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and BRADFORD HARCOURT
11

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN DIEGO**

14 SAN DIEGO PATIENTS COOPERATIVE)
15 CORPORATION, INC., a California)
cooperative corporation, and BRADFORD)
16 HARCOURT, an individual,)

17 Plaintiffs,)

18 v.)

19 RAZUKI INVESTMENTS, L.L.C., a)
California limited liability company;)
20 BALBOA AVE COOPERATIVE, a)
California cooperative corporation;)
21 AMERICAN LENDING AND)
HOLDINGS, LLC, a California limited)
22 liability company; SAN DIEGO UNITED)
HOLDINGS GROUP, LLC, a California)
23 limited liability company; CALIFORNIA)
CANNABIS GROUP, a nonprofit mutual)
24 benefit corporation; SALAM RAZUKI, an)
individual; NINUS MALAN, an individual,)
25 KEITH HENDERSON, an individual, AND)
DOES 1-20, INCLUSIVE,)

26 Defendants.)
27)
28)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

04/05/2024 at 08:29:00 PM

Clerk of the Superior Court
By Nora Lopez, Deputy Clerk

Case No. 37-2017-00020661-CU-CO-CTL

Honorable Michael T. Smyth, Dept. C-67

**MEMORANDUM OF POINTS AND
AUTHORITIES RE: JUDGMENT
CREDITOR BRADFORD HARCOURT'S
MOTION TO COMPEL JUDGMENT
DEBTOR RAZUKI INVESTMENTS, LLC
TO RESPOND FURTHER TO FIRST SET
OF INTERROGATORIES**

Date: July 19, 2024

Time: 9:00 a.m.

Courtroom: C-67

Complaint Filed: June 7, 2017

Trial Date: October 27, 2023

**MEMO OF P'S & A'S RE JUDGMENT CREDITOR BRADFORD HARCOURT'S
MOTION TO COMPEL JUDGMENT DEBTOR RAZUKI INVESTMENTS, LLC
TO RESPOND FURTHER TO FIRST SET OF INTERROGATORIES**

1 Judgment creditor Bradford Harcourt (“Judgment Creditor”) respectfully submits this
2 Memorandum of Points and Authorities in support of his motion to compel judgment debtor
3 Razuki Investments, LLC (“Judgment Debtor”) to provide further, substantive responses to
4 Judgment Creditor’s interrogatories.

5 **I. INTRODUCTION**

6 In this fraud action, Judgment Creditor alleged that Judgment Debtor violated a joint
7 venture agreement to share in the profits from the operation of a legal medical marijuana
8 dispensary in San Diego.

9 The matter was tried to a jury between October 30, 2023, and November 14, 2023, the
10 Honorable Eddie C. Sturgeon presiding. The jury returned a verdict in favor of Judgment
11 Creditor and against Judgment Debtor on Judgment Creditor’s causes of action for breach of
12 joint venture agreement, breach of implied covenant of good faith and fair dealing, and breach
13 of fiduciary duty. The jury awarded Judgment Creditor \$2,500,000 in damages.

14 After Judgment Debtor’s failed post-trial motions, the Court entered the Judgment on
15 Jury Verdict on February 14, 2024.

16 Judgment Debtor has failed to pay, or to agree to pay, the Judgment. Accordingly,
17 Judgment Creditor has commenced enforcement proceedings, including by serving discovery
18 requests upon Judgment Debtor. However, Judgment Debtor responded to each of Judgment
19 Creditor’s discovery requests by asserting boilerplate objections. In response to Judgment
20 Creditor’s efforts to meet-and-confer, Judgment Debtor continued to refuse to provide
21 substantive responses to any of Judgment Creditor’s discovery requests. Indeed, rather than
22 work with Judgment Creditor to resolve Judgment Debtor’s purported objections, its counsel
23 responded simply, “We’re never going to agree.”

24 Because Judgment Creditor is entitled to propound discovery seeking information to aid
25 in the enforcement of his money judgment, and because Judgment Debtor has refused, without
26 justification, to provide substantive responses to Judgment Creditor’s discovery requests,
27 Judgment Debtor should be compelled to provide further, substantive responses to each of
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1 Judgment Creditor's discovery requests. In addition, Judgment Debtor and/or its counsel should
2 be sanctioned in the amount of \$4,246.25 for the fees and costs related to the making of this
3 Motion.

