Section



shall survive termination or expiration of this Agreement. Company shall immediately notify Manager of any lawsuits or actions, or any threat thereof, that are known or become known to Company that might adversely affect any interest of Company or Manager whatsoever.

9.2.2. Indemnification by Manager. Manager hereby agrees to indemnify, defend, and hold harmless Company, their respective officers, directors, shareholders, employees and agents from and against any and all claims, damages, demands, diminution in value, losses, liabilities, actions, lawsuits and other proceedings, judgments, fines, assessments, penalties, and awards, costs, and expenses (including reasonable attorneys' fees), whether or not covered by insurance, arising from or relating to (a) any material breach of this Agreement by Manager, (b) any acts or omissions by Manager and its employees to the extent that such is not paid or covered by the proceeds of insurance, and (c) all other Operations conduct at the Facility as part of Manager providing Administrative Services to the Company. The provisions of this Section shall survive termination or expiration of this Agreement. Notwithstanding the foregoing, Manager shall not indemnify Company for the acts or omissions of any physicians, or others employed or engaged by Company. Manager shall immediately notify Company of any lawsuits or actions, or any threat thereof, that are known or become known to Manager that might adversely affect any interest of Manager or Company whatsoever.

9.3. Dispute Resolution. In the event that any disagreement, dispute or claim arises among the Parties hereto with respect to the enforcement or interpretation of this Agreement or any specific terms and provisions hereof or with respect to whether an alleged breach or default hereof has or has not occurred (collectively, a "Dispute"), such Dispute shall be settled in accordance with the following procedures:

9.3.1. Meet and Confer. In the event of a Dispute among the Parties hereto, a Party may give written notice to all other Parties setting forth the nature of such Dispute (the "Dispute Notice"). The Parties shall meet and confer in San Diego County to discuss the Dispute in good faith within five (5) days following the other Parties' receipt of the Dispute Notice in an attempt to resolve the Dispute. All representatives shall meet at such date(s) and time(s) as are mutually convenient to the representatives of each participant within the "Meet and Confer Period" (as defined herein below).

9.3.2. Mediation. If the Parties are unable to resolve the Dispute within ten (10) days following the date of receipt of the Dispute Notice by the other parties (the "Meet and Confer Period"), then the parties shall attempt in good faith to settle the Dispute through nonbinding mediation under the Rules of Practice and Procedures (the "Rules") of ADR Services, Inc. ("ADR Services") in San Diego County within thirty (30) days of delivery of the initial Dispute Notice. A single disinterested third-party mediator shall be selected by ADR Services in accordance with its then current Rules. The Parties to the Dispute shall share the expenses of the mediator and the other costs of mediation on a pro rata basis.

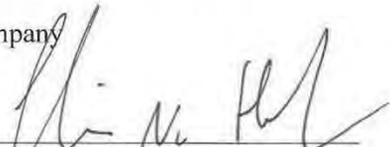
9.3.3. Arbitration. Any Dispute which cannot be resolved by the Parties as outlined above, such Dispute shall be resolved by final and binding arbitration (the "Arbitration"). The Arbitration shall be initiated and administered by and in accordance with the then current Rules of ADR Services. The Arbitration shall be held in San Diego County, unless



the parties mutually agree to have such proceeding in some other locale; the exact time and location shall be decided by the arbitrator(s) selected in accordance with the then current Rules of ADR Services. The arbitrator(s) shall apply California substantive law, or federal substantive law where state law is preempted. The arbitrator(s) selected shall have the power to enforce the rights, remedies, duties, liabilities, and obligations of discovery by the imposition of the same terms, conditions, and penalties as can be imposed in like circumstances in a civil action by a court of competent jurisdiction of the State of California. The arbitrator(s) shall have the power to grant all legal and equitable remedies provided by California law and award compensatory damages provided by California law, except that punitive damages shall not be awarded. The arbitrator(s) shall prepare in writing and provide to the Parties an award including factual findings and the legal reasons on which the award is based. The arbitration award may be enforced through an action thereon brought in the Superior Court for the State of California in San Diego County. The prevailing party in any Arbitration hereunder shall be awarded reasonable attorneys' fees, expert and nonexpert witness costs and any other expenses incurred directly or indirectly with said Arbitration, including without limitation the fees and expenses of the arbitrator(s).

THIS ELECTION OF AN ALTERNATIVE DISPUTE PROCESS IS AN AFFIRMATIVE WAIVER OF THE PARTIES' RIGHTS TO A JURY TRIAL UNDER CALIFORNIA LAW, Cal. C. Civ. Pro. Sec 631. BY SIGNING BELOW, EACH PARTY IS EXPLICITLY WAIVING JURY TRIAL AND AUTHORIZING ANY AND ALL PARTIES TO FILE THIS WAIVER WITH ANY COURT AS THE WAIVER REQUIRED UNDER Cal. C. Civ. Proc. Sec. 631(f)(2):

JURY TRIAL WAIVED:

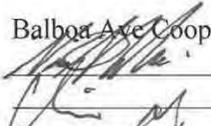
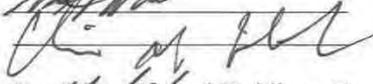
Company \_\_\_\_\_ Manager \_\_\_\_\_  
By:  By:   

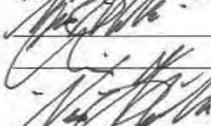
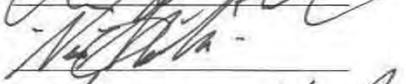
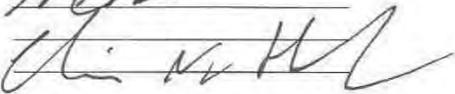

9.4. Entire Agreement; Amendment. This Agreement constitutes the entire agreement among the Parties related to the subject matter hereof and supersedes all prior agreements, understandings, and letters of intent relating to the subject matter hereof. This Agreement may be amended or supplemented only by a writing executed by all Parties. The Recitals of this Agreement are incorporated herein by this reference.

9.5. Notices. All notices, requests, demands or consents hereunder shall be in writing and shall be deemed given and received when delivered, if delivered in person, or four (4) days after being mailed by certified or registered mail, postage prepaid, return receipt requested, or one (1) day after being sent by overnight courier such as Federal Express, to and by the Parties at the following addresses, or at such other addresses as the Parties may designate by written notice in the manner set forth herein:

If to Manager: SoCal Building Ventures, LLC

\_\_\_\_\_  
\_\_\_\_\_

If to Company: Balboa Ave Cooperative  
  
  
San Diego United Holdings Group, LLC

If to Old Operators:   
  


9.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which, when taken together, will constitute one and the same instrument.

9.7. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of California, without reference to conflict of law principles.

9.8. Assignment. Unless expressly set forth to the contrary hereinabove, this Agreement shall not be assignable by any Party hereto without the express written consent of the other Parties; provided, however, Old Operators may assign their holding interest to Monarch or another legal entity owned by the Old Operators, and SoCal Building Ventures, LLC may assign all or a portion of its rights and obligations to San Diego Building Ventures, LLC.

9.9. Waiver. Waiver of any agreement or obligation set forth in this Agreement by either Party shall not prevent that party from later insisting upon full performance of such agreement or obligation and no course of dealing, partial exercise or any delay or failure on the part of any Party hereto in exercising any right, power, privilege, or remedy under this Agreement or any related agreement or instrument shall impair or restrict any such right, power, privilege or remedy or be construed as a waiver therefor. No waiver shall be valid against any Party unless made in writing and signed by the Party against whom enforcement of such waiver is sought.

9.10. Binding Effect. Subject to the provisions set forth in this Agreement, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and upon their respective successors and assigns.

9.11. Waiver of Rule of Construction. Each Party has had the opportunity to consult with its own legal counsel in connection with the review, drafting, and negotiation of this Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement shall be construed against the drafting party shall not apply.

9.12. Severability. If anyone or more of the provisions of this Agreement is adjudged to any extent invalid, unenforceable, or contrary to law by a court of competent jurisdiction, each and all of the remaining provisions of this Agreement will not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

9.13. Force Majeure. Any Party shall be excused for failures and delays in performance of its respective obligations under this Agreement due to any cause beyond the control and without the fault of such party, including without limitation, any act of God, war, terrorism, bio-terrorism, riot or insurrection, law or regulation, strike, flood, earthquake, water shortage, fire, explosion or inability due to any of the aforementioned causes to obtain necessary labor, materials or facilities. This provision shall not release such Party from using its best efforts to avoid or remove such cause and such Party shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Upon claiming any such excuse or delay for non-performance, such Party shall give prompt written notice thereof to the other Party, provided that failure to give such notice shall not in any way limit the operation of this provision.

9.14. Authorization for Agreement. The execution and performance of this Agreement by Company and Manager have been duly authorized by all necessary laws, resolutions, and corporate or partnership action, and this Agreement constitutes the valid and enforceable obligations of Company and Manager in accordance with its terms.

9.15. Duty to Cooperate. The Parties acknowledge that the Parties' mutual cooperation is critical to the ability of Manager and Company to perform successfully and efficiently its duties hereunder. Accordingly, each party agrees to cooperate fully with the other in formulating and implementing goals and objectives which are in Company's best interests.

9.16. Proprietary and Confidential Information. The Parties agree with regard to Confidential Information that Manager may be given or obtain as a result of Manager's performance under this Agreement, or vice versa, such Confidential Information is secret, confidential and proprietary, and shall be utilized only for those purposes of this Agreement or as otherwise directed or agreed to in writing. The term "Confidential Information" means any information or knowledge concerning or in any way related to the practices, pricing, activities, strategies, business plans, financial plans, trade secrets, relationships and methodology of Operations of the business, performance of the Administrative Services, or other matter relating to the business. The Parties shall take appropriate action to ensure that all employees permitted access to Confidential Information are aware of its confidential and proprietary nature and the restrictions placed on its use. The Parties shall not reproduce or copy the Confidential Information of the Company, or any part thereof, in any manner other than is necessary to perform under this Agreement, and no Party shall disclose or otherwise make the Confidential Information available to any other person, corporation, or other entity, except to the other Party, or as otherwise required by law.



9.16.1. All Confidential Information constitutes a valuable, confidential, special and unique asset. The Parties recognize that the disclosure of Confidential Information may give rise to irreparable injury or damage that are difficult to calculate, and which cannot be adequately compensated by monetary damages. Accordingly, in the event of any violation or threatened violation of the confidentiality provisions of this Agreement, a non-violating Party shall be entitled to an injunction restraining such violation.

9.17. Additional Assurances. The provisions of this Agreement shall be self-operative and shall not require further agreement by the Parties; provided, however, at the request of either Party, the other Party shall execute such additional instruments and take such additional acts as are reasonable and as the requesting Party may deem necessary to effectuate this Agreement.

9.18. Consents, Approvals, and Exercise of Discretion. Whenever this requires any consent or approval to be given by either Party, or either Party must or may exercise discretion, and except where specifically set forth to the contrary, the Parties agree that such consent or approval shall not be unreasonably withheld or delayed, and that such discretion shall be reasonably exercised.

9.19. Third Party Beneficiaries. Except as otherwise provided herein, this Agreement shall not confer any rights or remedies upon any person other than Manager and Owner and their respective successors and permitted assigns.

*[signature page follows]*

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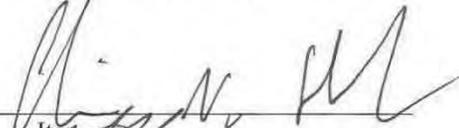
IN WITNESS WHEREOF, the Parties agree to the foregoing terms of agreement through the execution below by their respective, duly authorized representatives as of the Effective Date.

**“COMPANY”**

Balboa Ave Cooperative

By:   
Its: \_\_\_\_\_

San Diego United Holdings Group, LLC

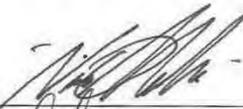
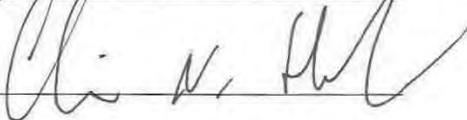
By:   
Its: 

**“MANAGER”**

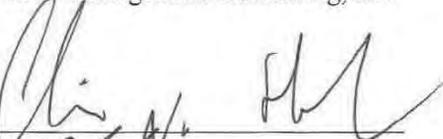
SoCal Building Ventures, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**“OLD OPERATORS”**

By:   
By: 

Monarch Management Consulting, Inc.

By:   
Its: 

# Exhibit C

## MANAGEMENT SERVICES AND OPTION AGREEMENT

This MANAGEMENT SERVICES AND OPTION AGREEMENT (the "Agreement") is made, entered into and effective as of January 2, 2018 (the "Effective Date") by and among **SoCal Building Ventures, LLC** (the "Manager" and "Optionee" as context requires), and **Roselle Properties, LLC**, a California limited liability company (the "Company" and "Optionor" as context requires), and **Chris Hakim**, an individual and **Ninus Malan**, an individual (together who may also be referred to as the "Old Operators") (collectively, the "Parties").

### RECITALS

WHEREAS,

A. Company consists of the real property owner which the Parties believe may be used to operate a medical marijuana cultivation and/or manufacturing site (the "Operations"), and which is in need of business consulting, accounting, administrative, technological, managerial, human resources, financial, intellectual property, and related services in order to conduct Operations. The Company's real property is located at 10685 Roselle Street, San Diego, California 92121 (the "Facility"), for which a CUP has been submitted with the City of San Diego for such purposes. The Company owns the Facility in fee simple. The planned Facility will consist of approximately 20,000 SF. There is currently an unaffiliated tenant at the Facility (which currently has 4000 SF). The Company seeks to lease the Facility to one or more affiliated, qualified cannabis cultivation and/or manufacturing operators following the termination of the current lease consistent with the terms of this Agreement. The existing management company for the Company has assigned its rights to Manager under other agreements between the primary parties.

B. Manager is engaged in the business of providing administrative and management services to health care entities and has the capacity to manage and administer the operations of Company and to furnish Company with appropriate managerial, administrative, financial, and technological support (the "Administrative Services") for the Operations. Manager may assign its obligations hereunder to an affiliate, San Diego Building Ventures, LLC, which shall also be "Manager" hereunder as if an initial party hereto. There are currently to cannabis-related operations occurring at the Facility.

C. Company desires management assistance in the Operations. To accomplish this goal, Company desires to (i) ensure Old Operators are compensated to retain their expertise and continued support of the Operations, and (ii) engage Manager to provide Administrative Services as are necessary and appropriate for the day-to-day administration and management of the Operations, and Manager desires to (i) assist Company in retaining the expertise of Old Operators, and (ii) provide Administrative Services to Company, all upon the terms and subject to the conditions set forth in this Agreement.

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D. Manager is also seeking an option to acquire a 50% ownership interest in the Facility, and Company is willing to grant such an option as provided herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties agree as follows:

## TERMS OF AGREEMENT

### 1. ENGAGEMENT

1.1. Engagement of Manager. Company hereby engages Manager to provide the Administrative Services for the Operations on the terms and conditions described herein, and Manager accepts such engagement. Manager shall be the sole and exclusive provider of the administrative, management, and other services to be provided to or on behalf of Company for the Operations as more particularly outlined herein. Manager in its sole discretion shall determine which services shall be provided to Company from time-to-time so long as the Administrative Services are provided in compliance with this Agreement. For purposes of this Agreement, "Administrative Services" shall not include any management services to Roselle Properties, LLC relating to its ownership of the Facility unless and until Manager exercises the option to purchase 50% of the Facility as more particularly outlined in this Agreement.

1.1.1. No Warranty or Representations. Company acknowledges that Manager has not made and will not make any express or implied warranties or representations that the Administrative Services provided by Manager will result in any particular amount or level of income to the Company. Specifically, Manager has not represented that its Administrative Services will result in higher revenues, lower expenses, greater profits, or growth in the number of clients receiving services or purchasing goods at the Facility.

1.2. Agency. Company hereby appoints Manager as Company's true and lawful agent throughout the Term of this Agreement, and Manager hereby accepts such appointment.

1.3. Power of Attorney. In connection with billing, collection, banking, and related services incident to or under the Administrative Services to be provided hereunder, Company, in accordance with applicable law, hereby grants to Manager a limited power of attorney and appoints Manager as Company's true and lawful agent and attorney-in-fact consistent with Manager's duties under this Agreement, and Manager hereby accepts such special power of attorney and appointment, for the following purposes:

- i. To collect and deposit all amounts received, including all cash received, patient co-payments, cost reimbursements, co-insurance and deductibles, and accounts receivable, into the "Manager's Account," which shall be and at all times remain in Company's name through accrual on Company's accounting records.

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- ii. To make demand with respect to, settle, and compromise such claims and to coordinate with collections agencies in the name of Company or Manager.
- iii. To take possession of and endorse in the name of Company on any note, check, money order, insurance payment or any other instrument received.
- iv. To effectuate the payment of Company expenses, including to the Manager for the Management Fee as it becomes due.
- v. To sign checks, drafts, bank notes or other instruments on behalf of Company and to make withdrawals from the Manager's Account for other payments specified in this Agreement and as determined appropriate by the Manager.

1.4. Documentation to Bank. Upon request of Manager, Company shall execute and deliver to the financial institution wherein the Manager's Account is maintained, such additional documents or instruments as may be necessary to evidence or effect the limited power of attorney granted to Manager. Company will not take any action that interferes with the transfer of funds to or from Manager's Account, nor will Company or its agents remove, withdraw or authorize the removal or withdrawal of any funds from the Manager's Account for any purpose. Manager agrees to hold all funds in the Manager's Account in accordance with California agency law.

1.5. Expiration of Power of Attorney. The power of attorney shall expire on the date this Agreement is terminated. Upon termination or expiration of this Agreement, Manager further agrees to execute any and all documentation confirming the termination of this limited power of attorney.

## 2. DUTIES AND RESPONSIBILITIES OF MANAGER

2.1. General Responsibilities. During the Term of this Agreement Manager shall, in a manner determined at Manager's sole discretion, provide such services as are necessary and appropriate for the day-to-day administration and management of Company's business in a manner consistent with good business practice, including without limitation: Human Resources, Information Technology, Equipment and Supplies, Banking, Accounting and Finance, Insurance Procurement, Risk Management, Contract Negotiation, Cultivation, Marketing, and Licensing of Intellectual Property, Trade Names and Trademarks, as all are more specifically set forth below.

2.1.1. Personnel. Manager has full right, obligation, and authority to hire and retain personnel and other persons or entities needed to perform the Administrative Services for Manager under this Agreement. All personnel will be employees, agents, or independent contractors of the Company, and all costs (including payroll and withholding taxes and expenses, any employment insurance costs, health insurance expenses and insurance, and other customary expenses) associated with such personnel shall be paid by Manager from Company funds managed by Manager, or by Manager if such funds are insufficient.

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2.1.2. Manager Personnel. Manager may employ or contract with and provide all necessary personnel ("Manager Personnel") it reasonably needs to provide the Administrative Services hereunder. Such personnel shall be under the direction, supervision, and control of Manager, and shall be employees of Manager. Manager shall be responsible for setting and paying the compensation and providing the fringe benefits of all Manager Personnel. Company shall be not responsible in any way for Manager Personnel, and Manager indemnifies, defends, and holds Company harmless from any such liability.

2.1.3. Training. Manager shall provide reasonable training to personnel in all aspects of the Operations material to the role of such personnel, including but not limited to administrative, financial, and equipment maintenance matters.

2.1.4. Insurance. Manager shall assist Company in Company's purchase of necessary insurance coverage, with the cost of such insurance paid from Company's funds managed by Manager.

2.1.5. Accounting. Manager shall establish and administer accounting procedures and controls and systems for the development, preparation, and keeping of records and books of accounting related to the business and financial affairs of Company. Such books and records shall at all times be accessible and available to Company and the Old Operators.

2.1.6. Tax Matters. Manager shall oversee the preparation of the annual report and tax information returns required to be filed by Company. All of Company's tax obligations shall be paid by Manager out of Company's funds managed by Manager. Manager shall provide such information, compilations, and other relevant information to Company on a timely basis in order to file all returns with the taxing agencies. Company shall also make such reserves and set asides for taxes as directed by Manager throughout the year.

2.1.7. Reports and Information. Manager shall furnish Company in a timely fashion quarterly or more frequent operating reports and other business reports as reasonably requested by Company, including without limitation (i) copies of bank statements and checks relating to Company's bank accounts and (ii) all other financial information and financial statements relating to Operations.

2.1.8. Budgets. Manager shall prepare for review and approval by Company, all capital and annual operating budgets as needed, and such approval shall not be unreasonably withheld.

2.1.9. Expenditures. Manager shall manage all cash receipts and disbursements of Company, including the payment on behalf of Company for any of the items set forth in this Article 2, such as taxes, assessments, licensing fees, and other fees of any nature whatsoever in connection with the operation of the Operations as the same become due and payable, unless payment thereof is being contested in good faith by Company.

2.1.10. Contract Negotiations. Manager shall advise Company with respect to and negotiate, either directly or on Company's behalf, as appropriate and permitted by applicable

law, such contractual arrangements with third Parties as are reasonably necessary and appropriate for Company's Operations.

2.1.11. Billing and Collection. On behalf of and for the account of Company, Manager shall establish and maintain credit and billing and collection policies and procedures, and shall exercise reasonable efforts to bill and collect in a timely manner all professional and other fees for all billable services provided by Company.

2.1.12. All Other Matters Reasonably Needed for Operations. The Manager shall perform all tasks required for the good governance and operation of the Operations, including making reasonable repairs, at Company's expense, for any facility used in the Operations as may be required under any lease or mortgage that encumbers the property, or to protect public safety.

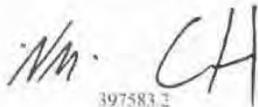
2.1.13. Company Approval of Various Actions Relating to Operations. The parties agree Manager has authority to make decisions relating to the day-to-day business operations of the Operations and execute on behalf of Operations all instruments and documents needed in the course of the customary and ordinary operation of Operations, including the payment of ordinary expenses incurred during Operations and other related payments. Manager shall also coordinate any public statements or press interactions.

2.2. Responsibilities as Agent. In connection with the appointment of Manager as Agent of Company under Section 2.1 above, Manager shall further undertake the following:

2.2.1. Billing. Manager shall bill, in Company's name and on Company's behalf, any claims for reimbursement, cost offset, or indemnification from members or customers, insurance companies and plans, all state or federally funded benefit plans, and all other third party payors or fiscal intermediaries.

2.2.2. Collections. Manager shall collect and receive on Company's behalf, all accounts receivable generated by such billings and claims for reimbursement, to take possession of, and deposit into the Manager's Account (accruing such deposits on the general ledger of Company) any cash, notes, checks, money orders, insurance payments, and any other instruments received in payment of accounts receivable, to administer such accounts including, but not limited to, extending the time or payment of any such accounts for cash, credit or otherwise; discharging or releasing the obligors of any such accounts; assigning or selling at a discount such accounts to collection agencies; or taking other measures to require the payment of any such accounts.

2.2.3. Banking. The Parties shall cooperate in opening such bank accounts as shall be required for prudent administration of the Operations, including a Manager's Account, opened by and under the control and domain of Manager for the deposit of collections and the disbursement of expenses and other purposes as set forth herein, and (ii) such other accounts as Manager determines in its sole discretion are reasonable and necessary. Manager shall sign checks, drafts, bank notes or other instruments on behalf of Company, and make withdrawals from Manager's Account for payments specified in this Agreement. Manager, in its sole

  
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discretion, may make a pledge or assignment of Company's accounts to support financing instruments.

2.2.4. Litigation Management. Manager shall, in consultation with Company, (a) manage and direct the defense of all claims, actions, proceedings or investigations against Company or any of its officers, directors, employees or agents in their capacity as such, and (b) manage and direct the initiation and prosecution of all claims, actions, proceedings or investigations brought by Company against any person other than Manager.

2.2.5. Marketing, Advertising, and Public Relations Programs. Manager shall propose, with Company's consultation, marketing and advertising programs to be implemented by Company to effectively notify the community of the services offered by Company. Manager shall advise and implement such marketing and advertising programs, including, but not limited to, analyzing the effectiveness of such programs, preparing marketing and advertising materials, negotiating marketing and advertising contracts on Company's behalf, and obtaining services necessary to produce and present such marketing and advertising programs. Manager and Company agree that all marketing and advertising programs shall be conducted in compliance with all applicable standards of ethics, laws, and regulations.

2.2.6. Information Technology and Computer Systems. Manager shall set up workstations and other information technology required for the Operations.

2.2.7. Supplies. Manager shall order and purchase all supplies in connection with the Administrative Services and the Operations, including all necessary forms, supplies and postage, provided that all such supplies acquired shall be reasonably necessary in connection with the Operations.

2.2.8. Retention Payments. From Company funds managed by the Manager or as otherwise provided herein, Manager shall make payments to Monarch Management Consulting, Inc. ("Monarch") in the aggregate of \$50,000 per month (the "Roselle-Guaranteed Payment") which shall be due on the 15<sup>th</sup> of each month starting on January 15, 2018. The Roselle-Guaranteed Payment shall be increased to \$56,250 per month on the actual first anniversary of the initial payment of the Roselle-Guaranteed Payment, and increased again on the second such anniversary to \$63,280 per month. Notwithstanding anything else herein, no payment of the Roselle-Guaranteed Payment shall be due or accrue unless and until the Certificate of Occupancy and the CUP are issued for the planned Facility. Monarch shall be responsible for all income and other taxes due relating to the monthly Roselle-Guaranteed Payment paid to Monarch. Further provided, the Roselle-Guaranteed Payment shall continue to be paid to Monarch from and after Manager's exercise of the Option, and by execution of this Agreement the Company consents to all such payments to Monarch.

### 3. RELATIONSHIP OF THE PARTIES

3.1. Relationship of the Parties. Nothing contained herein shall be construed as creating a partnership, trustee, fiduciary joint venture, or employment relationship between Manager and Company. In performing all services required hereunder, Manager shall be in the

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relation of an independent contractor to Company, providing Administrative Services to the Operations operated by Company.

#### 4. RESPONSIBILITIES OF COMPANY

4.1. General Responsibilities of Company. Company shall own and operate the Operations during the Term of this Agreement, with Manager managing the day-to-day Operations as provided herein. At all times during this Agreement, the Manager and Company shall coordinate to obtain and maintain in full force and effect all available and necessary licenses, approvals, permits and/or certificates (collectively "Approvals") required under any and all local and state laws allowing the Company to engage in the Operations at the Facility, and the Company's performance of its respective obligations pursuant to this Agreement. Company agrees to promptly deliver to Manager any notice of denial or revocation of any such Approvals within three (3) calendar days of receipt by the Company. From and after the Effective Date, Company and Manager shall coordinate and insure, at Company's expense, that the Operations are in compliance with all Approvals issued by any and all local or state government regarding the Company's legal standing and ability to engage in the Operations at the Facility, including but not limited to all requirements of any insurance or underwriters or any other body which may exercise similar functions. Company agrees to promptly deliver to Manager any notice of violation of any said Approvals within three (3) calendar days of receipt by the Company.

4.2. Exclusivity. During the Term of this Agreement, Manager shall serve as Company's sole and exclusive manager and provider of the Administrative Services, and Company shall not engage any other person or entity to furnish Company with any sites for conduct of its Operations, any policies or procedures for conduct of the Operations, or any of the financial or other services provided hereunder by Manager. Manager may assign its rights hereunder to manage the operations (but not under the Option) to San Diego Building Ventures, LLC, or such other entity formed for such purpose by Manager, and Company and Old Operators acknowledge its approval of such assignment.

4.3. Representations and Warranties of Company. Company represents and warrants to Manager as follows:

4.3.1. Company is a duly organized, validly existing and in good standing under the laws of California. The Company represents and warrants that, to Company's knowledge, it holds or is pursuing all required Approvals, which for purposes of this Agreement means collectively all applicable California San Diego City and San Diego County licenses, approvals, permits, authorizations, registrations and the like required by any governmental organization or unit having jurisdiction over Company or the Facility necessary to permit the Company to own and operate the Facility as a cannabis cultivation site.

4.3.2. The Company has full power, authority and legal right to execute, perform and timely observe all of the provisions of this Agreement. The Company's execution, delivery and performance of this Agreement have been duly authorized.

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4.3.3. This Agreement constitutes a valid and binding obligation of the Company and does not and will not constitute a breach of or default under the charter documents, membership agreements or bylaws as the case may be of Company or the terms, conditions, or provisions of any law, order, rule, regulation, judgment, decree, agreement, or instrument to which Company is a party or by which it or any of its assets is bound or affected.

4.3.4. Company shall, at its own expense, keep in full force and effect its legal existence; and Company shall make commercially reasonable efforts to obtain, as and when required for the performance of its obligations under this Agreement, and to maintain the Approvals required for it timely to observe all of the terms and conditions of this Agreement.

4.3.5. Company is the sole owner of the real property on which the Facility is located and is the sole owner of the improvements comprising the Facility and all real and personal property located therein. The Company has full power, authority and legal right to own such real and personal property.

4.3.6. There is no litigation or proceeding pending or threatened against Company that could reasonably be expected to adversely affect the validity of this Agreement or the ability of Company to comply with its obligations under this Agreement.

4.3.7. The Company nor any of its agents or subsidiaries has received any notice of revocation, modification, denial or legal or administrating proceedings relating to the denial, revocation or modification of any local or state approvals, which, singly or in the aggregate, would prohibit the Company's Operations at the Facility.

## 5. FINANCIAL ARRANGEMENTS

5.1 All net income, revenue, cash flow, and other distributions from Operations will be held by Manager as a Management Fee, subject to Manager's further obligations to make payments and pay rent and expenses as otherwise provided herein.

5.2 Once the current tenancy is extinguished, Manager shall pay to Company a monthly rental of \$16,000 for its use of space at the Facility. The Old Operators shall pay the NNN expenses for the Facility and the debt service on any liens until the existing tenants have vacated the Facility, whereupon the Manager shall take on the responsibility for the NNN expense and remit \$18,200 in monthly rental payments.

5.3. The Old Operators and Manager will split the costs of CUP and other mitigations 50/50, and once the Option is exercised, the Manager (or its assignee) and the Old Operators will own the property and cash flows from Manager on a 50/50 basis.

5.4 The Old Operators are and will remain solely responsible for the lien on the property of approximately \$1,250,000, and shall make all payments due thereunder on a timely basis pursuant to the terms of the indebtedness.

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5.5 Prior to the closing of Manager's exercise of the Option, one third (1/3) of any remaining net income is to be paid to Company (it being understood and agreed that the Roselle-Guaranteed Payments, once due, are credited toward this payment of 1/3 of remaining net income sharing.) All such payments constitute a material part of Manager's obligations under this Agreement.

## 6. TERM AND TERMINATION

6.1. Term. Subject to the provisions contained in this Agreement, this Agreement shall commence as of the Effective Date and continue in full force and effect for a period of twenty (20) years.

6.2. Termination. Except as provided herein, this Agreement is not terminable by any Party and may only be not-renewed at the option of the Manager at the expiration of the term hereunder through the provision of ninety (90) days' advance written notice. This Agreement may be terminated through mutual consent of Manager and Company. This Agreement may also be terminated at the option of the Manager if the Operations fail to obtain either (i) any CUP or other local approvals, or (ii) the required California State permissions and licenses, in each case to allow the conduct of Operations at the Facility. This Agreement may be terminated at the option of the Company upon the failure by Manager to make any payments as are required herein, and such failure has gone uncured for twenty-five (25) days following notice to Manager by Company and/or the Old Operators.

## 7. RECORDS AND RECORD KEEPING

7.1. Access to Information. Company hereby authorize and grants to Manager full and complete access to all information, instruments, and documents relating to Company which may be reasonably requested by Manager to perform its obligations hereunder, and shall disclose and make available to representatives of Manager for review and photocopying all relevant books, agreements, papers, and records of Company. Manager shall further timely provide Company with all books and records generated from Operations. This shall be a continuing obligation of the Parties following the termination of this Agreement to the extent needed to implement the terms contained herein.

## 8. OPTION TO PURCHASE

8.1 Grant of Option. Company hereby grants Manager an option to acquire a 50% interest in the Facility, as well as 50% of all applicable permits and rights thereto, that constitutes the land, buildings and improvements owned by the Company at and for the Facility location ("Option"). The Option is granted for and in consideration of Manager's payment of a non-refundable Option fee towards the Option Exercise Price of Seventy Five Thousand Dollars (\$75,000.00), which \$75,000 shall be paid to Old Operators on March 15, 2018, regardless of whether Option has been exercised.

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- a. The Old Operators and Manager acknowledge that the real estate interest shall not be conveyed free and clear of all liens, but that existing liens on the real estate will remain in effect. The Old Operators agree that they will be personally responsible for the existing at the time of Closing of Escrow as follows:
- i. The Old Operators will be solely and personally responsible for paying in a timely fashion and ultimately paying off, the first lien of approximately \$1,250,000. They hereby indemnify Manager and its successors from and against any and all claims, damages, or payments that the lien holder or its successor may seek in enforcing its security interest and lien rights with respect to the property.

8.2 Option Exercise Price. The Option for this 50% interest shall be exercised by the Manager sending notice of exercise to the Company. Thereafter, before the Closing Date, Manager shall deposit into Escrow the following amounts (each an independent "Option Exercise Price") depending upon the date of the notice of exercise as follows:

<u>Date of Option Exercise:</u>	<u>Option Exercise Price for 50% of Facility:</u>
December 31, 2017 (or prior)	\$2,250,000
March 31, 2018 (or prior)	\$2,375,000
June 30, 2018 (or prior)	\$2,500,000

8.3 Closing of Escrow. Escrow shall close on or before the sixtieth (60<sup>th</sup>) day following the Date of the Option Exercise, at the mutual direction of the Parties, with a qualified escrow company located in San Diego County. The Parties shall cooperate and execute such documents as are required to transfer the 50% interest in the land, building, and improvements to the Manager at the time of Closing, with the protections for Manager against lien holders as stated in 8.1a, above.

8.4 Expiration of Option. If Manager does not exercise the Option prior to July 1, 2018, all of Manager's rights to exercise this Option shall expire. The expiration of the Option shall not affect or alter the non-Option related terms of this Agreement.

8.5 Manager's Operating Agreement – Old Operator's Ownership in Manager. It is the intent of the Parties to, upon exercise of the option hereunder at Section 8.1, grant Old Operators, or their designee, a 33% ownership interest in the Series applicable to the Roselle Facility in San Diego Building Ventures, LLC, a Delaware Series Limited Liability Company. Such ownership interest shall become effective as of the closing of the Option, and the Parties shall incorporate into that Operating Agreement Series such terms as are reflected in that certain LOI dated October 17, 2017 among the Parties with respect to Managers of the Series and related

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issues set forth therein. The terms of the Operating Agreement for San Diego Building Ventures, LLC shall govern the operations of the Roselle Facility and the Manager upon the closing of the Option. The Parties shall cooperate on the final structural decisions and documentation consistent with the terms contained in the LOI. From and after the closing of Manager's exercise of the Option, this new management company shall further take over all of the Manager's duties and responsibilities as outlined in this Agreement.

8.6. Grant of CUP. Notwithstanding anything else contained in this Agreement, no obligation, passage of time, date, or other matter with respect to the Option shall become effective until the City of San Diego has granted the Facility a conditional use permit ("CUP") permitting the Company's Operations to the satisfaction of Manager. In that regard each of the dates set forth in Section 8.2 above are tolled until the 30<sup>th</sup>, 90<sup>th</sup>, and 150<sup>th</sup> day, respectively, following the granting of the CUP, to Manager's satisfaction. The expiration date of the Option in section 8.4, above, is similarly tolled.

## 9. GENERAL

9.1. Conversion. At the option of Manager and in consultation with the Old Operators, any nonprofit may be converted into a for-profit entity and owned as the Parties may otherwise agree, and as is required for compliance with law.

### 9.2. Indemnification.

9.2.1. Indemnification by Company. Company hereby agree to indemnify, defend, and hold harmless Manager, its officers, directors, owners, members, employees, agents, affiliates, and subcontractors, from and against any and all claims, damages, demands, diminution in value, losses, liabilities, actions, lawsuits and other proceedings, judgments, fines, assessments, penalties, awards, costs, and expenses (including reasonable attorneys' fees) related to third party claims, whether or not covered by insurance, arising from or relating to any willful misconduct relating to the breach of this Agreement by Company. The provisions of this Section shall survive termination or expiration of this Agreement. Company shall immediately notify Manager of any lawsuits or actions, or any threat thereof, that are known or become known to Company that might adversely affect any interest of Company or Manager whatsoever.

9.2.2. Indemnification by Manager. Manager hereby agrees to indemnify, defend, and hold harmless Company, their respective officers, directors, shareholders, employees and agents from and against any and all claims, damages, demands, diminution in value, losses, liabilities, actions, lawsuits and other proceedings, judgments, fines, assessments, penalties, and awards, costs, and expenses (including reasonable attorneys' fees), whether or not covered by insurance, arising from or relating to (a) any material breach of this Agreement by Manager, (b) any acts or omissions by Manager and its employees to the extent that such is not paid or covered by the proceeds of insurance, and (c) all other Operations conduct at the Facility as part of Manager providing Administrative Services to the Company. The provisions of this Section shall survive termination or expiration of this Agreement. Notwithstanding the foregoing, Manager shall not indemnify Company for the acts or omissions of others employed or engaged by Company, or for matters relating to operations at the two downstairs suites unless due to the

gross negligence of the Manager. Manager shall immediately notify Company of any lawsuits or actions, or any threat thereof, that are known or become known to Manager that might adversely affect any interest of Manager or Company whatsoever.

9.3. Dispute Resolution. In the event that any disagreement, dispute or claim arises among the Parties hereto with respect to the enforcement or interpretation of this Agreement or any specific terms and provisions hereof or with respect to whether an alleged breach or default hereof has or has not occurred (collectively, a "Dispute"), such Dispute shall be settled in accordance with the following procedures:

9.3.1. Meet and Confer. In the event of a Dispute among the Parties hereto, a Party may give written notice to all other Parties setting forth the nature of such Dispute (the "Dispute Notice"). The Parties shall meet and confer in San Diego County to discuss the Dispute in good faith within five (5) days following the other Parties' receipt of the Dispute Notice in an attempt to resolve the Dispute. All representatives shall meet at such date(s) and time(s) as are mutually convenient to the representatives of each participant within the "Meet and Confer Period" (as defined herein below).

9.3.2. Mediation. If the Parties are unable to resolve the Dispute within ten (10) days following the date of receipt of the Dispute Notice by the other parties (the "Meet and Confer Period"), then the parties shall attempt in good faith to settle the Dispute through nonbinding mediation under the Rules of Practice and Procedures (the "Rules") of ADR Services, Inc. ("ADR Services") in San Diego County within thirty (30) days of delivery of the initial Dispute Notice. A single disinterested third-party mediator shall be selected by ADR Services in accordance with its then current Rules. The Parties to the Dispute shall share the expenses of the mediator and the other costs of mediation on a pro rata basis.

9.3.3. Arbitration. Any Dispute which cannot be resolved by the Parties as outlined above, such Dispute shall be resolved by final and binding arbitration (the "Arbitration"). The Arbitration shall be initiated and administered by and in accordance with the then current Rules of ADR Services. The Arbitration shall be held in San Diego County, unless the parties mutually agree to have such proceeding in some other locale; the exact time and location shall be decided by the arbitrator(s) selected in accordance with the then current Rules of ADR Services. The arbitrator(s) shall apply California substantive law, or federal substantive law where state law is preempted. The arbitrator(s) selected shall have the power to enforce the rights, remedies, duties, liabilities, and obligations of discovery by the imposition of the same terms, conditions, and penalties as can be imposed in like circumstances in a civil action by a court of competent jurisdiction of the State of California. The arbitrator(s) shall have the power to grant all legal and equitable remedies provided by California law and award compensatory damages provided by California law, except that punitive damages shall not be awarded. The arbitrator(s) shall prepare in writing and provide to the Parties an award including factual findings and the legal reasons on which the award is based. The arbitration award may be enforced through an action thereon brought in the Superior Court for the State of California in San Diego County. The prevailing party in any Arbitration hereunder shall be awarded reasonable attorneys' fees, expert and nonexpert witness costs and any other expenses incurred

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directly or indirectly with said Arbitration, including without limitation the fees and expenses of the arbitrator(s).

THIS ELECTION OF AN ALTERNATIVE DISPUTE PROCESS IS AN AFFIRMATIVE WAIVER OF THE PARTIES' RIGHTS TO A JURY TRIAL UNDER CALIFORNIA LAW, Cal. C. Civ. Pro. Sec 631. BY SIGNING BELOW, EACH PARTY IS EXPLICITLY WAIVING JURY TRIAL AND AUTHORIZING ANY AND ALL PARTIES TO FILE THIS WAIVER WITH ANY COURT AS THE WAIVER REQUIRED UNDER Cal. C. Civ. Proc. Sec. 631(f)(2):

JURY TRIAL WAIVED:

Company

By:

By:

By:

Manager

By:

Old Operators:

By:

By:

9.4. Entire Agreement; Amendment. This Agreement constitutes the entire agreement among the Parties related to the subject matter hereof and supersedes all prior agreements, understandings, and letters of intent relating to the subject matter hereof. This Agreement may be amended or supplemented only by a writing executed by all Parties. The Recitals of this Agreement are incorporated herein by this reference.

9.5. Notices. All notices, requests, demands or consents hereunder shall be in writing and shall be deemed given and received when delivered, if delivered in person, or four (4) days after being mailed by certified or registered mail, postage prepaid, return receipt requested, or one (1) day after being sent by overnight courier such as Federal Express, to and by the Parties at the following addresses, or at such other addresses as the Parties may designate by written notice in the manner set forth herein:

If to Manager:

SoCal Building Ventures, LLC

\_\_\_\_\_

If to Company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Old Operators:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which, when taken together, will constitute one and the same instrument.

9.7. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of California, without reference to conflict of law principles.

9.8. Assignment. Unless expressly set forth to the contrary hereinabove, this Agreement shall not be assignable by any Party hereto without the express written consent of the other Parties; provided, however, Old Operators may assign their holding interest to Monarch or another legal entity owned by the Old Operators, and SoCal Building Ventures, LLC may assign all or a portion of its rights and obligations to San Diego Building Ventures, LLC.

9.9. Waiver. Waiver of any agreement or obligation set forth in this Agreement by either Party shall not prevent that party from later insisting upon full performance of such agreement or obligation and no course of dealing, partial exercise or any delay or failure on the part of any Party hereto in exercising any right, power, privilege, or remedy under this Agreement or any related agreement or instrument shall impair or restrict any such right, power, privilege or remedy or be construed as a waiver therefor. No waiver shall be valid against any Party unless made in writing and signed by the Party against whom enforcement of such waiver is sought.

9.10. Binding Effect. Subject to the provisions set forth in this Agreement, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and upon their respective successors and assigns.

9.11. Waiver of Rule of Construction. Each Party has had the opportunity to consult with its own legal counsel in connection with the review, drafting, and negotiation of this

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Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement shall be construed against the drafting party shall not apply.

9.12. Severability. If anyone or more of the provisions of this Agreement is adjudged to any extent invalid, unenforceable, or contrary to law by a court of competent jurisdiction, each and all of the remaining provisions of this Agreement will not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

9.13. Force Majeure. Any Party shall be excused for failures and delays in performance of its respective obligations under this Agreement due to any cause beyond the control and without the fault of such party, including without limitation, any act of God, war, terrorism, bio-terrorism, riot or insurrection, law or regulation, strike, flood, earthquake, water shortage, fire, explosion or inability due to any of the aforementioned causes to obtain necessary labor, materials or facilities. This provision shall not release such Party from using its best efforts to avoid or remove such cause and such Party shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Upon claiming any such excuse or delay for non-performance, such Party shall give prompt written notice thereof to the other Party, provided that failure to give such notice shall not in any way limit the operation of this provision.

9.14. Authorization for Agreement. The execution and performance of this Agreement by Company and Manager have been duly authorized by all necessary laws, resolutions, and corporate or partnership action, and this Agreement constitutes the valid and enforceable obligations of Company and Manager in accordance with its terms.

9.15. Duty to Cooperate. The Parties acknowledge that the Parties' mutual cooperation is critical to the ability of Manager and Company to perform successfully and efficiently its duties hereunder. Accordingly, each party agrees to cooperate fully with the other in formulating and implementing goals and objectives which are in Company's best interests.

9.16. Proprietary and Confidential Information. The Parties agree with regard to Confidential Information that Manager may be given or obtain as a result of Manager's performance under this Agreement, or vice versa, such Confidential Information is secret, confidential and proprietary, and shall be utilized only for those purposes of this Agreement or as otherwise directed or agreed to in writing. The term "Confidential Information" means any information or knowledge concerning or in any way related to the practices, pricing, activities, strategies, business plans, financial plans, trade secrets, relationships and methodology of Operations of the business, performance of the Administrative Services, or other matter relating to the business. The Parties shall take appropriate action to ensure that all employees permitted access to Confidential Information are aware of its confidential and proprietary nature and the restrictions placed on its use. The Parties shall not reproduce or copy the Confidential Information of the Company, or any part thereof, in any manner other than is necessary to perform under this Agreement, and no Party shall disclose or otherwise make the Confidential Information available to any other person, corporation, or other entity, except to the other Party, or as otherwise required by law.

9.16.1 All Confidential Information constitutes a valuable, confidential, special and unique asset. The Parties recognize that the disclosure of Confidential Information may give rise

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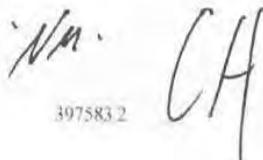
to irreparable injury or damage that are difficult to calculate, and which cannot be adequately compensated by monetary damages. Accordingly, in the event of any violation or threatened violation of the confidentiality provisions of this Agreement, a non-violating Party shall be entitled to an injunction restraining such violation.

9.17 Additional Assurances. The provisions of this Agreement shall be self-operative and shall not require further agreement by the Parties; provided, however, at the request of either Party, the other Party shall execute such additional instruments and take such additional acts as are reasonable and as the requesting Party may deem necessary to effectuate this Agreement.

9.18 Consents, Approvals, and Exercise of Discretion. Whenever this requires any consent or approval to be given by either Party, or either Party must or may exercise discretion, and except where specifically set forth to the contrary, the Parties agree that such consent or approval shall not be unreasonably withheld or delayed, and that such discretion shall be reasonably exercised.

9.19 Third Party Beneficiaries. Except as otherwise provided herein, this Agreement shall not confer any rights or remedies upon any person other than Manager and Owner and their respective successors and permitted assigns.

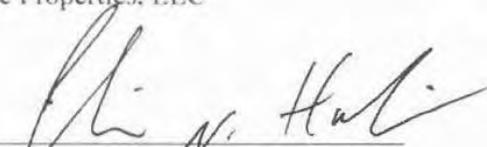
[signature page follows]

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IN WITNESS WHEREOF, the Parties agree to the foregoing terms of agreement through the execution below by their respective, duly authorized representatives as of the Effective Date.

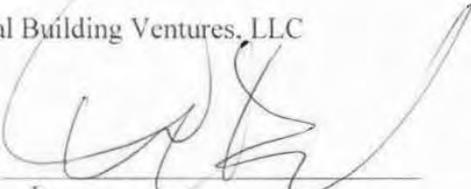
**"COMPANY"**

Roselle Properties, LLC

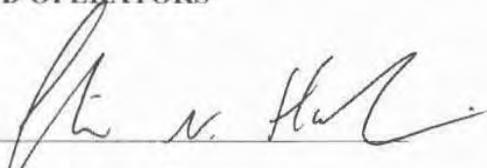
By:   
Its:

**"MANAGER"**

SoCal Building Ventures, LLC

By:   
Its:

**"OLD OPERATORS"**

By: 

By: 

# Exhibit D

**Michael W. Essary, Receiver**  
**8304 Clairemont Mesa Blvd. #207**  
**San Diego, CA 92111**  
**(858) 560-1178**  
**(858) 560-6709 fax**

**RECEIVERSHIP RATES**

Hourly rate - \$250

Commission for Sales – Depending on type and value of property: 3% - 6% to be split 50/50 with selling agent. Should Calsur Property Management (my real estate company) locate buyer, total commission to be reduced by 1%.

Management Fees – Depends on size/condition/location of property, will be quoted upon request. Normal fees range between 4% and 8% of collected income.

For smaller rental properties (under 50 units) management and receiver fee can be quoted as a fixed monthly fee if desired.

For business receiverships:

Field Employees (if used) – varies between \$50 - \$150 per hour depending on use.

Bookkeeping (if not included in management fee) - \$75 per hour

Other consultants on a bid basis and approved by parties/court

# **EXHIBIT 6(A)**

AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

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

6 Attorneys for Defendants  
Ninus Malan  
7

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

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SALAM RAZUKI, an individual,  
Plaintiff,  
vs.

**CASE NO. 37-2018-00034229-CU-BC-CTL**  
**DECLARATION OF GINA M. AUSTIN**  
[Imaged File]

NINUS MALAN, an individual; CHRIS  
HAKIM, an individual; MONARCH  
MANAGEMENT CONSULTING, INC., a  
California corporation; SAN DIEGO  
UNITED HOLDINGS GROUP, LLC, a  
California limited liability company; FLIP  
MANAGEMENT, 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.

1 I, Gina M. Austin, declare:

2 1. I am attorney admitted to practice before this Court and all California courts and,  
3 along with Tamara M. Leetham, represent defendant Ninus Malan (“Malan”) in this matter. I  
4 make this declaration in support of Malan’s ex parte application to vacate order appointing  
5 receiver. Unless otherwise stated, all facts testified to are within my personal knowledge and, if  
6 called as a witness, I would and could competently testify to them.

7 2. I am an expert in cannabis licensing and entitlement at the state and local levels  
8 and regularly speak on the topic across the nation.

9 3. I have represented Ninus Malan, San Diego United Holdings Group, Balboa Ave  
10 Cooperative, and California Cannabis Group in multiple matters in San Diego County Superior  
11 Court.

12 4. My firm also performs additional legal services for these defendants to include  
13 corporate transactions and structuring, land use entitlements and regulations related to cannabis,  
14 and state compliance related to cannabis.

15 5. On Tuesday July 17, 2018, I specially appeared in Judge Medel’s department in  
16 response to an ex parte application by Salam Razuki to appoint a receiver and for a temporary  
17 restraining order in the instant litigation. The purpose of my special appearance was to inform the  
18 court that none of the defendants had been served, that our office had not been retained to  
19 represent any of the defendants in this matter, and request that the court set the matter for a proper  
20 noticed hearing after the defendants had been served. A true and correct copy of the transcript  
21 from that hearing is attached as Exhibit A and incorporated by reference.

22 6. Judge Medel summarily granted the application and Plaintiff’s request to appoint  
23 Mr. Essary as the receiver. There was no discussion of the proposed order or any response from  
24 the court regarding the lack of notice, service, or harms that would create a need for immediate  
25 relief.

26 7. Outside the courtroom I asked opposing counsel to send me a courtesy copy of the  
27 order as soon as it was signed. I did not receive a courtesy copy of the order until late that  
28 evening.

1           8.       At approximately noon on July 17, 2018, Heidi Rising, the manager of a separate  
2 dispensary Golden State Greens and then contract operator of the Balboa dispensary, called me  
3 and informed me that the prior operators of the Balboa dispensary were outside and harassing  
4 customers and that the prior security guard was there brandishing a gun. Golden State Greens is a  
5 separate client of Austin Legal Group. I instructed Ms. Rising to call the police and drove up to  
6 the dispensary to meet with police when they arrived to explain the events that had happened in  
7 court earlier that morning.

8           9.       At approximately 2pm, upon reviewing a copy of the register of actions in this  
9 case, I telephoned Mr. Essary to (i) request a copy of the order and the bond, (ii) discuss the  
10 issues in the case, and (iii) determine the process for moving forward. Mr. Essary informed me  
11 that he was going to immediately “take possession of all assets” including the dispensary and put  
12 the prior operator back in control of the dispensary. I informed him that I could not allow him to  
13 do that until the defendants had been served with an order. I specifically informed Mr. Essary  
14 that neither my office nor any of the defendants had been served with the court’s order appointing  
15 the receiver. Mr. Essary informed me that he had years of experience and taken control of  
16 millions of dollars and would take possession of the dispensary immediately. In response to my  
17 objections that none of the parties had been served with the order or bond, Mr. Essary stated that  
18 he didn’t have to serve anyone as he had a court order appointing him the receiver and that was  
19 enough.

20           10.       Around 3 pm on July 17<sup>th</sup>, Heidi rising telephoned me because a man was  
21 pounding on the dispensary’s door and demanding he be let in. Heidi did not feel safe leaving the  
22 dispensary. The man with a gun was outside, and people working with him were sitting on her  
23 car. I drove to the dispensary to pick her up and help her escape.

24           11.       When I arrived at the dispensary I was speaking with Ms. Rising on the phone to  
25 determine where to pick her up. She stated that the people outside were trying to break down the  
26 front door and we agreed I would pick her and two other Golden State Greens employees up in  
27 the back of the dispensary. When I arrived the people outside had just broken down the front  
28 door of the dispensary and there were people running around the corner of the dispensary towards

1 my car as if to attack us. Out of fear, as soon as Heidi and her two other associates were in my  
2 car, I drove away as fast as I could. We were chased by the man who had been at the dispensary  
3 earlier in the day brandishing his gun.

4 12. Despite the fact that none of the defendants had been served with the court's order,  
5 on July 19, 2018 I emailed Mr. Essary and informed him of the issues I believed to need  
6 immediate attention. A true and correct copy of this email is attached as Exhibit I to the  
7 Declaration of Tamara M. Leetham. In a response email on July 19, 2018, Mr. Essary  
8 acknowledged receipt of my email and stated that he had retained an attorney Mr. Griswold.

9 13. I am informed and believe that either Mr. Essary or Mr. Griswold or both have  
10 taken possession of the Balboa dispensary and have placed the prior operator SoCal Building  
11 Ventures as operator.

12 14. Allowing Mr. Essary to control the dispensary is a violation of State law. The  
13 Bureau of Cannabis Control ("BCC") requires all owners to submit detailed information to the  
14 BCC as part of the licensing process. An owner is defined as:

- 15 (1) A person with an aggregate ownership interest of 20 percent  
16 or more in the person applying for a license or a licensee,  
unless the interest is solely a security, lien, or encumbrance.
- 17 (2) The chief executive officer of a nonprofit or other entity.
- 18 (3) A member of the board of directors of a nonprofit.
- 19 (4) *An individual who will be participating in the direction,  
control, or management of the person applying for a license*  
[emphasis added].

20 Cal. Bus. Prof Code § 26001(al).

21 15. Based upon the definition of an Owner, Mr. Essary would be deemed by the BCC  
22 to be an owner and would have to submit all the requisite information required by Title 16  
23 Chapter 42 of the California Code of Regulations before he would be allowed to legally take  
24 possession and control of the Balboa dispensary.

25 16. Based upon the definition of Owner, SoCal Building Ventures would also be  
26 deemed an owner. I am informed and believe that its re-appointment as operator of the Balboa  
27 dispensary is also a violation of state law as none of the CCR Title 16 information has been  
28 submitted to the BCC.

1           17.     Allowing Mr. Essary to control the dispensary is also a violation of the San Diego  
2 Municipal Code (“SDMC”). The SDMC requires all *responsible persons* to have a background  
3 checks and a valid Marijuana Outlet Operating Permit. (SDMC Article 2, Division 15.) A true  
4 and correct copy of SDMC Article 2, Division 15 is attached hereto as Exhibit B.

5           18.     The SDMC defines *Responsible Person* as “a person who a Director determines is  
6 responsible for causing or maintaining a public nuisance or a violation of the Municipal Code or  
7 applicable state codes. The term Responsible Person includes but is not limited to a property  
8 owner, tenant, person with a Legal Interest in real property or person in possession of real  
9 property.” (SDMC §11.0210). The term also includes “a permittee and each person upon whom a  
10 duty, requirement or obligation is imposed by this Article, or who is otherwise responsible for the  
11 operation, management, direction, or policy of a police-regulated business. It also includes an  
12 employee who is in apparent charge of the premises.” (SDMC 33.0201.)

13           19.     Mr. Essary and SoCal Building Ventures are responsible persons and are in  
14 violation of the SDMC for failure to obtain the requisite background checks and permits.

15           20.     I am informed and believe that SoCal Building Ventures has caused the Balboa  
16 dispensary to be in violation of the SDMC and the City of San Diego has issued various notices  
17 of violation that if left uncured will threaten the ability of Balboa to maintain its Conditional Use  
18 Permit to operate. A true and correct copy of the current code enforcement action pending against  
19 the Balboa dispensary is attached hereto as Exhibit C.

20           21.     I am informed and believe that upon the appointment of Mr. Essary as the receiver,  
21 the Balboa dispensary has engaged in additional violations of the SDMC by failing to provide two  
22 security guards during operating hours and one security guard during non-operating hours.

23           22.     The Balboa dispensary is currently in the process of a compliance and tax audit by  
24 the City of San Diego. The City has demanded responses by Friday August 3<sup>rd</sup>. Failure to  
25 provide these responses included financial data from the databases that are in the exclusive  
26 control of Mr. Essary and/or SoCal Building Ventures could cause irreparable harm and a loss of  
27 the Balboa dispensary’s right to operate.

28           23.     There are two hearings scheduled before the Hearing Officer for the City of San

1 Diego for land use entitlements for the properties located at 8859 Balboa (“8859 CUP”) and 9212  
2 Mira Este (“9212 CUP”). These hearings are of critical importance to the future rights and  
3 privileges of those two properties. Approval by the Hearing Officer at each of these hearings  
4 requires specific knowledge and skills of the City of San Diego licensing process and historical  
5 facts that neither Mr. Essary or SoCal Building Ventures has.

6 24. The 8859 CUP is scheduled for a public hearing on August 15, 2018. Ninus  
7 Malan and the various entities that he is a member of will be irreparably harmed if this hearing is  
8 delayed or if they are not adequately represented. The City of San Diego is only issuing 40  
9 permits. If the 8859 CUP is not heard by the Hearing Office on August 15, 2018, it is possible  
10 that the 8859 CUP would be unable to be approved in the future.

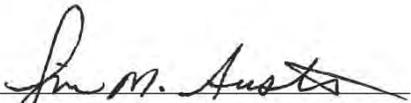
11 25. The 9212 CUP is scheduled for a public hearing in early September. Ninus Malan  
12 and the various entities that he is a member of will be irreparably harmed if this hearing is  
13 delayed or they are not adequately represented. Due to the permit number limitations, if the 9212  
14 CUP is not heard by the Hearing Office in early September, it is possible that the 9212 CUP  
15 would be unable to be approved in the future as there are more than 60 applications for only 40  
16 permits.

17 26. Our office has been responsible for processing the state applications related to  
18 cannabis operations at both the Balboa dispensary and 9212 Mira Este. Processing of these  
19 applications requires specific knowledge and skill of the state licensing requirements as well as  
20 the current state cannabis rules and regulations. An immediate response is required by the BCC  
21 from the Balboa dispensary and the Mira Este operations. It is my opinion that neither Mr.  
22 Griswold nor Mr. Essary have the knowledge and skills relevant to state cannabis law to  
23 effectively process these applications. Failure to immediately respond to the BCC and California  
24 Department of Public Health will likely jeopardize the permits and the ability to legally operate at  
25 these locations.

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I declare under penalty of perjury under California state law that the foregoing is true and correct. Executed in San Diego, California, on July 30, 2018.

  
Gina M. Austin

AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

# **EXHIBIT 6(B)**

1 Steven W. Blake, Esq., SBN 235502  
Andrew W. Hall, Esq., SBN 257547  
2 Daniel Watts, Esq. SBN 277861  
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3 A Professional Law Corporation  
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6 Attorneys for Defendant Ninus Malan

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SUPERIOR COURT OF CALIFORNIA, 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.

Case No.: 37-2018-00034229-CU-BC-CTL  
Assigned: Hon. Judge Strauss  
Dept.: C-75  
**Declaration of Ninus Malan ISO Ex Parte  
Application to Vacate Receivership Order;**  
Date: Tuesday, July 31, 2018  
Time: 9:00 a.m.  
Judge: Hon. Judge Strauss  
Dept.: C-75

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I, Ninus Malan, declare the following:

1. I am over the age of 18 years and I am a defendant in this action
2. I have personal knowledge of the facts stated in this declaration, and if called upon to testify to these facts, I could and would do so competently. I am the custodian of records for each of the companies for which I am an owner or manager, as described in this declaration, and I have the authority to state facts on their behalf.

**Ownership and Management of Companies**

3. I am the president of California Cannabis Group, a nonprofit mutual benefit corporation. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of California Cannabis Group.

4. I am the president and Chris Hakim is the vice president of Devilish Delights, Inc., a nonprofit mutual benefit corporation Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of Devilish Delights, Inc.

5. Balboa Ave Cooperative is a nonprofit mutual benefit corporation. I am the sole managing member of Balboa Ave Cooperative. A true and correct copy of the articles of incorporation of Balboa Ave Cooperative is attached to this declaration as **Exhibit A**. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of Balboa Ave Cooperative.

6. Mira Este Properties, LLC is a limited liability company owned in equal parts by me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of Mira Este Properties, LLC.

7. Monarch Management Consulting, Inc. is a corporation owned in equal parts by me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of Monarch Management Consulting, Inc.

1           8.       Flip Management, LLC is a limited liability company owned entirely by me.  
2 Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or  
3 owner of Flip Management, LLC.

4           9.       I am the sole member and sole owner of San Diego United Holdings Group, LLC  
5 (“San Diego United”), a limited liability company. Neither Razuki Investments, LLC nor  
6 Plaintiff Salam Razuki have any ownership interest whatsoever in San Diego United. A true and  
7 correct copy of San Diego United’s articles of organization are attached to this declaration as  
8 **Exhibit N**, and a true and correct copy of its operating agreement is attached as **Exhibit O**. Both  
9 confirm I am the sole owner.

10          10.       Razuki Investments, LLC used to own real property located at 8863 Balboa Ave.  
11 and 8861 Balboa Ave. in San Diego (“Balboa Properties”), but San Diego United bought the  
12 Balboa Properties in March 2017. A true and correct copy of the deed dated March 2, 2017 and  
13 recorded March 20, 2017 showing this purchase is attached to this agreement as **Exhibit B**.  
14 **Exhibit B-1** is a true and correct copy of another deed, showing San Diego United’s purchase of  
15 two other contingent parcels in 2017. Today, neither Razuki or Razuki Investments, LLC has  
16 any property interests in the Balboa Properties.

17          11.       Roselle Properties, LLC is a limited liability company owned in equal parts by  
18 me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee,  
19 shareholder, member, or owner of Roselle Properties, LLC.

