Court of Appeal, Fourth Appellate District, Division One
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IN THE COURT OF APPEAL OF THE S

CASE #: D074587

FOURTH APPELLATE DISTRICT – DIVISION ONE

DARRYL COTTON,

Defendant/Petitioner/Appellant,

v.

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO,

Respondent.

LARRY GERACI, an individual; REBECCA BERRY, an individual; MICHAEL R. WEINSTEIN, an individual; SCOTT TOOTHACRE, an individual; FERRIS & BRITTON APC, a California corporation; GINA M. AUSTIN an individual; AUSTIN LEGAL GROUP APC, a California corporation; JIM BARTELL, an individual; BARTELL & ASSOCIATES, INC., a California corporation; ABHAY SCHWEITZER, an individual and dba TECHNE; AARON MAGAGNA, an individual; THE CITY OF SAN DIEGO, a public entity; M. TRAVIS PHELPS, MICHELLE SOKOLOWSKI, FIROUZEH TIRANDAZI, CHERLYN CAC, as individuals and as employees of THE CITY OF SAN DIEGO,

Real Parties in Interest.

Court of Appeal Case No. _____
(San Diego Superior Court Case No. 37-2017-00010073-CU-BC-CTL)

and

Court of Appeal Case No. D073766
(San Diego Superior Court Case No. 37-2017-00037675-CU-WM-CTL)

EXHIBITS – VOLUME 2 of 3

[EXHIBITS 9-12, Pages 340 – 659]

TO PETITION FOR WRIT OF MANDATE, SUPERSEDEAS AND/OR OTHER APPROPRIATE RELIEF

JACOB P. AUSTIN [SBN 290303]
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PETITION FOR WRIT OF MANDATE, WRIT OF SUPERSEDEAS
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EXHIBIT 9 [ROA 237]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

LARRY GERACI, an individual, Plaintiff, vs. DARRYL COTTON, an individual; and DOES 1 through 10, inclusive, Defendants. AND RELATED CROSS-ACTION.	Case No. 37-2017-00010073-CU-BC-CTL **DARRYL COTTON'S *EX PARTE* APPLICATION FOR APPOINTMENT OF RECEIVER AND OTHER RELIEF** Date: June 14, 2018 Time: 8:30 a.m. Dept: C-73 Judge: The Hon. Joel R. Wohlfeil

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, on June 14, 2018, at 8:30 a.m. or as soon thereafter as the matter may be heard in Department C-73 of the above-entitled Court, Defendant/Cross-Complainant DARRYL COTTON ("Defendant") will move this Court *ex parte* for Orders Appointing a Receiver to Manage the Conditional Use Permit for Defendant's Real Property; and Other Relief.

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Defendant brings this motion:

1. For appointment of a Receiver to manage the CUP on Defendant's property pursuant to Code of Civil Procedure section 526(a)(2)-(3) on the ground that, based upon newly-discovered evidence and testimony, injunctive relief is necessary and appropriate to protect Defendant from sustaining imminent, irreversible harm if the application for a Conditional Use Permit ("CUP") for his property is sabotaged and denied, and/or a pending CUP application for another property immediately adjacent to Defendant's property is approved; and

2. For leave to amend Defendant's Cross-Complaint pursuant to Code of Civil Procedure section 428.50(c) to add additional cross-defendants and incorporate additional causes of action based upon newly-discovered evidence and testimony on the ground that leave to amend a cross-complaint may be granted in the interest of justice at any time during the course of a pending action.

This motion is based upon this *Ex Parte* Application for Orders, the accompanying Memorandum of Points and Authorities, Declarations of Darryl Cotton, Jacob P. Austin and Joe Hurtado, and Notice of Lodgment, the pleadings and papers on file in this action, and upon such other written and/or oral evidence as may be presented at the hearing of this *Ex Parte* Application.

DATED: June 13, 2018

THE LAW OFFICE OF JACOB AUSTIN

By /s/
JACOB P. AUSTIN
Attorney for Defendant/Cross-Complainant
DARRYL COTTON

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

LARRY GERACI, an individual, Plaintiff, vs. DARRYL COTTON, an individual; and DOES 1 through 10, inclusive, Defendants. AND RELATED CROSS-ACTION.	Case No. 37-2017-00010073-CU-BC-CTL **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DARRYL COTTON'S *EX PARTE* APPLICATION FOR APPOINTMENT OF A RECEIVER AND OTHER RELIEF** Date: June 13, 2018 Time: 8:30 a.m. Dept: C-73 Judge: The Hon. Joel R. Wohlfeil

Defendant's real property (the "Property") qualifies for a Conditional Use Permit ("CUP") with the City of San Diego (the "City") that would allow the operations of a Marijuana Outlet - a retail cannabis store (the "Business"). In November of 2016, Defendant and Plaintiff/Cross-Defendant Larry Geraci ("Plaintiff") entered into an oral joint-venture agreement (the "JVA") pursuant to which, *inter alia,* (i) Defendant would sell his Property to Plaintiff and (ii) Plaintiff would finance the acquisition of the CUP with the City and the development of the Business at the Property. However, Plaintiff breached the JVA by, *inter alia,* attempting to deprive Defendant of a bargained-for 10% equity position in the Business. Consequently, Defendant terminated the JVA and Plaintiff thereafter brought forth this suit alleging the parties never entered into the JVA and alleging a three-sentence document with grammar and spelling mistakes (meant to memorialize the receipt of $10,000 by Defendant to be applied towards an agreed-upon non-refundable deposit) is the final integrated contract for the Property.

All of the *undisputed* evidence, primarily comprised of emails and texts between Plaintiff and Defendant, unilaterally and clearly contradict Plaintiff's allegations that a joint-venture was not formed. Additionally, a declaration provided by Plaintiff himself in April 2018 and newly discovered evidence and third-party testimony, prove that Plaintiff is aware there is a high probability he will lose this action and is taking steps to have (i) the CUP on the Property denied and (ii) a competing CUP application within 1,000 feet of Defendant's Property approved via his agents (the "Competing CUP"). If successful, Plaintiff will permanently deprive Defendant of the benefit of the bargain reached in the JVA.

This situation is ***not*** novel or incredible; in the wake of the Green Rush (cannabis industry boom), over the last several months the FBI and various law enforcement agencies have highlighted the criminal and unethical actions taken by numerous cities, government agencies, lobbyists, attorneys and private individuals in "pay to play" schemes across the State of California to engage in highly profitable commercial marijuana activities.[1] If Plaintiff is not enjoined, Defendant will be ***permanently*** deprived of justice and the judiciary will have been used as a tool in effectuating Plaintiff's unlawful scheme.

FACTUAL AND PROCEDURAL BACKGROUND

A. Negotiations for the Property. In the Summer of 2016, Plaintiff was one of several parties that

contacted Defendant seeking to purchase the Property to apply for a CUP and operate the Business on the Property. During these negotiations, Plaintiff represented (i) he was a California licensed Real Estate Agent; (ii) he was an Enrolled Agent with the IRS; (iii) the Owner and Manager of Tax and Financial Center, Inc. (a sophisticated accounting and financial advisory services company)[2]; (iv) preliminary due diligence on the Property by his experts had discovered that there was a zoning issue that unless first resolved would prevent the City from even accepting a CUP application on the Property (the "Zoning Issue"); (v) through his professional relationships and powerful hired lobbyists, he was in a unique position to have the Zoning Issue resolved; (vi) he was highly qualified to operate the Business because he owned and operated multiple cannabis dispensaries in the City[3]; and (vii) his employee, Cross-Defendant Rebeca Berry ("Berry"), was a trustworthy individual who could be trusted to be the applicant on the CUP application because, *inter alia*, she helped manage his marijuana dispensaries[4].

B. The Joint Venture Agreement Is Formed. On November 2, 2016, Defendant was still in negotiations with various parties for the Property.[5] However, in the afternoon of that day, the parties met at Plaintiff's business, finalized their negotiations and entered into the JVA; if the CUP was ***approved***, then Plaintiff would, *inter alia,* provide Defendant: (i) a total purchase price of $800,000 for the Property; (ii) a 10% equity position in the Business; and (iii) the greater of $10,000 or 10% of the net profits on a monthly basis. If the CUP was ***denied***, Defendant would keep his Property and an agreed upon $50,000 non-refundable deposit ("NRD") and the transaction would not close. In other words, the issuance of the CUP at the Property was a condition precedent for closing on the sale of the Property (the "CP").

At that meeting, Plaintiff provided $10,000 in cash towards the agreed upon NRD and had Defendant execute a three-sentence document to memorialize his receipt thereof (the "November Document"). Plaintiff promised, *inter alia,* (i) to have his attorney, Gina Austin ("Austin"), *promptly*

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[2] NOL 48 – Accurint Professional Report

[3] NOL 49 – Geraci Lawsuits

[4] Defendant notes that on or around October 31, 2016, Plaintiff asked him to execute Form DS-318 (Ownership Disclosure Statement) – a required component of all CUP applications as part of preliminary due diligence. Plaintiff told Defendant that he needed the executed Ownership Disclosure Statement to show that he had access to the Property to experts in connection with his planning and lobbying efforts to resolve the Zoning Issue. The Ownership Disclosure Statement states that Berry was the "lessee" of the Property; Berry also executed another form DS-190, in which she states she is the "Owner" of the Property (Cotton Dec. Ex. 6). However, Defendant has never met Berry or entered into any agreement with her.

[5] Cotton Dec. Ex. 4.

reduce the JVA to writing and (ii) to not submit the CUP application to the City until he paid the balance of the NRD to Defendant. Later that same day, November 2, 2016, the following communications took place between Plaintiff and Defendant:

At 3:11 p.m., Plaintiff emailed Defendant a copy of the November Document which states:

> Darryl Cotton has agreed to sell the property located at 6176 Federal Blvd. CA for a sum of $800,000 to Larry Geraci or assignee on the approval of a Marijuana Dispensary. (CUP for a dispensary) [¶] Ten Thousand dollars (cash) has been given in good faith earnest money to be applied to the sales price of $800,000 and to remain in effect until license is approved. Darryl Cotton has agreed to not enter into any other contacts [*sic*] on this property. [Cotton Decl. Ex. 5, pp.4-6]

At 6:55 p.m., Defendant replied:

> Thank you for meeting today. Since we executed the Purchase Agreement in your office for the sale price of the property I just noticed the ***10% equity position*** in the dispensary was not language added into that document. I just want to make sure that we're ***not*** missing that language in any ***final agreement*** as it is a factored element in my decision to sell the property. ***I'll be fine if you would simply acknowledge that here in a reply***. [*Id.* at [Cotton Decl. Ex. 5, p.9.]

At 9:13 p.m., Plaintiff replied: "***No no problem at all***" (the "Confirmation Email"). *Id*.

C. Plaintiff Fails to Reduce the Joint-Venture Agreement to Writing. Thereafter, over the course of the next four months, the parties exchanged numerous emails, texts and calls regarding various issues related to the Zoning Issue, the CUP and drafts of the JVA providing for the sale of the Property and Defendant's equity position in the Business. However, Plaintiff continuously failed to accurately reduce the JVA to writing, pay the balance of the NRD, and to provide updates regarding his progress resolving the alleged Zoning Issue. Plaintiff's intent was to deprive Defendant of the 10% equity position Defendant had bargained for in the Business [Cotton Decl. ¶18]. Notable communications between the parties include the following:

On February 27, 2017, Plaintiff emailed Defendant: "***Attached is the draft purchase of the property for 400k. The additional contract for the 400k should be in today and I will forward it to you as well***." [Cotton Decl. Ex. 5, pp.13-14.] The attached document is titled: "AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY" (the "Draft Purchase Agreement"). [Cotton Decl. Ex. 5, pp.15-40]

On March 2, 2017, Plaintiff emailed Defendant a draft agreement entitled "SIDE AGREEMENT" that was supposed to provide for, *inter alia*, Defendant's 10% equity position ("First Draft Side Agreement"). [Cotton Decl. Ex 6, pp.41-48.] The next day, March 3, 2017, Defendant replied:

> Larry, [¶] I read the Side Agreement in your attachment and I see that no reference is made to the ***10% equity position*** as per my Inda-Gro GERL Services Agreement (see attached) in the new store. In fact para 3.11 [stating we are not partners] looks to avoid our agreement completely. It looks like counsel did not get a copy of that document. Can you explain? [Cotton Decl. Ex. 5, pp.53-55.]

Defendant followed up with Plaintiff later that day, seeking specific confirmation that Plaintiff had received the email and understood his concern – that the First Draft Side Agreement did not reflect they ***were partners*** in the Business. Defendant texted: "***Did you get my email?***" Plaintiff replied one minute later: "***Yes I did I'm having her rewrite it now[.] As soon as I get it I will forward it to you[.]***" (the "Partnership Confirmation Text").) (Cotton Decl. Ex. 2, p.25.)

On **March 6, 2017**, Defendant let Plaintiff know he would be attending a local cannabis event at which Austin would be the keynote speaker. Plaintiff texted Defendant he could speak with Austin directly at the event regarding revisions to the agreements: "***Gina Austin is there she has a red jacket on if you want to have a conversation with her.***" (*Id.*) Defendant was not able to make the event, but Mr. Hurtado - a transaction adviser who had been engaged by Defendant on a contingent basis to help him sell the Property to a new buyer if Plaintiff breached the agreement - did attend and spoke with Austin who confirmed she was working on reducing the JVA to writing and would forward shortly. (Hurtado Decl. ¶¶16-17.)

The next day, on March 7, 2017, Plaintiff emailed Defendant a revised Side Agreement drafted by Austin[6]:

> Hi Darryl, I have not reviewed this yet but wanted you to look at it and give me your thoughts. Talking to Matt, the 10k a month might be difficult to hit until the sixth month. . . . can we do 5k, and on the seventh month start 10k?

