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8 *Attorneys for Plaintiff*

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
11/16/2017 at 02:19:00 PM
Clerk of the Superior Court
By Katelin O'Keefe, Deputy Clerk

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

12 **KARL BECK**, individually and on behalf of all
13 other similarly situated California residents,

14 Plaintiff,

15 v.

16 **POINT LOMA PATIENTS**
17 **CONSUMER COOPERATIVE**
18 **CORPORATION**, A California
19 Corporation, **ADAM KNOPF**, an
20 Individual, **JUSTUS H. HENKES IV**, an
21 Individual, **419 CONSULTING INC.**, a
22 California Corporation, **GOLDEN**
23 **STATE GREENS LLC**, a California
24 LLC, **FAR WEST MANAGEMENT,**
25 **LLC**, a California LLC, **FAR WEST**
26 **OPERATING, LLC**, a California LLC,
27 **FAR WEST STAFFING, LLC**, a
28 California LLC, and **DOES 1-50**,

Defendants.

Case No: 37-2017-00037524-CU-BT-CTL

CLASS ACTION

**DECLARATION OF WILLIAM R. RESTIS
IN SUPPORT OF MOTION PURSUANT TO
CALIFORNIA CORPORATIONS CODE §§
12603-12607 FOR:**

- (1) **PRODUCTION OF RECORDS;**
- (2) **APPOINTMENT OF INDEPENDENT
ACCOUNTANT; and**
- (3) **AWARD OF ATTORNEY FEES AND
COSTS**

Date: January 5, 2018

Time: 9:00 a.m.

Judge: Hon. Joel R. Wohlfeil

Ctrm: C-73

1 I, William R. Restis, hereby declare as follows:

2 1. I am the managing member of The Restis Law Firm, P.C. (“RLF”). I have personal
3 knowledge of the matters set forth herein, based on my active participation in all material aspects
4 of this litigation. If called upon, I could and would testify competently to the facts herein based
5 upon my personal involvement in this case. I submit this declaration in support of Plaintiff Karl
6 Beck’s (“Plaintiff”) Motion Pursuant to California Corporations Code §§ 12603-12607 for: (1)
7 Production of Records; (2) Appointment of Independent Accountant, and (3) Award of Attorney
8 Fees and Costs (the “Motion”).

9 **I. PLAINTIFF’S RECORD DEMAND AND INSPECTION REQUEST**

10 2. Attached hereto as Exhibit 1 is a true and correct copy of defendant Point Loma
11 Patients Consumer Cooperative Corporation’s (the “PLPCCC”) Articles of Incorporation filed
12 with the California Secretary of State demonstrating the PLPCCC was organized pursuant to the
13 “California Consumer Cooperative Corporation Law.”

14 3. Attached hereto as Exhibit 2 is a true and correct copy of the PLPCCC’s 2017
15 Statement of Information filed with the California Secretary of State.

16 4. Attached hereto as Exhibit 3 is a true and correct copy of defendant Golden State
17 Greens LLC’s 2017 Statement of Information filed with the California Secretary of State. Shortly
18 after Plaintiff sent a records demand to the PLPCCC on or about July 25, 2017, the PLPCCC
19 began doing business as “Golden State Greens” as evidenced by <http://plpcc.org>.

20 5. Attached hereto as Exhibit 4 is a true and correct copy of defendant 419 Consulting
21 Inc.’s 2015 (and latest) Statement of Information filed with the California Secretary of State.

22 6. Attached hereto as Exhibit 5 is a true and correct copy of defendant Far West
23 Management, LLC’s 2017 Statement of Information filed with the California Secretary of State.

24 7. Attached hereto as Exhibit 6 is a true and correct copy of defendant Far West
25 Operating, LLC’s 2017 Statement of Information filed with the California Secretary of State.

1 letter, and adding defendant Golden State Greens to the entities included in Plaintiff's demand.
2 Plaintiff's August 30, 2017 letter corrected his name from "John Beck" to "Karl Beck." A true and
3 correct copy of Plaintiff's August 30, 2017 letter is attached hereto as Exhibit 11.

4 14. In response to this correction, Defendants did not agree to Plaintiff's records
5 request. Instead, on or about September 8, 2017, Defendants, through counsel Ms. Austin, stated
6 *inter alia* that Plaintiff "appears to be an associate member" and as such "would not be entitled to
7 the documents ... requested." A true and correct copy of Ms. Austin's September 8, 2017 letter is
8 attached hereto as Exhibit 12.

9 15. On or about September 20, 2017 I sent Ms. Austin a copy of Plaintiff's driver's
10 license in response to a request from Ms. Austin to provide same, purportedly to verify that
11 Plaintiff was a member of the PLPCCC. That same day, at 08:48 Pacific Standard Time, Ms.
12 Austin sent me an email stating "I can confirm that at one point Mr. Beck was a member. I can not
13 confirm whether he is still a member because I have not reviewed all board actions subsequent to
14 his initial membership. I do know that he was banned from the facility due to his inappropriate
15 and harassing behavior towards other members within 30 days of becoming a member." A true and
16 correct copy of Gina Austin's September 20, 2017 email to me is attached hereto as Exhibit 13.

17 16. In her September 20, 2017 email, Ms. Austin attached a purported copy of the
18 PLPCCC's bylaws. Plaintiff cannot verify that the PLPCCC bylaws he received from Ms. Austin
19 were not drafted in response to his July 25, 2017 demand letter. The meta-data on the bylaws PDF
20 file indicates that it was created on September 19, 2017. A true and correct copy of the purported
21 copy of the PLPCCC's bylaws, which I downloaded from Ms. Austin's September 20, 2017 email,
22 is attached hereto as Exhibit 14.

23 **II. ATTORNEY FEES AND LITIGATION EXPENSES**

24 17. My *Curriculum Vitae* is attached hereto as Exhibit 15.

EXHIBIT 1

3669504

FILED *DOM*
Secretary of State
State of California *Te*

1 CC APR 24 2014

**ARTICLES OF INCORPORATION OF
POINT LOMA PATIENTS CONSUMER COOPERTIVE CORPORATION**

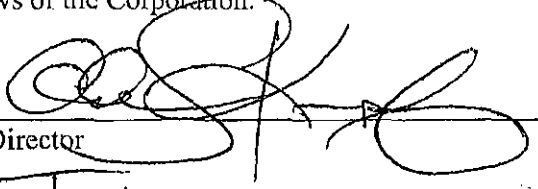
ARTICLE 1. The name of the Corporation is the POINT LOMA PATIENTS CONSUMER COOPERATIVE CORPORATION.

ARTICLE 2. This Corporation is a cooperative corporation organized under the California Consumer Cooperative Corporation Law. The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

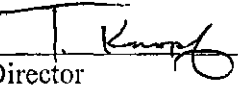
ARTICLE 3. The name and address in the State of California of this Corporations' initial agent for service of process is Adam Knopf, 2188 Balfour Ct., San Diego, CA 92109.

The initial street and mailing address for this Corporation is 3452 Hancock Street, San Diego, CA 92110.

ARTICLE 4. The voting rights of each member of the Corporation are equal, and each member is entitled to vote. The proprietary interests of each member of the Corporation are unequal, and the rules by which the proprietary interests are determined shall be prescribed in the Bylaws of the Corporation.



Director



Director

EXHIBIT 2

EXHIBIT 3



Secretary of State
Statement of Information
 (Limited Liability Company) **133** *JK*

LLC-12

17-434921

FILED
 Secretary of State
 State of California

MAR 16 2017

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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.)

Golden State Greens LLC

2. 12-Digit Secretary of State File Number **3. State, Foreign Country or Place of Organization** (only if formed outside of California)

201625910162

4. Business Addresses

a. Street Address of Principal Office - Do not list a P.O. Box 7734 Herschel Ave Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037
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 Adam	Middle Name	Last Name Knopf	Suffix
b. Entity Name - Do not complete Item 5a			
c. Address 7734 Herschel Ave Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

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 not a corporation) Justus	Middle Name H	Last Name Henkes	Suffix IV
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box 7734 Herschel Ave Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

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
 Real Estate Development

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.

03-13-17

Justus H Henkes IV

CPA

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: [Justus H Henkes IV]
 Company: Justus H Henkes IV Inc
 Address: 7734 Herschel Ave Ste L
 City/State/Zip: [La Jolla, CA 92037]

EXHIBIT 4



State of California Secretary of State

S

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

FN89034

FILED

In the office of the Secretary of State
of the State of California

JUL-18 2017

1. CORPORATE NAME

POINT LOMA PATIENTS CONSUMER COOPERATIVE CORPORATION

2. CALIFORNIA CORPORATE NUMBER

C3669504

This Space for Filing Use Only

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.

If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to **Item 17**.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE	CITY	STATE	ZIP CODE
3452 HANCOCK STREET, SAN DIEGO, CA 92110			
5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY	CITY	STATE	ZIP CODE
5666 LA JOLLA BLVD STE 155, LA JOLLA, CA 92037			
6. MAILING ADDRESS OF CORPORATION, IF DIFFERENT THAN ITEM 4	CITY	STATE	ZIP CODE
ADAM KNOPF 3452 HANCOCK STREET, SAN DIEGO, CA 92110			

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

7. CHIEF EXECUTIVE OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
ADAM KNOPF	3452 HANCOCK STREET, SAN DIEGO, CA 92110			
8. SECRETARY	ADDRESS	CITY	STATE	ZIP CODE
ADAM KNOPF	3452 HANCOCK STREET, SAN DIEGO, CA 92110			
9. CHIEF FINANCIAL OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
JUSTUS HENRY HENKES IV	3452 HANCOCK STREET, SAN DIEGO, CA 92110			

Names and Complete Addresses of All Directors, Including Directors Who are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

10. NAME	ADDRESS	CITY	STATE	ZIP CODE
ADAM KNOPF	5666 LA JOLLA BLVD STE 155, LA JOLLA, CA 92037			
11. NAME	ADDRESS	CITY	STATE	ZIP CODE
12. NAME	ADDRESS	CITY	STATE	ZIP CODE

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 15 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 15 must be left blank.

14. NAME OF AGENT FOR SERVICE OF PROCESS			
ADAM KNOPF			
15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL	CITY	STATE	ZIP CODE
3452 HANCOCK STREET, SAN DIEGO, CA 92110			

Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
CONSULTING - MARKETING, MNGMNT

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

07/18/2017 JUSTUS HENRY HENKES IV CFO
DATE TYPE/PRINT NAME OF PERSON COMPLETING FORM TITLE SIGNATURE

EXHIBIT 5



Secretary of State
Statement of Information
 (Limited Liability Company)

29

LLC-12

BC

17-749763

FILED

Secretary of State
 State of California

MAY 16 2017

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

26/20/17
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1. **Limited Liability Company Name** (Enter the exact name of the LLC. If you registered in California using an alternate name, see instructions.)

Far West Management, LLC

2. **12-Digit Secretary of State File Number** 3. **State, Foreign Country or Place of Organization** (only if formed outside of California)

201514810089

4. Business Addresses

a. Street Address of Principal Office - Do not list a P.O. Box 7734 Herschel Ave., ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037
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 Adam	Middle Name	Last Name Knopf	Suffix
b. Entity Name - Do not complete Item 5a			
c. Address 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

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 not a corporation) Justus	Middle Name	Last Name Henkes	Suffix
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

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 Business to Business Management Services

8. Chief Executive Officer, if elected or appointed

a. First Name Adam	Middle Name	Last Name Knopf	Suffix
b. Address 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

9. The information contained herein, including any attachments, is true and correct.

05/12/2017

Date

Justus Henkes, IV

Type or Print Name of Person Completing the Form

CFO

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: [Justus Henkes, IV]
 Company: Far West Management, LLC
 Address: 7734 Herschel Ave., ste L
 City/State/Zip: [La Jolla, CA 92037]

EXHIBIT 6



**Secretary of State
Statement of Information**
(Limited Liability Company)

29

LLC-12

BC

17-749762

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Secretary of State
State of California

MAY 16 2017

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Certification Fee - \$5.00 plus copy fees

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1. Limited Liability Company Name (Enter the exact name of the LLC. If you registered in California using an alternate name, see instructions.)
Far West Operating, LLC

2. 12-Digit Secretary of State File Number
201514810147

3. State, Foreign Country or Place of Organization (only if formed outside of California)
CA

4. Business Addresses

a. Street Address of Principal Office - Do not list a P.O. Box 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037
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 Adam	Middle Name	Last Name Knopf	Suffix
b. Entity Name - Do not complete Item 5a			
c. Address 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

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 not a corporation) Justus	Middle Name	Last Name Henkes	Suffix
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

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
Business to Business Management Services

8. Chief Executive Officer, if elected or appointed

a. First Name Adam	Middle Name	Last Name Knopf	Suffix
b. Address 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

9. The information contained herein, including any attachments, is true and correct.

05/12/2017 Justus Henkes, IV CFO
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: [Justus Henkes, IV]
Company: Far West Operating, LLC
Address: 7734 Herschel Ave., Ste L
City/State/Zip: [La Jolla, CA 92037]

EXHIBIT 7



Secretary of State
Statement of Information **27**
 (Limited Liability Company) **5h**

LLC-12

17-749722

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 Secretary of State
 State of California

MAY 16 2017

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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.)