4 **II. RELEVANT PROCEDURAL AND FACTUAL HISTORY**

5 On February 14, 2024, this Court entered a Judgment On Jury Verdict, which, among
6 other things, entered judgment in favor of Judgment Creditor and against Judgment Debtor in
7 the amount of \$2,500,000.00. (Cavanagh Decl., ¶ 3 & Ex. B.)

8 On February 16, 2024, Judgment Creditor's counsel sent a letter to Judgment Debtor's
9 counsel, inquiring how and when Judgment Debtor intends to pay the Judgment. (Cavanagh
10 Decl., ¶ 4 & Ex. C.) Judgment Debtor has not responded to that letter. (Cavanagh Decl., ¶ 5.)

11 Also on February 16, 2024, Judgment Creditor served on Judgment Debtor a first set of
12 interrogatories. (Cavanagh Decl., ¶ 6 & Ex. D.)

13 On March 20, 2024, Judgment Debtor served on Judgment Creditor its Responses To
14 Interrogatories. (Cavanagh Decl., ¶ 7 & Ex. E.) Each of the responses in the Responses To
15 Interrogatories consists entirely of objections; there are no substantive responses to any of the
16 requests. (*Id.*)

17 On April 1, 2024, Judgment Creditor's counsel sent a letter to Judgment Debtor's
18 counsel, explaining that Judgment Debtor's boilerplate objections to each of Judgment
19 Creditor's discovery requests were not valid. (Cavanagh Decl., ¶ 8 & Ex. F.)

20 On April 2, 2024, Judgment Creditor's counsel called Judgment Debtor's counsel to
21 attempt to resolve Judgment Debtor's purported objections to Judgment Creditor's discovery
22 requests. (Cavanagh Decl., ¶ 9 & Ex. G.) Judgment Debtor's counsel asserted that Judgment
23 Creditor's discovery requests were overbroad as to time, but was unwilling to work with
24 Judgment Creditor's counsel to narrow the requests to an acceptable time period. (Cavanagh
25 Decl., ¶ 10 & Ex. G.) Judgment Debtor's counsel also asserted that any information and
26 documents produced in response to Judgment Creditor's discovery requests must be subject to a
27 protective order, but continued to refuse to agree to provide substantive responses even after
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1 Judgment Creditor’s counsel agreed that Judgment Debtor’s responses and document
2 production could be made subject to the Stipulation and Protective Order to which Judgment
3 Debtor’s counsel had already agreed. (Cavanagh Decl., ¶¶ 2 & 12 & Exs. A & G.) Indeed,
4 rather than agree to provide substantive responses subject to the protective order or otherwise to
5 work with Judgment Creditor’s counsel to resolve Judgment Debtor’s purported objections,
6 Judgment Debtor’s counsel responded bluntly, “We’re never going to agree.” (Cavanagh Decl.,
7 ¶ 13 & Ex. G.)

8 **III. ARGUMENT**

9 A. Judgment Creditor Is Entitled To Conduct Discovery To Aid In The Enforcement Of His
10 Money Judgment Against Judgment Debtor.

11 “A judgment creditor may conduct discovery directly against the judgment debtor by
12 means of a judgment debtor examination ([Cal. Civ. Proc. Code] § 708.110), written
13 interrogatories (§ 708.020), and requests for production of documents (§ 708.030).” *SCC*
14 *Acquisitions, Inc. v. Superior Court*, 243 Cal.App.4th 741, 751-752 (2015); *accord Moorer v.*
15 *Noble L.A. Events, Inc.*, 32 Cal. App. 5th 736, 743 (2019); *Li v. Yan*, 247 Cal.App.4th 56, 65
16 (2016) (“[D]ocument requests to a judgment debtor can be propounded and served in the same
17 way as pretrial discovery.”).