[Cotton Decl. Exh. 5, p.53] (the "March Request Email")

Attached to the email was a revised Side Agreement that provided for Defendant to receive, *inter alia*, "10% of the net revenues of [Plaintiff's] Business" and not a "10% equity position" as agreed to. (Cotton Decl. Exh. 5, p.53.)

On March 16, 2017 Defendant contacted the City and discovered that Plaintiff had lied to him and already submitted a CUP on the Property. He emailed Plaintiff:

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[6] [Cite metadata].

> [W]e started these negotiations 4 months ago and the drafts and our communications have not reflected what we agreed upon and are still far from reflecting our original agreement. Here is my proposal, please have your attorney Gina revise the Purchase Agreement and Side Agreement to incorporate all the terms we have agreed upon so that we can execute final versions and get this closed. [¶] I really want to finalize this as soon as possible - ***I found out today that a CUP application for my property was submitted in October, which I am assuming is from someone connected to you***. Although, I note that you told me that the $40,000 deposit balance would be paid once the CUP was submitted and that you were waiting on certain zoning issues to be resolved. Which is not the case. [¶] Please confirm by Monday 12:00 PM whether we are on the same page and you plan to continue with our agreement. Or, if not, so I can return your $10,000 of the $50,000 required deposit. If, hopefully, we can work through this, please confirm that revised final drafts that incorporate the terms above will be provided by Wednesday at 12:00 PM.

The next day, Plaintiff texted Defendant: "***Can we meet tomorrow [?]***" (Cotton Decl. Ex. 2, p.25.) Defendant replied via email:

> Larry, I received your text asking to meet in person tomorrow. I would prefer that until we have final agreements, that we converse exclusively via email.... ***You lied to me***, I found out yesterday from the City of San Diego that you submitted a CUP application on October 31, 2016 BEFORE we even signed our agreement on the 2nd of November. There is no situation where an oral agreement will convince me that you are dealing with me in good faith and will honor our agreement. We need a final written, legal, binding agreement. Please confirm, as requested… that you are honoring our agreement and will have final drafts… by Wednesday at 12:00 PM.

Thereafter, Plaintiff repeatedly refused to provide assurance of performance (*i.e.*, that he would reduce the JVA to writing and provide for Defendant's "10% equity position" he had promised). Thus, Defendant terminated the JVA with Plaintiff and entered into a written agreement with a third-party on March 21, 2017.[7] The next day, Plaintiff's counsel, Michael Weinstein ("Weinstein"), emailed Defendant the Complaint, which is premised solely on the allegation the November Document is the final written agreement for the Property. (NOL 2.)

D. Plaintiff's Complaint and His Sworn April 2018 Declaration Prove He Is Lying.

As alleged by Plaintiff in his Complaint:

> (i) "On November 2, 2016, [Plaintiff] and [Defendant] entered into a written agreement for the purchase and sale of the [Property] on the terms and conditions stated therein." (NOL 1 at ¶7.); and
>
> (ii) "[Defendant] has anticipatorily breached the contract by stating that he will not perform the written agreement according to its terms. Among other things, [Defendant] has stated that, contrary to the written terms, the parties agreed to a down payment… of $50,000…

[and] he is entitled to a 10% ownership interest in the [Property.]" (NOL 1 at ¶11.)

For over a year, Plaintiff has argued the parol evidence rule ("PER") and the statute of frauds ("SOF") bar his Confirmation Email – his written promise to provide Defendant a "10% equity position" in the Business – and other parol evidence. On April 4, 2018, Defendant filed a motion prepared by an attorney to expunge the *lis pendens* Plaintiff filed on his Property and cited the seminal cases of *Tenzer v. Superscope, Inc*. (*Tenzer*) (1985) 39 Ca1.3d 18 and *Riverisland Cold Storage, Inc. v. Fresno-Madera Production Credit Ass'n* (*Riverisland*) (2013) 55 Cal.4th 1169 that indisputably control and prevent Plaintiff from using the PER and the SOF "as a shield to prevent proof of [his own] fraud."[8]

In response to the controlling case law of *Tenzer* and *Riverisland*, Plaintiff provided a declaration executed on April 9, 2018 that, *inter alia*, for the ***first time***: (i) admits Plaintiff sent the Confirmation Email promising to provide Defendant a "10% equity position" in the Business, but alleges he sent the Confirmation Email by *mistake* because he meant to respond *only* to the first sentence of Defendant's email thanking him for meeting earlier that day and *not* to the second, third or fourth sentences requesting he respond and confirm in writing Defendant's equity position; and (ii) alleges that on November 3, 2016, he called Defendant who ***orally agreed*** he was not entitled to an equity position in the Business (the "Phone Call Allegation"). These arguments are unsupported by ***any*** evidence and are meant to fabricate a material factual dispute to prolong this litigation to enable Plaintiff to sabotage the CUP on the Property and seek to have the Competing CUP approved.

E. The Conspiracy: Sabotaging the CUP on the Property and Having the Competing CUP Submitted by Aaron Magagna Approved.

"A civil conspiracy is simply a corrupt agreement; it is: '…a combination of two or more persons to accomplish an evil or unlawful purpose.' [Citation.]" *117 Sales Corp. v. Olsen* (1978) 80 Cal.App.3d

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[8] *Riverisland Cold Storage, Inc. v. Fresno-Madera Production Credit Assn.* (2013) 55 Cal.4th 1169, 1182-1183 ("***[I]t was never intended that the parol evidence rule should be used as a shield to prevent the proof of fraud***. This court took a similar action in [*Tenzer*]. *Tenzer* disapproved a 44-year-old line of cases to bring California law into accord with the Restatement Second of Torts, holding that a fraud action is not barred when the allegedly fraudulent promise is unenforceable under the statute of frauds. Considerations that were persuasive in *Tenzer* also support our conclusion here. The *Tenzer* court decided the Restatement view was better as a matter of policy. [Citation.] ***It noted the principle that a rule intended to prevent fraud, in that case the statute of frauds, should not be applied so as to facilitate fraud***.")

645, 649. A civil conspiracy can be inferred from evidence showing "a course of conduct on the part of the defendants… teeming with fraudulent representations and replete with intrigue, deception and duplicity[.]" *Anderson v. Thacher* (1946) 76 Cal.App.2d 50, 72-73. Direct evidence of a conspiracy is not required and rarely available; it can be inferred from circumstantial evidence of dealings between the defendants. *Id.*; *Rogers v. Grua* (1963) 215 Cal.App.2d 1, 9. A party who joins an existing conspiracy is liable for every act previously or subsequently done by any coconspirator in pursuance of the conspiracy. *De Vries v. Brumback* (1960) 53 Cal.2d 643, 648.

IF Plaintiff loses in this action and does not retain ownership of the CUP *AND* he gets the CUP on the Property approved, his liability to Defendant will be exponentially higher. Plaintiff is aware via discovery that Defendant has had to continuously sell his interest in the Property and the CUP to finance this meritless litigation.

1. *Plaintiff Has Ceased Prosecuting the CUP on the Property in Contradiction of His Statements to This Court.*

Per Plaintiff's (CUP expert) building-designer Abhay Schweitzer's declaration:

> The CUP application process generally involves several rounds of comments from the City in which the applicant is required to respond in order to "clear" the comment. This processing involved substantial communication back and forth with the City, with the City asking for additional information, or asking for changes, and our responding to those requests for additional information and making any necessary changes to the plans. I have been the principal person involved in dealings with the City of San Diego regarding the CUP application.

The CUP process is intensive, iterative and high-touch. However, in direct contradiction to Schweitzer's declaration and Plaintiff's protestations before this Court, the City's Project Manager in charge of the CUP on the Property emailed Defendant the following on **June 1, 2018**:

> On April 20, 2018, I had sent a letter to project's point of contact for project inactivity and would be closing the project, due to inactivity for 90 days. I have received an email with intent to continue the project. (Cotton Decl. Ex. 9.)

In other words, Plaintiff has done <u>*nothing*</u> to further the CUP process with the City since approximately **<u>January 20, 2018</u>**. Per Mr. Schweitzer's declaration provided to this Court on, the CUP on the Property was expected to be approved by December 2017.

2. *Plaintiff Is Attempting to Sabotage the CUP on the Property With the Soils Analysis.*

Evidence produced during discovery, information provided by the City, and third-party testimony

supports the conclusion that Plaintiff's political lobbyist, Jim Bartell, and his building designer, Schweitzer, have colluded to manipulate the ordinary process for completing the soils testing.[9] The ***only*** issue Plaintiff can point to that indicates continuing efforts to further the CUP on the Property are his efforts to have a soils analysis performed. Of great note, pursuant to applicable City of San Diego Codes, the City accepts the recommendation the contractor soils engineer. On March 26, 2018, this Court granted Plaintiff's request for an injunction to have the soils samples taken on the Property by performing two borings to a depth of 50 feet. (ROA 46.) Defendant was onsite, spoke with geotechnical-engineer and watched the drilling of both borings, which only made it to the depths of 9 feet and 13 feet before hitting solid bedrock. DC Decl.

Defendant had a pleasant discussion with the lead geotechnical-engineer, Elizabeth White, who clearly and unequivocally stated that there would be no problems with the contemplated building as the Property was essentially on solid rock and they would be recommending an approval. However, when Defendant later spoke with the geotechnical-engineer seeking to acquire a copy of the report, she sounded markedly scared, anxious and would not confirm that the depths reached were only 9 and 13 feet. Further, she insinuated that her company would be making a denial – in direct contradiction of her statements to Defendant. (CITE EMAILS.)

3. *The Competing CUP Application Submitted by Aaron Magagna.*

When Defendant discovered the Competing CUP within 1,000 feet of his Property was submitted by Aaron Magagna (Magagna), he became immediately suspicious - it is not reasonable for a party to invest a substantial amount of time, energy and capital to compete with the CUP on Defendant's Property because (i) it has already been in process for almost two years; (ii) is ostensibly backed by Schweitzer and Bartell, two of the premier individuals for getting CUP applications approved in the City; and (iii) even by Schweitzer's own declaration, the CUP on the Property should already have been approved in December 2017. (NOL 44.)

Thus, Defendant began his investigations into Magagna which revealed ***numerous connections to Plaintiff*** in this matter. Summarized, they are as follows: (i) Magagna has and is represented by attorneys

Matt Shapiro (Shapiro) and Austin who work closely together; (ii) Austin has represented Plaintiff in this action before this Court[10]; (iii) Shapiro sat down next to Defendant and his litigation investor in *this* Court in plain clothes and, when confronted by Defendant's counsel, *LIED* to Defendant's counsel, stating he was in Dept. 73 "scoping out" this Court in preparation for a new matter with a new client - a lie to which Shapiro *admitted* when requested to provide the name of his client and the matter before this Court[11]; (iii) Shapiro had a client, Corina Young ("Young"), who was considering financing Defendant's litigation against Plaintiff as an investment in October of 2016, but was taken by Shapiro to see Bartell who told her that he "owns" the CUP on Defendant's Property and would be getting it denied "because everyone hates Darryl" (Young at some point thereafter also hired Bartell to have a CUP on a separate property approved); (iv) additionally, Young also communicated that (a) Shapiro has stated he has a deep relationship with Bartell and is being "groomed" by him to inherit his political relationships and connections, (b) when Shapiro was her counsel, he brought in Austin to represent an adverse party in a legal matter and she believes that Shapiro did not act ethically in his representation of her because he went to a third-party who was *not a party to that litigation* to coerce ***her*** into settling with Austin's clients for $12,000 and when she refused, Shapiro offered to ***personally pay*** $3,000, (c) Shapiro has facilitated sales of cannabis to unlicensed marijuana dispensaries for which he receives $100 for every pound of marijuana sold by Magagna, and (d) Magagna informed Young's attorney that he is also represented by Austin on another CUP application.

The most material point here is that Young's testimony provides support for the conclusion that Plaintiff is using his agent, Bartell, to influence the City to have the CUP on the Property denied. And it is reasonable to assume Bartell is using his influence to have the Competing Cup approved - in stark contrast to the CUP on the Property, the Competing CUP, submitted less than three months ago has been processed through Cycle 7 of the CUP approval process – ***the very same Cycle in the approval process at which Defendant's CUP is after 19 months***. This is not reasonable and defies common sense. The break-neck speed at which the Competing CUP through the CUP application process is highly suspect given (i) Bartell's deep political connections with the City; (ii) his comments to Young and (iii) the fact that the

[10] [Cite Jake Shapiro Emails; Darryl FB messages; Hurtado declaration.]
[11] Jake Decl. & Emails. [Cite Shapiro language]

CUP on the Property should already have been approved per Plaintiff's own experts. Notably, numerous City procedures for the processing of the Competing CUP have been violated.[12] Most notably, Magagna is not an architect, yet he signed off on the CUP as the architect and the City *accepted* the application. In short, Magagna has deep ties with Shapiro and Austin, who, in turn, are connected to Plaintiff and his agents Schweitzer and Bartell. Simply stated, Magagna stands to materially benefit from Plaintiff's fraud.

4. *Aaron Magagna Attempts to Bribe Ms. Young to Change Her Testimony Regarding Bartell's Comments to Have the CUP on the Property Denied.*

To the extent it could be argued that Magagna did not submit the Competing CUP with knowledge of Plaintiff's unlawful scheme and that neither Shapiro nor Austin communicated to him that Bartell was getting the CUP denied on Defendant's Property because "everyone hates Darryl," Magagna joined the conspiracy when he took knowing and unlawful steps to profit from thereby. Young, who manages nonprofit entities in the medical cannabis industry, was introduced to Magagna ***by*** Shapiro. Although Young did not invest in Defendant's litigation against Plaintiff because of Bartell's statement, she stayed in touch with Defendant and his litigation investor Hurtado. (*See* Hurt. Decl.)