Far West Staffing, LLC

2. 12-Digit Secretary of State File Number **3. State, Foreign Country or Place of Organization** (only if formed outside of California)

201514810158

4. Business Addresses

a. Street Address of Principal Office - Do not list a P.O. Box 7734 Herschel Ave., Ste L	City (no abbreviations) LaJolla	State CA	Zip Code 92037
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 Adam	Middle Name	Last Name Knopf	Suffix
b. Entity Name - Do not complete Item 5a			
c. Address 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

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 not a corporation) Justus	Middle Name	Last Name Henkes	Suffix
b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

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 Business to Business Management Services

8. Chief Executive Officer, if elected or appointed

a. First Name Adam	Middle Name	Last Name Knopf	Suffix
b. Address 7734 Herschel Ave., Ste L	City (no abbreviations) La Jolla	State CA	Zip Code 92037

9. The Information contained herein, including any attachments, is true and correct.

05/12/2017
Date

Justus Henkes, IV
Type or Print Name of Person Completing the Form

CFO
Title

[Handwritten Signature]
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: [Justus Henkes, IV]
 Company: Far West Staffing, LLC
 Address: 7734 Herschel Ave., Ste L
 City/State/Zip: [La Jolla, CA 92037]

EXHIBIT 8

1 Thomas M. Diachenko, Esq. (SBN 140763)
2 Arcelia N. Magana, Esq. (SBN 312422)
3 Law Offices of Thomas M. Diachenko, APC
4 1916 Third Avenue
5 San Diego, CA 92101
6 Telephone: 619-699-5870
7 Facsimile: 619-699-5871

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
08/09/2017 at 10:47:00 AM
Clerk of the Superior Court
By Cody Newlan, Deputy Clerk

8 Rory Pendergast (SBN 266765)
9 Christopher C. Taylor, Of Counsel (SBN 200156)
10 The Pendergast Law Firm, PC
11 555 West Beech Street, Suite 510
12 San Diego, CA 92101
13 Telephone: 619-344-8699
14 Facsimile: 619-344-8701

15 Attorneys for Plaintiff Yvonne Brown

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **IN AND FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION**

18 YVONNE BROWN, an individual;) Case No.: 37-2017-00025128-CU-OE-CTL
19)
20 Plaintiff,) **FIRST AMENDED COMPLAINT FOR**
21) **DAMAGES**
22 v.)
23) 1. FAILURE TO REIMBURSE BUSINESS
24) EXPENSES (Labor Code §2802);
25) 2. FAILURE TO PROVIDE MEAL PERIODS;
26) 3. FAILURE TO PROVIDE REST PERIODS;
27) 4. FAILURE TO PAY WAGES (Labor Code § §
28) 204, 210, 1194)
POINT LOMA PATIENTS CONSUMER) 5. FAILURE TO PROVIDE ACCURATE PAY-
COOPERATIVE CORPORATION, a) STUBS;
California corporation; FAR WEST) 6. UNFAIR BUSINESS PRACTICES;
MANAGEMENT, LLC, a California limited) 7. LABOR CODE § 558 VIOLATIONS.
liability company; JUSTUS HENKES, IV, an) 8. RETALIATION IN VIOLATION OF LABOR
individual; ADAM KNOPF, an individual;) CODE §1102.5;
HEIDI RISING, an individual; and; DOES 1 –) 9. VIOLATION OF LABOR CODE §1198.5;
50, inclusive;) 10. LABOR CODE § 2699 “PAGA” CLAIMS;
29 Defendants.) 11. LABOR CODE §203 VIOLATION.
30)
31)
32)
33)
34)
35)
36)
37)
38)
39)
40)

41 Plaintiff Yvonne Brown alleges:

42 ///

1 **PARTIES**

2 1. Defendant Point Loma Patients Consumer Cooperative Corporation (“PLPCCC”) is a
3 California corporation doing business in the State of California and in the County of San Diego. The
4 unlawful employment practices complained of herein occurred in San Diego County.

5 2. Defendant Far West Management, LLC is a California limited liability company doing
6 business in the State of California and in the County of San Diego. The unlawful employment practices
7 complained of herein occurred in San Diego County.

8 3. Defendant Justus Henkes, IV is believed to be a resident of San Diego County, California,
9 and is subject to the jurisdiction of this Court.

10 4. Defendant Adam Knopf is believed to be a resident of San Diego County, California, and
11 is subject to the jurisdiction of this Court.

12 5. Defendant Heidi Rising is believed to be a resident of San Diego County, California, and
13 is subject to the jurisdiction of this Court.

14 6. Defendants DOES 1-50, inclusive, at all relevant times mentioned, were either business
15 entities of unknown form doing business in the State of California and in the County of San Diego, and
16 were affiliates, parents, subsidiaries, joint venturers, partners, members, fictitious business names, or were
17 otherwise affiliated with PLPCCC or alternatively were individuals residing in the County of San Diego,
18 State of California, and were employees, supervisors, officers, directors, owners, and/or managing agents
19 of the named defendants. Plaintiff is unaware of the true names of these defendants and therefore sues
20 them by such fictitious names. Plaintiff will amend this First Amended Complaint to allege their true
21 names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of
22 these fictitiously named defendants is responsible in some manner for the occurrences alleged herein, and
23 that Plaintiff’s injuries and damages as alleged herein were caused by the aforementioned defendants

24 7. Plaintiff is informed and believe and based thereon allege that each of the Defendants named
25 herein was, at all times relevant to this action, the agent, employee, representative, partner, managing
26 member, or joint venturer of the remaining Defendants and was acting in the course and scope of that
27 relationship. Plaintiff is further informed and believes, and based thereon alleges, that each of the Defendants
28

1 named herein gave consent to, ratified, and/or authorized the acts alleged herein to each of the remaining
2 Defendants.

3 8. Plaintiff is informed and believes and based thereon alleges that at all times mentioned herein
4 there existed a unity and identity of interest and ownership between all Defendants, such that any individuality
5 and separateness between them have ceased. Each of the defendants is the alter ego of the other in that, *inter*
6 *alia*, each is or was composed of the same or practically the same principals, the assets of the entities have been
7 transferred and combined between the entities, and they carry on the same business.

8 9. Plaintiff is also informed and believes and based thereon alleges that adherence to the fiction of
9 the separate existence of the defendants as distinct from one another would permit an abuse of the corporate
10 privilege and would promote injustice in that it would permit these entities to evade their legal obligations.

11 10. The individual defendants, Defendants Henkes, Knopf, and Rising are personally
12 liable for some, or all, of the claims alleged in this First Amended Complaint pursuant to Labor
13 Code Section 558.1.

14 11. The amount in controversy herein, exclusive of interest, attorneys' fees, and costs,
15 exceeds \$25,000.00.

16 12. Within the four (4) years immediately preceding the filing of this First Amended Complaint
17 and at all relevant times, Plaintiff was employed by Defendants, and each of them.

18 **FIRST CAUSE OF ACTION**

19 **(Violation of Labor Code Section 2082 Against All Defendants)**

20 13. Plaintiff hereby incorporates by this reference each and every preceding
21 paragraph of this First Amended Complaint as if fully set forth herein.

22 14. California Labor Code Section 2802 provides in pertinent part that: “[a]n employer
23 shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in
24 direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the
25 employer, even though unlawful, unless the employee, at the time of obeying the directions, believed
26 them to be unlawful.”

27 15. Pursuant to Labor Code Section 2802, California employees who incur out of pocket
28 for expenses like mileage must be reimbursed for those expenditures. If an employer fails to reimburse

1 an employee for necessary job expenses, the employee can bring a lawsuit to recover the reimbursable
2 amounts.

3 16. Plaintiff drove her personal vehicle in connection with her employment with
4 Defendants (making deliveries), but was not reimbursed for mileage. Plaintiff likewise spent money
5 and incurred additional costs that Defendants were required to indemnify her, but for which she was not
6 indemnified.

7 17. Under California law, Plaintiff could not waive her right to mileage reimbursement.
8 (Labor Code Section 2804.) And Plaintiff could not waive her right to reimbursement for Defendants'
9 reimbursement of business costs.

10 18. In addition to reimbursement pursuant to Labor Code Section 2802, Plaintiff is entitled
11 to recover from Defendants interest, penalties, attorney's fees, and costs of suit.

12 19. The individual Defendants are personally liable pursuant to Labor Code Sections 558 and
13 558.1, along with Labor Code Section 1197.1.

14 20. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an
15 amount according to proof at the time of trial, but in an amount in excess of the minimum jurisdiction of this
16 Court.

17 **SECOND CAUSE OF ACTION**

18 **(Violation of California Labor Code Section 226.7 - Failure to Provide Meal Periods**

19 **Against All Defendants)**

20 21. Plaintiff hereby incorporates by this reference each and every preceding paragraph of this
21 First Amended Complaint as if fully set forth herein.

22 22. At all times herein mentioned, Plaintiff was a non-exempt employee and subject to the
23 "meal period" provisions of the Labor Code, Wage Orders, and Code of Regulations. No valid legal or
24 applicable exception to the meal break requirement existed to allow Defendants to avoid providing Plaintiff
25 with regular meal breaks as required by the Labor Code.

26 23. Defendants failed to allow Plaintiff to take 30-minute meal periods, uninterrupted, during
27 which she was relieved of all duties, for every five hours worked. Defendants denied such meal periods and
28 Defendants' agents and management were well aware that meal periods were being denied.

1 rules, requirements, and regulations. In addition, Plaintiff is entitled to recover interest on the
2 unpaid rest period wages due.

3 29. Plaintiff requests relief pursuant to California Labor Code Section 226.7(b)
4 which provides for one hour of additional pay at the employee's regular rate of pay for each
5 work day the rest period(s) is not provided.

6 30. The individual Defendants are personally liable pursuant to Labor Code Sections 558 and
7 558.1.

8 **FOURTH CAUSE OF ACTION**

9 **(Failure to Pay Wages, Labor Code Sections 204, 210, 1194 Against All Defendants)**

10 31. Plaintiff hereby incorporates by this reference each and every preceding
11 paragraph of this First Amended Complaint as if fully set forth herein.

12 32. Plaintiff is informed and believes, and thereon alleges, that she was not paid for
13 all hours of work. Plaintiff is informed and believes she performed work for Defendants for
14 which she was not paid at all.

15 33. Under the Labor Code, Plaintiff is entitled to recover her unpaid wages (in an
16 amount to be determined), interest, penalties, liquidated damages, attorneys' fees, and costs of
17 suit.

18 34. The individual Defendants are personally liable pursuant to Labor Code Sections 558 and
19 558.1, along with Labor Code Section 1197.1.

20 **FIFTH CAUSE OF ACTION**

21 **(Failure to Provide Properly Itemized Wage Statements in**

22 **Violation of the California Labor Code Against All Defendants)**

23 35. Plaintiff hereby incorporates by this reference each and every preceding paragraph
24 of this First Amended Complaint as if fully set forth herein.

25 36. Labor Code Section 226(a) states, in part, that "[e]very employer shall,
26 semimonthly or at the time of each payment of wages, furnish each of his or her employees,
27 either as a detachable part of the check, draft, or voucher paying the employee's wages, or
28 separately when wages are paid by personal check or cash, an accurate itemized statement in

1 writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any
2 employee whose compensation is solely based on a salary and who is exempt from payment of
3 overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
4 Commission....(5) net wages earned... (8) the name and address of the legal entity that is the
5 employer ...and (9) all applicable hourly rates in effect during the pay period and the
6 corresponding number of hours worked at each hourly rate by the employee....”

7 37. Labor Code Section 226(e)(1) states that, “[a]n employee suffering injury as a
8 result of a knowing and intentional failure by an employer to comply with subdivision (a) is
9 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay
10 period in which a violation occurs and one hundred dollars (\$100) per employee for each
11 violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand
12 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”

13 38. Further, Labor Code Section 226.3 states, in part, as follows: “Any employer
14 who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of
15 two hundred fifty dollars (\$250) per employee per violation in an initial citation and one
16 thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which
17 the employer fails to provide the employee a wage deduction statement or fails to keep the
18 records required in subdivision (a) of Section 226. The civil penalties provided for in this
19 section are in addition to any other penalty provided by law.”

20 39. Defendants paid Plaintiff part of her compensation in cash. When Plaintiff was
21 paid in cash, Defendants failed to provide Plaintiff with pay stubs which included an accurate
22 itemized statement indicating gross wages earned, applicable hourly rates, and the number of
23 hours worked at each hourly rate. The pay stubs that were provided to Plaintiff did not include
24 the overtime wages earned by Plaintiff the number of hours Plaintiff worked at overtime hourly
25 rates, or the name of the legal entity that was their employer. Consequently, Defendants’ failure
26 to provide accurate pay stubs violated Labor Code Section 226(a).
27

28 40. Further, the individual defendants are owners, directors, officers, or managing
agents for PLPCCC which failed to provide Plaintiff with proper pay stubs and who, at all times

1 relevant herein, were acting on behalf of PLPCCC and thus are personally liable pursuant to
2 Labor Code Sections 558 and 558.1 as described further herein.