18 The purpose of such supplementary proceedings is “to uncover all assets the judgment
19 debtor has that could respond to the judgment – to ‘leave no stone unturned in the search for
20 assets....’” *Li*, 247 Cal. App. 4th at 66 (quoting *Jogani v. Jogani*, 141 Cal. App. 4th 158, 172
21 (2006)). Thus, interrogatories seeking the following information are entirely appropriate:
22 identifying information about the judgment debtor, information regarding the judgment debtor’s
23 income and expenses; the description, value, and location of all of the judgment debtor’s real
24 and personal assets; the name and address of all other creditors of the judgment debtor, the
25 amount owed to them, and whether they have any liens or encumbrances on the debtor’s
26 property; and the present value, description, and location of all real and personal assets
27 transferred by the debtor to third persons in the last seven years, and the consideration paid for
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1 each such transfer. *See* Hon. Alan M. Ahart (Ret.), *Cal. Prac. Guide: Enforcing Judgments &*
2 *Debt*, Ch. 6G-2, ¶ 6:1380 (June 2023 Update).

3 Therefore, Judgment Creditor’s interrogatories to Judgment Debtor are proper.

4 B. Compelling Judgment Debtor To Provide Further, Substantive Responses Is Appropriate
5 Because Its Boilerplate Objections To The Discovery Requests Are Without Merit.

6 Written discovery requests to a judgment debtor may be enforced in the same manner as
7 written discovery requests in a civil action, “to the extent practicable.” Cal. Civ. Proc. Code
8 §§ 708.020(c) & 708.030(c). Thus, where a judgment debtor responds unsatisfactorily, a
9 judgment creditor may make a motion to compel answers. *See* Cal. Civ. Proc. Code
10 §§ 2030.290, 2030.300, 2031.300 & 2031.310; *see also SCC Acquisitions*, 243 Cal. App. 4th at
11 753 (trial court authorized to compel production of documents in judgment debtor’s possession,
12 custody, and control); *Best Prods., Inc. v. Superior Court*, 119 Cal. App. 4th 1181, 1189-90
13 (2004).

14 Here, on March 20, 2024, Judgment Debtor served its responses to Judgment Creditor’s
15 interrogatories. (Cavanagh Decl., ¶ 7 & Ex. E.) Each of the responses consisted entirely of the
16 same objections to each request. (*Id.*)

17 When Judgment Creditor’s counsel called Judgment Debtor’s counsel to meet-and-
18 confer regarding the asserted objections, Judgment Debtor’s counsel relied primarily on
19 objections that Judgment Creditor’s discovery requests were overbroad as to time and infringed
20 upon the purported privacy rights of defendant Salam Razuki. (Cavanagh Decl., ¶¶ 9-12 & Ex.
21 H.) However, during the meet-and-confer process, Judgment Creditor’s counsel offered to limit
22 the temporal scope of the discovery requests and agreed that Judgment Debtor could produce
23 responsive information and documents subject to the Stipulation and Protective Order to which
24 Judgment Debtor had already agreed. (*Id.*) Rather than agree to these conditions – or to
25 propose any others under which Judgment Debtor would provide substantive information in
26 response to Judgment Creditor’s discovery requests – Judgment Debtor’s counsel responded
27 bluntly, “We’re never going to agree.” (Cavanagh Decl., ¶ 13 & Ex. H.)

1 Judgment Debtor’s refusal to provide substantive responses to Judgment Creditor’s
2 discovery requests on the basis of the asserted objections is improper.

3 Judgment Debtor’s assertion of privacy concerns on behalf of Defendant Salam Razuki
4 does not justify its refusal to comply with Judgment Creditor’s proper discovery requests.
5 “Code of Civil Procedure section 708.030, subdivision (a), allows a judgment creditor to obtain
6 information about a third party, provided the document ‘is in the possession, custody, or
7 control’ of the judgment debtor and ‘the demand requests information to aid in enforcement of
8 the money judgment.’” *Moorer*, 32 Cal. App. 5th at 743 (citing *SCC Acquisitions*, 243 Cal.
9 App. 4th at 752-753 [“If the document requested is ‘in the possession, custody, or control of the
10 party on whom the demand is made’ and has ‘information to aid in enforcement of the money
11 judgment,’ then the document is subject to discovery under section 708.030, regardless of
12 whether the document relates to the judgment debtor or to third parties.”].) Moreover, the
13 constitutional right of privacy does not provide absolute protection “‘but may yield in the
14 furtherance of compelling state interests.’” *SCC Acquisitions*, 243 Cal.App.4th at 754 (quoting
15 *People v. Wharton*, 53 Cal. 3d 522, 563 (1991)). “Obtaining information to collect on a
16 judgment is ‘a valid significant interest.’” *Id.* at 755 (quoting *Hooser v. Superior Court*, 84 Cal.
17 App. 4th 997, 1007 (2000)). Therefore, any right of privacy that Mr. Razuki may have in the
18 requested information must yield to Judgment Creditor’s countervailing interest in obtaining
19 information to collect on his Judgment.

