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Superior Court of California,
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By Kristin Sorianosos, Deputy Clerk

8 *Plaintiff in Propria Persona*
9 and Attorney for Plaintiffs
10 Amy Sherlock, and Minors T.S.
11 and S.S.

12 SUPRIOR COURT OF CALIFORNIA
13 COUNTY OF SAN DIEGO, HALL OF JUSTICE

14 AMY SHERLOCK, an individual and on behalf of
15 her minor children, T.S. and S.S., ANDREW
16 FLORES, an individual,

17 Plaintiffs,

18 vs.

19 GINA M. AUSTIN, an individual; LAWRENCE
20 GERACI, an individual, REBECCA BERRY, an
21 individual; JESSICA MCELFRISH, an individual;
22 SALAM RAZUKI, an individual;
23 NINUS MALAN, an individual; DAVID S.
24 DEMIAN, an individual, ADAM C. WITT, an
25 individual; ABHAY SCHWEITZER, an individual
26 and dba TECHNE; JAMES (AKA JIM) BARTELL,
27 an individual; NATALIE TRANG-MY NGUYEN,
28 an individual, AARON MAGAGNA, an individual;
BRADFORD HARCOURT, an individual; SHAWN
MILLER, an individual; LOGAN
STELLMACHER, an individual; EULENTIAS
DUANE ALEXANDER, an individual; STEPHEN
LAKE, ALLIED SPECTRUM, INC., a California
corporation, PRODIGIOUS COLLECTIVES, LLC,
a limited liability company, and DOES 1 through 50,
inclusive,

Defendants.

Case No.:37-2021-0050889-CU-AT-CTL

EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND OSC RE PRELIMINARY
INJUNCTION; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF EX PARTE
APPLICATION; DECLARATION OF
ANDREW FLORES, ESQ.

Date:

Time:

Dept:75

Hon. Judge: James A. Mangione

1 **NOTICE OF EX PARTE APPLICATION**

2 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE** that, on _____, at _____ or as soon thereafter as the matter may
4 be heard in Department 75 of the above-entitled Court, located at 330 W. Broadway, San Diego,
5 California, 92101, Plaintiffs Andrew Flores, Amy Sherlock on her own behalf and on behalf of her minor
6 children T.S. and S.S, (collectively “Plaintiffs”) will move this Court *ex parte* for a Temporary
7 Restraining Order and an OSC re preliminary injunction against defendants in the above entitled action
8 (the “Application”).

9 Good cause exists for this Application because:

10 1. This Application is based on the ground that plaintiffs Amy Sherlock, T.S. and S.S.’s (the
11 “Sherlock Family”) interests in the Balboa Property¹ and the Balboa CUP² (collectively, the “Balboa
12 Assets”) are in danger of being lost due to the sale of the Balboa Assets pursuant to a Court order that is
13 void and immediate injunctive relief is mandated to prevent the property from being further sold and/or
14 encumbered. *See Greene v. Superior Court of San Francisco* (1961) 55 Cal.2d 403, 406 (“Although
15 prohibition will not lie to review the validity of a complete judicial act, it is a proper remedy to prevent
16 further judicial action based upon a void order.”).

17 2. The Court’s order selling the Balboa Assets through a Court appointed receiver on behalf
18 of defendants Salam Razuki and Ninus Malan is void as an act in excess of the Court’s jurisdiction
19 because (i) the Balboa Assets were originally unlawfully transferred from the Sherlock Family by
20 defendants Stephen Lake and Bradford Harcourt and (ii) the agreements pursuant to which Razuki and
21 Malan acquired their interests in the Balboa Assets from Lake and Harcourt are illegal contracts that
22 cannot give rise to any legal right to the Balboa Assets.

23 3. Razuki and Malan acquired approximately \$40,000,000 in cannabis assets, including the
24 Balboa Assets, through the aid of the Austin Legal Group, APC’s (“ALG”) business practice of having
25 proxies apply for and/or maintain cannabis permits and licenses on behalf of principals who are
26

27

¹ The “Balboa Property” means 8863 Balboa Avenue, Unit E, San Diego, California 92123.

28 ² The “Balboa CUP” means the CUP issued by the City of San Diego at the Balboa Property on July 29,
2015.

1 disqualified from owning cannabis assets (the “Proxy Practice”). In this case, Razuki was sanctioned for
2 unlicensed commercial cannabis activities and cannot lawfully own cannabis businesses by law. In order
3 to circumvent and violate the law, Razuki and Malan entered into agreements expressly for the purpose
4 of violating the law by having Malan apply for cannabis permits/licenses to establish cannabis businesses
5 without disclosing Razuki’s prohibited ownership interests therein.

6 4. The litigants to this action, the Public and the Courts are being negatively affected while
7 ALG’s illegal Proxy Practice is allowed to continue and must be immediately enjoined.

8 5. Based on the foregoing, Plaintiffs move this Court for the following relief:

- 9 a. For an order enjoining Allied Spectrum, Inc. (“Allied”) and Prodigious Collectives,
10 LLC (“Prodigious”) from selling, transferring, pledging and/or encumbering the
11 Balboa Property or the Balboa CUP pending the OSC hearing.
12 b. For an order enjoining ALG from submitting and/or maintaining applications with the
13 State and City of San Diego for disqualified individuals via the Proxy Practice
14 pending the OSC hearing.

15 6. Upon notification of the Court of a date and time for a hearing on this Application,
16 counsel for Plaintiffs shall inform and serve counsel for defendants with the complaint and Application
17 and file proof of service with this Court of same in accordance with all ex parte application requirements.

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 true and correct. This declaration was executed at San Diego, California on the date set forth below.

20
21 Dated: December 22, 2021

Law Offices of Andrew Flores

22
23 By _____ /s/ Andrew Flores

24
25 Plaintiff *In Propria Persona*, and
26 Attorney for Plaintiffs
27 AMY SHERLOCK, Minors T.S. and
28 S.S., and Christopher Williams

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Michael “Biker” Sherlock was a husband, father, professional athlete, and an entrepreneur with
4 interests in the cannabis sector. At some point prior to 2015, Mr. Sherlock partnered with Stephen Lake
5 (Mr. Sherlock’s brother-in-law) and Bradford Harcourt for real estate and cannabis related investments
6 (the “Sherlock Partnership”). In early to mid-2015, Mr. Sherlock acquired interests in the Balboa Assets.
7 On December 3, 2015, Mr. Sherlock passed away.

8 After his death, Harcourt unlawfully transferred the Balboa Property to Lake and the Balboa CUP
9 to himself, thereby depriving the Sherlock Family of their interests in the Balboa Assets.

10 Thereafter, Lake sold the Balboa Property to Salam Razuki and Ninus Malan. Subsequently, the
11 Balboa CUP was also transferred to Razuki/Malan allegedly as part of the sale of the Balboa Property
12 by Harcourt. However, Harcourt filed suit against, among others, Razuki/Malan alleging they defrauded
13 him of the Balboa CUP because the sale of the Balboa Property was exclusive of the Balboa CUP.

14 In 2018, Razuki filed suit against Malan alleging that he had ownership interests in \$40,000,000
15 in cannabis assets held in Malan’s name, including the Balboa Assets, from which Malan was allegedly
16 unlawfully diverting money owed to him. However, the reason that the assets were in Malan’s name was
17 because Razuki had been sanctioned for unlicensed commercial activities and Razuki cannot lawfully
18 own cannabis businesses (i.e., the Proxy Practice). During the course of the litigation between Razuki
19 and Malan, the Court ordered the sale of the Balboa Assets, which was purchased by Prodigious and
20 Allied, in which Malan holds ownership interests.

21 Consequently, the Balboa Assets must be returned to the Sherlock Family. Neither, Lake,
22 Harcourt, Razuki, Malan, Prodigious, Allied nor any other entity that acquired title to the Balboa Assets
23 can make a lawful claim to the Balboa Assets based on the unlawful transfers from the Sherlock Family
24 and the illegal agreements and actions at issue here.

25 The underlying and vastly greater issue before the Court is that Razuki and Malan have or are
26 being represented by ALG who, as a business practice, help clients like Razuki unlawfully acquire and/or
27 maintain interests in cannabis business that they are barred by law from owning via the Proxy Practice.
28 Because the Proxy Practice is an illegal business practice that cannot be condoned, enforced or ratified

1 by the Courts any judgments or orders that enforce or ratify the Proxy Practice are acts in excess of the
2 Court’s jurisdiction and thus void. Therefore, the Court must take immediate steps to vacate all void
3 orders in which the Proxy Practice is the basis of any claim by any party.