3 41. Defendants knowingly and intentionally failed to comply with Labor Code
4 Section 226(a), as delineated above. Accordingly, Defendants are liable for damages owed to
5 Plaintiff, as specified in Labor Code Section 226(e)(1) and are additionally responsible for the
6 payment of civil penalties as provided for in Labor Code Section 226.3.

7 **SIXTH CAUSE OF ACTION**

8 **(Unlawful and Unfair Business Acts and Practices in Violation of California**
9 **Business & Professions Code Section 17200, et seq. against PLPCCC)**

10 42. Plaintiff hereby incorporates by reference and re-alleges each and every
11 preceding paragraph of this First Amended Complaint as if set forth fully herein.

12 43. The acts, omissions, and practices of Defendants as alleged herein constitute
13 unlawful and unfair business acts and practices within the meaning of Section 17200, et seq. of
14 the California Business & Professions Code.

15 44. Defendants have engaged in “unlawful” business acts and practices by their
16 failure to pay overtime compensation, their failure to provide required meal and rest periods
17 without premium wages therefore, by failing to pay overtime wages according to law, and by
18 their failure to provide properly itemized wage statements, all in violation of the statutes and
19 regulations referenced herein above.

20 45. Plaintiff reserves the right to allege other violations of law which constitute
21 unlawful acts or practices.

22 46. Defendants have also engaged in “unfair” business acts or practices in that the
23 harm caused by Defendants’ wrongful conduct alleged above outweighs the utility of such
24 conduct and such conduct offends public policy, is immoral, unscrupulous, unethical, deceitful
25 and offensive, causes substantial injury to Plaintiff and provides Defendants with an unfair
26 competitive advantage over those employers that abide by the law, properly classify employees,
27 properly pay overtime wages, properly provide required meal and rest periods or wages in lieu
28 thereof; and provide properly itemized wage statements in accordance with the law.

1 47. As a result of the conduct described above, Defendants have been and will be
2 unjustly enriched at the expense of Plaintiff. Specifically, Defendants have been unjustly
3 enriched by the retention of a significant sum of dollars in wages earned and wrongfully
4 withheld from Plaintiff.

5 48. The aforementioned unlawful or unfair business acts or practices conducted by
6 Defendants have been committed in the past and continues to this day. Defendants have not
7 compensated Plaintiff properly and according to California law. Defendants have not provided
8 full restitution and disgorgement of all ill-gotten monies either acquired or retained by them as a
9 result thereof, thereby depriving Plaintiff the minimum working conditions and standards due
10 them under California Labor Laws and Industrial Welfare Commission Wage Orders.

11 49. Pursuant to Section 17203 of the California Business & Professions Code,
12 Plaintiff seeks an order of this Court requiring Defendants to disgorge all ill-gotten gains and
13 awarding Plaintiff full restitution of all monies wrongfully acquired by Defendants by means of
14 such “unlawful” and “unfair” conduct, plus interest and attorneys’ fees pursuant to, *inter alia*,
15 Section 1021.5 of the California Code of Civil Procedure, so as to restore any and all monies to
16 Plaintiff and the general public which were acquired and obtained by means of such “unlawful”
17 and “unfair” conduct, and which ill-gotten gains are still retained by Defendants. Plaintiff
18 additionally requests that such funds be impounded by the Court or that an asset freeze or
19 constructive trust be imposed upon such revenues and profits to avoid dissipation and/or
20 fraudulent transfers or concealment of such monies by Defendants. Plaintiff may be irreparably
21 harmed and/or denied an effective and complete remedy if such an order is not granted.

22 50. Pursuant to Section 17203 of the California Business & Professions Code,
23 Plaintiff seeks an order of this Court for equitable and/or injunctive relief in the form of
24 requiring Defendants to correct its illegal conduct, provide overtime compensation, provide
25 required meal and rest periods or premium wages in lieu thereof, to provide properly itemized
26 wage statements, to keep accurate records of time worked, and to insure the payment of earned
27 wages henceforth.
28

1 **SEVENTH CAUSE OF ACTION**

2 **(Labor Code Section 558 Penalties – Failure to Properly Pay Wages**

3 **Against All Defendants)**

4 51. Plaintiff hereby incorporates by reference and re-alleges each and every
5 preceding paragraph of this First Amended Complaint as if set forth fully herein.

6 52. Labor Code Section 558 states that “[a]ny employer or other person acting on
7 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
8 provision regulating hours and days of work in any order of the Industrial Welfare Commission
9 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50.00)
10 for each underpaid employee for each pay period for which the employee was underpaid in
11 addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation,
12 one hundred dollars (\$100.00) for each underpaid employee for each pay period for which the
13 employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3)
14 Wages recovered pursuant to this section shall be paid to the affected employee.” DOES 1 – 10
15 were believed to be persons acting on behalf of PLPCCC who violated, or caused to be violated,
16 a section of this chapter or any provision regulating hours and days of work in any order of the
17 Industrial Welfare Commission. The Section goes on to state that “[t]he civil penalties provided
18 for in this section are in addition to any other civil or criminal penalty provided by law.”

19 53. In addition to the aforementioned pay period penalties, Plaintiff is also entitled to
20 receive all of her wages owed as a part of the Labor Code section 558 penalties pursuant to
21 *Thurman v. Bayshore Transit Management, Inc.* (2012), 203 Cal.App.4th 1112 in which our own
22 Fourth District Court of Appeals held that “[i]n our view, the language of section 558,
23 subdivision (a), is more reasonably construed as providing a civil penalty that consists of both
24 the \$50 or \$100 penalty amount and any underpaid wages...” (*Id.* at 1144-1147.)

25 54. All Defendants, including the individually named defendants who were acting on
26 behalf of PLPCCC who violated or caused to be violated Labor Code Sections and Wage
27 Orders requiring payment of overtime, the provision of meal and rest periods and payment of
28 associated premiums, and the unlawful deduction of ordinary business expenses incurred by

1 Plaintiff as set forth in detail throughout this First Amended Complaint. Accordingly, Plaintiff
2 is entitled to recovery of penalties as described immediately above against all Defendants,
3 including the individually named defendants, named in this First Amended Complaint.

4 **EIGHTH CAUSE OF ACTION**

5 **(Retaliation in Violation of Labor Code Section 1102.5 Against PLPCCC)**

6 55. Plaintiff hereby incorporates by reference and re-alleges each and every
7 preceding paragraph of this First Amended Complaint as if set forth fully herein.

8 56. It is unlawful under Labor Code Section 1102.5(a) for an employer, or any
9 person acting on behalf of the employer, to make, adopt or enforce any rule, regulation or policy
10 that prevents an employee from disclosing information to a government or law enforcement
11 agency, to a person with authority over the employee, or to another employee who has authority
12 to investigate, discover, or correct the violation or noncompliance, or from providing
13 information to, or testifying before, any public body conducting an investigation, hearing, or
14 inquiry, if that employee has reasonable cause to believe that such information may disclose a
15 violation of or noncompliance with a local, state, or federal rule or regulation.
16

17 57. It is unlawful under Labor Code Section 1102.5(b) for an employer, or any
18 person acting on behalf of the employer, to retaliate against an employee for disclosing
19 information, or because the employer believes that the employee disclosed or may disclose
20 information, to a government or law enforcement agency, to a person with authority over the
21 employee or another employee who has the authority to investigate, discover, or correct the
22 violation or noncompliance, or for providing information to, or testifying before, any public
23 body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to
24 believe that the information discloses a violation of state or federal statute, or a violation of or
25 noncompliance with a local, state, or federal rule or regulation.

26 58. It is unlawful under Labor Code Section 1102.5(c) for an employer, or any
27 person acting on behalf of the employer, to retaliate against an employee for refusing to
28 participate in an activity that would result in a violation of state or federal statute, or a violation
of or noncompliance with a local, state, or federal rule or regulation.

1 59. Through the actions as stated above, Defendants violated Labor Code Section
2 1102.5(a), (b), and (c) in its treatment of Plaintiff while she was employed and in constructively
3 terminating her employment in retaliation for making complaints regarding the payment of her
4 wages.

5 60. The Civil Penalty for each violation of Section 1102.5 is outlined in Labor Code
6 Section 2699.

7 61. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff
8 has sustained and continues to sustain substantial losses in earnings, employment benefits,
9 employment opportunities, and Plaintiff has suffered other economic losses in an amount to be
10 determined at time of trial. Plaintiff has sought to mitigate these damages.

11 62. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff
12 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and
13 mental and anguish, all to her damage in a sum to be established according to proof.

14 63. As a result of Defendants' deliberate, outrageous, despicable conduct, Plaintiff is
15 entitled to recover punitive and exemplary damages in an amount commensurate with
16 Defendant's wrongful acts and sufficient to punish and deter future similar reprehensible
17 conduct.

18 **NINTH CAUSE OF ACTION**

19 **(Violation of Labor Code Section 1198.5 Against PLPCCC)**

20 64. Plaintiff hereby incorporates by reference and re-alleges each and every
21 preceding paragraph of this First Amended Complaint as if set forth fully herein.

22 65. Defendants have failed to comply with Labor Code Section 1198.5 despite
23 Plaintiff's request to inspect her personnel file.

24 66. Plaintiff is entitled to a penalty of \$750.00, as an injunction, to compel
25 compliance, and costs and attorneys' fees.

26 **TENTH CAUSE OF ACTION**

27 **(Labor Code Section 2699 Penalties Against All Defendants)**

28 67. Plaintiff hereby incorporates by reference and re-alleges each and every
preceding paragraph of this First Amended Complaint as if set forth fully herein.

1 68. On or about March 29, 2017, pursuant Labor Code sections 2699(a) and 2699.3,
2 Plaintiff provided notice in writing, by certified mail, to the California Labor Workforce
3 Development Agency ("LWDA") and Defendants, that Plaintiff intended to assert PAGA claims
4 pursuant to section 2699(a) on her own behalf, and in a representative capacity on behalf of
5 other current or former employees, for Defendants' violations of specified provisions of the
6 California Labor Code.

7 69. The LWDA did not respond to Plaintiff's notice within the statutory period, and,
8 as a result, Plaintiff has perfected her respective right to sue Defendants, and each of them, in a
9 civil action, and to collect statutory penalties, pursuant to Labor Code section
10 2699.3(a)(2)(A)(1).

11 70. As a result of the acts alleged above, Plaintiff brings this action on her own
12 behalf and in her representative capacity on behalf of other current or former aggrieved
13 employees, for penalties pursuant to California Labor Code Section 2699 for Defendants'
14 violations of the enumerated Labor Code sections, including, but not limited to Sections 98.6,
15 201, 202, 203, 221, 223, 224, 226, 226.7, 227.3, 351, 510, 552, 558, 1102.5, 1174, 1182.12,
16 1194, 1194.2, 1197.1, and 2698, et seq.

17 71. Pursuant to California Labor Code Section 2699, Plaintiff (and all aggrieved
18 employees) are entitled to be awarded twenty-five (25%) percent of all penalties due under
19 California law, in addition to interest, attorney's fees and costs.

20 72. The Court should award seventy-five (75%) percent of all penalties due under
21 California law to the State of California.

22 73. In addition, pursuant to *Thurman v. Bayshore Transit Management, Inc.* (2012)
23 203 Cal.App.4th 1112, Plaintiff may recover a "civil penalty" under Labor Code Section 558
24 consisting of the underpaid wages owed to the PAGA members, with the underpaid wages
going entirely to the each affected employee.

25 74. Plaintiff therefore seeks to recover from Defendants, and each of them, allowable
26 penalties, interest, costs, and attorneys' fees, in an amount according to proof at trial, in
27 accordance with Labor Code Sections 2699, et seq.

28


PRAYER

WHEREFORE, Plaintiff requests of this Court the following relief.

1. General damages according to proof;
2. Compensatory damages according to proof;
3. Liquidated damages according to proof,
4. Prejudgment and post judgment interest as provided by statute;
5. Statutory penalties as provided in Labor Code Sections 203, 221, 226, 558, and any other applicable authority;
6. Damages according to proof, as set forth in California Labor Code Sections 226.7, 510, 1194, and 1197 (and the applicable California Wage Orders) regarding wages due and owing;
7. Attorneys' fees, expenses, and costs of this action pursuant to statute;
8. Equitable relief pursuant to Business & Professions Code Section 17200;
9. Damages according to proof, as set forth in California Labor Code Sections 226.7, 510, 2699 et seq. (and the applicable California Wage Orders) regarding wages due and owing;
10. Attorneys' fees, expenses, and costs of this action pursuant to statute including but not limited to Labor Code Sections 218.5, 1194 and 2699 et seq.,
11. An injunction pursuant to Labor Code Section 1198.5;
12. Exemplary damages according to proof; and;
13. Such further relief as this Court deems necessary, just, and proper.