20          12.       I have known Plaintiff Salam Razuki for over a decade. We have worked together  
21 in several business ventures. Although we signed an agreement in November 2017, which  
22 Razuki attached to his declaration in this lawsuit, we mutually agreed to rescind that agreement  
23 in early 2018 because Razuki was incapable of complying with its material terms. For example,  
24 the agreement says Razuki has to transfer his ownership interests in Sunrise Properties, LLC and  
25 another company into RM property Holdings, LLC within 30 days of executing the agreement,

1 but Razuki was unable to do that. I learned later that he cannot prove he actually owns any part  
2 of Sunrise Properties, LLC, so even if we had not mutually rescinded the agreement, I would  
3 have rescinded it myself because of Razuki’s fraudulent representation that he owns a company  
4 that he *does not actually own*. Razuki never mentioned the agreement until he filed this lawsuit  
5 in July 2018. I am informed and believe that Razuki decided to file this lawsuit because of a  
6 large judgment a litigant obtained against him in another lawsuit, which is causing Razuki some  
7 cash flow problems. He is apparently trying to resurrect the canceled/rescinded contract to try to  
8 steal three businesses and real properties from me, which I refer to in this declaration as the  
9 Balboa Dispensary, Roselle Facility, and Mira Este Facility.

10 13. I know from speaking with Razuki and from public records obtained from the  
11 Superior Court of San Diego County that a court judgment restricts Razuki’s ability to operate a  
12 marijuana dispensary. The City of San Diego sued Razuki in 2015 for operating an illegal  
13 marijuana dispensary without a license or permits, and Razuki stipulated to a judgment entered  
14 January 6, 2015, and a true and correct copy of it is attached to this declaration as **Exhibit P**.  
15 Paragraph 10 of the judgment says Razuki is “enjoined and restrained...from engaging in or  
16 performing, directly or indirectly, any of the following acts: Keeping, maintaining, or allowing  
17 the operation of any unpermitted use...at any other property or premises in the City of San  
18 Diego, including but not limited to, a marijuana dispensary....”

19 **Non-Existent Company Listed in Receivership Order**

20 14. The receivership order issued by this court on July 17<sup>th</sup> appointed Michael W.  
21 Essary the receiver over “San Diego United Property Holdings, LLC.” I have no idea what that  
22 company is. That company either does not exist, or if it does exist, it has no relationship to any  
23 of the other businesses or people in this dispute.

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**Roselle Facility**

15. Roselle Properties, LLC, which is owned by me and Hakim, owns real property located at 10685 Roselle Street, San Diego, CA 92121 (“Roselle Facility”) in fee simple. There is no marijuana dispensary located at the Roselle Facility. A true and correct copy of the grant deed showing Roselle Properties, LLC – not Razuki – owns the Roselle Facility is attached to this declaration as **Exhibit R**.

**Mira Este Facility**

16. Mira Este Properties, LLC owns the real property at 9212 Mira Este Court, San Diego, CA 92126 (“Mira Este Facility”) in fee simple. There is a marijuana manufacturing facility at the Mira Este Facility, whose license to operate is held by California Cannabis Group. Razuki does not own any part of Mira Este Properties, LLC or the Mira Este Facility.

**Balboa Dispensary Opening**

17. There is a marijuana dispensary operating at 8863 Balboa Ave., San Diego, CA (“Balboa Dispensary”). It operates under a conditional use permit issued in 2015 by the City of San Diego Planning Commission. The permit was recorded as a covenant running with the land. A true and correct copy of the conditional use permit is attached as **Exhibit D** to this declaration.

18. The Balboa Properties were sold to Razuki Investments, LLC in October 2016. At the time, the Balboa Dispensary had not yet opened, and the city had not issued a certificate of occupancy.

19. From 2016 to March 2017, Razuki Investments, LLC did nothing to improve the Balboa Properties or open the Balboa Dispensary.

20. Balboa Ave Cooperative bought the Balboa Dispensary, including the real property at 8863 Balboa Ave. and 8861 Balboa Ave, from Razuki Investments, LLC on March

1 10, 2017 and took possession on March 20, 2017. A true and correct copy of the bill of sale,  
2 signed by me (as President and Secretary of Balboa Ave Cooperative) and Plaintiff Salam  
3 Razuki (as the member of seller Razuki Investments, LLC), and escrow closing documents is  
4 attached to this declaration as **Exhibit C**. Razuki's signature on the bill of sale is notarized. The  
5 transaction was handled by an escrow company, and closed on schedule.

6 21. After close of escrow in March 2017, Razuki Investments, LLC – and, by  
7 extension, its owner, Salam Razuki – owned no part of anything at the Balboa Properties or the  
8 Balboa Dispensary.

9 22. I opened the Balboa Dispensary in May 2017.

10 23. Since March 2017, San Diego United – a company wholly owned by me – has  
11 paid all expenses related to the Balboa Properties, including property taxes, HOA fees and  
12 assessments, the mortgage, and expenses related to the conditional use permit. Plaintiff Razuki  
13 has paid absolutely none of these expenses.

#### 14 **Balboa Dispensary's Conflict with HOA**

15 24. However, the Montgomery Field Business Condominiums Association (HOA),  
16 which governs the Balboa Properties, bans marijuana dispensaries. The HOA sued San Diego  
17 United and me, among others, in 2017, alleging the sale of marijuana at the Balboa Properties.  
18 We eventually settled the dispute. A true and correct copy of the settlement agreement with the  
19 HOA is attached to this declaration as **Exhibit E**.

20 (1) I personally paid \$142,572 in damages and attorney fees to the HOA to settle the  
21 lawsuit.

22 (2) Under the settlement, the HOA granted a use variance allowing the Balboa  
23 Dispensary to continue operating despite the HOA policy banning marijuana  
24 activities.

25

1 (3) The settlement is contingent on the Balboa Dispensary regularly paying fees to  
2 the HOA, hiring security guards, maintaining its conditional use permit from the  
3 City of San Diego, and doing other acts.

4 (4) Section 2.2 of the settlement says the HOA will revoke the variance “upon sale or  
5 transfer of” San Diego United or the Balboa Dispensary. At the time the  
6 settlement was signed, I owned and controlled 100 percent of San Diego United,  
7 and I had ultimate authority over the Balboa Ave Cooperative’s dispensary.

8 (5) If the Balboa Dispensary does not strictly comply with the settlement, the  
9 settlement authorizes the HOA to revoke the use variance.

10 **Dispensary Mismanagement by SoCal Building Ventures, LLC**

11 25. Balboa Ave Cooperative hired Flip Management, LLC in March or April 2017 to  
12 manage the Balboa Dispensary. Flip Management, LLC managed the Balboa Dispensary  
13 competently and professionally. They paid the fees owed to the HOA and the city, provided  
14 professional accounting and payroll services, and kept the business running smoothly.

15 26. In January 2018, Balboa Ave Cooperative and San Diego United hired SoCal  
16 Building Ventures, LLC (“SoCal”) to manage the Balboa Dispensary. California Cannabis  
17 Group, Devilish Delights, Inc., and Mira Este Properties, LLC hired SoCal to manage another  
18 marijuana manufacturing facility at 9212 Mira Este Court, San Diego, CA 92126 (“Mira Este  
19 Facility”). Roselle Properties, LLC hired SoCal to manage its real property located at 10685  
20 Roselle Street, San Diego, CA 92121 (“Roselle Facility”). A true and correct copy of the  
21 management agreement for the Balboa Dispensary is attached as **Exhibit H**, for the Mira Este  
22 Facility as **Exhibit I**, and the Roselle Facility as **Exhibit J**.

23 27. SoCal managed the properties poorly. Over time, I discovered:

24 (1) Their employees never underwent a criminal background check as they had  
25 promised.

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- (2) Their employees stole marijuana from the dispensary.
- (3) Their employees smoked marijuana on the dispensary’s premises, which is illegal, a violation of the conditional use permit, and a violation of the settlement with the HOA.
- (4) They “lost” a lot of inventory – i.e. marijuana. According to state regulations, if there’s greater than a 5% discrepancy in a dispensary’s inventory, that’s grounds for revoking the dispensary’s ability to operate. SoCal’s inventory counts had discrepancies of up to 50%. This jeopardizes the dispensary’s license to operate.
- (5) They did not pay their employees correctly. They did not maintain formal records of employee work hours; they used Post-It Notes. According to those Post-It Notes, several employees were working more than eight hours in a day, entitling them to overtime pay, but there are no records showing they were paid overtime, or that SoCal complied with other Labor Code provisions, including withholding requirements and providing pay period statements.
- (6) They never made insurance payments on time to the HOA, violating the settlement agreement with the HOA. This breach of the settlement agreement jeopardizes the variance from the HOA, which can be revoked if insurance payments are not timely made.
- (7) They violated the San Diego City Code by not having security guards as required by law, at times having only one security guard on duty, using security guards as receptionists when they’re only supposed to secure the facility, using the building’s garage at 8861 Balboa Ave. to store marijuana instead of using it for its sole legal purpose (namely, storing cars), and lacking an armed guard. The City of San Diego issued a notice on June 7, 2018, describing the code violations, a true and correct copy of which is attached as **Exhibit Q**. These violations put

1 the HOA variance at risk because the HOA can revoke the variance if the  
2 dispensary violates the Municipal Code, and it jeopardizes the dispensary's  
3 license because the State of California will not allow a marijuana dispensary to  
4 operate in violation of local ordinances. The code violation could destroy the  
5 entire business.

6 (8) They hired a security guard named Jorge Emilio Aguilar, who owns a company  
7 called Archstone International. There is a criminal case pending against Aguilar  
8 (Case M238783 in San Diego Superior Court), and the court has issued a warrant  
9 for Aguilar's arrest. His license to carry a firearm expired June 30, 2017. His  
10 license to act as a private security officer was canceled on July 31, 2017. By  
11 employing a wanted criminal whose license to carry a firearm has been revoked,  
12 SoCal has violated the terms of the conditional use permit and the HOA  
13 settlement. Both the settlement and the conditional use permit require licensed,  
14 bonded, professional security guards to protect the dispensaries, and those guards  
15 must be capable of legally carrying a weapon. Aguilar is not such a person.  
16 Attached as **Exhibit F** to this declaration is a true and correct copy of the  
17 Superior Court's "case detail" page for Aguilar's criminal charges, information  
18 about the arrest warrant for Aguilar, and licensing details from the state Bureau  
19 of Security and Investigative Services, which I retrieved from those entities'  
20 respective websites and an investigator service on July 19 and 21, 2018.

21 (9) They had given confidential information about the facilities and dispensary to  
22 Razuki, a man under a court order not to engage in any marijuana businesses in  
23 San Diego.

24 (10) They had told Razuki they would intentionally withhold payments due  
25 under a contract involving the Mira Este Facility, which would cause Mira Este

1 Properties, LLC to default on a loan. They indeed withheld payments on the Mira  
2 Este loan for at least two months, accumulating an overdue balance of \$317,848.

3 (11) They failed to implement accounting procedures and failed to present  
4 quarterly reports for periods ending March 2018 and June 2018.

5 (12) They failed to produce employment/independent contractor agreements,  
6 failed to produce copies of tax returns and EDD filings, failed to produce  
7 financial statements for the Balboa Dispensary, and failed to keep detailed check  
8 registers and accounting journals chronicling Balboa Dispensary's financial  
9 transactions.

10 (13) SoCal employee Dan Spillane told employees at the Mira Este Facility  
11 that he was conspiring with Razuki to hijack the three businesses. They would  
12 accomplish this, Spillane said, by filing this very lawsuit and falsely claim that  
13 Razuki owned the businesses. SoCal intended to use Razuki's false claims of  
14 ownership as an excuse to stop making payments to the businesses' true owners –  
15 me, Hakim, and our companies. I learned of this scheme from SoCal's own  
16 employees on July 2<sup>nd</sup> and 3<sup>rd</sup>, 2018.

17 (14) The City of San Diego is conducting an audit of the Balboa Dispensary  
18 using a company called MGO. MGO demanded documents that SoCal has failed  
19 to provide, including a business license, copies of written policies governing  
20 security procedures and security guards, the names of the  
21 bookkeeper/accountant/tax preparer, an organizational chart with names of all  
22 employees, a copy of the security guard company's license, sales details, names  
23 of customers, names of vendors, and other information. A true and correct copy  
24 of a list of documents needed, which was sent to me on July 27, 2018 by MGO  
25 manager Jasmine Costa, is attached to this declaration as **Exhibit K**. If these

1 documents are not provided immediately, Balboa Dispensary may lose its license  
2 to operate and the entire business will be destroyed.

3 28. These acts of malfeasance also violated SoCal's management contracts (Exhibits H, I,  
4 and J). For example, Section 2 of the agreement to manage the Balboa Dispensary  
5 requires SoCal to provide services necessary and appropriate for day-to-day  
6 administration and management of the marijuana dispensary and consistent with good  
7 business practices, including hiring competent personnel, complying with state and local  
8 laws, using proper accounting procedures, keeping books and records, and providing  
9 Balboa Ave Cooperative and San Diego United Holdings Group with timely operating  
10 reports on a quarterly basis.

11 29. I sent notices to SoCal telling them they needed to stop their mismanagement, and  
12 warning them they were jeopardizing the dispensaries' licenses. I sent them a notice on  
13 June 1, 2018, notifying them of defaults and giving them 25 days to cure. I sent them a  
14 follow-up notice on June 29, 2018, telling them that they were still in default, had not  
15 cured, and failed to pay more than \$200,000 they owed under the management contracts.  
16 A true and correct copy of my June 29, 2018 letter is attached as **Exhibit M**. A true and  
17 correct copy of a letter I sent them on July 3, 2018 is attached to this declaration as  
18 **Exhibit G**. This was not the first time I notified them of their failures. As early as March  
19 2018, I notified them that they had failed to make payments required by their contracts,  
20 which are defaults under each respective contract. Those defaults went uncured for more  
21 than 25 days.

### 22 **SoCal is Fired for Incompetence**

23 30. SoCal never improved their services, continued to mismanage the dispensaries, and  
24 continued to fail to make payments due under the contracts. Because of their consistent  
25 mismanagement and failure to improve, I terminated their contracts on July 9, 2018 in

1 accordance with section 6.2 of each respective contract, which states “This Agreement  
2 may be terminated at the option of the Company upon the failure by [SoCal] to make any  
3 payments as are required herein, and such failure has gone uncured for twenty-five (25)  
4 days....” Section 6.2 also allows me to terminate the contracts if SoCal fails to obtain  
5 “any HOA [or CUP, in the case of Mira Este and Roselle] or other local approvals,” a  
6 provision they triggered by their violation of the HOA settlement, resulting in the HOA  
7 failing to approve the continued operation of Balboa Dispensary.

8 31. After terminating their contracts, I banned SoCal from the premises of the Balboa  
9 Dispensary, the Mira Este Facility, and the Roselle Facility on July 10, 2018.

10 32. It’s important to note that SoCal does not have and never had a lease for real property at  
11 any of those three locations. SoCal was a contractor, not a tenant, and it never had any  
12 rights as a tenant. They had no right to occupy any real property, only to manage  
13 businesses there.

14 **SoCal Forges a Lease, Lies to Police, Tries to Break into Premises**

15 33. On July 13, 2018, SoCal’s employee Dan Spillane showed up at Mira Este with a forged  
16 lease purporting to give him access to the building. He was accompanied by another man  
17 who falsely claimed to be the owner of the building, and who said he was in charge of  
18 Sunrise Properties, LLC, a company which Plaintiff claims to own. They tried to gain  
19 access to the building.

20 (1) The police were called. Spillane and the fake owner tried to convince the police  
21 that they owned the building. The police didn’t buy it. I showed the police my  
22 deed to the building, and they removed Spillane and the other fake owner.

23 (2) As the police escorted Spillane from the premises, Spillane called out to me,  
24 “Salam says hello!”  
25

1 34. In his declaration in support of his application for a receiver in this lawsuit, Plaintiff  
2 Razuki said he owns Sunrise Properties, LLC – the same company Spillane pretended to  
3 own when he tried to trick the police into giving him possession of the Mira Este  
4 Facility.

5 35. In addition, on July 13<sup>th</sup>, Jorge Emilio Aguilar showed up to Mira Este location. Mira  
6 Este employees called the police. Aguilar – who, as shown in Exhibit F, has a warrant  
7 for his arrest – claimed he was the owner of the Mira Este location, holding forged  
8 documents. The police did not believe his forged documents, and he was told to leave.

9 **Plaintiff Razuki’s Attempts to Steal Real Property and Dispensaries**

10 36. I learned in June 2018 that Plaintiff Razuki had falsely told SoCal Building  
11 Ventures, LLC that he owned some interest in the Balboa Properties, the Balboa Dispensary,  
12 and other businesses and properties he does not actually own. Because Razuki refused to stop  
13 telling people he owned the properties, San Diego United was forced to file an action to quiet  
14 title against Razuki and Razuki Investments, LLC. The action was filed as a cross-complaint in  
15 one of several pending lawsuits involving Razuki’s various frauds. A true and correct copy of  
16 the cross-complaint, verified under penalty of perjury by me, is attached to this complaint as  
17 **Exhibit L**. We filed this in June 2018 to prevent Razuki from contesting title to the properties.

18 **Plaintiff Obtains Receiver without Notice to Me or My Businesses**

19 37. I have not been served with a copy of the summons and complaint in this lawsuit.  
20 None of the businesses in which I have an ownership interest have been served with the  
21 summons and complaint either. None of the businesses I manage have been served with the  
22 summons and complaint. None of these entities were served with Plaintiff’s ex parte application  
23 for a receiver, or given notice of the ex parte hearing at which the receiver was appointed, or  
24 served with a copy of the order appointing the receiver.

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1 employees and the gunman continued their rampage through the building, and watched in  
2 horror on the security cameras as they stole computers and other equipment, carrying it  
3 right out of the building. Here is a photo of them stealing a computer:



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1 47. The employees in the secure room phoned Gina Austin, an attorney, who offered to help  
2 them escape from the gunman. She drove to the premises and parked outside. The  
3 employees watched on the security cameras, waiting for the gunman and Plaintiff's  
4 trespassers to move away from the back exit. When they did, the employees ran out to  
5 Gina's waiting car and drove away.

6 48. According to Plaintiff's ex parte application, the receiver intends to put SoCal back in  
7 charge of the Balboa Dispensary, which shows extraordinarily poor judgment on the  
8 receiver's part. As explained in this declaration, SoCal was fired for mismanagement.  
9 They continue to mismanage the Balboa Dispensary today; for example, they did not  
10 have security guards posted outside during business hours on July 27, 2018, a violation of  
11 the San Diego City Code, as shown by these photographs taken on July 27, 2018 during  
12 business hours:



1 **Errors in the Receivership**

2 49. It is clear to me, from my several years of running companies like these, that the  
3 receiver does not know what he is doing and has never managed a business of this type. He  
4 hired an incompetent management company, SoCal, without performing even a modicum of due  
5 diligence; on the contrary, within 24 hours of getting the receiver order, he had re-hired SoCal.  
6 He stormed the Balboa Dispensary with an armed gunman and broke down its door – hurting the  
7 business and destroying its property, not preserving it. He let SoCal steal a computer without  
8 even turning it on to see what was on it.

9 50. The receiver order put Mira Este and Roselle into receivership for no reason.  
10 There are no active dispensaries at those locations. The Roselle Facility has a completely  
11 unrelated tenant inside of it.

12 51. The Balboa and Mira Este locations have hearings coming up in early August in  
13 front of local government officials that I need to attend. I cannot attend those hearings if I  
14 cannot represent the businesses. If I do not attend those hearings, Balboa Dispensary will lose its  
15 conditional use permit and its license, and the Mira Este Facility will never open. Two  
16 businesses will be destroyed if the receiver stays in place, because the receiver has no idea what  
17 he is doing, and SoCal – an incompetent company whose employees drink alcohol and smoke  
18 stolen marijuana on the job – cannot help him.

19 52. The HOA will revoke the use variance if SoCal continues to operate the Balboa  
20 Dispensary. This will destroy the Balboa business.

21 53. These businesses are fragile. Rather than preserving the status quo, the  
22 receivership order severely disrupted it by reinstating a management company that had been  
23 fired for incompetence and fraud. Razuki has no ownership interest in any of the companies who  
24 run the businesses, as shown by the documents attached to this declaration. He has no right to  
25 ask for control of any of the businesses, and because I am managing the businesses effectively

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with the help of the *competent* management companies I hired to replace SoCal, there is no reason to put them into receivership.

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

DATE: July 29, 2018

BY:   
Ninus Malan,  
Defendant

# EXHIBIT 7

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**

9  
10 SUPERIOR COURT OF CALIFORNIA  
11 FOR THE COUNTY OF SAN DIEGO  
12

13 SALAM RAZUKI, an individual,  
14 Plaintiff,

15 v.

16 NINUS MALAN, an individual; CHRIS  
17 HAKIM, an individual; MONARCH  
18 MANAGEMENT CONSULTING, INC. a  
19 California corporation; SAN DIEGO UNITED  
20 HOLDING GROUP, LLC, a California limited  
21 liability company; FLIP MANAGEMENT,  
22 LLC, a California limited liability company;  
23 MIRA ESTE PROPERTIES, LLC, a California  
24 limited liability company; ROSELLE  
25 PROPERTIES, LLC, , a California limited  
26 liability company; BALBOA AVE  
27 COOPERATIVE, a California nonprofit mutual  
28 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

**DECLARATION OF COURT APPOINTED  
RECEIVER MICHAEL ESSARY IN  
SUPPORT OF EX PARTE APPLICATION  
FOR ORDER AUTHORIZING RECEIVER  
TO EMPLOY COUNSEL**

Judge: Hon. Richard E.L. Strauss  
Dept: C-75  
Date: July 31, 2018  
Time: 9:00 a.m.

**DECLARATION OF RECEIVER MICHAEL ESSARY**

I, MICHAEL ESSARY, hereby declare as follows:

1. I am the Court-Appointed Receiver in the above-captioned matter (“Action”). I have personal knowledge of the matters set forth herein, and if called upon as a witness, I could and would testify competently thereto.

-1-

DECLARATION OF MICHAEL ESSARY

1           2.       On July 17, 2018, the Court appointed me as the Receiver in this Action. Pursuant  
2 to the Appointment Order (“Order”), I was ordered to take possession and control of all assets of  
3 the Marijuana Operations. After filing my bond and oath with the Court on July 17, 2018, I met  
4 with Plaintiff’s counsel Mr. Elia at his office in Mission Valley to gather information about the  
5 entities listed on Page 2 of the Order; addresses, names of principals, contact numbers (if any), bank  
6 account information, etc.

7           3.       While at Mr. Elia’s office, my office texted me with a message from Ms. Gina  
8 Austin and a return call number. I immediately called Ms. Austin and told her of my intentions to  
9 enter and take control of the dispensary at 8869-E Balboa Avenue, San Diego that afternoon. Ms.  
10 Austin stated that the Order was not valid and that she would not follow the Order. She also stated  
11 that she would advise her clients to resist my attempts to locate and takeover assets and not to  
12 follow the Order.

13           4.       I went to the dispensary at Balboa to effectuate the Order. However, the  
14 occupants/employees did not allow me access to the building to discuss the court’s Order and its  
15 requirements. They instead locked themselves in the offices with the safes and security cameras,  
16 loaded up all the cash they could find, and then ran out the back door while I was at the front of the  
17 building. Myself and a security guard on site personally witnessed Ms. Austin in her vehicle drive  
18 around the building and leave with the employees and bags they were carrying. The guard also  
19 took a picture of Ms. Austin’s license plate.

20           5.       Two women and one man fled the building and were met in the alley by Ms. Austin  
21 in her vehicle; they jumped in her car with the bags from the office and she drove them all away.  
22 The dispensary’s employees later returned when we were inside to take their personal vehicles  
23 with them.

24           6.       I verified all of these actions by reviewing the extensive security camera recordings  
25 of their actions inside and outside of the building.

26           7.       In connection with my receivership, and to ensure that all local and state marijuana  
27 laws are complied with respect to the Marijuana Operations, I submitted formal notification of the  
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1 Order to the California Bureau of Cannabis Control ("BCC") pursuant to section 5024 of BCC's  
2 emergency regulations. A true and correct copy of these regulations is attached hereto as Exhibit  
3 A, and a true and correct copy of the notification to BCC is attached hereto as Exhibit B.

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

6 Executed this 30th day of July 2018 at San Diego, California.

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Michael Essary  
Court-Appointed Receiver

# EXHIBIT 8

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**DECLARATION OF MICHAEL ESSARY**

I, MICHAEL ESSARY, hereby declare as follows:

1. I am the Court-Appointed Receiver in the case entitled Razuki v. Malan, et al., which is also known as San Diego Superior Court Case No. 37-2018-00034229 (the Action”). I have personal knowledge of the matters set forth herein and, if called as a witness, I could and would testify competently thereto.

2. I make this Declaration in response to certain allegations made in Defendant Ninus Malan’s Ex Parte Application to Vacate Receivership Order (“Malan’s Ex Parte Application”), which was submitted to the Court on or about July 30, 2018.

3. I was appointed as receiver in this Action on July 17, 2018 pursuant to the Court’s Order Appointing Receiver (the “Appointment Order”) which was executed by Judge Medel on that day. I filed my bond and oath on July 17, 2018. The Appointment Order authorized me to take possession and control of certain businesses, as well as their assets and real property including, but not limited to, several legal marijuana related businesses which I shall refer to herein as the “Marijuana Operations.”

4. The Marijuana Operations subject to the Appointment Order included a legal marijuana dispensary located at 8861 Balboa Avenue, Suite B and 8863 Balboa Avenue, Suite E, San Diego, CA 92123 (collectively referred to as the “Balboa Dispensary”). As stated in my previous Declaration dated July 30, 2018, upon notifying Gina Austin, Esq., counsel for Defendant Ninus Malan (“Malan”), on July 17, 2018, that I would immediately be taking over possession and control of the Balboa Dispensary, she stated that she would not be following the Appointment Order and she would furthermore advise her clients to do the same. Thereafter, I went to the Balboa Dispensary and ultimately took possession and control of the property and business pursuant to the Appointment Order.

5. In Malan’s Ex Parte Application stated the following allegations, which I believe to false and/or misleading:

- (a) That there was a man with me brandishing a gun at the Balboa Dispensary (*see* Malan’s Ex Parte Application at 3:18-19 and 7:16-18);
- (b) That the man brandishing the gun at the Balboa Dispensary “brought” me along (*Id.* at 3:19-21);

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- (c) That the gunmen “falsely claimed to be a cop” (*Id.* at 3:19-20);
- (d) That when police arrived, rather than speak with the police, I retreated to an alleyway with “Plaintiff’s gunmen” (*Id.* at 3:25-27);
- (e) That “[a]fter the police left, Plaintiff’s gunmen came back, pounded on the front door and demanded that Balboa’s employees vacate the building” (*Id.* at 4:1-2 and 7:16-18);
- (f) That “Plaintiff’s gunmen broke down the front door and invaded the dispensary” (*Id.* at 4:2-3 and 7:16-18);
- (g) That after “terrified employees ran to a secure room, then fled the building through a back exit as Plaintiff’s gunmen ran after them” (*Id.* at 4:3-4 and 7:16-18);
- (h) That I, in concert with employees of Plaintiff-In-Intervention SoCal Building Ventures, LLC (“SoCal Building”), stole computers after my takeover of the Balboa Dispensary (*Id.* at 4:5-6 and 7:16-18);
- (i) That my takeover of assets of the Balboa Dispensary, including computers located in the business, constituted a “robbery” (*Id.* at 19-21); and,
- (j) That my attempt to comply with the Appointment Order was a “hostile takeover” of the Balboa Dispensary (*Id.* at 19-21).

6. **Malan’s Allegations Regarding the “Gunmen”.** There were three security guards present at the Balboa Dispensary when I arrived on July 17, 2018 who offered me assistance in taking possession and control of the property and business. I am informed and believe that one was hired by Plaintiff Salam Razuki to ensure a safe transition to the receivership and was employed by a company known as Archstone; it is my understanding that the other security guards are employed by Edward Security, the same security company that was contracted to work at the Balboa Dispensary prior to my takeover. None of these security guards “brought me along,” and all three were present at the Balboa Dispensary when I arrived there on July 17, 2018.

Furthermore, I am informed and believe that all of these security guards are, and were, licensed to carry open firearms. No guns were ever unholstered during my presence at the Balboa Dispensary on July 17, 2018.

I never heard any of the the security guards claim to be a police officer in my presence.

1 In my opinion, there was never any threat of violence during my takeover of possession and  
2 control of the Balboa Dispensary on July 17, 2018.

3 7. **Malan’s Allegation That I Retreated to An Alleyway With Plaintiff’s “Gunmen”**  
4 **After the Police Arrived.** Although I am informed and believe that police officers did visit the Balboa  
5 Dispensary earlier in the day on July 17, 2018, there was never any police presence while I was at the  
6 Balboa Dispensary on that day and, therefore, I could not have retreated into the alleyway with the  
7 security guards that were present.

8 8. **Malan’s Allegation That Plaintiff’s “Gunmen” Pounded on the Front Door**  
9 **Demanding That Balboa’s Employees Vacate the Building After Police Left.** As mentioned above,  
10 when I arrived at the Balboa Dispensary on July 17, 2018, there were three security guards present. I  
11 am informed and believe that one of the security guards is an employee of Archstone and was hired by  
12 Plaintiff Salam Razuki to ensure everyone’s safety during my takeover of possession and control of the  
13 Balboa Dispensary and the other security guards worked for Edward Security, the same security  
14 company to work at the location prior to my appointment as receiver. Also present at the Balboa  
15 Dispensary was James Holler, an employee of SoCal Building. While I initially knocked on the door,  
16 we did eventually knock louder as the persons inside the business had locked the doors and were  
17 refusing to open the doors despite my multiple requests to do so pursuant to the Appointment Order.  
18 None of the armed security guards ever knocked or pounded on the door.

19 9. **Malan’s Allegation That Plaintiff’s “Gunmen” Broke Down the Front Door and**  
20 **Invaded the Dispensary.** Neither I, nor any person who was at the Balboa Dispensary on July 17, 2018  
21 when I took possession and control of the property and business, broke down any door. After having  
22 been locked out by the persons inside the Balboa Dispensary when I arrived, I was able to gain access  
23 to the business when those persons ran out to the vehicle which I am informed and believe was driven  
24 by Malan’s attorney, Gina Austin, and left the back door to the office wide open.

25 10. **Malan’s Allegation That Plaintiff’s “Gunmen” Ran After Terrified Employees**  
26 **After They Fled.** Neither I, nor the other persons employed by either Plaintiff, SoCal Building, Edward  
27 Security or Archstone, ever ran after the employees who fled the Balboa Dispensary when I attempted  
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1 to take possession and control of the business. One of the security guards who was present did hear  
2 commotion in the back alley behind the dispensary and quickly ran back there to see what was  
3 happening. I later viewed video from the Balboa Dispensary's security camera system, which showed  
4 the persons who fled the scene in a car driven by Gina Austin, Esq., put money into bags and plastic  
5 containers before getting into Ms. Austin's vehicle with the same containers and quickly driving off.

6 11. **Malan's Allegation That SoCal Building's Employees and I "Stole" Computers and**  
7 **Constituted a "Robbery"**. The Appointment Order authorized me to take possession and control of  
8 the receivership assets including, but not limited to, the Balboa Dispensary. Computers which were  
9 located within the Balboa Dispensary at the time I took possession and control of the dispensary were  
10 presumably assets of the receivership until such time as I could identify them otherwise. After removing  
11 some of them initially, they were returned to the premises after I gained access to the entire premises.

12 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
13 true and correct, and that this declaration is executed on August 12, 2018, at San Diego, California.

14  
15   
16 Michael Essary, Receiver

# EXHIBIT 9



Following lengthy discussions, as more fully set forth in the court reporter's notes, the Court GRANTS the request to vacate the receivership order (Re: 1.A.).

Counsel to prepare a proposed order for the Court's review and approval.

The Court GRANTS Michael Essary's ex parte request authorizing Receiver to employ counsel; counsel is entitled to be compensated for his services.(Re: 1.B.).

As to all other matters; the Court instructs counsel to proceed via a noticed motion for remedies being sought.



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Judge Richard E. L. Strauss

# **EXHIBIT 10**

**DECLARATION OF JAMES HOLLER**

I, James Holler, declare as follows:

1. I am an individual and former Manager of the dispensary known as the Tree House Balboa Facility (“Balboa Facility”). I make this declaration in support of Plaintiff-in-Intervention SoCal Building Ventures, LLC’s (“SoCal”) Supplemental Opposition to *Ex Parte* Application to Vacate Receivership Order. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. I was hired by SoCal to manage the Balboa Facility, along with Chris Patel. I held this position from early December 2017 until July 2018, at which point a new management company was installed by Ninus Malan and his associates.

3. When Mr. Patel and I took over management, we were immediately struck by the enormous amount of waste and clutter and a lot of unsellable product. This product was not handled properly and allowed to deteriorate, rather than storing it in a manner that could have preserved it.

4. I also noticed that there was not much of a client base and, generally speaking, the dispensary’s buying decisions appeared very ill-informed. One of the first things we did when we got there was to start instituting our own brands and products we were familiar with, and then increased our presence by putting up an actual Weedmaps page, getting on social media, building a website, getting business cards for the business, and doing other basic things that would be expected from any reputable dispensary. As a result of these efforts alone we saw a nice turnaround of the business in the first few months.

5. Upon taking over the Balboa Facility, we also started cleaning up the entire operation. We picked up brands that we knew had a better reputation and obtained higher quality flower and concentrates. We made sure that security was in place and guards were doing patrols, no one was smoking on site, and kept an eye on our comprehensive grid surveillance system which had coverage of the whole perimeter. We also instituted just a better sales atmosphere. Our goal was to become the friendly neighborhood spot where you get to know your clients. This worked because our revenue jumped compared to the very little business the dispensary was

DECLARATION OF JAMES HOLLER

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doing when we took over.

6. Mr. Malan and his attorney Gina Austin functioned as the interface between the Balboa Facility and the City for the purposes of licensing, audits, and compliance issues. SoCal was not responsible for providing information to auditors and I understood that Mr. Malan and Ms. Austin were in charge of that.

7. One day in March or April 2018, Mr. Malan decided to install signage including electricity, both outside around the perimeter of the property and along our immediate parking area. I very specifically remember asking him, “Did we get permits for these?”, to which he responded: “Yeah absolutely no problem.” Assuring me that we had gotten approvals, I did not consider it further. However, we got a visit several weeks later from a City Official who informed me that the signs were not permitted and somebody had lodged a complaint. I was surprised because Mr. Malan had assured me that we had in fact received the permits for those. I called Mr. Malan and he informed me that, no, we did not in fact have these permits.

8. There has never any smoking of marijuana or drinking of alcohol at Balboa during SoCal’s management. Two security Guards are regularly posted, once SoCal took control. Other than the signage and electrical issues which were caused by Mr. Malan, I am not aware of any code violation issues.

9. I am also unaware of any issues or complaints with the HOA. I have always made cash payments to the HOA pursuant to the settlement agreement; however, I cannot be sure that Mr. Malan did not hold them or prevent them from getting to the HOA. There is a man named Daniel Burakowski who I understand is affiliated with the HOA, we would exchange pleasantries from time to time. Mr. Burakowski never complained about anything to me.

10. On the morning of July 10, 2018, I received a called from Steven Davis, Assistant Manager at Balboa. He reported to me that the locks had been changed, and security on site instructed him that Mr. Malan ordered for no one to be allowed inside. I drove to the dispensary, where Steven and the onsite security were waiting. Steven informed me that while he was locking up the previous night on July 9, 2018, Mr. Malan approached him and asked for his key. He obliged, and found the locks changed the following morning. On the morning of the 10<sup>th</sup>,

DECLARATION OF JAMES HOLLER

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I noticed that the password for camera access had been changed, and Diana De La Mora discovered that access to our Point of Sale Software called "Treez" had been blocked as well. Later that day, I received a notification from an app on my phone that controls the alarm that someone was inside the building and had used Steven's access code. I drove to the dispensary and found Mr. Malan there, where I inquired as to his motivations and whether or not I still was employed. He was unclear in his response, citing reasons like "it's more complicated than I can explain" and "it was never my intention to fuck you over."

11. Mr. Malan insisted was unclear on my employment status. When we ended our conversation he told me to call him in the morning. On the morning of July 11, 2018, I arrived at the dispensary as I normally would for my shift. There I found Steven and a number of people he informed me were a part of another dispensary called Golden State Greens, who were attempting to gain access to Treez. Steven and I spoke at length regarding his role in assisting with the takeover. He told me all he had done was give Mr. Malan his key and alarm code, and that he received a call on the 10th instructing him to be at the dispensary at 7:30 the morning of the 11th. We had learned that Stevens credentials had been used to request back end data reports, and when I questioned Steven regarding this he insisted had taken no part in that act. He reached out to Mr. Malan, who told him "they" had used his credentials, implicating the new staff members. Per his request, I then reached out to Mr. Malan at first using my own phone and discovered my number had been blocked. Steven loaned me his phone to call Mr. Malan, who, when I finally contacted him, still refused to give me a clear answer as to my employment status or the status of the management agreement between him and SoCal. I reached out to Alexandra Clarke and Maria Ortega, who are employed as sales associates and were scheduled to work that day and also very close to Mr. Malan. I told them there were some issues at the shop and that they could have the day off, but they already knew more than I did. They informed me that Mr. Malan had instructed them to come to the dispensary the afternoon of the 10th, where they were instructed to take inventory and be introduced to "New management". I received a call from Alexandra on the afternoon of the 11th, who had visited the dispensary to collect her tips from the previous week and inform the staff there that she would not be working that day. She informed me that

DECLARATION OF JAMES HOLLER

1 there were people inside the dispensary painting the interior, and that a sign had been placed in  
2 front of the building that read "Golden State Balboa."

3 12. I was present at the Balboa Facility on July 17, 2018 when the court-appointed  
4 receiver, Michael Essary, attempted to take control of the Balboa Facility. I knew Mr. Essary  
5 was going to the Balboa Facility with the order because I had gone to the San Diego Central  
6 Courthouse and witnessed the court hearing in the morning where receivership was granted to  
7 Mr. Essary. I also met at the courthouse Mr. Malan's attorney, Gina Davis, who I've met before  
8 when she handled an audit between the City and the facility. So we were familiar and would say  
9 even friendly at that time. She said Hello to me in the courtroom that day.

10 13. After the hearing, I reported to the Balboa Facility and was met by a security  
11 guard from Archstone named Jose Mora sometime between 10 and 11 a.m. or so. The San Diego  
12 police arrived soon after, about four squad cars and eight police officers. Some were talking to  
13 me and Mr. Mora, and others were talking to Ms. Austin and Mr. Malan who were also there. I  
14 did not have a copy of the court order but Ms. Austin appeared to show it to the police and  
15 explained the reason I was there and what I was doing there. The police explained to us that we  
16 were allowed to be there and wait for the receiver as long as we did not do anything in the  
17 meantime, and they left.

18 14. While this was going on, Mr. Malan yelled and shouted at me saying, among  
19 other things, "I hope you packed your bags, you..." Ms. Austin eventually motioned to him and  
20 they both went inside. Mr. Malan left shortly after that. He departed quickly. I remained outside  
21 with Mr. Mora and we were joined later by my Assistant Manager Steven Davis.

22 15. We waited for Mr. Essary and watched, one by one, the employees of Golden  
23 State Greens leaving the facility. All the employees that left and came by us were very cordial  
24 and polite, very friendly with us. Mr. Essary arrived around somewhere between 2:30 to 3:00  
25 p.m. When he arrived we joined him in knocking on the front door to inform them that the court  
26 order had been served and that they were required to vacate the building. He explained this to a  
27 female security guard, Marisa Kimber, who answered the door and relayed back the message.  
28 This was answered by a female voice who said "shut the door." Mr. Essary informed Ms.

DECLARATION OF JAMES HOLLER

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1 Kimber that refusing to permit entry is contempt of the court order and that he would suggest  
2 that she vacate and she did - she called a ride and she left. The other guard that was still there  
3 relayed Mr. Essary's message again and once again was met with the same voice saying "lock  
4 the door." Mr. Essary repeated his message and shouted back so the people further back could  
5 hear him. He shouted back his orders very clearly and politely, and they were met once more  
6 with "lock the door."

7  
8 16. Mr. Essary and I went around the back door, because we believed the occupants  
9 to be in the back office. We knocked on the back door several times loudly and relayed the  
10 message loudly so anyone can hear, but there was no response whatsoever. I remember distinctly  
11 the whole time hearing the safes opening and rustling the whole time and things like "hand the  
12 money," which I understood meant that they were getting the money together. We then walked  
13 back around to the front. At this point, we are not trying to force our way in. We were giving  
14 them every chance to just come out so we did not have to just go in there.

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16 17. They never came out. I should add that throughout the day Gina Davis had been  
17 coming and going in a bronze Range Rover. I say this because we briefly left the back door for a  
18 moment and during that time Mr. Mora notices movement and went to see what's going on. He  
19 runs back there and then we see the occupants are fleeing the building towards the bronze Range  
20 Rover. They all hop in the Range Rover and a blond woman is carrying a black or blue trash can.  
21 They then speed around the corner almost hitting Mr. Mora on the way out as he gets a picture of  
22 the license plate. I saw very clearly it was Ms. Austin driving this car.

23  
24 18. They speed off and they left the back door to the office wide open and so we went  
25 inside the dispensary. We did a quick overview. It seemed like none of the product had been  
26 touched but all of the safes were empty. The camera system was also unlocked, and we just  
27 rewound it and watched everything that had just occurred. We watched them get the money  
28 together put it in that trash can and take off. The entire time we can see they are frantic and  
pacing on the phone and keeping a very close eye on us on the camera grid. Attached as **Exhibit**  
**A** is a true and correct copy of a series of screenshots of this video showing them gathering the  
money and escaping into Ms. Austin's Range Rover.

DECLARATION OF JAMES HOLLER

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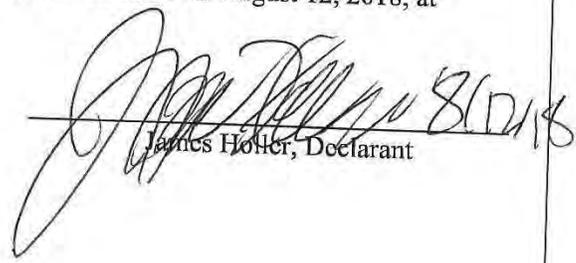
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19. I have heard that they are now saying they feared for their lives and that we broke down the door. These are lies. There were two armed guards there, one of whom worked for Edward Security - the same security company contracted to work at Balboa at the time and the other one was from Arch Stone. They are both licensed to carry open firearms - the police arrived and inspected Mr. Mora's carry permit and disarmed him while they did so. There was no threat of violence. That is why the police left us after coming the first time. The closest thing to anything that can be called violent was my banging on the door. No door was ever broken down.

20. On July 17, 2018, after we regained access to the dispensary, I went to go print a sign to put in the window to indicate that we were reopening. While trying to print, I noticed there was a paper jam in the printer on site preventing it from functioning. Because this paper jam evidently caused the printer to store the jammed document in the queue, when we cleared the jam and started to print our documents, the jammed document printed first. A true and correct copy of this document, a "Management Services Agreement" between Balboa and "Far West Management, LLC," is attached hereto as Exhibit B.

21. We came back that Thursday and conducted an inventory of the existing product and reopened for sales the following Friday, July 20, 2018.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on August 12, 2018, at Calabasas, California.

  
James Holler, Declarant

DECLARATION OF JAMES HOLLER

# **EXHIBIT 11**

**DECLARATION OF JOHN H. YAEGER**

I, John H. Yaeger, declare and state as follows:

1. I am a certified public accountant. I am the chief executive officer of JHY Partners, Inc. (“JHY”), which is an accounting firm that provides tax accounting and related accounting and consulting services for its clients.

2. In March 2017, JHY was engaged to perform tax accounting and general tax consulting services for Balboa Ave Cooperative (“Balboa”). I am the individual with JHY who performed the tax accounting and related services for Balboa. I have been performing tax accounting and general tax consulting services for Balboa since Balboa began to operate in April 2017.

3. Ninus Malan was operator of Balboa from April 1, 2017 through December 10, 2017.

4. SoCal Business Ventures (“SoCal”) started managing the operations of Balboa on December 11, 2017, and remained as manager until it was replaced on or about July 10, 2018 by another manager going by the name “Golden State Greens.”

**Balboa Average Sales**

5. Sales figures for Balboa are logged and recorded as sales are made by a Point of Sale (“POS”) system. Sales reports are generated from the POS system, reflecting the sales and corresponding amounts for given time periods. These reports provide the sales information from which Balboa’s revenues are determined. I have reviewed the sales reports for Balboa’s operations from April 2017 through June 2018.

6. According to the sales reports, the revenue generated during the time that SoCal managed the operations of Balboa was, on average, more than double the amount of the revenue generated during the time that Mr. Malan operated Balboa. Specifically:

- (a) Mr. Malan averaged \$3,300 in sales per day; whereas,
- (b) SoCal averaged \$7,538 in sales per day.

**Cash at Balboa as of July 10, 2018**

7. Part of the operation’s daily cash reconciliation process is to maintain a running total of the amount of cash in the safe at the business. This daily reconciliation is intended to be, and is relied upon to be, an accurate statement of the amount of cash in the operation’s safe as of that day.

8. According to the July 10, 2018 daily reconciliation sheet (unaudited), there was \$65,441.89 in the safe on that day.

**City of San Diego Audit**

9. On May 7, 2018, I was informed that the City of Sand Diego, on that date, sent notification of the commencement of an audit of Balboa’s business. I then communicated by email with Gina Austin, Mr. Malan’s attorney, about the handling of the audit. I provided certain accounting information for use in connection with the audit, while Ms. Austin was the primary point-person for the audit. Attached to this declaration as Exhibit A is a true and correct copy of email correspondence between Ms. Austin and me transmitted on May 18, 2018, including at the beginning of the email chain the May 7, 2018 initial notification of the audit.

10. By email to me on May 30, 2018, Ms. Austin confirmed that she would be at the in-person meeting requested by the City’s auditor, “MGO.” Ms. Austin, Mr. Malan, James Holler (Balboa’s Manager), and I attended this meeting, which was held on May 30, 2018. Attached to this declaration as Exhibit B is a true and correct copy of Ms. Austin’s May 30, 2018 email to me.

11. After the May 30, 2018 meeting, Ms. Austin informed me that she would let us know of the next steps and that we were not to provide any additional information unless she approved.

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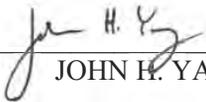
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12. On June 26, 2018, I sent an email to Ms. Austin asking for an update on the audit. Ms. Austin responded by email on the same day, indicating that things were moving forward and that she would keep me “posted.” Attached to this declaration as Exhibit C is a true and correct copy of the email chain containing my June 26, 2018 email to Ms. Austin and her response to me.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 12, 2018, at San Diego, California.

  
\_\_\_\_\_  
JOHN H. YAEGER

# ***EXHIBIT A***

## John Yaeger

---

**From:** Austin, Gina <gaustin@austinlegalgroup.com>  
**Sent:** Friday, May 18, 2018 7:14 AM  
**To:** John Yaeger  
**Subject:** Re: Balboa Avenue Cooperative - Announcement of Upcoming Cannabis Audit Assessment

Thank you. I'll have the letter to you by 3. I am also sending to Kerry Santoro and Bob Vacchi since I have briefed them.

Sent from my T-Mobile 4G LTE Device

----- Original message -----

**From:** John Yaeger <john@jhypartners.com>  
**Date:** 5/18/18 7:11 AM (GMT-08:00)  
**To:** "Austin, Gina" <gaustin@austinlegalgroup.com>  
**Subject:** RE: Balboa Avenue Cooperative - Announcement of Upcoming Cannabis Audit Assessment

Morning Gina,

Hope you're doing well. Looks like you're an early riser too. I have started uploading the San Diego Tax Assessment Returns and the sales printout from the POS system, but that's it.

Thanks

John

This message contains information that may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy, print or disclose to anyone this message or any information contained in this message. If you have received this e-mail in error, please let me know and permanently delete this message.

The discussion above is as of this date, based solely on the limited information provided and is subject to change based on changes in accounting pronouncements, tax regulations and law. We assume no responsibility for providing updated advice at a later date.

---

**From:** Austin, Gina <gaustin@austinlegalgroup.com>  
**Sent:** Friday, May 18, 2018 7:08 AM  
**To:** John Yaeger <john@jhypartners.com>  
**Subject:** Re: Balboa Avenue Cooperative - Announcement of Upcoming Cannabis Audit Assessment

Please identify which line items you have provided or will be uploading today. I am drafting the letter to be uploaded along with. Everyone knows coming.

Sent from my T-Mobile 4G LTE Device

----- Original message -----

**From:** John Yaeger <[john@jhypartners.com](mailto:john@jhypartners.com)>

Date: 5/7/18 4:23 PM (GMT-08:00)  
To: "Anderson, Arden" <[arden@austinlegalgroup.com](mailto:arden@austinlegalgroup.com)>  
Cc: "Austin, Gina" <[gaustin@austinlegalgroup.com](mailto:gaustin@austinlegalgroup.com)>  
Subject: FW: Balboa Avenue Cooperative - Announcement of Upcoming Cannabis Audit Assessment

Hi Arden,

Hope you're doing well. I thought that we had more time, but Ninus just received this and I'm sure that other owners are starting to receive them as well. Please let me know when you have time to discuss.

Thanks

John

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---

**From:** Ninus Malan <[ninusmalan@yahoo.com](mailto:ninusmalan@yahoo.com)>  
**Sent:** Monday, May 7, 2018 3:23 PM  
**To:** John Yaeger <[john@jhypartners.com](mailto:john@jhypartners.com)>  
**Subject:** Fwd: Balboa Avenue Cooperative - Announcement of Upcoming Cannabis Audit Assessment

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Jasmine Costa <[jcosta@mgocpa.com](mailto:jcosta@mgocpa.com)>  
Date: 5/7/18 2:54 PM (GMT-08:00)  
To: [NINUSMALAN@YAHOO.COM](mailto:NINUSMALAN@YAHOO.COM)  
Cc: "Kulek, Robbin" <[RKulek@sandiego.gov](mailto:RKulek@sandiego.gov)>  
Subject: Balboa Avenue Cooperative - Announcement of Upcoming Cannabis Audit Assessment

Dear Ninus Malan,

As a follow up to the Outreach Session last Thursday, May 3, please see attached the official MGO notification letter regarding the upcoming City of San Diego Cannabis Audit Assessment. I'm also attaching the Initial Document Request List for this engagement. A hard copy of these two documents will be mailed to you.

*For those who were unable to attend the outreach session, I've included the presentation slides to this email as well.*

If you could please review the documents and let us know of a suitable time (selecting from the dates listed in the announcement letter) that we can visit your location for the assessment, I will go ahead and schedule the meeting.

Also, if you could provide us with the documents listed in the Initial Document Request List by **Friday, May 18<sup>th</sup>**, that would be greatly appreciated.

In the meantime, please don't hesitate to contact me via email or my cell phone at 858-605-8696 if you have any questions or concerns.

We look forward to working with you and your team on this engagement.

Regards,

**JASMINE COSTA, CISA**  
**MANAGER**

+1 (858) 605-8696  
[icosta@mgocpa.com](mailto:icosta@mgocpa.com)

12264 El Camino Real, Suite 402  
San Diego, CA 92130  
mgocpa.com



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Connect with us: Three small square icons with black borders and white backgrounds, each containing a black 'x' symbol, indicating broken image links for social media connections.

# ***EXHIBIT B***

## John Yaeger

---

**From:** Austin, Gina <gaustin@austinlegalgroup.com>  
**Sent:** Wednesday, May 30, 2018 6:54 AM  
**To:** John Yaeger  
**Cc:** 'Ninus Malan'  
**Subject:** Re: City Inspection Tomorrow

Thank you. I will be there.

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: John Yaeger <john@jhypartners.com>  
Date: 5/30/18 6:49 AM (GMT-08:00)  
To: "Austin, Gina" <gaustin@austinlegalgroup.com>  
Cc: 'Ninus Malan' <ninusmalan@yahoo.com>  
Subject: RE: City Inspection Tomorrow

Morning Gina,

Hope you had a good weekend. Today's meeting with the auditors will consist of the following:

- Asking questions about the operations
  - These will be directed at Ninus
- Going over their initial request list
  - This is the list that they initially sent out
- Walking through the operations

Since we are respectfully objecting to the majority of this information, I don't think that the meeting should take that long. Given that the information they are requesting is sensitive in nature, I think that it's best if you were at the meeting Gina.

Please let me know if you have any questions.

Thanks

John

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---

**From:** Austin, Gina <gaustin@austinlegalgroup.com>  
**Sent:** Tuesday, May 29, 2018 8:16 PM  
**To:** John Yaeger <john@jhypartners.com>

**Cc:** 'Ninus Malan' <ninusmalan@yahoo.com>

**Subject:** City Inspection Tomorrow

**Importance:** High

Ninus and John,

Do you want me at the site visit tomorrow? If so, John please give me some details as to what has occurred on prior visits of your clients.

Thanks

Gina

Gina M. Austin

AUSTIN LEGAL GROUP, APC | 3990 Old Town Ave., Ste A112, San Diego, CA 92110 |

Ofc: [619-924-9600](tel:619-924-9600) | Cell [619-368-4800](tel:619-368-4800) | Fax [619-881-0045](tel:619-881-0045)

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# ***EXHIBIT C***

## John Yaeger

---

**From:** Austin, Gina <gaustin@austinlegalgroup.com>  
**Sent:** Tuesday, June 26, 2018 3:27 PM  
**To:** John Yaeger  
**Cc:** Ninus Malan  
**Subject:** RE: SD Audit

Still moving forward. A bunch of back and forth while they try to explain why they didn't provide me with the written responses. I guess she is going to do that now. We shall see. I will keep you posted.

Gina

---

**From:** John Yaeger [mailto:john@jhypartners.com]  
**Sent:** Tuesday, June 26, 2018 3:25 PM  
**To:** Austin, Gina  
**Cc:** Ninus Malan  
**Subject:** SD Audit

Hi Gina,

Hope you're doing well. I was wondering if you had a chance to speak to MGO or the city regarding the audit. I know that they sent out a notice saying that Balboa failed the audit, but I was wondering if there were any additional steps needed from my end or a timeframe for when you think this might all be taken care of.

Thanks

John

**John H. Yaeger, CPA | Partner**  
**JHY Partners**  
**Certified Public Accountants**  
**O: 858-299-1289 | C: 760-207-9353 | F: 858-299-1291**  
[john@jhypartners.com](mailto:john@jhypartners.com)

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# **EXHIBIT 12**

NELSON HARDIMAN LLP  
11033 WEST OLYMPIC BOULEVARD, SUITE 900  
LOS ANGELES, CALIFORNIA 90064

**DECLARATION OF JIM TOWNSEND**

I, Jim Townsend, declare as follows:

1. I am the Managing Member of SoCal Building Ventures, LLC ("SoCal"), Plaintiff-in-Intervention in this action. I make this declaration in support of SoCal's Supplemental Opposition to Ex Parte Application to Vacate Receivership Order. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

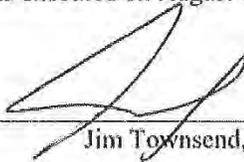
2. As SoCal's Managing Member, I am familiar with and am involved with purchasing and paying for equipment for the facilities which SoCal manages, including the Balboa and Mira Este Facilities. In connection with my duties, I also gather and analyze financial data, make payments, and prepare accountings in connection with SoCal's operations.

3. I created an inventory of SoCal's equipment that is currently located at the Mira Este Facility and under the control of Defendants in this case. I also assembled proof of payment by SoCal for this equipment. A true and correct copy of this equipment list and proof, current as of August 10, 2018, is attached hereto as Exhibit A.

4. The total value of SoCal's equipment at the Mira Este facility as of August 10, 2018, that I am currently aware of, is \$410,206.

5. I also created an accounting to date of the payments made by SoCal for the Balboa and Mira Este Facilities from 2017 through July 2018, which total \$2,731,811.03. A true and correct copy of this accounting to date, with proof, is attached hereto as Exhibit B.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on August 11, 2018, at Westlake Village, California.

  
\_\_\_\_\_  
Jim Townsend, Declarant

DECLARATION OF JIM TOWNSEND

497102.1

San Diego

Equipment & Inventory at Mira Este

	Mira Este Lab Setup			Invoice/PO Number
12/11/2017	Delta Separation	\$	(67,000.00)	1119
12/14/2017	KIM Industries - cartridges	\$	(107,275.00)	Agreement 12/14
2/7/2018	Jacksam Processor	\$	(17,600.00)	
2/12/2018	Delta Separation	\$	(66,147.00)	
3/9/2018	Jacksam Processor	\$	(8,500.00)	
4/18/2018	Electrical	\$	(4,010.00)	
4/25/2018	Equipment Order - Lab Society	\$	(40,000.00)	3320/3324/3325
4/30/2018	Equipment Order - Lab Society	\$	(25,000.00)	3488
5/15/2018	American AV - Electric	\$	(4,010.00)	
6/5/2018	West Coast Sight - cameras and access	\$	(13,100.00)	1192
6/14/2018	Christen Camera Security - Check	\$	(1,755.00)	1059
6/28/2018	Westcoast Sigh & Sound - Check	\$	(6,659.00)	1183
6/28/2018	Miles Electric - Check	\$	(10,900.00)	
7/10/2018	Lab trader	\$	(13,150.00)	629.6799
7/10/2018	Sadler Freezers	\$	(25,100.00)	
		\$	(410,206.00)	

EXHIBIT A

Delta Separations LLC  
 3200 Dutton Ave. Unit # 321  
 Santa Rosa, CA 95407 US  
 (707) 222-6066  
 sales@deltaseparations.com



<b>ADDRESS</b>	<b>SHIP TO</b>
San Diego Building Ventures LLC	San Diego Building Ventures LLC
9212 Mira Este Court	9212 Mira Este Court
San Diego, CA 92126	San Diego, CA 92126

**ESTIMATE 1119**

**DATE 12/08/2017**

**SALES REP**  
 Nathan Radabaugh

ACTIVITY	QTY	RATE	AMOUNT
C.U.P. 15	2	55,000.00	110,000.00T
Filter Rack	1	6,000.00	6,000.00T
Keg Transfer Klt	6	600.00	3,600.00T
Keg, 15.5 Gallons, 4" Tri Clamp	12	250.00	3,000.00T

Thank you very much for your decision to go with Delta Separations. To begin the process, a 50% deposit is required. After we receive the deposit, we will send you over the sales contract and updated invoice.

<b>SUBTOTAL</b>	122,600.00
<b>TAX (8.625%)</b>	10,574.25

Bank Information:  
 JP Morgan Chase Bank NA, 1111 Polaris Parkway, Columbus,  
 OH 43240  
 SFIFT/BIC Code: CHASUS33  
 Routing Transit Number: 021000021  
 Beneficiary Account Number: 775657096

Thank you  
 Nathan Radabaugh  
 Director of Sales/Marketing

**TOTAL \$133,174.25**

Accepted By

Accepted Date

Delta Separations LLC  
3200 Dutton Ave. Unit # 321  
Santa Rosa, CA 95407 US  
(707) 222-6066  
craftscience@deltaseparations.com



**BILL TO**  
Adam Lustig  
Higher Vision

**INVOICE 1057**

**DATE 02/15/2018 TERMS Net 30**

**DUE DATE 03/17/2018**

**P.O. NUMBER**

**SALES REP**

ACTIVITY	QTY	RATE	AMOUNT
Freight Shipping and Crate	1	1,280.00	1,280.00

Thank you for considering Delta Separations for your business.

Bank Information (Wire not ACH):  
JP Morgan Chase Bank NA, 1111 Polaris Parkway, Columbus,  
OH 43240  
SFIFT/BIC Code: CHASUS33  
Routing Transit Number: 021000021  
Beneficiary Account Number: 775657096

**IMPORTANT:** Add this Estimate # to the memo line of any payments.

Please let me know if you have any questions.  
-Martin

**TOTAL DUE \$1,280.00**

## EXCLUSIVE SUPPLY AGREEMENT

This Exclusive Supply Agreement (this "Agreement") is entered into as of December 14, 2017 (the "Effective Date") by and between CMP Wellness, LLC (d/b/a Medepen), a California limited liability company having its principal place of business at 15711 Condon Ave Suite A5, Lawndale, CA 90260 ("Seller") and, San Diego Building Ventures LLC, a California Limited Liability Company having its principal place of business at 32123 Lindero Canyon Rd, Suite 210, San Diego, CA 91361 ("Buyer") (each a "Party" and, collectively, the "Parties").

### AGREEMENT

1. Supply.

(a) On the terms and conditions set forth herein, Buyer agrees to purchase the products set forth on Schedule 1 attached hereto (each product on Schedule 1, a "Product" and collectively, the "Products"). Schedule 1 may be updated from time to time by Seller to include new Products. To the extent Buyer submits purchase orders for any Product, any pre-printed terms or other terms other than the Product SKUs, quantities and delivery dates contained therein are hereby expressly rejected. Buyer agrees that any change in state, local, or federal laws affecting Buyer's principle business will not alter its obligations under or the terms of this Agreement.

2. Delivery.

(a) Unless otherwise agreed in writing by the Parties, Seller shall make all deliveries to Buyer's facility located at 9212 Mira Este Court, San Diego, CA 92126 or such other location that is mutually agreed upon (the "Delivery Point") using Seller's standard methods for packaging and shipping such Products. Buyer shall be responsible for the unloading of all deliveries. Seller shall notify Buyer of any lead times necessary for the delivery of any Products.

(b) Risk of loss and title to any delivered Products shall pass to Buyer upon Seller making them available for unloading by Buyer at the Delivery Point. Buyer shall make all payments for Products (including the costs of freight and other transportation costs) at the Delivery Point prior to unloading Product in United States Dollars.

3. Price.

(a) The pricing and committed purchase volumes for Products are set forth on Schedule 1. All such prices are exclusive of all freight which shall be the responsibility of Buyer.

4. Limited Warranty.

(a) SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

(J.T.)

5. Limitation of Liability.

(a) IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE PRODUCTS SOLD HEREUNDER IN THE SIX MONTHS PRECEDING THE CLAIM.

6. Termination. The initial term of this Agreement is 24 months from the Effective Date. This agreement will automatically renew for subsequent one year periods unless a Party provides written notice at least 30 days prior to the end of the current term of its election not renew this Agreement. Upon the expiration or termination of this Agreement for any reason, Buyer shall purchase any remaining Products held by Seller in its warehouses or subject to a pending Subsequent Stocking Order within thirty days.

7. Waiver. Any waiver of any provision herein must be in writing. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

8. Confidential Information. All non-public, confidential or proprietary information of Seller, including, but not limited to, samples, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section.

9. Force Majeure. The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, governmental actions, war, invasion or hostilities, terrorist threats or acts, civil unrest, national emergency, epidemic, lock-outs, strikes or other labor disputes, or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

(178)

The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, in the event the Products are seized by US Customs and Border Protection or any other government agency.

10. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void.

11. Relationship of the Parties. The relationship between the parties is that of independent contractors, neither party shall have authority to contract for or bind the other party in any manner whatsoever. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right.

12. Governing Law. All matters arising out of or relating to this Agreement is governed by and construed in accordance with the internal laws of the State of California.

13. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement.