4 MATERIAL FACTUAL AND PROCEDURAL BACKGROUND

5 I. STATE OF CALIFORNIA CANNABIS LAWS

6 As material to this action, in 2003, the State of California (the “State”) enacted the Medical
7 Marijuana Program Act (the “MMPA”), which established certain requirements for *medical* cannabis
8 dispensaries. Subsequently, the State’s cannabis laws have constantly been evolving and in 2016 the
9 State passed the Control, Regulate, and Tax Adult Use Of Marijuana Act (AUMA), which legalized
10 *recreational* cannabis dispensaries. However, as applicable to this action, since January 1, 2016
11 irrespective of whether the license being applied for is for *medicinal* or *recreational* commercial
12 cannabis activities, the State’s cannabis licensing statutes have always required that:

13 1. A license can only be issued to a “*qualified applicant*.” (See California Business &
14 Professions Code (“BPC”), Division 8, Chapter 3.5 (Medical Cannabis Regulation and Safety Act), §
15 19320(a) (“Licensing authorities administering this chapter may issue state licenses only to *qualified*
16 *applicants* engaging in commercial cannabis activity pursuant to this chapter.”) (emphasis added).)³

17 2. If the applicant does not qualify for licensure the State’s licensing authorities “*shall deny*”
18 his application. (See BPC § 19323(a) (“The licensing authority *shall deny* an application if either the
19 applicant or the premises for which a state license is applied do not qualify for licensure under this
20 chapter.”) (emphasis added).)⁴

21 3. An applicant is disqualified for licensure if he fails to provide required information in the
22

23
24 ³ BPC § 19320(a) (added by Stats 2015 ch 689 § 4 (AB 266), effective January 1, 2016 and repealed
25 Stats 2017 ch 27 § 2 (SB 94), effective June 27, 2017.) (emphasis added); BPC, Division 10 (Cannabis),
26 Chapter 5 (Licensing), § 26055(a) (“The department may issue state licenses only to *qualified*
27 *applicants*.”) (adopted by voters, AUMA § 6.1, effective November 9, 2016) (emphasis added).

28 ⁴ BPC § 19323(a) (added by Stats 2015 ch 719 § 10 (SB 643), effective January 1, 2016 and repealed by
Stats 2017 ch 27 § 2 (SB 94), effective June 27, 2017); BPC § 26057(a) (“The licensing authority *shall*
deny an application if either the applicant, or the premises for which a state license is applied, do not
qualify for licensure under this division.”) (Adopted by voters, AUMA § 6.1, effective November 9,
2016.) (emphasis added).

1 application or has been sanctioned for unauthorized commercial cannabis activities in the three years
2 preceding the submission of an application. (See BPC 19323(a),(b)(4),(8) (“The licensing authority *shall*
3 *deny* an application if the applicant [4] has failed to provide information required by the licensing
4 authority [or] [8] been sanctioned by a city for unlicensed commercial medical cannabis activities in the
5 three years immediately preceding the date the application is filed with the licensing authority.”) (cleaned
6 up; emphasis added).)⁵

7 4. As part of the application process, an applicant is required to first lawfully acquire a local
8 government permit/CUP and submit their fingerprints to the State’s licensing authorities for a
9 background check with the Department of Justice. (See BPC § 19322(a)(1) (“A person or entity *shall*
10 not submit an application for a state license issued by the department pursuant to this chapter unless that
11 person or entity has received a license, permit, or authorization by a local jurisdiction. An applicant for
12 any type of state license issued pursuant to this chapter *shall* do all of the following: [¶] (1) Electronically
13 submit to the Department of Justice fingerprint images and related information [for a background
14 check].”) (emphasis added).⁶

15 Hereinafter, the above quoted licensing statutes as amended or replaced, the “Licensing Statutes.”

16 **II. THE SHERLOCK AND RAZUKI PARTNERSHIPS**

17 Mr. Sherlock entered into the Sherlock Partnership with Lake and Harcourt in late 2013.
18 (Declaration of Amy Sherlock (“Mrs. Sherlock Decl.”) at ¶ 4.) Lake is Mr. Sherlock’s brother-in-law.
19 (*Id.* at ¶ 5.) While Mrs. Sherlock was aware that Mr. Sherlock was partners with Lake and Harcourt, she
20 was never informed of the terms of the Sherlock Partnership. (*Id.* at ¶ 4.)

21 Malan and Razuki agreed to be partners in several businesses in order to facilitate the ownership
22 and operation of cannabis businesses operations.⁷ On January 6, 2015, Razuki was sanctioned for
23 unlicensed commercial cannabis activities (the “Stonecrest Judgment”).⁸ In 2016, Razuki and Malan
24

25 ⁵ See BPC § 19323(a),(b)(3),(8); *id.* § 26057(a),(b)(3),(7).

26 ⁶ See BPC § 19322(a)(1) (effective January 1, 2016, repealed June 27, 2017 by SB 94); *id.* § 26056
27 (effective November 9, 2016, repealed June 27, 2017 by SB 94); *id.* § 26051.5 (effective June 27, 2017).

28 ⁷ Request for Judicial Notice (“RJN”), Ex. 1 (Declaration of Salam Razuki dated August 12, 2018
29 (“Razuki Decl.”) at ¶ 4).

⁸ RJN, Ex. 2 (*City of San Diego v. Stonecrest Plaza, LLC*, Case No. 37-2014-00009664-CU-MC-CTL).

1 entered into an oral agreement whereby:

2 Razuki would provide the initial cash investment to purchase a certain asset while Malan
3 would manage the assets. The parties agreed that after reimbursing the initial investment
4 to Razuki, he would be entitled to seventy-five percent (75%) of the profits & losses of that
5 particular asset and Malan would be entitled to twenty-five percent (25%) of said profits
& losses.

6 RJN, Ex. 3 (*Razuki v. Malan* (Complaint)) at ¶ 15 (the “Oral Agreement”).

7 In 2017, Razuki and Malan had a dispute over ownership of the assets they had acquired pursuant
8 to their Oral Agreement, and the parties entered into a written settlement agreement (the “Settlement
9 Agreement”). (*Id.* at ¶ 22-29.) As part of the Oral and Settlement Agreements, Malan would apply for
10 cannabis permits and licenses but not disclose Razuki’s ownership interests therein because of the
11 Stonecrest Judgment (i.e., the Proxy Practice):

12 Because of [the Stonecrest Judgment], I was concerned with having my name on any title
13 associated with a marijuana operation. This is why Malan would put his name on title for
14 the LLCs related to our marijuana operations. I always assumed he would honor the oral
agreement and the Settlement Agreement that would entitle me to 75% ownership of all
the Partnership Assets.

15 RJN, Ex. 1 (Razuki Decl.) at 6:1-8.

16
17 **III. MR. SHERLOCK’S ACQUISITION OF THE SHERLOCK PROPERTY.**

18 On January 8, 2015, Lake purchased the Ramona Property. (RJN, Ex.4 .) On January 16, 2015,
19 Mr. Sherlock was granted the Ramona CUP at the Ramona Property. (RJN, Ex. 5.)

20 On April 24, 2015, Mr. Sherlock and Harcourt formed Leading Edge Real Estate, LLC
21 (“LERE”). (RJN, Ex. 6.) Mr. Sherlock was the CEO of LERE. (*Id.*) Mr. Sherlock and Harcourt were
22 both managing members. (*Id.*) On June 18, 2015, LERE acquired the Balboa Property. (RJN, Ex. 7.)
23 On July 29, 2015, the City of San Diego granted Mr. Sherlock’s application for the Balboa CUP at the
24 Balboa Property to him, as the permittee, and his holding entity, United Patients Consumer Cooperative
25 (“United Patients”). (RJN, Ex. 8.)

26 On December 3, 2015, Mr. Sherlock passed away, purportedly he committed suicide. (Mrs.
27 Sherlock Decl. at ¶ 7.) At the time of his death, Mr. Sherlock had interests in the Sherlock Partnership,
28 LERE, the Balboa Assets, and the Ramona CUP (hereinafter, collectively, the “Sherlock Property”).

1 Shortly after Mr. Sherlock’s death, Lake told Mrs. Sherlock that Mr. Sherlock had never actually
2 acquired an interest in the Balboa CUP and that that Mr. Sherlock “blew it” because the Balboa Property
3 did not qualify for a CUP. (Mrs. Sherlock Decl. at ¶ 10.) Lake told Mrs. Sherlock that the homeowners
4 association at the Balboa Property was taking legal action to prevent the operation of a dispensary and
5 it had drained the finances of Biker, Lake and Harcourt so everyone had decided to “walk away” cutting
6 their losses (the “HOA Litigation”). (*Id.*) At various points in time after the death of Mr. Sherlock, Lake
7 told Mrs. Sherlock that the cannabis business operating pursuant to the Ramona CUP was not making
8 any profit and there were no distributions. (*Id.* at ¶ 11.)