DATED: August 9, 2017

The Pendergast Law Firm, PC



Rory K. Pendergast
Christopher C. Taylor

EXHIBIT 9

FINKELSTEIN & KRINSK LLP

ATTORNEYS AT LAW

550 WEST C STREET

SUITE 1760

SAN DIEGO, CALIFORNIA 92101

TELEPHONE (619) 238-1333

FACSIMILE (619) 238-5425

July 25, 2017

John Rickards
Adam Knopf
Sinner Brothers, Inc.
Point Loma Patient Consumer Cooperative
3452 Hancock Street, San Diego, CA 92110

Via Certified Mail Return Receipt Requested

Adam Knopf
Justus H. Henkes IV
419 Consulting Inc.,
Justus H. Henkes IV, LLC
7742 Herschel Ave., Suite M
La Jolla, CA 92037

Adam Knopf
Justus H. Henkes IV
Far West Management, LLC
Far West Operating, LLC
Far West Staffing, LLC
7734 Herschel Ave., Suite L
La Jolla, CA 92037

Re: Records Request and Notice of Anticipated Litigation

Gentlemen,

We represent John Beck ("Plaintiff"), a member of the Point Loma Patient Consumer Cooperative (the "PLPCC"). This letter serves as our request for inspection of records from PLPCC and related Entities¹ and Individuals² pursuant to California Corporations Code §§ 12581, 12582, and 12603.

This letter also provides Plaintiff's explanation of grievances prior to filing a derivative action on behalf of PLPCC member patrons pursuant to Corporations Code § 12490(b). Finally, this letter constitutes the required notice to PLPCC, the Entities, and Individuals under the California Consumer Legal Remedies Act (the "CLRA"), describing violations of the CLRA and our client's demand to remedy such violations within thirty (30) days from receipt of this letter. *See*, CAL. CIV. CODE § 1782(a).

¹ Related entities include, but are not limited to, Sinner Brothers, Inc., 419 Consulting Inc., Far West Management, LLC, Far West Operating, LLC, Far West Staffing, LLC, and Justus H Henkes IV, Inc. (collectively the "Entities")

² Related individuals include, but are not limited to, John Rickards, Adam Knopf, and Justus H. Henkes IV.

I. EXPLANATION OF ILLEGAL CONDUCT

California law requires that a medical marijuana cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. CAL. CORP. CODE §§ 12201, 12201.5, 12300. Cooperative corporations are "democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons." *Id.* at § 12201. The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services, under guidelines provided by statute. *See id.* §§ 12201.5, 12451.

First, PLPCC explicitly holds itself out and represents itself as a "cooperative." However, PLPCC does not appear to be registered as a corporation with the Secretary of State or under a d/b/a with the City of San Diego. Nor have we seen filings with the Secretary of State that would indicate Sinner Brothers, Inc. has taken necessary steps to organize itself as a cooperative corporation. This is problematic because no business may call itself a "cooperative" unless properly organized and registered as such under the Corporations Code. §§ 12311(b), 12679.

Second, it appears the PLPCC, the Entities, and/or the Individuals are operating the PLPCC as a for-profit organization in violation of the Medical Marijuana Program Act ("MMPA"). *See People v. Jackson* (2012) 210 Cal.App.4th 525, 538-59. According to our review of records from the California Board of Equalization ("BOE"), PLPCC is generating millions of dollars in annual revenues excess of its liabilities, while failing to distribute those monies to member patrons as required by California law. If true, such an arrangement violates the spirit, if not the letter of California's medical marijuana laws, and the laws pertaining to the operation of cooperative corporations as described herein. *See also*, CORP. CODE §§ 12671, 12672, 12674 (describing improper distribution of assets).

Third, we believe the Entities and/or Individuals are improperly benefiting from transactions with the PLPCC to the detriment of Plaintiff and other member patrons. *See* CORP. CODE § 12373 (concerning interested transactions with directors). It appears that revenues of the PLPCC are and have been improperly diverted to the Entities and/or Individuals. As a result of this, we are concerned that the earnings and savings of the PLPCC are not being distributed to Plaintiff and other member patrons pursuant to the California Corporations Code. *See* CORP. CODE §§ 12201, 12201.5, 12451. To our knowledge, no such distributions have been made to either Plaintiff or other member patrons of the PLPCC.

Fourth, given the absence of registration of the PLPCC as a cooperative corporation, as well as the structure of related Entities, the failure to pay dividends to member patrons appears calculated and intentional. *See* CORP. CODE §§ 12671, 12672, 12674, 12679 (concerning the issuance of memberships with intent to defraud, fraudulent distribution of assets, and improper use of the designation "cooperative.")

Fifth, the above conduct violates the CLRA. Specifically, the PLPCC and the Individuals have misrepresented the PLPCC as a cooperative corporation. This "[m]isrepresent[s] the source... [and] certification of" products sold by the PLPCC. CIV CODE § 1770(2). In the same manner, the PLPCC and the Individuals have "misrepresent[ed] the affiliation, connection, or association" with the Entities. *Id.*, § 1770(3). This also means that the PLPCC and the Individuals have represented that products sold by the PLPCC have "sponsorship [and] approval" that they do not have. *Id.*, § 1770(5); *see also Id.*, § 1770(16) (prohibiting representations "that the [sale of marijuana products] [have] been supplied in accordance with a previous representation [about PLPCC's standing as a 'cooperative'] when it has not.") It also causes the PLPCC's membership agreement to confirm false "representat[at]ions] that transaction[s] confer[] or involve[] rights, remedies, or obligations that it does not have or involve or that are prohibited by law." *Id.*, § 1770(14).

II. DEMAND FOR CORRECTIVE ACTION

Based on the above, PLPCC and its related entities and individuals failure to take adequate corrective action, or otherwise provide cogent evidence that we are incorrect in our beliefs, this law firm will institute legal action on behalf of a class of PLPCC member patrons.

Pursuant to California Civil Code §§ 1780, *et. seq.*, and Corporations Code Sections 12376(d) and 12490, we demand, on behalf of the named Plaintiff and all similarly situated member patrons of PLPCC, that immediate corrective action be taken to remedy the violations of law described herein.

First, we demand that the PLPCC be properly, lawfully registered as a cooperative corporation with the California Secretary of State.

Second, the PLPCC must issue corrective notices informing member patrons of the PLPCC's failure to comply with California medical marijuana laws so they can initiate action to protect their interests under the law, and to claim patron distributions.

Third, the responsible Individuals and Entities must disgorge to the PLPCC revenues improperly diverted from patron distributions.

Fourth, the PLPCC must make distributions to Plaintiff and the member patrons in accordance with the formulas provided for cooperative corporations. *See* CORP. CODE §§ 12201.5, 12451.

If the PLPCC, the Entities and Individuals do not provide a full and adequate remedy within thirty (30) days from receipt of this letter, we will seek all justified damages including, but not limited to, statutory damages, punitive damages, attorney's fees and costs, and any other relief that the Court deems proper in a class action lawsuit. *See* CAL. CIV. CODE §§ 1782(c).

III. RECORDS REQUEST

To provide oversight that the PLPCC is complying with California law and providing adequate remedial measures, Plaintiff immediately demands that copies of the following records be provided pursuant to California Corporations Code §§ 12340, 12581, 12582, and 12603:

- (1) Articles of incorporation, all amendments, and all bylaws for each of the Entities:
 - a. Point Loma Patients Consumer Cooperative,
 - b. Sinner Brothers, Inc.,
 - c. 419 Consulting Inc.,
 - d. Far West Management, LLC,
 - e. Far West Operating, LLC,
 - f. Far West Staffing, LLC, and
 - g. Justus H Henkes IV, Inc.
- (2) All meeting minutes for each of the Entities since January 1, 2015;
- (3) A list of the names and addresses of all members of the PLPCC since January 1, 2015;

- (4) All "Financial Statements" of each of the Entities since January 1, 2015. *See* CORP. CODE § 12217;
- (5) All evidence of any "distribution" or "patronage distribution" made by PLPCC or any of the Entities since January 1, 2015;
- (6) Contracts between PLPCC and any of the Entities; and
- (7) Contracts between PLPCC and any of the Individuals.

IV. EVIDENCE PRESERVATION REQUEST

Under the California Code of Civil Procedure and the California Rules of Court, the PLPCC, the Entities and Individuals are obligated hereby to preserve all hard copy documents and electronically stored information ("ESI") relating to the subject matter of this letter. This obligation includes suspending the PLPCC's, the Entities' and Individuals' records management/destruction policies for all information. This includes ESI from all databases, network systems, hard drives, email, calendar, webpage, voicemail, instant message, intranet, and social network data. In addition to obligations concerning information that came into existence before receipt of this letter, the PLPCC, the Entities and Individuals should maintain in active directories all current information in unaltered, native format.

Sincerely,



FINKELSTEIN AND KRINSK
Jeffrey Krinsk, Esq.
550 W C Street, Suite 1760
San Diego, CA 92101
Tel: +1.619.238.1333
email: jrk@classactionlaw.com

and

THE RESTIS LAW FIRM, P.C.
William Restis, Esq.
550 West C Street, Suite 1760
San Diego, CA 92101
Tel: +1.619.270.8383
Email: william@restislaw.com

Attorneys for Plaintiff

7016 0340 0001 1060 5916

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Postage \$.46	Sinner Bros. Inc
Total Postage and Fees \$ 6.46	
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Street and Apt. No., or PO Box No. 3152 Hancock Street	
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<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$.46	La Tolla, CA
Total Postage and Fees \$ 6.46	
Sent To Adam Knopf and/or Justus H. Henkes IV	
Street and Apt. No., or PO Box No. 7734 Herschel Ave Suite 1	
City, State, ZIP+4® La Tolla, CA 92037	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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<input type="checkbox"/> Return Receipt (electronic) \$	
<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$.46	La Tolla, CA
Total Postage and Fees \$ 6.46	
Sent To Justus H Henkes and/or Adam Knopf	
Street and Apt. No., or PO Box No. 7742 Herschel Ave Ste M 419	
City, State, ZIP+4® La Tolla CA 92037	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

EXHIBIT 10

Austin Legal Group

LAWYERS
3990 OLD TOWN AVE, STE A-112
SAN DIEGO, CA 92110

LICENSED IN CALIFORNIA & HAWAII
TELEPHONE
(619) 924-9600

FACSIMILE
(619) 881-0045

Writer's Email:
gaustin@austinlegalgroup.com

August 29, 2017

Mr. Jeffrey Krinsk
Finkelstein and Krinsk
550 W. C Street, Suite 1760
San Diego, CA 92101
jrk@classactionlaw.com

VIA EMAIL AND US MAIL

Mr. William Restis, Esq.
The restis Law Firm
550 W. C Street, Suite 1760
San Diego, CA 92101
William@restislaw.com

Re: **Your Letter of July 25, 2017**

Dear Mssrs. Krinsk and Restis,

Austin Legal Group, APC represents Point Loma Patients Consumer Cooperative ("PLPCC"). Please direct all further communication to this office. This letter is in response to your letter dated July 25, 2017 to multiple entities and individuals including our client.

Your letter makes various demands upon PLPCC based upon the Corporations Code and the California Consumer Legal Remedies Act. A pre-requisite to any relief sought by Mr. Beck would be membership in PLPCC. Mr. Beck is not and has never been a member of PLPCC. As such, PLPCC will not be providing any of the records requested in your letter. Further, PLPCC expressly denies the alleged violations in your letter.

Sincerely,
AUSTIN LEGAL GROUP, APC



Gina M. Austin, Esq.

EXHIBIT 11



August 30, 2017

Via Electronic and First Class Mail

Gina M. Austin
Austin Legal Group, APC
3990 Old Town Avenue, Suite A-112
San Diego, CA 92110
gaustin@austinlegalgroup.com

Re: *Karl Beck v. Point Loma Patients Consumer Cooperative, et al.*

Dear Ms. Austin,

We are in receipt of your letter dated August 29, 2017, and are concerned by your apparent disregard for the seriousness of our allegations.

Please go back and review Mr. Krinsk's July 25, 2017 demand letter (the "Letter") as being sent on behalf of "Karl Beck", a member of the PLPCC.¹ It appears the names of two clients were combined, which caused your understandable confusion. However, your office had more than a month to meet and confer concerning the correct parties.

In addition, we take your "express den[ial of] the alleged violations in [our] letter" to be insufficient response under California Corporations Code § 12490, and Civil Code § 1782. These statutes do not require the plaintiff to spell their name correctly, only put the defendants on notice of the alleged wrongdoing and request appropriate remedies prior to bringing suit. Mr. Krink's Letter was more than sufficient to put PLPCC (and the other defendants) on notice of the claims against them.

///

///

¹ I note that immediately following our Letter, the PLPCC was renamed to "Golden State Greens." Please interpret the Letter's request under CAL. CORP. CODE §§ 12340 *et seq.* to include all documents as they refer or relate to Golden State Greens.

A handwritten signature in black ink, appearing to read "The Restis Law Firm, P.C.", is centered below a horizontal line.