20 Judgment Debtor’s assertion that the discovery requests are overbroad is similarly
21 unavailing. As noted above, the object of post-judgment discovery is “‘to compel the judgment
22 debtor to give information concerning his property ... , according the widest scope for inquiry
23 concerning the property and business affairs of the judgment debtor.’” *Li*, 247 Cal. App. 4th at
24 66 (quoting *Kyne v. Eustice*, 215 Cal. App. 2d 627, 632 (1963)).

25 In *Troy v. Superior Court*, 186 Cal. App. 3d 1006, 1014 (1986), a judgment debtor
26 petitioned for relief to restrain enforcement of a contempt order entered against him after he
27 refused to answer questions at a judgment debtor examination, citing his privilege against self-

1 incrimination, the marital privilege, and relevancy. The Court of Appeal denied the petition,
2 concluding, “the purpose of a judgment debtor examination is to leave no stone unturned in the
3 search for assets which might be used to satisfy the judgment.”

4 Moreover, “beyond only leaving no stone unturned,” California courts have concluded
5 that judgment debtor discovery implicates a “strong public policy.” *Li*, 247 Cal. App. 4th at 68.
6 “That policy is to prevent fraud against creditors. And against lenders. And perhaps against the
7 court.” *Id.*

8 In light of the “strong public policy” of affording judgment creditors wide latitude in the
9 discovery of information to aid in the collection of their judgments, Judgment Debtor should not
10 be heard to argue that Judgment Creditor’s reasonable discovery requests are overbroad.

11 Rather, Judgment Debtor should be compelled to provide further, substantive responses
12 to Judgment Creditor’s discovery requests. After pending for years, this matter finally went to
13 trial, and Judgment Creditor obtained a significant money judgment against Judgment Debtor.
14 (Cavanagh Decl., ¶ 3 & Ex. B.) After denying Judgment Debtor’s unmeritorious post-trial
15 motions, the Court entered the Judgment On Jury Verdict on February 14, 2024. (*Id.*)
16 Nevertheless, Judgment Debtor has not only refused to agree to pay the Judgment, but has now
17 asserted invalid objections in response to Judgment Creditor’s discovery requests. (Cavanagh
18 Decl., ¶¶ 4-5 & 7 & Exs. C & E-F.)

19 Judgment Creditor is entitled to Judgment Debtor’s substantive responses to Judgment
20 Creditor’s discovery responses in order to aid in the enforcement of Judgment Creditor’s
21 Judgment against Judgment Debtor. Therefore, Judgment Debtor should be compelled to
22 provide further, substantive responses to each of Judgment Creditor’s interrogatories.

23 C. Judgment Creditor Is Entitled To Sanctions Against Judgment Debtor And/Or Its
24 Counsel.

25 Failure to respond to discovery requests, evasive responses, and objections lacking
26 substantial justification all constitute “misuses of the discovery process.” *See* Cal. Civ. Proc.
27 Code § 2023.010(d)-(f).

1 If a motion to compel to remedy such misuses is granted, the Court “shall” order the
2 party to whom the discovery was directed to pay the propounding party’s reasonable expenses,
3 including attorneys’ fees, unless it finds that the responding party acted with substantial
4 justification or that the imposition of sanctions would otherwise be unjust. *See* Cal. Civ. Proc.
5 Code § 2023.030(a); *see also* Cal. Civ. Proc. Code § 708.020, Law Revision Commission
6 Comments (1982 Addition) (“Under subdivision (c), if the judgment debtor fails to answer
7 interrogatories without substantial justification, sanctions may include an award of attorney's
8 fees.”).