9 **IV. THE DISPOSITION OF THE SHERLOCK PROPERTY SUBSEQUENT TO MR. SHERLOCK PASSING**
10 **AWAY.**

11 After Mr. Sherlock passed away, in December 2015, Harcourt submitted documentation to the
12 City of San Diego and had the Balboa CUP transferred from Mr. Sherlock/United Patients to himself
13 and his entity, San Diego Patients Cooperative Corporation, Inc. (“SDPCC”). (RJN, Ex. 9 (Harcourt
14 Complaint) at ¶ 19.) On December 21, 2015, three weeks after Mr. Sherlock’s death, LERE was
15 dissolved via a submission to the Secretary of State purportedly executed by Mr. Sherlock (the
16 “Dissolution Form”). (RJN, Ex. 10.)

17 On April 20, 2016, Harcourt on behalf of LERE, executed a grant deed for the Balboa Property
18 in favor of High Sierra Equity, LLC (“High Sierra”), which is owned by Lake. (*See* RJN, Ex. 11.) On
19 October 18, 2016, Lake on behalf of High Sierra executed a grant deed in favor of Razuki Investments,
20 LLC (“Razuki Investments”), which is owned by Razuki. (*See* RJN, Ex. 12.) On March 20, 2017, Razuki
21 on behalf Razuki Investments executed a grant deed in favor of San Diego United Holdings Group, LLC
22 (“SD United”), which is owned by Malan. (*See* RJN, Ex. 13.)

23 Subsequent to Mr. Sherlock passing away, public records reveal that Harcourt, Lake, Alexander
24 and Renny Bowden acquired interests in the Ramona CUP. (RJN, Ex. 14.) Bowden is Lake’s longtime
25 friend and business partner. (Mrs. Sherlock Decl. at ¶ 6.)

26 **V. LITIGATION REGARDING THE BALBOA ASSETS**

27 On June 6, 2017, SDPCC and Harcourt filed a lawsuit against, among others, Razuki and Malan
28

1 alleging they had successfully conspired to defraud them of the Balboa CUP (“*Razuki I*”).⁹

2 On July 10, 2018, Razuki filed a lawsuit against, among others, Malan alleging he has ownership
3 interests in approximately \$40,000,000 in cannabis assets that the parties had acquired pursuant to the
4 Oral and Settlement Agreements, including the Balboa Property and the Balboa CUP, held in Malan’s
5 name pursuant to the Proxy Practice, from which Malan was unlawfully diverting money owed to him
6 (“*Razuki II*”).¹⁰

7 In *Razuki II*, the Court appointed a receiver to manage the assets subject to dispute between
8 Razuki and Malan, which came to include the Court ordered sale of the Balboa Assets (the “Balboa
9 Sale”). (See RJN, Ex. 17.)

10 On April 5, 2021, Mrs. Sherlock filed a motion to intervene in *Razuki II* seeking to prevent the
11 sale of the Balboa CUP, based on her right to the Balboa CUP and the illegality of the Proxy Practice
12 (see RJN, Ex. 15), which was denied (RJN, Ex. 16).

13 On May 26, 2021, the Court ordered the Balboa Assets sold to Prodigious. (RJN, Ex. 17.) Based
14 on the grant deed recorded at the Balboa Property by the Court appointed receiver, the Sherlock Family
15 believes the Balboa Property was transferred to Allied pursuant to the sale to Prodigious. (See RJN, Ex.
16 18.) David K. Demergian is the agent of process for both Prodigious and Allied. (Flores Decl. at ¶ 22.)

17 **VI. MRS. SHERLOCK BECOMES AWARE THAT MR. SHERLOCK HAD INTERESTS IN THE**
18 **SHERLOCK PROPERTY.**

19 In January 2020, Flores discovered the Dissolution Form as part of his investigations into ALG’s
20 Proxy Practice in a related litigation matter in which the Proxy Practice was also an issue. (Flores Decl.
21 at ¶¶ 5-7.) Because the Dissolution Form was filed three weeks after Mr. Sherlock’s death, Flores
22 contacted Mrs. Sherlock regarding the Dissolution Form. (*Id.* at ¶¶ 9-10.) Flores informed Mrs. Sherlock
23 that subsequent to Mr. Sherlock’s death, Harcourt had acquired an interest in the Balboa CUP. (*Id.* at ¶
24 10.) Flores forwarded Mrs. Sherlock the Dissolution Form and Mrs. Sherlock did not recognize her
25 husband’s signature on the Dissolution Form. (Mrs. Sherlock Decl. at ¶ 12.)

26
27 ⁹ *San Diego Patients Cooperative Corporation, Inc. v. Razuki Investments, LLC*, San Diego Superior
28 Court Case No. 37-2017-00020661-CU-CO-CTL.

¹⁰ *Razuki v. Malan et al.*, San Diego County Superior Court, Case No. 37-2018-0034229-CU-BC-CTL.

1 Mrs. Sherlock discussed the issue with her sister, Lake's wife, and told her that she intended to
2 sue Harcourt and her sister told her that she should speak with Lake about it. Lake then contacted Mrs.
3 Sherlock and asked to meet. (Mrs. Sherlock Decl. at ¶ 13.) In early February 2020, Mrs. Sherlock met
4 with Lake at a coffee shop, and she told him that she intended to sue Harcourt. At this time, Mrs. Sherlock
5 only knew that the CUP had been transferred into Harcourt's name. Lake initially told Mrs. Sherlock
6 nothing other than "we did it," in which he was referring to the transfer of the Balboa CUP permit. He
7 implied that Mrs. Sherlock's family would shun her for taking legal action against a family member and
8 that she did not have the financial resources to be successful. Lake said something to the effect of, "oh
9 well sorry, nothing you can do about it." (Mrs. Sherlock Decl. at ¶ 14.)

10 On or around February 15, 2020, Flores received an expert handwriting report from Alliance
11 Forensic Sciences, LLC, concluding that Mr. Sherlock's signature was likely forged on the Dissolution
12 Form. (*Id.* at ¶ 15.) Flores provided Mrs. Sherlock the forensic handwriting expert report. (*Id.*) Flores
13 also informed Mrs. Sherlock that the Ramona CUP had been transferred at some point to Harcourt and
14 Bowden. (*Id.*) Up until this time, Mrs. Sherlock thought she still had an ownership interest in the Ramona
15 CUP but that it was not operating profitably. (*Id.*)

16 On or around February 21, 2020, Flores, on behalf of Mrs. Sherlock, contacted Harcourt's
17 attorney, Allan Claybon of Messner Reeves, LLP, to inquire how it was that Harcourt obtained
18 ownership interests in the Balboa and Ramona CUPs and Mrs. Sherlock's belief that Mr. Sherlock's
19 signature was forged. (Flores Decl. at ¶ 13.) On that initial call, Claybon expressly stated to Flores that
20 he appreciated Flores contacting him, that he understood the timing of the submission of the Dissolution
21 Form was suspicious, and that he would contact Harcourt to provide an explanation. (*Id.* at ¶ 14.)