14. Survival. Provisions of this Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement.

15. Entire Agreement; Amendment and Modification. This Agreement together with the schedules attached hereto constitute the complete, final and exclusive agreement between the parties regarding the subject matter hereof and cancels and supersedes all prior or contemporaneous agreements, understandings, and communications, whether written or oral, between the parties relating to such subject matter. This Agreement may only be amended or modified in a writing that is signed by an authorized representative of each party.

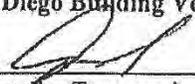
H.T.

IN WITNESS WHEREOF, the Parties have caused this Product Description Form to be executed by their respective duly authorized officers as of the date first set forth above.

**CMP WELLNESS, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**San Diego Building Venture LLC**

By:  \_\_\_\_\_  
Name: Jim Townsend  
Title: Managing Member

Schedule 1  
Products and Pricing

<u>Product</u>	<u>Initial Stocking Order Quantity</u>	<u>Pricing Per Unit</u>	<u>Total Cost</u>
NC7 Glass Ceramic 0.5 ml Cartridge	100,000	\$2.00	\$200,000
Syringe graded glass barrel (no plunger)	100,000	\$0.86	\$86,000
Metal twist plunger	100,000	\$1.071	\$107,100
Small Grip N Glide	200,000	\$0.18	\$36,000
<b>TOTAL</b>			<b>\$429,100</b>
Deposit		25%	<b>\$107,275</b>

- Deposit wire of \$107,275 sent by SoCal Building Ventures LLC on December 14, 2017.

(J.T.)

	WT FED#09257 JPMORGAN CHASE BAN	
Expand 12/11/17	/FTR/BNF=DELTA SEPARATION LLC SRF# 0011721345114697 TRN#171211171846 RFB#	\$67,000.00
02/12/18	WT FED#08933 JPMORGAN CHASE BAN /FTR/BNF=Delta Sperations SRF# GW00000010801853 TRN#180212088097 RFB# 642	\$66,174.25
Expand 12/14/17	WT FED#08676 SALAL CREDIT UNION /FTR/BNF=KIM International Corporation SRF# GW00000009118502 TRN#171214166189 RFB# 595	\$107,275.00
Expand 02/07/18	WT SEQ#131784 JACKSAM CORPORATION /BNF=Jacksam Corporation dba Blackout SRF# GW00000010486750 TRN#180207131784 RFB# 635	\$17,600.00
Expand 03/09/18	WT SEQ#35200 JACKSAM CORPORATION /BNF=Jacksam Corporation dba Blackout SRF# GW00000014342064 TRN#180309035200 RFB# 672	\$8,500.00
04/24/18	WT SEQ#84969 MATTHEW DRIVER /BNF=American AV SRF# GW00000015460892 TRN#180424084969 RFB# 716	\$4,010.00
05/15/18	WT SEQ#151368 MATTHEW DRIVER /BNF=American AV SRF# GW00000016009006 TRN#180515151368 RFB# 755	\$4,010.00

Expand 04/25/18	WT SEQ132999 LAB SOCIETY /BNF=Lab Society SRF# GW00000015502161 TRN#180425132999 RFB# 724	\$40,000.00
Expand 04/30/18	WT SEQ235160 LAB SOCIETY /BNF=Lab Society LLC SRF# GW00000015639983 TRN#180430235160 RFB# 739	\$25,000.00
Expand 06/05/18	WT FED#07211 BANK OF AMERICA, N /FTR/BNF=West Coast Sight and Sound SRF# GW00000016518410 TRN#180605152486 RFB# 783	\$13,100.00
07/10/18	WT FED#06497 ZB NA DBA CALIFORN /FTR/BNF=Labtrader Inc SRF# GW00000017381072 TRN#180710146095 RFB# 800	\$13,150.00
07/10/18	WT FED#07575 MUFG UNION BANK, N /FTR/BNF=Gary Stadler SRF# GW00000017383144 TRN#180710154163 RFB# 814	\$25,100.00

WT FED#06987 COMPASS BANK /FTR/BNF=Flip  
Expand 12/19/17 Management SRF# GW0000009235224 TRN#171219155547 \$50,000.00  
RFB# 599



Lab Society  
 4699 Nautilus Ct S #503  
 Boulder, CO 80301  
 United States

Science At The Right Cost

**Invoicing and shipping address:**

Dan Spillane  
 9212 Mira Este Court  
 San Diego, CA 92126  
 United States

**Invoice INV/2018/0887**

**Invoice Date:** 05/31/2018      **Due Date:** 05/31/2018      **Source:** SO03488

Description	Quantity	Unit Price	Taxes	Tax Excluded Price
[CDO-28] Cascade Decarboxylation Oven	1,000 Each	9,950.00	No Tax	\$ 9,950.00
Freight - Cascade	1,000 Each	0.00		\$ 0.00
Freight Manual	1,000 Each	600.98	No Tax	\$ 600.98
<b>Subtotal</b>				<b>\$ 10,550.98</b>
<b>No Tax</b>				<b>\$ 0.00</b>
<b>Total</b>				<b>\$ 10,550.98</b>
<b>Paid</b>				<b>\$ 10,263.09</b>
<b>Amount Due</b>				<b>\$ 287.89</b>

Tax	Base	Amount
No Tax	\$ 10,550.98	\$ 0.00

Payment term: Immediate Payment

1536



Lab Society  
4699 Nautilus Ct S #503  
Boulder, CO 80301  
United States

**Invoicing and shipping address:**

Josh Rowley  
United States  
203-988-3995

Josh Rowley  
United States

## Quotation # SO03324

**Your Reference:**  
20L Rotary Evaporator

**Quotation Date:**  
04/05/2018 16:24:28

**Salesperson:**  
Peter DeLone

**Payment Terms:**  
Immediate Payment

Description	Quantity	Unit Price	Taxes	Price
[AI-SE53-220-ULC] SolventVap Rotary Evaporator (20L Motorized LIII UL Listed)	1.000 Each	10,690.00	No Tax	\$ 10,690.00
[AI-C30-30-20L] Recirculating Chiller (20L/min, -30°C, 30L)	1.000 Each	6,990.00	No Tax	\$ 6,990.00
[2052B-01] Welch ILMVAC High Capacity-High Vacuum Pump (2052B-01)	1.000 Each	3,860.00	No Tax	\$ 3,860.00
[LS-PCM-1] Pressure Control Monitor	1.000 Each	1,492.00	No Tax	\$ 1,492.00
Freight - Across Int'l	1.000 Each	450.00		\$ 450.00
<b>Total Without Taxes</b>				<b>\$ 23,482.00</b>
<b>Taxes</b>				<b>\$ 0.00</b>
<b>Total</b>				<b>\$ 23,482.00</b>

Payment term: Immediate Payment



Lab Society  
4699 Nautilus Ct S #503  
Boulder, CO 80301  
United States

**Invoicing and shipping address:**

Josh Rowley  
United States  
203-988-3995

Josh Rowley  
United States

## Quotation # SO03325

**Your Reference:**  
Filtration - Quote A

**Quotation Date:**  
04/05/2018 16:26:26

**Salesperson:**  
Peter DeLone

**Payment Terms:**  
Immediate Payment

Description	Quantity	Unit Price	Taxes	Price
[2047B-01] Welch DryFast Pump (2047B-01, 115V)	1.000 Each	2,605.00	No Tax	\$ 2,605.00
[JBF-2000] Buchner Funnel (200mm)	4.000 Each	100.00	No Tax	\$ 400.00
[CH0421] Filter Adapters (Blue, 7 Pc. Set)	4.000 Each	15.00	No Tax	\$ 60.00
[FG5340-5000] Flask, United Scientific (5000ml)	4.000 Each	175.00	No Tax	\$ 700.00
[LS-VMK-C] Lab Society Vacuum Manifold Kit	1.000 Each	650.00	No Tax	\$ 650.00
[LS-BIO1-185] Filter Paper, Qualitative (18.5 cm, 11 micron (Medium))	1.000 Each	26.00	No Tax	\$ 26.00
[LS-BIO3-185] Filter Paper, Qualitative (18.5 cm, 6 micron (Slow))	1.000 Each	26.00	No Tax	\$ 26.00
<b>Total Without Taxes</b>				<b>\$ 4,467.00</b>
<b>Taxes</b>				<b>\$ 0.00</b>
<b>Total</b>				<b>\$ 4,467.00</b>

Payment term: Immediate Payment



Lab Society  
4699 Nautilus Ct S #503  
Boulder, CO 80301  
United States

Invoicing and shipping address:  
Josh Rowley  
United States  
203-988-3995

Josh Rowley  
United States

### Quotation # SO03320

Your Reference:  
Short Path - Quote A

Quotation Date:  
04/05/2018 16:13:47

Salesperson:  
Peter DeLone

Payment Terms:  
Immediate Payment

Description	Quantity	Unit Price	Taxes	Price
[LS-SPK-5EG2S] G2 Executive Short Path Distillation Kit (5L Silvered)	1.000 Each	10,945.00	No Tax	\$ 10,945.00
[3081-01] Welch CRVpro Rotary Vane Vacuum Pump (Pro 8, 115/230V)	1.000 Each	3,025.00	No Tax	\$ 3,025.00
[320015] Exhaust Filter (Welch) (CRV KF16 (NW))	1.000 Each	433.10	No Tax	\$ 433.10
[SIS-KF16X375-AL] Aluminum KF Flange KF16 (NW) 3/8 in. ID Barb	1.000 Each	12.00	No Tax	\$ 12.00
[AI-T40] Mechanical Cold Trap	1.000 Each	2,990.00	No Tax	\$ 2,990.00
[LS-CTG2-DT18] Cold Trap Inner 34/45, GL-18 Connections	3.000 Each	125.00	No Tax	\$ 375.00
[LS-CTG2-TB34] Cold Trap Bottom, 34/45 Joint	3.000 Each	70.00	No Tax	\$ 210.00
[SD07R-20-A11B] PolyScience 7L Refrigerated Circulator (-20C, Standard Digital, 120V)	1.000 Each	3,112.00	No Tax	\$ 3,112.00
Freight - Lab Society	1.000 Each	500.00		\$ 500.00
<b>Total Without Taxes</b>				<b>\$ 21,602.10</b>
Taxes				\$ 0.00
<b>Total</b>				<b>\$ 21,602.10</b>

Payment term: Immediate Payment



## Wires

### Payment Information

Fed Ref # 071011B7033R016497

Status Successful

Payment ID 800

Modified 07/10/2018 04:38 pm ET by TOWNJ913

Type Wire

### Debit Account

Debit Account

SAN DIEGO BUILDING VENTURES LLC  
Acct # 5234430907 USD

### Beneficiary

Beneficiary

Labtrader Inc  
United States of America (US)  
Acct # 5790606080

Beneficiary Bank

California Bank and Trust, A Division of ZB, National Association  
1024 GRAVES AVE  
EL CAJON 92021  
United States of America (US)  
ABA # 122232109

### Payment Details

Debit Currency USD - United States Dollar

Value Date 07/10/2018

Credit Currency USD - United States Dollar

Cutoff 07/10/2018 05:30 pm ET

Amount 13,150.00 USD

### References

Originator

SAN DIEGO BUILDING VENTURES LLC  
32123 LINDERO CANYON RD STE 210  
WESTLAKE VILLAGE CA 913615461  
United States of America (US)

Payment References

ID or Acct # 5234430907



LabTrader Inc.  
1396 Poinsettia Ave.  
Vista, CA 92081

# Invoice

Date	Invoice #
6/12/2018	629.6799

Bill To
San Diego Building Ventures LLC 9212 Mira Este Court San Diego, CA 92126

Ship To
San Diego Building Ventures LLC 9212 Mira Este Court San Diego, CA 92126

P.O. Number	Terms	Due Date	Ship	Via
	prepay	6/12/2018	6/12/2018	
Description	Reference #	Quantity	Price Each	Amount
Thermo Scientific Forma 8600 Series -86C Chest Ultra-Low Temperature Freezer	F820CD	1	8,500.00	8,500.00T
Thermo Revco Ultima II -86C Chest Ultra-Low Temperature Freezer	LT0917006	1	3,400.00	3,400.00T
Local Delivery in San Diego County			280.00	280.00

<b>Subtotal</b>	\$12,180.00
<b>Sales Tax (7.75%)</b>	\$922.25
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$13,102.25



Lab Society  
4699 Nautilus Ct S #503  
Boulder, CO 80301  
United States

**Invoicing and shipping address:**

Josh Rowley

United States

☎ 203-988-3995

Josh Rowley

United States

## Quotation # SO03325

**Your Reference:**  
Filtration - Quote A

**Quotation Date:**  
04/05/2018 16:26:26

**Salesperson:**  
Peter DeLone

**Payment Terms:**  
Immediate Payment

Description	Quantity	Unit Price	Taxes	Price
[2047B-01] Welch DryFast Pump (2047B-01, 115V)	1.000 Each	2,605.00	No Tax	\$ 2,605.00
[JBF-2000] Buchner Funnel (200mm)	4.000 Each	100.00	No Tax	\$ 400.00
[CH0421] Filter Adapters (Blue, 7 Pc. Set)	4.000 Each	15.00	No Tax	\$ 60.00
[FG5340-5000] Flask, United Scientific (5000ml)	4.000 Each	175.00	No Tax	\$ 700.00
[LS-VMK-C] Lab Society Vacuum Manifold Kit	1.000 Each	650.00	No Tax	\$ 650.00
[LS-BIO1-185] Filter Paper, Qualitative (18.5 cm, 11 micron (Medium))	1.000 Each	26.00	No Tax	\$ 26.00
[LS-BIO3-185] Filter Paper, Qualitative (18.5 cm, 6 micron (Slow))	1.000 Each	26.00	No Tax	\$ 26.00
<b>Total Without Taxes</b>				\$ 4,467.00
<b>Taxes</b>				\$ 0.00
<b>Total</b>				\$ 4,467.00

Payment term: Immediate Payment



Lab Society  
4699 Nautilus Ct S #503  
Boulder, CO 80301  
United States

**Invoicing and shipping address:**

Josh Rowley  
9212 Mira Este Court  
San Diego, CA 92126  
United States  
☎ 203-988-3995

Josh Rowley  
9212 Mira Este Court  
San Diego, CA 92126  
United States

## Quotation # SO03488

**Quotation Date:**  
04/13/2018 15:16:56

**Salesperson:**  
Peter DeLone

**Payment Terms:**  
Immediate Payment

Description	Quantity	Unit Price	Taxes	Price
[CDO-28] Cascade Decarboxylation Oven	1.000 Each	9,950.00	No Tax	\$ 9,950.00
Freight - Cascade	1.000 Each	250.00		\$ 250.00
<b>Total Without Taxes</b>				\$ 10,200.00
<b>Taxes</b>				\$ 0.00
<b>Total</b>				\$ 10,200.00

Payment term: Immediate Payment

West Coast Sight and Sound (818)579-9699  
 12428 Oxnard Street, CAlic#1030408  
 Los Angeles, CA 91606 US  
 jordan@westcoastsightandsound.com  
 http://www.westcoastsightandsound.com

# INVOICE

**BILL TO**  
 Dan Spliane

**INVOICE #** 1183  
**DATE** 05/24/2018  
**DUE DATE** 05/24/2018

PRODUCT	DISCRIPTION	QTY	RATE	AMOUNT
Atrum A22 2 door controller	Cdvi Americas CDV- A22KITB Atrium 2-Door Controller Kit - A22	7	839.00	5,873.00T
He's 500	HES 5000 SERIES GRADE 1 LOW PROFILE ELECTRIC STRIKE	10	145.00	1,450.00T
Magnetic lock	Magnetic lock for main entry doors	3	289.00	867.00T
16 port gigabit switch	TPLink 16 port rack mount gigabit switch	1	110.00	110.00T
18 gauge wire	18 gauge	7	189.00	1,323.00T
22/8 wire	22/8 wire for card readers	4	169.00	676.00T
Labor charge	Labor for Installing access control system	1	4,900.00	4,900.00

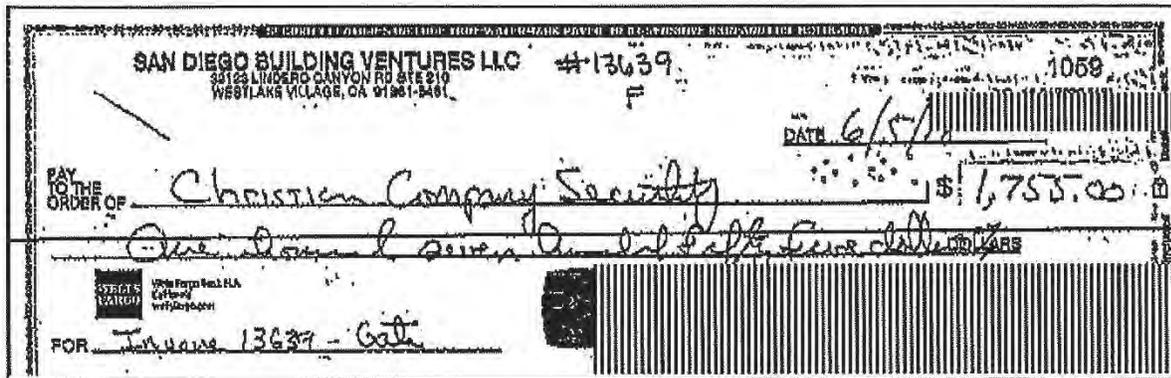
.....  
 SUBTOTAL 15,199.00  
 TAX (7.75%) 798.17  
 TOTAL 15,997.17  
 BALANCE DUE **\$15,997.17**

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## Check Details

Check Number	1059
Date Posted	06/14/18
Check Amount	\$1,755.00



For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

West Coast Sight and Sound (818)579-9699  
 12428 Oxnard Street, CA Lic#1030408  
 Los Angeles, CA 91606 US  
 jordan@westcoastsightandsound.com  
 http://www.westcoastsightandsound.com

# INVOICE

**BILL TO**  
 Dan Splilane

**INVOICE #** 1192  
**DATE** 06/25/2018  
**DUE DATE** 06/25/2018

PRODUCT	DISCRIPTION	QTY	RATE	AMOUNT
Cat 6 cable	Cat 6 cable	6	125.00	750.00T
Hikvision 4MP WDR Fixed Dome IP Camera DS-2CD2142FWD-IB	Hikvision 4MP WDR Fixed Dome IP Camera DS-2CD2142FWD-IB	23	135.00	3,105.00T
27U RACK	A2V A2VER27U 27U RACK MOUNT ASSEMBLED	1	500.00	500.00T
Labor charge	Labor for wiring and installing 22 ip cameras 1 in the front of the building 2 on North side of building 3 back of the building 4. The remaining 19 will be installed inside and spoken locations extra cables will be ran for the bigger rooms in case we need more coverage.	1	3,500.00	3,500.00
32 CHANNEL NVR W/ 6 TB,	32 CHANNEL NVR W/ 1080P RESOLUTION, HI DEFINITION, IP This is Loaner system till we upgrade to the proper system full refund when you upgrade to the 128 system	1	500.00	500.00T
hikvision hard drive	Hikvision hard DriveHK-HDD6T-E	4	370.00	1,480.00

PRODUCT	DISCRIPTION	QTY	RATE	AMOUNT
	Will be used in the upgraded system			
40 inch flat screen	40 inch flat screen	1	299.00	299.00T
65 foot HDMI	65 foot non 4k HDMI	1	85.00	85.00T
Labor charge	Labor for Installing Tv and running HDMI cable	250	1.00	250.00
Hikvision 4MP WDR Vari-focal Bullet Network Camera motorized lens HD	Hikvision 4MP WDR Vari-focal Bullet Network Camera DS-2CD2642FWD-IZS 2.8-12mm motorized l	2	225.00	450.00T

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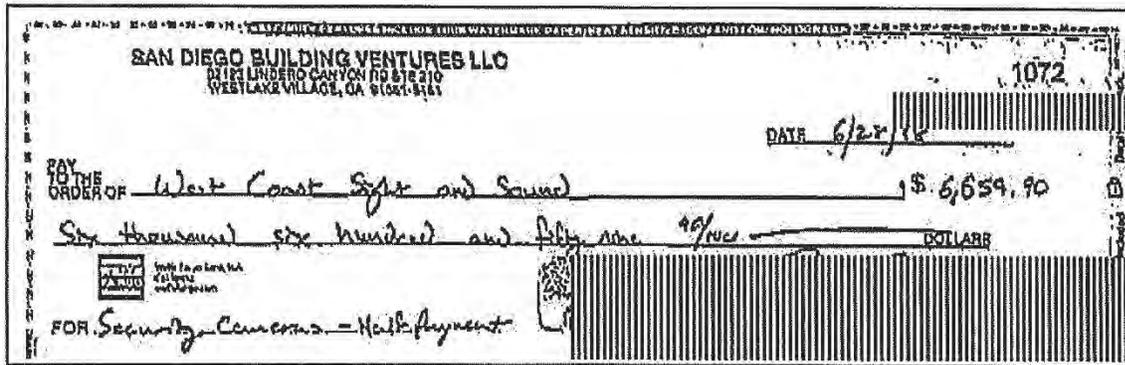
SUBTOTAL	10,919.00
TAX (7.75%)	440.90
TOTAL	11,359.90
PAYMENT	4,700.00
BALANCE DUE	<b>\$6,659.90</b>

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## Check Details

Check Number	1072
Date Posted	06/28/18
Check Amount	\$6,659.90



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 You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender



## Wires

### Payment Information

Fed Ref # 071011B7031R017575

Status Successful

Payment ID 814

Modified 07/10/2018 05:11 pm ET by TOWNJ913

Type Wire

### Debit Account

Debit Account

SAN DIEGO BUILDING VENTURES LLC

Acct # 5234430907 USD

### Beneficiary

Beneficiary

Gary Stadler

United States of America (US)

Acct # 60679452

Beneficiary Bank

MUFG UNION BANK N.A.

1980 SATURN STREET

MONTEREY PARK 91755

United States of America (US)

ABA # 122000496

### Payment Details

Debit Currency USD - United States Dollar

Value Date 07/10/2018

Credit Currency USD - United States Dollar

Cutoff 07/10/2018 05:30 pm ET

Amount 25,100.00 USD

### References

Originator to Beneficiary Information

OBI Replacement

Originator

SAN DIEGO BUILDING VENTURES LLC

32123 LINDERO CANYON RD STE 210

WESTLAKE VILLAGE CA 913615461

United States of America (US)

Payment References

ID or Acct # 5234430907

<b>San Diego</b>		<b>2017-2018 Accounting to Date</b>	
	Mira Este		
10/24/2017	Mira Este October Rent	\$	(55,500.00)
11/8/2017	Mira Este - November Rent	\$	(55,500.00)
11/22/2017	Mira Este CUP - wire	\$	(66,658.00)
11/30/2017	Mira Este - check 1003 - Dec Rent	\$	(55,500.00)
1/4/2018	Mira Este - CUP - 1018	\$	(15,206.00)
1/4/2018	Mira Este - Rent - check 1019	\$	(55,500.00)
1/24/2018	Mira Este - Misc	\$	(8,500.00)
2/6/2018	Mira Este - Rent check 1028	\$	(60,300.00)
2/22/2018	Mira Este - Min Guarantee	\$	(85,000.00)
3/7/2018	Mira Este - Rent	\$	(60,300.00)
3/15/2018	Mira Este - Min Guarantee	\$	(50,000.00)
4/3/2018	Mira Este - TI - Toby	\$	(16,920.50)
4/3/2018	Mira Este - April rent	\$	(60,300.00)
4/20/2018	Mira Este - Past Min Guarantee	\$	(75,000.00)
4/27/2018	Mira Este - April Min Guarantee	\$	(50,000.00)
5/12/2018	May Rent	\$	(60,300.00)
5/21/2018	Mira Este - Gina Austin Legal	\$	(33,300.00)
6/4/2018	Mira Este - May Min Guarantee	\$	(50,000.00)
6/7/2018	Mira Este - June Rent	\$	(60,300.00)
6/15/2018	Mira Este - CUP	\$	(15,400.00)
7/11/2018	Nelson Hardiman	\$	(15,000.00)
7/19/2018	Michael Essary - Receiver (2xrent+MG)	\$	(170,600.00)
7/23/2018	Dan Spillane - Reimburse Locks	\$	(990.53)
		\$	<b>(1,176,075.03)</b>

	Balboa		
11/30/2017	San Diego Holding -1004 Balboa Rent	\$	(15,000.00)
11/30/2017	San Diego Holding -1007 Balboa Legal	\$	(66,000.00)
11/30/2017	San Diego Holding Balboa Inventory	\$	(83,000.00)
11/30/2017	San Diego Holding - 1005 Balboa FF&E	\$	(125,000.00)
1/4/2018	Balboa legal - check 1017	\$	(8,500.00)
1/25/2018	Balboa (CREDIT OF \$44k FROM 11/30 \$83)	\$	(11,000.00)
1/25/2018	75K Min Guarantee and 25K legal Austin	\$	(100,000.00)
2/6/2018	Balboa Rent - check 1029	\$	(15,000.00)
2/12/2018	CUP	\$	(18,245.00)
2/22/2018	Balboa Min Guarantee	\$	(35,000.00)
3/1/2018	Balboa - San Diego United	\$	(50,000.00)
3/15/2018	Balboa - San Diego United - Option	\$	(75,000.00)
3/30/2018	Balboa - Min Guarantee paid by Sales	\$	(35,000.00)
4/1/2018	Balboa Rent - paid by Sales	\$	(15,000.00)
4/30/2018	Balboa - Min Guarantee paid by Sales	\$	(35,000.00)
5/1/2018	Balboa Rent - paid by Sales	\$	(15,000.00)
5/30/2018	Balboa - Min Guarantee paid by Sales	\$	(35,000.00)
6/1/2018	Balboa Rent - paid by Sales	\$	(15,000.00)

**EXHIBIT B**

7/17/2018	Grainway Rent - July - Check	\$	(4,500.00)
	<b>Total</b>	<b>\$</b>	<b>(756,245.00)</b>
	Balboa Shop Operations & Inventory		
12/6/2017	ABP Consulting	\$	(40,000.00)
12/14/2017	ABP Consulting	\$	(30,000.00)
12/19/2017	Flip Management	\$	(50,000.00)
12/29/2017	ABP Consulting	\$	(60,000.00)
	<b>Total</b>	<b>\$</b>	<b>(180,000.00)</b>
	Mira Este Lab Setup		
12/22/2017	Adam Lustig	\$	(10,000.00)
12/11/2017	Delta Separation	\$	(67,000.00)
12/12/2017	Dr Good Life - Lustig	\$	(25,000.00)
12/14/2017	KIM Industries - cartridges	\$	(107,275.00)
2/7/2018	Jacksam Processor	\$	(17,600.00)
2/12/2018	Delta Separation	\$	(66,147.00)
3/2/2018	Chris Wayne	\$	(4,000.00)
3/9/2018	Jacksam Processor	\$	(8,500.00)
3/13/2018	Chris Wayne	\$	(6,000.00)
3/23/2018	Dan Spillane	\$	(5,000.00)
4/2/2018	Chris Wayne	\$	(5,000.00)
4/12/2018	Dan Spillane	\$	(500.00)
4/18/2018	Electrical	\$	(4,400.00)
4/19/2018	Dan Spillane	\$	(5,000.00)
4/24/2018	Equipment Order	\$	(65,000.00)
4/28/2018	Nelson Hardiman	\$	(25,000.00)
5/1/2018	Dan Spillane	\$	(5,000.00)
5/1/2018	Flintridge Insurance	\$	(21,895.00)
5/1/2018	MSS Consulting	\$	(10,000.00)
5/11/2018	Chris Wayne	\$	(5,000.00)
5/15/2018	Dan Spillane - May 1-15	\$	(3,500.00)
5/15/2018	American AV - Electric	\$	(4,010.00)
5/21/2018	Chris Wayne - Balance April	\$	(5,000.00)
6/1/2018	Josh Rowley - Relocation	\$	(6,000.00)
6/1/2018	Aaron Coleman - Relocation	\$	(5,000.00)
6/1/2018	Dan Spillane - May 16-30	\$	(3,500.00)
6/1/2018	MSS Consulting	\$	(10,000.00)
6/5/2018	West Coast Sight - cameras and access	\$	(13,100.00)
6/14/2018	Chris Wayne	\$	(5,000.00)
6/14/2018	Christen Camera Security	\$	(1,755.00)
6/15/2018	Dan Spillane	\$	(3,500.00)
6/15/2018	Joshua Rawley	\$	(3,500.00)
6/15/2018	Aaron Coleman	\$	(3,500.00)
6/28/2018	Westcoast Sigh & Sound	\$	(6,659.00)

6/28/2018	Miles Electric	\$	(10,900.00)
7/10/2018	Lab trader	\$	(13,150.00)
7/10/2018	Aaron Coleman	\$	(5,500.00)
7/10/2018	Joshua Rawley	\$	(5,500.00)
7/10/2018	Dan Spillane	\$	(5,000.00)
7/10/2018	Sadler Freezers	\$	(25,100.00)
7/17/2018	Chris Wayne	\$	(5,000.00)
7/17/2018	Dan Spillane - 1/2 July	\$	(5,000.00)
7/17/2018	Josh Rowley - 1/2 July	\$	(3,500.00)
7/17/2018	Aaron Coleman - 1/2 July	\$	(3,500.00)
		\$	(619,491.00)
	<b>Grand Total</b>	\$	<b>(2,731,811.03)</b>



Dean Bornstein <dbadh13@gmail.com>

---

## San Diego United holdings

---

Chris Hakim <symbolicrealestate@gmail.com>  
To: dbadh13@gmail.com  
Cc: NinusMalan@yahoo.com, jtproducer34@gmail.com

Wed, Jan 24, 2018 at 4:39 PM

Wire instructions

San Diego United Holdings Group LLC  
Bank of america  
Lemon grove ca



Sent Chris Hakim's iPhone 7+



Jim Townsend <jtproducer34@gmail.com>

**Re: Additional \$55,500 - LOI**

Chris Hakim <symbolicrealestate@gmail.com>

Tue, Nov 7, 2017 at 8:01 AM

To: Jim Townsend <jtproducer34@gmail.com>

Cc: Dean Bornstein <dbadh13@gmail.com>, Chris Berman <bermanc1976@gmail.com>

Check payable to

Mira Este Properties, LLC  
1545 Hotel circle south, suite 145  
San Diego, 92108

I will sign today along with Ninus and will send back.

Sent from my iPhone

On Nov 7, 2017, at 7:54 AM, Jim Townsend <jtproducer34@gmail.com> wrote:

Chris,

Who is the check made payable to and what address do we use?

Also, we have not received back the executed copies of the agreement that were sent last week to you. You can keep one copy and return the two other copies to us at the address below..

Thanks,

Jim

----- Forwarded message -----

From: **Dean Bornstein** <dbadh13@gmail.com>

Date: Tue, Nov 7, 2017 at 7:49 AM

Subject: Fwd: Additional \$55,500 - LOI

To: Jim Townsend <jtproducer34@gmail.com>

----- Forwarded message -----

From: **Dean Bornstein** <dbadh13@gmail.com>

Date: Tue, Nov 7, 2017 at 7:47 AM

Subject: Re: Additional \$55,500 - LOI

To: Chris Hakim <symbolicrealestate@gmail.com>

Cc: Chris Berman <bermanc1976@gmail.com>

Chris,

We will federal express a check today.

Best,

Dean

On Mon, Nov 6, 2017 at 6:52 PM, Chris Hakim <symbolicrealestate@gmail.com> wrote:

Dean,

I know we ALL have a lot going on. Per our executed LOI, we were supposed to get \$55,500 on November 6th, which was today. I know I asked you today over the phone if we can get the remaining funds tomorrow and you said as long as we agree to Rob's documents.

I am going to need some time to review the documents from Rob when I actually receive them. So I would appreciate if you can have your accounting department wire the \$55,500 tomorrow. Let me know if you need me to resend the wiring instructions?

Ninus and I are working on the CUP contracts and will send shortly and hope to go get reimbursed for 50% of those once we agree and execute the actual agreements.

Call me any time to chat.

Sincerely,

--

**Chris Hakim**  
**Broker**  
**License #01353790**  
**858-373-8781 DIRECT**  
**619-900-4185 OFFICE**

**1545 Hotel Circle South Ste. 145**  
**San Diego, CA 92108**

--

32123 Lindero Canyon Road  
Suite 210  
Westlake Village, Ca. 91361  
818-865-1700 Office  
310-866-0028 Cell

--

32123 Lindero Canyon Road  
Suite 210  
Westlake Village, Ca. 91361  
818-865-1700 Office  
310-866-0028 Cell

--

SoCal Building Ventures LLC  
Sherwood Media Company

32123 Lindero Canyon Rd.  
Suite 210  
Westlake Village, CA 91361

(818) 865-1700 office  
(818) 865-1711 fax  
(310) 866-0024 cell  
[www.sherwoodmediacompany.com](http://www.sherwoodmediacompany.com)

**WIRE INSTRUCTIONS Domestic Wires in US Dollars**

Bank Name and Address: **Torrey Pines Bank: 12220 El Camino Real Ste 100 San Diego, CA 92130**

ABA / Routing Number **122243635**

Beneficiary Account Name: **Mira Este Properties, LLC**

Beneficiary Account Number **[REDACTED]**

Special Instructions Attn: **Chris Hakim**

1. Check 1052 to Mira Este Properties for \$50,000 – May 28 returned – Replaced with:

WT FED#04280 TORREY PINES BANK, /FTR/BNF=Mira Este  
 6/04/18 Properties LLC SRF# GW00000016470163 TRN#180604084047 RFB# \$50,125.00  
 778

- 2.

Expand 01/24/18 NSF RETURN ITEM FEE FOR A TRANSACTION RECEIVED \$35.00  
 ON 01/23 \$75,000.00 CHECK # 01021

Expand 01/24/18 NSF RETURN ITEM FEE FOR A TRANSACTION RECEIVED \$35.00  
 ON 01/23 \$33,500.00 CHECK # 01022

Replace with Wire on 1/24 for \$100,000 and wire for \$8,500

Wells Fargo Portfolio Checking (continued)

Date	Description	Check No.	Deposits/ Additions	Withdrawals/ Subtractions	Ending Daily Balance
1/23	WT Fed#07358 Redwood Capital Ba /Ftr/Bnf=Humboldt Land Title Company Srf# 0011721022139941 Trn#180123072398 Rfb#			25,000.00	
1/23	Deposited OR Cashed Check	2736		15,000.00	
1/23	Deposited OR Cashed Check	2737		10,000.00	99,940.60
1/24	Deposit Made In A Branch/Store		7,000.00		
1/24	Wire Trans Svc Charge - Sequence: 180124149007 Srf# 0011721024052961 Trn#180124149007 Rfb#			30.00	
1/24	WT Fed#07951 Torrey Pines Bank, /Ftr/Bnf=Mira Este Properties, LLC Srf# 0011721024052961 Trn#180124149007 Rfb#			100,000.00	
1/24	So Cal Gas Paid Scgc 180123 0365031901 301601474094582006			555.01	
1/24	Barclaycard US Creditcard Xxxx7673 Chrls Berman			6,000.00	
1/24	American Express ACH Pmt 180124 W2756 Chrls Berman			5,000.00	
1/24	Overdraft Xfer From Credit Card OR Line		4,844.41		0.00
1/25	ATM Check Deposit On 01/25 Westlake Blvd Westlake Vill CA 0003412 ATM ID 0968H Card 3085		93,000.00		93,000.00
1/29	Venmo Cashout Xxxx8743 Chrls Berman		200.00		
1/29	Paypal Inst Xfer 180127 Airbnb Christopher Berman			1,206.46	91,993.54
1/30	Jonalhan Club 00132849 180129 Mrc19217452 E Berman Christopher			1,796.97	90,196.57
1/31	ATT Payment 013018 723168003Epayj Chrls E Berman			180.03	
1/31	Chase Credit Crd Epay 180130 3431910659 Christopher Berman			1,000.00	
1/31	Interest Payment		2.28		89,018.82
<b>Ending balance on 1/31</b>					<b>89,018.82</b>
<b>Totals</b>			<b>\$289,823.69</b>	<b>\$221,706.13</b>	

WT FED#04933 TORREY PINES BANK, /FTR/BNF=Mira Este  
 01/24/18 Properties LLC SRF# GW00000010079402 TRN#180124124695 RFB# \$8,500.00  
 619

3. Return check 1/23 to San Diego United Holdings – replaced next day with wire

Expand 01/24/18	NSF RETURN ITEM FEE FOR A TRANSACTION RECEIVED ON 01/23 \$11,000.00 CHECK # 01020	\$35.00
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Expand 01/25/18	WT FED#07237 BANK OF AMERICA, N /FTR/BNF=San Diego United Holding Group LLC SRF# GW00000010096293 TRN#180125069873 RFB# 620	\$11,000.00
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12 Tamara M. Leetham (SBN 234419)  
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15 San Diego, CA 92110  
16 Phone: (619) 924-9600  
17 Fax: (619) 881-0045

18 Attorneys for Defendants Ninus Malan  
19 San Diego United Holdings Group, LLC  
20 Balboa Ave Cooperative

21 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

22 CENTRAL DIVISION

23 SALAM RAZUKI, an individual,

24 Plaintiff,

25 vs.

26 NINUS MALAN, an individual; MONARCH  
27 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.

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

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

**Defendant Ninus Malan's Supplemental  
Briefing ISO Ex Parte Application to  
Dissolve Receivership**

Date: August 14, 2018  
Time: 8:30 a.m.  
Judge: Sturgeon  
Dept.: C-67

Defendant Malan's Supplemental Briefing

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**I. Introduction and Summary**

This supplemental briefing will not rehash Plaintiff Salam Razuki’s armed assault on the Balboa dispensary in late July. The details of that fiasco are described well enough in the declarations in Defendant Ninus Malan’s moving papers. Nor will it restate the arguments from the July 31<sup>st</sup> ex parte hearing with Judge Strauss. The transcript of that hearing accurately reflects what happened: Judge Strauss granted Ninus Malan’s ex parte application to vacate the temporary receivership order, saying “We’re going to go back to the way it was before Judge Medel issued his TRO and go from there.” *Supp. Decl. of Tamara Leetham, Exhibit A*, p. 49:16-17, 50:7-10. As Judge Strauss said, the receivership order went “way beyond what was discussed at the hearing [with Judge Medel.] This is not a stand-still order.” *Id.* at p. 6:21-24. “What [Plaintiff] asked Judge Medel to do and then the order that you had him sign are night and day.” *Id.* at 31:21-23. “This whole receivership situation...is contrary to what Judge Medel was told.” *Id.* at 47:12-15.

Instead, this briefing will explain why Plaintiff’s contract – a contract for distribution of profits from several *not-for-profit* corporations – is unenforceable as a matter of law, which means he cannot show the likelihood of success necessary for injunctive relief. It will explain that Plaintiff does not claim to own the businesses he wants put in receivership; he claims only to partly own a holding company which is supposed to derive profits from those businesses. He is two degrees of separation from the businesses he wants condemned to receivership – and condemned they would be, for it is illegal to put a marijuana dispensary into receivership in California unless the Bureau of Cannabis Control has already approved the receiver. As the receiver acknowledges in emails attached to the declaration of Tamara Leetham, he has not been approved and has no idea how to run a dispensary. *Supp. Decl. Leetham, Ex. H*. If the receiver is put in charge, the businesses must close. Period. This would destroy the businesses, not preserve them.

1 Even if Plaintiff's claims were valid, he asserts legal – not equitable – claims  
2 compensable by money damages. He shows no emergency or irreparable harm. (Money  
3 damages are repairable, not irreparable, harm, by the way. Plaintiff seems not to understand that.)

4 The only emergency in this action arose *after* the receiver was appointed, when he closed  
5 all the businesses' bank accounts. Betraying his fiduciary responsibilities to hold the businesses  
6 in trust for the court and the parties, the receiver transferred 100 percent control of the  
7 businesses to SoCal Building Ventures, LLC, a criminally negligent management company that  
8 had been fired in early July after months of stealing inventory, smoking marijuana and drinking  
9 alcohol on the job, and using wanted felons as security guards – seriously. Putting the receiver  
10 back in place would destroy these businesses, which are operating under a fragile network of  
11 variances and special exemptions from city and state governments. It would destroy the status  
12 quo with no purpose.

## 13 II. Legal Argument

### 14 a. **Plaintiff Salam Razuki does not own – nor does he claim to own – any of 15 the companies he wants condemned to receivership.**

16 Plaintiff Razuki testified three months ago that he has no business relationship with  
17 Malan and never has. *Malan's Request for Judicial Notice (filed July 30, 2018), Exhibit 3*. His  
18 complaint in this lawsuit, where he claims to have been Malan's business partner, is either a  
19 falsehood, or else he perjured himself when testifying. Either way, the court should discount his  
20 evidence as unreliable.

21 Even assuming his allegations are true, he does not allege an interest in the businesses he  
22 wants put into receivership. He alleges Malan and Razuki agreed to put their ownership interests  
23 in various companies into a holding company, RM Property Holdings, LLC. But Plaintiff does  
24 not allege he owns the holding company, and he does not allege the company owns any of the  
25 eight companies he wants tossed into receivership: RM *Properties* Holdings, LLC, San Diego  
26 United *Property* Holdings, LLC, Flip Management, LLC, Mira Este Properties, LLC, Roselle  
27

1 Properties, LLC, Balboa Ave Cooperative, California Cannabis Group, and Devilish Delights,  
2 Inc.

3 Only three of those companies are discussed in any detail in the complaint: Flip  
4 Management, LLC, Mira Este Properties, LLC, and Roselle Properties, LLC. *Complaint* ¶17.  
5 The rest are barely mentioned, or do not exist; Plaintiff’s ex parte application asked for control  
6 of “San Diego United Property Holdings, LLC”, which is not the name of any party to this  
7 lawsuit. Whoever that company is, it is a complete stranger to this litigation. “*RM Properties*  
8 *Holdings, LLC*”, similarly, is not a party to this litigation and is not mentioned in the complaint,  
9 yet he asks that it, too, be placed in receivership.

10 He demands control of Devilish Delights and California Cannabis Group – *member-*  
11 *owned* and *member-operated* mutual benefit corporations. *Supp. Decl. Malan* ¶¶36, 39. He asks  
12 for control of these two corporations because he thinks he is entitled to their profits – even  
13 though he admits each is “a **non-profit** entity”. *Complaint* ¶20(a). His complaint says *nothing*  
14 about Balboa Ave Cooperative, but as the name implies, it too is a non-profit cooperative. *Id.*  
15 ¶41.

16 The complaint does not allege that Razuki owns any of these companies. It alleges only  
17 that he and Malan promised to transfer their interests in various companies to *RM Property*  
18 *Holdings, LLC* *after* they “work together to calculate” an accounting of their “respective<sup>1</sup> cash  
19 investment amounts”. *Complaint* ¶28(b), Exhibit A (“Agreement”) §2.2. After the accounting,  
20 the parties “shall execute an amendment or exhibit” to the Agreement – which means the  
21 agreement *was not finalized* and is thus not enforceable. After *RM Property Holdings* repays  
22 “the parties’ cash contribution” – an indeterminate, unspecified amount – only then will *RM*  
23 *Property Holdings* begin distributing to Razuki 75% of the profits and losses **from RM**  
24 **Property Holdings** – not from the eight companies he wants in receivership. *Agreement* §2.3.

---

26 <sup>1</sup> The complaint’s allegations say they only need to account for “Razuki’s cash investment,” but the  
27 settlement, attached as Exhibit A to the complaint, says they need to calculate *both* parties’  
investments.

1 The fact that the holding company would own shares in those eight companies does not give it  
2 the right to manage them, or to determine if any other shareholders have a right to their profits.

3 To summarize:

- 4 - Plaintiff Razuki is not entitled to profits from any of the companies listed in the  
5 application for receivership. *Compare Receivership Order* (July 17, 2018) *with*  
6 *Agreement* §2.3 (“Razuki shall receive seventy five percent...of the profits and losses of  
7 the Company [i.e. RM Property Holdings]”).
- 8 - The settlement says the parties must perform an accounting. *Agreement* §2.2.
- 9 - *After* they perform the accounting, the parties will transfer their interests in various  
10 companies to RM Property Holdings. *Id.* §2.2.
- 11 - RM Property Holdings must repay both parties’ respective “cash investments,” an  
12 unknown figure, before they receive any profits. *Id.* §2.2.
- 13 - *After* RM Property Holdings repays this unknown amount, Razuki will receive 75% of  
14 the profits and losses – but only profits/losses **from RM Property Holdings**. *Id.* §2.3.  
15 He is *never* entitled to profits or losses from any of the companies named in the ex parte  
16 application. *Compare Receivership Order* (July 17, 2018) *with Agreement* §2.3. He is  
17 entitled only to the profits of RM Property Holdings – a company which is **not**  
18 **mentioned in the ex parte application and is not a party to this lawsuit.** *Compare*  
19 *Receivership Order* (“RM Properties Holdings, LLC”) *with Agreement* §1.3 (“RM  
20 PROPERTY HOLDINGS, LLC”).

21 **b. The contract on which Plaintiff sues is unenforceable, so Plaintiff is not**  
22 **likely to succeed on the merits.**

23 An agreement with an illegal object is unenforceable, and a Plaintiff cannot get a  
24 receiver appointed based on an invalid contract. Civ. Code §1668, §1608 (unlawful  
25 consideration voids entire contract). “No principle of law is better settled than that a party to an  
26 illegal contract cannot come into a court of law and ask to have his illegal objects carried out.”  
27 *Yoo v. Jho* (2007) 147 Cal.App.4th 1249, 1251. “In determining whether the subject of a given

1 contract violates public policy, courts must rely on the state of the law as it existed at the time  
2 the contract was made.” *Bovard v. American Horse Enterprises, Inc.* (1988) 201 Cal.App.3d  
3 832, 840 fn.3.

4 Here, the contract was made in November 2017, a time when the “state of the law” in  
5 California was that courts would refuse to enforce contracts for profits or ownership of  
6 businesses selling goods banned under federal law. “A violation of federal law is a violation of  
7 law for purposes of determining whether or not a contract is unenforceable as contrary to the  
8 public policy of California.” *Kashani v. Tsann Kuen China Enterprise Co.* (2004) 118  
9 Cal.App.4th 531, 543. When “the evidence establishe[s] both parties entered into the business  
10 purchase agreement with the knowledge that the business was substantially involved in the sale  
11 of [illegal] goods, and buyer specifically intended to continue selling such merchandise after  
12 taking over the business,” courts will not enforce the contract. *Yoo, supra*, at 1255.

13 In *Bovard*, the parties agreed on the sale of a business manufacturing marijuana  
14 paraphernalia. The court held the contract was against public policy, based on “a statute  
15 prohibiting possession, use and transfer of marijuana.” *Bovard, supra*, at 839-840. In November  
16 2017 (and today), federal law still bans the manufacture, sale, distribution, and possession of  
17 marijuana for any purpose. 21 U.S.C. §§ 812 – Sch. I, §(c)(10), 841(a)(1), 844(a); see generally,  
18 *Gonzales v. Raich* (2005) 545 U.S. 1. Because the court must look at what the law said at the  
19 time the contract was made, rather than what it says today, to determine if the contract is  
20 enforceable, the court cannot enforce this contract for profits from the sale of marijuana.

21 Civil Code §1550.5(b) does not save this contract.

22 Section 1550.5(b) states that commercial activity relating to medicinal cannabis is a  
23 “lawful object of a contract” only if “conducted in compliance with California law and any  
24 applicable local standards, requirements, and regulations.” Civ. Code §1550.5(b). Otherwise, it  
25 is illegal, and contracts relating to it are unenforceable.

26  
27

1 First, Section 1550.5(b) took effect in January 2018. This contract was created in  
2 November 2017, when the public policy of the state forbade such contracts. It cannot save the  
3 contract.

4 Second, Plaintiff offered no evidence that the marijuana activities are “conducted in  
5 compliance with California law and any applicable local standards”. Civ. Code §1550.5(b). The  
6 Agreement says “Razuki is entitled to a seventy-five percent...interest in the capital, profits, and  
7 losses of each Partnership Asset”. *Agreement* §1.2. The “Partnership Assets” include Malan’s  
8 partial ownership of Mira Este, Flip Management, and Roselle Properties, and Razuki’s minority  
9 interest in Sunrise Property Investments, LLC and Super 5 Consulting Group, LLC. Id. §1.1(a).  
10 Sunrise and Super 5 consist of “various medical marijuana businesses,” and “Super 5...is the  
11 operator of a medical marijuana dispensary....” Id. §1.1(f). Plaintiff argues that the other  
12 businesses are also engaged in selling marijuana. Because the Agreement related to profits  
13 derived indirectly from “various medical marijuana businesses,” it is illegal and unenforceable  
14 unless Plaintiff shows that the activities of the businesses are conducted in compliance with state  
15 and local law.

16 Plaintiff’s ex parte application conveniently failed to mention Sunrise and Super 5; he  
17 says nothing about whether they are operating legally – or whether he actually owns them.<sup>2</sup>  
18 Because the Agreement affirmatively states that all the businesses are “medical marijuana  
19 businesses,” he needed to show these companies were operating in accordance with local law.  
20 He also needed to show he transferred his ownership of those companies to the holding  
21 company, or else his anticipatory breach excuses Malan’s performance. He did not, so he cannot  
22 use the court’s powers to enforce the contract.  
23  
24

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25 <sup>2</sup> The Secretary of State’s records show that Salam Razuki is not a member of either Super 5 or  
26 Sunrise, which means the Agreement – in which Razuki promises to transfer his non-existent  
27 ownership of those companies – is void for lack of consideration. See Supp. Decl. Leatham at  
Exhibits B to G.

1  
2 c. **It is illegal for a receiver to make arrangements with Plaintiff about how**  
3 **to run a business in receivership, and that is what this receiver has done,**  
4 **so he cannot be appointed.**

5 This receiver has not acted neutrally, violating Rule 3.1179(b), which states “the party  
6 seeking the appointment of the receiver may not, directly or indirectly...enter into  
7 any...arrangement...concerning...who the receiver will hire, or seek approval to hire, to  
8 perform necessary services.” This receiver entered an illegal arrangement with Plaintiff  
9 concerning who the receiver will hire to manage the dispensary. Plaintiff’s ex parte application  
10 brazenly disclosed he had obtained the receiver’s promise to re-hire SoCal Building Ventures, a  
11 negligent management company, to “perform necessary services” at the Balboa dispensary:

12 “If a receiver is appointed over all Marijuana Operations, the receiver can reinstate  
13 SoCal Building as the operator...” *Plaintiff’s Ex Parte App.* at p. 14:17-19. “A receiver will  
14 merely reestablish the status quo by allowing SoCal Building to run the Marijuana Operations.”  
15 *Id.* at p. 15:9-11. “Razuki is attempting to reinstate SoCal Building as the operator of the  
16 Marijuana Operations...” *Id.* at p. 15:25-27.

17 This was an illegal arrangement in violation of Rule 3.1179(b). The receiver did in fact  
18 re-hire SoCal, and invaded the property with a gunman and several SoCal employees. This  
19 receiver, who disregarded his duty to act independently of Plaintiff, cannot serve.

20 d. **The businesses would have to shut down immediately if a receiver is**  
21 **appointed, because it is illegal to change control of a marijuana**  
22 **dispensary without approval from the Bureau of Cannabis Control.**

23 Any “individual who will be participating in the direction, control, or management” of a  
24 licensee of the Bureau of Cannabis Control must send detailed information to the Department of  
25 Justice. Bus.&Prof Code § 26001(al) (defining “owner”). They must submit fingerprint images,  
26 a record of their arrests, proof of their legal right to occupy building, a statement from the  
27 landowner showing consent to their operation, proof of a bond, and a list of everyone with a  
financial interest in the entity applying for a license, among other things. *Id.* §26051.5 *et. seq.*

1 There is no evidence the receiver or SoCal has done any of these things, so they legally cannot  
2 operate a dispensary in California.

3 San Diego’s Municipal Code requires anyone “in possession of real property” (SDMC  
4 §11.0210) or “responsible for the operation” of the business or “in apparent charge of the  
5 premises” (SDMC §33.0201) to undergo a background check and obtain a Marijuana Outlet  
6 Operating Permit. See *Decl. of Gina Austin ISO Malan’s ex parte app. to vacate receiver* ¶¶17-  
7 22, Exhibit B (filed July 30, 2018). Neither the receiver nor SoCal have done that. As attorney  
8 Gina Austin explained during the July 31<sup>st</sup> hearing, the businesses would have to immediately  
9 shut down and remain closed for several months if a receiver or SoCal are placed in charge.  
10 *Supp. Decl. Leetham, Exhibit A, pp. 33-35.* Months without revenue would doom the businesses,  
11 violate their conditional use permits, and irreparably harm their reputation with vendors and  
12 their patients, who rely on these businesses for medicine.

13 e. **Plaintiff’s claims are compensable – if at all – through money damages,  
14 so a receiver is not necessary.**

15 All of Plaintiff’s claims are compensable in money damages. Injunctive relief is  
16 unnecessary, because Plaintiff does not claim to own anything unique. He does not claim to own  
17 real property. He does not even claim to own the holding company. He claims only a right to  
18 future profits *and losses* from RM Holdings, LLC. If he feels like he’s being deprived of those  
19 profits, he can try to prove damages at trial. But he does not need injunctive relief.

20 f. **The equities weigh against appointing a receiver, who, during his two  
21 weeks of receivership, gave 100 percent control of eight companies to  
22 criminally negligent operator SoCal Building Ventures, LLC, who  
23 refuses to return it.**

24 Plaintiff asked for a receiver under Section 564(9) “to preserve the property or rights of  
25 any party.” Since a receivership is an equitable remedy, the equitable considerations governing  
26 injunction proceedings apply, and the party seeking the receivership must come into court with  
27 “clean hands.” *Bennallack v. Richards* (1899) 125 Cal. 427, 433.

Plaintiff does not have clean hands. He arranged for the receiver to re-hire SoCal, who  
stormed the Balboa dispensary with a gunman as soon as the order was signed. When police

1 arrived, they fled – only to return and break down the door when the police left. After the  
2 receivership was vacated, they refused to return the Defendants’ property. SoCal and the  
3 receiver stole tens of thousands of dollars in cash from Balboa, and SoCal tried to steal hundreds  
4 of thousands of dollars of equipment out of the Mira Este facility. *Supp. Decl. Malan* ¶¶3-31.  
5 Defendants demanded the erstwhile receiver return codes to the dispensary’s alarms, safes, and  
6 inventory software, but the receiver, acting in concert with Plaintiff, refused to comply. *Supp.*  
7 *Decl. Leetham* at ¶¶10-11, *Exhibits H and I*. They are violating Judge Strauss’s July 31<sup>st</sup> minute  
8 order and jeopardizing the dispensaries’ ability to operate legally. A court acting in equity  
9 cannot grant relief to the Plaintiff under these circumstances.

10 g. **Plaintiff’s objections to the proposed order are meritless; he is entitled to**  
11 **no injunctive relief on Defendant’s ex parte, and Defendant’s offer to**  
**disclose financial information is an absolute gift.**

12 In mid-July, Plaintiff’s counsel lied to Judge Medel to get a receiver appointed. He told  
13 Judge Medel that the proposed order – which Judge Medel said he only “peripherally” read –  
14 would preserve the status quo, nothing more. But in reality, it altered the status quo. It tossed  
15 eight companies into receivership, and allowed the receiver to re-hire a criminally negligent  
16 management company (SoCal) which had been fired for smoking weed on the job. Only three of  
17 those eight companies were even mentioned in the Plaintiff’s complaint – it does not “preserve  
18 the status quo” to grab unrelated companies and subject them to receivership with no notice to  
19 them, their owners, or their employees. When Judge Strauss vacated the receivership order, he  
20 said he had great concerns that Plaintiff’s counsel misrepresented the content of the receivership  
21 order to Judge Medel. *Supp. Decl. Leetham, Exhibit B*, p. 31:21-23.

22 Defendant Malan submitted a proposed order to vacate the receivership, to which  
23 Plaintiff objected in a lengthy email to Malan’s counsel. In that email, Plaintiff insists that the  
24 order vacating the receivership should: prevent the eight companies from selling their assets or  
25 transferring *anything* between them, ban them from paying money to their vendors (e.g.  
26 Monarch Management Consulting), ban them from making “long term agreements” with  
27 anybody, force the companies to get prior approval from Plaintiff before signing any contracts,

1 appoint a forensic accountant, and lie to the government, pretending that Plaintiff and “RM  
2 Holdings, LLC” “have a 75% interest in all of the cannabis operations.”

3         These conditions are absurd. The receivership order was wrongly entered. Plaintiff has  
4 already testified he was never in business with Malan and has no ownership interest in any of  
5 the eight companies identified in the receivership order. He has no right to control the  
6 companies’ abilities to enter contracts or to demand this relief.

7         He has not even asked the court for such relief; Judge Strauss granted *Defendant’s*  
8 application to set aside the receivership order. Plaintiff never asked for this relief at the July 31<sup>st</sup>  
9 hearing. If Plaintiff thinks he is entitled to this relief, then let him file a motion. He cannot get  
10 injunctive relief by sending an email to defense counsel and demanding his “revisions” be  
11 included in an order whose sole purpose is to vacate a wrongly-entered receivership.

12         Any restrictions on the companies’ powers to hire vendors and operators will damage  
13 them beyond repair. The companies need to sign contracts, and they need to honor the contracts  
14 they already signed. They hired a reputable and lawful operator to replace the negligent SoCal,  
15 and they cannot suddenly terminate that contract without breaching it. Balboa Ave Cooperative  
16 must sign agreements with the HOA and the government, and must make regular payments  
17 required by their agreement with the HOA. If Plaintiff thinks he is entitled to restrict the  
18 companies’ abilities to operate, let him file a noticed motion with proper evidentiary support.  
19 But to ask for such relief, with no basis in law or fact, on *Defendant’s* ex parte application is  
20 anathema to how the judicial process works.

21         Plaintiff’s demand that the companies lie to the government and say that Plaintiff Razuki  
22 owns 75% of the companies would perpetrate a fraud on state authorities. Plaintiff does not own  
23 these companies, and his complaint does not even *claim* he owns these companies. He does not  
24 own a right to their revenue, either. His complaint says he is entitled to 75% of the profits and  
25 losses of only one company: *RM Property Holdings, LLC*, and only after the parties all perform  
26 an accounting. He does not say he owns RM Property Holdings – he owns only a right to its  
27 *future* revenue and losses. He has shown no proof that RM Property Holdings has any revenue

**Defendant Malan’s Supplemental Briefing**

1 whatsoever, and he admits in his complaint that RM Property Holdings owns *nothing*. Owning a  
2 75% right to future revenue in a company that, as of today, owns *nothing* does not give him the  
3 right to unilaterally impose conditions on how eight unrelated companies conduct business.

4 In the interests of compromise, counsel for Defendant Hakim suggested at the July 31<sup>st</sup>  
5 hearing that the dispensaries open up their books and show their transactions to the Plaintiff.  
6 Defendant Malan and the companies agreed to this compromise – but they did not have to. This  
7 was a *gift* to Plaintiff – an absolutely gratuitous gift. Plaintiff is not entitled to look at  
8 Defendants’ books; they should be satisfied with the offer, rather than demanding the right to  
9 micro-manage Defendants’ operations and force Defendants to lie to the government about  
10 Razuki’s fictitious ownership interests.

11 **Conclusion**

12 Appointing a receiver is an extraordinary remedy, especially *ex parte*. No emergency  
13 justified the appointment, but the appointment created its own emergency: Plaintiff’s gunmen  
14 control a business from which they were previously fired for incompetence and theft. The  
15 companies are trying to reestablish themselves, but the receiver and SoCal have refused to  
16 comply with Judge Strauss’s order vacating the receivership.

17 This court should maintain the status quo by letting the businesses run themselves. If it  
18 grants any additional relief, it should command SoCal and the receiver to turn over the  
19 passwords to the bank accounts that they have been withholding in contempt of this court’s  
20 order.

21 Dated: August 12, 2018



22 \_\_\_\_\_  
23 Daniel Watts  
24 Steven W. Blake  
25 **GALUPPO & BLAKE, APLC**  
26 Attorneys for Defendant Ninus Malan  
27

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

6 Attorneys for Defendant Ninus Malan

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SUPERIOR COURT OF CALIFORNIA, 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.

Case No.: 37-2018-00034229-CU-BC-CTL  
Assigned: Hon. Judge Sturgeon  
Dept.: C-67  
**Declaration of Ninus Malan RE:  
Supplemental Briefing**  
Date: August 14, 2018  
Time: 8:30 a.m.  
Judge: Sturgeon  
Dept.: C-67

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I, Ninus Malan, declare the following:

1. I am over the age of 18 years and I am a defendant in this action

2. I have personal knowledge of the facts stated in this declaration, and if called upon to testify to these facts, I could and would do so competently. I am the custodian of records for each of the companies for which I am an owner or manager, as described in this declaration, and I have the authority to state facts on their behalf.

**Mira Este theft**

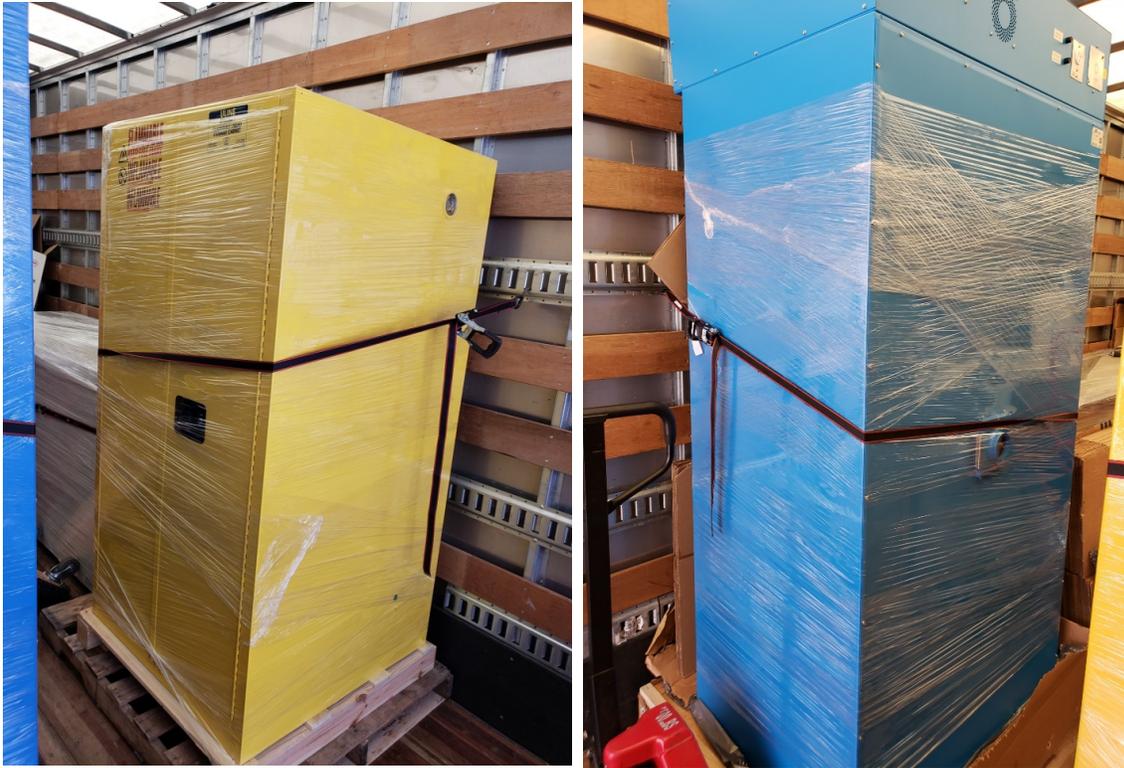
3. On July 31, 2018, after the hearing with Judge Strauss, I went to the office of one of my attorneys, Gina Austin. While there, I received a call around noon from co-defendant Chris Hakim. Hakim is a current business partner and co-owner of some of the companies involved in this litigation. Hakim said he was at the Mira Este property, where he saw a big moving truck and people trying to pack it with looted items from the Mira Este building. Hakim called the police.