Since it will take a few days to prepare the complaint, we will allow you until **September 11, 2017** to provide the documentation requested pursuant to CAL. CORP. CODE §§ 12340 *et seq.* If we do not receive the requested evidence by that time, and begin the process of providing appropriate remedial remedies on a class-wide basis, I am afraid litigation is unavoidable. I wish we could provide additional time, but your waste of more than a month, combined with our fiduciary duty to vigorously advocate class interests, require us to proceed.

Also, your letter indicated that you only represent the PLPCC. Please advise whether you represent any of the other putative defendants, and if not, have their counsel contact me.


William R. Restis, Esq.

THE RESTIS LAW FIRM, P.C.
william@restislaw.com

cc: Jeffrey R. Krinsk, Esq.

John Rickards
Adam Knopf
Sinner Brothers, Inc.
3452 Hancock Street, San Diego, CA 92110

Via Certified Mail Return Receipt Requested

Adam Knopf
Justus H. Henkes IV
419 Consulting Inc.,
Justus H. Henkes IV, LLC
7742 Herschel Ave., Suite M
La Jolla, CA 92037

Via Certified Mail Return Receipt Requested

Adam Knopf
Justus H. Henkes IV
Far West Management, LLC
Far West Operating, LLC
Far West Staffing, LLC
7734 Herschel Ave., Suite L
La Jolla, CA 92037

Via Certified Mail Return Receipt Requested

(sent with additional copy of July 25th Letter)



EXHIBIT 12

Austin Legal Group

LAWYERS
3990 OLD TOWN AVE, STE A-112
SAN DIEGO, CA 92110

LICENSED IN CALIFORNIA & HAWAII
TELEPHONE
(619) 924-9600

FACSIMILE
(619) 881-0045

Writer's Email:
gaustin@austinlegalgroup.com

September 8, 2017

Mr. William Restis, Esq.
The Restis Law Firm
550 W. C Street, Suite 1760
San Diego, CA 92101

VIA EMAL William@restislaw.com

Re: **Your Letter of August 30, 2017**

Dear Mr. Restis,

I am in receipt of your letter of August 30, 2017. I disagree that your previous letter put my client on notice of who was requesting the information. However, now that you have provided the name of Karl Beck, rather than John Beck, it appears he may have been an associate member although we have been unable to confirm that based upon the information that you have provided. Even if he was an associate member, he would not be entitled to the documents you have requested.

Assuming *arugendo*, that your client was a member of Point Loma Patients Consumer Cooperative ("PLPCC"), he would be an associate member who is not entitled to the documents you have requested. Pursuant to Corp Code § 12230, PLPCC is authorized to create separate classes of memberships, as identified in their articles or bylaws.

Article X, section 10.01 of PLPCC's bylaws provides as follows:

- (a) Pursuant to Corporations Code Section 7333(a) a corporation may refer to persons associated with it as "members" even though such persons are not "members" within the meaning of Section 5056.
- (b) Corporation may benefit, serve, or assist persons who are not members within the meaning of Corporations Code Section 5056 for such consideration, if any, as the board may determine or as is authorized or provided for in the articles of bylaws.
- (c) Associate members shall not be considered "members" and shall have no rights to which a member would be entitled under § 12238

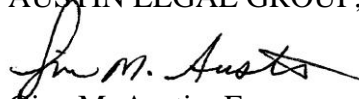
In light of PLPCC's bylaws, Mr. Beck does not have standing to demand any of the documentation requested in your letter of August 30, 2017 as each request requires as a condition precedent that the requestor be a member of PLPCC.

Mr. Restis
September 8 2017
Page 2

Similarly, your contention that PLPCC is operating illegally is without merit. Your July 25, 2017 letter asserts that PLPCC does not appear to be registered as a corporation with the Secretary of State. This is simply incorrect as the entity is registered, and has been since 4/24/2014. The most recent Statement of Information was filed 7/18/2017. A simple entity search for C3669504 will disprove your assertion that PLPCC is not a registered corporation. Furthermore, the registration clearly provides that PLPCC is registered as a Domestic Nonprofit/General Cooperative Corporation.

Your letter and demands appear to be based on a lack of due diligence by your firm and / or client in an attempt to “shake down” various operators in the cannabis industry. Please make an effort to get the facts and background correct before threatening to sue based upon misinformation and conjecture.

Sincerely,
AUSTIN LEGAL GROUP, APC



Gina M. Austin, Esq.

EXHIBIT 13

RE: Letter of Today's Date

From: "Austin, Gina" <gaustin@austinlegalgroup.com>

Received Wednesday September 20, 2017 08:48 am

To: William Restis <william@restislaw.com>

CC: Slaff, Lori <lbrite@austinlegalgroup.com>, Leetham, Tamara <tamara@austinlegalgroup.com>

Subject: RE: Letter of Today's Date

Attachments: image001.jpg, image002.jpg, Point Loma By Laws (1).pdf

Associations: Beck v. Point Loma Patient Consumer Cooperative [10]

Thank you. I can confirm that at one point Mr. Beck was a member. I can not confirm whether he is still a member because I have not reviewed all board actions subsequent to his initial membership. I do know that he was banned from the facility due to his inappropriate and harassing behavior towards other members within 30 days of becoming a member.

In an effort to assist you in your due diligence I am providing a copy of the bylaws that were in effect when he became an associate member.

If you want to call the office to set up a time to talk after you return Lori can get you on my calendar. She is cc'd on this email.

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: William Restis [mailto:william@restislaw.com]

Sent: Wednesday, September 20, 2017 7:59 AM

To: Austin, Gina

Subject: Re: Letter of Today's Date

Gina, I was able to get this from my client.

image1.JPG

Sent from my iPhone

On Sep 20, 2017, at 7:53 AM, Austin, Gina <gaustin@austinlegalgroup.com> wrote:

Sounds good. Safe travels.

Gina

Sent from my T-Mobile 4G LTE Device

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

From: "Restis, William" <matters@restislaw.com>

Date: 9/20/17 7:52 AM (GMT-08:00)

To: "Austin, Gina" <gaustin@austinlegalgroup.com>, p9a10@restislaw.com

Cc: "Leetham, Tamara" <tamara@austinlegalgroup.com>, "Krinsk, Jeff" <jrk@classactionlaw.com>

Subject: RE: Letter of Today's Date

Gina,

Thanks for reaching out. We are always available to discuss potential remedial measures in the context of confidential settlement negotiations. I am about to leave for Iceland until Tuesday, so we will have to table open items until I return. In the interim, I will reach out to Mr. Beck to obtain the requested identifying information.

Let's schedule a call for mid next week.

Best,

Bill

The Restis Law Firm, P.C.

550 West C. Street, Suite 1760

San Diego, CA 92101

Tel: +1.619.270.8383

Fax: +1.619.752.1552



restislaw.com

From: "Austin, Gina" <gaustin@austinlegalgroup.com>

Received: Tuesday September 19, 2017 11:09 pm

To: "william@restislaw.com" <william@restislaw.com>, "p9a10@restislaw.com" <p9a10@restislaw.com>

Cc: "Leetham, Tamara" <tamara@austinlegalgroup.com>

Subject: RE: Letter of Today's Date

William,

Are you requesting this information as part of settlement negotiations? As I mentioned, I have been unable to confirm that your client is/was a member of PLPCC as Beck is a very common last name. If you can provide any other additional identifying information regarding Mr. Beck (e.g. DOB, address, copy of driver's license) I would be able to confirm whether or not he is/was a member. In the alternative, I can provide the information to you as part of confidential settlement negotiations.

Please advise.

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: Restis, William [<mailto:matters@restislaw.com>]

Sent: Monday, September 18, 2017 4:35 PM

To: Austin, Gina

Subject: RE: Letter of Today's Date

Gina,

In addition to the issues raised by my letter of last Friday, would you consider providing a copy of the PLPCC bylaws that predate Mr. Krinsk's original demand? Hopefully this is not a controversial request because the PLPCC membership agreement states it is available, and I believe state law also requires same.

Thanks,

Bill

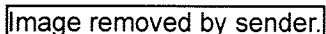
The Restis Law Firm, P.C.

550 West C. Street, Suite 1760

San Diego, CA 92101

Tel: +1.619.270.8383

Fax: +1.619.752.1552



restislaw.com

From: "Austin, Gina" <gaustin@austinlegalgroup.com>

Received: Friday September 8, 2017 03:45 pm

To: "William@restislaw.com" <William@restislaw.com>

Cc: ALG Admin <admin@austinlegalgroup.com>

Subject: Letter of Today's Date

Please see attached.

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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EXHIBIT 14

**POINT LOMA PATIENTS CONSUMER COOPERATIVE CORPORATION
BYLAWS**

WHEREAS, On November 6, 1996, the people of the State of California enacted the Compassionate Use Act of 1996 (hereinafter the “act”) codified in [Section 11362.5 of the Health and Safety Code](#), in order to allow seriously ill residents of the state, who have the oral or written approval or recommendation of a physician, to use marijuana for medical purposes without fear of criminal liability under [Sections 11357 and 11358 of the Health and Safety Code](#).

WHEREAS, To clarify the scope of the application of the act and facilitate the prompt identification of qualified patients in order to avoid unnecessary arrest and prosecution of these individuals and provide needed guidance to law enforcement officers, the legislature enacted Senate Bill 420 (hereinafter S.B. 420), codified in California Health and Safety Code Section 11362.7 et. seq.

WHEREAS, it is the declared intent of the legislature by enacting S.B.420 to, inter alia, enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.

WHEREAS, California Health and Safety Code Section 11362.775 states that Qualified patients, persons with valid identification cards, and the designated Primary Caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Sections 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570 of the California Health and Safety Code.

WHEREAS, it is the intent by these Bylaws, to operate, and maintain an association of qualified medical marijuana patients as a California Consumer Cooperative for the purposes of inter alia, cultivating, acquiring and or distributing marijuana to qualified patients for medical purposes pursuant to California Health and Safety Code Sections 11362.7 et. seq. and

specifically pursuant to California Health and Safety Code Sections 11362.775 and for those additional purposes set forth herein below.

WHEREAS, it is the intent by these Bylaws that any member here after joining the Association shall be qualified patients pursuant to California Health and Safety Code Section 11262.5 and 11326.7 et. seq. who hereafter may become members or Associate members, be bound by these Bylaws any by-laws, rules, or membership requirements of the Corporation hereafter adopted.

ARTICLE I. MEMBERSHIP

Section 1.01. Classification of Members.

The Point Loma Patients Consumer Cooperative Corporation (herein after “Corporation) shall have one (1) class of members. However, Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein.

Section 1.02. Membership Qualifications.

Any person, subject to the approval by the Board of Directors by majority vote, who is a qualified patient pursuant to Health and Safety Code Sections 11362 5 and 11362.7 et. seq, may become and remain a member of this Corporation by:

- (a) Complying with such uniform conditions as may be prescribed by the Board of Directors;
- (b) If a natural person, being a resident of California.

Section 1.03. Membership Application.

An applicant eligible for and desiring admission to membership in the Corporation shall file a written application for admission in whatever form and containing whatever information the Board of Directors shall prescribe.

Section 1.04. Acceptance of Members.

Applications for membership shall be reviewed by the Board of Directors or by a Membership Committee duly authorized by resolution to admit members. The application shall be accepted unless rejected in writing within thirty (30) days for reasons satisfactory to the Board. If accepted, the applicant shall be admitted to membership and shall be allowed to vote

and hold office. If rejected, the applicant shall be entitled to a refund of any amounts paid for membership fees and shares.

Section 1.05. **Transfers Prohibited.**

No member may transfer his or her membership or any right arising therefrom.

Section 1.07. **Bylaws and Articles to Prospective Members.**

Each prospective member, upon application for membership, shall receive a copy of the Articles of Incorporation, Bylaws, and disclosure document of the Corporation.

Section 1.08. **Shareholders and Members.**

“Shareholder” and “member” and their plurals shall be synonymous terms throughout these Bylaws.

ARTICLE II. SHARES

Section 2.01. **Share Issuance.**

The Corporation is not required to issues shares. However, should State law allow, shares may be issued for money paid in an amount as is determined from time to time by the Board of Directors and as share dividends, patronage refunds, or other changes affecting outstanding shares. However, dividends, patronage refunds or profits derived from the business of the Corporation shall be distributed only in accordance with and by authority of California law. However, Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein.

Section 2.02. **Share Ownership.**

Share ownership entitles a member to only one (1) vote in the affairs of the Corporation, irrespective of the total number of shares a member owns, and to all the rights of membership as described by statute, the Articles of Incorporation, and these Bylaws. Pursuant to Subsection (b) of Section 9.03 of these Bylaws, the Directors may declare non-cumulative dividends on shares not to exceed any maximum rate established by statute.

Section 2.03. **Share Receipt and Disclosure Document.**

(a) Nothing in this section shall restrict the Corporation from issuing identity cards or similar devices to members or Associate members which serve to identify members and or Associate members qualifying to use the products, facilities or services of the Corporation, or who provide such products or services.