When Young discovered that Magagna had a Competing CUP and that Defendant intended to seek leave to amend his complaint to bring forth a cause of action for conspiracy to name, *inter alia*, Magagna, she attempted to introduce Defendant and Magagna so that they could work out their differences. At first, it appeared that Magagna may be innocent, however, when Young described her meeting to Magagna and Bartell's comments, he ***repeatedly*** and ***specifically*** requested that Young change her testimony to state she had "dreamed" Bartell's statement AND he offered her cash to do so.[13] In other words, after being made aware that Plaintiff was effectuating a fraud against Defendant via Bartell, Magagna took knowing and willful steps to unlawfully benefit from said conspiracy and became a coconspirator by ratifying Plaintiff's unlawful scheme and seeking to tamper with Young's testimony. *De Vries v. Brumback* (1960) 53 Cal.2d 643, 648.

Of note, on this point, Shapiro, Ms. Young's ***own*** attorney, has repeatedly insisted to Defendant's counsel that Young smokes too much "weed" and is not a credible witness who may lie for any number of

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[13] Hurtado Decl., Ex. A

undisclosed reasons – stating she is not reliable and implying she is not a respectable individual. Lastly, once Defendant's counsel contacted him and let him know that Defendant had uncovered numerous connections to Plaintiff and suspected him and Magagna of engaging in a conspiracy with Plaintiff based, in part, on Young's testimony, Shapiro informed Young ***to not get counsel***. (Hurt. Decl., Ex. A.)

DISCUSSION

A. Temporary Restraining Order and Preliminary Injunctive Relief Are Warranted

Injunctive relief is appropriate when necessary to preserve the *status quo*. (CCP §526(a)(2)-(3).) The alleged *status quo* by Plaintiff is that this lawsuit is meritorious AND he is seeking to have the CUP on the Property approved because he will ultimately prevail in this suit. However, as the City's Project Manager communicated on June 2, 2018, this is an indisputable false representation by Plaintiff to this Court. What the communications from the City and the evidence provided during discovery by Plaintiff's own agents reveal is that the CUP on the Property should have already been approved in ***March of 2018***. What Plaintiff is doing is stalling, attempting to get the CUP on the Property denied and the Competing Cup approved. The reason? If Plaintiff loses this action and the CP is met, Plaintiff is liable for all consequential damages suffered by Defendant.

Where immediate relief is necessary, a TRO followed by a Preliminary Injunction may issue. (CCP §527.) Courts evaluate two interrelated factors: (1) the likelihood that the moving party will prevail at trial; and (2), the interim harm that the moving party will likely sustain if the injunction were denied as compared to the harm that the non-moving party will likely suffer if the injunction were issued. *Pro-Family Advocates v. Gomez* (1996) 46 Cal.App.4th 1674, 1680.

In this case, pursuant to the PER, this Court *should* find that Defendant will more likely than not prevail on in his cause of action for breach of contract. *BOTH parties ADMIT that on November 2, 2016*: (i) they reached an agreement and executed the November Document; (ii) Defendant emailed Plaintiff requesting written confirmation from Plaintiff that he would provide Defendant a "10% equity position" in the Business in a "final agreement"; and (iv) Plaintiff responded to Defendant's request and confirmed he would provide the "10% equity position." Thus, the parties dispositive dispute is whether the November Document *is* or *is not* a final integrated agreement providing for the sale of the Property. "***Whether or not***

[a] writing constitutes an integrated agreement is a question of law for the court." *Brawthen v. H & R Block, Inc*. (1972) 28 Cal.App.3d 131, 137 (emphasis added). [

"When the parties to a written contract have agreed to it as an 'integration' - a complete and final embodiment of the terms of an agreement - parol evidence cannot be used to add to or vary its terms. [Citations.] ***When only part of the agreement is integrated, the same rule applies to that part***, but parol evidence may be used to prove elements of the agreement not reduced to writing. [Citations.]" *Masterson v. Sine* (1968) 68 Cal.2d 222, 225 (emphasis added).[14] Here, the November Document is not a final integrated contract; it is a receipt for $10,000 that reflects some of the final integrated terms reached between the parties as part of the JVA. The November Document and the Confirmation Email, ***both executed by the same parties regarding the same transaction within a couple hours on the same day***, clearly proves that a forthcoming "final agreement" would provide for Defendant's "10% equity position" in the Business.[15]

Plaintiff's Phone Call Allegation, however, ***is*** barred by the PER as it seeks to vary a final integrated term – Defendant's equity position - and is therefore "legally irrelevant and cannot support a judgment." *Mariani v. Jackson*, 183 Cal. App. 3d 695, 701 (1986). By codifying the PER, the Legislature has "in effect" stated that suits based on such statements "are suits which are without merit." *Casa Herrera*, 32 Cal.4th. at 347; *see, also, Sass v. Hank* (1951) 108 Cal.App.2d 207, 214 ("***[A]n important covenant cannot be stricken from a written contract solely upon the ipse dixit of a party thereto.***") (emphasis added).

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[14] *See Gerdlund v. Elec. Dispensers Int'l* (1987) 190 Cal.App.3d 263, 270-27 ("The parol evidence rule generally prohibits the introduction of any extrinsic evidence to vary or contradict the terms of an integrated written instrument. [CCP] § 1856. It is based upon the premise that the written instrument is the agreement of the parties. (*Tahoe National Bank v. Phillips* (1971) 4 Cal.3d 11, 22-23.) Its application involves a two-part analysis: 1) was the writing intended to be an integration, i.e., a complete and final expression of the parties' agreement, precluding any evidence of collateral agreements (*Masterson v. Sine* (1968) 68 Cal.2d 222; and 2) is the agreement susceptible of the meaning contended for by the party offering the evidence? (*Pacific Gas & E. Co. v. G. W. Thomas Drayage etc. Co.* (1968) 69 Cal.2d 33).")

[15] *See McAuliff v. McFadden* (1919) 42 Cal.App. 505, 511 ("It is a familiar rule, recognized by all courts, that where several papers covering the same subject matter are executed by or between the same parties at the same time, all are to be considered together, and with the same effect as if all had been incorporated in one document."); CCP § 1642 ("Several contracts relating to the same matters, between the same parties, and made as parts of substantially one transaction, are to be taken together.")

B. Defendant Breached His Fiduciary Duty as a Co-Adventurer.

As described by the court in *Davis v. Kahn* (1970) 7 Cal.App.3d 868, 877-878:

> A joint venture is an undertaking by two or more persons jointly to carry out a single business enterprise for profit. Upon the formation thereof, the co-adventurers assume the status of fiduciaries and neither group has the right to acquire the property to the exclusion of the other. Further, "[in] every contract there is an implied covenant that neither party shall do anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract, which means that in every contract there exists an implied covenant of good faith and fair dealing. [Citation.]" […] Also, during the existence of the fiduciary relationship any transaction by which one of the co-adventurers secures an advantage over the other is presumptively fraudulent and casts a burden on such party gaining the advantage to show fairness and good faith in all respects. ***Such presumption is evidence and is sufficient to sustain a finding of fraud even though there may be direct evidence contrary to it***.

Id. at 877-878 (internal citations and quotations omitted) (emphasis added).

These principles are applicable here. The parties entered into a joint-venture and Plaintiff is by this very lawsuit violating his fiduciary duty to Defendant. The numerous connections between Magagna and Plaintiff's agents are too numerous to be coincidental and Young's communications provide evidence that Magagna has engaged in unlawful conduct that would benefit Plaintiff and himself.

C. A Receiver Is an Appropriate Remedy to Prevent Irreparable Harm to Defendant.

"If jointly-owned property is in danger of being lost or destroyed or misappropriated, the trial court may appoint a receiver to protect a party's interest in the property, and such an appointment will be upheld on appeal. [CCP] § 564.)" *Rosenthal v. Rosenthal* (1966) 240 Cal.App.2d 927, 933; *Associated Creditors' Agency v. Wong* (1963) 216 Cal.App.2d 61, 66-67; *Sachs v. Killeen*, 165 Cal.App.2d 205, 213; *Republic of China v. Chang (Chang)*, 134 Cal.App.2d 124, 131; *Armbrust v. Armbrust*, 75 Cal.App.2d 272, 275. In situations like this, a court may appoint a receiver to manage the business and affairs of a business if it appears that the party seeking the appointment has at least a *probable* right or interest in the property. *Chang*, *supra*, at 130-131. The appointment of receiver in this case is warranted given the evidence presented that Plaintiff has: (i) ceased prosecuting the CUP on the Property; (ii) taken steps via his agents to have the soils sample testing be the basis of having the CUP denied; and (iii) taken actions via his agents to have the Competing CUP submitted and approved in order to mitigate his damages to Defendant. If the Court does not assert control of this situation through the appointment of a receiver, Plaintiff will irreparably harm Defendant by having the CUP on the Property denied and the Competing CUP approved.

D. <u>All</u> of Plaintiff's Arguments Are Factually Unsupported or Fail as a Matter of Law.

First, as argued above, the PER leads to the conclusion as a matter of law that Defendant will prevail in his cause of action for breach of contract. The clear and unambiguous language in the November Document and the Confirmation Email are both evidence of the JVA; a forthcoming "final agreement" would contain, per Plaintiff's own written promise, a "10% equity position" for Defendant.[16]

Second, Plaintiff's Phone Call Allegation is barred "[u]nder the doctrine of 'conclusiveness of pleadings,' [because] a pleader is bound by well pleaded material allegations or ***by failure to deny well pleaded material allegations***. [Citations.]" *Valerio v. Andrew Youngquist Construction* (2002) 103 Cal.App.4th 1264, 1271 (emphasis added). Plaintiff filed this suit in *March 2017* and only raised the Phone Call Allegation in *April 2018* when confronted with the principles of *Riverisland* and *Tenzer* preventing Plaintiff from using the PER and the SOF "as a shield to prevent proof of [his own] fraud." *Riverisland, supra*, at 1182-1183.

Third, the SOF does not apply to real property transactions that are part of a joint-venture. *Fitzgerald v. Provines* (1951) 102 Cal.App.2d 529, 538.

Fourth, any form of reliance by Plaintiff on the SOF is barred as a matter of law because Plaintiff was a California Licensed Real Estate Agent for over 25 years and is an Enrolled Agent with the IRS. *Phillippe v. Shapell Industries* (1987) 43 Cal.3d 1247, 1264; *Kruse v. Bank of America* (1988) 202 Cal.App.3d 38, 54-55.

CONCLUSION

Summarized, Plaintiff's position is that the PER/SOF bars his Confirmation Email proving his own fraud. However, should this Court allow the Confirmation Email, then his Phone Call Allegation – that Defendant *orally agreed* to forego the equity position promised to him in writing by Plaintiff – is sufficient to create "a material factual dispute" to prolong this litigation. In other words, if he can't prevent admission of evidence ***proving*** his fraud, then he will use his NEW evidence - his own self-serving declaration - to ***disprove*** his fraud. This is manifestly absurd.

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[16] *See Harris v. Rudin, Richman & Appel* (1999) 74 Cal.App.4th 299, 307 ("Where the writing at issue shows 'no more than an intent to further reduce the informal writing to a more formal one' the failure to follow it with a more formal writing does not negate the existence of the prior contract. (*Smissaert v. Chiodo* (1958) 163 Cal.App.2d 827, 831.")

On the other hand, Plaintiff has provided overwhelming, undisputed AND uncontroverted evidence that Plaintiff (1) entered into a joint-venture with Defendant; (2) sought to deprive Defendant of a bargained for equity position; (3) brought forth this meritless lawsuit to prevail via vexatious litigation tactics to acquire the Property; and (4) now realizing he will not be able to bar evidence of his fraud, he seeks to mitigate his damages by having the CUP on the Property denied and the Competing CUP approved. The alleged *status quo* – Plaintiff's good faith prosecution of the CUP - will be permanently destroyed, and irreparable harm will result to Defendant, unless injunctive relief is immediately granted and a receiver is appointed.

PRAYER

WHEREFORE, Defendant prays that this Court order that:

1. Plaintiff, Berry and their respective agents transfer their control over the CUP application on the Property to a Receiver;

2. Plaintiff, Berry and Geraci/Berry and their respective agents be enjoined from withdrawing, sabotaging and/or in participating in the processing of the CUP application in any manner whatsoever;

3. The Receiver empowered to supervise the City in processing the CUP application and preclude it from retaliating against Defendant for filing his federal court Complaint against the City to protect his Constitutional rights;

4. The City immediately provide the Receiver and Defendant updates regarding status of the CUP application and the steps which must be taken to ensure its approval;

5. Plaintiff pay the remaining costs to complete the CUP application as agreed in the JVA;

6. Such other and further relief as this Court may deem just and proper.

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Dated: June 13, 2018

LAW OFFICE OF JACOB AUSTIN

By /s/
JACOB P. AUSTIN
Attorney for Defendant/Cross-Complainant
DARRYL COTTON

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Attorney for Defendant/Cross-Complainant DARRYL COTTON

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

LARRY GERACI, an individual, Plaintiff, vs. DARRYL COTTON, an individual; and DOES 1 through 10, inclusive, Defendants. AND RELATED CROSS-ACTION.	Case No. 37-2017-00010073-CU-BC-CTL **DECLARATION OF JACOB P. AUSTIN IN SUPPORT OF *EX PARTE* APPLICATION FOR ORDERS APPOINTING A RECEIVER TO MANAGE THE CONDITIONAL USE PERMIT FOR DEFENDANT'S REAL PROPERTY; AND OTHER RELIEF** Date: June 14, 2018 Time: 8:30 a.m. Dept: C-73 Judge: The Hon. Joel R. Wohlfeil

I, JACOB P. AUSTIN, declare:

1. I am the attorney of record for Defendant and Cross-Complainant, DARRYL COTTON ("Cotton" or "Defendant") in this action (hereinafter, the "Litigation").