4. I told Hakim would soon be on my way. I left Austin’s office and drove to the Mira Este property.

5. When I arrived, I saw Hakim talking to the police. I also saw Dan Spillane (who works for Plaintiff-in-intervention SoCal Building Ventures, LLC (“SoCal”), two moving company workers, and a third man who I did not recognize. From the placement of the moving truck and the equipment, it was clear that SoCal’s people had been trying to steal equipment from Mira Este.

6. The equipment that SoCal was trying to steal included a freezer/refrigerator, and two machines that extract oil from cannabis (worth approximately \$50,000 each), among other items.

1           7.       In the following photographs, which I took on July 31, 2018 of the inside of the  
2 moving truck, one can see some of the equipment SoCal tried to steal:



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Supplemental Decl. of Ninus Malan



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12       8.     The police were talking to Hakim and SoCal’s people to confirm who owned the  
13 equipment that SoCal was trying to steal. Spillane told the police that SoCal owned the  
14 equipment. I told the police that the court had vacated the receivership and told the parties to  
15 leave everything “as it was” prior to the receivership. I told the police that the equipment had  
16 been at the Mira Este site before the receivership, so it should stay there until further notice from  
17 the court.

18       9.     Spillane and Plaintiff’s other agents continued arguing with the police,  
19 demanding permission to take the equipment, and telling the cops that they had every right to  
20 take it. About 15 minutes later, Gina Austin and my other attorney, Tamara Leetham, showed up  
21 to speak to the police.

22       10.    At this point, Spillane phoned SoCal’s attorneys, who advised him they were  
23 wrong, and told Spillane to leave the equipment where it was. Spillane yelled at his attorneys on  
24 the phone, arguing “We need to take it!”, but the people on the phone were telling Spillane not  
25 to take it.

1           11.     After going back and forth, Spillane finally gave up arguing with his attorneys.  
2 Spillane told the movers to take the equipment out of the moving truck and put it back in the  
3 building. They did so, and the truck left. The police soon left, too.

4           12.     After the police left, Spillane put something in his car that he stole from the Mira  
5 Este building. It was the size of a big bag or a computer. I looked in the car and saw a big cover  
6 over an item, an obvious attempt to hide it from view.

7           13.     Hakim and I told Spillane to give the item back to Mira Este. Spillane said, “I  
8 don’t have to bring *shit* back. You can do whatever you want.”

9           14.     The moving company employees, Spillane, and his agents all left – with Spillane  
10 still in possession of the stolen item. Hakim and I closed the Mira Este building, put chains on it,  
11 locked it up, and left.

12           15.     Today, there is a new manager in place at the Mira Este facility, a manufacturing  
13 facility where plants are processed. The management company, Synergy Management Partners,  
14 LLC, signed a contract with me and Hakim allowing them to manage the property for several  
15 months. Synergy’s employees are professional and do their jobs well.

16           16.     SoCal, however, did not do its job when it was managing the facility at the behest  
17 of the receiver. When the moving trucks left on July 31<sup>st</sup>, I viewed the Mira Este property and  
18 walked through the building. SoCal punched holes in the wall, damaged the door, and left a used  
19 smoking pipe in a room that had been used as an office space. SoCal had been smoking  
20 marijuana and drinking alcohol on the premises, which violates our conditional use permit and  
21 agreement with the common development association governing the Mira Este property.

22           17.     SoCal’s negligence has put the company in severe jeopardy. This is exactly why  
23 SoCal was originally fired before this lawsuit was filed, and it is why I am so troubled by the  
24 receiver’s snap decision to re-hire SoCal.  
25

1 **DVR theft**

2 18. After Judge Strauss vacated the receiver on July 31<sup>st</sup>, I regained physical access to  
3 the Balboa facility and discovered that SoCal, the negligent company hired by the receiver, had  
4 stolen the digital video recording system used by Balboa to monitor the property. State law  
5 requires a functioning security camera system 24 hours a day, 7 days a week. By removing the  
6 DVR system, SoCal violated the law.

7 19. A couple days after the receiver was vacated, I spoke with Jordan Rahman, an  
8 employee who works for the DVR company, West Coast Sight and Sound. Rahman informed  
9 me that SoCal employee Dianna Delamora claimed to have the DVR system and would ship it  
10 to my attorney's office.

11 20. SoCal never sent the DVR system to my attorney's office.

12 21. SoCal is withholding the DVR system because it would contain recordings of  
13 their criminal negligence. When I walked through the Balboa facility, I noticed money and  
14 product was missing, half-eaten marijuana edible candy bars were laying around, open packs of  
15 marijuana "gummy" snacks were laying around, and the place was full of the residue and ashes  
16 of smoked marijuana. The DVR recordings would've shown the eating and smoking; that's why  
17 SoCal stole them.

18 22. The DVR system was worth at least \$13,000. It was working, functional, and  
19 fully installed before the receiver and SoCal stole it. Since they refused to return it, I had to hire  
20 a company to repair the wiring and reinstall a new system, at a cost of several thousand dollars.  
21 A true and correct copy of the invoice for repair of the system is attached to this declaration as  
22 **Exhibit A.**

23 23. This is a photograph taken after the receiver was vacated, showing a gaping hole  
24 where the DVR system is supposed to be:  
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Supplemental Decl. of Ninus Malan

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**Theft of Cash at Balboa**

24. When we showed up on August 1st, the DVR was missing, the cords were cut and pulled out, there was missing product that didn't match the inventory, and there was no cash at all. There should have been \$50,000 in there. I calculated this estimate because SoCal and the receiver were operating the facility for five to eight days, and the sales during that time should have been around \$8,000-10,000.

25. These are photographs I took on or about August 1st showing the cash register and safe empty of bills, showing that SoCal and the receiver looted the drawer and safe:





1 very efficient with using physical space in a building. They are the same company that Balboa  
2 Ave Cooperative's HOA president complimented in his declaration on July 31<sup>st</sup>, and they were  
3 also the ones attacked and thrown out by SoCal, the receiver, and their gunman after the receiver  
4 was appointed. We are very fortunate that they agreed to resume their duties.

5 33. Golden State Greens is managing Balboa completely as I write this. They are  
6 under a contract that will not expire until sometime in September, I believe.

7 34. As for the Roselle location, there is a conventional commercial tenant renting out  
8 the building right now. There is no marijuana operation there.

### 9 **Management and Ownership Status**

10 35. For clarity's sake, this section will recount the ownership structure of the various  
11 companies in this dispute.

12 36. I am the president of California Cannabis Group, a nonprofit mutual benefit  
13 corporation. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder,  
14 member, or owner of California Cannabis Group.

15 37. I am the president and Chris Hakim is the vice president of Devilish Delights,  
16 Inc., a nonprofit mutual benefit corporation Plaintiff Salam Razuki is not and never has been an  
17 officer, employee, shareholder, member, or owner of Devilish Delights, Inc.

18 38. Mira Este Properties, LLC is a limited liability company owned in equal parts by  
19 me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee,  
20 shareholder, member, or owner of Mira Este Properties, LLC. Mira Este Properties, LLC owns  
21 the real property at 9212 Mira Este Court, San Diego, CA 92126 ("Mira Este Facility") in fee  
22 simple.

23 39. I am the president of California Cannabis Group, a nonprofit mutual benefit  
24 corporation. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder,  
25 member, or owner of California Cannabis Group.

1           40. I am the president and Chris Hakim is the vice president of Devilish Delights,  
2 Inc., a nonprofit mutual benefit corporation Plaintiff Salam Razuki is not and never has been an  
3 officer, employee, shareholder, member, or owner of Devilish Delights, Inc.

4           41. Balboa Ave Cooperative is a nonprofit mutual benefit corporation. I am the sole  
5 managing member of Balboa Ave Cooperative. Plaintiff Salam Razuki is not and never has been  
6 an officer, employee, shareholder, member, or owner of Balboa Ave Cooperative.

7           42. Monarch Management Consulting, Inc. is a corporation owned in equal parts by  
8 me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee,  
9 shareholder, member, or owner of Monarch Management Consulting, Inc.

10           43. Flip Management, LLC is a limited liability company owned entirely by me.  
11 Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or  
12 owner of Flip Management, LLC.

13           44. I am the sole member and sole owner of San Diego United Holdings Group, LLC  
14 (“San Diego United”), a limited liability company. Neither Razuki Investments, LLC nor  
15 Plaintiff Salam Razuki have any ownership interest whatsoever in San Diego United

16           45. Roselle Properties, LLC is a limited liability company owned in equal parts by  
17 me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee,  
18 shareholder, member, or owner of Roselle Properties, LLC. Roselle Properties, LLC, which is  
19 owned by me and Hakim, owns real property located at 10685 Roselle Street, San Diego, CA  
20 92121 (“Roselle Facility”) in fee simple.

21           46. Razuki Investments, LLC used to own real property located at 8863 Balboa Ave.  
22 and 8861 Balboa Ave. in San Diego (“Balboa Properties”), but San Diego United bought the  
23 Balboa Properties in March 2017. Today, neither Razuki or Razuki Investments, LLC has any  
24 property interests in the Balboa Properties.

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

DATE: August 11, 2018

BY: *Ninus Malan*  
Ninus Malan,  
Defendant

# Exhibit A

# INVOICE#1134

**Address:** Balboa Ave Cooperative  
8863 balboa Ave #E  
San Diego, CA 92123

**DATE:** 8/3/2018

WackeyWire  
**eMail:** Wackeywire@gmail.com  
**Phone:** 949 231 2110

Description	QUANTITY	Rate	TOTAL
32 NVR capable of 24/7 recording 2 monitor displays for security	1	5,700	5,700
Cracking 25 camera passwords	25	50	1,250
Hard drives	8	350	2,800
Install of cameras and DVR and repairs to other equipment Per HR	12	145	1,500
Second guy watching over me	12	95	1,140
		SUBTOTAL	12,390
This work done to replace an existing system that was stolen and removed violently. Old system was not reliable enough to try and reuse to stay up to code for state regulations. Manufacturer's warranty was voided when the chases of the dvr was bent			
		tax	1,089
		<b>TOTAL</b>	<b>\$13,479</b>

AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

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

6 Attorneys for Defendants  
Ninus Malan, San Diego United Holdings Group  
7 Balboa Ave Cooperative, California Cannabis Group

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

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SALAM RAZUKI, an individual,

Plaintiff,

vs.

NINUS MALAN, an individual; CHRIS  
HAKIM, an individual; MONARCH  
MANAGEMENT CONSULTING, INC., a  
California corporation; SAN DIEGO  
UNITED HOLDINGS GROUP, LLC, a  
California limited liability company; FLIP  
MANAGEMENT, 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**

**SUPPLEMENTAL DECLARATION OF  
TAMARA M. LEETHAM**

[Imaged File]

1 I, Tamara M. Leetham, declare:  
2 1. I am an attorney admitted to practice before this Court and all California courts  
3 and, along with Gina M. Austin, and Daniel Watts of Galuppo and Blake, represent defendants  
4 Ninus Malan (“Malan”), San Diego United Holdings Group, Balboa Ave Cooperative, and  
5 California Cannabis Group in this matter. I make this supplemental declaration in support of  
6 Judge Strauss’ July 31, 2018 Minute Order vacating a temporary receivership order entered by  
7 Judge Medel on July 17, 2018. Unless otherwise stated, all facts testified to are within my  
8 personal knowledge and, if called as a witness, I would and could competently testify to them.  
9 2. As I explained in my July 30, 2018 declaration, I have represented Ninus Malan,  
10 San Diego United Holdings Group, Balboa Ave Cooperative, and California Cannabis Group in  
11 multiple matters in San Diego County Superior Court.  
12 3. On July 31, 2018, I appeared before the honorable Richard E. L. Strauss in  
13 Department 75 of the above-entitled Court, on behalf of defendant Ninus Malan, at an ex parte  
14 application to vacate the temporary receivership order entered by the honorable Kenneth Medel  
15 on July 17, 2018. A true and correct copy of the transcript from the July 31, 2018 hearing is  
16 attached as Exhibit A and incorporated by reference.  
17 4. A true and correct copy of Super 5 Consulting Group, LLC’s May 10, 2017  
18 Articles of Organization is attached as Exhibit B and incorporated by reference.  
19 5. A true and correct copy of Super 5 Consulting Group, LLC’s November 8, 2017  
20 Statement of Information is attached as Exhibit C and incorporated by reference.  
21 6. A true and correct copy of Super 5 Consulting Group, LLC’s April 10, 2018  
22 Statement of Information is attached as Exhibit D and incorporated by reference.  
23 7. A true and correct copy of Sunrise Property Investments, LLC’s December 1, 2015  
24 Articles of Organization is attached as Exhibit E and incorporated by reference.  
25 8. A true and correct copy of Sunrise Property Investments, LLC’s January 3, 2017  
26 Statement of Information is attached as Exhibit F and incorporated by reference.  
27 9. A true and correct copy of Sunrise Property Investments, LLC’s February 8, 2018  
28 Statement of No Change is attached as Exhibit G and incorporated by reference.



# Exhibit A



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.  
TAMARA M. LEETHAM, ESQ.  
3990 Old Town Avenue, Suite A-112  
San Diego, California 92110

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GRANT & KESSLER, APC  
BY: MILES D. GRANT, ESQ.  
1331 India Street  
San Diego, California 92101

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28 REPORTED BY:

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

1 SAN DIEGO, CALIFORNIA; TUESDAY, JULY 31, 2018; 9:12 A.M.

2  
3 THE COURT: Good morning, everyone.

4 THE BAILIFF: And Your Honor, on Items 1 and 2,  
5 Razuki vs. Malan. And these matters are being reported.

6 THE COURT: All right.

7 MR. ELIA: Good morning, Your Honor. Steven Elia  
8 appearing on behalf of Plaintiff Salam Razuki.

9 MR. JOSEPH: James Joseph on behalf of plaintiff.

10 MR. ZIMMITTI: Good morning, Your Honor.  
11 Salvatore Zimmitti on behalf of plaintiffs in intervention  
12 So-Cal Building Ventures, LLC and San Diego Building  
13 Ventures, LLC.

14 MR. GRISWOLD: Good morning, Your Honor.  
15 Richardson Griswold, counsel for receiver Mike Essary,  
16 who's present.

17 MR. ESSARY: Good morning, Your Honor. Michael  
18 Essary, receiver.

19 MR. WATTS: Good morning, Your Honor. Daniel  
20 Watts of Galuppo & Blake on behalf of Defendant Ninus  
21 Malan.

22 MS. LEETHAM: Good morning, Your Honor. Tamara  
23 Leetham from Austin Legal Group, along with Gina Austin,  
24 also here for Ninus Malan. We would also be here for  
25 San Diego United Holdings Group, Balboa Avenue  
26 Cooperative, and California Cannabis Group, but for the  
27 receiver.

28 MR. GRANT: Good morning, Your Honor. Miles

1 Grant for the defendant Chris Hakim. We're also here  
2 representing his interest in Roselle and Mira Este, which  
3 has been named in the receiver order.

4 THE COURT: All right. Thank you, everybody.

5 All right. I received this yesterday, which I've  
6 read. I received this opposition this morning, which I've  
7 read. The opposition indicates that this is -- there's no  
8 basis for this hearing.

9 Comments about that in terms of procedure?

10 MR. ZIMMITTI: Well, Your Honor, if I may, our  
11 position is that this is an improper motion for  
12 reconsideration. Your Honor, defendants are trying to  
13 gain new rights they would not have had otherwise had they  
14 not exercised a peremptory challenge.

15 There's a perfectly good, valid order that Judge  
16 Medel issued in that defendants could have moved to  
17 reconsider or done whatever they chose to do to have that  
18 order revisited. They chose not to. They chose to  
19 immediately exercise a peremptory challenge. And now  
20 they're coming back for a second bite of the apple, in  
21 violation of the strict rules governing motions for  
22 reconsideration.

23 So, Your Honor, given that, we -- it's our  
24 position Your Honor does not have jurisdiction to  
25 entertain this motion.

26 MS. LEETHAM: Your Honor, we never had a first  
27 bite at the apple. I think that's what's critically  
28 important. It was documented we weren't served with the

1 papers. We weren't given proper ex parte notice. I  
2 received an e-mail Friday that said they were coming in I  
3 don't know what. I don't know why.

4 On Monday, around lunchtime, we got this request.  
5 And I continued to say we had not been served, nor was I  
6 authorized at that time to accept service. So we didn't  
7 have a first bite at the apple.

8 THE COURT: Nevertheless, there was an order  
9 issued. And the question is can I this morning, under  
10 this ex parte arrangement, do anything about it or does it  
11 require some other type of action so that I can act on it?

12 MR. WATTS: Your Honor, a void order is void.  
13 This order was -- we're not asking you to reconsider an  
14 order. We're asking to vacate a void order that was void  
15 the day that it was entered, because --

16 THE COURT: Why was it void?

17 MR. WATTS: It was void because it -- the  
18 statutes that govern the appointment of a receiver  
19 specifically say that a receiver can't have a prior  
20 arrangement with one of the parties. In their application  
21 for the receiver, they said that the receiver will  
22 reappoint a criminally negligent management company, and  
23 then the receiver went and go -- went ahead and  
24 reappointed them, showing that there was an arrangement,  
25 and they can't have that. The receiver is not supposed to  
26 have that power. The order itself tells the receiver to  
27 wind up and dissolve the companies, and that is not --

28 THE COURT: Several companies.

1           MR. WATTS: Several companies. They were with --  
2 on ex parte notice, several companies were thrown into the  
3 receivership. The elements of the statute for appointing  
4 of a receiver weren't even met. He doesn't -- the  
5 plaintiff doesn't actually claim ownership interest in the  
6 businesses that were thrown in here. He claims shares of  
7 a holding company that allegedly has a contract for, at  
8 some point in the future, shares in these other companies  
9 to be transferred to that holding company. I own shares  
10 in Apple. That doesn't give me the right to throw out  
11 Apple's management on an ex parte basis.

12           THE COURT: I read where you said that in the  
13 papers.

14           MR. WATTS: Yes. And it remains true. So we're  
15 asking the Court not to -- not to reconsider, but to  
16 vacate an order that was void ab initio. And that was  
17 something that sua sponte the other judge was going to do  
18 and also this Court could do sua sponte. Even if we  
19 needed to file a motion for reconsideration, this Court  
20 has the inherent power to vacate --

21           THE COURT: Well, I'm concerned about this order.  
22 I'll tell you that. Because it goes way beyond what was  
23 discussed at the hearing. This is not a stand-still  
24 order.

25           MR. ELIA: Your Honor, may I be heard?

26           THE COURT: Sure.

27           MR. ELIA: I represent Plaintiff Salam Razuki.  
28 Everything counsel just said is false. Let me tell you

1 why. First of all --

2 THE COURT: And everything you're saying he's  
3 going to tell me is false. That's the way this is going.

4 MR. ELIA: Well, maybe we should have a noticed  
5 motion or evidentiary hearing so that the facts come out.

6 But basically, there was no prior arrangement.  
7 We requested that So-Cal come back because the defendants  
8 have three management agreements with options to purchase,  
9 and they resorted to self-help and kicked them out when  
10 So-Cal found out that my client was a 75 percent owner,  
11 and he is.

12 What the defendants don't tell you about or  
13 mention in the ex parte application, they say that we have  
14 this mysterious interest, this imaginary interest.  
15 There's an eight-page settlement agreement signed by  
16 Mr. Malan and Mr. Razuki with two pages, two full pages,  
17 of recitals that explain in crystal clear detail what the  
18 partnership assets are, which include the defendant  
19 entities.

20 And they come in this court and they say we have  
21 no property right or interest in these dispensaries when  
22 my client financed \$5 million for these entities, and  
23 their client put in zero or nearly zero.

24 MS. LEETHAM: It's significant --

25 MR. ELIA: What they're trying to do, Your Honor,  
26 is they're trying to kick out So-Cal because So-Cal found  
27 out that my client's an owner. They're trying to kick out  
28 So-Cal so they can continue stealing with another company

1 to kick my client out of the dispensaries that he financed  
2 over \$5 million, and that's what this case is about.

3 MS. LEETHAM: The moving party bears the burden  
4 to come into court by a preponderance and show the Court  
5 in this case significant harm. They have no  
6 documentation. They have no evidence. They have hearsay,  
7 self-serving declarations. That's it. Two declarations  
8 that claim a purported interest.

9 They gave no evidence of the loans, no evidence  
10 of an ownership interest in Sunrise, which is a permitted  
11 dispensary that does business under the trade name Goldn  
12 Bloom, that was supposed to capitalize RM Holdings, which  
13 also is not a defendant.

14 So we're -- not only are we improper in that  
15 there's no evidence, we're missing the party who claims to  
16 have the right to the other entities.

17 MR. WATTS: That settlement agreement is very  
18 specific, as he said. And it says that the interests in  
19 these companies are supposed to be transferred to a  
20 holding company in which both parties own shares.

21 His client does not claim an interest in the  
22 businesses that were thrown into the receivership. It's  
23 RM Holdings, LLC that his client claims has an interest.  
24 RM Holdings did not make this motion. RM Holdings is not  
25 a party to this lawsuit. RM Holdings is not asking for  
26 the receiver to hang on to its assets. RM Holdings isn't  
27 here. His client is, a shareholder of RM Holdings  
28 allegedly under an agreement that we're going to file a

1 cross-complaint to rescind because of fraud. So he hasn't  
2 shown his client has these -- these interests.

3 And for So-Cal Management, this is a company --  
4 it's a management company. And in the opposition, they  
5 talk about self-help and how they were kicked out of the  
6 building. It's a management company. They didn't have a  
7 lease. They have no tenancy rights. There's no self-help  
8 here.

9 They gave them 25 day's notice as required under  
10 the management agreement and then fired them for criminal  
11 incompetence. They were smoking marijuana on the job. We  
12 have multiple declarations showing they were stealing  
13 product, eating -- gobbling up pot cookies in the  
14 building. And the HOA that governs this building was  
15 going to revoke their special use variance because of  
16 that. They -- but still, Ninus and the companies that he  
17 runs went through the process, gave 25 days' notice and  
18 terminated it.

19 If San Diego -- or So-Cal Building Ventures wants  
20 to cross-complain as they have, fine, they can intervene  
21 and cross-complain for breach of contract. But that  
22 doesn't mean you throw his companies that everybody agrees  
23 he owns 100 percent, that you throw that into  
24 receivership. That's not the point of the receivership  
25 statute when there's -- there's alternatives to this, too.  
26 There's lesser remedies available.

27 That's another reason why the order was void.  
28 The Court could ask him to turn over financials or to show

1 bank account statements or something, or they could even  
2 ask for a writ of attachment levied against all of these.  
3 But instead, they come in ex parte without serving a  
4 summons or a complaint on anyone, and they're going to say  
5 that they did it -- when they came in ex parte, they  
6 handed it to her, but she wasn't their agent of service.  
7 She wasn't authorized to accept on behalf of the multiple  
8 companies that were thrown into receivership.

9           So there's lesser remedies available. Their  
10 client doesn't claim an interest in anything except  
11 RM Holdings. And the -- because the statute wasn't  
12 complied with, the receivership order was void ab initio  
13 and should be vacated.

14           MS. LEETHAM: I want to make a couple of other  
15 points, and then I'll give Mr. Elia the floor.

16           I think it is compelling that So-Cal Building  
17 Ventures was managing the property and did control the  
18 finances and were obligated under the management  
19 agreements to provide quarterly reports to my client, and  
20 they did not. So this lack of financial information that  
21 they claim comes from themselves and their mismanagement  
22 of the finances.

23           Secondly, we have evidentiary admissions by  
24 Mr. Razuki after this purported agreement was entered into  
25 where he clearly states "I do not have an interest in  
26 San Diego United Holdings Group." In addition, the HOA  
27 settlement agreement, which really conducts the parties'  
28 dealings at the Balboa dispensary, was signed in February

1 of 2018. That is also after this purported entity was  
2 capitalized.

3 And nowhere in any of these documents do we hear  
4 anything about this partnership that came out today when  
5 he got mad. And this is all post hoc. This is hindsight.

6 MR. ELIA: Your Honor, our ex parte paperwork had  
7 this attached as Exhibit D, and that was done -- I believe  
8 it was filed around July 10th. It says, if I could just  
9 read one sentence -- and these are in the recitals -- it  
10 says, "Razuki and Malan have an understanding such that  
11 regardless of which party or entity holds title and  
12 ownership to the partnership assets, Razuki is entitled to  
13 a 75 percent interest in the capital profits and losses of  
14 each partnership assets, and Malan is entitled to 25  
15 percent." This is executed by both parties. We sued to  
16 enforce this agreement.

17 MR. WATTS: Not ownership.

18 MR. ELIA: I'm not done, Counsel. There's plenty  
19 more that you raised that I haven't responded to.

20 Your Honor, I did give notice. I gave four days'  
21 notice. In fact, I called two litigation law firms. I  
22 called David Jarvis's office. I had a conversation with  
23 him for 15 minutes. I left a voicemail for Ms. Leetham.  
24 And then I sent a notice on Friday giving them four days'  
25 notice to both firms that we're going to go ex parte. The  
26 following Monday, they were served with all the paperwork.

27 This is a bogus argument that they didn't have  
28 notice. They did. They even told me that they had

1 already downloaded a copy of the complaint. All the  
2 defendants that are subject to the receivership order had  
3 been served one day after the order was granted. One day  
4 later, we served them.

5 So that's not true that they haven't been served.  
6 That's absolutely false. And we have the proof of service  
7 here if Your Honor would like to take a look at it.

8 MR. ZIMMITTI: Your Honor, I'd also like to chime  
9 in since there were many representations made about my  
10 clients So-Cal, the So-Cal entities. And I think this is  
11 the classic case of pot calling the kettle black talking  
12 about self-serving statements.

13 This binder, Your Honor, with this so-called ex  
14 parte is full of self-serving statements. We object to  
15 all of it. It's speculative. It lacks foundation. It's  
16 just not good evidence.

17 Your Honor, what we have here is in addition to  
18 Mr. Razuki, my clients are not just sort of managers.  
19 They're not there for a few months. They were there under  
20 agreements in which they sank \$2.6 million of their own  
21 funds in these entities for which they were holding  
22 options for 50 percent ownership.

23 This is not just some management company that  
24 they can, quote/unquote, "fire." This is -- this is  
25 malarkey, okay? Under these agreements, we have rights to  
26 these facilities which we're entitled to manage. And this  
27 contin- -- and this option to exercise 50 percent  
28 ownership --

1 THE COURT: She tells me that it was mismanaged  
2 and they were about to be terminated.

3 MR. ZIMMITTI: Well, Your Honor, that's why we  
4 have disputes of fact and that's why we have evidence and  
5 we have --

6 THE COURT: So what was the urgency that led to a  
7 TRO?

8 MS. LEETHAM: We fired So-Cal Building Ventures.  
9 We fired them as the manager. It is well within our  
10 rights when you're in material breach of a contract. It  
11 was well within my client's rights.

12 We had an open code enforcement case because they  
13 can't do it. We had issues with the HOA. They're also in  
14 breach at Mira Este. So if the Court recalls, there's  
15 actually three separate agreements. The agreements are  
16 tethered to specific locations that are entitled through  
17 the City.

18 So with respect to Mira Este, they were -- and  
19 Mr. Grant might be better to speak to this -- half a  
20 million dollars behind in payments. So they were required  
21 to make those payments. They did not make those payments.

22 My client and Mr. Hakim, I believe, stepped up to  
23 make -- the mortgage alone is over \$62,000, okay? And  
24 this has gone on.

25 With Balboa, we negotiated a settlement agreement  
26 with the -- it's a commercial homeowners' association who  
27 adamantly fought the dispensary. We were in Judge Styn's  
28 department. We got the injunction dissolved. We got them

1 back open under very specific terms. Once that is gone,  
2 it will never be retrieved. It is irreparable.

3 So even if you're looking at the harm, they're  
4 out money. They have an adequate remedy of law. My  
5 clients do not. That -- that entitlement is not  
6 transferable. It cannot change names. It cannot change  
7 entities.

8 So we have a management company with no rights  
9 misperforming, eating product, selling product that  
10 doesn't comply with the law, and yet they claim to be  
11 there. So we fired them and we put in a new management  
12 company who is well-reputable in the community. And we  
13 submitted Heidi Reising's declaration, I think, is the  
14 most compelling. We submitted all their financials for  
15 that one week. The Court saw how much paper was generated  
16 in that one week of managing that dispensary, and the  
17 operators for eight months have zero.

18 MR. ZIMMITTI: Your Honor, can I just jump --  
19 this can go on all day long. These are just nonsense  
20 statements contending -- let's talk about breaches. Under  
21 our agreements, we have the right to again acquire an  
22 ownership in these facilities and a right to management in  
23 the interim. Managing and having an ownership, a right to  
24 exercise ownership, 50 percent ownership of the property  
25 that we can't manage --

26 THE COURT: What was the urgency that led to a  
27 TRO?

28 MR. ZIMMITTI: Because we were kicked out

1 notwithstanding our rights under the agreement to manage  
2 these facilities.

3 MR. ELIA: There's more, Your Honor.

4 MR. ZIMMITTI: Our option to exercise a purchase.

5 THE COURT: That's no urgency.

6 MR. ELIA: Let me tell you what the urgency was,  
7 Your Honor. These folks -- Mr. Malan does not own  
8 property rights that he's selling. He's kicked out  
9 So-Cal, which he's contractually obligated to give them  
10 rights to ownership, and he's brought in another entity to  
11 sell assets he does not own. That's number one.

12 MR. ZIMMITTI: And, Your Honor, can I just add  
13 one thing on that? These properties, if they're not  
14 managed carefully, strictly in compliance with law, they  
15 become illegal enterprises.

16 THE COURT: Was there some sale pending?

17 MS. LEETHAM: No, Your Honor, there's not. I  
18 don't know what they're talking about.

19 THE COURT: What's the urgency?

20 MR. ZIMMITTI: The urgency, there's a new dubious  
21 management company that's basically --

22 MR. ELIA: There's more than that.

23 MR. ZIMMITTI: -- polluting the assets.

24 MR. ELIA: Your Honor, they --

25 THE COURT: Is doing what?

26 MR. ELIA: Polluting the assets.

27 THE COURT: Polluting?

28 MR. ELIA: Yes.

1 THE COURT: In what way? Explain that.

2 MR. ELIA: So, in other words, Your Honor, if  
3 those companies aren't managed strictly in accordance with  
4 the law, they could become in violation of state and local  
5 laws.

6 THE COURT: Is this put before Medel? Because he  
7 said in the transcript there's no urgency.

8 MR. ELIA: No, Your Honor. There is. I'd like  
9 to be heard on this, because --

10 THE COURT: What did -- what was Medel told was  
11 the urgency?

12 MR. ELIA: The urgency is that they --

13 THE COURT: What was he told?

14 MR. ELIA: I'm telling you, Your Honor. They  
15 sold furnitures, fixtures, and equipment that they do not  
16 own. And if they bring in a new company --

17 THE COURT: Where is that in the transcript?

18 MS. LEETHAM: We did not sell anything.

19 MR. ELIA: That's in the papers, Your Honor.

20 MR. ZIMMITTI: Your Honor --

21 MS. LEETHAM: We brought in a new management  
22 company.

23 THE COURT: One at a time.

24 MS. LEETHAM: I apologize, Your Honor. It's  
25 just -- we brought in a new management company because  
26 they were in material breach. This is a damages case. If  
27 they invested \$2.6 million, one would think the Court  
28 would have a record of that, and they are silent on that.

1 There's no evidence of that.

2 We gave you evidence of code violations. We gave  
3 you evidence that the security company, CCW, was revoked.  
4 Not to mention the fact that we haven't talked about  
5 Sunrise and the profits that should properly be going into  
6 the receivership that Mr. Razuki has in Sunrise.

7 MR. WATTS: I can read to you what the transcript  
8 says what was told to Medel. They -- Mr. Elia told Medel  
9 that So-Cal has paid \$2.6 million, which he said again  
10 today. He said that some of that money was supposed to go  
11 to an entity called Flip. He said that Mr. Malan and  
12 Mr. Hakim set up another entity called Monarch. He said  
13 that they paid a million dollars to Monarch. He said that  
14 So-Cal was supposed to pay \$100,000 a month under these  
15 management agreements. That So-Cal is supposed to be  
16 paying that.

17 They said that our -- her client, Mr. Malan,  
18 locked out So-Cal, resorts to self-help. And again, as  
19 we've shown, they gave 25 days' notice, as the management  
20 agreement requires. There is no self-help. They're not a  
21 tenant. They brought in a new operator. That's true.

22 So-Cal has already paid millions of dollars.  
23 Again, this is money. It's not irreparable harm. A writ  
24 of attachment would solve that. They've paid \$225,000 for  
25 these options to buy half of these operations. Again,  
26 that's not irreparable harm. That's not an emergency.

27 The new operator has no idea that my client owns  
28 75 percent of these operations. Apparently, they do now.

1 MR. GRANT: Your Honor, Mr. Elia has made a false  
2 statement saying his client owns 75 percent of the  
3 operations. There are two business entities, Mira Este  
4 and Roselle. Each of those are owned 50 percent by Ninus  
5 Malan and 50 percent by my client Chris Hakim. And  
6 there's no dispute as to that.

7 The claim is that Salam Razuki has a 75 percent  
8 interest in the 50 percent interest that Ninus has.  
9 That's what the settlement agreement says. My client is  
10 not a party to the settlement agreement. There's no  
11 dispute that my client owns 50 percent of Mira Este and  
12 50 percent of Roselle. And my client has no contractual  
13 relationship whatsoever with Salam Razuki.

14 So even if everything that the plaintiff told you  
15 were true that would give him rise to a 75 percent claim  
16 in the 50 percent interest that Ninus has, that's  
17 37.5 percent. My client -- and there's no dispute as to  
18 that. My client has a 50 percent interest in these  
19 businesses with no relationship with plaintiff.

20 They're putting a receiver in charge of  
21 businesses that my client owns 50 percent of, and he's the  
22 managing partner of two of them. That's what's  
23 outrageous.

24 MR. ELIA: Your Honor, most of the dispute arises  
25 over the retail location.

26 THE COURT: What about what he said?

27 MR. ELIA: I'm explaining that.

28 Most of this dispute relates to the retail

1 location. That's 90 percent of everything. His client  
2 doesn't own any rights to it, yet has admitted that he has  
3 funneled at least \$87,000 -- we think it's more like over  
4 a million dollars -- that he doesn't own anything.

5 The other two locations, there's not much going  
6 on with those, and that's what he's referring to. But  
7 Mr. -- Mr. Ninus Malan and his client have formed this  
8 entity called Monarch where instead of money going to Flip  
9 that it was supposed to go to, they diverted millions of  
10 dollars. And that's what this dispute is about. That's  
11 why the receivership was appropriate.

12 Now, Your Honor, for ten months when they were  
13 operating --

14 THE COURT: Who --

15 MR. ELIA: -- there was never a complaint about  
16 anything.

17 THE COURT: Who diverted millions of dollars?

18 MR. ELIA: Ninus Malan and Chris Hakim formed a  
19 company called Monarch to divert money that was coming in  
20 from So-Cal. And they told my client that it was not a  
21 profitable business. They weren't making any money. When  
22 my client found out and notified So-Cal and So-Cal learned  
23 of what was going on, they stopped making payments.

24 MR. GRANT: Not a shred of evidence to support.  
25 Not a shred. In the bank accounts of Monarch, which they  
26 don't have, from beginning to end, less than 100,000 --

27 MR. ELIA: Your Honor, I don't think you've  
28 stated that you've read my ex parte application, and

1 that's because it was in another department. But we laid  
2 everything out. There was never a dispute as to any  
3 problems with So-Cal until they found out of my client's  
4 ownership interest, stopped making payments, and all of a  
5 sudden they were kicked out so that they can put another  
6 management company in to steal the money.

7 THE COURT: What's the evidence that they were  
8 stealing money?

9 MR. WATTS: None.

10 MR. ELIA: I have the receiver here, Your Honor.  
11 He's got a video of it.

12 MR. GRANT: No. Stealing from Mono, no.

13 THE COURT: No, no.

14 MS. LEETHAM: There's none.

15 MR. ELIA: Your Honor, they've admitted that  
16 they've taken -- I have the letter from counsel saying --

17 THE COURT: You said millions.

18 MR. ELIA: I say it's millions. They say it's  
19 87,000. Regardless, they should not --

20 THE COURT: What's the evidence that they stole  
21 millions?

22 MR. ELIA: Well, they've put in --

23 MR. GRANT: None.

24 MS. LEETHAM: None.

25 MR. ELIA: -- \$2.8 million, and we haven't seen a  
26 penny.

27 MS. LEETHAM: Not a shred of documentary  
28 evidence. Not a shred.

1 MR. ELIA: That's not true, Your Honor. We have  
2 declarations. Counsel is here.

3 MR. ZIMMITTI: Your Honor --  
4 (Multiple speakers.)

5 THE COURT: One at a time, Counsel, or I'm going  
6 to shut it down.

7 MS. LEETHAM: Your Honor, just to give the Court  
8 a little information and why the dispensary's run this  
9 way, as the Court probably knows, the cannabis retail  
10 operations can't bank. So they employ a management  
11 company to deal with the day-to-day operations; employees,  
12 payroll, security payments.

13 So with Balboa, we have this company called Flip  
14 Management. So for all intents and purposes, Flip  
15 Management is running the dispensary. So-Cal Building  
16 Ventures runs Flip Management. So they run that bank  
17 account.

18 And this is where I come back around to the  
19 burden of the evidence. They have access to the bank  
20 accounts. They have access to their equitable  
21 contributions in the event they exist. And there's none  
22 of that. There's none of that. They had the money.

23 So how my client stole the money I have no idea.  
24 All I know is they're half a million dollars behind in  
25 their payments. There's irreparable harm to my client  
26 because they're going to possibly be in breach of that  
27 loan, the mortgage payment.

28 There is a -- I have Ms. Austin here, because she

1 does the land use entitlement process. There's a pending  
2 conditional use permit at both locations that's in  
3 jeopardy.

4 MR. ELIA: Your Honor, none of this is in  
5 jeopardy. The receiver can speak to that. He's filed all  
6 the appropriate paperwork.

7 Would you like to hear from the receiver, Your  
8 Honor?

9 THE COURT: I want to know why, for instance, his  
10 client is involved in this.

11 MR. ELIA: Because his client -- there's three  
12 locations, one of which has the retail operations. That's  
13 called Balboa. His client has zero ownership interest.  
14 They've admitted that. Yet they formed a company called  
15 Monarch and diverted \$2.8 -- or \$2.6 million.

16 THE COURT: Where's the evidence of the  
17 diversion?

18 MR. ELIA: I'm sorry?

19 THE COURT: Where is the evidence of the  
20 diversion?

21 MR. ELIA: Bank -- the receiver will have it.  
22 They will testify. They have testified. Your Honor, we  
23 literally just received this yesterday, okay? We just  
24 received these yesterday.

25 THE COURT: No, no, no.

26 MR. ELIA: They paid 100,000 a month, Your Honor,  
27 for ten months.

28 THE COURT: Wait. It's not what you received

1 yesterday. It's what you knew when you went to Judge  
2 Medel. Now, you're saying that they diverted this large  
3 sum of money.

4 What is the evidence of that?

5 MR. ELIA: Checks. \$100,000 from So-Cal that  
6 were coming in for ten months that we haven't seen a penny  
7 of because it was diverted from Flip Management into  
8 Monarch that's owned 50 percent by his client.

9 THE COURT: Who owns Flip Management?

10 MR. GRANT: Wait a minute.

11 MR. ELIA: My client owns 75 percent, and  
12 Mr. Ninus Malan owns the other 25.

13 MR. GRANT: That money went to Mira Este, not to  
14 Balboa. The 100,000 a month from So-Cal went to my  
15 client's company. My client's company.

16 THE COURT: Sit down.

17 Go ahead.

18 MR. GRANT: Your Honor, So-Cal has a management  
19 agreement with Mira Este. It pays a minimum of 100- -- I  
20 think it's \$110,000 a month to Mira Este. My client owns  
21 50 percent of Mira Este. All that money went to Mira Este  
22 and went to my client and went to Ninus. If Ninus didn't  
23 pay his fair share to plaintiff, plaintiff has a claim for  
24 damages. Damages. That's what this lawsuit is about, not  
25 appointment of a receiver, not taking over businesses.

26 We run a processing business for cannabis. With  
27 their interference, we're going to lose our CUP license.  
28 That license will put us out of business if we don't keep

1 that license. They don't have a right to run the  
2 business. We have to run it. The license is in our name.

3 MR. JOSEPH: Very briefly, Your Honor, the  
4 evidence that money has been diverted is in the management  
5 agreement themselves. Flip Management is not a party to  
6 any of these management agreements, and there's nothing  
7 that says Flip Management gets any money.

8 THE COURT: You heard what he said where the  
9 money went.

10 MR. JOSEPH: Money goes to Mira Este, and then  
11 money goes to Monarch. We have alleged in our  
12 complaint -- first amended complaint and ex parte papers  
13 that Mr. Malan told my client Mr. Razuki that "The money  
14 is going to be going into Flip. Don't worry. You're  
15 going to have cash flow."

16 Later on, my client found out that no money was  
17 going to Flip and that the contracts were always written  
18 to go to Monarch. That in itself is evidence of an  
19 attempt to divert. Even the Mira Este contract, some  
20 money goes to Mira Este, but there's a minimum guaranteed  
21 monthly payment that is required to go to Monarch, an  
22 entity that they have never contested -- 400 pages of  
23 declarations, they have never contested that Mr. Malan  
24 told my client something else. That money that was going  
25 to Monarch was supposed -- that he said the money was  
26 going to Flip when it actually was going to Monarch.

27 MR. GRANT: Your Honor --

28 MR. JOSEPH: That is evidence itself of an

1 attempt to divert.

2 MR. GRANT: They don't have the bank records of  
3 Monarch. I've seen the bank records of Monarch. I'm  
4 telling the Court as a representative of the court there's  
5 been less than \$100,000 from beginning to end that's  
6 actually gone in to the bank account of Monarch. Less  
7 than 100,000. I think it's less than 50-.

8 What they were told and what actually happened  
9 are two different things, and my client didn't tell them  
10 any of this. And my client owns 50 percent of Mira Este  
11 and 50 percent of Roselle, and they have no contractual  
12 relationship with my client, the managing member of the  
13 two entities that are in receivership.

14 MR. JOSEPH: Your Honor, to respond to that as  
15 well, Monarch is receiving money coming from Balboa, Mira  
16 Este, and Roselle. His client, Mr. Hakim, has no interest  
17 whatsoever in the Balboa retail operation, and yet his  
18 client is receiving distributions from Monarch regarding  
19 cash flow to the Balboa operation.

20 He has no right to that, and he's admitted that  
21 he has no right to that. That right there is evidence  
22 that there is attempted fraud. The reason we wanted to  
23 have urgency in here is because So-Cal, their \$2 million  
24 of investment was completely lost to them. They were  
25 locked out of the building. And --

26 MR. GRANT: Where's the evidence?

27 MR. JOSEPH: -- there's continuous money that is  
28 going out of our -- that is not going to our entities, but

1 is going to Monarch, an entity that we have no control  
2 over and that we'll never have control over.

3 MR. GRANT: Your Honor, we need an accounting.

4 MS. LEETHAM: Right.

5 MR. ZIMMITTI: We filed a complaint in  
6 intervention.

7 MR. GRANT: We need an accounting, not a  
8 receiver. As the Court noted over and over again, there's  
9 no emergency. They're claiming money has been diverted.  
10 Great. Let's have an accounting. Let the Court order a  
11 full accounting. Let's -- full disclosure of all the  
12 money in and out from all the business entities. And then  
13 the Court can determine what to do about it. If money has  
14 been diverted, they have a claim for damages.

15 THE COURT: His turn.

16 MR. ZIMMITTI: So, Your Honor, our complaint in  
17 intervention, we basically lay this out, lay out how the  
18 agreements work. And you do have, I believe, copies of  
19 the agreements attached to the papers here, although it  
20 would be hard to find them in this stack.

21 However, Your Honor, it's true that none of these  
22 monies -- all these monies were going to Monarch among  
23 other facilities, none of them were going to Flip.

24 Furthermore, the issue is if we're going to talk  
25 about contractual breaches, my clients signed up for these  
26 agreements, okay, to manage -- again, manage these  
27 facilities. They were entitled to manage the facilities  
28 and they were entitled to exercise options to acquire

1 50 percent ownership in them.

2 Part of these representations and warranties, we  
3 later realized that they were basically falsely made.  
4 Defendant Malan had misrepresented that there were pending  
5 claims to the properties. And so meanwhile, my clients  
6 are going forward sinking all this time, money, and effort  
7 to sort of cultivate these dispensaries and facilities so  
8 that they would have value at the end of the day when they  
9 exercise their options.

10 THE COURT: From what they say, they're going to  
11 have no value.

12 MS. LEETHAM: Correct.

13 MR. ZIMMITTI: Your Honor -- if I may, Your  
14 Honor, they're going to say -- they're going to just sit  
15 here and sort of, you know, exchange self-serving stories  
16 all day long. But, Your Honor, this is why we have  
17 evidence and hearings and actual declarations that have  
18 evidentiary value.

19 Your Honor, we can -- this is exactly why we  
20 intervened. And we've pled our case, and we're saying  
21 that we have rights to these agreements -- under these  
22 agreements and these facilities which would be irreparably  
23 lost. There's no way to recoup damages for dispensaries  
24 that essentially become void and illegitimate because of  
25 some other third party managing them incompetently. That  
26 was -- we were entitled to do that.

27 Furthermore, we say -- we had a million dollars  
28 of equipment which we put in the complaint that they are

1 essentially taking as their own and stealing. And, Your  
2 Honor, when it comes to breaching the agreements, I think  
3 it's pretty outrageous that they're talking about abiding  
4 by agreements when essentially they took these self-help  
5 measures.

6 The agreements -- let's talk about the  
7 agreements. There are robust dispute resolution  
8 procedures in them, okay? And it was intended that way so  
9 that they couldn't just summarily terminate them and kick  
10 us out and deprive us of the benefit of our bargain, again  
11 which is a fragile asset.

12 MR. GRANT: That's not what the agreement says.

13 MR. WATTS: I have it.

14 MR. ZIMMITTI: Your Honor, again, we can get into  
15 the agreements. But, you know what? This is -- this is  
16 not --

17 MR. GRANT: Let's get into the agreement,  
18 Counsel. The agreement gives the right to terminate if  
19 they don't pay within 25 days of the written notice.

20 MR. ZIMMITTI: Let's continue on. Let's read it.  
21 If the Court gives me a chance to get a copy, we can go  
22 through the agreement and we can spend all afternoon doing  
23 it. We'd be happy to do it.

24 MR. WATTS: One sentence: "This agreement may be  
25 terminated at the option of the company upon the failure  
26 by manager to make any payments as are required herein and  
27 such failure has gone uncured for 25 days following notice  
28 to manager by company and/or old operators."

1 MR. GRANT: And that notice was given --

2 MR. WATTS: It's a disputed fact, Your Honor.

3 MR. GRANT: -- and they didn't make the payment  
4 and they were terminated under the contract.

5 MR. ZIMMITTI: That's a disputed fact.

6 MR. WATTS: It's undisputed. There's no  
7 evidence --

8 MR. ZIMMITTI: I'm disputing it.

9 MR. WATTS: By oral argument, that's not  
10 disputing the fact.

11 THE COURT: One at a time.

12 MR. WATTS: The evidence, the actual evidence  
13 that's before the Court, it's undisputed. He has no  
14 evidence other than his own oral argument, which is not  
15 evidence, disputing that fact that the proper notice was  
16 given, they failed to cure, and then the management  
17 agreement was terminated.

18 But again, even if it hadn't been, breach of  
19 contract damages is their claim, not what they're asking  
20 for, which is to throw these companies into a receivership  
21 and have themselves reinstated and not -- they're not  
22 paying out the money that's owed to Ninus and to  
23 Mr. Hakim.

24 MS. LEETHAM: Thank you, Your Honor.

25 I think I'm going to come back to it again. They  
26 have the burden when they asked for it. They have the  
27 financials. They were not submitted. They have the  
28 documentation that they have spent all of this money. We

1 have asked for it. I submitted e-mails in my declaration  
2 where I asked the accountant for the financial  
3 information. We weren't -- it was not given to us.

4 When you -- when you look at the equities, right,  
5 this is a remedy of law. So even if we're in an  
6 injunction hearing -- and let's just assume arguendo that  
7 they prevail on the merits. The harm is so detrimental on  
8 this side that the Court would -- I would ask the Court to  
9 deny an injunction, let alone a receivership. It's  
10 irreparable.

11 These are land use entitlements. They cost  
12 significant time. They cost significant money. Not to  
13 mention the fact that the use variance with the  
14 homeowners' association requires payments, and they  
15 haven't been paying that either.

16 So not only are they not paying Mira Este, we've  
17 been paying those payments. They're behind on electric  
18 bills.

19 By the way, Mr. Malan is present before the  
20 Court. I should have said that at the very beginning.

21 We've been making those payments up until now to  
22 keep that relationship with the homeowners' association in  
23 some kind of a standing to where they don't take us to  
24 court under 664.6.

25 MR. WATTS: We have a declaration from the  
26 homeowners' association explaining the problems when  
27 So-Cal Building Ventures was managing it and explaining  
28 that it had gotten better when they were replaced.

1 THE COURT: I saw that.

2 MR. ZIMMITTI: Your Honor --

3 MR. ELIA: Under the three management agreements,  
4 Mr. Malan has sold furnitures, fixtures, and equipment  
5 which belong to us. That's irreparable. If he brings  
6 another operator in -- and not only that, if he brings  
7 another operator --

8 THE COURT: What did he sell?

9 MR. ELIA: For 225,000, he sold furnitures,  
10 fixtures, and equipment. That's in there. There was  
11 75,000 for each location, and that's in there. And that's  
12 in the agreements, Your Honor.

13 MS. LEETHAM: I'm not sure what he's talking  
14 about. Again, it's compensable.

15 MR. ELIA: But if they were to bring a new  
16 operator in, what's going to happen is we're going to have  
17 a multiplicity of lawsuits. And furthermore, Mr. Malan is  
18 the record owner on title of all these entities, and he  
19 can sell them and we're out of luck. That's irreparable  
20 injury.

21 THE COURT: Well, what you asked Judge Medel to  
22 do and then the order that you had him sign are night and  
23 day.

24 MR. ELIA: Well, Your Honor, we submitted an ex  
25 parte application that was very lengthy. And I don't  
26 think Your Honor had an opportunity to review that.

27 But if you're worried about, you know, land use  
28 issues, the receiver has complied with all the law. He's

1 hired cannabis counsel. He has his own attorney here. If  
2 you'd like to hear from the receiver, he's here with his  
3 counsel.

4 THE COURT: What about the HOA problem?

5 MR. ELIA: I don't think there is an HOA problem.  
6 There was never a complaint about anything until they  
7 stopped making a payment. And all of a sudden, there was  
8 "You're smoking weed and you're doing this and you're  
9 doing that." There wasn't a complaint for ten months.

10 MR. ZIMMITTI: Your Honor, if I may. If I may,  
11 Your Honor, I think that the contention that the receiver  
12 is unable to manage these properties, that is baloney from  
13 our point of view. The receiver can do a fine job  
14 managing the properties with counsel. And there's no  
15 reason, there's no immediate jeopardy with the receiver in  
16 place.

17 Without the receiver in place, there's immediate  
18 jeopardy, including people violating court orders, running  
19 out of the back of shops with money in hand. And  
20 furthermore, to go to this contract that they selectively  
21 quoted from, let's look at 9.3. This is the dispute  
22 resolution process. It's identical in all three  
23 agreements with my clients.

24 And it says "In the event any disagreement,  
25 dispute, or claim arises among the parties hereto," and  
26 then it goes on "with respect to the enforcement or  
27 interpretation of this agreement or any specific terms and  
28 provisions hereof or with respect to whether an alleged

1 breach or default hereof has or has not occurred, such  
2 dispute shall be settled in accordance with the following  
3 procedures." There's a meet and confer procedure, there's  
4 a mediation procedure, and then there's an arbitration  
5 procedure.

6 Your Honor, the parties did not want to unwind  
7 this thing with someone sort of just claiming -- waving  
8 around some sort of letter claiming a breach and then they  
9 can just go move to the next management company overnight.  
10 The parties did this because they knew they had a  
11 relationship. My clients would not have entered the  
12 agreement if they thought these would be abandoned, these  
13 procedures, and that they would be just usurped with some  
14 dubious new company.

15 MR. WATTS: He's describing a mandatory  
16 arbitration clause. If you keep reading that, that's  
17 about lawsuits that are filed. It's not about whether you  
18 can terminate the agreement. When it's talking about  
19 disputes, it's --

20 MR. ZIMMITTI: It talks about breach. You're  
21 alleging a breach.

22 MR. WATTS: In a lawsuit. That whole section is  
23 about mediation and arbitration.

24 MR. ZIMMITTI: Why don't we read it?

25 MS. LEETHAM: Ms. Austin --

26 THE COURT: I understand. Go ahead.

27 MS. AUSTIN: Your Honor, I would like to just put  
28 some clarity onto the land use issues. There have been

1 some representations that they've hired a cannabis  
2 attorney or that they can control the dispensaries and the  
3 other uses.

4 And from my declaration -- I'm sure you read  
5 it -- that's simply not the case. There are state law  
6 requirements and local law requirements, and both of those  
7 have to be met in order to continue. The state law  
8 requirements, there's currently an application. They go  
9 through a two-phase process. Phase 1 is a temporary  
10 application. Phase 2 is your annual application.

11 Both -- the dispensary location has the Phase 1  
12 application in, but it has Ninus Malan as the controlling  
13 person. That would have to be changed with background  
14 checks in order for the receiver to even be open. He's  
15 been open for the last two weeks or the last week without  
16 that being changed at the state level.

17 There are local level requirements that require  
18 the CUP that's currently at that location as well as the  
19 BTC which is at the Mira Este location to have the  
20 responsible person have both background checks, to have  
21 a -- what's called a DS-191 permit. None of that has been  
22 changed by the receiver. They've been open and operating,  
23 in violation of city law.

24 Code Enforcement has indicated that they are  
25 going to go back down and potentially shut the dispensary  
26 down and shut the BTC location down because of their  
27 failure to comply with the requirements.

28 The risk of having the receiver put in there, the

1 modifications being made at the state level that are  
2 required and the local level is a process that is a  
3 multi-, multi-month process -- multi-month-long process in  
4 order to even accomplish, and that would require them to  
5 be closed for that period of time. That is an additional  
6 harm. They cannot even be making money to make the  
7 payments during those periods of time.

8 THE COURT: So you're telling me that the  
9 receiver cannot possibly operate legally --

10 MS. AUSTIN: Not without filing a lot of  
11 documentation.

12 THE COURT: -- for a long time to come.

13 MS. AUSTIN: For several months.

14 MR. GRISWOLD: Your Honor, if I could, as counsel  
15 for the receiver, we've intentionally stayed out of all of  
16 the arguments this morning, but just to speak to that.

17 The receiver has engaged several efforts since  
18 his appointment just two weeks ago and is feverishly  
19 working to carry out the Court's orders as his duties as  
20 the receiver including, but not limited to, jumping  
21 headfirst into all the local and state requirements;  
22 giving the appropriate notice to the proper state  
23 agencies; making demands to all the parties involved to  
24 get proper documentation; bringing the appropriate  
25 consultants, multiple consultants so far, including  
26 specific consultants that are working with the receiver on  
27 cannabis compliance at the state and local level. We've  
28 actually already requested and received --

1 THE COURT: So how long will it be before the  
2 receiver can operate legally?

3 MR. GRISWOLD: As to what counsel just stated,  
4 the formal notice has been issued and signed by the  
5 receiver, including a background Livescan check, which is  
6 required. That was submitted last week. And we've gotten  
7 confirmation from the appropriate state agency of receipt  
8 of that notice. We are within hours reacting to and  
9 providing all documentation that's necessary.

10 THE COURT: So it should be closed now; is that  
11 correct?

12 MS. LEETHAM: It should be closed. And that's  
13 extremely troubling that we're bearing the cost of this as  
14 well. This is -- it's not closed. It should be closed,  
15 right? They're not compliant with the law.

16 THE COURT: How long -- my question, Counsel,  
17 is how long before the receiver could operate legally?

18 MR. GRISWOLD: It's our position he is operating  
19 legally currently.

20 THE COURT: That doesn't help me.

21 MR. ZIMMITTI: Your Honor, I don't -- it's not  
22 fair to characterize the dispensary as operating currently  
23 illegally. We've got an experienced management company in  
24 there with So-Cal, and we have a receiver. And, in fact,  
25 So-Cal has been paying monies into the facility through  
26 the receiver now that it knows it can trust somebody with  
27 the money. So it just totally -- it's totally absurd to  
28 be contesting the legality of the operations as they

1 exist.

2 And Your Honor, again, this is a case where, you  
3 know, essentially we're going to hear arguments -- a lot  
4 of lip service here, and it's just not an appropriate  
5 forum to essentially buy one narrative that, in fact, is  
6 sort of set up by an ambush ex parte motion that's  
7 hundreds of pages long.

8 THE COURT: Well, talk about ambush motion.

9 MR. ZIMMITTI: Well, Your Honor, they have notice  
10 of our order, and they decided to not seek relief from it,  
11 not seek to modify it. They chose to kick the judge and  
12 just disobey --

13 THE COURT: It goes way beyond what you told  
14 Judge Medel that you were looking for. Way beyond.

15 MR. GRANT: I've got to make one more comment,  
16 Your Honor. All of the discussion has been about --  
17 there's only three businesses. The Balboa store, which is  
18 a retail pot dispensary, but Mira Este and Roselle, which  
19 are the businesses my client owns 50 percent of, do not  
20 generate a penny of revenue. A penny. Roselle has a  
21 tenant in there paying rent. They don't do any other  
22 business. Mira Este is -- has a license to operate a  
23 cannabis processing center, but it's never generated a  
24 penny of revenue.

25 Why is there a receiver over two businesses that  
26 aren't running? But they're my client's businesses and  
27 affecting my client's ability to get necessary licenses to  
28 get them up and running. It makes no sense. They've

1 thrown my client in the pot because of their complaints  
2 with another person, and that's just outrageous.

3 MR. ELIA: Your Honor, with regards to Mira Este,  
4 they put a million dollars of equipment in there and they  
5 locked them out and they kicked them out. The reason we  
6 put a receiver on Mira Este and Roselle is because they --  
7 his client, along with Mr. Malan, have stolen the money  
8 for the last year. We have not seen a penny, although  
9 \$2.8 million has come in. Where did the money go?

10 MR. GRANT: You don't have a right to the money.  
11 So-Cal has the complaint, not your client. If So-Cal put  
12 money in, So-Cal should have filed the lawsuit. We kicked  
13 So-Cal out. We didn't kick Salam Razuki out. Yet he's  
14 the plaintiff. He's getting the receiver appointed, Your  
15 Honor. This is -- it's just outrageous.

16 MR. ELIA: All you need to do, Your Honor, is  
17 read the settlement agreement. It's very clear as to what  
18 happened. We have a 75 percent interest in the marijuana  
19 dispensary.

20 MR. GRANT: No. You have 75 percent interest of  
21 Ninus's interest, not --

22 THE BAILIFF: Counsel, address the Court, please.

23 MR. GRANT: Sorry, Your Honor.

24 You have 75 percent interest of Ninus's interest,  
25 not my client's interest. You have zero of my client's  
26 interest, and my client owns 50 percent of the business.

27 MR. ELIA: While that's true, that doesn't give  
28 his client the right to steal money from Balboa, an entity

1 which he doesn't have any ownership interest in. You  
2 admitted to at least taking \$87,000. We think it's more,  
3 over a million dollars. Why did you take \$87,000 of an  
4 entity you don't even own?

5 MR. GRANT: I sent you a settlement letter.  
6 You're talking about what's in a settlement letter to the  
7 Court. That's totally inappropriate.

8 MS. LEETHAM: Again, they had control of the  
9 money. They had control of the finances. They've had  
10 control of the dispensary. We've given the Court a huge  
11 stack of papers trying to chronicle for Your Honor how  
12 severe and irreparable the receiver order was.

13 They came in with an ambush, with improper  
14 notice. They didn't have but that much of a stack. And I  
15 have a list of everything they attached to Mr. Razuki's  
16 declaration, and it most certainly was not an accounting.

17 MR. WATTS: This receiver order says that the  
18 receiver understands that the marijuana operations shall  
19 cease to carry on business except to the extent necessary  
20 for the beneficial winding up thereof and that the  
21 receiver is supposed to give notice to all the  
22 shareholders that he's dissolving the businesses and  
23 selling them off.

24 The receiver order does not comport with what  
25 they're saying the receiver is supposed to do. It should  
26 be vacated. It's -- they misrepresented to the judge what  
27 it said.

28 MR. ELIA: Your Honor, that's a clause in every

1 receivership order that says he's got the authority. It  
2 doesn't mean he's going to say it. It's an authority. He  
3 first has to seek consent from the Court before he does  
4 that. It's a standard, boilerplate provision --

5 MR. WATTS: Doesn't need to be in there.

6 MR. ELIA: And it doesn't give them the right to  
7 just wind up, and that's not what we're seeking. We do  
8 have a cause of action for involuntary dissolution in the  
9 complaint. But at this point, we want to protect the  
10 status quo.

11 There is no harm. The receiver is in control.  
12 The money is being funneled into the receiver. Their  
13 client is not taking it. We're not taking it. We're not  
14 asking to take the money. We just need internal  
15 controls to ensure that my client's \$5 million and their  
16 \$2.6 million is not going to be wasted. Because his  
17 client is selling assets he doesn't own to other people,  
18 which is going to lead to a multiplicity of lawsuits.

19 MS. LEETHAM: The dissolution should be of  
20 RM Holdings. So that's the other curious part about this.  
21 If we're talking about a judicial windup, a  
22 court-supervised petition for dissolution, it would be of  
23 this holding company that was never capitalized. And  
24 again, they're not a party. So we're talking about --  
25 we're talking about a situation that cannot be  
26 accomplished.