22 Shortly thereafter, in early March 2020, Lake appeared at Mrs. Sherlock's house unannounced.
23 (Mrs. Sherlock Decl. at ¶ 17.) Between the early February of 2020 meeting with Lake and him appearing
24 at Mrs. Sherlock's home, Mrs. Sherlock had learned a lot more about the situation including dissolution
25 of LERE, that the signature did not appear to me to be Biker's, and that the handwriting expert had
26 concluded that it was more than likely forged. (Mrs. Sherlock Decl. at ¶ 18.) When Mrs. Sherlock
27 confronted Lake about it, he alleged that he had seen Mr. Sherlock execute the Dissolution Form the day
28 before he passed away and that he was in an extremely emotional state, severely depressed because he

1 had to “sign away” the Balboa CUP, because of the allegedly expensive HOA Litigation, and that is why
2 his signature on the Dissolution Form does not look like his normal signature. (*Id.* at ¶ 19.) Lake said
3 that this was the reason why Biker had committed suicide. (*Id.*) Lake also said that Biker had cost him
4 a lot money and repeatedly attempted to convince Mrs. Sherlock to not sue Harcourt. (*Id.*)

5 Mrs. Sherlock was shocked and outraged but kept calm and asked if she would be getting any
6 proceeds related to the Balboa and Ramona CUPs as a result of Biker’s investment of time and capital
7 to acquire them. (*Id.* at ¶ 20.) Lake responded that Biker’s contributions were “worthless,” that Mrs.
8 Sherlock and her children were not entitled to anything, and that she should be content with the proceeds
9 from Mr. Sherlock’s life insurance policy. (*Id.*)

10 Mrs. Sherlock was angry and responded that, among other things, it was impossible for Mr.
11 Sherlock to have signed away millions of dollars of assets depriving her and his children of their value.
12 (*Id.* at ¶ 21.) As they argued Mrs. Sherlock kept insisting that she would take legal action and Lake
13 became clearly emotionally intense and he admitted that he and Harcourt were responsible for the
14 transfer of the Balboa CUP. (*Id.*) Lake said he was the property owner of the Balboa Property and that
15 he had conveyed the CUP to Harcourt. (*Id.*) Lake said he did it to “save” Mrs. Sherlock from the
16 “headaches” of having to deal with the CUP. (*Id.*) Mrs. Sherlock told him that she never gave permission
17 for anyone to act on her behalf and that it was her right, duty and honor to settle Mrs. Sherlock’s affairs
18 and that she was angry that she was deprived of her rights. (*Id.*) Lake then alleged that the Balboa CUP
19 was “stolen” from Harcourt. (*Id.*)

20 The conversation became an intense argument and Lake again implied that Mrs. Sherlock could
21 not financially afford to take any legal action and that there was nothing she could do about what had
22 taken place. (*Id.* at ¶ 22.) Lake concluded the conversation by again implying that if Mrs. Sherlock took
23 any legal action it would result in her and her children being shunned by their family. (*Id.*)

24 Mrs. Sherlock informed Flores, who in turn followed-up with Claybon regarding Harcourt’s
25 explanation as to how he acquired Mr. Sherlock’s interest in the Balboa CUP, as well as the allegation
26 made by Lake that he saw Mr. Sherlock execute the Dissolution Form. (Flores Decl. at ¶ 16.) Despite
27 his original representation that he would inquire from Harcourt how he acquired the Balboa CUP, over
28 the course of weeks, Flores and Claybon exchanged numerous phone calls and emails in which Claybon

1 repeatedly refused to explain how Harcourt acquired Mr. Sherlock’s interest in the Balboa CUP. (*Id.* at
2 ¶ 16.)

3 However, Claybon did communicate that Harcourt also allegedly saw Mr. Sherlock execute the
4 Dissolution Form the day before he passed away as well as Harcourt’s affirmative defenses in
5 anticipation of litigation. (*Id.* at ¶ 18.) Specifically, that: (i) the statute of limitations bars any fraud-based
6 causes of action that Mrs. Sherlock may have and (ii) the statute of limitations was not tolled because
7 Mrs. Sherlock did not “exercise reasonable diligence” because she did not check the State’s records after
8 Mr. Sherlock passed away. (*Id.* at ¶ 19.)

9 **VII. LEGAL STANDARD**

10 In determining whether to issue a temporary restraining order, the trial court considers two related
11 factors: (1) the likelihood that the moving party will prevail on the merits of its case at trial, and (2) the
12 interim harm that the moving party is likely to sustain if the restraining order is denied as compared to
13 the harm that the non-moving party is likely to suffer if the court grants a preliminary injunction. *King*
14 *v. Meese* (1987) 43 Cal.3d 1217, 1226.

15 **ARGUMENT**

16 This Application can be distilled down to two core factual issues upon which all legal contentions
17 are based upon. First, was Mr. Sherlock’s interests in the Sherlock Property unlawfully transferred from
18 Mr. Sherlock to Lake and Harcourt? Second, are Razuki and Malan’s Oral and Partnership Agreements
19 illegal contracts because of ALG’s Proxy Practice? Evidence addressing each of these factual issues, and
20 the legal consequences, are set forth below.

21 **I. THE SHERLOCK FAMILY IS LIKELY TO PREVAIL ON THEIR CAUSE OF ACTION FOR**
22 **CONVERSION.**

23 A. Lake and Harcourt converted the Sherlock Family’s interests in the Sherlock Property.

24 “Conversion is generally described as the wrongful exercise of dominion over the personal
25 property of another. The basic elements of the tort are (1) the plaintiff’s ownership or right to possession
26 of personal property; (2) the defendant’s disposition of the property in a manner that is inconsistent with
27 the plaintiff’s property rights; and (3) resulting damages.” *Regent All. Ltd. v. Rabizadeh (Regent)*, 231
28 Cal. App. 4th 1177, 1181 (2014) (quotation omitted).

1 Mr. Sherlock's interest in LERE is personal property subject to a conversion claim.¹¹ Mr.
2 Sherlock's interests in the Balboa and Ramona CUPs are personal property subject to a conversion
3 claim.¹² Upon the death of Mr. Sherlock without a will, his interest in the Sherlock Property, including
4 to the Balboa Property via LERE and the Balboa CUP, transferred to the Sherlock Family as his heirs.
5 (See Cal. Prob. Code § 6401.)

6 As material to this Application, any agreement to sell or transfer Mr. Sherlock's interest in LERE
7 and the Balboa CUP required Mr. Sherlock's assent and consideration. (See Civ. Code § 1550.) There
8 are five primary evidentiary factors before this Court that support the conclusion that Mr. Sherlock never
9 assented or received compensation for his interests in LERE or the Balboa CUP because the documents
10 used to effectuate the transfers from Mr. Sherlock were forged after his death.

11 First, the allegation that Mr. Sherlock executed the Dissolution Form on his last day alive and
12 purposefully deprived his wife and children of their interest in the Balboa Property via LERE and the
13 Balboa CUP, which are worth millions of dollars.

14 Second, Alliance Forensic Sciences, LLC's, third-party expert report concluding that Mr.
15 Sherlock's signature was most likely forged on the Dissolution Form.

16 Third, that Lake and Harcourt, who allege they saw Mr. Sherlock execute the Dissolution Form,
17 are the beneficiaries of the alleged transfers of the Balboa Property and the Balboa CUP to themselves,
18 which took place weeks and months after Mr. Sherlock passed away.

19 Fourth, the declaration of Mrs. Sherlock describing Lake's evolving false statements – that Mr.
20 Sherlock never acquired the Balboa CUP; that Mr. Sherlock had to “sign away” the Balboa CUP; and
21 culminating, when confronted with the expert report, that he was responsible for the transfer of the
22 Balboa CUP and that he did so to “save” Mrs. Sherlock of dealing with the “headaches” of dealing with
23 the CUP.

24
25 ¹¹ Corp. Code § 17701.02(r); *Holistic Supplements, LLC v. Stark (Holistic)* (2021) 61 Cal.App.5th 530,
26 536-537 (“[plaintiff] has standing to sue for conversion of her personal property membership interest in
the LLC”).

27 ¹² See Civ. Code §§ 654, 679; *Holistic*, 61 Cal. App. 5th at 552–554 (city-issued business tax registration
28 certificate necessary for operating marijuana dispensary was property subject to conversion); *Malibu
Mts. Rec. v. Cty. of L.A.*, 67 Cal. App. 4th 359, 367 (1998) (“A CUP creates a property right which may
not be revoked without constitutional rights of due process.”).

1 Fifth, and most damning of all, Harcourt’s repeated refusal to explain how he lawfully acquired
2 Mr. Sherlock’s interest in the Balboa CUP and his assertion of his affirmative defenses in anticipation
3 of litigation.¹³ In other words, when confronted with the expert report and the belief that he had illegally
4 acquired the Balboa CUP via forged documents by Mrs. Sherlock, if innocent of wrongdoing, then
5 Harcourt should have had no problems simply communicating to Mrs. Sherlock the terms and
6 compensation by which he lawfully acquired Mr. Sherlock’s interest in the Balboa CUP. *See Keller v.*
7 *Key Sys. Transit Lines*, 129 Cal. App. 2d 593, 596 (1954) (“The basis of the rule on admissions made in
8 response to accusations is the fact that human experience has shown that generally it is natural to deny
9 an accusation if a party considers himself innocent of negligence or wrongdoing.”); *see also Stevens v.*
10 *Snow* (Cal. Apr. 23, 1923) 191 Cal. 58, 64 (the defense of privilege is “essentially one of confession and
11 avoidance.”).

12 In regard to the third element, damages, the most obvious is the financial loss of the Balboa
13 Property, the Balboa CUP and the lost profits from their operations over the last approximately six years.