2. The facts set forth herein are true and correct as of my own personal knowledge, except those facts which are stated upon information and believe; and, as to those facts, I believe them to be true.

3. This declaration is submitted in support of Darryl Cotton's *Ex Parte* Application for Orders Appointing a Receiver to Manage the Conditional Use Permit for Defendant's Real Property;

and Other Relief.

4. On May 27, 2018, I was with Mr. Cotton when he met Ms. Corina Young who described a meeting with Mr. Jim Bartell on or around October of 2017. At that meeting, Mr. Bartell communicated he would be getting the CUP denied on Mr. Cotton's Property. Mr. Cotton and myself asked her numerous questions so there would be no ambiguity regarding his language and intent, Ms. Young did not understand that her statements provided evidence of a conspiracy. Ms. Young was speaking with Mr. Bartell and asking him his opinion because she was contemplating investing in Mr. Cotton's litigation.

5. Ms. Young went on to state that Mr. Bartell was currently employed by her and was using his political influence to get a CUP on a separate property in the City of La Mesa approved.

6. True and correct copies of the emails between Mr. Shapiro and myself are attached as Exhibit 1 to this declaration.

7. True and correct copies of the emails between Mr. Weinstein and myself are attached as Exhibit 2 to this declaration.

8. As opposing counsel Michael R. Weinstein himself has informed Defense multiple times, approval of the CUP will benefit either party regardless of whom prevails in this litigations.

9. For the above reasons, appointing a receiver to manage the CUP application and ensure its passage will protect the status quo and will be beneficial to both parties.

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

/s/
JACOB P. AUSTIN

EXHIBIT 1

Federal Blvd. CUP Application

Jake Austin <jpa@jacobaustinesq.com> Sun, May 27, 2018 at 8:51 PM
To: matthew@shapiro.legal

Matt,

I am writing because I have been made aware of several facts which lead me to believe it is possible you have engaged in a civil conspiracy with your client, Mr. Aaron Magagna, to violate the rights of my client, Mr. Darryl Cotton.

On or around March 12, 2018, I went to Judge Wohlfeil's courtroom and when I entered I saw that you were one seat to the left of Mr. Cotton and his litigation investor who were speaking about the Larry Geraci v. Darryl Cotton matter. As I am sure you are aware, as I know you work extensively with Mrs. Gina Austin, Mrs. Austin has represented Mr. Geraci in the Geraci v. Cotton matter and is an adverse party to Mr. Cotton. Further, Mr. Cotton has filed a federal lawsuit against, among other parties, Mr. Geraci, Mrs. Austin and Mr. Michael Weinstein (Mr. Geraci's counsel in the Geraci v. Cotton case).

Thus, when I walked into the courtroom and saw that you were in casual clothes (the first time I have ever seen you not wearing a suit at court), I was concerned because the Courtroom was predominantly empty and you could have sat anywhere. Yet, you were sitting next to my client and you have a strong relationship with Mrs. Austin.

I sat down between you and Mr. Cotton and his litigation investor. I asked you why you were there and you stated you were "scoping out" Judge Wohlfeil to "see how he rules" in preparation for a case in front of him. Later, you called me and left a voicemail, asking me to speak with you.

This last week, two issues arose that are the catalyst for this email. First, there is strong evidence to support Mr. Cotton's belief that Mr. Geraci hired an engineering company to make a recommendation to the City of San Diego that they deny Mr. Cotton's pending Marijuana Outlet CUP application on the real property that is the main subject matter of the Geraci v. Cotton case. You should know that when the field personnel were at the property and did two borings, each of which was supposed to be for 50 feet, one only made it to 9 feet and the second only made it to 13 feet before the drill bits broke because the property is essentially on a big rock. The geologist for the engineering company explicitly stated that there are absolutely no problems and they would recommend an approval.

Last week, Mr. Cotton called to confirm with the geologist who was the lead and performed the borings. That person was very anxious and refused to confirm that the drill bits broke at 9 and 13 feet and insinuated that the recommendation would be for a denial. Upon confirmation, if such happens, and the engineering company recommends a denial, Mr. Cotton will hire a third-party engineering company to do his own independent soils sample to confirm the property is suitable for building. Then he will amend his complaint to include the engineering company as part of a civil conspiracy by Mr. Geraci to sabotage the CUP application on the subject

property in an effort to mitigate his damages to Mr. Cotton. Again, they were supposed to bore to 50 feet and hit rock at 9 and 13 feet. Mr. Cotton has already contacted another company to do the soils testing to expose the engineering company and prove that any recommendation for a denial is unsupported.

Second, and more pertinent to you, Mr. Cotton was made aware that a competing CUP application had been filed in March of 2018 and that the owner of the competing CUP application is Mr. Magagna, your client. Attached here as **Exhibit 1** is a Notice of Application by the City of San Diego reflecting that Mr. Magagna is applying for a CUP (Project No. 598124) at a property within 1,000 feet of Mr. Cotton's property; attached here as **Exhibit 2** are Articles of Incorporation for a Mutual Benefit Corporation named A-M Industries, Inc. that you formed for Mr. Magagna filed on November 4, 2014; attached as **Exhibits 3 and 4** are Statements of Information filed with the Secretary of State of the State of California for A-M Industries, Inc. dated December 2, 2014 and July 6, 2017, respectively; and attached as **Exhibit 5** are Amended and Restated Articles of Incorporation for A-M Industries, Inc. filed on February 16, 2018.

Here is the bottom line, notwithstanding the procedural history of the case between Mr. Geraci and Mr. Cotton, Mr. Geraci is going to lose. His only goal is to mitigate his damages. He can only do that by making it impossible for Mr. Cotton to have a CUP application approved on the property and he can only accomplish that by having another CUP approved within 1,000 feet of Mr. Cotton's property.

So, to summarize, it appears likely the engineering company is going to go back on its explicit stated intent to recommend an approval and is going to make a recommendation for a denial. And, even though Mr. Cotton can get another soils sample via another CUP application, it now appears that it would be a futile task as there is another CUP application being processed within 1,000 feet of his property. By the time he got a new CUP application submitted, Mr. Magagna's CUP application could be approved and Mr. Cotton's new CUP application will be disqualified.

I think you already know this. It defies reason and common sense to believe that you "accidentally" sat down next to Mr. Cotton when you have a strong relationship with Mrs. Austin and Mr. Magagna and did so in casual clothes.

As to Mr. Magagna, why would any reasonable businessman file a CUP application that according to all public information, and even the declarations of Mr. Geraci's own experts, is expected to get approved? Mr. Cotton's application has been under review for over a year; no reasonable person would, unless that person is privy to information that steps are being taken to unlawfully sabotage Mr. Cotton's CUP application. As noted above, it is clear the engineering company has been compromised and, thus, provides motive for Mr. Magagna to submit a CUP – he knew ahead of time that Mr. Cotton's application would be unjustly denied.

Matt, again, it is simply impossible that you do not know the above. However, we have known each other for years and I would like to believe that you do not know the following – there is more than probable cause to support Mr. Cotton's allegations that Mr. Geraci has sent third-parties to physically threaten him and his litigation investor. These allegations will be the subject of the federal lawsuit filed by Mr. Cotton against Mr. Geraci, Mrs. Austin, and Mr. Weinstein alleging causes of action that include RICO and Civil Conspiracy arising from Mr. Geraci's attempt to deprive Mr. Cotton of an equity stake in the contemplated dispensary. And the most reasonable deduction is that Mr. Geraci is the individual ultimately behind Mr. Magagna's CUP application

that would, if approved, make it impossible for Mr. Cotton to get a CUP application approved on his property. The federal action is stayed now, but upon going live Mr. Cotton will seek to amend his federal complaint and add you and Mr. Magagna as co-defendants to that action as well.

I realize that you may originally have started on this course of action not understanding the full scope of what is taking place. And I am not going to lay out the elements of a conspiracy, but I trust you understand that if Mr. Cotton prevails, you and Mr. Magagna will also be vicariously liable for all actions taken as part of the conspiracy, including the RICO causes of action that will be adjudicated in the federal lawsuit.

We have known each other for a while and have helped each other out on occasion, so I am going to be straight with you – again, Geraci is going to lose. Attached here as **Exhibit 6**, is an appeal that Mr. Cotton submitted himself last week and which was denied. It's a ridiculous *pro se* mess, incorrect legal citations and incorrect citations to exhibits that do not even exist. BUT, the facts and the law he raises in the memo are true and are accurate. I am filing a motion for a judgement on the pleadings based on the same principles (I researched them, but I did not want to file for an extraordinary writ with the Court of Appeals so he did it himself *pro se* against my advice).

Mr. Geraci will lose. Mrs. Austin made false factual representations to the trial court. And you have a strong relationship with Mrs. Austin and Mr. Magagna... sitting down next to Mr. Cotton and his litigation investor in a predominantly empty courtroom and being able to eavesdrop is extremely suspicious. Are you going to argue that this was pure happenstance and just a coincidence?

To me, this appears to be a textbook case of a conspiracy. I am ethically obligated in the defense of Mr. Cotton's rights to bring forth a motion seeking to add you and Mr. Magagna as co-defendants pursuant to CCP § 1714.10 to expose the conspiracy and to prevent Mr. Geraci from depriving Mr. Cotton of a CUP at his property. It is clear that the goal is to have Mr. Cotton's CUP denied based on the recommendation from the engineering company, thus, ALL attention will focus on proving the CUP application submitted by Mr. Magagna is directly connected to Mr. Geraci and Mrs. Austin with you being the obvious tie-in. Your actions by sitting next to Mr. Cotton and your relationship with Mrs. Austin and Mr. Magagna are more than probable cause to bring forth a conspiracy cause of action. I suspect that discovery will probably also reveal that Mr. Jim Bartell has been behind the scenes supporting the CUP application for Mr. Magagna with the City of San Diego. *See Chicago Title Ins. Co. v. Great Western Financial Corp.* (1968) 69 Cal.2d 305, 316 ("The advantage to the pleader in charging a conspiracy is to implicate all participating in the common design and thus fasten liability on him who agreed to the plan to commit the wrong as well as on him who actually carried it out. [Citations.] The conspiracy 'may be inferred from the nature of the acts done, the relations of the parties, the interests of the alleged conspirators, and other circumstances.' [Citations.]")

If I have this wrong, please let me know. I really don't want to take this course of action. On this note, please provide the case number of the matter that you are working on in front of Judge Wohlfeil and which was the basis of you "scoping [him] out" when you sat down next to Mr. Cotton.

Lastly, even if you are already in too deep to get out, you should really inform Mr. Magagna of the totality of the circumstances here and the full extent of the liability that he is being exposed to – I can't imagine that he is aware of the physical assaults and intimidation attempts by Mr. Geraci that I believe will be proven as part of

Mr. Cotton's RICO cause of action and for which he would be held liable as well. Mr. Cotton alleges that he has been told that Mr. Magagna is a "vendor" that sells to unlicensed dispensaries. If this allegation is true, I sincerely doubt your client would want to be a named co-defendant in a legal action that encompasses criminal threats, intimidation and be subject to discovery that would probe this allegation, his activities and his sources of income that he is using to pay for the CUP application.

If I do not hear back from you by close of business on Tuesday, May 29, 2018, I will assume you will stick to a story of "accidentally" sitting next to Mr. Cotton and that you have nothing to do with Mr. Magagna's CUP application and I will proceed accordingly.

- Jacob

P.S. Mr. Cotton and his litigation investors are renegotiating the terms of their deal(s) and are negotiating with several large practices that have the bandwidth and resources to see this case through and then follow-up on malicious prosecution cases against Mr. Geraci, Mrs. Austin and Mr. Weinstein on a contingency basis. I have reviewed the pleadings they have been submitting over the last year and they have all made obvious false statements to the court – do not trust them to look out for you or to protect you when everything gets exposed.

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6 attachments

- **EXHIBIT 1_4-5-18 6220 Fed Blvd DSD Notice of Application.pdf**
  362K
- **EXHIBIT 2_A-M IND ARTICLES OF INCORP 11-04-14.pdf**
  28K
- **EXHIBIT 3_A-M IND STA OF INFO 12-2-14.pdf**
  104K
- **EXHIBIT 4_A-M IND STA OF INFO 7-6-17.pdf**
  130K
- **EXHIBIT 5_A-M IND AMENDED ARTICLES OF INCORP 02-16-18.pdf**
  51K
- **EXHIBIT 6_Petition for WoM re LP Motion & POS FILED 05-21-18.pdf**
  528K

Federal Blvd. CUP Application

Matthew Shapiro <matthew@shapiro.legal> Sun, May 27, 2018 at 10:33 PM
To: Jake Austin <jpa@jacobaustinesq.com>

Jake-

You do have this wrong. I don't wear a suit to Court unless I'm appearing on a matter in front of a judge. Much of the information you've referenced is part of public record i.e. pending litigation between Geraci and Cotton. The information you've shared with me about the drill bits and rock underneath the property is the most privy to information that is not on public record that I've had in relation to this application/lawsuit. Also, why on earth would I call you to have a conversation if I was conspiring against you and/or your client? Finally, and I'm not certain about this as I'm only beginning to dip my toes in this land use/licensing area of practice, it is my understanding that the geologists don't actually give approval or denial recommendations to the City.

That said, I'm not looking to be dragged into this mess, especially undeservedly so. Let's look to have a conversation Tuesday but as we are both busy professionals I ask that you give me a reasonable amount of time early next week to have this conversation with you.