(b) Except as provided in Subsection (c) of this Bylaw section, prior to issuing a share, the Corporation shall provide the purchaser of a share with a “disclosure document.” The disclosure document may be a prospectus, offering, circular, brochure, or similar document, a specimen copy of the share certificate, or a receipt that the Corporation proposes to issue. The disclosure document shall contain the information required by Section 12401 of the California Corporations Code.

(c) The Corporation shall issue a receipt or written advice of purchase to anyone purchasing a share upon the member’s first purchase of a share. No disclosure document need be provided to an existing member prior to the purchase of additional shares if that member has previously been provided with a disclosure document which is accurate and correct as of the date of the purchase of additional shares.

Section 2.04. **Prohibition on Transfer of Shares.**

No shares of this Corporation may be assigned or transferred. Any attempted assignment or transfer shall be wholly void and shall confer no rights on the intended assignee or transferee.

Section 2.05. **Partial Withdrawal.**

A member having a monetary amount in his or her share account in excess of a monetary amount to be determined from time to time by the Board of Directors may cause the Corporation to purchase his or her excess share amount upon written request to the Board. Subject to Section 2.06 of these Bylaws, the Board must, within one (1) year of such request, pay the amount the member requests in cash or other property or both. The exact form of payment is within the discretion of the Board.

Section 2.06. **Insolvency Delay.**

The Corporation shall delay the purchase of the shares as described in Sections 2.05 and 3.04 of these Bylaws if the Corporation, in making such purchase is, or as a result thereof would be, likely to be unable to meet its liabilities (except those whose payment is otherwise adequately provided for) as they mature.

Section 2.07. **Unclaimed Equity Interests.**

Any share of a member, together with any accrued and unpaid dividends and patronage distributions related to that member, that would otherwise escheat to the State of California as unclaimed personal property shall instead become the property of the Corporation if the Corporation gives at least sixty (60) days’ prior notice of the proposed transfer to the affected member by (1) first-class or second-class mail to the last address of the member shown on the Corporation’s records, and (2) by publication in a newspaper of general circulation in the county in which the Corporation has its principal office. No shares or amounts shall become the property of the Corporation under this section of the Bylaws if written notice objecting to the transfer is received by the Corporation from the affected member prior to the date of the proposed transfer.

ARTICLE III. TERMINATION OF MEMBERSHIP

Section 3.01. Voluntary Withdrawal.

A member shall have the right to resign from the Corporation and terminate his or her membership by filing with the Secretary of the Corporation a written notice of resignation. The resignation shall become effective immediately without any action on the part of the Corporation. However, Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein.

Section 3.02. Death or Dissolution.

A membership shall immediately terminate upon the death of a member or the dissolution of a member that is an organization.

Section 3.03. Expulsion.

(a) A member may for failure to comply with these Bylaws, rules, or regulations of the Corporation, or for any other justifiable reason, be expelled from the Corporation by resolution adopted by a two-thirds (2/3) vote of all members of the Board of Directors. Expulsion shall become effective immediately unless the Board shall, in the resolution, fix another time. On expulsion the name of the member expelled shall be stricken from the membership register and all of his or her rights shall cease except as provided in Section 3.04 of these Bylaws.

(b) Prior to expulsion of a member, the Board of Directors shall give such member at least fifteen (15) days notice prior thereto and the reasons thereof. Such member shall have the opportunity to be heard, orally or in writing, not less than five (5) days before the effective date of expulsion by the Board.

(c) The notice required pursuant to Subsection (b) of this section of these Bylaws may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last known address of the member shown on the Corporation's records.

Section 3.04. Settlement of Share Interest.

If a membership is terminated for any reason set forth in this Article of the Bylaws, the share interest held by the member shall be purchased by the Corporation, subject to Section 2.06 of these Bylaws, within one (1) year of the date of termination to the extent of the paid-up value of the member's shares **Error! Reference source not found.** on such date. The Board of Directors, in so settling the member's share interest, shall have the right to set off any and all indebtedness of the member to the Corporation.

The paid-up value of the member's share interest is the monetary amount of such interest (including fractional shares) that the member has been issued in accordance with Section 2.01 of these Bylaws.

ARTICLE IV. MEMBERSHIP MEETINGS AND MEMBERS

Section 4.01. Location.

Meetings of members shall be held at the principal office of the Corporation. However, Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein.

Section 4.02. Regular Annual Meetings.

A regular meeting of members shall be held annually on the first Monday in March at 10:00 p.m. for the purpose of transacting any proper business, including the election of Directors that may come before the meeting. If the day fixed for the regular meeting falls on a legal holiday, the meeting shall be held at the same time and place on the next day.

Section 4.03. Special Meetings.

Special meetings of members for any lawful purpose may be called by the Board of Directors, the President, or by five percent (5%) or more of the members.

Section 4.04. Time for Notice of Meetings.

Whenever members are required or permitted to take action at a meeting, a written notice of the meeting shall be given not less than ten (10) nor more than ninety (90) days before the date of the meeting to each member who is entitled to vote on the record date for notice of the meeting. In the case of a specially called meeting of members, within twenty (20) days after receipt of a written request, the Secretary shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the Board of Directors not less than thirty-five (35) nor more than ninety (90) days after receipt of the request.

Section 4.05. Method of Giving Notice.

Notice shall be given either personally or by mail or other written communication to the address of a member appearing on the books of the Corporation or provided by the member. If no address appears or is given, notice shall be given at the principal office of the Corporation.

Section 4.06. Record Date for Notice.

The record date for determining the members entitled to notice of any meeting of members is thirty (30) days before the date of the meeting.

Section 4.07. **Contents of Notice.**

The notice shall state the place, date, and time of the meeting. The notice of a regular meeting shall state any matters that the Board of Directors, at the time of giving notice, intends to present for action by the members. The notice of a special meeting shall state the general nature of the business to be transacted. The notice of any meeting at which Directors are to be elected shall include the names of all nominees at the time of giving notice.

Section 4.08. **Waivers, Consents, and Approvals.**

The transactions of a meeting, whether or not validly called and noticed, are valid if a quorum is present and each of the absent members who is entitled to vote, either before or after the meeting, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. All waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

A member's attendance at a meeting shall constitute a waiver of notice of and presence at the meeting, unless the member objects at the beginning of the meeting. However, attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the notice but not included, if an objection is made at the meeting.

Section 4.09. **Quorum at Meeting.**

The lesser of two hundred fifty (250) members or members representing five percent (5%) of the voting power shall constitute a quorum at a meeting of members. Any Bylaw amendment to increase the quorum may be adopted only by approval of the members. When a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting and entitled to vote shall be the act of the members, unless provided otherwise by these Bylaws or the law. The only matters that may be voted upon at any regular meeting actually attended by less than one-third (1/3) of the voting power are matters notice of the general nature of which was given pursuant to the first sentence of Section 4.04 of these Bylaws.

Section 4.10. **Loss of Quorum at Meeting.**

The members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, if the action taken, other than adjournment, is approved by at least a majority of the members required to constitute a quorum. However, Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein.

Section 4.11. **Adjournment for Lack of Quorum.**

In the absence of a quorum, any meeting of members may be adjourned by the vote of a majority of the votes represented in person, but no other business may be transacted except as provided in Section 4.10 of these Bylaws.

Section 4.12 **Adjourned Meetings.**

The corporation may transact any business at an adjourned meeting that could have been transacted at the original meeting. When a meeting is adjourned to another time or place, no notice is required if the time and place are announced at the original meeting. If the adjournment is for more than forty-five (45) days or if a new record date is fixed, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

Section 4.13. **Voting of Memberships.**

(a) Each member of the Corporation is entitled to one (1) vote on each matter submitted to a vote of the members.

(b) If a membership stands of record in the names of two (2) or more persons whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, persons entitled to vote under an agreement, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same membership, unless the Secretary is given written notice to the contrary and furnished with a copy of the instrument or order appointing them or creating the relationship, the vote of one (1) joint holder will bind all, when only one (1) votes, and the vote of the majority will bind all, when more than one (1) joint holder votes.

(c) The record date for determining the members entitled to vote at a meeting or cast written ballots is twenty (20) days before the date of the meeting or the day on which the first ballot is mailed or solicited.

(d) Cumulative voting **Error! Reference source not found.** shall not be permitted for any purpose.

(e) Voting by proxy shall not be permitted for any purpose.

Section 4.14. **Use of Written Ballots at Meetings.**

A combination of written ballot and personal voting may be used at any regular or special meeting of members, and may be used for the election of Directors. Prior to the meeting, the Board of Directors may authorize distribution of a written ballot to every member entitled to vote. The ballots shall be distributed in a manner consistent with the provisions of Sections 4.05, 4.17(b), and 4.19 of these Bylaws. When ballots are distributed, the number of members voting at the meeting by written ballot shall be deemed present at the meeting for purposes of determining a quorum but only with respect to the proposed actions referred to in the ballots.

Section 4.15. **Contents of Written Ballot Used at Meetings.**

Any written ballot used at a meeting shall set forth the proposed action to be taken, provide an opportunity to specify approval or disapproval of the proposed action, and state that unless revoked by the member voting in person, the ballot will be counted if received by the Corporation on or before the time of the meeting.

Section 4.16. Action by Ballot Without Meeting.

Any action that may be taken at any regular or special meeting, including election of Directors, may be taken without a meeting through distribution of a written ballot to every member entitled to vote on the matter. The Secretary shall cause a vote to be taken by written ballot on any action or recommendation proposed in writing by at least twenty percent (20%) of the members.

Section 4.17. Written Ballot Used Without Meeting.

(a) Any ballot used without a meeting shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Corporation.

(b) The form of written ballot distributed to ten (10) or more members shall afford an opportunity to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time of distribution, to be acted on by the ballot. The form must also provide that whenever the person solicited specifies a choice with respect to any matter, the vote will be cast in accordance with that choice.

(c) A written ballot cannot be revoked. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Section 4.18. Solicitation of Written Ballots.

Ballots shall be solicited in a manner consistent with Sections 4.05, 4.17(b), and 4.19 of these Bylaws. The solicitations shall indicate the number of responses needed to meet the quorum requirement and specify the time by which the ballot must be received to be counted. Ballots other than for the election of Directors shall state the percentage of approvals necessary to pass the measure.

Section 4.19. Withholding Vote.

In an election of Directors, any form of written ballot which names the candidates for Director and which the member has marked "withhold" (or otherwise indicated that the authority to vote in the election of Directors is withheld) shall not be used for voting in that election.

Section 4.20. Appointment of Inspectors of Election.

In advance of any meeting of members, the Board of Directors may appoint inspectors of election to act at the meeting and any adjournment. If inspectors are not appointed or if any appointed persons fail to appear or refuse to act, the chairperson of the meeting may and, on the request of any member, shall, appoint inspectors at the meeting.

Section 4.21. **Duties of Inspectors of Election.**

The inspectors shall determine the number of memberships outstanding and the voting power of each, the number represented at the meeting, and the existence of a quorum. They shall receive votes, ballots, and consents, hear and determine all challenges and questions regarding the right to vote, count and tabulate all votes and consents, determine when the polls will close, and determine the result. They may do those acts which are proper to conduct the election or vote with fairness to all members. The inspectors shall perform these duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical.

ARTICLE V. DIRECTORS

Section 5.01. **Number.**

The corporation shall have at **least three and no more than five** Directors, collectively known as the Board of Directors. However, Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein. An Associate member, unless they are also a member not excluded by these bylaws, are ineligible to be elected or act as a Director.

Section 5.02. **Qualifications.**

The Directors of the Corporation shall be members of the Corporation and residents of California.

Section 5.03. **Nomination.**

(a) The Board of Directors shall prescribe reasonable nomination and election procedures for the election of Directors given the nature, size, and operations of the Corporation. The procedures shall include: (1) a reasonable means of nominating persons for election as Directors, (2) a reasonable opportunity for a nominee to communicate the nominee's qualifications and the reasons for the nominee's candidacy to the members, (3) a reasonable opportunity for all nominees to solicit votes, (4) a reasonable opportunity for all the members to choose among the nominees.

(b) When the Corporation distributes any material soliciting a vote for any nominee for Director in any publication owned or controlled by the Corporation, it shall make available to each other nominee, in the same material, an equal amount or space with equal prominence to be

used by the nominee for a purpose reasonably related to the election. The Corporation shall mail within ten (10) business days to all members any material related to the election which a nominee for Director has furnished, upon written request and payment of mailing costs by the nominee, or allow the nominee to obtain the names, addresses, and voting rights of members within five (5) business days after the request.

Section 5.04. **Election.**

The Directors shall be elected at the annual meetings or by written ballot in accordance with Sections 4.16–4.19 of these Bylaws. The candidates receiving the highest number of votes up to the number of Directors to be elected shall be elected.

Section 5.05. **Terms of Office.**

The terms of office for Directors shall be **two years**. Each Director shall hold office until the expiration of the term for which elected and until the election and qualification of a successor.