14 In light of the above, the Court should conclude that Mr. Sherlock’s interest in LERE (and
15 vicariously in the Balboa Property) and the Balboa CUP were probably converted by Lake and Harcourt
16 and the Sherlock Family will prevail on their conversion claim. As a result, the Sherlock Family has a
17 right to have their interests in LERE and the Balboa CUP restored to them. *Bainbridge v. Stoner* (1940)
18 16 Cal. 2d 423, 428-29 (“[O]ne whose property has been taken from him is not relegated to a personal
19 claim against the wrongdoer which might have to be shared with other creditors; he is given the right to
20 a restoration of the property itself.”).

23 ¹³ Contrary to Harcourt’s claim, the statute of limitations has not tolled. Actions for conversion are
24 subject to a three-year statute of limitations. (Code Civ. Proc. § 338(c)(1).) However, “where there has
25 been a fraudulent concealment of the facts the statute of limitations does not commence to run until the
26 aggrieved party discovers or ought to have discovered the existence of the cause of action for
27 conversion.” *Strasberg v. Odyssey Grp.*, 51 Cal. App. 4th 906, 916 (1996). The earliest the Sherlock
28 Family can be charged with having knowledge that they knew or should have known they were deprived
of their interest in the Balboa CUP was when Flores contacted Mrs. Sherlock regarding the Dissolution
Form in January 2020. The Sherlock Family can find no authority to support Harcourt’s contention that
Mrs. Sherlock was required to check State records after the death of Mr. Sherlock regarding an interest
in the Balboa CUP that she was led to believe that Mr. Sherlock did not own.

1 B. Conversion is a strict liability tort and even bona fide purchasers of the Sherlock
2 Property are liable for conversion.

3 Conversion is a strict liability tort. *Regent*, 231 Cal. App. 4th at 1181. “The rule of strict liability
4 applies equally to purchasers of converted goods, or more generally to purchasers from sellers who lack
5 the power to transfer ownership of the goods sold. That is, there is no general exception for bona fide
6 purchasers.” *Id.* (citations omitted). In other words, simply stated, “a thief cannot pass title to stolen
7 property...” *Id.* at 1186 (quotation omitted).

8 In *Regent*, Regent sued three buyers of goods for conversion, alleging that the buyers bought,
9 from other defendants, goods belonging to Regent that those other defendants had converted. *Id.* at 1179.
10 The three buyers filed a motion for summary judgment arguing “that because each of the buyer
11 defendants was allegedly a ‘subsequent converter’—that is, a receiver or transferee of previously
12 converted goods—they could not be liable for conversion because they purchased the goods for value
13 and in good faith, without actual or constructive notice that the goods had been converted.” *Id.* at 1180.
14 The trial court granted summary judgment in favor of the three buyers agreeing with their “reasoning
15 that innocent purchasers of converted goods are not liable for conversion.” *Id.* The Court of Appeals
16 reversed, finding that the bona fide buyers are strictly liable for conversion. *See id.* at 1183 (“The superior
17 court therefore erred when it agreed with the buyer defendants’ legal contentions...”).

18 In reaching its decision, the *Regent* court discussed two exceptions to the strict liability rule for
19 bona fide purchasers. First, in situations where it appears an agent may have the legal authority to transfer
20 goods such as when “a principal has clothed an agent in apparent authority exceeding that which was
21 intended.” *Id.* at 1183 (quotation omitted). Second, in situations when goods are obtained by a fraudulent
22 misrepresentation, which is when “the true owner was originally induced to sell by fraud.” *Id.* at 1184
23 (quoting Prosser & Keeton, Torts (5th ed. 1984) § 15, p. 93-94).

24 Here, the Sherlock Family’s interest in LERE and the Balboa CUP were stolen via forged
25 documents. Thus, even assuming Harcourt, Razuki, Malan, Prodigious and Allied were considered bona
26 fide purchasers of the Balboa CUP, which they are not because of Mrs. Sherlock’s motion to intervene
27 arguing the illegality of Proxy Practice, they are still liable for conversion. *See id.* at 1188 (“we conclude
28 that the cases cited by the buyer defendants do not support the buyer defendants’ contention that innocent
purchasers of converted goods cannot be liable for conversion.”).

1 **II. THE SHERLOCK FAMILY IS LIKELY TO PREVAIL ON ITS DECLARATORY RELIEF CLAIM.**

2 Pursuant to Code of Civ. Proc. § 1060, the Sherlock Family seeks to have the Oral and Partnership
3 Agreements declared illegal contracts. Consequently, the Court ordered sale of the Balboa Property and
4 the Balboa CUP is void and cannot be the basis of any right by any party against the Sherlock Family.
5 See *Tashakori v. Lakis* (2011) 196 Cal. App. 4th 1003, 1012 n.6.

6 **A. Framework for assessing enforceability of “illegal” contracts.**

7 Under California law, a contract must have a “lawful object.” (Civ. Code § 1550(3).) Contracts
8 without a lawful object are void. (*Id.* § 1598.) Civil Code § 1667 elaborates that “unlawful” means: “1.
9 Contrary to an express provision of law; [¶] 2. Contrary to the policy of express law, though not expressly
10 prohibited; or, [¶] 3. Otherwise contrary to good morals.” For purposes of illegality, the “law” includes
11 statutes, local ordinances, and administrative regulations issued pursuant to the same. *Kashani v. Tsann*
12 *Kuen China Enterprise Co.* (2004) 118 Cal. App. 4th 531, 542. “All contracts which have for their
13 object, directly or indirectly, to exempt anyone from responsibility for his own ... violation of law,
14 whether willful or negligent, are against the policy of the law.” (Cal. Civ. Code § 1668.)

15 “The general principle is well established that a contract founded on an illegal consideration, or
16 which is made for the purpose of furthering any matter or thing prohibited by statute, or to aid or assist
17 any party therein, is void.” *Homami v. Iranzadi* (1989) 211 Cal.App.3d 1104, 1109. “Whether a contract
18 is illegal is a question of law to be determined from the circumstances of each particular case.” *Kashani*,
19 118 Cal. App. 4th at 540 (cleaned up). “The test as to whether a demand connected with an illegal
20 transaction is capable of being enforced is whether the claimant requires the aid of an illegal transaction
21 to establish his case.” *Brenner v. Haley* (1960) 185 Cal.App.2d 183, 287.

22 **B. Contracts whose object is the acquisition of benefits by parties who are prohibited by**
23 **law from obtaining those benefits are illegal contracts and void.**

24 In *Homami*, Ahmad S. Homami sued Mansoor Iranzadi to collect the balance due on a promissory
25 note. (*Homami, supra*, at 1106.) The parties had executed the promissory note stating it would bear no
26 interest, but “the parties nonetheless had an oral agreement for the payment of 12 percent interest per
27 annum.” (*Id.*) Homami admitted that “the no interest provision on the note was only so that he could
28 avoid reporting the income for state and federal income tax purposes.” (*Id.*) The trial court granted

1 judgment in favor of defendant. (*Id.*) The Court of Appeal “reversed on the basis that Homami’s claim
2 is dependent upon an agreement for the express purpose of violating the law and defrauding state and
3 federal governments.” (*Id.*) In reaching its decision the *Homami* court summarized a group of cases
4 involving contractual attempts by parties to obtain benefits that they cannot lawfully own through a
5 proxy:

6 [I]n *May v. Herron* (1954) 127 Cal.App.2d 707 [274 P.2d 484], the Newmans transferred
7 property to a veteran for the sole purpose of obtaining a veteran's priority under Federal
8 Priorities Regulation No. 33. That regulation provided that veterans who wished to build
9 houses for their own occupancy would receive preferential treatment in obtaining
10 construction materials. The Newmans had been advised to obtain the illegal veteran's
11 priority by their building contractor, who then entered into a contract with the veteran to
12 build a house which he knew the Newmans intended to occupy. When the builder sued to
13 recover a balance due on the construction contract, the court refused to come to his aid,
14 finding that he had “initiated, suggested and directed a conspiracy to violate and
circumvent a federal regulation which had the force of law.” (*Id.* at p. 711.) The court
concluded in this vein: “*To permit a recovery here on any theory would permit plaintiff to
benefit from his wilful and deliberate flouting of a law designed to promote the general
public welfare.*” (*Id.* at p. 712.)