-Matt

--
Matthew Shapiro
Law Office of Matthew Shapiro
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San Diego, CA 92108
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[Quoted text hidden]

Federal Blvd. CUP Application

Jake Austin <jpa@jacobaustinesq.com> Mon, May 28, 2018 at 11:21 AM
To: Matthew Shapiro <matthew@shapiro.legal>

Matt,

To be honest, I find your response unpersuasive.

First, although I'm totally with you on the suit without a hearing issue, I just find it impossible to believe that given your multi-year relationships with Mrs. Austin and Mr. Magagna, that it was a "coincidence" that you sat next to Mr. Cotton and his litigation investor.

Second, you did not provide the case number in front of Judge Wohlfeil that you were supposedly preparing for. Please provide the case number by 3pm, or I will believe that your request for time is meant to be a search for cases in front of Judge Wohlfeil with an attorney that you can associate yourself with. Though you may think this is excessive on my part, if you truly are not aware of what is going on, I can guarantee that if you knew half of what I know about the actions taken by everyone related to Mr. Geraci, especially his counsel, you would be extremely cautious as well.

Third, as to why you called me, because up until that point in time, I was not attorney-of-record and you did not know that I was associated with Mr. Cotton. You did not know that someone that recognizes you as being closely associated with an adverse party to Mr. Cotton (Mrs. Austin) would show up and see you sitting next to Mr. Cotton. I did not call you back specifically because I was leery of your relationship with Mrs. Austin. It is much more reasonable to assume that after you found out I was associated with Mr. Cotton, you called to potentially find out additional or privileged information or misdirect me. This is more plausible than you accidentally sitting next to Mr. Cotton and his litigation investor, especially if you lied to me about being before Judge Wohlfeil preparing for a case when you have no client in front of him.

Fourth, setting aside whether the geologist's test results lead to a recommendation or not, objectively speaking, it makes no sense for a reasonable party to submit a CUP on a property within 1,000 feet of Mr. Cotton's property. By all accounts, the CUP application on Mr. Cotton's property is on the cusp of approval. You say you are just "dipping" your toes into land use regulation. Well, I think we both know enough about the land-use regulations and the competitive market for Marijuana Outlet eligible properties over the last year; and I can state unequivocally that Mr. Magagna is not going to be able to reasonably justify his submission of a CUP application given the information available *to the public* regarding Mr. Cotton's property even now. The only situation that appears logical is that if he knew through you, via Mrs. Austin, that Mr. Geraci was taking steps and using his political influence to sabotage the CUP application either with the City of San Diego, or the engineering company.

I'm OK with speaking sometime later this week, but if you don't respond by 3pm with the case number and provide stronger evidence/arguments than presented in your reply last night, Mr. Cotton is going to the Court of Appeals to file for a Writ describing the conspiracy on Tuesday that will name you and Mr. Magagna as co-conspirators. I myself may be forced to seek to amend Mr. Cotton's complaint to add you and Mr. Magagna as co-defendants and add a cause of action for conspiracy. This is not personal. The actions taken by Mr. Geraci and his agents are absolutely deplorable. Mr. Cotton will be completely destitute if he loses this case, I really just can't sit by and let that happen.

Lastly, you should note that Mr. Cotton is very intelligent and he gets legal concepts. He is currently digging deeply into understanding discovery methods and is already thinking of ways to prove that Mr. Magagna makes significant income from allegedly illegal sales to unlicensed dispensaries.

Mr. Cotton is aware of our conversation and, as noted, intends to file with the Court of Appeals on Tuesday naming you and Mr. Magagna among others. Ideally, I would like to be able to argue on your behalf with Mr. Cotton, but ultimately, he does whatever he wants. If you can give me any arguments or information that I can forward to persuade Mr. Cotton I will happily do so.

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Gmail

Jake Austin <jacobaustinesq@gmail.com>

Federal Blvd. CUP Application

Matthew Shapiro <matthew@shapiro.legal> Mon, May 28, 2018 at 12:10 PM
To: Jake Austin <jpa@jacobaustinesq.com>

Jake-

I sent an initial response to your email to acknowledge receipt and set up a call early this week. It was and remains my intention to explain my perspective much more thoroughly on this call. If I am added to a lawsuit prior to this call, my ability to explain the situation from my perspective will be very seriously hindered. It does appear that I am extremely likely to be added to this lawsuit based on a number of very speculative conclusions.

I believe you did call me back and left a message after I called you actually. I don't think we ever connected, however.

There is a short list of cannabis attorneys in San Diego and the fact that I've worked cases both with and against Gina Austin doesn't mean we are in cahoots or have a close relationship.

I was there to observe the Geraci v Cotton case. There is nothing unlawful or conspiratorial about that. As an attorney in the cannabis industry also just getting into civil law, the Geraci v cotton case is interesting both for its influence on the San Diego cannabis industry and for its experiential/observational value. Additionally, since my practice is trending civil, it is of further value to observe how a judge handles their cases, particularly when it pertains to cannabis. My sitting near, not next to, Cotton was truly a coincidence, which I only realized when the case was called. Also, if I recall correctly, it wasn't as empty as you seem to remember and only had 2 or maybe 3 rows of chairs in the entire Courtroom. I always sit in the back row if I can and I chose left instead of right that day. Looks like that decision is going to end up having me embroiled in a lawsuit. Just lovely.

As to the CUP being likely to be approved, that is a very tenuous claim. The most recent recommendation from the City in late 2017 is to deny the project and it is tied up in litigation, both matters of public record. I don't see how anyone could claim it's on the cusp of approval if the soil is only being drilled now. It is not at all unreasonable for somebody to see a project the City recommended be disapproved that is tied up in litigation as an opportunity to submit a competing application, which is entirely lawful.

As I gain further understanding of the situation around this case and the CUP application, it does appear your client may have been wronged in some way shape or form. That is unfortunate. That does not, however, make anyone and everyone with interests not directly aligned with Mr. Cotton a conspirator against him. Neither myself, nor any of my clients that I am aware of, have ever had any contact with Mr. Geraci.

Many of my past and present clients have multiple CUP applications in for both MPF and Marijuana Outlet CUPs, however very few have actually hired me to handle the permitting process due to lack of experience. If one of those is competing with your client, it does not make everyone anyones ever worked with in the past a conspirator. Particularly when conspiracy requires an unlawful act.

If you won't afford me the courtesy of a phone call early this week, not on a holiday, before telling your client I should be added, so be it. I don't generally like to make enemies out of neutral parties but you guys are free to choose your path and seem thoroughly intent on adding me to this lawsuit.

I do not want a volley of emails back and forth ruining my holiday. Let's look to talk tomorrow.

EXHIBIT 2

Gmail

Jake Austin <jacobaustinesq@gmail.com>

Geraci v. Cotton matter

4 messages

Jake Austin <jpa@jacobaustinesq.com> Tue, May 29, 2018 at 1:18 PM
To: Michael Weinstein <MWeinstein@ferrisbritton.com>

Mr. Weinstein,

Based on Mr. Geraci's last declaration filed with the Court in the lis pendens pleadings, I will be submitting a motion for Judgment on the Pleadings scheduled to be heard on June 22, 2018. I will have moving papers to you on or before June 1, 2018.

Also, yesterday, I was at a meeting with Mr. Cotton and Ms. Corina Young, who is a client of Mr. Jim Bartell. Ms. Young, approximately six months ago or so, was at a meeting with Mr. Bartell and asked him about her intent to invest in Mr. Cotton's CUP venture – Mr. Cotton was attempting to sell off a portion of his remaining interest in the property, with the disclosure that the property was under litigation, to finance his litigation defense. Mr. Bartell informed Ms. Young that he was getting Mr. Cotton's CUP application denied and that it was "because everyone hates Darryl."

Further, at that meeting with Ms. Young was her attorney, Mr. Matthew Shapiro. Mr. Shapiro has a strong relationship with Mrs. Austin. Mr. Shapiro's client, Mr. Aaron Magagna, is also the applicant on a CUP application filed last month on a property within 1,000 feet of Mr. Cotton's property that, if approved, would result in Mr. Cotton never being able to get a CUP application approved on his property.

Two months ago, before I became attorney-of-record and Mr. Shapiro knew I was associated with this case (and I personally know he has a strong relationship with Mrs. Austin), he sat down, at a hearing in the Geraci v. Cotton matter in front of Judge Wohlfeil, next to Mr. Cotton and his litigation investor in plain clothes. I walked in to the courtroom after he had been eavesdropping on them for a considerable amount of time. I asked him why he was there, he informed me that he was there to prepare for a case in front of Judge Wohlfeil for a client. Over this weekend, I asked him to produce the case number of the matter before Judge Wohlfeil and he asked for time. When I pressed him, explicitly stating that I believed he was buying time to find an attorney that has a case in front of Judge Wohlfeil to associate himself with, he admitted he was there to observe the Geraci v. Cotton matter, but that it was “truly a coincidence” he sat in the immediate vicinity of Mr. Cotton. To be clear, he explicitly lied to me at first and only told the truth when asked to provide proof of his alleged reason for being in front of Judge Wohlfeil.

Further, during the conversation with Ms. Young, Mr. Cotton was probing to make it very clear regarding the wording and intent of her conversation with Mr. Bartell. He is incredibly livid, Mr. Cotton asked Ms. Young to provide her testimony. She refused the request once she understood that her testimony would provide evidence of a conspiracy between Mr. Geraci, Mr. Bartell and Mrs. Austin, on one hand, and

Mr. Aaron Magagna and Mr. Shapiro on the other (the individuals that benefit from Mr. Bartell's use of his political influence to get a denial on Mr. Cotton's property). She stated she would not get involved in any litigation because, in addition to not wanting to be involved in litigation for any reason, she has a significant amount of capital invested in another CUP application that Mr. Bartell was hired to facilitate its approval and she is scared that he will retaliate against her if she provides her testimony or appears to be a "snitch." Mr. Cotton is currently seeking the assistance of a private investigator to locate Ms. Young with the intent of subpoenaing her to be deposed.

Additionally, please see attached, an email exchange between myself and Mr. Shapiro regarding this factual allegation – that he was present at a meeting with Mrs. Young and Mr. Bartell and that Mr. Bartell made the aforementioned statement. Mr. Shapiro does not deny it.

Lastly, Mr. Cotton believes that the engineering company hired by Mr. Geraci to make a recommendation to the City of San Diego has been unduly influenced into making a denial recommendation. On the day of the soils sample, the company was supposed to bore to 50 feet at two locations, however, they only got to 9 and 13 feet before the drills bits broke because the property is essentially on a big rock. The geologist for the engineering company explicitly stated that there are absolutely no problems and they would recommend an approval. Mr. Cotton himself took many pictures while they were there and called me contemporaneously during the procedure letting me know the good news (he had anticipated that Mr. Geraci was using the soils sample as a ruse to have the CUP application denied). However, Mr. Cotton followed-up with the geologist last week to get a copy of the report and she sounded extremely anxious and scared, would not confirm the depths reached were only 9 and 13 feet and insinuated that the company would be recommending a denial.

Thus, based on:

(i) Mr. Geraci's latest declaration with new sworn factual allegations;
(ii) Ms. Young's statements regarding Mr. Bartell that I personally witnessed and will attest to;
(iii) Mr. Shapiro's (a) lie to me regarding his reasoning for sitting down next to Mr. Cotton and his litigation investor, (b) his indirect admission that he was present and heard Mr. Bartell state he was getting Mr. Cotton's CUP application denied, (c) the fact that the competing CUP application is a client of Mr. Shapiro, and (d) the fact that he has a deep relationship with Mrs. Austin (an adverse party to Mr. Cotton); and
(iv) the engineering company's apparent intent to go back on an explicit representation to recommend an approval (that appears to have been coerced);

Mr. Cotton will be seeking to amend his Cross-Complaint.

Please let me know if you would agree to stipulate to an amendment. Mr. Cotton will be seeking to amend his Cross-Complaint to, inter alia, respond to the new factual allegations raised by Mr. Geraci and to add as co-defendants the engineering company, Mr. Shapiro, Mr. Magana, and Mr. Bartell. He will also, at a minimum, be bringing forth a cause of action for conspiracy for the reasons stated above.

Also, please consider this notice for an ex-parte TRO scheduled for June 6, 2018 seeking to have the Court appoint a receiver to manage the CUP application. I realize that Mr. Cotton has made this request before, but I believe that with the newly discovered facts and Mr. Geraci's latest factual allegations in his declaration, Mr. Cotton will be able to meet his burden and prove to the court that more likely than not he will prevail on the merits of his cause of action for breach of contract. I will forward the moving papers as soon as they are ready, but no later than 12:00 PM on June 5, 2018.

Lastly, I will have an updated disclosure response to you this week.

-Jacob

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Gmail - Federal Blvd. CUP Application.pdf
200K

Jake Austin <jpa@jacobaustinesq.com> Tue, May 29, 2018 at 3:10 PM
To: Michael Weinstein <MWeinstein@ferrisbritton.com>

Mr. Weinstein,

I am following up on the below regarding one point - I just finished a lengthy conversation with Mr. Shapiro. We are going to attempt to settle the potential dispute between Mr. Cotton and Mr. Magagna. But, I want to stress the following – Mr. Shapiro explicitly admits to being at the meeting with Mr. Bartell and Ms. Young and that Mr. Bartell did comment on Mr. Cotton's CUP application. However, he alleges he does not remember clearly what Mr. Bartell said regarding Mr. Cotton's CUP application. I told him that Ms. Young was completely clear, remembered the conversation in detail as she had hoped it would be a good investment, and provided detailed responses to Mr. Cotton's questions before she realized that her testimony had a material impact on a litigation matter.

Mr. Shapiro responded by insinuating that Ms. Young is not a reliable witness for any number of reasons, including the allegation that she smokes marijuana and cannot be trusted.