27 MR. ELIA: No, Your Honor. We're talking about  
28 the partnership assets as defined on Page 1 of the

1 settlement agreement. The partnership assets include  
2 these entities, and it says my client has a 75 percent  
3 interest. It's clear.

4 MR. WATTS: You know that --

5 MR. ELIA: It's Exhibit E, and I have it right  
6 here if Your Honor would like to take a look at it.

7 MR. WATTS: They even put the wrong LLC in here.  
8 They write San Diego United Property Holdings, LLC. It's  
9 not even a company that's sued in this lawsuit. It's not  
10 even the right LLC. The order puts a nonexistent company  
11 into receivership. And on a \$10,000 bond. They're  
12 claiming there's millions of dollars, but they only had to  
13 post a \$10,000 bond? That doesn't make any sense either.

14 MS. LEETHAM: I think I would just remind the  
15 Court, too, when I was in front of Judge Medel last week  
16 in a related case which the receiver has control over --  
17 and we haven't talked about the receiver's behavior that  
18 afternoon. And it's a little awkward with him standing  
19 here, but he has a fiduciary obligation to those entities.  
20 And he went in having taken zero time. He -- there was  
21 no -- no -- there was complete bias.

22 He took not an ounce of time to go and look at  
23 what happened. He didn't take a moment to pause to figure  
24 out the financial information. And then when I was in  
25 front of Judge Medel on Friday, I attached the transcript.  
26 He said that that order gave him some anxiety and he was  
27 considering taking sua sponte relief because of that  
28 order. And he was focused also on the notice issue. And

1 that's attached to my declaration, that transcript, as  
2 Exhibit A. He said that.

3 THE COURT: I saw that.

4 MS. LEETHAM: And I think that's very telling.

5 MR. ELIA: Your Honor, again, we're not required  
6 to give notice, but we did give notice. We gave four  
7 days' notice to two different law firms. And speak about  
8 behavior, Your Honor. I think the receiver could explain  
9 what happened clearly on that day that he took over.

10 MR. ESSARY: Well, I told Ms. Austin I was going  
11 to the dispensary.

12 MR. WATTS: I object. He's not under oath. He's  
13 not sworn in. He's just talking. He's represented by  
14 counsel. I object to him saying anything.

15 MR. ELIA: Your Honor, I think you want to hear  
16 this.

17 THE COURT: Well, they say he's breaking in with  
18 a thug with a gun, and he says he was merely trying to  
19 take control of the property under a valid court order. I  
20 know what he's going to say.

21 MR. ESSARY: They refused to let me in so I could  
22 discuss what was going on and possibly come up with a  
23 compromise. They just locked me out and took everything  
24 and escaped.

25 MS. LEETHAM: And as we provided in declarations,  
26 these are third parties. They had no idea what was going  
27 on.

28 MR. JOSEPH: Your Honor, third parties that are

1 clients of --

2 MR. ZIMMITTI: Now there's actual knowledge of a  
3 valid court order, Your Honor. And to just willfully  
4 disobey it and stick your head in the sand, you don't need  
5 to be -- a valid order, it could be binding on that  
6 individual without service. This is black letter law.

7 Not only was Ms. Austin present in the courtroom,  
8 she was being -- she actually called and was called back  
9 by the receiver who told her exactly what was going to  
10 happen. There was no third party people showing up. The  
11 receiver was coming, okay? That's what they knew was  
12 going to happen.

13 THE COURT: Well, I don't like that order. I'll  
14 tell you that.

15 MR. ZIMMITTI: Your Honor -- one moment, Your  
16 Honor. I appreciate Your Honor's concern. However, what  
17 could have been done is a modification of the order  
18 perhaps narrowing it. There are a lot of things that  
19 could have been done. You don't just disobey an order  
20 flatly.

21 THE COURT: So you're saying it's too late to do  
22 anything?

23 MR. ZIMMITTI: Well, not necessarily. We have --  
24 Your Honor can set a hearing, and we can revisit the  
25 issue, perhaps as Judge Medel intended, and spare the  
26 order that Your Honor is comfortable with.

27 And from our point of view, Your Honor, having  
28 the receiver in place is key. And -- now, the sale of

1 assets and winding up, we're not even there yet. You  
2 know, that is something we can talk about. But just  
3 throwing out the order after defendants flat out disobeyed  
4 it, I mean, I don't understand how you can do that, Your  
5 Honor. Again --

6 THE COURT: Oh, I can do it.

7 MR. ZIMMITTI: Your Honor -- and again, I would  
8 just -- I would just mention, Your Honor, that again, we  
9 feel this is just an improper motion on its face. And  
10 it's essentially an invalid motion for reconsideration  
11 brought ex parte no less.

12 And so, Your Honor, given the harms, we have a  
13 receiver in place who's doing a good job. Every -- you  
14 know, we have a status quo. There's nothing being wound  
15 up right now. There's no danger of anything be wound up  
16 or anything like that. So-Cal had been managing the  
17 facilities. So-Cal is still managing the facilities.  
18 This is the status quo.

19 What is not the status quo is inserting Golden  
20 State somebody in there overnight painting the walls,  
21 putting a new sign up front, and then just basically  
22 telling us to go take a hike. "Take a hike with your  
23 \$1 million. Take a hike with your \$2.6 million you put in  
24 there and your future interest, optional interest, in  
25 these facilities that you were cultivating, grooming for  
26 purchase."

27 So in terms of status quo, we've got a receiver.  
28 There's no reason to mis- -- to judge -- misjudge the

1 receiver's credibility. In fact, the receiver went to  
2 effectuate a valid order, and defendants flatly disobeyed  
3 the order with actual knowledge of it and now come seeking  
4 to invalidate as ab initio.

5 So, you know, this is one of those situations  
6 where you scratch your head. Is it a valid -- is the  
7 order no good? If it isn't, then why are we here in the  
8 first place?

9 So, Your Honor, I feel like in terms -- if you  
10 want to judge the harms and you want to look at who's been  
11 acting appropriately thus far, the receiver is in place,  
12 and we have status quo. We have the same management  
13 company that was in there before, and we're running the  
14 business. The business is complying with state and local  
15 law.

16 MR. GRANT: I have a proposal, Your Honor. The  
17 Court has already noted this should not have been done in  
18 the first instance ex parte. It just shouldn't have.  
19 Their position is "Well, it's been done, so tough luck.  
20 You can't change it ex parte." And the Court has already  
21 noted you can do whatever the Court chooses to do that's  
22 appropriate.

23 We need a do-over. What should have been done  
24 and what I'm going to request the Court to do is have a  
25 restraining order in place. So we put everything back to  
26 the status quo the way it was before the receiver was in  
27 place, but no money can be taken or used except for the  
28 ordinary course of all the businesses, a hundred percent

1 transparency, a hundred percent accounting, and then let's  
2 have a motion for if a receiver should be in place on a  
3 noticed motion with an order shortening time. That way  
4 everyone really is protected.

5 MS. LEETHAM: And when we talk about the status  
6 quo, it would be not with So-Cal, because we have no faith  
7 in their ability to manage the dispensary.

8 The declarations we submitted to the Court were  
9 intended to give you information on the deplorable state  
10 that that location was in, not to mention the fact that --  
11 I think we're sort of skipping that they had a valid court  
12 order, and I think the declarations are clear these are  
13 not parties to this lawsuit. They're literally  
14 third-party percipient witnesses who found butcher knives  
15 in a dispensary that was filthy dirty, being used as a  
16 stoner crash pad.

17 And this guy shows up with a gun, they're  
18 pounding on the doors, they're telling them they're the  
19 cops, they're using all kinds of profanity. So what would  
20 a person do? I would run and hide.

21 MR. ZIMMITTI: Well, you run to your attorney's  
22 car waiting in the back alley rather than call the police.

23 THE COURT: I'm going to do what you suggested.  
24 I think that's appropriate. And then we can --

25 MR. ELIA: Your Honor --

26 THE COURT: -- sort this out with real evidence  
27 of whether there's any money missing or not, and everybody  
28 will have access to all of the information. This proposed

1 order, I'm not sure that does this.

2 MR. ELIA: May I be heard, Your Honor?

3 THE COURT: Yes.

4 MR. ELIA: My proposal, Your Honor, would be to  
5 keep the receivership order --

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

7 MS. LEETHAM: And, Your Honor, I will represent  
8 to the Court that my client will not sell anything in Mira  
9 Este. I have never seen an accounting or an inventory of  
10 the property that they claim is there. So it would  
11 be great to have that.

12 THE COURT: This whole receivership situation --  
13 and I don't blame the receiver, don't misunderstand me --  
14 is contrary to what Judge Medel was told. And we're going  
15 to undo it and we're going to do it right.

16 MR. WATTS: Your Honor, if the proposed order --  
17 what you described, I think if you -- Paragraphs 5 through  
18 8 are not what you described. And so crossing those out.  
19 And then if you wanted to put language in there about the  
20 transparency or the accounting.

21 THE COURT: You all prepare an order.

22 MS. LEETHAM: Yes, Your Honor.

23 THE COURT: Maybe you'd better prepare it.

24 MR. GRANT: Yes, Your Honor.

25 MS. LEETHAM: And the one thing that I would want  
26 to add is there has to be some reasonable compensation to  
27 the parties themselves, because this is their livelihood.  
28 And they know this. So they choked my client's finances

1 off. And I think that was a huge intent of this order.  
2 So I would anticipate or expect that the accounting would  
3 include some reasonable -- reasonable compensation to the  
4 individuals running this dispensary.

5 THE COURT: Well, I don't expect people to work  
6 for free, but what's reasonable compensation?

7 MS. LEETHAM: I understand that's a --

8 MR. GRANT: I'll get an order to everybody today,  
9 Your Honor.

10 MR. ZIMMITTI: Your Honor --

11 THE COURT: And then you can decide how you want  
12 to proceed with this in an orderly manner.

13 MR. GRISWOLD: Your Honor, one housekeeping issue  
14 from the receiver's perspective. There was one other ex  
15 parte application that was filed by the receiver. And  
16 frankly, it was just to get approval for the receiver to  
17 employ counsel. Regardless of if we're going to do some  
18 sort of stay or hold until some further noticed motions, I  
19 would hope the Court would agree that the receiver needs  
20 legal counsel at this point.

21 THE COURT: Not for that.

22 MS. LEETHAM: It's moot at this point, Your  
23 Honor.

24 THE COURT: Not for that he doesn't.

25 MR. GRISWOLD: Okay, Your Honor. Well, he's  
26 going to need legal counsel to at least review the order.  
27 Right now, the receiver -- I know it sounds like we're  
28 going to change potentially the nature of this case, but

1 currently right now and as counsel even stated there are  
2 hard deadlines coming up to issue for license  
3 applications. I've attempted to cooperate with  
4 Ms. Austin.

5 MS. LEETHAM: If they cooperate in returning that  
6 back over to my law firm, we represent those entities and  
7 that licensing, and Ms. Austin is more than competent to  
8 pick up right away.

9 MR. ZIMMITTI: Your Honor, if I may, because  
10 So-Cal, again, is managing these facilities currently, as  
11 it has been, that was the status quo, Your Honor.

12 MS. LEETHAM: No, it was not.

13 MR. ZIMMITTI: Listen, Your Honor, I understand  
14 defendant's position that we breached. I get that. And  
15 we're saying we didn't breach. And --

16 THE COURT: We're going to go back to the way it  
17 was before Judge Medel issued his TRO and go from there.

18 MS. LEETHAM: Thank you, Your Honor.

19 THE COURT: And if they improperly terminated the  
20 contract, we'll get to that, too.

21 MR. GRISWOLD: I just want to state for the  
22 record, Your Honor, I have concern for my client, the  
23 receiver. I think everyone got a taste of the  
24 contentiousness here. I'm concerned that literally in the  
25 next hours and days before this potential proposed order  
26 gets agreed to, on behalf of the receiver, I will  
27 certainly cooperate to get whatever that order is in front  
28 of this Court as soon as possible.

1 THE COURT: Okay.

2 MR. GRISWOLD: I have grave concerns for the  
3 receiver.

4 THE COURT: You should be compensated for your  
5 time in taking care of those things so we can get past  
6 this.

7 MR. ELIA: To clarify, is there a TRO in place  
8 and do we have a future date to come back?

9 THE COURT: Not having a TRO in place.

10 MS. LEETHAM: Nothing.

11 THE COURT: You need to proceed -- you set it out  
12 in your proposed order as to what's going to happen.

13 MR. GRANT: Yes. There's going to be -- all the  
14 money that comes in the business is going to be used only  
15 in the ordinary course of business. There's going to be  
16 complete transparency, complete accounting. So everyone's  
17 going to know every penny that's coming in and out of all  
18 the businesses.

19 THE COURT: And you proceed by whatever  
20 appropriate motion, petition, whatever you want to do to  
21 get all of this resolved, including if you want a motion  
22 for an injunction, that's fine, and we'll look at it.

23 MS. AUSTIN: Your Honor, for clarification to  
24 ensure compliance, it's important -- and we will put this  
25 in the order -- that the dispensary close immediately and  
26 then reopen in proper format, which could be a day or two.

27 THE COURT: Well, I don't want it running  
28 illegally.

1 MS. AUSTIN: Right. So as part of this order, I  
2 just want to make sure that everybody's on the same page.

3 THE COURT: Well, whatever needs to be done so  
4 that it operates legally.

5 MR. ZIMMITTI: Well, Your Honor, we're operating  
6 legally, Your Honor. And we have a receiver in place. By  
7 allowing the defendants to come in and sort of resume this  
8 self-help, again, this is jeopardizing the facilities.

9 THE COURT: I'm not convinced of that.

10 MS. LEETHAM: Thank you, Your Honor.

11 MR. ELIA: Can we get an order shortening time on  
12 a noticed motion?

13 THE CLERK: Your Honor, so the third ex parte,  
14 which is plaintiff's ex parte for scheduling, is moot at  
15 this time?

16 THE COURT: Do you know how you want to proceed?

17 MR. ELIA: Your Honor, may we get an order  
18 shortening time on a noticed motion for the appointment of  
19 a receiver and a TRO, preliminary injunction?

20 MS. LEETHAM: I think they should do that -- file  
21 the motion and come in on an ex parte basis for the order  
22 shortening time. That's the problem, is we have  
23 procedures in place that are meant to protect the parties,  
24 and they continue to bypass those. And I would ask them  
25 to serve their papers and then allow us to come in and  
26 deal with that at that time.

27 MR. WATTS: I have a proposed order. I deleted  
28 Paragraphs 5 through 8 and deleted --

1 MS. LEETHAM: No. We're going to do it.

2 MR. WATTS: You're going to do it? Okay. Never  
3 mind.

4 THE COURT: When you're ready to file whatever it  
5 is you're going to file, we'll see what kind of date we  
6 can give you. And we'll make it as soon as possible, but  
7 I don't know what that is exactly.

8 MS. LEETHAM: Thank you, Your Honor.

9 THE COURT: All right. Thank you.

10 - - -

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

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1 STATE OF CALIFORNIA)  
2 : SS.  
3 COUNTY OF SAN DIEGO)  
4

5 I, Paula A. Rahn, RPR, CSR NO. 11510, hereby  
6 certify that I reported in shorthand the above proceedings  
7 on Tuesday, July 31, 2018, and I do further certify that  
8 the above and foregoing pages numbered 1 to 53, inclusive,  
9 contain a true and correct transcript of said proceedings.

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

13  
14 Dated: August 5, 2018.

15  
16   
17

18 \_\_\_\_\_  
19 Paula A. Rahn  
20 RPR, CSR No. 11510  
21  
22  
23  
24  
25  
26  
27  
28

# **Exhibit B**



**Secretary of State  
Articles of Organization  
Limited Liability Company (LLC)**

LLC-1

201713710175

**FILED** *and mp*  
Secretary of State  
State of California

MAY 10 2017

**IMPORTANT** — Read Instructions before completing this form.

Filing Fee - \$70.00

Copy Fees - First plain copy free; Additional copies: First page \$1.00 & .50 for each attachment page; Certification Fee - \$5.00

*Important!* LLCs may have to pay an annual minimum \$800 tax to the California Franchise Tax Board. For more information, go to <https://www.ftb.ca.gov>.

*1cc* This Space For Office Use Only

1. **Limited Liability Company Name** (See Instructions – Must contain an LLC ending such as LLC or L.L.C. "LLC" will be added, if not included.)

SUPER 5 CONSULTING GROUP, LLC

2. **Business Addresses**

a. Initial Street Address of Designated Office in California - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
3385 SUNRISE STREET	SAN DIEGO	CA	92102
b. Initial Mailing Address of LLC, if different than Item 2a	City (no abbreviations)	State	Zip Code

3. **Agent for Service of Process**

**Item 3a and 3b:** If naming an individual, the agent must reside in California and Item 3a and 3b must be completed with the agent's name and complete California street address.

**Item 3c:** If naming a California Registered Corporate Agent, a current agent registration certificate must be on file with the California Secretary of State and Item 3c must be completed (leave Item 3a-3b blank).

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix
RICK		ALJABI	
b. Street Address (if agent is not a corporation) - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
2221 CAMINO DEL RIO S., STE. 207	SAN DIEGO	CA	92108
c. California Registered Corporate Agent's Name (if agent is a corporation) – Do not complete Item 3a or 3b			

4. **Management (Select only one box)**

The LLC will be managed by:

One Manager       More than One Manager       All LLC Member(s)

5. **Purpose Statement (Do not alter Purpose Statement)**

The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

6. The information contained herein, including in any attachments, is true and correct.

*Mishil Yousif*  
Organizer (sign here)

MISHIL YOUSIF

Print your name here

# Exhibit C



**Secretary of State**  
**Statement of Information**  
 (Limited Liability Company)

**LLC-12**

17-B40643

**FILED**

In the office of the Secretary of State  
 of the State of California

NOV 08, 2017

**This Space For Office Use Only**

**IMPORTANT** — Read instructions before completing this form.

**Filing Fee – \$20.00**

**Copy Fees** – First page \$1.00; each attachment page \$0.50;  
 Certification Fee - \$5.00 plus copy fees

**1. Limited Liability Company Name** (Enter the exact name of the LLC. If you registered in California using an alternate name, see instructions.)

SUPER 5 CONSULTING GROUP, LLC

**2. 12-Digit Secretary of State File Number**

201713710175

**3. State, Foreign Country or Place of Organization** (only if formed outside of California)

CALIFORNIA

**4. Business Addresses**

a. Street Address of Principal Office - Do not list a P.O. Box 3385 Sunrise Street	City (no abbreviations) San Diego	State CA	Zip Code 92102
b. Mailing Address of LLC, if different than item 4a 3385 Sunrise Street	City (no abbreviations) San Diego	State CA	Zip Code 92102
c. Street Address of California Office, if Item 4a is not in California - Do not list a P.O. Box 3385 Sunrise Street	City (no abbreviations) San Diego	State CA	Zip Code 92102

**5. Manager(s) or Member(s)**

If no **managers** have been appointed or elected, provide the name and address of each **member**. At least one name **and** address must be listed. If the manager/member is an individual, complete Items 5a and 5c (leave Item 5b blank). If the manager/member is an entity, complete Items 5b and 5c (leave Item 5a blank). Note: The LLC cannot serve as its own manager or member. If the LLC has additional managers/members, enter the name(s) and addresses on Form LLC-12A (see instructions).

a. First Name, if an individual - Do not complete Item 5b Sami	Middle Name	Last Name Harmis	Suffix
b. Entity Name - Do not complete Item 5a			
c. Address 3385 Sunrise Street	City (no abbreviations) San Diego	State CA	Zip Code 92102

**6. Service of Process** (Must provide either Individual OR Corporation.)

**INDIVIDUAL** – Complete Items 6a and 6b only. Must include agent's full name and California street address.

a. California Agent's First Name (if agent is <b>not</b> a corporation) RICK	Middle Name	Last Name ALJABI	Suffix
b. Street Address (if agent is <b>not</b> a corporation) - <b>Do not enter a P.O. Box</b> 2221 CAMINO DEL RIO SOUTH, SUITE 207	City (no abbreviations) SAN DIEGO	State CA	Zip Code 92108

**CORPORATION** – Complete Item 6c only. 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 6a or 6b
---

**7. Type of Business**

a. Describe the type of business or services of the Limited Liability Company  
**MANAGEMENT COMPANY**

**8. Chief Executive Officer, if elected or appointed**

a. First Name	Middle Name	Last Name	Suffix
b. Address			
City (no abbreviations)		State	Zip Code

**9. The Information contained herein, including any attachments, is true and correct.**

11/08/2017

SAMI HARMIS

MEMBER

Date

Type or Print Name of Person Completing the Form

Title

Signature

**Return Address (Optional)** (For communication from the Secretary of State related to this document, or if purchasing a copy of the filed document enter the name of a person or company and the mailing address. This information will become public when filed. [SEE INSTRUCTIONS BEFORE COMPLETING.](#))

Name: [ ]

Company:

Address:

City/State/Zip: [ ]



**Attachment to  
Statement of Information  
(Limited Liability Company)**

**LLC-12A  
Attachment**

17-B40643

**A. Limited Liability Company Name**  
SUPER 5 CONSULTING GROUP, LLC

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**B. 12-Digit Secretary of State File Number**  
201713710175

**C. State or Place of Organization** (only if formed outside of California)  
CALIFORNIA

**D. List of Additional Manager(s) or Member(s)** - If the manager/member is an individual, enter the individual's name and address. If the manager/member is an entity, enter the entity's name and address. Note: The LLC cannot serve as its own manager or member.

First Name Sami	Middle Name	Last Name Younan	Suffix
Entity Name			
Address 3385 Sunrise Street	City (no abbreviations) San Diego	State CA	Zip Code 92102
First Name Mishil	Middle Name	Last Name Yousif	Suffix
Entity Name			
Address 3385 Sunrise Street	City (no abbreviations) San Diego	State CA	Zip Code 92102
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address	City (no abbreviations)	State	Zip Code
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address	City (no abbreviations)	State	Zip Code
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address	City (no abbreviations)	State	Zip Code
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address	City (no abbreviations)	State	Zip Code
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address	City (no abbreviations)	State	Zip Code

# Exhibit D





**Attachment to  
Statement of Information  
(Limited Liability Company)**

**LLC-12A  
Attachment**

18-B26966

**A. Limited Liability Company Name**  
SUPER 5 CONSULTING GROUP, LLC

This Space For Office Use Only

**B. 12-Digit Secretary of State File Number**  
201713710175

**C. State or Place of Organization** (only if formed outside of California)  
CALIFORNIA

**D. List of Additional Manager(s) or Member(s)** - If the manager/member is an individual, enter the individual's name and address. If the manager/member is an entity, enter the entity's name and address. Note: The LLC cannot serve as its own manager or member.

First Name SAMI	Middle Name	Last Name YOUNAN	Suffix
Entity Name			
Address 3385 SUNRISE STREET		City (no abbreviations) SAN DIEGO	State CA Zip Code 92102
First Name PETER	Middle Name	Last Name YOUSIF	Suffix
Entity Name			
Address 3385 SUNRISE STREET		City (no abbreviations) SAN DIEGO	State CA Zip Code 92102
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address		City (no abbreviations)	State Zip Code
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address		City (no abbreviations)	State Zip Code
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address		City (no abbreviations)	State Zip Code
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address		City (no abbreviations)	State Zip Code
First Name	Middle Name	Last Name	Suffix
Entity Name			
Address		City (no abbreviations)	State Zip Code

# Exhibit E

**LLC-1** **Articles of Organization of a Limited Liability Company (LLC)**

**201533610076**

To form a limited liability company in California, you can fill out this form, and submit for filing along with:

- A \$70 filing fee.
- A separate, non-refundable \$15 service fee also must be included, if you drop off the completed form.

**Important!** LLCs in California may have to pay a minimum \$800 yearly tax to the California Franchise Tax Board. For more information, go to <https://www.ftb.ca.gov>.

LLCs may not provide "professional services," as defined by California Corporations Code sections 13401(a) and 13401.3.

Note: Before submitting the completed form, you should consult with a private attorney for advice about your specific business needs.

**FILED**  
Secretary of State  
State of California

DEC 01 2015

ICC This Space For Office Use Only

For questions about this form, go to [www.sos.ca.gov/business/be/filing-tips.htm](http://www.sos.ca.gov/business/be/filing-tips.htm).

LLC Name (List the proposed LLC name exactly as it is to appear on the records of the California Secretary of State.)

① **SUNRISE PROPERTY INVESTMENTS, LLC**

*Proposed LLC Name*

The name must include: LLC, L.L.C., Limited Liability Company, Limited Liability Co., Ltd. Liability Co. or Ltd. Liability Company; and may not include: bank, trust, trustee, incorporated, inc., corporation, or corp., insurer, or insurance company. For general entity name requirements and restrictions, go to [www.sos.ca.gov/business/be/name-availability.htm](http://www.sos.ca.gov/business/be/name-availability.htm).

Purpose

② The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

LLC Addresses

③ a. **3385 SUNRISE STREET** **SAN DIEGO** **CA 92102**  
*Initial Street Address of Designated Office in CA - Do not list a P.O. Box* *City (no abbreviations)* *State* *Zip*

b. \_\_\_\_\_  
*Initial Mailing Address of LLC, if different from 3a* *City (no abbreviations)* *State* *Zip*

Service of Process (List a California resident or a California registered corporate agent that agrees to be your initial agent to accept service of process in case your LLC is sued. You may list any adult who lives in California. You may not list an LLC as the agent. Do not list an address if the agent is a California registered corporate agent as the address for service of process is already on file.)

④ a. **DOUG MITCHELL**  
*Agent's Name*

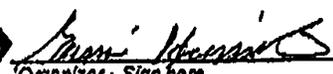
b. **600 WILSHIRE BLVD., STE. 1500** **LOS ANGELES** **CA 90017**  
*Agent's Street Address (if agent is not a corporation) - Do not list a P.O. Box* *City (no abbreviations)* *State* *Zip*

Management (Check only one.)

⑤ The LLC will be managed by:

One Manager       More Than One Manager       All Limited Liability Company Member(s)

This form must be signed by each organizer. If you need more space, attach extra pages that are 1-sided and on standard letter-sized paper (8 1/2" x 11"). All attachments are made part of these articles of organization.

  
Organizer - Sign here

**SAMI HARMIS**  
Print your name here

Make check/money order payable to: Secretary of State	<b>By Mail</b>	<b>Drop-Off</b>
Upon filing, we will return one (1) uncertified copy of your filed document for free, and will certify the copy upon request and payment of a \$6 certification fee.	Secretary of State Business Entities, P.O. Box 944228 Sacramento, CA 94244-2280	Secretary of State 1500 11th Street., 3rd Floor Sacramento, CA 95814

Corporations Code §§ 17701.04, 17701.08, 17701.13, 17702.01, Revenue and Taxation Code § 17841  
LLC-1 (REV 01/2014)

2014 California Secretary of State  
[www.sos.ca.gov/business/be](http://www.sos.ca.gov/business/be)

# Exhibit F



**Secretary of State  
Statement of Information  
(Limited Liability Company)**

150  
LLC-12

**FILED**  
Secretary of State  
State of California  
**JAN 03 2017**

**IMPORTANT — Read instructions before completing this form.**

**Filing Fee - \$20.00**

**Copy Fees -** Face Page \$1.00 & .50 for each attachment page;  
Certification Fee - \$5.00

1.50/NF/PC  
This Space For Office Use Only

1. Limited Liability Company Name SUNRISE PROPERTY INVESTMENTS, LLC	
2. 12-Digit Secretary of State File Number 201533610076	3. State or Place of Organization (only if formed outside of California)

4. Business Addresses			
a. Street Address of Principal Office - Do not list a P.O. Box 9882 N. MAGNOLIA	City (no abbreviations) SANTEE	State CA	Zip Code 92071
b. Mailing Address of LLC, if different than item 4a	City (no abbreviations)	State	Zip Code
c. Street Address of California Office, if Item 4a is not in California - Do not list a P.O. Box	City (no abbreviations)	State CA	Zip Code

5. Manager(s) or Member(s) If no managers have been appointed or elected, provide the name and address of each member. At least one name and address must be listed. If the manager/member is an individual, complete Items 5a and 5c (leave Item 5b blank). If the manager/member is an entity, complete Items 5b and 5c (leave Item 5a blank). Note: The LLC cannot serve as its own manager or member. If the LLC has additional managers/members, enter the name(s) and addresses on Form LLC-12A (see instructions).

a. First Name, if an individual - Do not complete Item 5b	Middle Name	Last Name	Suffix
b. Entity Name - Do not complete Item 5a SH PROPERTY INVESTMENTS, LLC			
c. Address 9882 N. MAGNOLIA	City (no abbreviations) SANTEE	State CA	Zip Code 92071

6. Agent for Service of Process Item 6a and 6b: If the agent is an individual, the agent must reside in California and Item 6a and 6b must be completed with the agent's name and California address. Item 6c: If the agent is a California Registered Corporate Agent, a current agent registration certificate must be on file with the California Secretary of State and Item 6c must be completed (leave Item 6a-6b blank).

a. California Agent's First Name (if agent is not a corporation) RICK	Middle Name	Last Name ALJABI	Suffix
b. Street Address (if agent is not a corporation) - Do not list a P.O. Box 2221 CAMINO DEL RIO SOUTH, SUITE 207	City (no abbreviations) SAN DIEGO	State CA	Zip Code 92108
c. California Registered Corporate Agent's Name (if agent is a corporation) - Do not complete item 6a or 6b			

7. Type of Business

a. Describe the type of business or services of the Limited Liability Company OWNERSHIP & MANAGEMENT OF REAL PROPERTY
--

8. Chief Executive Officer, if elected or appointed

a. First Name	Middle Name	Last Name	Suffix
b. Address			
City (no abbreviations)		State	Zip Code

9. The information contained herein, including any attachments, is true and correct.

12-23-16      MISHIL YOUSIF      MEMBER  
Date      Type or Print Name of Person Completing the Form      Title

*Mishil Youisif*  
Signature

**Return Address (Optional)** (For communication from the Secretary of State related to this document, or if purchasing a copy of the filed document enter the name of a person or company and the mailing address. This information will become public when filed. SEE INSTRUCTIONS BEFORE COMPLETING.)

Name: [ RICK ALJABI, ESQ. ]  
Company: LAW OFFICES OF RICK ALJABI, APLC  
Address: 2221 CAMINO DEL RIO SOUTH, SUITE 207  
City/State/Zip: [ SAN DIEGO, CA 92108 ]



**Attachment to  
Statement of Information  
(Limited Liability Company)**

**LLC-12A  
Attachment**

**A. Limited Liability Company Name**

SUNRISE PROPERTY INVESTMENTS, LLC

This Space For Office Use Only

**B. 12-Digit Secretary of State File Number**

201533610076

**C. State or Place of Organization (only if formed outside of California)**

**D. List of Additional Manager(s) or Member(s) - If the manager/member is an individual, enter the individual's name and address. If the manager/member is an entity, enter the entity's name and address. Note: The LLC cannot serve as its own manager or member.**

2a. First Name – Do not complete Item 2b MISHIL	Middle Name	Last Name YOUSIF	Suffix
2b. Entity Name – Do not complete Item 2a			
2c. Address 9882 N. MAGNOLIA	City (no abbreviations) SANTEE	State CA	Zip Code 92071
3a. First Name – Do not complete Item 3b SAMI	Middle Name	Last Name YOUNAN	Suffix
3b. Entity Name – Do not complete Item 3a			
3c. Address 9882 N. MAGNOLIA	City (no abbreviations) SANTEE	State CA	Zip Code 92071
4a. First Name – Do not complete Item 4b	Middle Name	Last Name	Suffix
4b. Entity Name – Do not complete Item 4a			
4c. Address	City (no abbreviations)	State	Zip Code
5a. First Name – Do not complete Item 5b	Middle Name	Last Name	Suffix
5b. Entity Name – Do not complete Item 5a			
5c. Address	City (no abbreviations)	State	Zip Code
6a. First Name – Do not complete Item 6b	Middle Name	Last Name	Suffix
6b. Entity Name – Do not complete Item 6a			
6c. Address	City (no abbreviations)	State	Zip Code
7a. First Name – Do not complete Item 7b	Middle Name	Last Name	Suffix
7b. Entity Name – Do not complete Item 7a			
7c. Address	City (no abbreviations)	State	Zip Code
8a. First Name – Do not complete Item 8b	Middle Name	Last Name	Suffix
8b. Entity Name – Do not complete Item 8a			
8c. Address	City (no abbreviations)	State	Zip Code

# Exhibit G



**Secretary of State**  
Statement of No Change  
(Limited Liability Company)

**LLC-12NC**

18-A51888

**FILED**

In the office of the Secretary of State  
of the State of California

FEB 08, 2018

*This Space For Office Use Only*

**IMPORTANT** — [Read instructions](#) before completing this form. This form may be used only if a complete Statement of Information has been filed previously and there has been no change.

**Filing Fee** – \$20.00

**Copy Fee** – \$1.00;  
Certification Fee - \$5.00 plus copy fee

**1. Limited Liability Company Name** (Enter the **exact** name of the LLC as it is recorded with the California Secretary of State. Note: If you registered in California using an alternate name, [see instructions](#).)

SUNRISE PROPERTY INVESTMENTS, LLC

**2. 12-Digit Secretary of State File Number**

201533610076

**3. State, Foreign Country or Place of Organization** (only if formed outside of California)

CALIFORNIA

**4. No Change Statement** (Do not alter the No Change Statement. If there has been any change, please complete a Statement of Information (Form LLC-12).)

*There has been no change in any of the information contained in the previous complete Statement of Information filed with the California Secretary of State.*

**5.** The information contained herein is true and correct.

02/08/2018

MISHIL YOUSIF

MEMBER

Date

Type or Print Name of Person Completing the Form

Title

Signature

**Return Address (Optional)** (For communication from the Secretary of State related to this document, or if purchasing a copy of the filed document, enter the name of a person or company and the mailing address. This information will become public when filed. ([SEE INSTRUCTIONS](#) BEFORE COMPLETING.)

Name: [ ]

Company:

Address:

City/State/Zip: [ ]

# Exhibit H

## Leetham, Tamara

---

**From:** Richardson Griswold <rgriswold@griswoldlawsandiego.com>  
**Sent:** Friday, August 10, 2018 6:47 AM  
**To:** Leetham, Tamara  
**Cc:** Austin, Gina; Mike; Daniel T. Watts (dwatts@galuppolaw.com); Salvatore J. Zimmitti; Robert Fuller  
**Subject:** Re: Razuki/Malan: msg from your client

Tamara,

I just replied to your separate email regarding bank accounts and licensing information.

As for the "DVR" you are alleging was stolen, I am happy to look into this, but it sounds like this may be an issue over which you want to directly deal with SoCal's counsel. They are CCE'd on this email. Have you all spoken directly on this topic? From your email, it also sounds like SoCal actually sent you a substantial amount of business files/docs in furtherance of the control transition that was anticipated after the 7/31/18 hearing. I am happy to hear that.

As stated in my other email to you this morning regarding bank accounts and licensing, Mr. Essary will be filing/serving an interim report in advance of our 8/14/18 hearing.

Thanks,

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@griswoldlawsandiego.com](mailto:rgriswold@griswoldlawsandiego.com)  
[www.griswoldlawsandiego.com](http://www.griswoldlawsandiego.com)

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On Thu, Aug 9, 2018 at 3:32 PM, Leetham, Tamara <[tamara@austinlegalgroup.com](mailto:tamara@austinlegalgroup.com)> wrote:

Richardson,

A few matters to deal with. First, the defendants received a letter from Torrey Pines Bank stating the receiver changed the address for Mira Este Properties and Roselle Properties to 3528 Moccasin Ave. Upon looking up the address, we have learned that this appears to be Michael Essary's personal residence. Has Mr. Essary changed this back to the Mira Este address or will he be relying on one of the defendants to take care of the address change? Please advise.

On or about the day of the last ex parte hearing when Judge Strauss vacated the temporary receivership order, SoCal Building Ventures, or one of its agents, stole an DVR I have been informed is worth approximately \$8,000 from the dispensary at 8863 Balboa Suite E. My client informed us that James Haller/Holler said to someone that SoCal was shipping the DVR to my office. Thereafter, my office then received a box that we believed to be the DVR. My client was in the process of filing a police report and asked us to wait to open it until speaking with the police. After some back and forth, we just decided to open the box. Upon opening, we found files. I do not know how extensive they are or if it is everything SoCal had. My client has been forced to spend \$8,000 on a new DVR and I would ask the SoCal immediately return the DVR in its possession. I would also request an affirmative representation from SoCal that the records in the box constitute the entirety in their possession of the dispensary business records or for a representation that there are more and that they will be provided forthwith.

With respect to Gina's e-mail below, we reiterate that we cannot wait for a final accounting for the receiver to say what funds he has control over or to receive the funds. That money needs to be released to our client immediately. Mr. Essary can provide that accounting in his final report that he released the funds to our clients. Also, we renew our request that Mr. Essary provide us a list of what he has control over or possession of rather than the opposite. Please immediately provide a list of everything that Mr. Essary has control over or is in possession of to avoid further detriment of time and costs to our clients.

With respect to your e-mail:

Bank accounts: I do not see the need for Messrs. Zimmitti or Fuller to be privvy to such information and will send a separate e-mail although I feel the request is unnecessary and quite straightforward.

State licensing: There was mention in Court that the receiver had taken some steps related to state licensing. Messrs. Zimmitti and Fuller are not privvy to such information and I would request communication on this by separate e-mail.

Tax information: Is there any additional tax information other than that provided. We cannot wait for Mr. Essary's report to learn what, or was not, taken care of.

Thank you,

Tamara

---

**From:** Austin, Gina  
**Sent:** Tuesday, August 7, 2018 4:42 PM  
**To:** Richardson Griswold; Leetham, Tamara  
**Cc:** Mike; Daniel T. Watts ([dwatts@galuppolaw.com](mailto:dwatts@galuppolaw.com)); Salvatore J. Zimmitti; Robert Fuller  
**Subject:** RE: Razuki/Malan: msg from your client

Good afternoon,

I am sure Tami will respond in a timely manner but she has left for the day so I wanted to jump in. We know that at least one account was seized by the receiver that a significant amount of money in it. We cannot wait for a final accounting for the receiver to say way he has control over or to receive the funds. That money needs to be released to our client immediately. Mr. Essary can provide that accounting in his final report that he released the funds to our clients.

Further, I understand your request for specifics but in response to my email request I received 1 report and a statement from you that Mr. Essary is asking SoCal for what they have. To date, I do not have anything other than the one tax form. In light of this, we have to change the approach from what you have requested to requiring that Mr. Essary provide us a list of what he has control over or possession of rather than the opposite. Please immediately provide a list of everything that Mr. Essary has control over or is in possession of to avoid further detriment of time and costs to our clients.

Thank you

Gina

**From:** Richardson Griswold [mailto:rgriswold@griswoldlawsandiego.com]  
**Sent:** Tuesday, August 7, 2018 4:31 PM  
**To:** Leetham, Tamara  
**Cc:** Austin, Gina; Mike; Daniel T. Watts (dwatts@galuppowlaw.com); Salvatore J. Zimmitti; Robert Fuller  
**Subject:** Re: Razuki/Malan: msg from your client

Tamara,

I have addressed these same concerns several times over the last week.

Bank Accounts:

In an email to you on August 2, 2018, I stated:

*"Pursuant to the Court's orders within the Appointment Order, Mr. Essary was in the middle of taking control of all related bank accounts and taking control of any account funds. For banks that confirmed the existence of relevant accounts, most of the banks required the closing of the accounts and transferring the funds to the Receiver. All funds transfers from seized accounts will be documented in the Receiver's final accounting report.*

*If you want to provide particular account names, bank names, and account numbers, I can verify whether they were seized by the receivership."*

**You never responded to my 8/2/18 email.**

General Requests:

I have fielded several emails from you and Ms. Austin over the last week. Only one request included specific requested items. That was Ms. Austin's August 1, 2018 email, wherein it listed six specific items. In response, I wrote an email on August 2, 2018 and stated:

*"As stated multiple times, please direct your requests to SoCal and CC me and the receiver. I am adding SoCal's legal counsel to this email again.*

*Mr. Essary will be providing all tax payment documents and information soon. He is also currently compiling his final accounting report, which is contemplated in the not-yet-signed Court Order. In general, the remaining operational items/info/docs you are requesting should come from SoCal. Mr. Essary is not in possession of the requested docs/codes/databases, etc. Mr. Essary has instructed SoCal to cooperate with the transition and provide the info/docs per your requests."*

**We provided tax information to you yesterday. There will be additional tax payment information provided as Mr. Essary's Final Accounting Report is finalized.**

**Mr. Essary immediately forwarded the request list to counsel for SoCal on August 1st.**

Mr. Essary was appointed as receiver on July 17th to take full control of a highly-contentious and complicated business operation. Only two weeks later, the Court vacated the receivership, subject to an anticipated subsequent Order that was to provide clarity as to Mr. Essary's role going forward. Mr. Essary and I have not seen a signed Order. Nevertheless, Mr. Essary is proceeding in good faith to carry out the most cost-efficient transition plan under these difficult and unclear conditions.

Finally, you mention that Mr. Essary's actions have "caused damage to all the entity defendants." Please explain the nature of the damages suffered, relative to each entity defendant that is alleging it suffered damages.

Thanks,

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@griswoldlawsandiego.com](mailto:rgriswold@griswoldlawsandiego.com)  
[www.griswoldlawsandiego.com](http://www.griswoldlawsandiego.com)

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On Tue, Aug 7, 2018 at 12:02 PM, Leetham, Tamara <[tamara@austinlegalgroup.com](mailto:tamara@austinlegalgroup.com)> wrote:

Richardson,

To offer clarity to the situation, my client Ninus Malan received a notice from the bank directing him to talk to an entity about releasing the bank accounts. Mr. Malan called the number as directed by the letter not realizing it was your client's phone number. He was quite surprised when he learned it was Mike Essary and then came your e-mail.

What is more troubling at this point is Mr. Essary has the ability and the information to facilitate a smooth transition to my client of, at a minimum, the banking information and I believe has represented he would do so. Through the date of this e-mail, one week after the Court vacated the receivership order, we are no closer to gaining lawful access to the bank accounts let alone any other information, than we were when we walked out of court that morning.

This is extremely troubling and has caused damage to all the entity defendants. I would appreciate your client's cooperation in immediately facilitating access to the banking information as well as immediately turning over any other information your client has. You well know that we have been put in the untenable position of having to ask for our information from the very party who wants to keep it and yet the receiver was tasked with taking care of this.

At this point, we are asking for a very specific list of information your client actually has so that when we are inevitably forced back into court to request an order forcing the information to be turned over, it is clear what we need to request from your client. As I understand it, your client took control of the bank accounts and paid taxes. Did he do anything else? Does he have any financial information? Does he have any passwords or access information? What about contacts and steps made with the state and the City of San Diego with respect to the licensing. Please advise immediately and provide all information immediately.

Thank you,

Tamara

**From:** Richardson Griswold [mailto:[rgriswold@griswoldlawsandiego.com](mailto:rgriswold@griswoldlawsandiego.com)]  
**Sent:** Monday, August 6, 2018 1:16 PM  
**To:** Leetham, Tamara; Austin, Gina  
**Cc:** Mike  
**Subject:** Razuki/Malan: msg from your client

Gina/Tamara,

Receiver Mike Essary received a phone message at his office today from your client Ninus Malan. He left a message asking about "his money."

Given all the moving parts on this one, I would suggest he communicate through your office to me and/or Mr. Essary.

Thanks,

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@griswoldlawsandiego.com](mailto:rgriswold@griswoldlawsandiego.com)  
[www.griswoldlawsandiego.com](http://www.griswoldlawsandiego.com)

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under the Internal Revenue Code or (II) promoting, marketing or recommending to another party any transaction or matter addressed herein. Griswold Law does not offer tax advice to its clients.

# Exhibit I

**Leetham, Tamara**

---

**From:** Daniel T. Watts <dwatts@galuppolaw.com>  
**Sent:** Friday, August 10, 2018 7:02 AM  
**To:** Richardson Griswold  
**Cc:** Austin, Gina; Leetham, Tamara; Steven W. Blake  
**Subject:** Re: Treez Access

Mr. Griswold,

There is no confusion. We have one minute order on file, which I sent to you yesterday. That order vacated the receiver. The judge's decision to set another hearing date did not vacate a previous order already issued.

You had been telling us for a week that the receiver was complying with the order. The order was never vacated, but now it appears that your client was not actually complying with it.

-Daniel

---

**From:** Richardson Griswold <rgriswold@griswoldlawsandiego.com>  
**Sent:** Thursday, August 9, 2018 9:24:37 PM  
**To:** Daniel T. Watts  
**Cc:** Austin, Gina; Leetham, Tamara; Steven W. Blake  
**Subject:** Re: Treez Access

Ms. Austin & Mr. Watts,

I removed your client from this email so we could have a discussion among the lawyers. I reviewed both of your emails and discussed them with my client, Michael Essary, this evening. I understand you will disagree with my opinion, but I feel you are both overreacting.

Here is what we do know: the Court (Judge Sturgeon; the 3rd judge in this new matter, mind you) has set its own ex parte hearing to *re-hear* Defendants' ex parte application to vacate the receivership, which had been previously heard on 7/31/18. After the 7/31/18 hearing with Judge Strauss, a minute order was issued, which was to be confirmed by a subsequent proposed order submitted by counsel for the parties. My understanding is a proposed order was submitted to Judge Strauss, but never signed. Without a signed order and with a new Court establishing a re-hearing on the issue of vacating the receivership, I would say there is a tad bit of confusion, wouldn't you? I don't think there is necessarily fault tied to the confusion, but I think it is safe to conclude that we are all floating in an air of vagueness for the next few days until we get back in front of the Court on Tuesday.

Given the above, alleging "absolute fraud," threatening the filing of a civil lawsuit against a court-appointed receiver *tomorrow* and claiming to be "stunned" was surprising to read. Again, this reaction was all due to the non-lawyer receiver giving an email opinion as to the status of the receivership to a vendor??

My recommendation would be that we simply take a pause, specifically as to issuing/revoking database credentials, for a few days until we have our hearing on Tuesday morning. Is there significant harm in taking that approach?

For my benefit, feel free to provide your legal procedural interpretation of exactly where this matter stands currently. Should the receiver be holding tight until an Order is signed as a result of the 7/31/18 hearing? Or

are you comfortable now admitting that such Order will never be signed and everything that was "ruled" on at the 7/31/18 hearing will start from scratch at the re-hearing on Tuesday? As an attorney, I can put my ego to the side and admit I can't nail down exactly where this receivership stands as of the drafting of this email. But I can say that I am confident that the most prudent approach would be to get to the hearing on Tuesday without suffering through too much unnecessary squabbling may be the way to go.

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@griswoldlawsandiego.com](mailto:rgriswold@griswoldlawsandiego.com)  
[www.griswoldlawsandiego.com](http://www.griswoldlawsandiego.com)

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On Thu, Aug 9, 2018 at 5:24 PM, Daniel T. Watts <[dwatts@galuppolaw.com](mailto:dwatts@galuppolaw.com)> wrote:

Mr. Griswold,

I am stunned to read the exchange between Treez and Mr. Essary, who appears to be acting at your direction, if his email is to be believed.

As you can see from the attached **written, signed order** issued by Judge Strauss on July 31<sup>st</sup>, our client's application to vacate the receiver was GRANTED. As the register of actions shows, this order has not been overturned. Judge Sturgeon has *not* "ordered that [Essary] remain appointed as receiver". Nor has he "vacated" Judge Strauss's order. Mr. Essary's representations to the contrary are false.

I agree with Ms. Austin that these intentional misrepresentations expose your client to liability. It would behoove your client to mitigate the harm to Mr. Malan by immediately retracting those statements and any similar statements he might have made to any other party interested in this litigation.

-Daniel Watts

Attorney

**Galuppo & Blake**

**A Professional Law Corporation**

Tel: 760.431.4575

Fax: 760.431.4579

---

**From:** Austin, Gina [mailto:[gaustin@austinlegalgroup.com](mailto:gaustin@austinlegalgroup.com)]  
**Sent:** Thursday, August 9, 2018 5:14 PM  
**To:** Richardson Griswold ([rgriswold@griswoldlawsandiego.com](mailto:rgriswold@griswoldlawsandiego.com))  
**Cc:** Ninus Malan; Leetham, Tamara; Daniel T. Watts; Steven W. Blake  
**Subject:** RE: Treez Access  
**Importance:** High

Red,

Please see the email chain below. This communication is absolute fraud on behalf of Mr. Essary and we are preparing to take civil action against him for fraud, interference, conversion, and breach of fiduciary duty. Mr. Essary is interfering with the operations of the businesses and potentially costing my clients the use of their city licenses for his failure to provide the requisite information and preventing us from obtaining it.

The minute order remains valid and vacated the receivership. To the extent that the additional language being proposed in the attorney drafted order hasn't been signed is irrelevant. The ONLY issue the attorney drafted order was to resolve were the specifics of how that was to occur.

We demand that Mr. Essary today IMMEDIATELY inform Treez that he is actually not in charge and the order is valid. Please send cc me on the email. If I do not receive a copy of the email before midnight tonight we will proceed tomorrow with all remedies available against Mr. Essary.

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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---

**From:** Ninus Malan [mailto:[ninusmalan@yahoo.com](mailto:ninusmalan@yahoo.com)]

**Sent:** Thursday, August 9, 2018 4:57 PM

**To:** Leetham, Tamara

**Cc:** Austin, Gina

**Subject:** Fwd: Treez Access

[REDACTED]

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** [don@treez.io](mailto:don@treez.io)

**Date:** 8/9/18 4:42 PM (GMT-08:00)

To: 'Ninus Malan' <[ninusmalan@yahoo.com](mailto:ninusmalan@yahoo.com)>

Subject: Treez Access

Hi Ninas,

Please respond the message below that I received from the other side. This dispute is putting Treez in a very uncomfortable position.

Thanks,

Don

\*\*\*\*\*

Don,

This is Mike Essary - actually the oral ruling was vacated by the new judge. We are going to court on Tuesday to re-ratify/modify my order but Judge Sturgeon (the new judge) has ordered I remain appointed as receiver. The Defendants know this.

Please do not make any changes to the account, especially adding anyone else at this time.

I've copied my attorney Mr Griswold on this email in case you need any more confirmation.

Thank you for working with me through this confusing transition Don.

Michael Essary

Receiver



Virus-free. [www.avast.com](http://www.avast.com)

AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

1 Gina M. Austin (SBN 246833)  
E-mail: gaustin@austinlegalgroup.com  
2 Tamara M. Leetham (SBN 234419)  
E-mail: tamara@austinlegalgroup.com  
3 AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
4 San Diego, CA 92110  
Phone: (619) 924-9600  
5 Facsimile: (619) 881-0045

6 Attorneys for Defendants  
7 Ninus Malan, San Diego United Holdings Group,  
California Cannabis, and Balboa Ave Cooperative

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

10 SALAM RAZUKI, an individual,

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

11 Plaintiff,

**PROOF OF SERVICE**

12 v.  
13 NINUS MALAN, an individual; CHRIS  
14 HAKIM, an individual; MONARCH  
15 MANAGEMENT CONSULTING, INC. a  
16 California corporation; SAN DIEGO  
17 UNITED HOLDING GROUP, LLC, a  
18 California limited liability company; FLIP  
19 MANAGEMENT, LLC, a California  
20 limited liability company; MIRA ESTE  
21 PROPERTIES, LLC, a California limited  
22 liability company; ROSELLE  
23 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,

24 Defendants.

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AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

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**Salam Razuki v. Ninus Malan**  
**Case No. 37-2018-00034229-CU0BC-CTL**  
**PROOF OF SERVICE**  
**(Code Civ. Proc., §§ 1013a, 2015)**  
**SERVICE LIST**

I, Djuana Woods, declare that I am over the age of 18 years and am not a party to the case; I am employed in San Diego County, California, where the service occurs; and my business address is Austin Legal Group, APC, 3990 Old Town Ave, Ste A-112, San Diego, California, 92110.

On August 13, 2018, I served the following on the interested parties in this action as stated below:

**DEFENDANT NINUS MALAN'S SUPPLEMENTAL BRIEFING ISO EX PARTE APPLICATION TO DISSOLVE RECEIVERSHIP**

**DECLARATION OF NINUS MALAN RE: SUPPLEMENTAL BRIEFING**

**SUPPLEMENTAL DECLARATION OF TAMARA LEETHAM**

**BY MAIL:** as follows: (SEE ATTACHED SERVICE LIST)

By Placing a copy thereof in a sealed envelope addressed as follows:

I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service via First Class Mail on that same day in the ordinary course of business.

**BY PERSONAL SERVICE:** as follows:

By personally delivering a copy thereof addressed as follows:

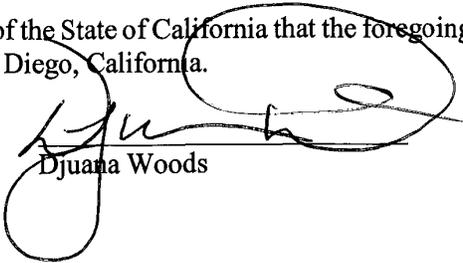
**VIA E-SERVICE – ONE LEGAL ATTORNEY SERVICE TO THE FOLLOWING:**

I caused such document(s) to be served on the following person via email through One Legal. See attached service list

**BY ELECTRONIC MAIL:** pursuant to agreement of the parties

**BY FACSIMILE TRANSMISSION:** The counsel or authorized party authorized to accept service was also forwarded a copy of the above-referenced document(s) by facsimile transmission at the telefax number corresponding with his/her/its/name. The facsimile machine I used complied with CRC Rule 2003(3) and no error was reported by the machine. Pursuant to CRC Rule 2005(i), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 13, 2018, at San Diego, California.



Djuana Woods

AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

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**Salam Razuki v. Ninus Malan.**  
**Case No. 37-2018-00034229-CU-BC-CTL**  
**PROOF OF SERVICE**  
**(Code Civ. Proc., §§ 1013a, 2015)**  
**SERVICE LIST**

Steven A. Elia *Attorneys for Plaintiff*  
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Goria & Weber *Chris Hakim, Mira Este*  
1011 Camino Del Rio S. #210 *Properties, and Roselle*  
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2018 AUG 13 PM2:17

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

**FILED**  
Clerk of the Superior Court

AUG 13 2018

4 Attorneys for Defendant CHRIS HAKIM

By: C. Rein, Clerk

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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		)	(Unlimited Civil Action)
13	vs	)	
14	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;	)	<b>DECLARATION OF CHRIS HAKIM RE EX PARTE HEARING ON ORDER VACATING APPOINTMENT OF RECEIVER</b>
15		)	Hearing Date: August 14, 2018
16		)	Time: 8:30 AM
17		)	Dept.: C-67
18		)	I/C Judge: Hon. Eddie C. Sturgeon
19		)	Complaint Filed: July 10, 2018
20		)	Trial Date: Not Set
21		)	
22		)	
23	Defendants.	)	IMAGED FILE
24		)	
25		)	

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I, Chris Hakim, declare:

1. I am one of the defendants in the above – referenced matter, and I am over the age of 18.

2. At all times herein mentioned, I have been and still am one of the owners of Mira Esta Properties LLC (MEP). At all times since MEP was formed, I have been and still am the managing member of MEP. The assets of MEP consist of certain real estate located at 9212 Mira Este Court, San Diego, California 92126. The real estate is improved by a structure in the nature of a warehouse. MEP acquired the real estate in August 2016.

3. The other member of MEP is Ninus Malan. At the time that MEP acquired the real property, a purchase money loan was obtained. I paid from my own funds significantly more than one half of the down payment. While plaintiff Salam Razuki contends that he paid a portion of the down payment, he was insistent on not wanting to appear of record or on title in connection with MEP’s acquisition or operation of the business.

4. Beginning on or about August 3, 3018, MEP began operating a business consisting of the production of various byproducts of cannabis for distribution to retail dispensaries and other such establishments. MEP is operating under a temporary state license for manufacturing and distribution of cannabis products and a business tax certificate from the City of San Diego that is due to expire next year. MEP is in the process of applying for a Conditional Use Permit that will allow MEP to continue its operations after the expiration of the current license.



1 proceeding, the receiver listed at item number 3 the receipt of \$170,600.00. **All of these**  
2 **funds were paid by SoCal pursuant to its management agreement with MEP. None of**  
3 **the funds were paid on account of either the Balboa management agreement or the**  
4 **Roselle management agreement.** Prior to August 5, 2018, I requested, through counsel,  
5 that the receiver make the loan payments on the loans on MEP and Roselle from the funds  
6 that it was holding. On the morning of August 5, 2018, the receiver, through counsel,  
7 declined to make any of the loan payments. The receiver's refusal was based on his claim  
8 that there were insufficient funds for MEP. However, I have reviewed each and every  
9 expenditure listed on the receiver's report. Of those expenditures, only items 15, 17, 18, 25,  
10 26, and 31 had any possible relationship to MEP. The total of those items was only  
11 approximately \$54,869.00, leaving a balance of some \$115,000.00 of net proceeds to cover  
12 MEP's loan payments. Because of the receiver's insupportable commingling of funds  
13 among the three facilities and as a result of the receiver's refusal to make the loan payments  
14 on Mira Este or Roselle pursuant to my request, I have had to make certain of the payments  
15 myself from my own funds.

18 8. Since being appointed as receiver for not only the Balboa property, but also  
19 for Mira Esta and Roselle, I am informed and believe and thereon declare that the receiver  
20 has done absolutely nothing to further the business of MEP or Roselle. There is no benefit  
21 to having a receiver for Roselle because there are no active operations at this time at  
22 Roselle. To the extent that there is income from the single third party tenant, I am fully  
23 capable of handling the minimum recordkeeping relative to income, expenses. Such  
24 recordkeeping will protect all parties. Further, I am willing to abide by any other orders that  
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1 the court might make in that regard. In short, there is no need for a receiver to be appointed  
2 over the operations of Roselle, and it would be a tremendous waste of resources to pay a  
3 receiver for oversight over Roselle.

4 9. In regards to MEP, SoCal was the manager of the Mira Este facility from  
5 approximately October 1, 2017 to July 10, 2018. On July 10, 2018, SoCal was terminated  
6 for a number of material breaches of the management agreement. Those breaches included  
7 but are not limited to the failure to make payments to MEP in connection with SoCal's  
8 obligations under the management agreement. On or about June 1, 2018, I caused my  
9 attorney, Gorla, Weber & Jarvis by David C. Jarvis, to make demand on SoCal's counsel for  
10 the outstanding and unpaid obligations of SoCal. A true and correct copy of said June 1,  
11 2018 correspondence outlining the unpaid and delinquent obligations is attached hereto as  
12 Exhibit 1 and, by this reference, made a part hereof. In addition, SoCal failed and refused to  
13 move forward the application process for a CUP on Roselle, which constituted a particularly  
14 significant breach of the Roselle management agreement. Given that there are only a very  
15 limited number of permits available for cannabis production and distribution businesses,  
16 SoCal's failure on this obligation was significant and material. SoCal failed to cure the  
17 defaults listed in said June 1, 2018 letter, and failed to even address much less move forward  
18 the CUP process on Roselle. On or about July 10, 2018, SoCal was terminated as manager.  
19 At the time that SoCal was terminated, SoCal had failed to even begin operations at Mira  
20 Este and, as noted, had failed to move forward the CUP process on Roselle.

21 10. Several weeks after SoCal was terminated and after the order appointing  
22 receiver was vacated by Judge Strauss on or about July 31, 2018, I negotiated an agreement  
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1 with another manager, Synergy Management Partners. LLC ("Synergy"). Synergy began  
2 management activity at Mira Este on or about August 3, 2018. On or about August 10,  
3 2018, the agreement with Synergy was reduced to writing. A true and correct copy of this  
4 new management agreement for Mira Este is attached hereto as Exhibit 2 and, by this  
5 reference, made a part hereof. Almost immediately and in sharp contrast to SoCal, Synergy  
6 was able to begin operations at Mira Este. During the first week of management under the  
7 new agreement with Synergy, more than \$200,000 in revenues has been generated.  
8

9 11. The Synergy management agreement requires that Synergy maintain  
10 extensive accounting, recordkeeping, and reporting requirements as follows:

11 A. (at Section 1.1 of Exhibit 2)-maintain proper accounts and ledgers of the  
12 facility, including accounts payable and receivable; keep all records required by and in  
13 accordance with applicable law on behalf of Mira Este and his manager of the facility;  
14 generate customary reports for Mira Este which will be provided weekly; collect, report and  
15 remit all taxes required of the facility on behalf of Mira Este; maintain proper insurance for  
16 Mira Este; ensure compliance with all conditions and requirements for the state license;  
17 create an operational budget for the facility; and,  
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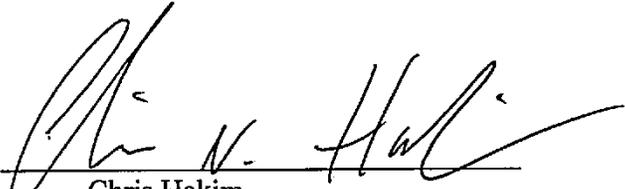
19 B. (at Section 3.4 of Exhibit 2) the company shall establish a dedicated bank  
20 account in its name and each party shall designate one person to act as signatory on such  
21 account. All revenues generated from this facility shall be deposited into the dedicated  
22 account and all expenses relating to the facility shall be paid from the dedicated account.  
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24 12. Based on the effectiveness of Synergy compared to So Cal, and because of the  
25 stringent recordkeeping, banking, and accounting obligations under the Synergy  
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management agreement, there does not appear to be any need for a receiver. The rights of all parties will be preserved by the recordkeeping and other accounting obligations under which Synergy must operate.

I declare under penalty of perjury that the foregoing is true and correct except as to those matters stated on information and belief and as to those matters I believe it to be true. This declaration was executed this 13th day of August, 2018, at San Diego County, California.

  
Chris Hakim

# EXHIBIT 1

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

DANIEL S. WEBER  
CHARLES F. GORIA  
DAVID C. JARVIS  
MEGHAN K. DeSPAIN

1011 CAMINO DEL RIO SOUTH, SUITE 210  
SAN DIEGO, CALIFORNIA 92108  
OFFICE: (619) 692-3555  
DIRECT DIAL: (619) 692-9200  
FAX: (619) 296-5508

Sent via email and first class mail to lgill@nelsonhardiman.com on June 1, 2018

June 1, 2018

Lawrence B. Gill  
Nelson Hardiman, LLP.  
11835 W. Olympic Blvd, 9th Floor  
Los Angeles, CA 90064

Re: **SoCal Building Ventures, LLC/San Diego Building Ventures ("Manager")**

Dear Mr. Gill:

I am in receipt of your May 24, 2018 letter requesting various due diligence items as part of the Manager's exercise of the options contained in the various Management Services and Option Agreements. My clients will start gathering the requested documentation referenced in your May 24, 2018 letter.