15 In a similar case, *Lala v. Maiorana* (1959) 166 Cal.App.2d 724 [333 P.2d 862], plaintiffs
16 conveyed real property to defendant without consideration or a change of possession.
17 Defendant, by virtue of his status as a serviceman, obtained a loan on the property. He
18 continued to hold title although plaintiffs occupied the property and made all the loan
19 payments. Eventually creditors of defendant filed liens on the property. Plaintiffs sought
to be relieved of those liens, claiming that the property was rightfully theirs. But in order
to prove their claim, plaintiffs had to disclose the illegal purpose behind the conveyance to
defendant. Because of that, the court refused to grant them relief.

20 *Homami*, 211 Cal. App. 3d at 1110-11 (emphasis added).

21 In *Polk I*, Evan Polk (plaintiff) and Leonid Gontmakher (defendant) worked together to create a
22 cannabis cultivation business in Washington.¹⁴ After Washington state passed an initiative regulating
23 the production, distribution, and sale of marijuana, they decided to obtain a license. (*Id.* at *2.) However,
24 because Polk had previously pled guilty to drug related crimes, “he was prohibited from obtaining a
25

26 ¹⁴ Attached hereto as Exhibit A is a true and correct copy of *Polk v. Gontmakher (Polk I)*, No. 2:18-cv-
27 01434-RAJ, 2019 U.S. Dist. LEXIS 146724, at *3 (W.D. Wash. Aug. 28, 2019). See *Haligowski v.*
28 *Superior Court*, 200 Cal. App. 4th 983, 998, fn. 4 (2011) (“Unpublished federal opinions are citable
notwithstanding California Rules of Court, rule 8.1115 which only bars citation of unpublished
California opinions.”) (cleaned up).

1 producer or processor license...” (*Id.* at *3.) Polk and Gontmakher “agreed to move forward with the
2 business anyway, orally agreeing to be ‘equal partners’ in their cannabis growing venture.” (*Id.*)
3 Thereafter, they agreed to modify their respective percentages of ownership such that Polk maintained a
4 30% ownership stake in the cannabis business and “Mr. Polk’s ‘interest’ would be held in the name of
5 one of Mr. Gontmakher’s relatives.” (*Id.* at *4.) Subsequently, the parties disputed and Polk filed suit
6 alleging he is entitled to an ownership interest in the cannabis business and past and future profits. (*Id.*)

7 The district court dismissed Polk’s original complaint on Gontmakher’s motion to dismiss on
8 two independent grounds. First, because Polk’s claims seeking profits from cannabis activities violated
9 the Federal Controlled Substances Act. (*Id.* at *6.) Second, because Polk was prohibited from obtaining
10 a license by law, the oral agreement was illegal under Washington law. (*See id.* at * 8 (“Mr. Polk’s
11 interest in [the cannabis business] was illegal from the very beginning and he knew it... ***The Court will***
12 ***not enforce an illegal contract.***”) (emphasis added).)

13 In *Polk II*, the court dismissed Polk’s amended complaint with prejudice on Gontmakher’s
14 motion to dismiss solely on one ground.¹⁵ The Court described Washington’s cannabis licensing
15 framework that requires that a cannabis license be issued only in the names of “true party(ies) of
16 interest,” who are defined by statute to include any party with a right to revenues from the contemplated
17 cannabis business, and who must undergo a “vetting process” by the Washington Liquor and Cannabis
18 Board. (*Id.* at *5.) The court explained:

19 Plaintiff does not dispute that his claims seeking a share of profits generated by [the
20 cannabis business] would make him a true party of interest under the statute. Because he
21 has not been identified as a true party of interest in [the cannabis business] or vetted by the
22 [Washington Liquor and Cannabis Board], any grant of relief based on entitlement to a
23 share of [the cannabis business’] profits would be in violation of the statute. In other words,
24 by affording Plaintiff such relief, the Court would be effectively recognizing him as a true
25 party of interest in subversion of the [Washington Liquor and Cannabis Board] and in
26 violation of Washington state law. The Court cannot require payment of a share of [the
27 cannabis business’] profits to Plaintiff based on his alleged rights to such profits—either
through enforcement of the contract or disgorgement of unjust enrichment and related
breaches of equity—without violating state statute. *See Bassidji v. Goe*, 413 F.3d 928, 936
(9th Cir. 2005) (holding that “courts will not order a party to a contract to perform an act

28 ¹⁵ Attached hereto as Exhibit B is a true and correct copy of *Polk v. Gontmakher (Polk II)*, No. 2:18-cv-
01434-RAJ, 2021 U.S. Dist. LEXIS 53569, at *5 (W.D. Wash. Mar. 22, 2021).

1 that is in direct violation of a positive law directive, even if that party has agreed, for
2 consideration, to perform that act”). The Court could not, therefore, grant relief on any of
3 Plaintiff’s causes of action. Plaintiff thus fails to state a claim upon which relief can be
4 granted.

(*Id.* at *6-7.)

5 C. The Oral and Partnership Agreements are illegal contracts that cannot be judicially
6 enforced.

7 Like the State of Washington in *Polk*, California’s Legislature has always required that a CUP
8 be issued only to a “qualified applicant.” (*See* BPC §§ 19320(a), 26055(a).) Because of the Stonecrest
9 Judgment, Razuki could not have an interest in a CUP until April 16, 2018. (*See* BPC §§ 19323(a),(b)(7);
10 *id.* 26057(a),(b)(7).) The Oral Agreement was entered into at some point in 2016 and the Partnership
11 Agreement was entered into in November 2017, which Razuki and Malan directly admit they entered
12 into because Razuki was sanctioned in the Stonecrest Judgment. Thus, the object of the agreements were
13 Razuki’s acquisition of interests in cannabis businesses that he was prohibited from lawfully owning.

14 Applying the test of illegal contracts, the agreements are illegal for at least two obvious reasons.
15 First, Razuki was neither disclosed in the Balboa CUP application nor did he undergo the vetting process
16 with the State’s licensing authorities, including the submission of his fingerprints for a background check
17 with the Department of Justice. Thus, any grant of relief to Razuki based on his alleged ownership of the
18 Balboa CUP would be in direct violation of the Licensing Statutes. In other words, by affording Razuki
19 any relief, the Court would not only be recognizing him as a “qualified applicant,” but as a lawful license
20 holder who had been approved by the State’s licensing authorities with rights of ownership to the Balboa
21 CUP in subversion of the State’s licensing authorities and in direct violation of the Legislature’s intent
22 to prevent individuals who have been sanctioned for illegal cannabis operations from owning cannabis
23 businesses.

24 Second, Malan submitted the application for the Balboa CUP knowingly failing to disclose
25 Razuki’s ownership interest in direct violation of the Licensing Statutes because he knew that Razuki
26 was not qualified to have an ownership interest because of the Stonecrest Judgment.

27 Simply stated and understood, Razuki and Malan, like plaintiffs in *Homami*, *May*, *Lala* and *Polk*,
28 entered into their agreements for the express purpose of violating the law and to acquire benefits for a
party that they cannot lawfully own. Consequently, the agreements are illegal and cannot be judicially

1 enforced. *See, e.g., Vierra v. Workers' Comp. Appeals Bd.* (2007) 154 Cal. App. 4th 1142, 1148 (“A
2 contract that conflicts with an express provision of the law is illegal and the rights thereto cannot be
3 judicially enforced.”); *see also Consul Ltd. v. Solide Enterprises, Inc.*, 802 F.2d 1143, 1148 (9th Cir.
4 1986) (“A contract to perform acts barred by California’s licensing statutes is illegal, void and
5 unenforceable.”).

6 D. The Court’s orders selling and/or ratifying the sale of the Balboa Property and the Balboa
7 CUP based on illegal contracts are void as acts in excess of the Court’s jurisdiction.

8 The most basic principle of law is that parties cannot go to a court of law and use its processes
9 to effectuate a crime or seek compensation for illegal actions. As the *Homami* court concluded, after
10 summarizing *May* and *Lala* as set forth above and other cases by parties to illegal contracts:

11 The message from these cases couldn’t be clearer. As the Supreme Court has expressed it:
12 “***No principle of law is better settled than that a party to an illegal contract cannot come***
13 ***into a court of law and ask to have his illegal objects carried out; nor can he set up a***
14 ***case in which he must necessarily disclose an illegal purpose as the groundwork of his***
***claim.*”**

15 *Homami*, 211 Cal.App.3d at 1111 (quoting *Lee On v. Long* (1951) 37 Cal.2d 499, 502 (emphasis added)).