Needless to say, irrespective of whether the issue with Mr. Shapiro and Mr. Magagna is resolved without litigation, his confirmation of the meeting and the fact that Mr. Bartell did make a statement regarding Mr.

Cotton's CUP application is supporting evidence of the conspiracy that Mr. Cotton has been alleging for months.

Jacob

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Michael W einstein <MWeinstein@ferrisbritton.com> Wed, May 30, 2018 at 10:01 AM
To: Jake Austin <jpa@jacobaustinesq.com>

Dear Mr. Ausn,

I do not intend to address your client's allegaons belo w of a conspiracy. It is without merit and based on irraonal speculaon. I will addr ess the pernen t quesons.

First, thank you for nof ying me in advance of the moon se t for June 22, 2018. Frankly, I do not understand the basis for a renewed moon f or judgment on the pleadings. Mr. Cotton sought this once before and it was denied. I do not understand your statement that you will be submitting such a motion "[b]ased on Mr. Geraci's last declaraon filed with the Court in the lis pendens pleadings." That declaraon c ontains evidence consistent with the noce alleg aons pleaded in the c omplaint. That Mr. Cotton disputes those factual allegaons is irr elevant on a

moon f or judgment on the pleadings. If you file such a moon, then please be a ware we may seek sancons against you and Mr. Cotton.

Second, please be advised that we will not spula te to an order providing leave for Mr. Cotton to file an amended Cross-Complaint. There is no basis for doing so at this late stage and will only serve to derail and delay the trial date as it will add new pares and leg al theories to the case. You will need to file a moon seeking lea ve to amend if that is what your client desires to do.

Third, thank you for the noce of the June 6 e x parte. This ex parte moon t o appoint a receiver to manage the CUP applicaon has been hear d and denied previously. Please be advise that the moon is not pr operly heard on an ex parte basis and should be the subject of a noced moon. My clien ts will object to the relief being sought on an ex parte basis. In addion, lik e before, the moon has no merit. If y ou bring such a moon, I sug gest you do so by noced moon.

Fourth, I look forward to receiving the "updated disclosure response" later this week.

Respectfully,

Michael R. Weinstein
mweinstein@ferrisbritton.com
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From: jacobaustinesq@gmail.com <jacobaustinesq@gmail.com> On Behalf Of Jake Ausn
Sent: Tuesday, May 29, 2018 1:18 PM
To: Michael Weinstein <MWeinstein@ferrisbritton.com>
Subject: Geraci v. Cotton ma. er

[Quoted text hidden]

Jake Austin <jpa@jacobaustinesq.com> Fri, Jun 1, 2018 at 4:41 PM
To: Michael Weinstein <MWeinstein@ferrisbritton.com>

Mr. Weinstein,

Pursuant to CCP §439, prior to filing a motion for judgment on the pleadings, it was incumbent upon me to have given you 5 days' notice prior to the filing of the motion in order to afford us the opportunity to meet and confer in that regard. Thus, because I failed to provide you the notice required by statute, I have rescheduled the hearing date on the motion for July 13, 2018 at 9:00 a.m.

In order to facilitate an effective and productive meet and confer, my interpretation of the facts and law relevant to this case, and the evidence in support thereof, are set forth below.

Additionally, as noted below, it also is my intent to seek leave of court to amend Mr. Cotton's Cross-Complaint to add, inter alia, a cause of action for conspiracy and additional defendants. Please understand that it is not my desire to pursue this course of action; however, while Mr. Cotton can be a challenging individual, he does not deserve to unjustly lose everything of value in his life.

As it currently stands, it is my position that Mr. Geraci brought forth a meritless lawsuit. In light of his declaration filed in opposition to Mr. Cotton's motion to expunge the lis pendens filed on his property, I feel this position is now even stronger than ever. In his declaration, Mr. Geraci explicitly confirms that he wrote the email which confirms he would provide Mr. Cotton a "10% equity position," but allegedly did so by accident and the next day he clarified as such via a telephone conversation with Mr. Cotton - it is suspect that Mr. Geraci raises this material factual allegation for the very first time nearly 13 months after this case was initiated, that fact that he did so in response to our moving papers, citing the controlling case law of Riverisland and Tenzer raised for the first time in this matter, also provides reason to be suspicious of its credibility.

While the parol evidence rule (PER) allows the admission of his written confirmation, it likewise bars as a matter of law his allegation that he called Mr. Cotton the next day and they orally agreed that Mr. Cotton was not entitled to a 10% equity position. Accordingly, it is my position that dismissal of Mr. Geraci's Complaint is likewise warranted as a matter of law.

Please feel free to correct me if you disagree with my reasoning and point me to the evidence with which your reasoning is supported.

In your clients' opposition to Mr. Cotton's motion to expunge the lis pendens, you alleged that Mrs. Austin drafted agreements in an attempt to appease Mr. Cotton, which did not materialize – i.e., "Ultimately, Mr. Cotton was extremely unhappy with Mr. Geraci's refusal to accede to Mr. Cotton's demands and the failure to reach an agreement regarding his possible involvement with the operation of the business to be operated at the Property...."

In that vein, would you please be so kind as to identify which draft agreement prepared by Mrs. Austin provided for an “operation” role for Mr. Cotton in the business? I have reviewed the documents and, although I cannot remember every provision, I certainly don't recall any language to support your factual statement that the purpose of the draft agreements sent to Mr. Cotton was to attempt to revise the alleged agreement reached on November 2, 2016 to include a role for Mr. Cotton in the "operations" of the contemplated business. At least to me, these arguments appear to lack any evidentiary support whatsoever, and are contradicted by the written communications between Messrs. Geraci and Cotton.

Pursuant to Casa Herrera, Inc. v. Beydoun (2004) 32 Cal.4th 336, it appears to me that if Mr. Cotton is granted judgment on the pleadings and your client's complaint is dismissed pursuant to the PER, potential exposure to liability for a malicious prosecution cause of action lies. (Id. at 349 ("Accordingly, we hold that terminations based on the parol evidence rule are favorable for malicious prosecution purposes.")

Thus, please understand that while I personally do not want to (i) file an ex parte TRO and (ii) seek leave to amend Mr. Cotton’s Cross-Complaint to, inter alia, allege a conspiracy based on Mr. Shapiro and Ms. Young’s testimony, the

evidence and my ethical obligations to Mr. Cotton compel me to do so.

Although I am confident in my reasoning based on the facts and evidence, I do look forward to any arguments and facts you have that provide just cause to not bring forth these motions with the Court.

Thus, please provide your specific reasoning for why the PER does not bar Mr. Geraci's oral allegation that Mr. Cotton agreed to forgo the 10% equity position that Mr. Geraci confirmed, at Mr. Cotton's request, in the Confirmation Email.

Also, please point me to locations in the draft agreements forwarded to Mr. Cotton that supports your arguments that the agreements sent by Mrs. Austin were meant to include a role for Mr. Cotton in the "operations" of the contemplated business.

Absent any evidence, I cannot change my course of conduct based on your unsupported legal claims below and I interpret your threat of sanctions against me as seeking to unduly intimidate me into failing to ethically and zealously advocate for the best interests of my client.

Best,
Jacob

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Attorney for Defendant/Cross-Complainant DARRYL COTTON

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

LARRY GERACI, an individual, Plaintiff, vs. DARRYL COTTON, an individual; and DOES 1 through 10, inclusive, Defendants. AND RELATED CROSS-ACTION.	Case No. 37-2017-00010073-CU-BC-CTL **DECLARATION OF DARRYL COTTON IN SUPPORT OF *EX PARTE* APPLICATION FOR APPOINTMENT OF A RECEIVER AND OTHER RELIEF** Date: June 14, 2018 Time: 8:30 a.m. Dept: C-73 Judge: The Hon. Joel R. Wohlfeil

I, DARRYL COTTON, declare:

1. I am over the age of eighteen years, and the Defendant and Cross-Complainant in this action.

2. The facts set forth herein are true and correct as of my own personal knowledge, except those facts which are stated upon information and believe; and, as to those facts, I believe them to be true.

3. This declaration is submitted in support of my *Ex Parte* Application for Appointment of a Receiver and Other Relief to set forth the details, in chronological order, the pertinent facts, and history of my experiences concerning:

a. The Conditional Use Permit (CUP) application for my real property located at 6176 Federal Boulevard, San Diego, California (Property) to become a Marijuana Outlet submitted at Plaintiff's instruction to the City of San Diego (City) Development Services Department (DSD) on October 31, 2016 by his agent, Cross-Defendant Rebecca Berry (Berry), which Plaintiff alleged that he and his agents had maintained and promoted through the approval process throughout the past 17 months; and

b. A CUP application submitted in or around mid-March 2018 for a property located at 6220 Federal Boulevard, San Diego, California – situated within 1,000 feet from my Property – to become am MO (Competing CUP). A true and correct copy of the Notice of Application for the Competing CUP dated April 5, 2018 is attached hereto as Exhibit 1.

4. In and around July 2016, Plaintiff contacted me to inquire if I would be interested in selling my Property so it could be developed into a licensed Marijuana Outlet (MO). True and correct copies of the text messages Plaintiff and I exchanged from and after he initially contacted me are attached hereto as Exhibit 2.

5. When I first met Plaintiff, he represented that (a) he was a licensed California Real Estate Agent, and (b) an Enrolled Agent with the IRS, (c) the owner and manager of Tax and Financial Center, Inc. – a sophisticated accounting and financial advisory services firm, (d) his agents and experts already had done preliminary due diligence on the Property which revealed a zoning issue which, unless first resolved, would preclude the City from even accepting a CUP application on the Property (Zoning Issue), (e) through his professional relationships and powerful retained lobbyists, he was in a unique position to have the Zoning Issue resolved, (f) he was highly qualified to operate an MO (Business) because he owned and operated multiple cannabis dispensaries in San Diego, (g) his employee, Cross-Defendant Rebecca Berry (Berry), was an individual who could be trusted as the applicant for the CUP because, among other things, she helped manage Plaintiff's dispensaries, held a senior position at a church, and came across as a "nice old lady who had nothing to do with marijuana," such that she would pass the stringent city and state background checks required to obtain approval of the CUP. (See NOL items Nos. 48 (Accurint Professional Background Report) and 49 (lawsuits against Plaintiff by the City related to unlawful operations of cannabis businesses.)

6. Throughout the ensuing several months, Plaintiff and I met on multiple occasions negotiating various terms and conditions for his purchase of my Property and a business relationship .

7. On September 24, 2016, Plaintiff and I agreed to create a business relationship pursuant to a Joint Venture Agreement (JVA) as memorialized in two working documents (TWD) I created and provided to Plaintiff – namely, the Services Agreement Contract dated September 24, 2016 and the Memorandum of Understanding dated September 24, 2018 which outlined terms of (a) the sale of my Property to him, (b) moving my existing business from the Property, and (c) developing and operating an MO on the Property. True and correct copies of the TWDs are collectively attached hereto as Exhibit 3.

8. During this time, I also was involved in negotiations concerning the Property with third parties other than Plaintiff. True and correct copies of my e-mail correspondence with Remax Pacific Realtor Keith Henderson from the morning of November 2, 2016 through March 16, 2017 are attached hereto as Exhibit 4.

9. On or around October 31, 2016, Plaintiff requested that I execute an Ownership Disclosure Statement Form DS-318 – a component required for all CUP applications – which he said was necessary to evidence his ability to access the Property in connection with the planning and lobbying activities he was conducting related to the alleged zoning issue which first must be resolved in order to facilitate the City's acceptance of a CUP application for the Property. (*See* Exhibit 5.)

10. On the afternoon of November 2, 2016, Plaintiff and I completed our negotiations and entered into an oral JVA, the basic terms of which included, among other things, that:

a. The purchase price of the Property would be $800,000;

b. Prior to submitting the CUP application for the Property, Plaintiff would pay me a $50,000 non-refundable deposit (NRD);

c. If the CUP was approved, the $50,000 NRD would be credited against the purchase price, and the sale of the Property to Plaintiff would proceed;

d. I would receive a 10% equity position in the Business;

e. I would receive payments of $10,000 or 10% of the net profits each month – whichever was greater; and

f. If the CUP was not approved, then the transaction would not close, and I would be entitled to keep the $50,000 NRD.

11. Plaintiff specifically acknowledged his obligation to pay me the $50,000 NRD pursuant to the agreed-upon terms of the JVA, but advised me that he was experiencing some temporary cash flow issues due to expenses related to the Zoning Issue. He asked if I would be willing to accept a $10,000 cash payment as good faith earnest money toward the $50,000 NRD, with the remaining $40,000 balance to be paid prior to submitting the CUP application, and I agreed to his request.

12. Thereafter, Plaintiff prepared and requested that I sign a short, three-sentence document which he described as a receipt for the $10,000 earnest money payment toward the $50,000 NRD (November Document). The November Document set forth the sales price of the Property and memorialized my receipt of his $10,000 cash payment. Plaintiff promised (a) that he would have his attorney draft the final agreement for the sale to include the agreed-upon terms of our JVA as detailed in the TWDs, and (b) that he would not submit the CUP application to the City until he had paid me the $40,000 balance of the NRD.

13. From and after November 2, 2016 through March 21, 2017, Plaintiff and I exchanged a series of email communications regarding our JVA, true and correct copies of which are attached hereto as Exhibit 5.

14. On November 2, 2016, Geraci emailed me a copy of the executed November Document. (Exhibit 5, pp. 6-8.) I responded to Plaintiff saying that I did not want that document ever to be construed as a Final Contract which included all the agreed-upon terms of the JVA and/or the sale of the Property upon which we had agreed, and requested that he acknowledge in an email response that any "final contract" would include those terms and conditions. Plaintiff responded to my email later that evening saying: "No No Problem at All" (Confirmation Email). (Exhibit 5, pp. 4-8.)