Section 5.06. **Compensation.**

The Directors shall serve without compensation except that they shall be paid their actual and necessary expenses incurred in serving the Corporation.

Section 5.07. **Call of Meetings.**

Meetings of the Board of Directors may be called by the President, any Vice-President, the Secretary, or any two Directors.

Section 5.08. **Place of Meetings.**

Meetings of the Board of Directors may be held at any place designated in the notice of the meeting, or, if not stated in a notice, by resolution of the Board.

Section 5.09. **Presence at Meetings.**

Directors may participate at meetings of the Board through the use of conference telephone or other communications equipment, as long as all participating Directors can hear one another. Participation by communications equipment constitutes presence at the meeting.

Section 5.10. **Regular Meetings.**

Regular meetings of the Board of Directors shall be held, without call or notice, at the principal office of the Corporation immediately following the annual meeting of members, as set forth in Section 4.02 of these Bylaws.

Section 5.11. **Special Meetings and Notice.**

Special meetings shall be held on four (4) days' notice by first-class mail or forty-eight (48) hours notice delivered personally or by telephone or telegraph. Notice of regular or special meetings need not be given to any Director who signs a waiver of notice, a written consent to holding the meeting, or an approval of the minutes (either before or after the meeting), or who attends the meeting without protesting prior thereto or at its commencement, the lack of notice to that Director. All waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 5.12. Quorum at Meetings.

A majority of the authorized number of Directors constitutes a quorum for the transaction of business.

Section 5.13. Acts of Board at Meetings.

Unless provided otherwise in the Articles of Incorporation, these Bylaws, or by law, every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present is the act of the Board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for the meeting or a greater number required by the Articles, these Bylaws, or by law.

Section 5.14. Adjournment of Meetings.

A majority of the Directors present, whether or not a quorum is present, may adjourn to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of the adjournment shall be given prior to the time of the adjourned meeting to the Directors who were not present at the time of adjournment.

Section 5.15. Action Without Meeting.

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all Directors individually or collectively consent in writing to the action. The consents shall be filed with the minutes of the proceedings of the Board. Action by written consent has the same force and effect as a unanimous vote of the Directors.

Section 5.16. Executive Committees.

(a) The Board of Directors may create one or more committees to serve at its pleasure by resolution adopted by a majority of the number of Directors then in office when a quorum is present. Each committee shall consist of two (2) or more Directors appointed by a majority vote of the Directors then in office.

(b) Any executive committee, to the extent provided in the resolution of the Board, shall have all the authority of the Board, except with respect to the following actions:

(1) The approval of any action for which the approval of the members or a majority of all members is required by law:

(2) The filling of vacancies on the Board or in any committee that has the authority of the Board;

(3) The fixing of compensation of the Directors for serving on the Board or on any committee;

(4) The amendment or repeal of Bylaws or the adoption of new Bylaws;

(5) The amendment or repeal of any resolution of the Board which by its express terms are not amendable or repealable:

(6) The appointment of committees of the Board or the members of such committees:

(7) The expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected.

Section 5.17. **Resignation of Directors.**

Any Director may resign effective upon written notice to the President, the Secretary, or the Board of Directors, unless the notice specifies a later time for the effectiveness of the resignation. If a resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

Section 5.18. **Removal of Directors.**

Any or all Directors may be removed without cause by the members. If the Corporation has fewer than fifty (50) members, the removal shall be approved by an affirmative vote or written ballot of a majority of all the votes entitled to be cast. If the Corporation has fifty (50) or more members, the removal shall be approved or ratified by the affirmative vote of a majority of all the votes represented and voting at a duly held meeting at which a quorum is present, or by written ballot, or by the affirmative vote or written ballot of any greater proportion of the votes as required in these Bylaws or by law.

Section 5.19. **Cause of Vacancies on Board.**

Vacancies on the Board of Directors shall exist on the death, resignation, termination of membership, or removal of a Director; whenever the authorized number of Directors is increased; whenever the Board declares an office vacant pursuant to Section 5.20 of these Bylaws; and on the failure of the members to elect the full number of Directors authorized.

Section 5.20. **Declaration of Vacancies.**

The Board of Directors may declare vacant the office of any Director whose eligibility for election has ceased, who has been declared of unsound mind by a final order of court, who is convicted of a felony, or who has not attended **five or** more consecutive regular or special meetings of the Board.

Section 5.21. **Filling Vacancies on Board.**

Except for vacancies created by removal of a Director pursuant to Section 5.18 of these Bylaws, vacancies may be filled by a majority of the Directors then in office, whether or not less than a quorum, or by a sole remaining Director. Vacancies created by the removal of a Director may be filled only by approval (as defined by Section 12224 of the California Corporations Code) of the members. The members may elect a Director at any time to fill any vacancy not filled by the Directors.

ARTICLE VI. OFFICERS

Section 6.01. **Titles.**

The officers of the Corporation shall be a President, Secretary, Chief Financial Officer, and any other officers with such titles and duties as determined by the Board of Directors and as may be necessary to enable it to sign instruments. The President is the Chief Executive Officer of the Corporation. The same person may hold any number of offices. The President shall be chosen from among the Directors elected by the membership of the Corporation.

Section 6.02. **Appointment and Resignation.**

The officers shall be chosen by the Board of Directors and serve at the pleasure of the Board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time on written notice to the Corporation without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party. However, Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein. Associate member, unless they are also a member not excluded by these bylaws, are ineligible to be appointed or act as an officer of the Corporation.

ARTICLE VII. CORPORATE RECORDS AND REPORTS

Section 7.01. **Required Records.**

The Corporation shall keep adequate and correct books and records of account and minutes of the proceedings of its members, Board of Directors, and committees of the Board. It shall also keep a record of the members, including the names, addresses, and number of shares

held by each. The minutes shall be kept in written form. Other books and records shall be kept either in written form or in any other form capable of being converted into written form.

Section 7.02. Annual Report.

(a) For fiscal years in which the Corporation has, at any time, more than twenty-five (25) members, the Corporation shall notify each member yearly of the member's right to receive an annual financial report. The Board of Directors shall promptly cause the most recent annual report to be sent to a member on written request. The annual report shall be prepared no later than one hundred twenty (120) days after the close of the Corporation's fiscal year.

(b) The annual report shall contain in appropriate detail all of the following: (1) a balance sheet as of the end of the fiscal year, an income statement, and a statement of changes in financial position for the fiscal year; (2) a statement of the place where the names and addresses of the current members are located; and (3) the statement required by Section 7.03 of these Bylaws.

(c) The annual report shall be accompanied by any pertinent report by independent accountants, or, if there is no such report, by the certificate of an authorized officer of the Corporation that the statements were prepared without audit from the books and records of the Corporation.

Section 7.03. Annual Statement of Transactions and Indemnifications.

In addition to the annual report described in Section 7.02 of these Bylaws, the Corporation shall furnish annually (pursuant to Section 12592 of the California Corporations Code) to its members and Directors a statement of the transactions and indemnifications to interested persons. If the Corporation does not issue an annual report pursuant to Section 7.02 of these Bylaws, such statement shall be mailed or delivered to members within one hundred twenty (120) days after the close of the fiscal year.

ARTICLE VIII. INSPECTION RIGHTS

Section 8.01. Articles and Bylaws.

The corporation shall keep at its principal office in California the original or a copy of its Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the members at all reasonable times during office hours. If the Corporation has no office in California, it shall furnish on the written request of any member a copy of the Articles or Bylaws as amended to date. Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein and specifically have no right to inspect or copy the documents, lists, books or records as mentioned in this Article and sections contained therein.

Section 8.02. Books and Records.

The accounting books and records and minutes of proceedings of the members, the Board of Directors, and committees of the Board shall be open to inspection on the written demand of any member at any reasonable time, for a purpose reasonably related to that person's interests as a member.

Every Director has the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind, and to inspect the physical properties of the Corporation.

Section 8.03. Inspection of Membership List.

(a) Subject to the Corporation's right to set aside a member's demand for inspection pursuant to Section 12601 of the California Corporations Code and the power of the court to limit inspection rights pursuant to Section 12602 of the California Corporations Code, and unless the Corporation provides a reasonable alternative pursuant to Section 8.03(c) of these Bylaws, a member may do either or both of the following:

(1) Inspect and copy the record of all the members' names, addresses, and voting rights, at reasonable times, on making a written demand five (5) business days in advance which states the purpose for which the inspection rights are requested;

(2) Obtain from the Secretary, upon written demand and tender of a reasonable charge, a list of names, addresses, and voting rights of those members entitled to vote for the election of Directors, as of the most recent record date for which it has been compiled, or as of a date specified by the member subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The membership list shall be made available on or before the later of ten (10) business days after the demand is received or after the date specified as the date as of which the list is to be compiled.

(b) The rights set forth in Subsection (a) of this Bylaw section may be excised by any member or members possessing five percent (5%) or more of the voting power for a purpose reasonably related to the members' interest as members. The Corporation may deny access to the membership list where it reasonably believes that the information therein will be used for another purpose or where the Corporation provides a reasonable alternative pursuant to Section 8.03(c) of these Bylaws.

(c) The Corporation may within ten (10) days after receiving a demand, deliver a written offer of an alternative method of achieving the purpose identified in the demand without providing access to or a copy of the membership list. An alternative method that reasonably and in a timely manner accomplishes the proper purpose set forth in a demand made pursuant to Section 8.03(a) of these Bylaws shall be a reasonable alternative, unless the Corporation fails to do the things that it offered to do within a reasonable time after acceptance of the offer. Any rejection of the offer shall be in writing and indicate the reasons the proposed alternative does not meet the proper purpose of the demand.

ARTICLE IX. SURPLUS ALLOCATIONS AND DISTRIBUTIONS

Section 9.01. Fiscal Year.

The fiscal year of the Corporation shall end at the close of the business day on the last day of the month of December of each year.

Section 9.02. Surplus and Patronage Defined.

(a) “Surplus” shall be defined as the excess of revenues and gains over expenses and losses for a fiscal year. Such surplus shall be determined in accordance with generally accepted accounting principles and shall be computed without regard to any patronage refunds, capital allocations, dividends, or income tax.

(b) “Patronage” shall be defined as measured by the volume or value, or both, of a patron's purchases of such products from, and use of such services furnished by, the corporation, and by such products and services provided by the patron to the corporation for marketing.

Section 9.03. Annual Allocations and Distributions of Surplus.

(a) Before any dividends or patronage refunds are distributed for each fiscal year, any surplus should first be allocated to any deficit in the accounting of “retained earnings” of the Corporation.

(b) After any deficit in retained earnings has been eliminated, the Board of Directors may declare a dividend upon shares at a rate not to exceed any maximum rate established by Section 12451 of the California Corporations Code (taking into account any other “distributions” as defined by Section 12235 of the California Corporations Code). No such dividends shall be cumulative.

(c) The Directors may then uniformly distribute all the remaining surplus attributed to patronage of the members of the Corporation to such members as described in the following paragraphs of this subsection of these Bylaws. For the purposes of this subsection of the Bylaws, the remaining patronage surplus shall be computed consistent with Subchapter T of the Internal Revenue Code, related Treasury Regulations, and related court and other relevant interpretations. However, Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein.

(1) Any remaining patronage surplus attributed to the members and to be distributed to them shall be the total remaining patronage surplus attributed to both member and non-member business (but reduced by dividends on shares and any allocations to eliminate a deficit in retained earnings) multiplied by the ratio of member patronage to total patronage.

(2) A member is entitled to a patronage refund, if such is distributed, in the amount of the remaining patronage surplus, as determined by Paragraph (1) of this subsection of these Bylaws,

multiplied by the ratio of such member's patronage with the Corporation to the patronage of all members with the Corporation.

(d) Any dividends declared or patronage refunds paid or allocated pursuant to this section of the Bylaws may be in the form of shares in whole or in part, subject to Subsections (e) and (f) of this section of these Bylaws.

(e) If a member owns three hundred dollars (\$300.00) or more in shares as of the end of the fiscal year for which dividends are declared or patronage refunds are to be paid or allocated, such member shall receive all of her or his dividends and patronage refunds in cash. The three hundred dollar (\$300.00) amount shall be known as a member's "Fair Share."

(f) If the cash payment to a member for such member's dividends and patronage refunds together would total less than one dollar (\$1.00), the Board of Directors shall distribute such dividends and patronage refunds to the member wholly in shares.

(g) Each person who becomes a member of this Corporation consents to include in his or her gross income for federal income tax purposes the amount of any patronage refund paid to him or her by this Corporation in money or by written notice of allocation (as defined in the Internal Revenue Code), except to the extent that such a patronage refund is not income to the member because (i) it is attributable to the purchase of personal, living, or family items, or (ii) it should properly be treated as an adjustment to the tax basis of property previously purchased. The term "patronage refund," as used herein, shall have the same meaning as the term "patronage dividend," as used in the Internal Revenue Code.

(h) For the purpose of allocating and distributing any annual surplus, the entire operations of the Corporation shall be considered as a unit; provided that by resolution of the Board of Directors, the Corporation may distribute patronage refunds on the basis of the business transacted by each of the departments or divisions into which the operations of the Corporation shall be divided by the Board for the purpose of such allocation.