16 The Court should therefore not be surprised that none of the litigants or parties before it have
17 raised the issue of illegality as they seek to avoid liability for their illegal actions or to profit from the
18 litigation related to the Sherlock Property. However, the evidence of illegality is now before this Court
19 and this Court has the *power* and *duty* to ensure the justice system is not manipulated to effectuate crimes
20 against innocent parties or to compensate parties for illegal acts. As expressed by the California Supreme
21 Court in the seminal case of *Lewis & Queen*:

22 Whatever the state of the pleadings, when the evidence shows that the plaintiff in substance
23 seeks to enforce an illegal contract or recover compensation for an illegal act, ***the court***
has both the power and duty to ascertain the true facts in order that it may not unwittingly
24 ***lend its assistance to the consummation or encouragement of what public policy forbids.***
25 It is immaterial that the parties, whether by inadvertence or consent, even at the trial do not
26 raise the issue. The court may do so of its own motion when the testimony produces
evidence of illegality. It is not too late to raise the issue on motion for new trial, in a
proceeding to enforce an arbitration award, or even on appeal.

27 *Lewis & Queen v. N. M. Ball Sons* (1957) 48 Cal. 2d 141, 147-48 (citations omitted; emphasis added);

28 *May*, 127 Cal.App.2d at 710 (The Courts have a duty, *sua sponte*, to refuse to entertain an action that

1 seeks to enforce an illegal contract).

2 The Court cannot enforce an illegal contract in direct violation of the Licensing Statutes and any
3 orders that do so are void as acts in excess of the Court’s jurisdiction. As explained by the California
4 Supreme Court in *Abelleira*: “though the court has jurisdiction over the subject matter and the parties in
5 the fundamental sense, it has no ‘jurisdiction’ (or power) to act except in a particular manner, or to give
6 certain kinds of relief, or to act without the occurrence of certain procedural prerequisites.” *Abelleira v.*
7 *District Court of Appeal* (1941) 17 Cal.2d 280, 288. “[A]ny acts which exceed the defined power of a
8 court in any instance, whether that power be defined by constitutional provision, express statutory
9 declaration, or rules developed by the courts and followed under the doctrine of *stare decisis*, are in
10 excess of jurisdiction...” *Id.* at 291.

11 As a result, all orders effectuating and/or ratifying the Oral and Partnership Agreements,
12 including the sale of the Balboa Assets, are void as acts in excess of the Court’s jurisdiction as they have
13 unknowingly enforced the illegal contracts between Razuki and Malan in direct violation of the
14 Licensing Statutes. *See id.* at 290 (“[W]hen a statute authorizes prescribed procedure, and the court acts
15 contrary to the authority thus conferred, it has exceeded its jurisdiction, and certiorari will lie to correct
16 such excess.”). The Court must therefore vacate its previous void orders in this action to act in
17 accordance with the law:

18 The court has power to vacate an order void on its face at any time upon its own motion or
19 upon motion of a party. Proceedings outside the authority of the court, or in contravention
20 of statutory prohibitions, are, whether the court has jurisdiction of the parties and subject
21 matter of the action or not, “utterly void.” [Citation.] ***The mere fact that the court has***
22 ***jurisdiction of the subject matter of an action before it does not justify an exercise of a***
power not authorized by law, or a grant of relief to a party that the law declares shall not
be granted. [Citation.]

23 *Selma Auto Mall II v. Appellate Department (“Selma”)* (1996) 44 Cal.App.4th 1672, 1683-1684
24 (emphasis added); *see Greene v. Superior Court of San Francisco* (1961) 55 Cal.2d 403, 406 (“Although
25 prohibition will not lie to review the validity of a complete judicial act, it is a proper remedy to prevent
26 further judicial action based upon a void order.”); *Hurtado v. Superior Court* (1974) 11 Cal.3d 574, 579
27 (“The trial court is under a legal duty to apply the proper law and may be directed to perform that duty
28 by writ of mandate.”).

1 E. The Court cannot enter a judgment that enforces the illegal contracts because it would be an
2 exercise of a power not authorized by law and a grant of relief to parties the law declares
3 shall not be granted.

4 “Generally, a judgment is void if the court lacked subject matter jurisdiction or jurisdiction over
5 the parties.” *Paterra v. Hansen* (2021) 64 Cal.App.5th 507, 535. However, a lack of jurisdiction resulting
6 in a void judgment also occurs when an act by a Court is an “exercise of a power not authorized by law,
7 or a grant of relief to a party that the law declares shall not be granted.” *Id.* at 536 (quoting *Carlson v.*
8 *Eassa* (1997) 54 Cal.App.4th 684, 696).

9 In *Paterra*, a complicated property dispute with numerous competing parties and legal actions
10 spanning over twelve years, the trial court denied a motion to correct or vacate a portion of a prior quiet
11 title judgment that adjudicated the rights of a defaulting lender. *Id.* at 513. The Court of Appeal reversed
12 and remanded, holding that the judgment was void for three independent reasons. *Id.* at 515. The second
13 reason set forth, dispositive in this matter, was because the trial court did not hold a hearing to adjudicate
14 the lender’s rights as required by the mandatory “shall” language of Cal. Code Civ. Pro § 764.010. *Id.*
15 at 536. The court explained:

16 [S]ection 764.010 imposes mandatory obligations with respect to default judgments,
17 stating that in a quiet title action, “[t]he court **shall not** enter judgment by default but **shall**
18 in all cases require evidence of plaintiff’s title and hear such evidence as may be offered
19 respecting the claims of any of the defendants” (Italics added.) These provisions—
20 **absolutely prohibiting** a default judgment without an evidentiary hearing as to each
21 defaulting defendant’s claimed interest—reflect the Legislature’s intent to provide a
22 method for adjudicating title to real property to ensure a property owner obtains “a general
23 decree that would be binding on all people.” [Citation.] “[O]nce a quiet title judgment on
24 any grounds becomes final, it is good against all the world as of the time of the judgment.
25 There is, for all practical purposes, no going back.” [Citation.]

26 Where, as here, the undisputed record shows the court did not hear evidence respecting
27 plaintiff’s quiet title claims against a defaulting defendant, the judgment against that
28 defendant is void as beyond the court’s fundamental powers to provide a final
determination on title. Accordingly, the judgment against Clarion was void as outside the
scope of the court’s jurisdiction to grant. (See *Carlson, supra*, 54 Cal.App.4th at p. 696
[“The mere fact that the court has jurisdiction of the subject matter of an action before it
does not justify an exercise of a power not authorized by law, or a grant of relief to a party
that the law declares shall not be granted.”].)

Paterra, 64 Cal. App. 5th at 535-36.

Here, as in *Paterra*, the mandatory “**shall deny**” language of BPC §§ 19323(a)/26057(a) applies

1 and reflects the Legislature’s intent to “absolutely prohibit” the approval of a CUP or license by an
2 applicant like Razuki who has been sanctioned for unlicensed commercial cannabis activities. Also, an
3 applicant like Malan who knowingly applies with false information to fail to disclose Razuki and his
4 disqualifying sanctions. Accordingly, if the Court enters a judgment ratifying the Balboa Sale, thereby
5 granting relief to Razuki and Malan pursuant to their illegal contracts, the judgment would be void
6 because it would be “an exercise of a power not authorized by law [and] a grant of relief to [parties] that
7 the law declares *shall not* be granted.” *Paterra, supra*, at 536 (quoting *Carlson*, 54 Cal.App.4th at 696
8 (emphasis added)); *see Hager v. Hager* (1962) 199 Cal.App.2d 259, 261 (“The affirmance of a void
9 judgment upon appeal imparts no validity to the judgment, but is in itself void by reason of the nullity
10 of the judgment appealed from.”).

11 The Court cannot enter a judgment that enforces the Oral and Partnership Agreements.

12 F. Declaratory Relief Conclusion

13 In light of the authorities set forth above, the Court should conclude that the Sherlock Family
14 will likely prevail on its declaratory relief claim seeking to have the Oral Agreement and the Partnership
15 Agreement declared illegal and the sale of the Balboa Assets pursuant to a Court order void.

16 **III. PLAINTIFFS WILL PREVAIL ON THEIR UCL CLAIM SEEKING TO HAVE ALG’S PROXY
17 PRACTICE DECLARED ILLEGAL AND ENJOINED.**

18 California’s Unfair Competition Law (“UCL”) prohibits “unfair competition” that is broadly
19 defined to include any unlawful, unfair or fraudulent business act or practice. BPC § 17200. As the
20 California Supreme Court has stated:

21 The Legislature intended this ‘sweeping language’ to include anything that can properly
22 be called a business practice and that at the same time is forbidden by law. In drafting the
23 act, the Legislature deliberately traded the attributes of tort law for speed and
24 administrative simplicity. As a result, to state a claim under the act one need not plead and
prove the elements of a tort.