15. Throughout the course of the next four months, Plaintiff and I exchanged numerous emails, texts, telephone calls and voicemails regarding the status resolution of the zoning issue, the CUP and the promised drafts of the JVA. Despite Plaintiff's promise promised that his attorney, Mrs. Austin, would "promptly" draft and forward the written agreements memorializing our JVA, it was not until three months later on February 27 and March 2, 2017 that I finally received the first draft agreements;

however, notwithstanding the delay, the documents were inconsistent with the terms of our JVA – particularly because they contained no mention of my 10% equity position in the MO.

16. Pursuant to the terms and conditions of the JVA, Plaintiff agreed to bear all costs associated with resolving the zoning issue and obtaining approval of the CUP for my Property, his assignee Rebecca Berry (Berry) would submit the application for the CUP, and Plaintiff and his agents would control matters related to DSD's processing of the CUP application because obtaining approval of the CUP and developing the Property as a MO business served our mutual best interests.

17. Given Plaintiff's control over the zoning issue and CUP application process, he was the only source from whom I could obtain status updates and information in that regard. Throughout the course of the ensuing months, Plaintiff failed to keep me apprised of developments, and ultimately became elusive, evasive and non-responsive to my communications concerning status updates on his progress in resolving the zoning issue which would trigger the date on which the CUP application could be submitted, the promised documents from his attorney memorializing our JVA. (Exhibit 5, pp. 13-67.)

18. Plaintiff's intent was to deprive me of the 10% equity position I had bargained for in the Business. Notable communications between us include the following:

19. On February 27, 2017, Plaintiff emailed me: "***Attached is the draft purchase of the property for 400k. The additional contract for the 400k should be in today and I will forward it to you as well***." (CITE.) The attached document is titled: "AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY" (the "Draft Purchase Agreement"). (Ex. 5, pgs. 13-14.)

20. On March 2, 2017, Plaintiff emailed me a draft agreement entitled "SIDE AGREEMENT" that was supposed to provide for, *inter alia*, Defendant's 10% equity position ("First Draft Side Agreement"). The next day, March 3, 2017, I replied:

> Larry, [¶] I read the Side Agreement in your attachment and I see that no reference is made to the ***10% equity position*** as per my Inda-Gro GERL Services Agreement (see attached) in the new store. In fact para 3.11 [stating we are not partners] looks to avoid our agreement completely. It looks like counsel did not get a copy of that document. Can you explain? [Ex. 5, pgs. 49-52.]

21. I followed up with Plaintiff later that day, seeking specific confirmation that Plaintiff had received the email and understood his concern – that the First Draft Side Agreement did not reflect they ***were partners*** in the Business. Defendant texted: "***Did you get my email?***" Plaintiff replied one minute later: "***Yes I did I'm having her rewrite it now[.] As soon as I get it I will forward it to you[.]***" (the "Partnership Confirmation Text").) (Ex. 2, pg. 25.)

22. On March 6, 2017, Defendant let Plaintiff know he would be attending a local cannabis event at which Austin would be the keynote speaker. Plaintiff texted Defendant he could speak with Austin directly at the event regarding revisions to the agreements: "***Gina Austin is there she has a red jacket on if you want to have a conversation with her.***" (*Id.*) I was not able to make the event, but Mr. Hurtado – a transaction adviser whom I had been engaged on a contingent basis to help me sell the Property to a new buyer if Plaintiff breached the agreement – did attend and spoke with Austin who confirmed she was working on reducing the JVA to writing and would forward drafts shortly. (Hurtado Decl. ¶¶ 16-17.)

23. The next day, on March 7, 2017, Plaintiff emailed me a revised Side Agreement drafted by Austin:

> Hi Darryl, I have not reviewed this yet but wanted you to look at it and give me your thoughts. Talking to Matt, the 10k a month might be difficult to hit until the sixth month. . . . can we do 5k, and on the seventh month start 10k?

(Exhibit 5, pgs. 53-54) (the "March Request Email")

24. Attached to the email was a revised Side Agreement which provided for me to receive, *inter alia*, "10% of the net revenues of [Plaintiff's] Business" and not a "10% equity position" as agreed to. (Exhibit 5, pgs. 55-58.) On March 16, 2017, I emailed Plaintiff:

> [W]e started these negotiations 4 months ago and the drafts and our communications have not reflected what we agreed upon and are still far from reflecting our original agreement. Here is my proposal, please have your attorney Gina revise the Purchase Agreement and Side Agreement to incorporate all the terms we have agreed upon so that we can execute final versions and get this closed. [¶] I really want to finalize this as soon as possible - ***I found out today that a CUP application for my property was submitted in October, which I am assuming is from someone connected to you***. Although, I note that you told me that the $40,000 deposit balance would be paid once the CUP was submitted and that you were waiting on certain zoning issues to be resolved. Which is not the case. [¶] Please confirm by Monday 12:00 PM whether we are on the same page and you

> plan to continue with our agreement. Or, if not, so I can return your $10,000 of the $50,000 required deposit. If, hopefully, we can work through this, please confirm that revised final drafts that incorporate the terms above will be provided by Wednesday at 12:00 PM. [Ex. 5, pg. 59-60.]

25. The next day, Plaintiff texted me: "***Can we meet tomorrow [?]***" (Ex. 2, pg. 25) I replied via email:

> Larry, I received your text asking to meet in person tomorrow. I would prefer that until we have final agreements, that we converse exclusively via email.... ***You lied to me***, I found out yesterday from the City of San Diego that you submitted a CUP application on October 31, 2016 BEFORE we even signed our agreement on the 2nd of November. There is no situation where an oral agreement will convince me that you are dealing with me in good faith and will honor our agreement. We need a final written, legal, binding agreement. Please confirm, as requested… that you are honoring our agreement and will have final drafts… by Wednesday at 12:00 PM. [Ex. 5, pg. 61.]

26. Pursuant to the terms and conditions of the JVA, Plaintiff agreed to bear all costs associated with obtaining approval of the CUP for my Property, his assignee Rebecca Berry (Berry) would submit the application for the CUP, and Plaintiff and his agents would control matters related to DSD's processing of the CUP application because obtaining approval of the CUP and developing the Property as a MO business served our mutual best interests.

27. Given Plaintiff's control over the CUP application process, he was the only source from whom I could obtain status updates and information in that regard. Unfortunately, over the course of the ensuing months following submission of the CUP application, Plaintiff failed to keep me apprised of developments, and ultimately became elusive, evasive and non-responsive to my communications concerning status updates on his progress in resolving the zoning issue which would trigger the date on which the CUP application could be submitted, the promised documents from his attorney memorializing our JVA. (*See* Exhibit 5, pp. 13-67.)

28. On or about March 14, 2017 when it appeared that Plaintiff's using evasiveness as a delay tactic, I contacted DSD and spoke with Firouzeh Tirandazi (Tirandazi) to inquire about the status of the zoning issue on which Plaintiff alleged he had working for months to resolve to facilitate the City's acceptance of the CUP application. My communications with Tirandazi were how I first learned that

the CUP application on my Property which Berry had submitted to DSD on ***October 31, 2016*** – ***two days before Plaintiff and I entered into the JVA on November 2, 2016 and the very same day on which I had executed the Ownership Disclosure Statement Form DS-318*** – the document which Plaintiff alleged he needed to evidence his ability to access the Property in connection with the planning and lobbying activities he was conducting related to the alleged zoning issue. True and correct copies of the following documents submitted by Berry to initiate the CUP application process on October 31, 2016 are collectively attached hereto as Exhibit 6: General Application (Form DS-3032), Ownership Disclosure Form (Form DS-318), Affidavit for Medical Marijuana Consumer Cooperatives for Conditional Use Permit (CUP) (Form DS-190), Deposit Account/Financial Responsible Party (Form DS-3242), and the receipt by DSD acknowledging Berry's deposit of the fees for processing the CUP application.

29. Based upon the information I received from Tirandazi, it became patently clear that the cause of Plaintiff's evasiveness and non-responsiveness was not a busy schedule, illnesses, attending meetings, doctor's appointments and the other excuses as alleged in his texts and emails; rather, it was because he had been lying to me for months.

30. On or about March 15, 2017, I visited the DSD offices and to meet with Tirandazi and review the documents in the CUP application. The documents I reviewed evidenced that the application was well-established in the review process, and that surveys, architectural and engineering drawings had been submitted to DSD. When I requested copies of the documents, Tirandazi advised me that, because Berry was designated as the Financially Responsible Party and Abhay Schweitzer of Techne was listed as the Point of Contact for the CUP application, DSD could not provide me with copies of any of the documents. My discovery that Plaintiff had been lying to me for several months and that I could not obtain copies of documents from the DSD file caused me to become very concerned about future critical events which might possibly occur in the CUP approval process without my knowledge.

31. On or about the morning of March 19, 2017, I emailed Plaintiff advising him that, unless I received written confirmation from him by noon the following day that he would honor the terms of the JVA, I would contact the DSD and advise them that our agreement was never completed and the CUP application needed to be denied because Berry had no right to my property. (Exhibit 5, p.64.)

32. Plaintiff responded claiming that I kept "changing [my] mind every time we talk," and advising that "[his] attorneys will move forward on the agreement as planned," "[a]ny agreement [would] be followed by the letter of the law," it was "not about any deposit" but, rather, it was about me "changing [my] mind," and "the attorneys [would] move forward with the agreement." (Exhibit 5, p. 65.)

33. I responded to Plaintiff stating that I had not been changing my mind, my "additional requests" were only related to the inclusion of "accounting and other mechanisms to ensure my interests [were] protected" due to his repeated failure to provide draft agreements reflecting the agreed-upon terms of the JVA, and reiterating my demand that he provide the requested confirmation by noon the following or I would email DSD that "no third-party [had] any interest in my property" and the pending CUP application needed to be denied. (Exhibit 5, p.66.)

34. On or about March 20, 2017, I contacted Tirandazi asking her if it was possible to remove Berry and replace myself as the applicant for the pending CUP since (a) I – ***not Berry*** – was the property owner of record and, (b) I would not sell my Property to Plaintiff given my discovery of his dishonesty, misrepresentations and breach of the oral JVA, thereby rendering Berry as an ineligible recipient of the CUP if and when it was approved by DSD. In response, Tirandazi e-mailed me advising that there was no way to substitute myself for Berry without her consent, and that DSD could not accept a second CUP application while Berry's CUP application still pending. A true and correct copy of Tirandazi's March 21, 2017 e-mail is attached hereto as Exhibit 7.

35. Thereafter, I emailed Plaintiff at 3:18 p.m. advising him that I had communicated with Tirandazi who confirmed, among other things, that there were neither any restrictions on my Property nor any recommendations, the pending CUP application be denied, and the application had progressed to the review phase. I further advised him that, because he had continually lied to me and failed to provide the final written documents memorializing our JVA, I would be entering into an agreement to sell my Property to a third party." (Exhibit 5, p.67.) I later discovered that, five hours prior to this e-mail, Plaintiff had already filed the Complaint in this case, followed by a *lis pendens* which was recorded on my Property the following day.

36. Attached hereto as Exhibit 8 is a Accurint Professional Background Report for Larry Geraci provided by the law firm of Finch, Thornton & Baird.

37. Attached hereto as Exhibit 9 is a true and correct copy of an email received from the DSD Project Manager of the CUP at the Property, which states no progress has been done on the CUP on the Property since approximately January 20, 2018.

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

/s/
DARRYL COTTON

EXHIBIT 1

THE CITY OF SAN DIEGO

DATE OF NOTICE: April 5, 2018

NOTICE OF APPLICATION

DEVELOPMENT SERVICES DEPARTMENT

As a property owner, tenant, or person who has requested notice, you should know that an application has been filed with the City of San Diego for a (Process 3) Conditional Use Permit to operate a Marijuana Outlet (MO) located at APN 543-020-400 on Federal Boulevard with the removal and demolition of existing structures and construct a 2,436-square-foot building. The 0.11 acre lot, located on the north side of Federal Boulevard and east of Winnett Street, is in the CO-2-1 zone within the Encanto Neighborhoods Community Plan area and Council District 4.

PROJECT NO:	**598124**
PROJECT NAME:	**FEDERAL BLVD MARIJUANA OUTLET**
PROJECT TYPE:	**CONDITIONAL USE PERMIT, PROCESS 3**
APPLICANT:	**AARON MAGAGNA**
COMMUNITY PLAN AREA:	**ENCANTO**
COUNCIL DISTRICT:	**4**
CITY PROJECT MANAGER:	**Cherlyn Cac, Development Project Manager**
PHONE NUMBER/E-MAIL:	**(619) 236-6327 / CCac@sandiego.gov**

The decision to approve or deny this application will be made at a public hearing. You will receive another notice informing you of the date, time, and location of the public hearing. This project is undergoing environmental review.

Please note that Community Planning Groups provide citizens with an opportunity for involvement in advising the City on land use matters. Community Planning Group recommendations are integral components of the project review process. You may contact Kenneth Malbrough, Chair of the Encanto Neighborhoods Community Planning Group at (619) 843-6721 to inquire about the community planning group meeting dates, times, and location for community review of this project.

If you have any questions about the project after reviewing this information, you may contact the City Project Manager listed above. This information will be made available in alternative formats upon request.

Internal Order No.: 24007747

EXHIBIT 2

Jul 21, 2016 16:31

From:
Daryl Fed B(16199544447)

Jul 21, 2016 16:31:36

From:
Daryl Fed B(16199544447)

Going vertical

Jul 21, 2016 16:31:36

From:
Daryl Fed B(16199544447)

ACDC for live resin processes

Jul 21, 2016 16:32:06

Sent To:
Daryl Fed B(16199544447)

Wow .... Urs?