There are a few outstanding items. The following is a list of the pending past due payments owed by Manager and actions to be taken by Manager:

- 1) \$125,000.00 – Tenant Improvements for Mira Este/Certificate of Occupancy Obtained February 2, 2018 – Due March 2, 2018 – currently past due;
- 2) \$50,125.00 – Bounced Check dated May 23, 2018 to Mira Este, plus \$125 service fee for the returned check;
- 3) \$75,125.00 – Bounced Check dated in March 2018 to Mira Este, plus \$125 service fee for the returned check; and
- 4) \$12,500 in amounts owed for the Manager's share of the CUP costs for the Roselle project.

The outstanding balance totals \$262,750.00. Please let me know when Manager will deliver these funds to my clients. To the extent necessary or appropriate, this letter serves as notice of delinquency of these outstanding balances.

A further condition of the Manager's exercise of the Option is Manager not being in default of a Management Services and Option Agreement. My clients anticipate the Manager will be up-to-date on all payments owed by June 8, 2018, and is acting in accordance with that

expectation. This is not the first time my clients have contacted the Manager regarding outstanding amounts. As the parties are entering into a long-term business relationship, I urge the Manager's prompt and timely payment of amount owed under the Management Services and Option Agreements, as these continued late payments (and bounced checks) can at the least sour this business relationship, and at worst can create legal issues between the parties.

It is further my understanding that the Mira Este project is significantly behind schedule. Please provide my clients with an update regarding the anticipated commencement of operations at the Mira Este Facility. Please further be advised that my clients will be utilizing the 1,800 square feet space at the Mira Este Facility. My clients do not anticipate conducting any operations in this retained space, but reserve the right to do so if the Manager's delays continue to mitigate lost business opportunity in utilizing the Mira Este Facility.

My clients further stand ready to perform their duties and obligations, and please feel free to contact me with any needed action to facilitate such performance.

Please contact me with any questions or comments regarding this matter.

Very truly yours,



David C. Jarvis

DCJ:

cc: Rob Fuller via email to [rfuller@nelsonhardiman.com](mailto:rfuller@nelsonhardiman.com)

# EXHIBIT 2

**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

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- 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

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Page 2 of 10  
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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Page 3 of 10  
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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

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Page 4 of 10  
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-CTL 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. B. G.      JG

**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 (5<sup>th</sup>) day of the month, beginning the month following the Effective Date.

**Section 3.2: Advances; Reimbursement.** Manager agrees to advance all funds, up to

CH NM [Signature] [Signature]

\$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 \$8,500 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. <sup>\$35,000</sup> (CH) NM

**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.

CH NM. LG JSM

Page 8 of 10

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 - RG [Signature]

Page 9 of 10

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. Gray*

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.

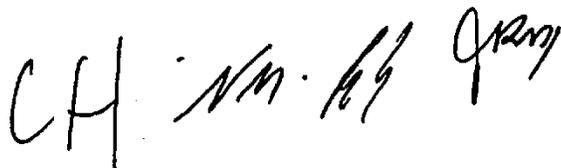
**Section 6.14: Acts of God.** No Party shall be liable in any respect for failure to comply with the terms of this Agreement due wholly or in part to acts of God, acts of the other party, acts or civil or military authority, fires, floods, epidemics, quarantine restrictions, war, armed hostilities, 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]



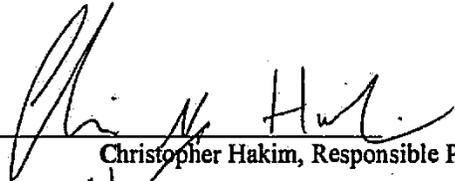
**MANAGER:**  
Synergy Management Partners LLC

Dated: 8-3-18

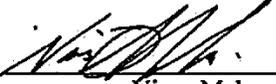
By:   
Jerry R. Baca, Responsible Party

**COMPANY:**  
Mira Este Properties, LLC

Dated: 8/3/18

By:   
Christopher Hakim, Responsible Party  
Chris (CH)

Dated: 8/3/18

By:   
Ninus Malan, Responsible Party

CH      JB      Nm.      AL

2  
3 PROOF OF SERVICE

4 I, Charles F. Gorla, declare that: I am, and was at the time of service of the papers herein  
5 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.

6 I served the following document(s):

7 Declaration of Chris Hakim re Ex Parte Hearing on Order Vacating Order  
8 Appointing Receiver

9 on the following addressees:

10 Steven A. Elia ( <a href="mailto:steve@elialaw.com">steve@elialaw.com</a> ) Maura Griffin ( <a href="mailto:Maura@elialaw.com">Maura@elialaw.com</a> ) 11 James Joseph ( <a href="mailto:james@elialaw.com">james@elialaw.com</a> ) Law Offices of Steven Elia 2221 Camino del Rio S., #207 12 San Diego, CA 92108 13 Tel. (619) 444-2244 14 Fax. (619) 440-2233 Attorneys for Plaintiff	Robert Fuller ( <a href="mailto:rfuller@nelsonhardiman.com">rfuller@nelsonhardiman.com</a> ) Salvatore J. Zimmit 15 ( <a href="mailto:szimmit@nelsonhardiman.com">szimmit@nelsonhardiman.com</a> ) Nelson Hardiman LLP 11835 West Olympic Blvd., Suite 900 Los Angeles, CA 90064 Tel. (310) 203-2807 Fax. (310) 203-2727 Attorneys for Intervenor SoCalBuilding Ventures LLC
16 Gina M. Austin ( <a href="mailto:gaustin@austinlegalgroup.com">gaustin@austinlegalgroup.com</a> ) 17 Tamara M. Leetham ( <a href="mailto:tamara@austinlegalgroup.com">tamara@austinlegalgroup.com</a> ) Austin Legal Group 18 3990 Old Town Avenue, Suite A-112 19 San Diego, CA 92110 Tel. (619) 924-9600 20 Fax. (619) 881-0045 Attorneys for Defendants Ninus Malan et al.	Richardson C. Griswold ( <a href="mailto:rgriswold@griswoldlawsandiego.com">rgriswold@griswoldlawsandiego.com</a> ) 21 Griswold Law 444 S. Cedros Avenue, Suite 250 Solana Beach, CA 92075 Tel. (858) 481-1300 Fax. (888) 624-9177 Attorney for Receiver Michael Essary

22 **XX (BY ELECTRONIC MAIL)** by transmitting same electronically by computer  
23 transmission to each said addressee, addressed to each such addressee at the above electronic mail  
24 address, pursuant to the parties' practice, agreement and/or stipulation that service by electronic  
mail of the above items would suffice for all purposes, at San Diego County, California, on  
8/13/2018.

25 I declare under penalty of perjury that the foregoing is true and correct, and that this  
26 declaration was executed on August 13, 2018, at San Diego County, California

27   
28 Charles F. Gorla

AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

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Phone: (619) 924-9600  
10 Facsimile: (619) 881-0045

11 Attorneys for Defendants  
Ninus Malan, San Diego United Holdings Group  
12 Balboa Ave Cooperative, California Cannabis Group

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

15  
16 SALAM RAZUKI, an individual,  
17 Plaintiff,  
18 vs.

19 NINUS MALAN, an individual; CHRIS  
20 HAKIM, an individual; MONARCH  
MANAGEMENT CONSULTING, INC., a  
21 California corporation; SAN DIEGO  
UNITED HOLDINGS GROUP, LLC, a  
22 California limited liability company; FLIP  
MANAGEMENT, LLC, a California  
23 limited liability company; ROSELLE  
PROPERTIES, LLC, a California limited  
24 liability company; BALBOA AVE  
COOPERATIVE, a California nonprofit  
25 mutual benefit corporation; CALIFORNIA  
CANNABIS GROUP, a California  
26 nonprofit mutual benefit corporation;  
DEVILISH DELIGHTS, INC. a California  
27 nonprofit mutual benefit corporation; and  
DOES 1-100, inclusive;  
28 Defendants.

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

**DEFENDANTS NINUS MALAN, SAN  
DIEGO UNITED HOLDINGS GROUP,  
BALBOA AVE COOPERATIVE,  
CALIFORNIA CANNABIS GROUP, AND  
FLIP MANAGERMENTS SUPPLEMENTAL  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF ORDER  
VACATING RECEIVERSHIP**

[IMAGED FILE]

Judge: Hon. Eddie C. Sturgeon  
Date: August 20, 2018  
Dept.: C-67  
Time: 2:00 p.m.

Trial Date: Not Set

AUSTIN LEGAL GROUP, APC  
 3990 Old Town Ave, Ste A-112  
 San Diego, CA 92110

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AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
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1 Defendants Ninus Malan, San Diego United Holdings Group, LLC (“San Diego United”),  
2 Balboa Ave Cooperative (“Balboa”), California Cannabis Group (“CCG”), Devilish Delights, and  
3 Flip Management (collectively “Malan Defendants”) respectfully submit the following  
4 supplemental memorandum of points and authorities in support of Judge Strauss July 31, 2018  
5 order vacating the receivership:

6 **I. INTRODUCTION**

7 On Friday July 27, 2018, Receiver Michael Essary paid MMLG a \$10,000 retainer.  
8 SoCal’s law firm, NelsonHardiman, has a partner who is MMLG’s chairman of the Board. (See  
9 August 17, 2018 Leetham Decl. ¶ 2 and August 14, 2018 Receiver’s Report.) On Monday July  
10 30, 2018, the day defendant Ninus Malan gave ex parte notice of his application to vacate the  
11 receivership order, Receiver Michael Essary paid SoCal insiders a total of **\$84,208.95**. (Id.) In  
12 total, Receiver Essary paid SoCal insiders **\$94,208.95** in these two days alone. (Id.) On top of  
13 these insider payments, on July 30, 2018, Receiver Essary paid himself \$17,028.00 and he paid  
14 his attorneys’ progress billing of \$7,165.95 for a total of \$24,193.95. (Id.) Thus, the total  
15 Receiver Essary paid himself and SoCal Insiders on July 30 is **\$108,402.90** and the total Receiver  
16 Essary paid himself and SoCal Insiders between July 27 and July 30 is **\$118,402.90**. (Id.)  
17 Deposits during the receivership period total \$195,046.08. Receiver Essary spent approximately  
18 61% of the receivership funds on himself and on payments to insiders. Receiver Essary did not  
19 pay taxes, utility bills, the Mira Este mortgage, the Balboa Dispensary settlement agreement with  
20 the Association, and important land use consultants. (See Burakowski Decl., Malan Decl., Hakim  
21 Decl., Schweitzer Decl.) Receiver Essary did not engage in imminent and critical litigation  
22 deadlines nor did he take adequate or appropriate steps to manage the land use entitlement  
23 process in San Diego and the state licensing requirements as detailed in Gina Austin’s declaration  
24 and the prior declaration of Tamara Leetham which explains ongoing litigation matters. While a  
25 receiver is not necessary under these facts and the order should remain vacated, Receiver Essary  
26 lacks the neutrality and expertise to act as a receiver in this case and should not under any  
27 circumstances be reinstalled.

28 Plaintiff Salam Razuki (“Razuki”) and Intervenors SoCal Building Ventures, LLC

1 (“SoCal”) and San Diego Building Ventures, LLC (“SDBV”) (collectively “Intervenors”) have  
2 incestuously colluded since May 2018 to wrest control of the dispensary away from its rightful  
3 owners, collusion with the ultimate goal of having Michael Essary take control of what Plaintiff  
4 and the Intervenors call the “Marijuana Operations.” However, Plaintiff’s purported relationship  
5 with Ninus Malan and a non-party entity called RM Property Holdings, LLC is distinct from the 3  
6 separate management contracts SoCal Building Ventures has with various defendants and these  
7 contracts, and SoCal’s breaches must be analyzed as separate and distinct.

8           There is no emergency. There has never been an emergency. Salam Razuki knew about  
9 the marijuana dispensary located at 8863 Balboa Ave, Suite E (“Balboa Dispensary”) for months,  
10 since selling it to San Diego United Holdings Group, and did NOTHING to manage, pay for,  
11 assist, or ensure compliance until SoCal contacted him in May 2014. Razuki’s testimony and  
12 accounting is unreliable and self-serving and should not be believed particularly when considered  
13 in using the extreme remedy of appointing a receiver. In addition, Razuki has failed to name RM  
14 Holdings, to which these claims, assuming arguendo they exist, properly belong. There is no  
15 emergency with SoCal. SoCal caused any and all monetary problems and solvency issues Balboa  
16 Dispensary has in addition to Mira Este Properties and Roselle Properties. SoCal’s malfeasance  
17 has been compounded by Receiver Michael Essary and the actions he took in the two weeks  
18 SoCal controlled the Marijuana Operations through Mr. Essary and have cause Balboa, Mira Este,  
19 and Roselle to teeter on the brink of insolvency and the loss of valuable land use entitlements.  
20 Razuki and the Intervenors rush to ambush Defendants under the false guise of misappropriated  
21 funds and tremendous cash outlays is Razuki’s desire for money, control, and power and the  
22 Intervenors attempt to rectify breached agreements and remedy defaulted loans SoCal owes to its  
23 own investors and for money, control, and power. Plaintiff and the Intervenors’ motivation is  
24 driven by self-serving greed and deceit. Allowing Plaintiff, the Intervenors’ and Receiver Mr.  
25 Essary to control the Marijuana Operations contravenes California law and will cause irreparable  
26 harm to Defendants.

27           **II. PROCEDURAL HISTORY AND STATEMENT OF FACTS**

28           The facts are exhaustive, and in the month since Plaintiff and the Intervenors ambushed

1 Defendants with the receivership ex parte, the Malan Defendants have extensively briefed the  
2 issues and submitted numerous declarations. The recitation below is a brief summary but the  
3 facts are compelling and best understood as contained in the declarations.

4 On May 24, 2018, Razuki and SoCal principal Dean Bornstein began colluding to  
5 takeover Balboa, Mira Este and Roselle and cause, at a minimum, Mira Este Properties to breach  
6 the Mira Este Agreement. Razuki and SoCal waited almost two months to file the lawsuits and  
7 appear ex parte. On July 10, 2018, Razuki filed this lawsuit. On Friday afternoon July 14, 2018,  
8 Razuki's attorney gave counsel improper ex parte notice as detailed in prior declarations. None  
9 of the Defendants had been served with the case initiating documents.

10 On July 17, 2018, Razuki and the Intervenor appears in Department 66 before the  
11 honorable Kenneth J. Medel for an ex parte application to have a receiver appointed and to file a  
12 Complaint in Intervention. Judge Medel summarily granted both without no notice and  
13 opportunity to defendants. That same day, Razuki posted a nominal undertaking and Michael  
14 Essary immediately took over the Balboa Dispensary for Razuki and the Intervenor. (CITE.) A  
15 peremptory challenge was thereafter filed and the case was reassigned to the honorable Richard  
16 Strauss.

17 In a hearing on July 27, 2018, in a different but related case, Judge Medel expressed  
18 "anxiety" over the decision and contemplated sua sponte relief. (See Leetham Decl. filed in  
19 support of July 31, 2018 hearing.)

20 On July 30, 2018, defendant Ninus Malan gave ex parte notice to Plaintiff, the  
21 Intervenor, and Receiver Essary that it would appear ex parte on July 31, 2018 to have the  
22 receivership order vacated. That same day, Receiver Essary paid out \$108,402.90 to himself and  
23 SoCal insiders. (See Aug. 20 Leetham Decl., Aug. 20 Malan Decl. and Receiver's Aug. 14  
24 Report.) On July 31, 2018, defendant Ninus Malan appeared ex parte to request the Court vacate  
25 the July 17, 2018 receivership order. By Minute Order, the Court did vacate the receivership  
26 order. On July 31, 2018, SoCal filed a peremptory challenge to Judge Strauss and the case was  
27 reassigned to this department.

28 On August 14, 2018, the parties appeared before the honorable Eddie C. Sturgeon. Judge

1 Sturgeon ordered the parties back on Monday August 20, 2018 at 2:00 p.m. for a full hearing on  
2 the receivership merits.

3 **III. APPOINTMENT OF A RECEIVER IS INAPPROPRIATE**

4 Plaintiff's and Intervenors claims are compensable at law. Any alleged harm has been  
5 self-inflicted and they should be precluded from benefiting from their own malfeasance.  
6 Appointing a receiver is a drastic and expensive remedy and in the event the Court contemplates  
7 some type of oversight, it can be accomplished far less intrusively. The Court may appoint a  
8 receiver in any action pending before it where "the court is empowered by law to appoint a  
9 receiver." (Code Civ. Proc. § 564(a).) This power of appointment includes (1) "[a]fter judgment,  
10 to carry the judgment into effect;" (2) "[a]fter judgment, to dispose of the property according to  
11 the judgment, or to preserve it during the pendency of an appeal;" (3) "[w]here a corporation has  
12 been dissolved;" (4) "[w]here a corporation is insolvent, or in imminent danger of insolvency;"  
13 and/or (5) "[i]n all cases where necessary to preserve the property or rights of any party." (Code  
14 Civ. Proc. § 564(b).) However, ordinarily, if there is any other remedy besides appointment of a  
15 receiver, and the other remedy is less severe in its results and will adequately protect the rights of  
16 the parties, the court should **not** appoint a receiver. (*Alhambra-Shumway Mines, Inc. v. Alhambra*  
17 *Gold Mine Corp.* (1953) 116 Cal.App.2d 869.) (emphasis added.)

18 **A. The Ex Parte Appointment Of A Receiver Is Improper**

19 Rule 3.1175 of California Rules of Court requires that in an application for an ex parte  
20 appointment of a receiver, the applicant must show in detail by verified complaint or declaration:  
21

- 22 (1) The nature of the emergency and the reasons irreparable injury  
23 would be suffered by the applicant during the time necessary for  
24 a hearing on notice;  
25 (2) The names, addresses, and telephone numbers of the persons in  
26 actual possession of the property for which a receiver is  
27 requested, or of the president, manager, or principal agent of  
28 any corporation in possession of the property;  
(3) The use being made of the property by the persons in  
possession; and  
(4) *If the property is a part of the plant, equipment, or stock in  
trade of any business, the nature and approximate size or  
extent of the business and facts sufficient to show whether the  
taking of the property by a receiver would stop or seriously  
interfere with the operation of the business* [emphasis added].

1 Here, the taking and control of the Malan Defendants, in particular San Diego United, Balboa,  
2 CCG, and defendant Mira Este Properties will seriously interfere with the operation of the  
3 businesses because of the very complex state and local regulatory rules and regulations governing  
4 their operations. With regard to Balboa and San Diego United, the Bureau of Cannabis Control  
5 (“BCC”) requires that a receiver receive written approval to continue operations on the licensed  
6 premise. (Supp. Austin Decl. ¶13.) The BCC further requires that a receiver apply for a new  
7 license from the BCC. (Id.) Mr. Essary has not submitted a new application to the BCC nor  
8 received written approval to continue operations at Balboa. (Id.) The application process is  
9 complex and cumbersome and Mr. Essary’s statement in his declaration that provided the BCC  
10 the required notification is not sufficient to maintain active operations at Balboa. Allowing Mr.  
11 Essary to have possession and control of Balboa would therefore seriously interfere with the  
12 operations of the business.

13 The BCC also requires strict inventory controls known as “track and trace”. (Supp. Rising  
14 Decl. ¶ 10.) During the time that Mr. Essary was in control of Balboa, the track and trace  
15 procedures were not followed and large discrepancies in the amount of cannabis inventory  
16 occurred. (Id. at 9.) This operational malfeasance by Mr. Essary could cause Balboa to lose its  
17 license and seriously interferes with the operation of the business. (Id. at 10).

18 Similarly, the appointment of a receiver for California Cannabis Group (“CCG”) and Mira  
19 Este Properties will seriously interfere with the operation of the businesses. CCG holds a  
20 temporary state license for distribution and manufacturing. (Supp. Austin Decl. ¶18).  
21 Maintaining these licenses requires the applicant to make adequate progress in responding to the  
22 questions from the BCC and other state agencies. (Id.) Mr. Essary made no attempt to continue to  
23 process the state applications thus seriously interfering with the operation of the business. (Id.)  
24 Based on the above, the ex parte elements for appointment of a receiver cannot be met and the  
25 relief is improper.

26 **B. Plaintiff And The Intervenors Have Unclean Hands**

27 Plaintiff and Intervenors entitlement to a receiver is precluded by the doctrine of unclean  
28 hands in that they have colluded to make the entities insolvent and to take them over. The act

1 upon which equity may refuse relief to a plaintiff because he does not come into court with clean  
2 hands must prejudicially affect the rights of the person against whom the relief is sought such that  
3 it would be inequitable to grant such relief. (*Wiley v. Wiley* (1943) 59 Cal.App.2d 840, 842.)  
4 This conduct must inequitably affect the relationship between the plaintiff and the defendant.  
5 (*Bradley Co. v. Bradley* (1913) 165 Cal. 237, 242.) Here, Plaintiff and Intervenor conduct  
6 renders inequitable their ability to obtain the appointment of a receiver. Plaintiff and the  
7 Intervenor began colluding in May 2018 to take the Marijuana Operations. This is evidenced in  
8 the Bornstein Declaration and in the Razuki Declarations. In addition, Razuki has shown his  
9 questionable credibility and lack of veracity on numerous occasions to include contradictory  
10 statements regarding ownership of Balboa in other litigation (see deposition testimony from  
11 November 2017 and May 2017 attached to July 30 ex parte papers where Razuki states no interest  
12 in San Diego United), in his conducted related to other litigation with Mr. Malan including a  
13 \$675,000 judgment related to a real estate fraud. SoCal breached its contracts (Balboa, Mira Este,  
14 and Roselle) and does not like the outcome- it was fired. SoCal cannot come into court asking for  
15 an extreme equitable remedy when it has perpetrated its own violations of the law and has  
16 intentionally taken steps to put the Malan Defendants into the current state of economic and  
17 regulatory distress.

18 **C. Plaintiff And Intervenor's Proposed Order Is Overbroad**

19 Even if the Court deems a receiver is necessary, the prior order contains no time limit,  
20 includes entities that are not a party to this litigation, requires an insufficient bond, and provides  
21 for a sale of business assets without any basis and goes beyond what the Plaintiffs and Intervenor  
22 told Judge Medel they were seeking. The initial order dated July 17, 2018 that was subsequently  
23 vacated by Judge Strauss by minute order on July 31, 2018, appoints a receiver over RM  
24 Properties Holdings, LLC which is not a party to this litigation and San Diego United Property  
25 Holdings, LLC which is not a valid entity according to the California Secretary of State.  
26 There is also no provision for receiver payment which is curious since if the entities are insolvent,  
27 it is because of SoCal's mismanagement.

28 ///

1                   **D.     Less Intrusive Methods Of Control Are Available**

2                   If the Court remains concerned about maintaining information as to the business  
3 operations, there are less intrusive and more equitable means, like an accounting. If the Court  
4 contemplates an accounting, an accounting should also be ordered, retroactive to November 2017,  
5 for Sunrise and Super 5 and the Court should also require Plaintiff to bring Sunrise, Super 5 and  
6 RM Property Holdings as parties to this litigation.

7                   **E.     Plaintiff's Bond Should Be Increased**

8                   “If a receiver is appointed upon an ex parte application, the court, before making an order,  
9 must require from the applicant an undertaking in an amount to be fixed by the Court, to the  
10 effect that the applicant will pay to the defendant all damages the defendant may sustain by  
11 reason of the appointment of the receiver and the entry by the receiver upon the duties, in case the  
12 applicant shall have procured the appointment wrongfully, maliciously, or without sufficient  
13 cause.” (Code Civ. Proc. § 566(b).)

14                  As already shown, if the receiver is allowed to undertake a renewed receivership, there is  
15 a significant risk that the appointment of a receiver is going to have a negative financial impact on  
16 all the defendants. Plaintiff and the Intervenors have avoided all discussion of the anticipated  
17 actual costs of the receivership. We do know that between July 17, 2018 and July 30, 2018, a two  
18 week period, the receiver paid himself approximately \$17,000, he paid his attorney approximately  
19 \$7,100 he paid to retain SoCal’s attorneys’ cannabis management company MMLG \$10,000, and  
20 then paid insiders tens of thousands of dollars. (See August 20 Leetham Declaration and  
21 Receiver’s August 14 report). Thus, in a two-week period, the receiver spent approximately  
22 \$118,000 on himself and advisers exclusive of any other cost. Plaintiff filed the July 17, 2018 ex  
23 parte application, and SoCal has joined in, and they are taking the risk that the appointment of the  
24 receiver will cause damages. In light of the potential damages to all the businesses, including loss  
25 of state and local cannabis licenses, Plaintiff’s bond should be at least \$2,500,000.

26                  ///

27                  ///

28                  ///

1           **IV. THE RECEIVER CAUSED IRREPARABLE HARM TO DEFENDANTS IN**  
2           **VIOLATION OF THE CALIFORNIA RULES OF COURT**

3           California Rules of Court, Rule 3.1179, entitled “The Receiver,” enumerates the  
4 following:

5           (a) Agent of the court

6           The receiver is the agent of the court and not of any party, and as such:

7           (1) Is neutral;

8           (2) Acts for the benefit of all who may have an interest in the receivership property;

9           and

10          (3) Holds assets for the court and not for the plaintiff or the defendant.

11          (b) Prohibited contracts, agreements, arrangements, and understandings

12          The party seeking the appointment of the receiver may not, directly or indirectly, require  
13 any contract, agreement, arrangement, or understanding with any receiver whom it intends to  
14 nominate or recommend to the court, and the receiver may not enter into any such contract,  
15 arrangement, agreement, or understanding concerning:

16          (1) The role of the receiver with respect to the property following a trustee’s sale or  
17 termination of a receivership, without specific court permission;

18          (2) How the receiver will administer the receivership or how much the receiver will  
19 charge for services or pay for services to appropriate or approved third parties hired to provide  
20 services;

21          (3) Who the receiver will hire, or seek approval to hire, to perform necessary services;

22          or

23          (4) What capital expenditures will be made on the property.

24          The receiver, Michael Essary, has not conducted himself in accordance with California  
25 Rules of Court 3.1179. On or about July 17, 2018, Mr. Essary, as an agent of the court, was  
26 required to act as a neutral and for the benefit of ALL who may have an interest in the  
27 receivership property. Mr. Essary failed to abide by this requirement when he undertook his role  
28 as receiver for the benefit of Plaintiff and the Intervenor and held the receivership for the benefit

1 of Plaintiff and the Intervenor. Mr. Essary failed to act for the benefit of the defendants,  
2 including Messrs. Malan and Hakim, who have an interest in the receivership property. This is  
3 evidenced by his failure to discuss the business operations with the defendants, to pay critical  
4 bills, and to discuss cannabis licensing status and issues with its long standing professional team.

5 Receiver Essary engaged in a pre-determined prohibited arrangement with Plaintiff and  
6 the Intervenor when he agreed to immediately and without any care or investigation reinstall and  
7 turn over all operational control to SoCal to manage Balboa, Mira Este and Roselle when SoCal  
8 was terminated for breach of each respective contract. This pre-existing relationship is evidenced  
9 by Receiver Essary's tone and demeanor on his phone call with attorney Gina Austin on July 17,  
10 2018 and his actions on July 17, 2018 when he immediately took over the Balboa Dispensary  
11 with SoCal employee James Holler, as well as a security guard hired by Salam Razuki.

12 Receiver Essary's business judgment between July 17 and July 31, the day Judge Strauss  
13 vacated the receivership, shows a continued pattern of preferential loyalty and nepotism to SoCal  
14 and Razuki and an inability to appropriately and adequately manage Defendants finances and  
15 licensing by making unsound financial choices. This is evidenced by Receiver Essary's financial  
16 report, his failure to appear at hearings and respond to issues related to ongoing litigation, and his  
17 failure to appropriately manage licensing requirements and issues.

18 With respect to finances, Receiver Essary's preferential treatment and lack of business  
19 judgment is evidenced Receiver Essary's financial report attached as Exhibit 1 to Receiver  
20 Michael Essary's Interim Receiver's Report submitted to the Court for the August 14, 2018  
21 hearing. Exhibit 1 is a two-page Exhibit with 45 total line entries.

22 When Judge Medel summarily granted the ex parte receiver application on July 17, SoCal  
23 was contractually obligated to make payments related to the Balboa Contract, the Mira Este  
24 Contract, and the Roselle Contract. SoCal was in default of these obligations prior to the  
25 receivership order and the receiver did not make these payments between July 17 and July 31  
26 despite having the funds to do so. With respect to the Balboa Dispensary, it owes tens of  
27 thousands of dollars in taxes and at the time Receiver Essary was appointed, it owed well over  
28 \$100,000 in taxes, closer to \$200,000 in taxes which SoCal had failed to pay. On line 29 of

1 Exhibit 1 to the Receiver Report, it indicates that Check #119 was written to the City of San  
2 Diego for the local Cannabis tax. However, on line 34, it shows a deposit for reimbursement of  
3 the same amount for the San Diego Cannabis Tax. It is unascertainable from this language if the  
4 tax was actually paid. Receiver Essary did not make the tax payments in full. Defendants San  
5 Diego United, Balboa Ave, and Ninus Malan are also obligated to the Association Settlement  
6 Agreement. Neither SoCal, nor Receiver Essary, made the Association payments which are  
7 absolutely required or the dispensaries local operating license can be revoked. The Association  
8 has since sent a notice of default on the Settlement Agreement. With respect to Mira Este, SoCal  
9 is significantly behind in their payments, as detailed in the declaration of Chris Hakim. Both  
10 Receiver Essary and SoCal failed to make the mortgage payment. Receiver Essary and SoCal  
11 attempt to blame Defendants for their failure to pay the mortgage. This argument is disingenuous  
12 as SoCal was well aware of Mira Este's mortgage obligation and given Receiver Essary's  
13 immediate decision to transfer all operational control of Mira Este to SoCal, it was well within  
14 SoCal's knowledge that bills were due.

15 Receiver Essary failed to manage the litigation which is unsurprising because it involves  
16 Malan or the Malan entities and Razuki or the Razuki entities. The Malan Defendants cannot  
17 trust Receiver Essary to undertake finding adequate legal representation and cannot be trusted to  
18 effectively advocate for the entities given his pre-existing relationship with Plaintiff and the  
19 Intervenors. In addition, the expense to have new counsel retained and come in on 4 different  
20 ongoing lawsuits would be inordinate and would be a wasteful use of financial resources.

21 As detailed above, the receiver is insufficiently versed to manage cannabis operations as  
22 evidenced by his failure to immediately engage in the appropriate procedures with local and state  
23 law. The land use entitlements owned by Mira Esta, Roselle, and San Diego United are  
24 irreplaceable and the cost if lost cannot be compensated. Not only do the Defendants have to  
25 incur the Receiver fees and costs, but the Receiver's attorney and any other professionals and  
26 consultants the Receiver must hire to assist him in his operations. Again, the Receiver cannot be  
27 trusted to manage this process and the Defendants cannot afford to undertake such an inordinate  
28 and wasteful expense.

1 As stated above, Receiver Essary immediately and with NO investigation reinstated SoCal  
2 the very day of the hearing. As stated in the declaration of James Holler, he was there prior to  
3 bond being posted and he was later there the same day with Receiver Essary. Receiver Essary  
4 himself says he turned operational control over that very day. This shows a pre-existing  
5 relationship as he took no reasonable or ascertainable time to figure out anything related to the  
6 business operations or the reasons behind their current deplorable state. Instead, he reinstalled the  
7 very entities that had vowed to take down Defendants.

8 For all these reasons, and as detailed in the many declarations filed by the Malan  
9 Defendants, including Malan's August 20 declaration at paragraphs 17-27, Receiver Essary has  
10 acted in violation of the California Rules of Court and his participation in this litigation should  
11 absolutely and irrevocably precluded.

12 **V. SOCIAL'S PROBLEMS ARE CAUSE BY ITS OWN MISMANAGEMENTS AND**  
13 **DECEIT**

14 While Plaintiff and the Intervenors have enmeshed the claims, the facts, and the contracts,  
15 they are in fact distinct and different relationships and the Malan Defendants encourage the Court  
16 consider this in its decision that a receiver is unnecessary and detrimental to the Malan  
17 Defendants. Razuki's issues are discussed below. With respect to SoCal, SoCal treats its  
18 relationship with the all Defendants as one integrated contract. This is not the case. SoCal and  
19 all Defendants have a relationship governed by 3 separate agreements. SoCal was contractually  
20 obligated to perform and adhere to the terms and conditions of each agreement. Co-defendant  
21 Chris Hakim discusses SoCal's breach of the Mira Este and Roselle agreements in his declaration.  
22 With respect to Balboa, the Malan Defendants have presented numerous declarations and  
23 documents in support of SoCal's breach of the Balboa agreement which included detailed  
24 information on failure to abide by local and state cannabis regulations e.g. storing cannabis in an  
25 unpermitted facility, failing to appropriately track and trace, failing to maintain adequate internal  
26 controls, failing to abide by the terms of the HOA Settlement Agreement, and failing to have an  
27 appropriate number of license security guards present at the facility. SoCal's breaches are  
28 significant that they are on the verge of causing San Diego Untied to lose its conditional use

1 permit. SoCal has also misappropriated money by failing to account for cash and by making  
2 preferential payments to insiders, like Chris Patel, instead of making payments to Balboa  
3 Dispensary's vendors and creditors. See the August 20 Declaration of Ninus Malan in addition  
4 to all other declarations filed to date in this litigation.

5 SoCal has alleged numerous violations by the Malan Defendants which are also addressed  
6 in the Malan Declaration including John Yaeger's inaccurate testimony about the average  
7 financials regarding SoCal and Malan, the reason for Balboa's deteriorated product, the City of  
8 San Diego issues and the HOA issues. These are all inaccurate and have been addressed by the  
9 supplement documents filed on August 17, 2018. SoCal also alleges it exercised its options to  
10 purchase Mira Este, Roselle, and Balboa. This is not true. SoCal only paid the option for Balboa  
11 but never exercised the option. (Malan Aug. 20 Decl. ¶ 92-95.)

12 **VI. PLAINTIFF'S DESCRIPTION OF HIS RELATIONSHIP WITH MALAN IS**  
13 **UNTRUTHFUL**

14 Plaintiff presents a myopic and limited view of his long-term relationship with Ninus  
15 Malan and the extensive nature of their dealings. Plaintiff attempts to limit the scope of this  
16 litigation when it goes much deeper and has far more impact on both of them. This Court will  
17 learn, or has learned, that Plaintiff sued Malan and a non-party entity for quiet title as the  
18 honorable Timothy Taylor transferred the case to this department on August 16, 2018 and ordered  
19 a status conference for Monday August 20, 2018. This lawsuit demonstrates there is a much  
20 broader set of facts related to these claims. The following should be considered when evaluating  
21 the veracity of Razuki's evidentiary presentation:

22 -Malan paid for 8861 Balboa, 8863 Balboa, and 8859 Balboa; Razuki is creditor to Balboa  
23 and does not own an equity interest (Malan Aug. 20 Decl. ¶ 3-16);

24 -RM Property Holdings has not been capitalized, owns or should own far more assets, and  
25 Razuki is not entitled to 75% (Malan Aug. 20 Decl. ¶ 70-81);

26 -Razuki owes hundreds of thousands of dollars to Malan ((Malan Aug. 20 Decl. ¶ 82-84)

27 -The RM Property Holdings settlement was canceled by mutual agreement (Malan Aug.  
28 20 Decl. ¶ 85-91);



1 Plaintiff here was required to join at least 3 additional entities discussed in the Complaint  
2 but not named as defendants including RM Property Holdings, LLC, Super 5 Consulting, LLC,  
3 and Sunrise Property Investments, LLC. The Complaint, Exhibit A, references Razuki's 20%  
4 membership interest in Sunrise Property Investments, LLC and Razuki's 27% membership  
5 interest in Super 5 Consulting, LLC where Razuki agreed to transfer his interest to non-party RM  
6 Property Holdings. Complete relief cannot be accorded without these parties. According to  
7 Razuki's theory of liability, RM Property Holdings should own 20% of Sunrise Property  
8 Investments and 27% of Super 5 Consulting and therefore was, and remains, entitled not only  
9 whatever monies Razuki received from Sunrise and/or Super 5 since November 2017 but also  
10 entitled to whatever relief Razuki procures in the name of RM Property Holdings. In addition,  
11 RM Property Holdings is indebted to The Loan Company for property loans on pieces of property  
12 that Razuki represented he would transfer into RM Property Holdings but for self-serving  
13 reasons, this has not been disclosed by Razuki. (See Declaration of John Lloyd.)

14 Super 5 and Sunrise are necessary and indispensable parties because not only is their  
15 ownership structure in dispute, again according to Razuki's theory of liability, RM Property  
16 Investments owns member interests in Super 5 and Sunrise, any monies Razuki will receive, and  
17 did receive, again according to his theory of liability, should be held in constructive trust for the  
18 benefit of RM Property Holdings. In addition, if all the Marijuana Operations are subject to a  
19 receivership, Razuki's theory of liability militates Super 5 and Sunrise's inclusion into the  
20 receivership. However, Razuki, conveniently, failed to name these entities and further failed to  
21 plead why he did not join these entities. With respect to the Court's consideration of the  
22 inappropriateness of a receiver, this factor militates against a receiver. If Razuki insists upon  
23 throwing all entities related to his purported agreement with Malan, then by his logic, Sunrise  
24 Property Investments and Super 5 Consulting should be parties and should also be placed into  
25 receivership.

26 **B. Razuki Should Have Sued In Derivative On Behalf Of RM Property Holdings**

27 A derivative suit is essentially an equitable action (*Rosenfeld v. Zimmer* (1953) 116  
28 Cal.App.2d 719, 722) in which the shareholder filing the action represents the corporation which

1 must itself have a cause of action (*McDermott v. Bear Film Co.* (1963) 219 Cal.App.2d 607, 611.)  
2 A shareholder's derivative suit seeks to recover for the benefit of the corporation and its whole  
3 body of shareholders when injury is caused to the corporation that may not otherwise be redressed  
4 because of the failure of the corporation to act. Thus, the action is derivative if the gravamen of  
5 the complaint is injury to the corporation or to the whole body of its stock and property without  
6 any severance or distribution among individual holders, or if the complaint seeks to recover assets  
7 for the corporation or to prevent the dissipation of its assets. Therefore, although the corporation  
8 is made a defendant in a derivative suit, the corporation nevertheless is the real plaintiff and it  
9 alone benefits from the decree; the stockholders derive no benefit except the indirect benefit  
10 resulting from a realization on the corporation's assets. (*Jones v. H.F. Ahmanson & Co.* (1969) 1  
11 Cal.3d 93, 106-107.) For example, in an action for breach of fiduciary duty arising from alleged  
12 management improprieties and the attendant decline in the corporation's stock value, the  
13 gravamen of the complaint was harm to the corporation and thus the action was a derivative  
14 action that the plaintiff lacked standing to pursue. (*Schuster v. Gardner* (2005) 127 Cal.App.4th  
15 305, 309.) Similarly, in a case in which plaintiffs' allegations regarding mismanagement  
16 amounted to a claim of injury to the corporation itself, the court of appeal held that the trial court  
17 properly dismissed the shareholders' complaints. (*Avikian v. WTC Financial Corp.* (2002) 98  
18 Cal.App.4th 1108, 1115-1117.)

19 Razuki sued in his individual capacity. However, by Razuki's theory of liability, his  
20 lawsuit is derivative in nature as the gravamen seeks to recover for injury caused to non-party RM  
21 Property Holdings, the alleged owner of any member interests in the named defendants. Because  
22 the claims alleged properly belong to RM Property Holdings, and RM Property Holdings is not a  
23 plaintiff or nominal defendant, the relief Razuki seeks is improper because Razuki seeks to  
24 benefit individually when he should derive no benefit except the indirect result of realizing RM  
25 Property Holdings assets through this litigation. Razuki should be precluded from demanding  
26 receivership over numerous entities in his individual capacity and this should be a consideration  
27 in the Court's determination to confirm Judge Strauss' minute order vacating the receivership.

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**VII. CONCLUSION**

As the Court can see from the reams of paper and multiple hearings, there are serious contested issues of material fact. The volume of paper and evidence presented is akin to a motion for summary judgment or even a trial. The Malan Defendants have attempted to focus their arguments on the lack of merit to the receivership argument and the extreme harm SoCal had already caused, which was compounded by the receiver. This matter is wholly inappropriate for a receiver. Plaintiff and the Intervenor have an adequate remedy at law. Plaintiff has no urgency and no right to the money. The Intervenor has unclean hands and breached three contracts. They do not like the consequence and have colluded with Plaintiff to put themselves in a better position to the extreme harm of the Malan Defendants. The evidence shows a negligent and wasteful operation by SoCal. SoCal cannot and should be let back in. Razuki has no right to be let in and the Malan Defendants strenuously object to any equitable relief. To the extent the Court contemplates a remedy, an accounting would accomplish transparency. For all of the foregoing, the Malan Defendants respectfully request the Court affirm Judge Strauss' decision to vacate the receivership on July 31, 2018.

Dated: August 17, 2018

AUSTIN LEGAL GROUP, APC



Gina Austin/Tamara Leetham  
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13  
14 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

15 CENTRAL DIVISION

16 SALAM RAZUKI, an individual,  
17 Plaintiff,

18 vs.

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

25 Defendants.

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

**SECOND SUPPLEMENT DECLARATION  
OF NINUS MALAN IN SUPPORT OF  
DEFENDANTS NINUS MALAN, SAN  
DIEGO UNITED HOLDINGS GROUP,  
BALBOA AVE COOPERATIVE,  
CALIFORNIA CANNABIS GROUP, AND  
FLIP MANAGERMENTS  
SUPPLEMENTAL MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF order VACATING  
RECEIVERSHIP**

Date: August 20, 2018  
Time: 2:00 p.m.  
Judge: Hon. Eddie C. Sturgeon  
Dept.: C-67

1 I, Ninus Malan, declare the following:

2 1. I am over the age of 18 years and I am a defendant in this action

3 2. I have personal knowledge of the facts stated in this declaration, and if called  
4 upon to testify to these facts, I could and would do so competently. I am the custodian of records  
5 for each of the companies for which I am an owner or manager, as described in this declaration,  
6 and I have the authority to state facts on their behalf.

7 **Background of Balboa Properties**

8 3. My company, San Diego United Holdings Group, LLC ("San Diego United"),  
9 owns 7 of about 39 units at the Balboa commercial complex. Not all of those 7 units are  
10 involved in active dispensary operations. San Diego United acquired them at different times.

11 4. Around October 2016, San Diego Patients Cooperative sold two units at the  
12 Balboa complex to Salam Razuki's company, Razuki Investments, with me and my company  
13 owning a partial share of those units. Razuki was the one to fund the majority of the purchase  
14 because he had the capital at the time. The overall purchase price for two units was around  
15 \$750,000, of which I paid two deposits of \$25,000 each to the sellers. This all happened around  
16 October 2016.

17 5. After Razuki purchased the two Balboa units, Razuki had attempted to negotiate a  
18 deal with San Diego Patients Cooperative. That deal fell through and he then attempted to find  
19 a different operator. Because of the unresolved issues with the commercial homeowners'  
20 association, e.g. the association's unwillingness to allow the dispensary to operate, it was  
21 considered too speculative of a situation and no one was willing to commit. Without an  
22 operator, the marijuana dispensary could not open and generate business. Because I had  
23 invested \$50,000 of my own money to help buy the properties, I offered to step up and become  
24 the operator. Razuki agreed.

25 6. In January 2017, I formed Balboa Ave Cooperative. I paid for all the costs  
associated with starting that business, while Razuki paid nothing. Razuki never had an

1 ownership interest in it and did not help set it up and has never had any involvement with that  
2 entity.

3 7. After forming Balboa Ave Cooperative and agreeing to undertake operations, the  
4 Association reiterated that it had rules forbidding marijuana dispensaries, and its board told me  
5 and Razuki that it would enforce those rules against us. Razuki, knowing it would be very  
6 difficult to overcome the HOA's objections, did not want to deal with the dispute. He offered to  
7 sell the entirety of his interests in the Balboa properties to me. He said he would indemnify me  
8 with any past problems with the San Diego Patients Cooperative and any other problems with  
9 the Balboa property, if I agreed to buy out his interest in the property and its conditional use  
10 permit from him. We agreed on a sale price of approximately \$1.5 million.

11 8. I signed a promissory note for \$1.5 million to buy the marijuana business  
12 operations. Under the terms of the note, payments are deferred until 2020. San Diego United  
13 purchased the buildings through escrow in March 2017.

14 9. I was agreeing to pay \$1.5 million for a business that had never been improved,  
15 never been started, and never been built out.

16 10. The \$1.5 million note was recorded around March 2016. Balboa started operating  
17 in May 2017. But because we could not get HOA approval, the HOA shut it down around  
18 August/September 2017.

19 11. The promissory note says that if the HOA does not approve the dispensary within  
20 90 days of the note's issuance, I do not have to pay back the note. Because the HOA did not  
21 grant approval to operate within the first 90 days, the promissory note is invalid.

22 12. Nevertheless, Razuki filed a lien against the Balboa property. That lien remains  
23 in place today. A true and correct copy of the UCC financing statement, showing the lien, is  
24 attached to this declaration as **Exhibit L**. As shown by the UCC financing statement, he claims  
25 a right to "all personal property" used by Balboa Ave Cooperative in connection with the  
business at "8863 Balboa Avenue, United E" and "8861 Balboa Avenue, Unit B". These are the

1 addresses of the Balboa dispensary. The statement says Balboa's property is "collateral for  
2 Debtor's performance of a secured promissory note in favor of" Razuki.

3 13. At the time I bought the two Balboa units from Razuki, I bought them subject to  
4 a \$475,000 loan that Razuki still owed. The \$475,000 loan came due about three months later,  
5 and I had to pay it off. Razuki did not pay off that loan – I did.

6 14. Around April 2017, I began the process of buying an additional five units at the  
7 Balboa complex. I spoke with Peter Michelet, who owned the five units at the Balboa complex.  
8 Peter wanted to sell his five units for about \$1.6 million, and I agreed to buy them through San  
9 Diego United.

10 15. I sought a loan from Salas Financial to fund the purchase of Peter Michelet's five  
11 units. Razuki does not appear on those loan documents and did not participate in the transaction.  
12 Escrow closed June 5, 2017, after which those other five units at the Balboa complex belonged  
13 to my company, San Diego United.

14 16. To keep the Balboa properties, I must pay mortgage payments, taxes, insurance  
15 payments, and payments to the HOA. Razuki does not and never has paid any of these. The  
16 monthly payments for these items come from my money and my companies, not from Razuki.

#### 17 **Receiver's Mismanagement of Balboa**

18 17. I received a phone call and a written notice from Juan Ordaz, a special  
19 investigator with the state Bureau of Cannabis Control, on August 15, 2018. A true and correct  
20 copy of the emailed notice I received from Ordaz on August 15, 2018 is attached to this  
21 declaration as **Exhibit M**.

22 18. Ordaz said that the Bureau received a complaint that on July 21, 2018 – when the  
23 receiver was running the Balboa dispensary – there was only one security guard on duty. He said  
24 the law requires two guards on duty. Ordaz also complained that the owner of security company  
25 Archstone Security, Jorge Aguilar, had a warrant for his arrest and should not be operating in  
any security capacity. He said these conditions violated the City of San Diego's conditional use  
permit, which state law requires us to follow.

1           19.    Ordaz asked for an explanation of my relationship to Aguilar, the names of the  
2 security guards, copies of their IDs, and firearm qualification cards. He demanded Aguilar’s  
3 contact information, the dates he provided security services, and the names of Aguilar’s  
4 employees.

5           20.    SoCal and the receiver’s hiring of Aguilar caused this flare-up with the Bureau.  
6 This jeopardizes our relationship with them and puts our conditional use permit and state license  
7 in jeopardy. It was a massive failure of judgment for SoCal and the receiver to hire Aguilar and  
8 fail to keep two guards on duty.

9           21.    Aguilar himself, by the way, admitted in his declaration (signed August 10, 2018  
10 and filed as “supplemental” briefing by Plaintiff) that there was an active warrant for his arrest  
11 during the **entire time** he was serving as the receiver’s employee. *See ¶¶8-11 of the Decl. of*  
12 *Jorge Aguilar.*

13           22.    According to the State of California’s Department of Consumer Affairs, Aguilar  
14 does not have a license to carry a firearm, which is a violation of the conditional use permit.  
15 This can be confirmed at <https://search.dca.ca.gov/>.

16           23.    According to the State of California’s Department of Consumer Affairs, Aguilar  
17 does not have a license to serve as a security guard. His license was canceled the day the  
18 receiver was vacated. This can be confirmed at <https://search.dca.ca.gov/>.

19           24.    Attached as **Exhibit N** to this declaration is a true and correct screenshot of the  
20 California Department of Consumer Affairs website’s results for “licensing details” related to  
21 Jorge Emilio Aguilar, who is the person the receiver and Plaintiff SoCal foolishly hired to guard  
22 Balboa. This screen shot was retrieved on August 17, 2018 at 8:16 a.m. As shown by Exhibit K,  
23 Aguilar’s firearm permit was canceled on June 30, 2017, and his security guard license was  
24 canceled on July 31, 2017.

25           25.    The receiver’s failure to do a background check on the head of the security  
company he hired is a *massive* failure of judgment. Plaintiff SoCal’s hiring of Jorge Aguilar is

1 also a massive failure of judgment and a breach of the Balboa management agreement. Hiring  
2 Aguilar jeopardized, and continues to jeopardize, the conditional use permit.

3 26. There is an outstanding invoice for about \$20,000 owed to an architect who  
4 worked on the five Balboa units. The work was necessary to keep our conditional use permit  
5 with the city. The architect spoke with the receiver during the receivership and made sure the  
6 receiver was aware of the need to pay that bill. The receiver promised he would pay the bill, but  
7 never did. Instead of paying bills, the receiver shelled out around \$118,000 to SoCal, the  
8 receiver himself, the receiver's attorney, SoCal's attorney (through a shell company, listed as  
9 "cannabis consulting" on the receiver's interim report), and other people related to this lawsuit.

10 27. The receiver's other failures were described in my earlier declaration and other  
11 supporting declarations, so I will not restate them here.

12  
13 **Balboa Management Post-Receiver**

14 28. Since the receiver order was vacated, Golden State Greens and I have been  
15 diligently working with my attorneys, Tamara Leetham and Gina Austin, to improve the  
16 businesses.

17 29. For example, my attorneys and I have applied for a conditional use permit to  
18 allow manufacturing at the 5 Balboa units. This was a months-long process culminating in an  
19 August 15, 2018 hearing. I attended that hearing on August 15, 2018, and the city approved our  
20 application. I submitted the paperwork for that. I made statements to the city officials. I attended  
21 the hearing. Razuki did *nothing*. SoCal was not at the hearing. The receiver was not at the  
22 hearing.

23 30. Thanks to the diligent work of me and my attorneys, we can now do  
24 manufacturing at 8859 Balboa Ave. Units A-E.

25 31. Dan Burakowski, who filed a declaration in support of my earlier ex parte  
application, has been an HOA board member at the Balboa location for many years, and he was

1 the HOA president earlier this year. He showed up to the hearing on August 15<sup>th</sup> and spoke  
2 favorably about me and my management of the dispensary.

3 32. Also, at an HOA board meeting held via telephone on August 11<sup>th</sup>, 2018, the  
4 HOA approved Dan to speak and present a letter at the hearing speaking positively about my  
5 management.

6 33. However, after the receiver was vacated, I received a letter from the HOA telling  
7 me that the Balboa dispensary is behind two payments on the HOA settlement and behind on  
8 insurance payments. Attached as **Exhibit O** to this declaration is a true and correct copy of a  
9 letter I received August 15, 2018 from the HOA (Montgomery Field Business Condominiums  
10 Association). They said this is a breach of the settlement with the HOA that would prompt them  
11 to revoke the use variance that allows the dispensary to do business.

12 34. I just received a demand for \$4,992.88 dollars owed to Sonoma Pacific  
13 Distribution for product they delivered to Balboa during the time the Receiver was in control on  
14 an invoice dated July 26, 2018.

15 35. The receiver should have paid these bills. He had the money to pay them. He  
16 knew about them – he hired SoCal, after all, who had been operating the dispensary for months  
17 earlier this year and was the entity responsible for paying those bills. The main reason I *fired*  
18 SoCal was because of their extreme mismanagement including failure to pay the HOA bills.

19 36. But instead of paying the bills, Plaintiff and the receiver spent in excess of  
20 \$100,000 on July 30 on himself and SoCal insiders.

21 **Accountant John Yaeger's Misleading Statements**

22 37. John Yaeger signed a declaration in support of Plaintiff's supplemental briefing  
23 for the August 14, 2018 hearing. He makes several misleading and false statements.

24 38. I hired Yaeger around April 2017, prior to any agreement with SoCal, to maintain  
25 Balboa's books, process payroll, and provide regular financial statements to me. To facilitate his  
work, Yaeger had the log-in information for bank accounts and accounting software for Balboa.  
I paid him \$7,500 per month starting April 2017, a rate which was reduced to \$3,500 per month

1 when SoCal Building Ventures, LLC came on board. SoCal was supposed to take over some of  
2 the accounting duties from Yaeger, hence the lowered pay.

3 39. Yaeger never gave me the financial statements he was hired to create. He did a  
4 poor job at everything except payroll. When the HOA began trying to shut down Balboa, I did  
5 not want to switch accountants in the middle of the negotiations with them, so I kept Yaeger  
6 employed until the HOA dispute was resolved. I trusted that he was doing the other parts of his  
7 job, even if he was not giving me financial statements.

8 40. In May/June 2018, I learned that Yaeger had been colluding with Plaintiff-in-  
9 intervention SoCal Building Ventures, LLC. Yaeger was hired by me, not SoCal, and owed a  
10 fiduciary duty to me and my companies, not to SoCal. And yet Yaeger was colluding with  
11 SoCal to try to help Razuki take over the dispensary. In fact, Yaeger actually told me that he  
12 would not do his job because he was “in the middle” of SoCal and me – even though he owed a  
13 fiduciary duty to me, not to SoCal. Because of his breaches of fiduciary duty, I fired him in June  
14 2018.

15 41. All together, I paid Yaeger about \$100,000 during the time he was working for  
16 Balboa. At the time I terminated him, I owed him no money. Yaeger had been fully paid.

17 42. Since firing Yaeger, I hired a new accountant who is professional and an  
18 experienced cannabis accountant. The new accountant provides financial statements as  
19 required.

20 43. The receiver filed an interim financial report. According to the receiver’s interim  
21 report, the receiver re-hired John Yaeger immediately after getting control of the businesses.  
22 The receiver paid Yaeger more than \$30,000 on July 30 even though Yaeger was not owed  
23 \$30,000. None of my companies owed Yaeger *anything*. The receiver bestowed a \$30,000 gift  
24 upon him for no reason at all.

25 44. I never told the receiver to re-hire Yaeger. I never told the receiver about Yaeger  
at all. He never once spoke to me about anything related to my businesses. I find it suspicious  
that the receiver (a) immediately decided to re-hire a negligent accountant who had been fired

1 for colluding with Plaintiff-in-intervention, and (b) decided to re-hire him within *hours* of being  
2 appointed receiver and (c) proceeded to pay him \$30,000 on July 30. This shows a pre-  
3 arrangement with the Plaintiff, which I've been informed is illegal.

4 45. Another misleading statement in Yaeger's declaration: Yaeger says the  
5 dispensary averaged lower daily sales during my tenure as manager in 2017 than during SoCal's  
6 tenure in 2018. *Of course* it had lower sales in 2017: It was *shut down by the HOA* during most  
7 of that time. After I single-handedly negotiated a settlement with the HOA, with no help or input  
8 from Razuki even though he signed the agreement, and obtained a variance from their rules  
9 allowing me to reopen the dispensary, I hired SoCal to manage the business. Businesses grow  
10 faster when they are open – this should be obvious. The fact that SoCal achieved higher sales  
11 when the business was *open* than I did when the business was *closed* does not mean SoCal was  
12 doing a better job managing the business and it would be expected that SoCal's average daily  
13 sales would increase to some degree by the mere fact of being open.

14 46. SoCal's "sales" are rendered meaningless when their mismanagement (e.g.  
15 drinking and smoking on the job, hiring wanted criminals as guards, consuming marijuana  
16 products, losing inventory) put the dispensary at risk of losing its HOA variance and conditional  
17 use permit, which will destroy the business as the conditional use permit will be irrevocably lost.

18 47. In sum, the receiver and Plaintiffs bought Yaeger's testimony by paying him  
19 \$30,000 he was not owed.

20 **False and Misleading Statements in James Holler's Declaration**

21 48. The declaration of James Holler, a SoCal employee, contains misleading and  
22 false statements.

23 49. Holler says in his declaration that when SoCal was hired to manage Balboa, it  
24 found expired product in the dispensary. This is true, but that is because the dispensary was  
25 *closed for four months* because of the dispute with the HOA. It would have been *illegal* to sell  
that product during that time, the product cannot be moved to a different location, and nothing

1 would have preserved it for four straight months. If Holler had any competence in this industry,  
2 he would know this.

3 50. Holler, by the way, took that expired product and put it into Unit B at the Balboa  
4 property, a parking garage where product is *not* supposed to be stored. Marijuana can only be  
5 stored in a unit designated for that purpose by the conditional use permit. By storing the expired  
6 product in the garage instead of the dispensary, Holler violated the terms of Balboa's conditional  
7 use permit and subjected the Balboa dispensary to a Code Enforcement Action. A true and  
8 correct copy of the code enforcement violation notice is attached to this declaration as **Exhibit**  
9 **P**.

10 51. Exhibit P, the violation notice, says that Holler and SoCal violated section 16 of  
11 the conditional use permit. Attached as **Exhibit Q** is a true and correct copy of the conditional  
12 use permit. As it says in section 16:

13 52. "16. Security shall include operable cameras and a metal detector[, and] alarms  
14 and two armed security guards...licensed by the State of California[, and] One security guard  
15 must be on the premises 24 hours a day, seven days a week, the other must be present during  
16 business hours. The security guards should only be engaged in activities related to providing  
17 security for the facility, except on an incidental basis. The cameras shall have and use a  
18 recording device that maintains the records for a minimum of 30 days."

19 53. On July 31, 2018, when Judge Strauss vacated the receivership order, SoCal  
20 removed the recording device from the property, violating Section 16. They still have not  
21 returned the recording device to the property.

22 54. When SoCal was managing the property before they were fired in June 2018,  
23 they did not have two security guards on duty and they had their guards act as receptionists  
24 which violates section 16.

25 55. The permit says in section 23 that marijuana "shall not be consumed anywhere  
within the 2.51-acre site." SoCal's employees consumed marijuana on site, as I explained in my  
earlier declaration in this case.

1           56.    Holler says SoCal did a good job marketing. They did not.

2           57.    Holler says SoCal made payments to the HOA. They did not. Holler is lying.  
3 They are behind on two payments as of this very day. When they were operating the dispensary  
4 earlier this year, SoCal was late every month, forcing me to make the payments myself – using  
5 my own personal funds – and harangue SoCal for reimbursement.

6           58.    Holler says the Code Enforcement Action was premised on signs put in the  
7 wrong place, and he blames me for that. That’s not what happened.

8           59.    This is what actually happened: Chris Patel, Holler’s supervisor at SoCal, told me  
9 to put up the signs that Holler is talking about. Patel assured me that the signs could be placed  
10 where he directed, and I put them there at Patel’s specific direction. In putting the signs there, I  
11 relied on SoCal having done their due diligence in figuring out where the signs should go. I  
12 never told Patel the signs were “permitted;” SoCal told *me* that the signs should go where they  
13 were placed. But as Holler admits in his declaration, SoCal was wrong about where the signs  
14 should go.

15          60.    And in reality, the Code Enforcement Action was prompted not by the signs, but  
16 by SoCal’s illegal storage of marijuana in a garage where it was not allowed. The city official  
17 came to the Balboa property because of a complaint that Holler and SoCal were storing  
18 marijuana in an unpermitted location. When the city official came, he discovered SoCal’s other  
19 code violations, including: They stored marijuana in the wrong place, they had only one security  
20 guard on duty (they needed two guards under the conditional use permit), and the security guard  
21 was working as a receptionist (guards are supposed to be guards *only*).

22          61.    After the Code Enforcement Action began, SoCal was totally negligent in their  
23 duties. They did not reach out to the code enforcement officials or try to negotiate the survival  
24 of Balboa’s conditional use permit. I had to hire a separate person to help with the Code  
25 Enforcement Action because SoCal would not do their job.

          62.    SoCal did not undergo background checks like they were supposed to, either.  
They should have undergone background checks before becoming an operator, but they delayed

1 for months. They eventually did some background checks in June 2018 – *after* I gave them the  
2 25-day notice of default. But by then, they had committed so many other defaults that we had to  
3 terminate them and hire a competent operator.

4 63. I gave notice to SoCal that they were in default under their agreement in spring of  
5 this year. SoCal employee Patel, who had been paying himself \$10,000 per month out of  
6 Balboa’s proceeds, immediately gave himself a raise to \$30,000 per month after receiving notice  
7 that we would fire him in 25 days if SoCal did not cure its defaults.

8 64. Please note: SoCal used Balboa’s money to pay \$30,000 to Patel during the last  
9 month of its management, while not paying taxes, not paying the HOA payments, and not  
10 paying bills and other fees owed. They pilfered Balboa’s money for themselves instead of curing  
11 their defaults – which is exactly what they did when they were re-hired by the receiver a few  
12 weeks ago.

13 65. Holler implies he was the manager at Balboa. He was not supposed to be. The  
14 manager was supposed to be Patel.

15 66. Holler says that on the day he stormed the Balboa dispensary with the receiver  
16 and the gunman, Balboa’s employees left a back door open, which is how he entered. That is  
17 false. No one left the back door open. He kicked the door open, breaking it.

18 67. Holler implies he had the right to enter the Balboa dispensary on the day the  
19 receiver was appointed. This is false. I have personal knowledge that he works for SoCal, the  
20 criminally negligent operator and a Plaintiff in this lawsuit. The receiver is supposed to be a  
21 neutral third party who is forbidden from making any arrangements with parties to the action  
22 before his appointment. And yet Holler showed up at the Balboa dispensary *before the receiver*  
23 *arrived*, just hours after the receiver was appointed. In other words, Holler somehow knew he  
24 and Plaintiff SoCal would be appointed to run the dispensary before the receiver took control,  
25 which means the receiver had an arrangement with Holler and Plaintiff, which is illegal.

68. Holler talks about an unsigned contract he says he found inside the Balboa  
dispensary after he stormed the place. The contract states that Balboa would hire a new

1 dispensary operator, Far West Management, LLC, a company that does business under the trade  
2 name Golden State Greens. He speculates that I was going to sign that contract. He's actually  
3 right about that. I did sign that contract. The contract gives Golden State Greens the right to  
4 operate a retail medical cannabis dispensary at 8861 Balboa Ave., Suite B, and 8863 Balboa  
5 Ave., Suite E. The agreement's term is for 60 days.

6 69. Golden State Greens/ Far West Management, LLC is a reputable, competent,  
7 professional company. They have spent their time operating the Balboa Dispensary cleaning up  
8 SoCal's mess and trying to get the dispensary back into compliance with local and state laws.