25 *Bank of the West v. Superior Court* (1992) 2 Cal.4th 1254, 1266-1267 (cleaned up).

26 [BPC §] 17203, which incorporates the broad, statutory definition of “unfair competition,”
27 permits "any court of competent jurisdiction" to enjoin "[a]ny person performing or
28 proposing to perform an act of unfair competition" (§ 17203.) The section also
authorizes courts to make such orders as "may be necessary to restore to any person in
interest any money or property, real or personal, which may have been acquired by means

1 of such unfair competition." (*Ibid.*) The purpose of such orders is "to deter future violations
2 of the unfair trade practice statute and to foreclose retention by the violator of its ill-gotten
3 gains." [Citations.]

4 *Id.* at 1267.

5 In *Golden State*, Golden State Seafood, Inc. ("Golden State") filed an action for malicious
6 prosecution and a UCL claim against William Cohen and his attorney Jamie R. Schloss. *Golden State*
7 *Seafood, Inc. v. Schloss* ("Golden State") (2020) 53 Cal.App.5th 21, 27. The complaint alleged Schloss
8 filed a prior lawsuit against Golden State on behalf of his client Cohen knowing he lacked probable cause
9 to bring and maintain the action. *Id.* Schloss appealed the trial court's denial of his anti-SLAPP motion
10 and a motion for reconsideration of same. *Id.* The Court of Appeal affirmed the denials and in reaching
11 its decision on the UCL claim, the Court stated: "Knowingly filing or pursuing unmeritorious legal
12 actions that are not factually or legally tenable, for the purpose of earning income, qualifies as an unfair
13 business practice." *Id.* at 40.

14 Here, as proven above, ALG's Proxy Practice – constituting petitioning activity of submitting
15 applications for or maintaining of cannabis permits/licenses for disqualified individuals with City and
16 State government agencies - is an unfair business practice that directly violates State and City civil and
17 criminal laws, including the Licensing Statutes; thus, any litigation seeking to enforce rights pursuant to
18 the Proxy Practice is illegal as a matter of law as well (i.e., sham litigation). *See id.*; *Hi-Top Steel Corp.*
19 *v. Lehrer*, 24 Cal. App. 4th 570, 579 (1994) ("we hold the sham exception to the *Noerr-Pennington*
20 doctrine is applicable in California."); *People ex rel. Harris v. Aguayo*, 11 Cal. App. 5th 1150, 1163
21 (2017) ("[R]ecording false documents [is] not protected petitioning activity under *Noerr-Pennington* and
22 its progeny."); *see also Dziubla v. Piazza* (2020) 59 Cal. App. 5th 140, 151 (illegality exception to anti-
23 SLAPP protection applies when defendant's activity is illegal as a matter of law).

24 The Sherlock Family's argument to this Court is that ALG never intended to have its Proxy
25 Practice the focus of litigation, but-for the dispute between Razuki and Malan over the \$40,000,000 in
26 cannabis assets, the Proxy Practice would not now be a subject before the Court by the Sherlock Family.

27 **IV. THE SHERLOCK FAMILY, THE PUBLIC AND THE JUDICIARY WILL BE IRREPARABLY**
28 **DAMAGED IF THE BALBOA SALE IS NOT VOIDED AND ALG IS NOT PREVENTED FROM**
CONTINUING WITH ITS ILLEGAL PROXY PRACTICE.

First, the question of illegality regarding the contracts at issue here and ALG's Proxy Practice

1 are questions of law for this Court to decide. As set forth above, it is simply impossible for ALG's Proxy
2 Practice to be lawful. Even assuming for purposes of this Application that the parties did not intend to
3 violate the law, the contracts at issue here are still illegal and void. (*See, e.g.*, Cal. Civ. Code § 1668.)
4 Therefore, the orders the Court has issued effectuating and/or ratifying the illegal contracts entered into
5 pursuant to ALG's Proxy Practice are void and the Court cannot proceed in any litigation based on those
6 void orders. *Greene*, 55 Cal.2d at 406 ("Although prohibition will not lie to review the validity of a
7 complete judicial act, it is a proper remedy to prevent further judicial action based upon a void order.").

8 Second, the Sherlock Family will prevail on its claims premised on said illegality and on this
9 basis alone the Court should grant the relief requested. *King, supra*, 43 Cal.3d at 1227 ("[T]he more
10 likely it is that plaintiffs will ultimately prevail, the less severe must be the harm that they allege will
11 occur if the injunction does not issue.").

12 Third, as the Court of Appeals has already recognized, the Balboa Property and the Balboa CUP
13 are unique assets that cannot easily be replicated or otherwise replaced with money damages.¹⁶
14 Consequently, preliminary injunctive relief is warranted to prevent the property from being furthered
15 sold and/or transferred. *See Bainbridge*, 16 Cal. 2d at 428-29 ("[O]ne whose property has been taken
16 from him is not relegated to a personal claim against the wrongdoer which might have to be shared with
17 other creditors; he is given the right to a restoration of the property itself."). To put it in other words, it
18 is manifestly unjust for the Sherlock Family's interests in the Balboa Property via LERE and the Balboa
19 CUP to be sold to pay off debts accrued by Razuki/Malan. They illegally acquired the assets from Lake
20

21 ¹⁶ *Salam Razuki v. Ninus Malan* (Feb. 24, 2021, No. D075028) ___ Cal.App.5th ___ [2021 Cal. App.
22 Unpub. LEXIS 1168, at *60-61] ("Razuki responds that the risk of harm to his interest was significant
23 because ownership of the cannabis operations, in particular the property that was permitted for such
24 operations, 'is a unique asset that cannot easily be replicated or otherwise replaced with money damages.
25 Specifically, an ownership or equitable interest in those businesses and related facilities also grants an
26 interest in the licenses and [CUPs] which allow those marijuana businesses to operate legally in San
27 Diego. As the number of such licenses is rigorously restricted, the ownership of those business is a
28 unique and irreplaceable asset.' Further, Razuki points to the cash nature of the businesses, which makes
accounting for and after-the-fact tracing of profits particularly difficult. Because of these facts, Razuki
contends the trial court did not abuse its discretion by finding that a receivership was necessary to protect
his stake in the enterprise while his claims proceed through the court. *We agree.*") (emphasis added).

1 and Harcourt who themselves unlawfully converted the assets from the Sherlock Family after the death
2 of Mr. Sherlock. Victims of Razuki/Malan’s illegal ownership of the Balboa Assets must seek their relief
3 against the actual tortfeasors and not the innocent Sherlock Family.

4 Fourth, ALG’s Proxy Practice is an anti-competitive practice that is causing injury to the cannabis
5 market in the City and County of San Diego. The public is being damaged not just by the anticompetitive
6 effect of the Proxy Practice, but also the enormous amounts of tax-payers money that is being spent by
7 State and City departments related to the licensing and regulation of cannabis businesses, as well as the
8 Courts in litigation, under the false premise that ALG’s Proxy Practice is lawful.

9 Fifth, the integrity of the judiciary is being negatively affected while it continues to entertain the
10 claims by Razuki and Malan as they fight over a \$40,000,000 illegal cannabis empire built upon their
11 illegal contracts. *See Aghaian v. Minassian* (2021) 64 Cal. App. 5th 603, 622 (“By refusing to entertain
12 the enforcement of illegal contracts, courts maintain their integrity while at the same time deterring the
13 formation of such contracts.”). The more time and money it takes for these illegal actions to be stopped
14 and the rights of innocent parties vindicated, the more this and related litigation regarding the Proxy
15 Practice will serve as precedent to high net worth individuals and attorneys to seek to perpetuate their
16 crimes in furtherance of financial gain via the cover of the justice system. *Id.* What has taken place to
17 date provides support for the conclusion that it takes wealth to access justice, and this cannot be
18 condoned.

19 In light of the above, it is irrefutable that all parties related to ALG’s Proxy Practice, the public,
20 and State and local government agencies, including the Courts, have already been irreparably damaged
21 and immediate injunctive relief is warranted to mitigate the damage that has taken place.

22 CONCLUSION

23 The evidence before the Court leads to the conclusion that more likely than not Lake and Harcourt
24 unlawfully transferred Mr. Sherlock’s interest in LERE (and thereby the Balboa Property) and the Balboa
25 CUP. It is simple irrefutable logic that ALG’s Proxy Practice and the Oral and Partnership Agreements
26 are illegal and cannot be judicially enforced.

27 For the reasons set forth above, the Sherlock Family respectfully requests the Court grant the
28 relief requested herein. Specifically, that (i) Prodigious and Alliance be enjoined from selling, pledging