ARTICLE X. ASSOCIATE MEMBER

Section 10.01 Associate member:

(a) Pursuant to Corporations Code Section 7333(a) a corporation may refer to persons associated with it as "members" even though such persons are not members within the meaning of Section 5056; but references to members in this part mean members as defined in Section 5056.

(b) Pursuant to Corporations Code Section 7333(b) a corporation may benefit, serve, or assist persons who are not members within the meaning of Section 5056 for such consideration, if any, as the board may determine or as is authorized or provided for in the articles or bylaws.

(c) Associate members shall not be considered members within the meaning of Corporations Code Section 5056 and shall have no rights to which a member would be entitled under Section 5056.

(d) An Associate member shall be defined as those qualified patients, primary care givers or a person(s) with an identification card as defined by Health and Safety Code Sections 11362.5 and 11362.7 et. seq. who purchase or acquire medical marijuana, in whatever form, from the corporation or who cultivate, manufacture, process, deliver and or otherwise provide medical marijuana, in whatever form, to the Corporation for the benefit, purchase and or use of the members or other non-member patrons or handle its members' or Associate member' products or services or whose products or services are marketed, processed, or handled by the corporation.

(e) The Corporation is authorized to associate with, and designate an Associate member, for those purposes as mentioned in this Article and sections contained therein, those persons as mentioned in this Article and sections contained therein.

(f) No person may be an Associate member of the Corporation who is not a natural person and who is not a qualified patient, a person with an identification card or primary care giver as defined by Health and Safety Code Sections 11362.5 and 11362.7 et. seq.

(g) Any Associate member associated or affiliated with the Corporation shall be bound by any rules, or membership requirements as set forth by the Corporation.

(h) No person who is deemed an Associate Member of the Corporation shall be personally liable under any judgment of a court, or in any other manner, for any debt obligation, or liability of the Corporation, whether that liability or obligation arises in contract, tort, or otherwise, solely by reason of being a Non-member Patron of the Association.

(i) An Associate member under this section, for the purpose of acquiring the products, goods and or services of the Corporation or providing, products, goods or services as described herein, may be designated as an Associate member or, in the alternative, member of the Corporation for such limited purpose(s). However, such designation shall in no way confer any rights, duties or obligations under Section 5056 of the Corporations Code.

(j) A member of the Corporation as defined by Section 5056 may also be an Associate member of the Corporation and retain all the rights, duties and obligations conferred by that section and shall not, solely as a result of being an Associate member, be denied the rights conferred by Section 5056.

ARTICLE XI: AUTHORIZATION TO CONDUCT MEDICAL MARIJUANA ACTIVITIES AND ASSOCIATED COSTS

Section 11.01

(a)The Bylaws as stated herein authorize the execution of a collective or cooperative medical marijuana cultivation project(s) as authorized by Health and Safety Code Section 11362.7, Section 1(b)(3) and or 11362.775 (hereinafter "Project"), and any contracts or agreements attendant thereto, by the Corporation. By these Bylaws, the product(s) of such project(s) is and shall become the collective property of the Corporation and its members, Associated or otherwise, that the Corporation shall acquire, hold and manage such property for the benefit of the members, Associate or otherwise, collectively and which product shall be for the sole use and benefit its members. Each member and Associate member shall have the right to obtain and use such property only so long as they are members or Associate members of the Corporation and payment of their pro rata share of the costs of operation of the Corporation as

represented by that portion of the such property acquired, from time to time, by that member, or Associated member is received by the Corporation.

Each member and or Associate member shall contribute to the project their time, effort, labor, advice, support (financial or otherwise), technical or administrative assistance according to ability, expertise, knowledge, technical training, or experience of the member on an as needed basis upon the reasonable request of the Corporation.

By the Bylaws herein stated, one or more members, Associate or otherwise, may cultivate medical marijuana for the benefit of the Corporation and that the costs and expenses associated with such cultivation and processing and or distribution to members, Associate or otherwise, shall be borne by the Corporation through its members on a pro rata basis.

(b) Members, Associate or otherwise, shall contribute funds to the project(s), on a pro rata basis, which shall be accomplished by payment to the Corporation. Any pro rata payment to the Corporation is used to insure continued operation of the Corporation and that any such transaction in no way constitutes commercial promotion.

Such funds paid to the Corporation on a pro rata basis shall be that amount necessary to provide for the (1) costs of acquisition, cultivation, processing, transporting, distribution and or delivery of medical marijuana by the Corporation to its members, (2) for salary and other compensation for services rendered to the Corporation and or its members by the President or other employees of the Corporation, (3) for costs associated with rent, utilities, or other fixed or variable costs and or expenses associated with any location operated by, for or on behalf of the Corporation (4) for costs and expenses advanced on behalf of the Corporation, (5) for such other debt or obligation incurred by the Corporation on its behalf and for its benefit, and (6) reserve funds for potential civil or criminal liabilities of the Corporation and or the Directors, Officers or employees thereof. The amount of any reserve fund for potential civil or criminal liabilities may be determined by the Board of Directors.

Each pro rata payment as mentioned above may be deferred until such time as the member acquires his or her medical marijuana from the Corporation. Acquisition of medical marijuana by the Corporation may occur on a regular, irregular or periodic basis, depending on the needs of each member, and that the pro rata contribution of each acquiring member shall be paid upon acquisition of each members, or Associated member's physicians recommended or lawfully possessable amount as they occur.

Indigent or low income qualified members may obtain medical marijuana at discounted cost based upon need and ability to pay. Indigent and low income members may be required to provide to the Corporation, an income and expense declaration signed under penalty of perjury. The Corporation shall, in his or her reasonable discretion, compute that members pro rata share that bears a reasonable relation to the member's ability to pay. The difference between the pro rata payment by non-indigent members and indigent or low income members shall be borne by the Corporation.

ARTICLE XII VERIFICATION AND NON DIVERSION

Section 12.01

(a)The Corporation shall verify each member's or Associate member's physician recommendation upon application for membership or within 72 hours thereof. A failure of the Corporation to verify each member's physician recommendation shall be grounds for denial or termination of member's membership in the Corporation.

(b) No medical marijuana shall be distributed to a member or Associate member without verification by the Corporation. Distribution and or resale of medical marijuana acquired through the Corporation to any non- member, or any person who is not an Associate member of the Corporation, shall result in immediate termination of membership from the Corporation. No officer, director or employee shall knowingly allow diversion, sale, acquisition or delivery of medical marijuana, in whatever form, to a non-member or Associate member as defined in Article X herein.

ARTICLE XIII BANK RESOLUTION

Section 13.01

The President of the Corporation, or his or her authorized agent, shall deposit all moneys and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the by the President. The President, in his or her discretion, is authorized hereby to provide for a depository for the funds of the Corporation, is further authorized to deal with Corporation funds, add or delete signatories to any account held in the name of the Corporation, except that the Treasurer shall be a signatory with the President on any account held in the name of the Association. Until such authority is revoked by sealed notification to said bank by a successor President, the Governing Board of the Association, if so formed, or the Alternate Board, the President or Treasurer named herein are authorized to execute checks and other items for and on behalf of the Association.

Said account shall be governed by applicable banking laws, customs and Clearing House regulations and by the rules printed charge schedule of the bank. If the account is a checking account, the bank is requested to prepare and mail the monthly bank statement and cancelled checks, if available, to the mailing address of the Association shown on the bank records.

ARTICLE XIV. BYLAW CHANGES

Section 14.01 **Bylaw Changes by the Board.**

The Bylaws shall be adopted, amended, or repealed by the Board of Directors unless the action would:

(a) materially and adversely affect the rights or obligations of members as to voting dissolution, redemption, transfer, distributions, patronage distributions, patronage, property rights, or rights to repayment of contributed capital;

(b) increase or decrease the number of members or shares authorized in total or for any class;

(c) effect an exchange, reclassification, or cancellation of all or part of the memberships or shares,

(d) authorize a new class of memberships or shares,

(e) change the number of Directors or establish a variable number of Directors;

(f) extend the term of a Director beyond that for which the Director was elected or increase the terms of the Directors;

(g) allow all or any portion of the Directors to hold office by virtue of designation or selection rather than by election by the members: and

(h) allow the Board to fill vacancies occurring in the Board by reason of the removal of Directors.

Section 10.02. **Bylaw Changes by the Members.**

Where the Board of Directors is denied the right to adopt, amend, or repeal these Bylaws pursuant to Section 10.01 of these Bylaws, these Bylaws shall be adopted, amended, or repealed by approval of the members. Associate member as defined in Article X are excluded from the provisions of this Article and the sections contained therein and specifically shall have no right to adopt, amend or repeal these Bylaws.

CERTIFICATE OF SECRETARY OF POINT LOMA PATIENTS CONSUMER COOPERATIVE

I hereby certify that I am the duly elected and acting Secretary of this Corporation and that the foregoing Bylaws constitute the Bylaws of this Corporation, as duly adopted by the Board of Directors on _____, 20__.

Dated: _____, 20__.

Secretary

EXHIBIT 15



EDUCATION

- ❖ *U. San Diego School of Law*, J.D., 2006
- ❖ *James Madison College*, Michigan State University, B.A. 2002 (*Dean's List*)

BAR ADMISSIONS

- ❖ California 2006

COURT ADMISSIONS

- ❖ Southern District of California
- ❖ Northern District of California
- ❖ Central District of California
- ❖ Eastern District of California
- ❖ Ninth Circuit Court of Appeals
- ❖ Western District of Washington
- ❖ Western District of Wisconsin
- ❖ District of Nebraska

William R. Restis

For over a decade, I have been litigating complex, multi-district, and multi-party class actions. I have recovered over two hundred million dollars in value for class members, and literally changed the law to help protect them.

I founded The Restis Law Firm, P.C. in 2017. Prior to founding RLF, I represented investors and consumers at San Diego's oldest class action law firm, Finkelstein & Krinsk LLP.

I am currently representing investors in the Tezos cryptocurrency "Initial Coin Offering," seeking remedies under the Securities Act of 1933. *GGCC, LLC v. Dynamic Ledger Systems, Inc. et al.*, (N.D. Cal.).

In addition to class actions, I also practice other forms of complex litigation. This includes representing whistleblowers before the Department of Justice and Securities and Exchange Commission, and consumers of defective products in several MDLs.

I also served as general counsel for two technology start-ups, and am a longtime board member of a highly successful non-profit.

Notable past cases that I was either lead attorney or had significant involvement include:

✚ *Hahn v. Massage Envy Franchising LLC*, No. 3:12-cv-000153 (S.D. Cal.) (nationwide settlement with 75% restitution of class members' lost prepaid massages valued by experts between \$179-\$225 million). In *Massage Envy*, I won every motion, and established complete liability to the class on *plaintiff's* motion for summary judgment. 2014 WL 5100220 (S.D. Cal. Sept. 25, 2014). In doing so, the Court adopted my proposed extension of California's doctrines on unconscionability, liquidated damages and franchisor liability that have since been relied upon by several courts.

A handwritten signature in black ink that reads "The Restis Law Firm, P.C." with a stylized flourish.

✚ *Sanai v. BMW of North America*, No. 2:12-cv-06105 (D.N.J.) (nationwide settlement recovering lost warranty and 100% reimbursement of repair costs valued by expert at \$12.8 million)

✚ *Derry v. Jackson Nat'l Insurance Co.*, No. 4:12-cv-1380 (N.D. Cal.) (California settlement recovering \$11.2 million in annuity surrender charges, and reducing future surrender charges)

✚ *Klien v. Walgreen Company et al.*, No. GIC 795254 (S.D. Sup. Ct.) (California class settlement prohibiting pharmacies from using medical information for marketing)

✚ *Utility Consumers Action Network v. Albertsons, Inc. et al.*, No. GIC830069 (S.D. Sup. Ct.) (California class settlement prohibiting pharmacies from using medical information for marketing)

✚ *Heckert v. A-1 Self Storage, Inc.*, No. S232322 (Cal. Supreme Ct.) (pending appeal concerning whether the sale of a “protection plan” is the unlawful sale of “insurance” entitling class members to restitution of inflated charges)

✚ *Verdiek v. TD Ameritrade, Inc.*, No. 16-3016 (8th Cir. Ct. App.) (pending appeal challenging the application of SLUSA to best execution claims against stockbroker)

✚ *Lim v. Charles Schwab & Co., Inc.*, No. 16-15189 (pending appeal challenging the application of SLUSA to best execution claims against stockbroker)

✚ *Scherer v. Tiffany and Company, Co.*, 3:11-cv-00532 (S.D. Cal.) (class action settlement providing free Tiffany’s merchandise)

✚ *Austin v. Michaels Stores Inc.*, No. 37-2011-00085906 (S.D. Sup. Ct.) (class action settlement providing free merchandise)

✚ *Saratoga Advantage Trust v. ICG, Inc. et al.*, No. 2:08-cv-00011 (S.D.W. Va.) (\$1.4 million securities class action settlement)