9 Here, for the reasons set forth above, Judgment Creditor is entitled to conduct discovery
10 to aid in its enforcement of the money judgment entered against Judgment Debtor, and
11 Judgment Debtor’s objections to Judgment Creditor’s discovery requests are not well-founded.
12 Moreover, during the meet-and-confer process, Judgment Debtor’s counsel refused to proffer
13 any means for resolving Judgment Debtor’s purported objections in order to allow Judgment
14 Creditor to conduct the discovery to which he is entitled. To the contrary, Judgment Debtor’s
15 counsel shut down the meet-and-confer process by asserting, “We’re never going to agree.”
16 (Cavanagh Decl., ¶ 13 & Ex. H.) Accordingly, an award of sanctions is appropriate.

17 In connection with this Motion, Judgment Creditor’s counsel reasonably spent
18 approximately six and one-quarter hours drafting this Memorandum of Points and Authorities,
19 drafting his Declaration, preparing the Separate Statement, drafting the Notice of Motion, and
20 preparing the Proposed Order. (Cavanagh Decl., ¶ 15.) In addition, Judgment Creditor’s
21 counsel anticipates reasonably spending a total of approximately 1 hour reviewing the expected
22 Opposition and the legal authorities cited therein, a total of approximately 2 hours preparing
23 Judgment Creditor’s Reply Brief, and a total of approximately 1.5 hours preparing for and
24 attending the hearing on Judgment Creditor’s Motion. (Cavanagh Decl., ¶ 16.)

25 Thus, at counsel’s customary and reasonable hourly rate of \$395 (Cavanagh Decl., ¶ 17),
26 Judgment Creditor will have incurred approximately \$4,246.25 in fees as a result of Judgment
27 Debtor’s failure to provide appropriate responses to Judgment Creditor’s interrogatories.

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Therefore, Judgment Creditor requests sanctions in the amount of \$4,246.25.

IV. CONCLUSION

For the foregoing reasons, Judgment Debtor should be compelled to provide further, substantive responses to each of Judgment Creditor’s interrogatories, and Judgment Debtor and/or its counsel should be sanctioned in the amount of \$4,246,25.

Dated: April 5, 2024

MESSNER REEVES LLP



Allan B. Claybon
Mark Collier
Charles C. Cavanagh
Attorneys for Plaintiffs

1 **PROOF OF SERVICE**

2 I am employed in the County of Denver, Colorado. I am over the age of eighteen years
3 and not a party to the within entitled action; my business address is 1550 Wewatta Street, Suite
4 710, Denver, Colorado 80202.

5 On April 5, 2024, I caused to be served the foregoing document described as:

6 **MEMORANDUM OF POINTS AND AUTHORITIES RE: JUDGMENT CREDITOR**
7 **BRADFORD HARCOURT’S MOTION TO COMPEL JUDGMENT DEBTOR RAZUKI**
8 **INVESTMENTS, LLC TO RESPOND FURTHER TO FIRST SET OF**
9 **INTERROGATORIES** on the interested parties as follows:
10

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21
22 ELECTRONIC-SERVICE/E-MAIL: Pursuant to California Rules of Court, Rule
23 2.251(b)(1)(B), a court order or by consent/agreement of the parties to accept service by e-mail
24 and/or electronic submission, I cause the above-referenced document(s) to be sent to the persons
indicated above at the email address set forth above from either the Court’s electronic filing
service or by personal email.

25 BY OVERNIGHT DELIVERY [CCP §1013(a)] By placing the original a true
26 copy thereof enclosed in a sealed envelope(s) addressed as to the above-named counsel of record
27 or parties in propria persona. I caused such envelope to be deposited in the Federal Express box
at 11620 Wilshire Blvd., Los Angeles, CA 90025, which is regularly maintained by Federal
Express, with delivery fees pre-paid and provided for, addressed to the person on whom said
document is to be served.

1 I declare under penalty of perjury under the laws of the State of Colorado that the
2 forgoing is true and correct.

3 DATED: April 5, 2024

4 */s/ Tara L. Nelson*
5 _____
6 Tara L. Nelson

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