9 **RM Property Holdings, LLC will not be profitable for years**

10 70. Razuki claims he owns 75 percent of RM Property Holdings, LLC. That is not  
11 true.

12 71. Attached as **Exhibit R** to this declaration is a true and correct copy of the  
13 Articles of Organization of RM Property Holdings, LLC. Razuki's name is not on it. Mine is, as  
14 the organizer and agent for service of process.

15 72. Attached as **Exhibit S** to this declaration is a true and correct copy of the  
16 operating agreement of RM Property Holdings, LLC ("Operating Agreement"). The Operating  
17 Agreement refers to shares of the company alternately as "membership units" or "membership  
18 interests." The Operating Agreement does not specify who owns any membership units or  
19 membership interests. And while Exhibit A to the Operating Agreement says that Razuki will  
20 eventually have 75 percent and I will eventually have 25 percent of the "capital," "profits," and  
21 "losses" of RM Property Holdings, that same exhibit says those shares are conditioned on our  
22 respective payments of initial capital contributions: \$750 and \$250.

23 73. Razuki never made his \$750 payment to RM Property Holdings, so he is not yet  
24 entitled to 75% of the capital, profits, and losses.

25 74. The Operating Agreement says in section 9.1 that "The interest of each Member  
in the Company shall be represented by a Certificate of Interest" and "Upon the execution of  
this Agreement **and the payment of a Capital Contribution by the Member**, the Management

1 shall cause the Company to issue one or more Certificates in the name of the Member, certifying  
2 that he/she is the record holder of the Membership Interest set forth therein.”

3 75. Razuki never paid his capital contribution, so he does not hold a certificate.

4 76. The 75/25 split of profits/losses is also conditioned on us making “additional  
5 capital contributions” to RM Property Holdings, as explained in Exhibit B to the Operating  
6 Agreement. Those contributions include a requirement that Razuki transfer 20% of Sunrise  
7 Property Investments, LLC and 27% of Super 5 Consulting Group, LLC to RM Property  
8 Holdings.

9 77. Razuki never made this contribution of 20% of Sunrise or 27% of Super 5, so he  
10 is not yet entitled to 75% of the capital, profits, and losses.

11 78. In sum, RM Property Holdings, LLC was never capitalized by Razuki, and  
12 Razuki does not own a single membership unit in RM Property Holdings, LLC.

13 79. However, though RM Property Holdings, LLC has no assets and was never  
14 capitalized, it has acquired a great deal of *debt*: More than \$1.8 million, in fact. Without any  
15 direct means of paying off this debt, RM Property Holdings, LLC would not have any profits to  
16 distribute to Razuki *even if* he were entitled to those profits.

17 80. As John Lloyd declares in his concurrently filed declaration, in December 2017  
18 he loaned \$1.805 million to RM Property Holdings, LLC via the company he works for, “The  
19 Loan Company.” It was a three-year loan secured by real property owned not by RM Property  
20 Holdings, but by other people and NOT the properties listed in Exhibit A to the operating  
21 agreement. The outstanding balance on the loan is about \$1.5 million today. Until that loan is  
22 paid off, RM Property Holdings, LLC will not have any “profits” to distribute to Razuki or me.

23 81. A true and correct copy of the RM Property Holdings, LLC loan documents,  
24 including promissory notes and deeds showing the collateral used to secure the loan, is attached  
25 to this declaration as **Exhibit T**.

1 **Razuki owes hundreds of thousands of dollars to Malan**

2 82. The court should be aware that the Razuki-Malan business relationship extends  
3 far beyond the companies in this lawsuit. They worked together for ten years and bought tens of  
4 millions of dollars of property together, buying, selling, and renting the real property to others  
5 and to each other.

6 83. Today, my companies and I have judgments against Razuki, including one for  
7 \$675,000 against a company called "D'Kiel" that Razuki owns. Attached as **Exhibit U** to this  
8 declaration is a true and correct copy of a stipulation for entry of judgment against D'Kiel  
9 Group, LLC in case 37-2016-00022168-CU-BC-CTL. In the judgment, which is signed by  
10 Razuki, me, and Judge Wohlfeil, Razuki admits his company fraudulently transferred property  
11 to steal it from my company, American Lending and Holdings, LLC. He agrees his company  
12 owes \$675,000 in damages to my company.

13 84. It's because of judgments and debts like this one that Razuki filed this lawsuit.  
14 He owes a lot of money to a lot of people, and he is desperate for cash. This is just one of  
15 several lawsuits where he is trying to steal my companies.

16 **The RM Property Holdings Settlement was Canceled by Mutual Agreement**

17 85. In this lawsuit, Razuki sues on a settlement agreement we signed in November  
18 2017. But we rescinded and canceled that agreement in or around February 2018 because it did  
19 not reflect the agreement we had actually made, and because Razuki had second thoughts about  
20 that agreement, he wanted out of it.

21 86. Specifically, in November 2017 we had talked about putting a couple dozen  
22 properties and businesses into a single holding company. Our mutual intent was to combine not  
23 just the marijuana businesses, but multiple other parcels of real property owned by me and  
24 Razuki and our companies.

25 87. On the day I signed what Razuki calls the "settlement agreement," Razuki had  
called me into an office with a lawyer named Rick Aljabi, who is the attorney for Sunrise and  
Super 5. Razuki knew that I was represented at the time by attorneys Tamara Leetham and Gina

1 Austin, but he insisted on speaking to me about the “settlement agreement” without them being  
2 in the room. Rick Aljabi and Razuki insisted that the agreement they set before me would do  
3 what Razuki and I had talked about: It would combine dozens of real properties and businesses  
4 into a holding company. Aljabi told me that the agreement encompassed all the businesses and  
5 properties Razuki and I had together. Aljabi said any omissions in the agreement would be  
6 corrected after we signed it, but it was important that I sign it immediately. He pressured me into  
7 signing it, as Razuki was telling me that his partners at Sunrise wanted it signed immediately. I  
8 trusted Razuki and the lawyer, and signed the agreement without really reading it and without  
9 having a chance to speak with my attorneys about it.

10 88. Neither Razuki or I transferred any property or money to RM Property Holdings,  
11 LLC, despite what the agreement says and what the Loan Company mortgage requires. Later,  
12 after I read the agreement, I asked Razuki about all the other properties and businesses he was  
13 supposed to include in our deal. Razuki said he did not want to part with those businesses  
14 anymore, so he said we should cancel the deal and each of us should keep the businesses and  
15 properties we already own. I agreed, so we canceled the agreement and agreed that the  
16 settlement agreement was void. This happened around January or February 2018.

17 89. One might wonder why Razuki would give up ownership in the Balboa  
18 dispensary. That’s because his ownership of the Sunrise dispensary is more valuable – which is  
19 why he never mentions it in this lawsuit. In January 2018, the Sunrise dispensary began selling  
20 marijuana recreationally. As of January 2018, it was doing more than \$1 million per month in  
21 sales. He thought he did not need Balboa any more, and he certainly did not need Mira Este or  
22 Roselle, neither of which was doing any marijuana-related business at the time. He preferred the  
23 immediate rewards of Sunrise to a speculative investment in new businesses that required real  
24 work to get off the ground.

25 90. In addition, Razuki also wanted to cancel the agreement because it was supposed  
to include many more properties than just Mira Este, Balboa, and Roselle. As I recall, we had  
agreed to put these properties into RM Holdings, too, but because Razuki did not want to give

1 up ownership of these, he agreed to cancel the settlement agreement: “212 - 216 S 37th St, San  
2 Diego; 4750 70th St, Unit 20, La Mesa; 12455 Beatitudo Dr., Valley Center; 745 E Bradley Ave  
3 # 129, El Cajon; 3029 Broadway, San Diego; 2437 Camino De Las Palmas, Lemon Grove; 2995  
4 Cowley Way Unit 68, San Diego; 9320 Earl St. Unit 52, La Mesa; 1415 Eckman Ave, Chula  
5 Vista; 3215 Glancy Dr., San Ysidro; 1398 Ivory Ct., El Cajon; 1558 N Magnolia, El Cajon;  
6 4301 Market St., San Diego; 1137 Naranca Ave, El Cajon; 1550 N Magnolia Ave, El Cajon;  
7 13034 Old Barona Rd Lakeside; 8316 Ora Belle Ln, El Cajon; and many others.

8 91. If Razuki wants to try to enforce the settlement agreement – an agreement  
9 canceled at *his request* – he would need to put all these other properties into receivership too. He  
10 omits any discussion of these properties from his lawsuit because he does not want to give them  
11 up. That’s why we canceled the settlement agreement.

12 **SoCal never bought its options, and its option expired**

13 92. SoCal’s employees complain in this lawsuit that they bought options to purchase  
14 Mira Este, Roselle, and Balboa. That’s not true. According to each of their management  
15 agreements, they had the *temporary* right to buy an option *if* they paid an extra \$75,000 under  
16 each of the three agreements.

17 93. SoCal never paid the \$75,000 to buy an option under the Mira Este agreement.

18 94. SoCal never paid the \$75,000 to buy an option under the Roselle agreement.

19 95. SoCal did pay the \$75,000 for the option under the Balboa agreement, but they  
20 never exercised that option, which expired at the end of June 2018. According to the agreement,  
21 SoCal had to pay over \$3 million to exercise the option by June 2018, or else it would expire.  
22 They did not pay a dime, so the option expired. They knew the option was going to expire, too;  
23 they asked me a few times before June to extend the option because they didn’t have the cash to  
24 exercise it, but I said no.

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**Dan Spillane’s declaration is false**

96. Dan Spillane declared that I told someone to generate fake manifests to sell cannabis “on the streets.” That is false. I never said that. I never encouraged anyone to sell cannabis “on the streets.”

**Management and Ownership Status**

97. For clarity’s sake, this section will recount the ownership structure of the various companies in this dispute.

98. I am the president of California Cannabis Group, a nonprofit mutual benefit corporation. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of California Cannabis Group.

99. I am the president and Chris Hakim is the vice president of Devilish Delights, Inc., a nonprofit mutual benefit corporation Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of Devilish Delights, Inc.

100. Mira Este Properties, LLC is a limited liability company owned in equal parts by me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of Mira Este Properties, LLC. Mira Este Properties, LLC owns the real property at 9212 Mira Este Court, San Diego, CA 92126 (“Mira Este Facility”) in fee simple.

101. I am the president of California Cannabis Group, a nonprofit mutual benefit corporation. Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of California Cannabis Group.

102. I am the president and Chris Hakim is the vice president of Devilish Delights, Inc., a nonprofit mutual benefit corporation Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or owner of Devilish Delights, Inc.

//

1           103. Balboa Ave Cooperative is a cooperative corporation organized under the  
2 California Consumer Cooperative Corporation law. I am the sole managing member of Balboa  
3 Ave Cooperative. Plaintiff Salam Razuki is not and never has been an officer, employee,  
4 shareholder, member, or owner of Balboa Ave Cooperative.

5           104. Monarch Management Consulting, Inc. is a corporation owned in equal parts by  
6 me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee,  
7 shareholder, member, or owner of Monarch Management Consulting, Inc.

8           105. Flip Management, LLC is a limited liability company owned entirely by me.  
9 Plaintiff Salam Razuki is not and never has been an officer, employee, shareholder, member, or  
10 owner of Flip Management, LLC.

11           106. I am the sole member and sole owner of San Diego United Holdings Group, LLC  
12 (“San Diego United”), a limited liability company. Neither Razuki Investments, LLC nor  
13 Plaintiff Salam Razuki have any ownership interest whatsoever in San Diego United

14           107. Roselle Properties, LLC is a limited liability company owned in equal parts by  
15 me and Hakim. Plaintiff Salam Razuki is not and never has been an officer, employee,  
16 shareholder, member, or owner of Roselle Properties, LLC. Roselle Properties, LLC, which is  
17 owned by me and Hakim, owns real property located at 10685 Roselle Street, San Diego, CA  
18 92121 (“Roselle Facility”) in fee simple.

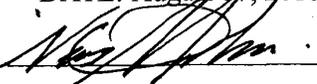
19           108. Razuki Investments, LLC used to own real property located at 8863 Balboa Ave.  
20 and 8861 Balboa Ave. in San Diego (“Balboa Properties”), but San Diego United bought the  
21 Balboa Properties in March 2017. Today, neither Razuki or Razuki Investments, LLC has any  
22 property interests in the Balboa Properties.

23           109. I am informed and believe that SoCal owes millions of dollars to its own  
24 investors and has defaulted on those loans and is trying to gain access to these businesses to pay  
25 for those loans.

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

DATE: August 17, 2018

BY:  \_\_\_\_\_

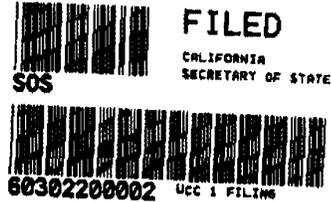
Ninus Malan,  
Defendant

# **EXHIBIT L**

**UCC FINANCING STATEMENT**  
FOLLOW INSTRUCTIONS

17-7576515276

03/21/2017 15:17



A. NAME & PHONE OF CONTACT AT FILER (optional) Claudia Garcia, Escrow Officer	
B. E-MAIL CONTACT AT FILER (optional)	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
	ACCT: # 13004997 914 S Street Sacramento, CA 95811 SAC: 1786602 BR

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here  and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME Balboa Ave Cooperative					
OR	1b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
1c. MAILING ADDRESS 5065 Logan Avenue, Suite 101		CITY San Diego	STATE CA	POSTAL CODE 92113	COUNTRY US

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here  and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME					
OR	2b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME					
OR	3b. INDIVIDUAL'S SURNAME Razuki		FIRST PERSONAL NAME Salam	ADDITIONAL NAME(S)/INITIAL(S) Matti	SUFFIX
3c. MAILING ADDRESS 7977 Broadway Avenue		CITY Lemon Grove	STATE CA	POSTAL CODE 91945	COUNTRY US

4. COLLATERAL: This financing statement covers the following collateral:  
All personal property now or hereafter owned by Debtor located at, and used in connection with Debtor's business located at 8863 Balboa Avenue, Unit E, San Diego, CA 92123 and 8861 Balboa Avenue, Unit B, San Diego, CA 92123, and to be operated under the trade name "Balboa Ave Cooperative" (the "Business") and as more particularly described in Exhibit "A" attached hereto, which is fully incorporated herein by this reference, as collateral for Debtor's performance of a Secured Promissory Note in favor of Secured Party.

5. Check only if applicable and check only one box: Collateral is <input type="checkbox"/> held in a Trust (see UCC1Ad, item 17 and Instructions) <input type="checkbox"/> being administered by a Decedent's Personal Representative	
6a. Check only if applicable and check only one box: <input type="checkbox"/> Public-Finance Transaction <input type="checkbox"/> Manufactured-Home Transaction <input type="checkbox"/> A Debtor is a Transmitting Utility	
6b. Check only if applicable and check only one box: <input type="checkbox"/> Agricultural Lien <input type="checkbox"/> Non-UCC Filing	
7. ALTERNATIVE DESIGNATION (if applicable): <input type="checkbox"/> Lessee/Lessor <input type="checkbox"/> Consignee/Consignor <input type="checkbox"/> Seller/Buyer <input type="checkbox"/> Bailor/Bailee <input type="checkbox"/> Licensee/Licenseor	
8. OPTIONAL FILER REFERENCE DATA: 146333P-CG	

Exhibit "A" to UCC-1 Financing Statement

Description of Collateral

All personal property now or hereafter owned by Debtor including but not limited to all tangible and intangible personal property, licenses, furniture, fixtures, raw materials, other goods, accounts, contract rights, rights to payment of money, leasehold rights, tradenames, equipment, stock in trade, inventory, machinery, appliances chattel paper (including security agreements and leases), electronic chattel paper, documents, records, instruments, securities and other investment property, deposit accounts, rights to proceeds of letters of credit, letter-of-credit rights, supporting obligations of every nature, and general intangibles including, without limitation, all tax refund claims, license fees, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, rights to sue and recover for past infringement of patents, trademarks and copyrights, computer programs, computer software, engineering drawings, service marks, customer lists, goodwill, and all licenses, permits, agreements of any kind or nature pursuant to which (i) Debtor operates or has authority to operate, (ii) Debtor possesses, uses or has authority to possess or use property (whether tangible or intangible) of others, or (iii) others possess, use, or have authority to possess or use Debtor's property (whether tangible or intangible), and all recorded data of any kind or nature, regardless of the medium of recording, including, without limitation, all software, writings, plans, specifications and schematics, and all of Debtor's books and records including but not limited to, all customer lists and lists of account debtors, all ledgers; records reflecting, summarizing or evidencing Debtor's assets, accounts, business operations or financial condition, computer programs, computer discs, computer printouts, and other computer prepared information and computer equipment of any kind now or at any time hereafter located on or used in connection with that certain business located at 8863 Balboa Avenue, Unit E, San Diego, CA 92123 and 8861 Balboa Avenue, Unit B, San Diego, CA 92123, and to be operated under the trade name "Balboa Ave Cooperative" (the "Business"); and all substitutes and replacements for, accessions, attachments and other additions to and tools, parts and equipment used in connection with any of the above, and all property of a similar type, and all property of a similar type or kind hereinafter acquired by Debtor and all insurance proceeds from any policy of insurance covering any of the aforesaid property now or hereafter acquired by Debtor with regard to the Debtor's operation of the Business.

60302200002



# **EXHIBIT M**

## Michaela Sweatt

---

**From:** Ninus Malan <ninusmalan@yahoo.com>  
**Sent:** Wednesday, August 15, 2018 4:08 PM  
**To:** Gina Austin  
**Cc:** Tamara Leetham; Daniel T. Watts; Michaela Sweatt  
**Subject:** Fw: General Complaint ENF-18-0001215

See below

----- Forwarded Message -----

**From:** "Ordaz, Juan@DCA" <Juan.Ordaz@dca.ca.gov>  
**To:** "ninusmalan@yahoo.com" <ninusmalan@yahoo.com>  
**Sent:** Wednesday, August 15, 2018 4:05 PM  
**Subject:** General Complaint ENF-18-0001215

Good afternoon Mr. Malan,

Per our conversation earlier today, the purpose of this email is to follow up regarding a general complaint received by the Bureau of Cannabis Control. During our conversation, you requested that I email you a summary of the nature of the complaint along with requested items so that you may confer with your attorney.

On or about 7/21/18 an anonymous complainant stated that there is only one security guard on site during operating hours, working 14 hours per day but that there should be two security guards on site. The complainant also stated that the owner (Jorge Emilio Aguilar) of security company (Archstone Security) has a warrant for his arrest and should not be operating in any security capacity.

*(BCC regulations do NOT require security guards to be armed nor that there must be more than (1) security guard on site during business hours for a licensed premises)*

*However, the City of San Diego, Conditional Use Permit number 1296130, page 4, does speak to the requirements regarding security guards for a licensed premises and must be adhered to.*

Mr. Malan, please provide me with a copy of the most recent contract agreement you entered into regarding the security company that currently provides security for your licensed premises. Also, I need the full names of the licensed security guards who provide security at your licensed premises along with copies of their valid IDs, guard cards and firearm qualification cards (if armed).

Also, provide a response/explanation as to what your relationship is/was with Mr. Aguilar (if any). If Mr. Aguilar was in fact employed at any time in the capacity of providing security for your licensed premises, please provide Aguilar's contact information, the dates he provided security services for your licensed premises, a copy of his ID and a copy of the security contract. If Mr. Aguilar employed security guards who provided security for your licensed premises, please provide their full names, contact information, copy of IDs and dates of security services rendered.

All documents, copies and photos of requested items can be emailed to me. As per our conversation earlier today, the understanding was that you will provide the aforementioned information no later than close of business tomorrow 8/16/18.

Thank you.



**Juan Ordaz**

Special Investigator

**Office:** (916) 465-9156

[www.bcc.ca.gov](http://www.bcc.ca.gov)

<https://cannabis.ca.gov>



# **EXHIBIT N**



**BUREAU OF SECURITY AND INVESTIGATIVE SERVICES**

**ISSUANCE DATE**  
JULY 15, 2013  
**EXPIRATION DATE**  
JULY 31, 2017  
**CURRENT DATE / TIME**  
AUGUST 17, 2018  
8:15:49 AM

**LICENSING DETAILS FOR: 1829907**

**NAME:** AGUILAR, JORGE EMILIO  
**LICENSE TYPE:** SECURITY GUARD  
**PRIMARY STATUS:** CANCELLED

**ADDRESS OF RECORD**  
SAN DIEGO CA 92128-3852  
SAN DIEGO COUNTY  
MAP

1749

**LICENSE RELATIONSHIPS**

**QUALIFYING FIREARM PERMIT**

**LICENSE/REGISTRATION ROLE:** BUSINESS OR PROFESSIONAL LICENSE  
**RELATED PARTY ROLE:** EXPOSED FIREARM PERMIT  
**NAME:** AGUILAR, JORGE EMILIO  
**LICENSE/REGISTRATION TYPE:** EXPOSED FIREARM PERMIT  
**LICENSE NUMBER:** 349713 **PRIMARY STATUS:** CANCELLED

**ADDRESS :**  
SAN DIEGO CA 92128  
SAN DIEGO COUNTY  
MAP



**BUREAU OF SECURITY AND INVESTIGATIVE SERVICES**

**ISSUANCE DATE**  
JULY 16, 2013  
**EXPIRATION DATE**  
JUNE 30, 2017  
**CURRENT DATE / TIME**  
AUGUST 17, 2018  
8:18:51 AM

**LICENSING DETAILS FOR: 349713**

**NAME:** AGUILAR, JORGE EMILIO  
**LICENSE TYPE:** FIREARM PERMIT  
**PRIMARY STATUS:** CANCELLED  
**QUALIFICATION:** 9 MILLIMETER

**ADDRESS OF RECORD**  
SAN DIEGO CA 92128  
SAN DIEGO COUNTY  
MAP

1750

**LICENSE RELATIONSHIPS**

**QUALIFYING FIREARM PERMIT**

**LICENSE/REGISTRATION ROLE:** EXPOSED FIREARM PERMIT  
**RELATED PARTY ROLE:** BUSINESS OR PROFESSIONAL LICENSE  
**NAME:** AGUILAR, JORGE EMILIO  
**LICENSE/REGISTRATION TYPE:** SECURITY GUARD  
**LICENSE NUMBER:** 1829907 **PRIMARY STATUS:** CANCELLED

**ADDRESS :**  
SAN DIEGO CA 92128-3852  
SAN DIEGO COUNTY  
MAP

# **EXHIBIT O**

August 15, 2018

**VIA E-MAIL AND U.S. MAIL**

Ninus Malan  
8863 Balboa Ave, Suite E  
San Diego, California 92123

Re: Montgomery Field Business Condominiums Association v. Balboa Ave  
Cooperative, et al., Case No. 37-2017-00019384-CU-CO-CTL  
Our File No. 6070.01  
Late Payments and Breach of Settlement Agreement

**Notice to Ninus Malan re Breach of Settlement Agreement**  
**PAST DUE PAYMENTS**

Dear Mr. Malan:

This letter shall serve as written notice that you are in breach of Sections 2.1.2 and 2.3.3 of the Settlement Agreement between you and Montgomery Field Business Condominiums Association (“Association”). As you know, this firm represents the Association. Neither the August 2018 monthly payment of \$6,171.47 (pursuant to section 2.1.2 of the Settlement Agreement) nor the July 2018 monthly payment of \$3,520.65 have been received. Therefore, should payment not be immediately received, the Association has the right to enforce the Settlement Agreement pursuant to Section 2.17.1 of the Settlement Agreement by the following action: (i) filing an ex parte application with the court for enforcement of the Settlement Agreement; (ii) recovering all attorney’s fees and costs in enforcing the Settlement Agreement as the prevailing party; and (iii) immediately revoking the Use Variance to conduct marijuana activities within the Association. As you know, Section 2.2.2 provides that the Use Variance, allowing you or your affiliates as noted in the Settlement Agreement to conduct marijuana activities within the Association, “shall be in effect as long as Defendants are in compliance with this Agreement.” The monthly settlement payment of \$6,171.47 was to be paid by the first of every month – no later than August 1, 2018. No payment has been received for August 2018. The monthly insurance premiums of \$3,520.65 must be paid as well as. However, no payments were received by the Association or its management company (APS) by the end of July 2018. Therefore, the total amount outstanding and past due is **\$9,692.12**.

**San Diego**  
10200 Willow Creek Rd., Suite 100  
San Diego, CA 92131  
1.858.527.0111 • fax 1.858.527.1531

**Coachella Valley**  
74830 Highway 111, Suite 100  
Indian Wells, CA 92210  
1.760.836.1036 • fax 1.760.836.1040

**Inland Empire**  
43460 Ridge Park Dr., Suite 200  
Temecula, CA 92590  
1.951.461.1181 • fax 1.858.527.1531

This is a very serious matter that requires your immediate attention. The first of the month is approaching and more monthly payments will be due.

Sincerely,

EPSTEN GRINNELL & HOWELL, APC



Mandy D. Hexom

# **EXHIBIT P**



June 7, 2018

# CIVIL PENALTY NOTICE AND ORDER

**Location:** 8863 Balboa Avenue Suite E, San Diego, CA

**APN No.:** 369-150-1323

**Property Owner/  
Responsible Person:  
Address:** San Diego United Holdings Group LLC  
Ninus Malan (CEO)  
5065 Logan Avenue Suite 101  
San Diego, CA 92113

**Property Owner/  
Responsible Person:  
Address:** Balboa Avenue Cooperative  
Ninus Malan (President, CEO, CFO, Secretary)  
8863 Balboa Avenue Suite E  
San Diego, CA 92123

**Zoning Designation:** Industrial Light-3-1

## **Background**

A Conditional Use Permit (CUP), No. 1296130, was approved on July 9, 2015, under Project No. 368347, for United Patients Consumer Cooperative to operate a Medical Marijuana Consumer Cooperative at 8863 Balboa Avenue Suite E, subject to terms and conditions set forth in the permit.

You are hereby notified that the property identified above is in violation of the San Diego Municipal Code (SDMC). On June 1, 2018, the following violations were observed at the property and must be corrected:

- The Directional Sign stating, "Tree House Dispensary in the back" located in the landscaping along the frontage of Balboa Avenue is in violation of the sign regulations.
- The Directional Sign stating, "Tree House Dispensary parking below" located on the fence just South of the front door to the Outlet, has an illegal electrical connection without the required permits, approvals and inspections.
- Failure to comply with conditions No.7, No. 16 and No.25 of the CUP: Must follow the regulations of the CUP. All signs must be consistent with CUP and city-wide sign regulations. Facility shall include two armed security guards during business hours.

These guards should only be engaged in activities related to providing security to the facility, except on an incidental basis.

This is a violation of the following code section(s):

<b>Code Section</b>	<b>Violation Description</b>
---------------------	------------------------------

- SDMC §129.0302 - When an Electrical Permit Is Required
- SDMC §142.1255 - Temporary Secondary Signs in Commercial and Industrial Zones
- SDMC §126.0306 - Violations of a Conditional Use Permit
- SDMC §§121.0202-121.0203 provides the authority regarding enforcement of the Land Development Code.
- SDMC §121.0302 requires compliance with the Land Development Code, specifies these violations are not permitted, and provides authority for the abatement of public nuisances.

**If you correct the above violations as identified below, you will not be subject to any administrative civil penalties.**

In order to avoid administrative civil penalties, you must correct the violations **Immediately:**

- Modify as required to conform with applicable Conditional Use Permit.

In order to avoid administrative civil penalties, you must correct the violations by **July 7, 2018**, as follows:

- Remove sign(s) from property.
- Obtain required Electrical Permit(s) and successfully complete all required inspections.

---

Reinspection fees are assessed for each inspection after the issuance of a violation notice in accordance with the SDMC §13.0103. An invoice will be sent following each inspection until compliance is achieved. Current reinspection fees range between \$264 and \$295.

Please refer to the San Diego Municipal Code sections cited for additional information via <https://www.sandiego.gov/city-clerk/>.

Additional forms and documents to assist in your compliance efforts are available at: <https://www.sandiego.gov/ced/forms>.

**Failure to Comply with Notice and Order**

If you fail to comply with this Notice and Order in the time and manner set forth above, you

are subject to civil administrative penalties pursuant to SDMC §§12.0801-12.0810. The penalty rate for the above listed violation(s) has been established in accordance with SDMC §§12.0801-12.0810 at \$500.00 per violation per day and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected. Administrative civil penalty amounts are established by the Development Services Director.

The following factors were used in determining the amount:

- the duration of the violation
- the frequency or recurrence of the violation
- the nature and seriousness of the violation
- the willfulness of Responsible Person's misconduct
- the Responsible Person's conduct after issuance of the Notice and Order
- the good faith effort by the Responsible Person to comply
- the economic impact of the penalty on the Responsible Person
- the impact of the violation upon the community

Pursuant to SDMC §12.0805(a), in determining the date on which civil penalties shall begin to accrue, the Development Services Director considers the date when the Code Enforcement Division first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence. The date on which the civil penalties began to accrue is June 1, 2018, and shall end on the date that the violation(s) has been corrected to the satisfaction of the Development Services Director or the Enforcement Hearing Officer.

#### **Civil Penalties Hearing**

If you fail to comply with the Notice and Order, written notice of the time and place of an administrative enforcement hearing will be served on you at least 10 calendar days prior to the date of the hearing in accordance with SDMC §12.0403. At the hearing, you may present evidence concerning the existence of the violation(s) and whether the amount of administrative civil penalties assessed was reasonable in accordance with SDMC §12.0808. Failure to attend an administrative enforcement hearing will constitute a waiver of your rights to an administrative hearing and administrative adjudication of the violation(s) set forth above.

#### **Administrative Costs**

The Development Services Director or Enforcement Hearing Officer is authorized to assess administrative costs. Administrative costs may include, but are not limited to: staff time to investigate and document violations; laboratory, photographic, and other expenses incurred to document or establish the existence of a violation; and scheduling and processing of the administrative hearing and all actions.

#### **Failure to Comply with Administrative Enforcement Order**

If you fail, neglect, or refuse to obey an order to correct the violations, administrative civil penalties will continue to accrue on a daily basis until the violation is corrected. The unpaid

Page 4  
Civil Penalty Notice and Order  
8863 Balboa Avenue Suite E  
June 7, 2018

amount of administrative civil penalties will be referred to the City Treasurer for collection, recorded as a code enforcement lien against the property in accordance with SDMC §§13.0201-13.0204, and may be referred to the City Attorney to file a court action to recover the unpaid amount. Failure to correct the violations may also result in referral to the City Attorney for further enforcement action.

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If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact **R. Sperry, Zoning Investigator**, at (619) 446-5085 or **J. Barnes, Combination Building Inspector** at 619-533-3957.

LDA/RLS/JBB/jef

cc: File

Agent for Service: Balboa Ave Cooperative: George Costa 3645 Ruffin Road, San Diego, CA 92123  
Agent for Service: San Diego United Holdings Group LLC: George Costa 3645 Ruffin Road, San Diego, CA 92123

CED# 0501875

This information will be made available in alternative formats upon request.

0501875\_8863 Balboa Avenue\_ced105\_R. Sperry

**EXHIBIT Q**

**1759**

13p  
1c

DOC# 2015-0399133



Jul 29, 2015 10:11 AM  
OFFICIAL RECORDS  
Ernest J. Dronenburg, Jr.,  
SAN DIEGO COUNTY RECORDER  
FEES: \$51.00

PAGES: 13

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION 501

**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24004643

**CONDITONAL USE PERMIT NO. 1296130**  
**8863 BALBOA STE E MMCC - PROJECT NO. 368347**  
**PLANNING COMMISSION**

This Conditional Use Permit No. 1296130 is granted by the Planning Commission of the City of San Diego to LEADING EDGE REAL ESTATE, LLC, Owner and UNITED PATIENTS CONSUMER COOPERATIVE, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 2.51-acre site located at 8863 Balboa Avenue is in the IL-3-1 Zone, the Airport Influence Area ( Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan Area. The project site is legally described as: Lot 9, Industrial Park No. 2, Map No. 4113, March 12, 1959.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate a Medical Marijuana Consumer Cooperative (MMCC) and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated July 9, 2015, on file in the Development Services Department.

The project shall include:

- a. Operation of a Medical Marijuana Consumer Cooperative (MMCC) in a 999 square-foot tenant space within an existing, 4,995 square-foot, one-story building on a 2.51-acre site;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking;

**ORIGINAL**

- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by July 9, 2018.
2. This Conditional Use Permit [CUP] and corresponding use of this MMCC shall expire on July 9, 2020.
3. In addition to the provisions of the law, the MMCC must comply with; Chapter 4, Article 2, Division 15 and Chapter 14, Article 1, Division 6 of the San Diego Municipal Code.
4. No construction, occupancy, or operation of any facility or improvement described herein shall commence, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department.
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
  - c. A MMCC Permit issued by the Development Services Department is approved for all responsible persons in accordance with SDMC, Section 42.1504.
5. While this Permit is in effect, the MMCC shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the MMCC and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

**PLANNING/DESIGN REQUIREMENTS:**

13. The use within the 999 square-foot tenant space shall be limited to the MMCC and any use permitted in the IL-3-1 zone.
14. Consultations by medical professionals shall not be a permitted accessory use at the MMCC.
15. Lighting shall be provided to illuminate the interior of the MMCC, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
16. Security shall include operable cameras and a metal detector to the satisfaction of Development Services Department. This facility shall also include alarms and two armed security guards to the extent the possession of a firearm is not in conflict with 18 U.S.C. § 922(g) and 27 C.F.R § 478.11. Nothing herein shall be interpreted to require or allow a violation of federal firearms laws. The security guards shall be licensed by the State of California. One security guard must be on the premises 24 hours a day, seven days a week, the other must be present during business hours. The security guards should only be engaged in activities related to providing security for the facility, except on an incidental basis. The cameras shall have and use a recording device that maintains the records for a minimum of 30 days.
17. The Owner/Permittee shall install bullet resistant glass, plastic, or laminate shield at the reception area to protect employees.
18. The Owner/Permittee shall install bullet resistant armor panels or solid grouted masonry block walls, designed by a licensed professional, in adjoining walls with other tenants, reception area, and vault room (manager's office).
19. The name and emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the MMCC in character size at least two inches in height.
20. The MMCC shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
21. The use of vending machines which allow access to medical marijuana except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this section and condition, a vending machine is any device which allows access to medical marijuana without a human intermediary.
22. The Owner/Permittee or operator shall maintain the MMCC, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. Graffiti shall be removed within 24 hours.

23. Medical marijuana shall not be consumed anywhere within the 2.51-acre site.
24. The Owner/Permittee or operator shall post anti-loitering signs near all entrances of the MMCC.
25. All signs associated with this development shall be consistent with sign criteria established by City-wide sign regulations and shall further be restricted by this permit. Sign colors and typefaces are limited to two. Ground signs shall not be pole signs. A sign is required to be posted on the outside of the MMCC and shall only contain the name of the business.
26. Interior spaces exposed to exterior aircraft noise sources shall be attenuated to achieve an indoor noise level of 50 dB CNEL.

**ENGINEERING REQUIREMENTS:**

27. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the replacement of the two easterly driveways with City standard driveways on Balboa Avenue per Standard Drawings SDG-159, satisfactory to the City Engineer.

**TRANSPORTATION REQUIREMENTS:**

28. No fewer than 5 parking spaces (including 1 van accessible space) for the proposed 999 square-foot MMCC (with 99 existing surface parking spaces -including 4 accessible spaces on the entire 2.5 acre site) shall be maintained on the property at all times in the approximate locations shown on Exhibit "A". All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department.
29. Prior to any building permit/tenant improvement for 8861 Balboa Avenue Suite #B, the applicant shall demonstrate that the converted portion of the warehouse space to 2-car parking garage at 8861 Balboa Suite #B is to be accessed accessible for minimum turning path for passenger car design vehicle to accommodate ingress/egress of two (2) side-by-side dimensionally acceptable interior garage parking spaces, one of which is to be assigned to this CUP for 8863 Balboa Avenue Suite #E as employee parking while the other to be assigned to 8861 Balboa Avenue Suite #B, which may in turn require its own building permit to convert a portion of Suite #B into a parking garage satisfactory to BDR - Structural Review staff. Improvements to the existing garage space that may be required include, but are not limited to, a wider garage door and improvements required for separation of the parking and warehouse uses in 8863 Balboa Avenue Suite #E, satisfactory to BDR - Structural Review staff.

**POLICE DEPARTMENT RECOMMENDATION:**

30. The San Diego Police Department recommends that a Crime Prevention Through Environmental Design (CPTED) review be requested by their department and implemented for the MMCC.

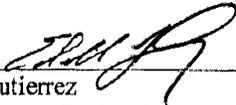
**INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on July 9, 2015 and Resolution No. PC-4716.

Conditional Use Permit No.1296130/PTS No. 368347  
Date of Approval: July 9, 2015

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

  
\_\_\_\_\_  
Edith Gutierrez  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

\_\_\_\_\_  
The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

LEADING EDGE REAL ESTATE, LLC  
Owner

By   
\_\_\_\_\_  
Michael D. Sherlock  
Managing Member

UNITED PATIENTS CONSUMER  
COOPERATIVE  
Permittee

By   
\_\_\_\_\_  
Michael D. Sherlock  
Permittee

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Diego )  
On July 27, 2015 before me, Vivian M. Gies, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Edith Gutierrez  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.  
Signature Vivian M. Gies  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document PTS 368347/8863 Balboa Ste.E MMCC/CUP #1296130  
Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

Capacity(ies) Claimed by Signer(s)  
Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_  
 Corporate Officer -- Title(s): \_\_\_\_\_  Corporate Officer -- Title(s): \_\_\_\_\_  
 Partner --  Limited  General  Partner --  Limited  General  
 Individual  Attorney In Fact  Individual  Attorney In Fact  
 Trustee  Guardian or Conservator  Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_ Signer Is Representing: \_\_\_\_\_

**ORIGINAL**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Diego )

On July 23rd, 2015 before me, Christine Gasparyan, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Michael DeCarlo Sherlock  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Christine Gasparyan  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Conditional Use Permit # 1291030 Document Date: \_\_\_\_\_  
Number of Pages: 7 Signer(s) Other Than Named Above: N/A

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

**ORIGINAL**

PLANNING COMMISSION  
RESOLUTION NO. PC-4716  
CONDITONAL USE PERMIT NO. 1296130  
8863 BALBOA STE E MMCC PROJECT NO. 368347

WHEREAS, LEADING EDGE REAL ESTATE, LLC, Owner and UNITED PATIENTS CONSUMER COOPERATIVE, Permittee, filed an application with the City of San Diego for a permit to operate a Medical Marijuana Consumer Cooperative (MMCC) in a 999 square-foot tenant space within an existing, 4,995 square-foot building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1296130), on portions of a 2.51-acre site;

WHEREAS, the project site is located at 8863 Balboa Avenue is in the IL-3-1 Zone, the Airport Influence Area ( Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan Area;

WHEREAS, the project site is legally described as Lot 9, Industrial Park No. 2, Map No. 4113, March 12, 1959;

WHEREAS, on April 22, 2015, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 1296130 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on March 25, 2015, Stephen Cline and Daniel Burakowski filed appeals of the Hearing Officer's decision;

WHEREAS, on July 9, 2015, the Planning Commission of the City of San Diego considered the appeal of Conditional Use Permit No. 1296130 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on November 20, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures); and the Environmental Determination was appealed to City Council, which heard and denied the appeal on March 3, 2015 pursuant to Resolution No. 309534;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated July 9, 2015.

FINDINGS:

**Conditional Use Permit Approval – Section §126.0305**

**1. The proposed development will not adversely affect the applicable land use**

**Plan.**

The proposed project is a request for a Conditional Use Permit to operate in a 999 square-foot tenant space within an existing, 4,995 square-foot one-story building. The 2.51-acre site is located at 8863 Balboa Avenue in the IL-3-1 Zone, the Airport Influence Area ( Miramar and Montgomery Field), Montgomery Field Safety Zone 2, 5, and 6, the 60-65 dB CNEL for Montgomery Field, and within the Kearny Mesa Community Plan area.

The site is designated Industrial in the Kearny Mesa Community Plan. The Industrial designation is intended for manufacturing, assembling, processing, warehousing or transporting goods or products. The Kearny Mesa Community Plan encourages continued development of Kearny Mesa as a regional employment center, containing a mix of industrial, office, retail and compatible housing land uses. The proposed MMCC was reviewed by MCAS Miramar and determined to be consistent with the Air Installation Compatible Use Zone (AICUZ) noise and safety compatibility guidelines.

The 2.51-acre site is zoned IL-3-1 and has eight detached buildings constructed in 1969. The proposed MMCC is located on the far southwest side of the lot. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The existing uses are consistent with the Industrial designation of the community plan. The surrounding parcels are within the IL-2-1 Zone except from the south parcel which is Montgomery Field Airport and is unzoned. The proposed MMCC, classified as commercial services, is a compatible use for this location with a Conditional Use Permit and is consistent with the community plan, therefore will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

The proposed 999 square-foot MMCC site located at 8863 Balboa Avenue is within an existing 4,995 square-foot building on a 2.51-acre site. The existing tenant space is currently being used for vehicle sales and services. The project proposes interior improvements that include a reception area, dispensary area, office, employee lounge and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the replacement of the two easterly driveways with City standard driveways on Balboa Avenue.

MMCCs are restricted to four per Council District, 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. MMCCs require compliance with San Diego Municipal Code (SDMC) section 141.0614 which require a 1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The project requires compliance with the development conditions in effect for the subject property as described in Conditional Use Permit No. 1296130. The Conditional Use Permit is valid for five years, however may be revoked if the use violates the terms, conditions, lawful requirements, or provisions of the permit.

The referenced regulations and conditions have been determined as necessary to avoid adverse impact upon the health, safety and general welfare of persons patronizing, residing or working within the surrounding area and therefore, the proposed MMCC will not be detrimental to the public health, safety and welfare.

**3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.**

The proposed 999 square-foot MMCC located at 8863 Balboa Avenue is within an existing 4,995 square-foot building. The 2.51-acre site is zoned IL-3-1 and has eight detached buildings totaling 39,674 square-feet constructed in 1969. The proposed MMCC is located on the far southwest side of the lot. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The project proposes interior improvements that include a reception area, dispensary area, office, employee lounge and restroom. The tenant improvement building permit will require compliance with the California Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and all adopted referenced standards. Public improvements include the replacement of the two easterly driveways with City standard driveways on Balboa Avenue.

MMCCs are allowed in the IL-3-1 zone with a Conditional Use Permit (CUP). The CUP requires MMCCs to comply with SDMC section 141.0614 which requires a 1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The proposed MMCC is consistent with the land use designation of Industrial. The proposed MMCC meets all development regulations, no deviations are requested, and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code. The proposed MMCC therefore complies with the regulations of the Land Development Code.

**4. The proposed use is appropriate at the proposed location.**

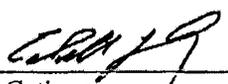
The proposed 999 square-foot MMCC located at 8863 Balboa Avenue is within an existing 4,995 square-foot building.

MMCCs, classified as commercial services, are allowed in the IL-3-1 zone with a Conditional Use Permit (CUP) and are consistent with the land use designation of Industrial use in the Kearny Mesa Community Plan. The CUP requires MMCCs to comply with SDMC section 141.0614 which requires a

1,000-foot separation, measured between property lines, from: public parks, churches, child care centers, playgrounds, libraries, minor-oriented facilities, other medical marijuana consumer cooperatives, residential care facilities, and schools. There is also a minimum distance requirement of 100 feet from a residential zone. In addition to minimum distance requirements, MMCCs prohibit consultations by medical professionals on site and do not allow certain types of vending machines. Security requirements include interior and exterior lighting, security cameras, alarms and a security guard. The security guard must be licensed by the State of California and be present on the premises during business hours. Hours of operation are limited from 7:00 a.m. to 9:00 p.m. seven days a week. MMCCs must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation.

The San Diego Municipal code limits MMCCs to commercial and industrial zones and the number of MMCCs to only four per Council District, 36 city-wide, in order to minimize the impact on the City and residential neighborhoods. The proposed MMCC is located on the far southwest side of a 2.51-acre site that is zoned IL-3-1 and has eight detached buildings. The existing uses on the site consist of vehicle sales and services, retail and commercial services (business services-offices). The proposed MMCC is a compatible use for this location with a Conditional Use Permit, is consistent with the community plan and the permit as conditioned assures compliance with all the development regulations of the San Diego Municipal Code, therefore the use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 1296130 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1296130, a copy of which is attached hereto and made a part hereof.

  
\_\_\_\_\_  
Edith Gutierrez  
Development Project Manager  
Development Services

Adopted on: July 9, 2015

Job Order No. 24004643



City of San Diego  
 Development Services  
 1222 First Ave., MS-501  
 San Diego, CA 92101  
 (619) 446-5000

**Medical Marijuana  
 Consumer Cooperative  
 Permit**

**FORM  
 DS-191**  
 FEBRUARY 2015

Pursuant to Chapter 4, Article 2, Division 15 of the San Diego Municipal Code, a permit must be obtained once a Medical Marijuana Consumer Cooperative (MMCC) Conditional Use Permit (CUP) has been approved and prior to operating the MMCC. MMCC Permits issued pursuant to this Division shall be valid for **one year**. The MMCC must comply with San Diego Municipal Code, Chapter 4, Article 2, Division 15, the regulating CUP, and all applicable City, County, State and Federal Regulations. **Any other permits or licenses required by law must be obtained from the appropriate agency.**

Business Name:		Telephone No.:	
Balboa Avenue Cooperative			
Business Address:	City:	State:	Zip Code:
8863 Balboa Ave Unit E	San Diego	CA	92123
Conditional Use Permit No.:	Date of Approval:	Recordation Date of CUP:	
1296130	07/09/2015	07/29/2015	
Conditional Use Permit PTS No.:	CUP Expiration Date:		
368347	07/09/2020		

**The MMCC's responsible person or responsible managing officer must complete the following section and sign where indicated.**

I am aware that the business described above is subject to the Medical Marijuana Consumer Cooperative regulations in the San Diego Municipal Code Chapter 4, Article 2, Division 15, and the regulating Conditional Use Permit. MMCC Permits issued pursuant to this Division shall be valid for **one year**. I have a copy of the aforementioned codes, have read them, and certify that the proposed business will comply with all requirements including, but not limited to, required fingerprinting and criminal history checks of all responsible persons, and limitations related to age of responsible persons.

*Ninus Malan*

<b>Responsible Managing Officer or Responsible Person Name:</b>			
<i>ninvs malan @ yahoo.com</i>		<i>(619) 750-2024</i>	
E-mail Address:	Telephone No.:		
<i>5065 Logan Ave Suite 101</i>	<i>San Diego</i>	<i>CA</i>	<i>92113</i>
Mailing Address:	City:	State:	Zip Code:
<i>Ninus Malan,</i>	<i>01/18/17</i>		<i>92105</i>
Signature:	Date:		

Printed on recycled paper. Visit our web site at [www.sandiego.gov/development-services](http://www.sandiego.gov/development-services).  
 Upon request, this information is available in alternative formats for persons with disabilities.

DS-191 (02-15)

**FOR CITY USE ONLY**Conditional Use Permit No.: 1296130Recordation Date of CUP: 07/29/2015CUP Expiration Date: 07/09/2020**Staff shall check each box once the item is addressed.**

- The business address matches the address approved in the Conditional Use Permit for the Medical Marijuana Consumer Cooperative.
- The responsible person(s)<sup>1</sup> completed and submitted the Live Scan form and Form DS-192 to the San Diego Police Department (SDPD) for a criminal background check. Development Services has received the form back from SDPD verifying that the responsible persons(s) comply with SDMC Section 42.1507.
- The applicant has been provided copies of San Diego Municipal Code Chapter 4, Division 4, Article 15 and a copy of this permit.
- This permit and the following have been placed in the original Conditional Use Permit file:
- Recorded CUP.
  - Articles of Incorporation certified by the Secretary of State.
  - Form DS-192 for each responsible person(s) signed by the SDPD verifying that each responsible person(s) has passed the criminal background check.

 **APPROVED**       **DENIED**By: Frouzeh Tirandazi  
PRINT NAMEDate: January 30, 2017

1. Responsible persons includes an employee and each person upon whom a duty, requirement or obligation is imposed by this Division, or who is otherwise responsible for the operation, management, direction, or policy of a medical marijuana consumer cooperative. It also includes an employee who is in apparent charge of the medical marijuana consumer cooperative.

# EXHIBIT R

1775

201717710044



Secretary of State  
Articles of Organization  
Limited Liability Company (LLC)

LLC-1

IMPORTANT — Read instructions before completing this form.

Filing Fee — \$70.00

Copy Fees — First page \$1.00; each attachment page \$0.50;  
Certification Fee — \$5.00

Note: LLCs 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>.

FILED

Secretary of State  
State of California

JUN 20 2017

This Space For Office Use Only

1. Limited Liability Company Name (See instructions — Must contain an LLC ending such as LLC or L.L.C. "LLC" will be added, if not included.)

RM PROPERTY HOLDINGS, LLC

2. Business Addresses

a. Initial Street Address of Designated Office in California - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
7977 BROADWAY	LEMON GROVE	CA	91945
b. Initial Mailing Address of LLC, if different than Item 2a	City (no abbreviations)	State	Zip Code

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
NINUS		MALAN	
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box	City (no abbreviations)	State	Zip Code
7977 BROADWAY	LEMON GROVE	CA	91945

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. Management (Select only one box)

The LLC will be managed by:  
 One Manager     More than One Manager     All LLC Member(s)

5. Purpose Statement (Do not alter Purpose Statement)

The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

6. The information contained herein, including in any attachments, is true and correct.

Organizer sign here

NINUS MALAN  
Print your name here

EXHIBIT S

1777

**OPERATING AGREEMENT  
OF  
RM PROPERTY HOLDINGS, LLC**

This Operating Agreement is made and entered into by and between those Persons whose names and signatures are set forth below (the "Members"), and being the Members of the above named Limited Liability Company organized under the Laws of the State of California (sometimes hereinafter referred to as the "Company" or the "Limited Liability Company"), who hereby represent and agree that they have or will cause to be filed, on behalf of the Company, Articles of Organization with the Secretary of State for the State of California, and that they desire to enter into this Operating Agreement in accordance with the California Revised Uniform Limited-Liability Company Act.

**NOW, THEREFORE**, in consideration of the premises, the provisions and the respective agreements hereinafter set forth and for other good and valuable consideration, the Members hereto do hereby agree to the following terms and conditions of this Operating Agreement for the administration and regulation of the affairs of this LIMITED LIABILITY COMPANY.

**ARTICLE 1  
DEFINITIONS**

When used in this Agreement, the following terms shall have the meanings set forth below (all terms used in this Agreement that are not defined in this Article 1 shall have the meanings set forth elsewhere in this Agreement):

1.1 "Act" means the California Revised Uniform Limited-Liability Company Act, contained in Corp. Code, §§ 17701.01 et seq., as amended from time to time.

1.2 "Agreement" shall be deemed to mean the Operating Agreement of this Limited Liability Company as may be amended.

1.3 "Business Day" shall be deemed to mean any day excluding a Saturday, a Sunday and any other day on which banks are required or authorized to close in the State of formation.

1.4 "Economic Interest" shall mean an interest in the profits and losses of the Company and excluding the right to vote and participate in the management and business affairs of the Company provided in this Agreement or under the Act.

1.5 "Limited Liability Company" or "Company" shall be deemed to mean the Limited Liability Company named in the heading of this Agreement, a Limited Liability Company organized pursuant to the laws of the State of California.

1.6 "Majority Interest" means the interest of the Members holding greater than fifty percent (50%) of the total interests held by the Members.

1.7 “Management” shall be deemed to have the meaning set forth in Article 4 of this Agreement.

1.8 “Member” shall mean (1) a person who has a Membership Interest in the Limited Liability Company AND (2) has not resigned, withdrawn, or been expelled as a member or, if other than an individual, been dissolved.

1.9 “Membership Interest” shall mean, with respect to a Member, the percentage of ownership interest in the Company of such Member (may also be referred to as “Interest” or “Percentage Interest”). Each Member’s percentage of Membership Interest in the Company shall be based on his relative capital contributions to the Company and shall be evidenced by a Certificate of Membership Interest.

1.10 “Period of Duration” shall mean the period of time between the date the Company’s Articles of Organization were filed and the date on which the Company will dissolve in accordance with the provisions of this Agreement.

1.11 “Person” shall mean an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

1.12 “Purpose” shall mean to acquire, invest, and manage real property and/or any other lawful business or investment activity as may be approved by the Members.

1.13 “Substituted Member” shall be deemed to have the meaning set forth in Section 6.3 of this Agreement.

## **ARTICLE 2**

### **OFFICES AND RECORDS**

2.1 Registered Office and Registered Agent. The Limited Liability Company shall have and maintain a registered office in the State of California and a resident agent for service of process, who may be a natural person of said state, or a domestic corporation, or a corporation authorized to transact business within said state and is permitted by said state to act as a registered agent/office within said state. The resident agent shall be appointed by the Management.

(a) The location of the registered office shall be determined by the Management.

(b) The current name of the resident agent and location of the registered office shall be kept on file in the appropriate office within the state of formation pursuant to applicable provisions of law.

2.2 Limited Liability Company Offices. The Limited Liability Company may have such offices anywhere within and without the State of California, where the Management from time to time may appoint, or the business of the Limited Liability company may require. The “principal place of business” or “principal business” or “executive” office or offices of the

Limited Liability Company may be fixed and so designated from time to time by the Management.

2.3 Records. The Limited Liability Company shall continuously maintain at its registered office, or at such other place as may be authorized pursuant to applicable provisions of law of the State of California the following records:

(a) A current list, in alphabetical order, of the full name and last known business address of each Member, Economic Interest holder and Manager;

(b) A copy of the filed Articles of Organization and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any document has been executed;

(c) Copies of the Limited Liability Company's federal income tax returns and reports, if any, for the three (3) most recent years;

(d) Copies of any then effective written operating agreement and of any financial statements of the Limited Liability Company for the three (3) most recent years;

(e) Unless contained in the Articles of Organization, a writing setting out:

(1) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each Member and which each Member has agreed to contribute;

(2) The items as to which, or events on the happening of which, any additional contributions agreed to be made by each Member are to be made.

(3) Any right of a Member to receive, or of a Manager to make, distributions to a Member which include a return of all or any part of the Member's contribution; and

(4) Any events upon the happening of which the Limited Liability Company is to be dissolved and its affairs wound up.

(f) The Limited Liability Company shall also keep from time to time such other or additional records, statements, lists, and information as may be required by law.

(g) If any of the above said records under Section 2.3 are not kept within the State of California, they shall be at all times in such condition as to permit them to be delivered to any authorized person within three (3) days.

2.4 Inspection of Records. Records kept pursuant to this Article are subject to inspection and copying at the reasonable request, and at the expense, of any Member in person or by attorney or other agent during the usual hours of business to inspect for any proper purpose. A

proper purpose shall mean a purpose reasonably related to such person's interest as a Member. In every instance where an attorney or other agent shall be the person who seeks the right of inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the Member.

**ARTICLE 3**  
**MEMBERS' MEETINGS AND COMMITTEES**

3.1 Place of Meetings. All meetings of the Members shall be held at the principal business office of the Limited Liability Company in the State of California except such meetings as shall be held elsewhere by the express determination of the Management; in which case, such meetings may be held, upon notice thereof as hereinafter provided, at such other place or places, within or without the State of California, as said Management shall have determined, and shall be stated in such notice. Unless specifically prohibited by law, any meeting may be held at any place and time, and for any purpose, if consented to in writing by all of the Members entitled to vote thereat.

3.2 Annual Meetings. An annual meeting of Members shall be held each year on the Company's date of organization as indicated in section 1.10 above, if not a legal holiday, and if a legal holiday, then the annual meeting of Members shall be held at the same time and place on the next day thereafter which is a full Business Day.

3.3 Special Meetings. Special meetings of the Members may be held for any purpose or purposes. They may be called by the Manager or by Members holding not less than fifty-one percent of the voting power of the Limited Liability Company or such other maximum number as may be required by law. Written notice shall be given.

3.4 Action in Lieu of Meeting. Any action required to be taken at any annual or special meeting of the Members or any other action which may be taken at any annual or special meeting of the Members may be taken without a meeting if consents in writing setting forth the action so taken shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

3.5 Notice. Written notice of each meeting of the Members, whether annual or special, stating the place, day and hour of the meeting, and, in case of a special meeting, the purpose or purposes thereof, shall be given or given to each Member entitled to vote thereat, not less than five (5) nor more than thirty (30) days prior to the meeting unless, as to a particular matter, other or further notice is required by law, in which case such other or further notice shall be given.

(a) Notice upon the Member may be delivered or given either personally or by express or first class mail, or by telegram, facsimile, or other electronic transmission such as via email, with all charges prepaid, addressed to each Member at the address of such Member appearing on the books of the Limited Liability Company or more recently given by the Member to the Limited Liability Company for the purpose of notice.

(b) If no address for a Member appears on the Limited Liability Company's books, notice shall be deemed to have been properly given to such Member if sent by any of the methods authorized herein to the Limited Liability Company's principal executive office to the attention of such Member, or if published, at least once in a newspaper of general circulation in the county of the principal executive office of the Limited Liability Company.

(c) If notice addressed to a Member at the address of such Member appearing on the books of the Limited Liability Company is returned to the Limited Liability Company by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice to the Member at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available to the Member upon written demand of the Member at the principal executive office of the Limited Liability Company for a period of one (1) year from the date of the giving of such notice. It shall be the duty and responsibility of each member to provide the Manager and/or the Limited Liability Company with an official mailing address.

(d) Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by telegram or other means of electronic transmission. An affidavit of the mailing or other means of giving any notice of any Member meeting shall be executed by the Management and shall be filed and maintained in the minute book of the Limited Liability Company.

3.6 Waiver of Notice. Whenever any notice is required to be given under the provisions of this Agreement, or the Articles of Organization of the Limited Liability Company or any law, a waiver thereof in writing signed by the Member or Members entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent to the giving of such notice. To the extent provided by law, attendance at any meeting shall constitute a waiver of notice of such meeting except when the Member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened, and such Member so states such purpose at the opening of the meeting.

3.7 Presiding Officials. Every meeting of the Limited Liability Company for whatever reason, shall be convened by the Manager or Member who called the meeting by notice as above provided; provided, however, it shall be presided over by the Management; and provided, further, the Members at any meeting, by a majority vote of Members represented thereat, and notwithstanding anything to the contrary elsewhere in this Agreement, may select any persons of their choosing to act as the Chairman and Secretary of such meeting or any session thereof.

3.8 Business Which May Be Transacted at Annual Meetings. At each annual meeting of the Members, the Members may elect, with a vote representing a Majority Interest of the Members, a Manager or Managers to administer and regulate the affairs of the Limited Liability Company. The Manager(s) shall hold such office until the next annual meeting of Members, or, until the Manager, resigns or is removed by the Members pursuant to the terms of this Agreement, whichever event first occurs. The Members may transact such other business as may have been specified in the notice of the meeting as one of the purposes thereof.

3.9 Business Which May Be Transacted at Special Meetings. Business transacted at all special meetings shall be confined to the purposes stated in the notice of such meetings.

3.10 Quorum. At all meetings of the Members, a Majority Interest, in person or by proxy, shall constitute a quorum for the transaction of business, unless a greater number as to any particular matter is required by law, the Articles of Organization or this Agreement, and the act of a majority of the Members present at any meeting at which there is a quorum, except as may be otherwise specifically provided by law, by the Articles of Organization, or by this Agreement, shall be the act of the Members. Less than a quorum may adjourn a meeting successively until a quorum is present, and no notice of adjournment shall be required.

3.11 Proxies. At any meeting of the Members, every Member having the right to vote shall be entitled to vote in person, or by proxy executed in writing by such Member or by his duly authorized attorney-in-fact. No proxy shall be valid after three years from the date of its execution, unless otherwise provided in the proxy.

3.12 Voting. The Members of the Limited Liability Company shall vote in proportion to their interests as currently recorded in the books of the Company.

3.13 Advisory Committees. The Management may establish advisory committees to advise or make suggested recommendations on various aspects of the Limited Liability Company's business or operations. Each Committee shall keep regular minutes of its proceedings and the same shall be recorded in the minute book of the Limited Liability Company.

3.14 Meeting by Telephonic Conference or Similar Communications Equipment. Unless otherwise restricted by the Articles of Organization, this Agreement, or by law, the Members of the Limited Liability Company, or any committee thereof established by the Management, may participate in a meeting of such Members or committee by means of telephonic conference or similar communications equipment whereby all persons participating in the meeting can hear and speak to each other and participation in a meeting in such manner shall constitute presence in person at such meeting.

#### **ARTICLE 4 MANAGEMENT**

4.1 Management. Unless prohibited by law and subject to the terms and conditions of this Agreement, the administration and regulation of the affairs, business and assets of the limited Liability Company shall be managed by all the Members (also referred to as the "Manager(s)" or the "Management"). Any Manager may be a Member and shall be elected annually by the Members in the manner prescribed by Section 3.8 of this Agreement.

4.2 Rights, Powers and Obligations of the Management. The Management shall have all the rights and powers as are conferred by law or are necessary, desirable or convenient to the discharge of the Management's duties under this Agreement, provided such rights and powers

exercised are agreed upon by a Majority Interest. Without limiting the generality of the rights and powers of the Management, the Management, upon approval of a Majority Interest, shall have the following rights and powers which the Management may exercise in its sole discretion at the cost, expense, and risk of the Limited Liability Company:

(a) To deal in any Limited Liability Company asset whether an interest in real estate or personal property or chose in action, to sell (for cash or for debt to be held by the Limited Liability Company), exchange or convey title to, and to grant options for sale of all or a portion of the Limited Liability Company's assets;

(b) To borrow money and as security therefore to encumber all or any part of the Limited Liability Company's assets;

(c) To prosecute, defend and settle lawsuits and claims and to handle matters with governmental agencies;

(d) To open, maintain and close bank accounts and banking services for the Limited Liability Company and designate and change signatories on such accounts or services;

(e) To incur and pay all legal, accounting, investment banking, independent financial consulting, litigation and other fees and expenses as the Manager may deem necessary or appropriate for carrying on and performing the powers and authorities herein conferred;

(f) To negotiate and make any disposition of the Limited Liability Company's asset on such terms and conditions as the Manager deems appropriate:

(g) To execute and deliver any contracts, agreements, instruments or documents necessary, advisable or appropriate to evidence any of the transactions specified above or contemplated hereby and on behalf of the Limited Liability Company and to exercise Limited Liability Company rights and perform Limited Liability Company obligations under any such agreements, contracts, instruments or documents;

(h) To exercise for and on behalf of the Limited Liability Company all the general powers granted by law to the Limited Liability Company, and

(i) To take such other action as the Manager deems necessary and appropriate to carry out the Purpose of the Limited Liability Company or this Agreement.

4.3 Removal. Any Manager may be removed or discharged by the Members whenever in their judgment the best interests of the Limited Liability Company would be served thereby. The removal of the Manager shall be by a Majority Interest vote of a quorum consisting of Members who are not the Manager of the Limited Liability Company and without prejudice to the contract rights, if any, of the Manager so removed.

**ARTICLE 5**  
**INDEMNIFICATION OF MEMBERS, MANAGERS, AGENTS AND EMPLOYEES**

5.1 Members and Managers. The Limited Liability Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Limited Liability Company, by reason of the fact that he/she is or was a Member or Manager of the Limited Liability Company, or is or was serving at the request of the Limited Liability Company as a director, manager, officer, employee or agent of another limited liability company, corporation, partnership, joint venture, trust or other enterprise, against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with the defense or settlement of such action, suit or proceeding, including attorneys' fees, to the full extent permitted by law provided such action, suit or proceeding is not based on such Member or Manager's gross negligence or willful misconduct. Each Manager shall indemnify all other Members who are a party or threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Limited Liability Company, so long as that Manager exercised rights and powers within the authority required by this Agreement.

5.2 Employees And Agents. The Limited Liability Company may, at the discretion of the Members, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Limited Liability Company, by reason of the fact that he/she is or was an employee or agent of the Limited Liability Company, or is or was serving at the request of the Limited Liability Company, as a manager, director, officer, employee or agent of another limited liability company, corporation, partnership, joint venture, trust or other enterprise, against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with the defense or settlement of such action, suit or proceeding, including attorneys' fees, to the full extent permitted by law.

5.3 Expenses. The Limited Liability Company shall pay the Member or Manager, or such person or entity as the Member or Manager may designate, on a continuing and current basis, and in any event not later than thirty (30) Business Days following receipt by the Limited Liability Company of the Member's or Manager's request for reimbursement, all expenses, including attorneys fees, costs, settlements, fines and judgments incurred by or levied upon the Member or Manager in connection with any action, suit or proceeding referred to in Section 5.1.

(a) To the extent that an employee or agent of the Limited Liability Company has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 5.2, or in defense of any claim, issue or matter therein, he/she may be indemnified against expenses actually and reasonably incurred by such person in connection therewith, including attorney's fees.

(b) Expenses incurred by a Member or Manager in defending a civil or criminal action, suit, or proceeding may be paid by the Limited Liability Company in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the Member or Manager to repay such amount if it is ultimately determined that the Member or Manager is not entitled to be indemnified by the Limited Liability Company as authorized in this Agreement. Such expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Members deem appropriate.

5.4 Authorization. Any indemnification of Members, Manager(s), employees or agents pursuant to this Article 5, unless ordered by a court, shall be made by the Limited Liability Company only as authorized in the specific case upon a determination that such indemnification is proper in the circumstances because such Member, Manager, employee or agent has met the applicable standard of conduct set forth by law. Such determination shall be made by the Members by a majority vote of a quorum consisting of Members who were not parties to the action, suit, or proceeding, or if such a quorum is not obtainable, or even if obtainable a quorum of disinterested Members so directs, by independent legal counsel in a written opinion.

5.5 Notification and Defense of Claim. Promptly after receipt by a Member, manager, employee or agent of notice of the commencement of any action, suit or proceeding, the Member, Manager, employee or agent will, if a claim in respect thereof is to be made against the Limited Liability Company, notify the Limited Liability Company of the commencement thereof. The failure to promptly notify the Limited Liability Company will not relieve the Limited Liability Company from any liability that it may have to the Member, Manager, employee or agent thereunder, except to the extent the Limited Liability Company is prejudiced in its defense of such claim as a result of such failure. Unless otherwise requested by the Members, written notification shall not be necessary if the Member, Manager, employee or agent informs a majority of the Members of the commencement of any such action, or, independent of such notification by the Member, Manager, employee or agent, a majority of the Members has reason to believe such action has been initiated or threatened. with respect to any such action, suit or proceeding as to which the Member, Manager, employee or agent notified, or is deemed to have notified, the Limited Liability Company of the commencement thereof, the following shall apply:

(a) The Limited Liability Company is entitled to participate therein at its own expense;

(b) Except as otherwise provided below, to the extent that it may wish, the Limited Liability Company, jointly with any other indemnifying party similarly notified, will be entitled to assume the defense thereof with counsel reasonably satisfactory to the Member, Manager, employee or agent. After notice from the Limited Liability Company to the Member, Manager, employee or agent of its election so to assume the defense thereof, the Limited Liability Company will not be liable to the Member, Manager, employee or agent in connection with the defense thereof other than reasonable costs of investigation or unless:

(1) the employment of separate counsel by the Member, Manager, employee or agent has been authorized by the Limited Liability Company,

(2) the Member, Manager, employee or agent reasonably concludes that there may be a conflict of interest between the Limited Liability Company and the Member, Manager, employee or agent in the conduct of the defense of such action and that such conflict may lead to exposure for the Member, Manager, employee or agent not otherwise indemnifiable and the Member, Manager, employee or agent notifies the Limited Liability Company of such conclusion and decision to employ separate counsel, or

(3) the Limited Liability Company fails to employ counsel to assume the defense of such action. The Limited Liability Company shall not be entitled to assume the defense of any action, suit or proceeding brought by or on behalf of the Limited Liability Company or as to which the Member, Manager, employee or agent reasonably makes the conclusion provided for in (b)(2) above;

(c) The Limited Liability Company shall not be liable to indemnify the Member, Manager, employee or agent for any amount paid in settlement of any action or claim effected without its written consent. The Limited Liability Company shall not settle any action or claim in any manner which would impose any penalty or limitation on the Member, Manager, employee or agent without the written consent of the Member, Manager, employee or agent. Neither the Limited Liability Company nor the Member, Manager, employee or agent will unreasonably withhold their consent to any proposed settlement.

5.6 Not Exclusive. The indemnification and advancement of expenses provided by this Article 5 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Articles of Organization, as amended from time to time, or any agreement, vote of disinterested Members or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Member or Manager and shall inure to the benefit of the heirs, executors and administrators of such person.

5.7 Further Indemnity. The Limited Liability Company shall have the power to give any further indemnity, in addition to the indemnity authorized or contemplated under this Article 5, to any person who is or was a Member, Manager, employee or agent or to any person who is or was serving at the request of the Limited Liability Company as a manager, director, officer, employee or agent of another limited liability company, corporation, partnership, joint venture, trust or other enterprise; provided, however, no such indemnity shall indemnify any person from or on account of such person's conduct which was finally adjudged to have been knowingly fraudulent, deliberately dishonest or willful misconduct, or if it is determined by a final judgment or other final adjudication by a court of competent jurisdiction considering the question of indemnification that such payment of indemnification is or would be in violation of applicable law. The Limited Liability Company may enter into indemnification agreements with each Member or Manager of the Limited Liability Company whom the Members authorize by vote of a majority of a quorum of disinterested Members.

5.8 Insurance. The Limited Liability Company may purchase and maintain insurance or make other financial arrangements on behalf of any person who is or was a Member, Manager, employee or agent of the Limited Liability Company, or is or was serving at the request of the Limited Liability Company as a manager, director, employee or agent of another Limited Liability company, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him/her and incurred by him/her in any such capacity, or arising out of his/her status as such, whether or not the Limited Liability Company would have the power to indemnify him/her against such liability under the provisions of this Article 5. When, and if the Limited Liability Company obtains such insurance coverage or makes such other financial arrangements, the Limited Liability Company shall not be required, to maintain such insurance coverage or other financial arrangements in effect; provided, however, the Limited Liability Company notifies the covered person in writing within five (5) business days of the making of the decision to not renew or replace such insurance policy or maintain such other financial arrangements in effect. The maintenance of such insurance or other financial arrangements shall not diminish, relieve or replace the Limited Liability Company's liability for indemnification under the provisions hereof. A claim for reimbursement thereunder, shall not be denied on the basis that such amount may be covered by such insurance policy or other financial arrangements, if such payments from the insurance company or other financial arrangements will not be made to the covered person within ten (10) business days of the claim for reimbursement.

The other financial arrangements made by the Limited Liability Company pursuant to this Article may include:

- (a) creation of a trust fund;
- (b) establishment of a program for self-insurance;
- (c) securing of its obligation or indemnification by granting a security interest or other lien on any assets of the Limited Liability Company;
- (d) any other financial arrangements permitted by law; or,
- (e) any combination of the above.

5.9 Additional Definitions. For the purpose of this Article 5, references to “the Limited Liability Company” shall be deemed to include all constituent entities absorbed in a consolidation or merger as well as the resulting or surviving entity, so that any person who is or was a Member or Manager of such a constituent entity or is or was serving at the request of such constituent entity as a manager, director or officer of another limited liability company, corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this Article 5, with respect to the resulting or surviving corporation or entity as he/she would if he/she had served the resulting or surviving corporation or entity in the same capacity.

For purposes of this Article 5, the following definitions shall apply:

- (a) The term "other enterprise" shall include employee benefit plans.
- (b) The term "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan.
- (c) The term "serving at the request of the Limited Liability Company" shall include any service as a Member or Manager of the Limited Liability Company which imposes duties on, or involves services by, such Member or Manager with respect to an employee benefit plan, its participants, or beneficiaries.
- (d) A person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Limited Liability Company".

5.10 Limitation of Members' Liability. Other than a Member's respective Capital Contribution or obligation to make said Capital Contribution or additional contributions as provided in this Agreement, the Members shall have no liability or obligation for any liabilities, debts or obligations of the Company.

**ARTICLE 6**  
**MEMBERSHIP INTEREST**

6.1 Contribution to Capital. Member contributions to the capital of the Limited Liability Company may be paid for, wholly or partly, by cash, by personal property, or by real property, or services rendered. By unanimous consent of the Members, other forms of contributions to capital of a Limited Liability company authorized by law may be authorized or approved. Upon receipt of the total amount of the contribution to capital, the contribution shall be declared and taken to be fully paid. Members may be subject to additional contributions to capital as determined by the Majority Interest of Members from time to time. Furthermore, within thirty (30) days from the date of this Agreement, the Members shall cause to be transferred to the Company the assets identified in Exhibit "B" attached hereto and incorporated herein.

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(a) Upon the unanimous consent of the members, the Company may issue more than one class of membership interest. The members may determine and alter the rights, preferences, privileges and restrictions granted to and imposed upon any wholly un-issued class of membership interest.

6.2 Valuation of Personal or Real Property and Services Rendered. Unless required or recommended by any law or any governmental regulation or court decision or administrative ruling applicable to this Limited Liability Company, the value to be assigned to a contribution to capital of the Limited Liability Company of personal or real property shall be determined in the

following manner. The Member contributing such personal, or real property must submit at the time of the contribution a minimum of two appraisals by appraisers satisfactory to the Management. The average appraised price as determined from the appraisals submitted shall be the amount assigned to this contribution of capital. In the event the Member demands a return of his/her contribution to capital and such return is authorized pursuant to this Agreement and law, the Limited Liability Company shall be only obligated to return the original monetary value assigned to the property at the time of its contribution to capital.

(a) Unless required or recommended by any law or any governmental regulation or court decision or administrative ruling applicable to this Limited Liability Company, the value to be assigned to a contribution to capital of the Limited Liability Company for services rendered shall be the amount the Management determines is the fair market value for such services.

6.3 Restrictions on Transfer and Assignment of Interests. No Member shall be entitled to transfer, assign, convey, sell, encumber or in any way alienate all or any part of his or her Membership Interest except upon completion of the Right of First Refusal procedure set forth in subsection 6.3(g) below. Further, a Member may not assign any Economic Interest without the non-economic interests related to the same Membership Interests, except with the consent of the other Members as indicated by a Majority Vote of the other Members or by operation of law. Any transfer in violation of this Article 6 shall only be effective to the extent set forth in subsection 6.3(f). After the consummation of any transfer of any part of a Membership Interest, the Membership Interest so transferred shall continue to be subject to the terms and provisions of this Agreement and any further transfers shall be required to comply with all the terms and provisions of this Agreement.

(a) Exceptions. A Member may effectuate the following types of transfers (“Exception Transfers”) without complying with the provisions of this Article relating to (i) obtaining the consent of the non-transferring Members and (ii) the right of first refusal of the Company and the other Members:

(1) Any transfer of a Membership Interest by bequest or otherwise occurring as a result of the death of an individual Member;

(2) Any voluntary transfer of a Membership Interest (i) from an individual Member to the trustee of a revocable trust for the benefit of that Member and/or his spouse and/or his relatives within two degrees of consanguinity, or (ii) from the trustee of such a trust back to one or more individual Member-trustor(s);

(3) Any voluntary transfer of an undivided interest in a Membership Interest (i) to a spouse from a Member, or (ii) from a Member’s spouse to a Member;

(4) Any transfer of an Economic Interest to a spouse or former spouse as part of property division arising from a marital dissolution involving a Member;

Notwithstanding the foregoing sentence, the transferee in any such transfer shall take the transferred interest subject to all the other provisions of this Agreement and shall comply with the requirements of subsection (c).

(b) Further Restrictions on Transfer of Interests. In addition to other restrictions found in this Agreement, no Member shall transfer, assign, convey, sell, encumber or in any way alienate all or any part of his or her Membership Interest: (i) without first complying with subsection 6.3(g) below; and/or (ii) if the Membership Interests to be transferred, assigned, sold or exchanged, when added to the total of all other Membership Interests sold or exchanged in the preceding twelve (12) consecutive months prior thereto, would cause the termination of the Company under the Code, as reasonably determined by the Manager.

(c) Substitution of Members. A transferee of a all or any portion of a Membership Interest shall have the right to become a Substitute Member only if (i) the requirements of this Article relating to majority consent of Members, securities and tax requirements hereof are met, (ii) such transferee executes an instrument satisfactory to the Manager accepting and adopting the terms and provisions of this Agreement, and (iii) such transferee pays any reasonable expenses in connection with his or her admission as a new Member. The admission of a substitute Member shall not result in the release of the transferring Member from any liability that such Member may have to the Company or to the other Members.

(d) Permitted Transfers. As used herein, the term "Permitted Transfer" refers to (i) a transfer which has satisfied the provisions of this Article relating to Members' consent and the Company's and the other Members' right of first refusal, or (ii) an Exception Transfer, as defined above.

(1) Effective Date of Permitted Transfers. The Manager shall provide the Members with written notice of any Permitted Transfer as promptly as possible after the requirements of Section 6.1, 6.2 and 6.3 have been met. Any transferee of all or part of a Membership Interest shall take subject to the restrictions on transfer imposed by this Agreement.

(e) Rights of Legal Representatives. If a Member who is an individual dies or is adjudged by a court of competent jurisdiction to be incompetent to manage the Member's person or property, the Member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the Member's rights for the purpose of settling the Member's estate or administering the Member's property, including any power the Member has under the Articles or this Agreement to transfer all or a portion of a Membership Interest, subject to the restrictions herein. If a Member is a corporation, partnership, trust, or other entity and is dissolved or terminated, the powers of that Member may be exercised by such Member's legal representative or successor.

(f) No Effect to Transfers in Violation of Agreement. Upon any transfer of a Membership Interest in violation of this Article 6, the transferee shall have no right to vote or participate in the management of the business, property and affairs of the Company or to exercise any rights of a Member. Such transferee shall only be entitled to become an Economic Interest

Owner and thereafter shall only receive the share of the Company's Net Profits, Net Losses and/or distributions of the Company's assets to which the transferor of such Economic Interest would otherwise be entitled. Further, if the Manager reasonably determines that such transfer would result in the termination of the Company under the Code, the transfer shall automatically be null and void, *ab initio*, and the purported transferee shall not become either a Member or an Economic Interest Owner.

(1) Transfers of Economic Interests. Upon and contemporaneously with any voluntary or involuntary transfer, assignment, conveyance or sale (whether arising out of an attempted charge upon that Member's Economic Interest by judicial process, a foreclosure by a creditor of the Member or otherwise) of a Member's Economic Interest, which does not at the same time transfer the balance of the rights associated with the Membership Interest in question (including, without limitation, the rights of the Member to vote or participate in the control of the business, property and affairs of the Company), the Company shall have the option, but not the obligation, to purchase from the Member, and the Member shall sell to Company for a purchase price of One Hundred Dollars (\$100.00), all remaining rights and interests retained by the Member that immediately before the transfer, assignment, conveyance or sale were associated with the transferred Economic Interest. Such purchase and sale shall not, however, result in the release of the Member from any liability to the Company. Each Member acknowledges and agrees that the right of the Company to purchase such remaining rights and interests from a Member who transfers an Economic Interest in violation of this section is reasonable under the circumstances existing as of the date hereof.

(g) Right of First Refusal. Except as otherwise provided herein, each time a Member proposes to transfer, assign, convey, sell, encumber or otherwise alienate all or any part of his or her Membership Interest, and each time that involuntary transfer occurs with respect to a Membership Interest, the Company and the non-transferring Members shall have right to acquire the Membership Interest (or portion thereof) proposed to be transferred, and the Member in question shall first offer such Membership Interest to the Company and the non-transferring Members in accordance with the following provisions:

(1) Notice of Intended Transfer. Such Member shall deliver a written notice ("Notice of Intended Transfer") to the Company and the other Members stating (i) such Member's bona fide intention to transfer such Membership Interest, (ii) the name and address of the proposed transferee, (iii) the Membership Interest to be transferred, and (iv) the purchase price and other terms of purchase for which the Member proposes to transfer such Membership Interest.

(2) Notices of Intent to Purchase. Within thirty (30) days after receipt of the Notice of Intended Transfer described above, each non-transferring Member who desires to purchase the Membership Interest to be transferred shall so notify the Manager in writing. The failure of any Member to submit a notice within the applicable period shall constitute an election on the part of that Member not to purchase, or participate in the purchase of, the Membership Interest in question. Each Member making an election to purchase a portion of such Membership Interest shall participate in the purchase in the same proportion that the Percentage Interest of such Member bears to the aggregate of the Percentage Interests of all of

the Members electing to so purchase the Membership Interest being transferred. If no Members so elect in writing to purchase, or participate in the purchase of, the entire Membership Interest being transferred, the Company may purchase such Membership Interest. On or before that date which is 45 days after the Company received the Notice of Intended Transfer, the Company shall deliver a written notice to the transferring Member, specifying that the Company, and/or certain non-transferring Members desire and intend to purchase the entire Membership Interest in question ("Notice of Intent to Purchase").

(3) Exercise of Right of First Refusal. On or before the later of (i) the expiration of the time period(s) specified in the terms set forth in the Notice of Intent to Transfer, or (ii) that date which is sixty (60) days after delivery of the Notice of Intent to Purchase described in Paragraph 6.3(g)(2) above, the Company and the Members electing to purchase such Membership Interest shall pay and/or perform the price and terms of sale designated in the Notice of Intended Transfer. If such Notice of Intended Transfer provided for the payment of non-cash consideration, the Company and such purchasing Members may elect to pay the consideration in cash equal to the good faith estimate of the present fair market value of the non-cash consideration offered as determined by the Manager.

(4) Non-Exercise of Right of First Refusal. If the Company and/or the non-transferring Members do not elect to purchase all of the Membership Interest designated in the Notice of Intended Transfer, then the transferring Member may transfer the Membership Interest described in said notice to the proposed transferee specified therein, provided that such transfer (i) is completed within thirty (30) days after the expiration of the above-described Right of First Refusal, (ii) is made on terms no less favorable to the transferring Member than as designated in said Notice of Intended Transfer, and (iii) the requirements relating to consent of Members, and compliance with securities and tax requirements are met. If such Membership Interest is not transferred in accordance with the foregoing sentence, the transferring Member must again give notice in accordance with this Section prior to any other or subsequent transfer of such Membership Interest.

6.4 Return of Contributions to Capital. Return to a Member of his/her contribution to capital shall be as determined and permitted by law and this Agreement.

6.5 Loans. Any loan or loans made by a Member to the Company, or monetary advances made on behalf of the Company, shall not be viewed as a Capital Contribution by the Member and shall not increase the Member's Membership Interest.

6.6 Addition of New Members. A new Member may be admitted into the Company only upon consent of a Majority in Interest of the Members. The amount of Capital Contribution which must be made by a new Member shall be determined by the vote of all existing Members. A new Member shall not be deemed admitted into the Company until the Capital Contribution required of such person has been made and such person has become a party to this agreement.

**ARTICLE 7**  
**DISTRIBUTION OF PROFITS AND LOSSES**

7.1 Qualifications and Conditions. The profits and/or losses of the Limited Liability Company shall be allocated to the Members, from time to time, as permitted under law and as determined by the Members of the Limited Liability Company at an Annual or Special Meeting of the Members.

7.2 Record Date. The Record Date for determining Members entitled to receive payment of any distribution of profits shall be the day in which the Members in a meeting adopt the resolution for payment of a distribution of profits. If the adoption of the aforementioned resolution is by action in lieu of a meeting pursuant to Section 4 of Article III, the Record Date shall be the date of the written consent. Only Members of record on the date so fixed are entitled to receive the distribution notwithstanding any transfer or assignment of Member's interests or the return of contribution to capital to the Member after the Record Date fixed as aforesaid, except as otherwise provided by law.

7.3 Participation in Distribution of Profit. Each Member's participation in the distribution shall be in proportion to that Member's contribution to the Limited Liability Company's total capital on the Record Date, as adjusted to reflect all of the Member's contributions to or withdrawals from capital on or before the Record Date, unless the Members have unanimously agreed in writing, to the use of another method of calculating allocation. Each Member's initial contribution shall be reflected in Exhibit A to this Operating Agreement which is attached hereto and incorporated by this reference. Furthermore, the Members agree that no profits shall be distributed to any Member until and unless the Members have been repaid their cash capital contributions in full as stated in Exhibits "A" and "B" attached hereto and incorporated herein.

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7.4 Limitation on the Amount of Any Distribution of Profit. In no event shall any distribution of profit result in the assets of the Limited Liability Company being less than all the liabilities of the Limited Liability Company, on the Record Date, excluding liabilities to Members on account of their contributions to capital or be in excess of that permitted by law.

7.5 Date of Payment of Distribution of Profit. Unless another time is specified by the applicable law, the payment of the distribution of profit shall be within thirty (30) days after the Record Date.

**ARTICLE 8**  
**REPRESENTATIONS AND WARRANTIES BY MEMBERS**

In executing this Agreement, each Member hereby makes the representations and warranties set forth below to the Company, the Manager and the other Members.

8.1 Units Not Securities. The Units and the Membership Interests are not intended or believed to be "securities," as that term is defined in federal and state securities laws. In this regard, each Member intends to exercise his rights of control of the Company as allowed under this Agreement in such a manner that such Member will not be relying solely on the skill and expertise of the Manager for the success of the Company but also on the expertise and experience of such Member and the other Members.

8.2 Waiver of Securities Laws Claims. TO THE FULLEST EXTENT ALLOWED BY LAW, EACH SUCH MEMBER EXPRESSLY WAIVES AND RELINQUISHES ANY CLAIM SUCH MEMBER MIGHT HAVE AGAINST THE COMPANY, THE MANAGER OR ANY OTHER MEMBER ARISING FROM ANY SECURITIES LAWS, INCLUDING BUT NOT LIMITED TO THE SECURITIES ACT OF 1933, THE SECURITIES EXCHANGE ACT OF 1934, AND/OR THE CORPORATE SECURITIES LAW OF 1968 (CALIFORNIA CORPORATIONS CODE SECTIONS 25000 ET SEQ.) AND COVENANTS NOT TO BRING ANY ACTION OR SUIT ON ANY SUCH CLAIM.

8.3 Preexisting Relationship or Ability to Protect Self. Each such Member:

(a) has a preexisting personal or business relationship with the Company or one or more of its officers, Manager or control persons; or

(b) is capable of evaluating the risks and merits of an investment in the Membership Interest and of protecting his or her own interests in connection with an investment in the Company by reason of (i) such Member's business or financial experience or (ii) the business or financial experience of such Member's financial advisor, who is unaffiliated with and who is not compensated, directly or indirectly, by the Company or the Manager or any affiliate or agent of the Company.

8.4 No Advertising. Such Member has not seen, received, been presented with, or been solicited by any form of public advertising or general public solicitation with respect to the Member's purchase of a Membership Interest, including any publicly-disseminated leaflet, newspaper or magazine article or advertisement, radio or television advertisement, or any public promotional meeting.

8.5 Investment Intent. Such Member is acquiring the Membership Interest for investment purposes for his or her own account only and not for resale or with a view toward any further distribution of all or any part of the Membership Interest. No other person will have any direct or indirect beneficial interest in or right to the Membership Interest.

8.6 Purpose of Entity-Member. If the Member is a corporation, partnership, Limited Liability Company, trust, or other entity, such Member was not organized for the specific purpose of acquiring the Membership Interest.

8.7 Residence. Such Member is a resident of the United States of America.

8.8 Economic Risk. Such Member is financially able to bear the economic risk of purchasing a Membership Interest in the Company, including the total loss of the purchase price.

8.9 No Registration of Offering. Such Member acknowledges that no offering of the Company's Units has been registered under the Securities Act of 1933, as amended (the "Securities Act"), or qualified under the California Corporate Securities Law of 1968, as amended, or registered with or qualified by any regulatory agency of the federal or state government.

8.10 Resale of Units Restricted. Such Member understands that:

(a) the Membership Units will be acquired from the Company in a transaction not involving a public offering, and that the Membership Units may be resold without registration and qualification only in certain limited circumstances, and that otherwise the Membership Interest must be held indefinitely;

(b) to the extent that, notwithstanding Section 8.1 above, the Units might be deemed to be "securities," they might further be deemed to be "restricted securities" under the Securities Act of 1933 and SEC Rule 144, as presently in effect, which impose conditions which must be met in order for that Rule to be available for resale of "restricted securities";

(c) the Company has not made current information about the Company available to the public and has no present plans to do so.

8.11 No Obligation to Register. Such Member understands that the Company and the Manager are under no obligation to register or qualify the Membership Interest under the Securities Act of 1933 or under any state securities law, or to assist the Member in complying with any exemption from registration and qualification.

8.12 No Disposition in Violation of Law. Without limiting the representations set forth above, and without limiting the effect of Article 7 of this Agreement, such Member will not make any disposition of all or any part of the Membership Interest which will result in the violation by such Member or by the Company of the Securities Act, the California Corporation Securities Law of 1968, or any other applicable federal or state securities laws.

8.13 Legends. Such Member understands that the Company has no present intention of issuing certificates of membership in the Company, but if such intention were to change, any certificates evidencing a Membership Interest might bear one or all of the following legends, or words similar thereto:

(a) "THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 NOR QUALIFIED UNDER ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED, OR HYPOTHECATED UNLESS QUALIFIED AND REGISTERED UNDER APPLICABLE STATE AND FEDERAL SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH QUALIFICATION AND REGISTRATION IS NOT REQUIRED. ANY TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO OTHER

RESTRICTIONS, TERMS, AND CONDITIONS WHICH ARE SET FORTH HEREIN"; or

(b) Any legend required by applicable federal or state securities laws.

8.14 Investment Risk. Such Member acknowledges that the Units in the Company represent a highly speculative investment which involves a SUBSTANTIAL DEGREE OF RISK OF LOSS OF THE MEMBER'S ENTIRE INVESTMENT IN THE COMPANY, and that such Member fully understands the risk factors related to the purchase of the Membership Interest, including but not limited to the fact that the Company is newly organized and has no financial or operating history.

8.15 Accredited Investor. Such Member (jointly with such Member's spouse) (i) has a personal net worth exceeding \$1 million, or (ii) an annual income exceeding \$200,000 (or \$300,000 including spouse's income) during each of the past 2 years, and has a reasonable expectation of same for ensuing years or (iii) a net worth of \$1,000,000 exclusive of personal residence, automobile and home furnishings.

8.16 Difficulty in Liquidating Membership Interest. Such Member acknowledges that there are substantial restrictions on the transferability of the Membership Interest pursuant to this Agreement, that there is no public market for the Units and none is expected to develop, and that, accordingly, it may not be possible for him or her to liquidate his or her investment in the Company.

8.17 Information Reviewed. Such Member: (i) has received and reviewed all information he or she considers necessary or appropriate for deciding whether to purchase the Membership Interest; (ii) has had an opportunity to ask questions and receive answers from the Company and the Manager regarding the terms and conditions of purchase of the Membership Interest and regarding the business, financial affairs, and other aspects of the Company; (iii) has had the opportunity to obtain all information (to the extent the Company possesses or can acquire such information without unreasonable effort or expense) which such Member deems necessary to evaluate the such Member's investment in the Company and to verify the accuracy of information otherwise provided to Such Member, and (iv) ) has had the opportunity to have such Member's attorney and/or other professional advisors review and analyze such information.

8.18 No Representations By Company. No Manager, agent or employee of the Company or any other Person has at any time expressly or implicitly represented, guaranteed, or warranted to such Member that: (i) such Member may freely transfer the Membership Interest; (ii) a percentage of profit and/or amount or type of consideration will be realized as a result of a purchase of Units in the Company; (iii) past performance or experience on the part of the Manager or his Affiliates or any other person in any way indicates the predictable results of the ownership of the Membership Interest or of the overall Company business; (iv) any cash distributions from Company operations or otherwise will be made to the Members by any specific date or will be made at all; or (v) that any specific tax benefits will accrue as a result of an investment in the Company.

8.19 Consultation with Professional Advisors. Such Member has had the opportunity

to consult with his or her own attorney and/or other professional advisors regarding all legal, tax and financial ramifications of becoming a Member in the Company and has actually done so to the extent such Member considers appropriate.

8.20 Tax Consequences. Such Member understands that the tax consequences to such Member of investing in the Company will depend on such Member's particular circumstances, and neither the Company, the Manager, the Members, nor the partners, shareholders, Members, Manager, agents, officers, directors, employees, affiliates, attorneys or consultants of any of them will be responsible or liable for the tax consequences to such Member of an investment in the Company. He or she will look solely to, and rely upon, his or her own advisers with respect to the tax consequences participating in the Company.

8.21 No Assurance of Tax Benefits. Such Member understands that there can be no assurance that (i) the Code or the Regulations will not be amended or interpreted in the future in such a manner so as to deprive the Company and the Members of some or all of the tax benefits they might now receive, or (ii) that some of the deductions claimed by the Company and/or the allocations of items of income, gain, loss, deduction, or credit among the Members might not be challenged by the Internal Revenue Service.

## **ARTICLE 9**

### **ISSUANCE OF MEMBERSHIP INTEREST CERTIFICATES**

9.1 Issuance of Certificate of Interest. The interest of each Member in the Company shall be represented by a Certificate of Interest (also referred to as the Certificate of Membership Interest or Certificate). Upon the execution of this Agreement and the payment of a Capital Contribution by the Member, the Management shall cause the Company to issue one or more Certificates in the name of the Member, certifying that he/she is the record holder of the Membership Interest set forth therein.

9.2 Transfer of Certificate of Interest. A Membership Interest which is transferred in accordance with the terms of Section 6.3 of this Agreement shall be transferable on the books of the Company by the record holder thereof in person or by such record holder's duly authorized attorney, but, except as provided in Section 9.3 with respect to lost, stolen or destroyed certificates, no transfer of a Membership Interest shall be entered until the previously issued Certificate representing such Interest shall have been surrendered to the Company and cancelled and a replacement Certificate issued to the assignee of such Interest in accordance with such procedures as the Management may establish. The management shall issue to the transferring Member a new Certificate representing the Membership Interest not being transferred by the Member, in the event such Member only transferred some, but not all, of the Interest represented by the original Certificate. Except as otherwise required by law, the Company shall be entitled to treat the record holder of a Membership Interest Certificate on its books as the owner thereof for all purposes regardless of any notice or knowledge to the contrary.

9.3 Lost, Stolen or Destroyed Certificates. The Company shall issue a new Membership Interest Certificate in place of any Membership Interest Certificate previously issued if the record holder of the Certificate:

(a) makes proof by affidavit, in form and substance satisfactory to the Management, that a previously issued Certificate has been lost, destroyed or stolen;

(b) requests the issuance of a new Certificate before the Company has notice that the Certificate has been acquired by a purchaser for value in good faith and without notice of an adverse claim;

(c) satisfies any other reasonable requirements imposed by the Management.

If a Member fails to notify the Company, within a reasonable time after it has notice of the loss, destruction or theft of a Membership Interest Certificate, and a transfer of the Interest represented by the Certificate is registered before receiving such notification, the Company shall have no liability with respect to any claim against the Company for such transfer or for a new Certificate.

#### **ARTICLE 10 AMENDMENTS**

10.1 Amendment of Articles of Organization. Notwithstanding any provision to the contrary in the Articles of Organization or this Agreement, in no event shall the Articles of Organization be amended without the vote of Members representing a Majority in Interest of the Members.

10.2 Amendment of Operating Agreement. This Agreement may be adopted, altered, amended or repealed and a new operating Agreement may be adopted by a Majority in Interest of the Members.

#### **ARTICLE 11 MISCELLANEOUS**

11.1 Counsel to the Company. Counsel of the Company may also be counsel to any Manager, Member, or Affiliate. The Manager and/or Members agree to execute on behalf of the Company and themselves individually the attached Joint Representation and Waiver of Conflict document counsel may request pursuant to the California Rules of Professional Conduct or similar rules in any other jurisdiction ("Rules"). Further, in signing this Agreement, each Member acknowledges that Company counsel has not represented any Member personally in the preparation and negotiation of this Agreement or in connection with the any aspect of the Company business. Further, counsel may withdraw from representing either the Company or any Member in the event of a future dispute between one or more other Members or a good faith assertion by a Member that Company counsel has an actual conflict of interest.

11.2 Fiscal Year. The Members shall have the paramount power to fix, and from time to time, to change, the Fiscal Year of the Limited Liability Company. In the absence of action by the Members, the fiscal year of the Limited Liability Company shall be on a calendar year basis

and end each year on December 31 until such time, if any, as the Fiscal Year shall be changed by the Members, and approved by Internal Revenue Service and the State of formation.

11.3 Annual Financial Statements; Statements of Account. Within ninety (90) business days after the end of each Fiscal Year, the Management shall send to each Member who was a Member in the Limited Liability Company at any time during the Fiscal Year then ended an un-audited statement of assets, liabilities and Contributions To Capital as of the end of such Fiscal Year and related un-audited statements of income or loss and changes in assets, liabilities and Contributions to Capital. Within forty, five (45) days after each fiscal quarter of the Limited Liability Company, the Management shall mail to each Member an un-audited report providing narrative and summary financial information with respect to the Limited Liability Company. The Management may extend such time period in its sole discretion if additional time is necessary to furnish complete and accurate information pursuant to this Section.

11.4 Events Requiring Dissolution. The following events shall require dissolution and winding up the affairs of the Limited Liability Company:

(a) When the Period of Duration of the Limited Liability Company expires as specified in the Articles of Organization or in this Operating Agreement;

(b) By the written approval by a Majority In Interest of the Members to dissolve the Company;

(c) Upon the death, retirement, resignation, expulsion, bankruptcy or dissolution of a Member or occurrence of any other event which terminates a Member's continued Membership in the Company.

Within ninety (90) days of the happening of that event requiring dissolution, the business of the Limited Liability Company may be continued by the unanimous vote of all remaining Members, and the filing of a Certificate of Continuation with the Office of the Secretary of State.

11.5 Choice of Law. IN ALL RESPECTS THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FORMATION INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY, PERFORMANCE AND THE RIGHTS AND INTERESTS OF THE PARTIES UNDER THIS AGREEMENT WITHOUT REGARD TO THE PRINCIPLES GOVERNING CONFLICTS OF LAWS, UNLESS OTHERWISE PROVIDED BY WRITTEN AGREEMENT.

11.6 Severability. If any of the provisions of this Agreement shall contravene or be held invalid or unenforceable or conflict with or contravene any provision of the Article of Organization of the Limited Liability Company, the affected provision or provisions of this Agreement shall be construed or restricted in its or their application only to the extent necessary to permit the rights, interests, duties and obligations of the parties hereto to be enforced according to the purpose and intent of this Agreement and in conformance with the applicable law or laws.

11.7 Successors and Assigns. Except as otherwise provided, this Agreement shall be binding upon and inure to the benefit of the parties and their legal representative, heirs, administrators, executors and assigns.

11.8 Non-Waiver. No provision of this Agreement shall be deemed to have been waived unless such waiver is contained in a written notice given to the party claiming such waiver has occurred, provided that no such waiver shall be deemed to be a waiver of any other or further obligation or liability of the party or parties in whose favor the waiver was given.

11.9 Captions. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

11.10 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. It shall not be necessary for all Members to execute the same counterpart hereof. Electronic signatures transmitted wither via facsimile or electronic mail in portable document format (pdf) are binding on the party providing the facsimile or electronic mail signatures.

11.11 Membership. A corporation may be a member of this Limited Liability Company.

11.12 Definition of Words. Wherever in this agreement the term he/she is used, it shall be construed to mean also it as pertains to a corporation, trust or other "entity" Member.

11.13 Purpose of Organizer. Upon the filing and approval of the Articles of Organization by the Secretary of State, the Organizer will have fulfilled his/her obligation to the Company as Organizer. If the individual serving as Organizer is also a Member or Manager, he/she may hold or incur additional interest in or obligation to the Company.

#### EXECUTION BY MEMBERS

IN WITNESS WHEREOF, the undersigned, being the members of the above-named limited liability company, have hereunto executed this Agreement as of November 09, 2017.

  
SALAM RAZUKI

  
NINUS MALAN

**RM PROPERTY HOLDINGS, LLC**  
**EXHIBIT "A"**  
**LIST OF MEMBERS, CAPITAL AND PERCENTAGES**

<b>MEMBERS</b>	<b>PERCENTAGE OF (1) PROFITS/CASH FLOW; (2) LOSS; AND (3) CAPITAL GAINS</b>	<b>INITIAL CAPITAL CONTRIBUTION</b>
SALAM RAZUKI 10605 SENDA ACUARIO SAN DIEGO, CA 92130	SEVENTY FIVE PERCENT (75%)	\$750.00 CASH
NINUS MALAN 5065 LOGAN AVE., #101 SAN DIEGO CA 92113	TWENTY FIVE PERCENT (25%)	\$250.00 CASH

**ACKNOWLEDGED AND AGREED**

  
SALAM RAZUKI

  
NINUS MALAN

**RM PROPERTY HOLDINGS, LLC**  
**EXHIBIT "B"**  
**ADDITIONAL CAPITAL CONTRIBUTIONS**

ADDITIONAL CAPITAL CONTRIBUTION BY NINUS MALAN

1. One hundred percent (100%) membership interest in SAN DIEGO UNITED HOLDING GROUP LLC, a California Limited Liability Company, and record owner of the following properties:
  - (a) The real property commonly known as 8859 BALBOA AVE., STE.. A, SAN DIEGO, CA 92123.
  - (b) The real property commonly known as 8859 BALBOA AVE., STE.. B, SAN DIEGO, CA 92123.
  - (c) The real property commonly known as 8859 BALBOA AVE., STE.. C, SAN DIEGO, CA 92123.
  - (d) The real property commonly known as 8859 BALBOA AVE., STE.. D, SAN DIEGO, CA 92123.
  - (e) The real property commonly known as 8859 BALBOA AVE., STE.. E, SAN DIEGO, CA 92123.
  - (f) The real property commonly known as 8861 BALBOA, STE. B, SAN DIEGO, CA 92123.
  - (g) The real property commonly known as 8863 BALBOA, STE. E, SAN DIEGO, CA 92123.
2. One hundred percent (100%) membership interest in FLIP MANAGEMENT LLC, a California Limited Liability Company.
3. Fifty percent (50%) membership interest in MIRA ESTE PROPERTIES LLC, a California Limited Liability Company, and record owner of the real property commonly known as 9212 MIRA ESTE CT., SAN DIEGO, CA 92126.
4. Fifty percent (50%) membership interest in ROSELLE PROPERTIES, LLC, a California Limited Liability Company, and record owner of the real property commonly known as 10685 ROSELLE ST., SAN DIEGO, CA 92121.

ADDITIONAL CAPITAL CONTRIBUTION BY SALAM RAZUKI

1. A twenty percent (20%) membership interest in SUNRISE PROPERTY INVESTMENTS, LLC, a California Limited Liability Company, the record owner of the real property located 3385 SUNRISE STREET, SAN DIEGO, CA 92012.
2. A twenty seven percent (27%) membership interest in SUPER 5 CONSULTING GROUP, LLC, a California Limited Liability Company, which is the operator of a medical marijuana dispensary located at 3385 SUNRISE STREET, SAN DIEGO, CA 92012.

The Members acknowledge and agree that they shall use their best efforts to effectuate the foregoing transfers to the Company within thirty (30) days and shall execute any and all further documents as may be necessary to carry out the same.

CASH CONTRIBUTIONS

The Members acknowledge and agree they have each invested certain sums in connection with the acquisition of the assets listed above and shall be entitled to recoup their entire investment before any payment of profits by the Company as stated in section 7.3 of the Company's Operating Agreement. The Members further agree to work in good faith to calculate each of their respective cash investment amounts within thirty (30) days and shall execute an amendment to this Exhibit "B" to memorialize the same.

**ACKNOWLEDGED AND AGREED**

  
SALAM RAZUKI

  
NINUS MALAN

**EXHIBIT T**

**1805**

**PROMISSORY NOTE  
ADJUSTABLE INTEREST RATE  
SECURED BY DEED OF TRUST**

\$1,805,000.00      San Diego, California      December 19, 2017

1. **Obligation.** RM PROPERTY HOLDINGS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY ("Maker"), for value received, hereby promises to pay to THE LOAN COMPANY OF SAN DIEGO, a California Limited Partnership ("Holder"), or order, at 2356 Moore Street, Suite 203, San Diego, California, or at such other place as the Holder hereof may in writing direct, the principal amount of One Million Eight Hundred Five Thousand Dollars And No Cents (\$1,805,000.00).

2. **Interest Rate.**

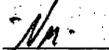
2.1. **Initial Interest Rate.** Maker further promises to pay to the Holder hereof interest on the outstanding principal balance of this Note from [date of funding] \_\_\_\_\_ (the "Effective Date") at the rate of EIGHT (8) percent per annum until paid in full.

2.2. **Interest Rate Adjustment.** On July 1, 2018 and semi-annually thereafter, the interest rate provided in Paragraph 2.1 above will be adjusted to 5.5 percentage points over the Eleventh District Cost of Funds. Any adjustment will be rounded up to the next eighth point; however, the rate shall not be adjusted below 8 percent or above 15 percent. The monthly installment amount provided in Paragraph 3.1 will be adjusted to provide for continuing the original principal amortization term of THIRTY years.

3. **Payment Schedule.**

3.1. **Principal and Interest.** Maker promises to pay principal and accrued interest, in equal monthly installments of Thirteen Thousand Two Hundred Forty Four Dollars And Forty Six Cents (\$13,244.46), on the first day of each calendar month, commencing with the first month following the Effective Date and continuing monthly thereafter until \_\_\_\_\_ (FIVE years from Effective Date), at which time the entire balance of principal and unpaid interest is due. Should the payment of principal and interest not be paid when due, the interest shall thereafter bear interest at the same rate as principal bears interest. The interest rate set forth in Paragraph 2 above, and the compounding of interest set forth in this Paragraph 3.1 shall continue in the event of breach.

JPL 





3.2. Prepayment. Privilege is reserved of making additional payments not exceeding twenty (20%) percent of the then unpaid balance of this Note in any 12-month period WITHOUT penalty, and of making payments in excess of twenty (20%) percent upon payment of an amount equal to ZERO months interest on the amount so prepaid. In any event, this prepayment penalty shall not exceed the interest due through the term of this Note. Maker agrees to pay said prepayment fee to the extent permitted by applicable law notwithstanding that Holder has declared all sums immediately due pursuant to the Acceleration Clause contained in this Note or Maker's other default under this Note or the Trust Deed securing this Note.

4. Default. At the option of the Holder hereof, this Note shall be immediately due and payable, without notice or demand, upon the occurrence at any time of any of the following events of default:

4.1. Default in the payment of principal or interest due hereunder, and such default continues for a period of ten (10) days after the due date thereof, or failure in the performance or observance of any of the terms or conditions of any deed of trust, security agreement or other agreement or instrument securing or pertaining to this Note;

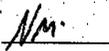
4.2. The liquidation or dissolution of any party liable for the payment of this Note;

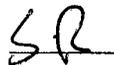
4.3. The making of an assignment for the benefit of creditors by any party liable for the payment of this Note, whether as a maker, endorser, guarantor, surety or otherwise, or the appointment of a receiver for all or substantially all of any such party's property or the filing by any such party of a petition in bankruptcy or other similar proceeding under law for the relief of debtors; or,

4.4. The filing against any party liable for the payment of this Note, whether as a maker, endorser, guarantor, surety or otherwise, of a petition in bankruptcy or other similar proceeding under law for relief of debtors, and such petition is not vacated or discharged within sixty (60) days after the filing thereof; or,

4.5. The occurrence of any event which would constitute a default under (i) any other liability or obligation of Maker to the Holder, (ii) any liability or obligation of any endorser or guarantor of this Note to the Holder, or (iii) the occurrence of any event which would constitute a default under any other liability of Maker to the holder of a security interest superior to the security interest securing this Note.

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5. **Acceleration Clause.** Holder may, at Holder's option, declare immediately due and payable all sums due under this Note and the Deed of Trust securing this Note on the sale or transfer, without Holder's prior written consent, of all or any part of the Real Property which is the subject of the Deed of Trust securing this Note, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest therein; whether legal or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years; lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of Real Property interest. If the Maker is a corporation or partnership, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock or partnership interests, as the case may be, of Maker.

Holder may declare all sums due if Maker has made any material misrepresentations or failed to disclose any material facts in order to induce Holder to enter into the loan transaction evidenced by this Promissory Note.

6. **Late Payment Charge.** If Holder fails to receive any payment due hereunder within ten (10) days after the date the payment is due and payable, a late charge to compensate Holder for damages Holder will suffer as a result shall be immediately due and payable. Maker recognizes that a default by Maker in making the payments agreed to be paid when due will result in Holder incurring additional expenses in servicing the loan, including, but not limited to, sending out notices of delinquency, computing interest, and segregating the delinquent sums from not-delinquent sums on all accounting, loan and data processing records, in loss to Holder of the use of the money due, and in frustration to Holder in meeting its other financial commitments. Maker agrees that if for any reason Maker fails to pay any amounts due under this Note so that Holder fail to receive such payments within ten (10) days after the same are due and payable, Holder shall be entitled to damages for the detriment caused thereby, but that it is extremely difficult and impractical to ascertain the extent of such damages. Maker therefore agrees that a sum equal to \$.10 for each \$1.00 of each payment that is not paid ten (10) days after its due date, is a reasonable estimate of the fair average compensation for the loss and damages Holder will suffer, that such amount shall be presumed to be the amount of damages sustained by Holder in such case, and that Maker agrees to pay Holder this sum on demand.

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 Page 3 of 7

7. **Additional Interest Charge.** While any default exists in the making of any payments required hereunder or in the performance or observance of any of the covenants or agreements of this Note or of any instruments now or hereafter evidencing or securing the indebtedness hereby, Maker further promises to pay, on each monthly installment date, additional interest on the principal balance of this Note then outstanding at a rate equal to four (4%) percent per annum. Said interest shall be in addition to all other interest or other charges due hereunder. Such additional interest shall be paid until reinstatement or completion of foreclosure, and any such additional interest which has accrued shall be paid at the time of and as a condition precedent to the curing of any default.

8. **Advances.**

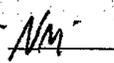
8.1 **Advances.** Advances made to protect the security for this Note, including but not limited to, principal, interest, late fees, costs of collection of a superior note, taxes and insurance, shall bear interest at the same rate as principal bears interest, from the date of such advances until paid in full. Said interest shall be compounded monthly.

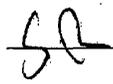
8.2 **Broker's Commission on Advances.** In the event any advances are made to protect the security for this Note, Maker promises to pay to The Loan Company of San Diego, a commission equal to ten (10) points on any advances so made. Said points will be deducted at the time of such advance(s).

9. **Costs of Collection.** If Holder institutes any suit or action to enforce any of the terms of this Note or the Deed of Trust, Holder shall be entitled to recover such sums as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Holder which, in Holder's opinion are necessary at any time for the protection of its/their interests or the enforcement of its/their rights, shall become a part of the indebtedness payable on demand and shall bear interest at the rate of eighteen percent (18%) per annum (not to exceed the maximum permitted by law) from the date of expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Holder's attorneys' fees whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyor's reports, appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Maker also will pay any court

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Page 4 of 7

costs, in addition to all other sums provided by law. In addition to the foregoing, Holder shall be entitled to attorneys' fees incurred in a post-judgment proceeding to enforce any judgment in connection with this Note or the Deed of Trust. This provision is separate and severable and shall survive the merger of this provision in any judgment.

10. **Waiver.** Presentment, demand, protest, notices of protest, dishonor and non-payment of this Note and all notices of every kind are hereby waived. No single or partial exercise of, or forbearance from exercising, any power hereunder or under any deed of trust, or security agreement or other agreement or instrument securing or pertaining to this Note shall preclude other or further exercises thereof or the exercise of any other power. The holder hereof shall at all times have the right to proceed against any portion of the security held herefor in such order and in such manner as the holder may determine in its sole discretion, without waiving any rights with respect to any other security. No delay or omission on the part of the holder hereof in exercising any right hereunder shall operate as a waiver of such right or of any other right under this Note. The release of any party liable on this Note shall not operate to release any other party liable hereon.

11. **Joint and Several Liability.** If Maker consists of more than one person or entity, the liability of each such person or entity signing this Note shall be joint and several.

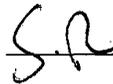
12. **California Law.** This Note is made in the State of California and shall be governed by and construed and enforced in accordance with the laws of the State of California.

13. **Judicial Arbitration.** In the event of a dispute as between the parties to this agreement, the matter shall be submitted to the jurisdiction of the San Diego Superior Court (Central Division), San Diego, California. The parties to this agreement further waive a trial by jury, and agree to binding judicial arbitration by an active or retired judge or other appropriate arbitrator selected and appointed by the judge of the San Diego Superior Court to whom the matter is assigned upon the filing of a lawsuit.

14. **Maximum Rate.** All agreements which either are now or which shall become agreements between Maker and each holder hereof are expressly limited so that in no contingency or event whatever, whether by reason of deferment or advancement of the indebtedness represented by this Note, acceleration of the maturity date of this Note or otherwise, shall the amount paid or agreed to be paid to either holder hereof for the use, forbearance or detention of the indebtedness evidenced hereby

JPL 





exceed the maximum amount of interest permissible under the applicable law. If, from any circumstance whatsoever, fulfillment of any provision hereof or of any other agreement between Maker and either holder hereof, at the time performance of such provision shall be due, shall involve exceeding the maximum limit as prescribed by law, then, by that very fact, the obligation to be fulfilled shall be reduced so as not to exceed said limit.

15. **Use of Proceeds.** Maker represents and warrants to the Holder of this Note that the proceeds of the loan evidenced by this Note shall be used for business, commercial investment, or other similar purposes, and that no portion of the proceeds will be used for personal, family or household purposes.

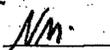
16. **Authority.** The undersigned individuals signing this Note represent and warrant that the undersigned individuals are duly authorized and empowered to execute and deliver this Note on behalf of Maker.

17. **Loan Not Usurious.** Maker acknowledges that this loan is made or arranged by a California licensed real estate broker, and, therefore, this loan is exempt by California Civil Code Section 1916.1 from the state's usury laws.

18. **Additional Security.** This Note is secured by a Deed of Trust on property commonly known as 1869 Avocado Avenue, Vista, CA 92083-7654 (primary security) and by a Deed of Trust on property commonly known as 1415 Eckman Avenue, Chula Vista, CA 91911-5201 and by a Deed of Trust on property commonly known as 1843 J Avenue, National City, CA 91950-5803 and by a Deed of Trust on property commonly known as 855-863 Main Street, El Cajon, CA 92020-4013 and by a Deed of Trust on property commonly known as 9749 Campo Road, Spring Valley, CA 91977-1416.

19. **CROSS-DEFAULT; OTHER OBLIGATIONS.** It shall constitute a default hereunder if Borrower, Guarantor or any affiliate of Borrower commits a breach or default (beyond any applicable notice and cure period) in the payment or performance of any other obligation of Borrower, Guarantor or such affiliate to Lender, or breaches any warranty or representation of Borrower, Guarantor or such affiliate under the provisions of any other instrument, agreement, guaranty, or document evidencing, supporting, or securing any other loan or credit extended by Lender, or by any affiliate of Lender, to Borrower, Guarantor or to such affiliate, including, but not limited to, **Loan #1250 - 9212 Mira Este Court, San Diego, CA 92126; Loan #1134 - 5230-5234 Landis Street, San Diego, CA 92105; Loan #1272 - 9212 Mira Este Court, San Diego, CA 92126, Loan #1014 - 225 3rd Avenue, Chula**

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Vista, CA 91910, Loan #884 - 5080 Logan Avenue, San Diego, CA 92113 & Loan #1527 - 3029 E. Broadway, #20, San Diego, CA 92102 and further including, without limitation, any and all term loans, or revolving credits extended by Lender from time to time to Borrower, Guarantor (or any person signing this Note on behalf of Borrower or Guarantor), or any other person or entity with which Borrower or Guarantor is affiliated.

20. **Acknowledgement of Judgment.** The Maker acknowledges there is judgment lien to debtor Dennise Gurinkiel for approximately \$15,915 attached to the property known as 1843 J Avenue, National City, CA. Holder acknowledges that the subject loan will funded and recorded subject to the lien, however, Maker agrees that this loan will be considered in default if the Gurinkiel lien is not removed by December 31, 2018.

"MAKER"

RM PROPERTY HOLDINGS, LLC, A CALIFORNIA  
LIMITED LIABILITY COMPANY

By:   
SALAM RAZUKI, MEMBER

By:   
NINUS MALAN, MEMBER

JPL: 

EXHIBIT U

1813

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

**F I L E D**  
Clerk of the Superior Court

JAN 12 2017

By: J. CERDA

Attorneys for Plaintiff

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SAN DIEGO – CENTRAL

11 AMERICAN LENDING AND HOLDINGS, )  
12 LLC, )

13 Plaintiff,

14 vs.

15 DENNISE GURFINKIEL individually and  
16 d/b/a Starting Point Realty, and d/b/a SLS  
17 Management Services; EDGARDO  
18 MASANES, individually and d/b/a Starting  
19 Point Realty; JOEY SORIANO individually  
20 and d/b/a Starting Point Realty; D'KIEL  
21 GROUP, LLC; SANCHEZ IMPORTS AND  
22 EXPORTS, LLC; and DOES 4 through 10,  
inclusive,

Defendants.

Case No.: 37-2016-00022168-CU-BC-CTL

**STIPULATION FOR ENTRY OF  
JUDGMENT AGAINST D'KIEL GROUP,  
LLC**

23 Plaintiff American Lending & Holdings, LLC ("ALH") and Defendant D'Kiel Group,  
24 LLC ("D'Kiel") enter into the following Stipulation For Entry of Judgment (the "Stipulated  
25 Judgment") and agree that a judgment may be so entered:

26 1. Plaintiff American Lending & Holdings, LLC and Defendant D'Kiel Group, LLC  
27 are parties to this action. Ninus Malan is an authorized representative of ALH and Salam Razuki  
28 is an authorized representative of D'Kiel.

1           2.     The parties wish to avoid the burden and expense of further litigation and  
2 accordingly have determined to compromise and settle their differences in accordance with the  
3 provisions of this Stipulated Judgment.

4           3.     D’Kiel acknowledges and agrees that ALH had and continues to have a real  
5 property interest in the real properties known as 2602 Newton Avenue, #4, San Diego, CA 92113  
6 (the “Newton Avenue Property”); and 1778 Bramblewood Court, Chula Vista, CA 91913 (the  
7 “Bramblewood Property”).

8           4.     D’Kiel acknowledges and agrees that the Newton Avenue Property and the  
9 Bramblewood Property were fraudulently transferred to D’Kiel from Defendant Dennis  
10 Gurfinkiel (“Gurfinkiel”), a member of D’Kiel. The parties acknowledge and agree that  
11 Gurfinkiel’s actions and omissions in this action were taken without the knowledge of any other  
12 member of D’Kiel.

13           5.     D’Kiel acknowledges and agrees that the amount owed as damages in this action  
14 by D’Kiel to ALH regarding the Newton Property is Two Hundred Eighty One Thousand Dollars  
15 (\$281,000).

16           6.     D’Kiel acknowledges and agrees that the amount owed as damages in this action  
17 by D’Kiel to ALH regarding the Bramblewood Property is Three Hundred Ninety Four  
18 Thousand Dollars (\$394,000).

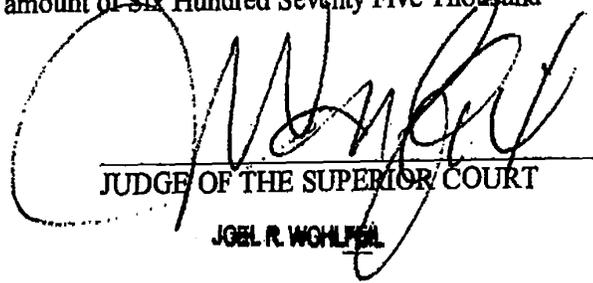
19           7.     The parties to this Stipulated Judgment hereby acknowledge and agree that  
20 judgment shall be entered against Defendant D’Kiel Group, LLC and in favor of American  
21 Lending and Holdings, LLC in the amount of **Six Hundred Seventy Five Thousand Dollars**  
22 **(\$675,000)**.

23           8.     The full amount owed by Defendant D’Kiel Group, LLC in this action in the  
24 amount of Six Hundred Seventy Five Thousand Dollars (\$675,000) is immediately due and  
25 payable, and Plaintiff American Lending and Holdings, LLC shall be entitled to pursue any and  
26 all remedies provided by law for the enforcement of this Stipulated Judgment. The amount of  
27 this Stipulated Judgment shall bear interest at the prevailing legal rate from the date of entry of  
28 this Stipulated Judgment until paid in full.

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Pursuant to the stipulation of the parties hereto and their agreement to entry of this  
Stipulated Judgment, and good cause appearing therefore, IT IS SO ORDERED, ADJUDGED  
AND DECREED that Judgment is entered in favor of Plaintiff American Lending and Holdings,  
LLC and against D'Kiel Group, LLC in the amount of Six Hundred Seventy Five Thousand  
Dollars (\$675,000).

Dated: 1-12-17

  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT  
JOEL R. WOHLFIEL

**EXHIBIT 1**

DECLARATION AND PROOF OF CLAIM FOR EXCESS FUNDS  
PAGE 2

Trustee Sale No.: 81598

All statements and covenants herein are made by each of the undersigned, both individually and on behalf of Claimant. Each of the undersigned declares and executes this declaration under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

By: *Ninus Malan* manager Date: 1/23/17  
Print Name: Ninus Malan Send my check to the following address:  
Driver's Lic. or I.D. No.: B8694512 7977 Broadway  
State Driver's Lic. or I.D. issued: CA Lemon Grove CA 91945  
Social Security No.: 612-03-3875

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Send my check to the following address:  
Driver's Lic. or I.D. No.: \_\_\_\_\_  
State Driver's Lic. or I.D. issued: \_\_\_\_\_  
Social Security No.: \_\_\_\_\_

\*\*\*\*\*  
\*\*\*

NOTARY JURAT

STATE OF California )  
COUNTY OF San Diego ) ss.

Subscribed and sworn to (or affirmed) before me on  
this 23 day of January, 20 17,  
by Ninus Malan, personally known to  
me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

*Yancy D Fuentes*  
Signature of Notary Public

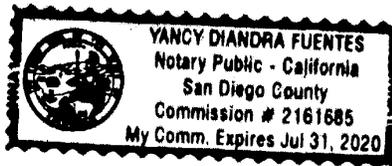


EXHIBIT 1

AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

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

6 Attorneys for Defendants  
Ninus Malan, San Diego United Holdings Group  
7 Balboa Ave Cooperative, California Cannabis Group

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

11  
12 SALAM RAZUKI, an individual,

13 Plaintiff,

14 vs.

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

24 Defendants.

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

**DECLARATION OF ABHAY SCHWEITZER  
IN SUPPORT OF NINUS MALAN'S  
SUPPLEMENTAL BRIEFING IN SUPPORT  
OF ORDER VACATING RECEIVERSHIP**

[IMAGED FILE]

Judge: Hon. Eddie C. Sturgeon

Date: August 20, 2018

Dept.: C-67

Time: 2:00 p.m.

Trial Date: Not Set

25  
26 ///

27 ///

28 ///

1 I, Abhay Schweitzer, declare as follows:

2 1. I am a resident of California and over the age of 18. I have personal knowledge of  
3 the facts stated in this declaration, except as to those facts stated upon information and belief,  
4 which facts I believe to be true. If called as a witness, I would testify competently thereto. I  
5 make this declaration in support of defendants Ninus Malan, San Diego United Holdings Group,  
6 Balboa Ave Cooperative, California Cannabis Group, Devilish Delights, and Flip Management’s  
7 Supplemental Brief In Support Of Order Vacating Receivership.

8 2. I am a design professional currently employed by TECHNE, an architectural firm  
9 that I founded in approximate December 2010. Our offices are located at 3956 30th Street, San  
10 Diego, California 92104.

11 3. In my capacity as a design professional, I have been retained by multiple clients to  
12 provide architectural services in connection with marijuana projects, including dispensaries and  
13 production facilities.

14 4. My services have included, but are not limited to, services in connection with the  
15 design of the dispensary or production facility project and the application for a Conditional Use  
16 Permit (“CUP”). Through my work, I have served as the primary contact with the City of San  
17 Diego (“City”) in processing CUP applications for marijuana dispensaries.

18 5. On or around October 25, 2017, I was retained by San Diego United Holdings  
19 Group, LLC (“San Diego United”) to obtain a CUP for a marijuana production facility (the  
20 “SDUH CUP”).

21 6. For approximately eight months after San Diego United retained me, the SDUH  
22 CUP went through multiple levels of City review.

23 7. In mid-July, I received a call and subsequent voicemail message from Michael  
24 Essary. He indicated that he was appointed as a receiver for San Diego United.

25 8. I do not know whether Mr. Essary knew that San Diego United owed me money  
26 for services rendered related to the SDUH CUP.

27 9. Prior to Mr. Essary’s appointment, SDUH had been paying my invoices. Since Mr.  
28 Essary left me the voicemail, I have not been paid although I have been informed that Mr. Essary

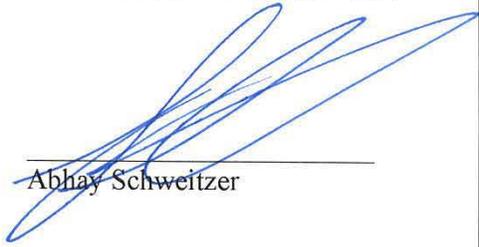
AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
San Diego, CA 92110

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made payments on other outstanding invoices.

10. As of the date of this declaration, San Diego United owes me \$19,493.25 for services rendered related to the SDUH CUP.

I declare under penalty of perjury the foregoing is true and correct. Executed in San Diego, California, on August 16, 2018.



Abhay Schweitzer