Jul 21, 2016 16:34:14

From:
Daryl Fed B(16199544447)

Yup

Jul 21, 2016 16:35:11

Sent To:
Daryl Fed B(16199544447)

Nice

Jul 21, 2016 16:35:16

From:
Daryl Fed B(16199544447)

We are doing so very unique things here

Jul 21, 2016 16:35:31

From:
Daryl Fed B(16199544447)

some

Jul 21, 2016 16:35:45

Sent To:
Daryl Fed B(16199544447)

If we can get this through that should work as a great asset to the business

Jul 21, 2016 16:35:56

From:
Daryl Fed B(16199544447)

This is a show we can take on the road.

Jul 21, 2016 16:36:54

Sent To:
Daryl Fed B(16199544447)

Love it

Jul 21, 2016 16:37:11

Jul 25, 2016 09:27

From:
Daryl Fed B(16199544447)

Jul 25, 2016 09:27:27

From:
Daryl Fed B(16199544447)

Jul 25, 2016 09:27:27

From:
Daryl Fed B(16199544447)

Day 16

Jul 25, 2016 09:27:27

Sent To:
Daryl Fed B(16199544447)

Nice

Jul 25, 2016 09:28:05

From:
Daryl Fed B(16199544447)

So here's the deal. I have investors that want me to build these trailers and put them inside a commercial building in so cal

Jul 25, 2016 09:28:18

From:
Daryl Fed B(16199544447)

I told them I might know some real Estate guys that could suggest properties

Jul 25, 2016 09:28:53

From: Daryl Fed B(16199544447) — The first order would be for four trailers — Jul 25, 2016 09:29:22

From: Daryl Fed B(16199544447) — The rooms are secure and all we need is to get power and water to them. — Jul 25, 2016 09:29:59

From: Daryl Fed B(16199544447) — Each trailer is self contained — Jul 25, 2016 09:30:14

From: Daryl Fed B(16199544447) — Having them inside a commercial property building would be nice but it's not mandatory — Jul 25, 2016 09:31:14

From: Daryl Fed B(16199544447) — Whadya think? — Jul 25, 2016 09:33:36

Sent To: Daryl Fed B(16199544447) — Meeting I'll contact you shortly — Jul 25, 2016 09:46:44

Jul 25, 2016 14:44

From: Daryl Fed B(16199544447) — Hey Larry do you have time for a call? — Jul 25, 2016 14:44:15

Sent To: Daryl Fed B(16199544447) — 30 min — Jul 25, 2016 14:44:37

From: Daryl Fed B(16199544447) — Can we do 3:30? — Jul 25, 2016 14:45:47

Sent To: Daryl Fed B(16199544447) — Sure — Jul 25, 2016 14:49:17

Jul 27, 2016 07:30

From: Daryl Fed B(16199544447) — Good morning. I saw I missed your call last night. I'm in if you need to reach me this am. — Jul 27, 2016 07:30:52

Jul 27, 2016 09:54

From:
Daryl Fed B(16199544447)

Jul 27, 2016 09:54:26

From:
Daryl Fed B(16199544447)

Jul 27, 2016 09:54:26

From:
Daryl Fed B(16199544447)

Jul 27, 2016 09:54:26

Jul 27, 2016 13:39

Sent To:
Daryl Fed B(16199544447)

Friday right around 1 o'clock

Jul 27, 2016 13:39:35

Sent To:
Daryl Fed B(16199544447)

Is good

Jul 27, 2016 13:39:39

Jul 27, 2016 16:03

From:
Daryl Fed B(16199544447)

Yup

Jul 27, 2016 16:03:56

Jul 29, 2016 09:32

From:
Daryl Fed 6(16199544447)

Confirming our 1:00 here today?

Jul 29, 2016 09:32:58

Sent To:
Daryl Fed B(16199544447)

I'll let you know shortly I had a couple things up but I'm still trying to make it

Jul 29, 2016 09:42:13

Jul 29, 2016 12:31

Sent To:
Daryl Fed B(16199544447)

Matt will be there he's an operator I may not be able to make it because I'm in the city meeting still

Jul 29, 2016 12:31:01

From:
Daryl Fed B(16199544447)

Whatever works

Jul 29, 2016 12:32:12

Sent To:
Daryl Fed B(16199544447)

He is one of the main guys

Jul 29, 2016 12:32:37

Jul 29, 2016 12:55

From:
Daryl Fed B(16199544447)

Excellent

Jul 29, 2016 12:55:28

Aug 1, 2016 11:30

From:
Daryl Fed B(16199544447)

Aug 1, 2016 11:30:50

From:
Daryl Fed B(16199544447)

Day 23

Aug 1, 2016 11:30:50

Sent To:
Daryl Fed B(16199544447)

Crazy

Aug 1, 2016 11:33:06

Aug 1, 2016 12:18

From:
Daryl Fed B(16199544447)

Truly. Now get this

Aug 1, 2016 12:18:07

From:
Daryl Fed B(16199544447)

There are MDS who visited over the weekend who are completely into med canna

Aug 1, 2016 12:18:56

From:
Daryl Fed B(16199544447)

But they are insisting on organically grown for pure concentrates

Aug 1, 2016 12:19:43

From:
Daryl Fed B(16199544447)

They told me more doctors are fed up with the health care system and big pharma

Aug 1, 2016 12:20:34

Aug 3, 2016 10:16

From:
Daryl Fed B(16199544447)

Any updates to share?

Aug 3, 2016 10:16:45

Aug 4, 2016 19:51

Sent To:
Daryl Fed B(16199544447)

Nothing at this point they have a meeting August 11

Aug 4, 2016 19:51:43

Aug 11, 2016 16:13

From:
Daryl Fed B(16199544447)

How'd your meeting go?

Aug 11, 2016 16:13:00

Aug 12, 2016 10:23

Sent To:
Daryl Fed B(16199544447)

Nothing yet Nother meeting scheduled for next week

Aug 12, 2016 10:23:04

Sent To:
Daryl Fed B(16199544447)

Another

Aug 12, 2016 10:23:10

Aug 12, 2016 11:49

From:
Daryl Fed B(16199544447)

Another meeting means there are open discussions. Sounds positive

Aug 12, 2016 11:49:09

Sent To:
Daryl Fed B(16199544447)

Yes

Aug 12, 2016 11:51:36

Aug 15, 2016 10:48

Sent To:
Daryl Fed B(16199544447)

Supposed to be the end of this week

Aug 15, 2016 10:48:17

Sent To:
Daryl Fed B(16199544447)

Keep you posted

Aug 15, 2016 10:48:20

Aug 22, 2016 08:36

From:
Daryl Fed B(16199544447)

Good morning. Did your team meet with the city last week?

Aug 22, 2016 08:36:34

Aug 22, 2016 09:08

Sent To:
Daryl Fed B(16199544447)

Good morning Darrell yes we did meet with the team we have one hold out but we think we can turn this we have another meeting Thursday

Aug 22, 2016 09:08:45

From:
Daryl Fed B(16199544447)

That sounds manageable. Let me know if there is anything I can do.

Aug 22, 2016 09:12:46

Aug 26, 2016 09:45

Sent To:
Daryl Fed B(16199544447)

We have another meeting next Friday... Pretty important meeting

Aug 26, 2016 09:45:29

Aug 26, 2016 14:56

Sent To:
Daryl Fed B(16199544447)

On phone.. Call you back shortly..

Aug 26, 2016 14:56:57

Aug 26, 2016 18:34

From:
Daryl Fed B(16199544447)

This is the link to our new website and the AUMA Analysis I think Matt will appreciate.

http://151farmers.org/2016/08/19/prop-64-aumaanalysis/

Aug 26, 2016 18:34:23

From:
Daryl Fed B(16199544447)

This is the website http://151farmers.org

Aug 26, 2016 18:36:30

Sep 8, 2016 14:46

From:
Daryl Fed B(16199544447)

Any updates?

Sep 8, 2016 14:46:18

Sep 8, 2016 15:16

Sent To:
Daryl Fed B(16199544447)

Not yet probably next week

Sep 8, 2016 15:16:10

Sep 14, 2016 13:22

Sent To:
Daryl Fed B(16199544447)

Monday or Tuesday afternoon is good for appointments

Sep 14, 2016 13:22:44

Sent To:
Daryl Fed B(16199544447)

Let me know

Sep 14, 2016 13:22:52

Sep 14, 2016 14:57

From:
Daryl Fed B(16199544447)

I need your email address

Sep 14, 2016 14:57:17

Sent To:
Daryl Fed B(16199544447)

Larry@TFC SD.net

Sep 14, 2016 14:57:52

Sep 15, 2016 16:04

From:
Daryl Fed B(16199544447)
Telegram has been installed
Sep 15, 2016 16:04:42

Sent To:
Daryl Fed B(16199544447)
Ok
Sep 15, 2016 16:06:38

Sent To:
Daryl Fed B(16199544447)
Still waiting for contact
Sep 15, 2016 16:07:16

Sent To:
Daryl Fed B(16199544447)
As soon as he does I will let you know
Sep 15, 2016 16:07:29

From:
Daryl Fed B(16199544447)
Thanks
Sep 15, 2016 16:07:45

Sent To:
Daryl Fed B(16199544447)
1 (619) 204 3838
Sep 15, 2016 16:23:38

Sent To:
Daryl Fed B(16199544447)
Contact on telegraph
Sep 15, 2016 16:23:56

From:
Daryl Fed B(16199544447)
Thanks
Sep 15, 2016 16:31:08

Sep 20, 2016 14:02

From:
Daryl Fed B(16199544447)
On my way
Sep 20, 2016 14:02:58

Sent To:
Daryl Fed B(16199544447)
Ok
Sep 20, 2016 14:03:11

From:
Daryl Fed B(16199544447)
What's your address?
Sep 20, 2016 14:03:16

Sent To:
Daryl Fed B(16199544447)
5403 Ruffin Road Suite 200
Sep 20, 2016 14:03:30

From:
Daryl Fed B(16199544447)
5 min
Sep 20, 2016 14:03:38

Sent To:
Daryl Fed B(16199544447)

text/x-vlocation

Sep 20, 2016 14:03:43

Sent To:
Daryl Fed B(16199544447)

Sep 20, 2016 14:03:43

Sent To:
Daryl Fed B(16199544447)

5402

Sep 20, 2016 14:04:02

Sep 21, 2016 09:27

Sent To:
Daryl Fed B(16199544447)

Hi Darrell what is the full address of the federal Boulevard property as well as how is title held

Sep 21, 2016 09:27:30

From:
Daryl Fed B(16199544447)

6176 federal blvd

Sep 21, 2016 09:28:37

From:
Daryl Fed B(16199544447)

Im getting payoffs values today

Sep 21, 2016 09:28:57

From:
Daryl Fed B(16199544447)

Will forward you when I have them

Sep 21, 2016 09:29:26

Sent To:
Daryl Fed B(16199544447)

I pulled title and it looks like 330,000 is the balance

Sep 21, 2016 09:46:26

Sep 22, 2016 12:04

Sent To:
Daryl Fed B(16199544447)

On phone.. Call you back shortly..

Sep 22, 2016 12:04:58

From:
Daryl Fed B(16199544447)

Thx

Sep 22, 2016 12:05:25

Sep 23, 2016 08:43

From:
Daryl Fed B(16199544447)

Good morning. What entity would you like our consultation contract to be directed to?

Sep 23, 2016 08:43:23

Sep 23, 2016 12:02

Sent To: Daryl Fed B(16199544447)	Hi Darrell GERL investments LLC	Sep 23, 2016 12:02:20
From: Daryl Fed B(16199544447)	**Address?**	Sep 23, 2016 12:08:45
From: Daryl Fed B(16199544447)	**Phone and email?**	Sep 23, 2016 12:09:01
Sent To: Daryl Fed B(16199544447)	5402 Ruffin Rd. Suite 200 San Diego 92123	Sep 23, 2016 12:09:08

Sep 26, 2016 08:52

From: Daryl Fed B(16199544447)	**Good morning**	Sep 26, 2016 08:52:31
From: Daryl Fed B(16199544447)	**Were you able to see the shared folder I sent over this am?**	Sep 26, 2016 08:53:13
From: Daryl Fed B(16199544447)	**Feel free to comment and edit these docs as we work out the details.**	Sep 26, 2016 08:54:57
From: Daryl Fed B(16199544447)	**I'm no lawyer but from my perspective it's a good start**	Sep 26, 2016 08:56:46
From: Daryl Fed B(16199544447)	**Let me know your thougts.**	Sep 26, 2016 08:57:17
Sent To: Daryl Fed B(16199544447)	I will be reviewing today	Sep 26, 2016 09:11:04

Sep 27, 2016 11:12

Sent To: Daryl Fed B(16199544447)	On phone.. Call you back shortly..	Sep 27, 2016 11:12:47

Sep 27, 2016 12:18

From:
Daryl Fed B(16199544447) 👍 Sep 27, 2016 12:18:42

Sep 28, 2016 14:28

Sent To:
Daryl Fed B(16199544447) What is your last name Sep 28, 2016 14:28:09

Sent To:
Daryl Fed B(16199544447) In current meeting Sep 28, 2016 14:28:19

Sent To:
Daryl Fed B(16199544447) Got it Sep 28, 2016 14:28:28

Sent To:
Daryl Fed B(16199544447) They had it Sep 28, 2016 14:28:33

Sent To:
Daryl Fed B(16199544447) Do they have final judgement on your property Sep 28, 2016 14:30:49

From:
Daryl Fed B(16199544447) Not sure what you mean? Payoff? Sep 28, 2016 14:42:20

Sep 30, 2016 09:38

From:
Daryl Fed B(16199544447) Does 10:15 work? Sep 30, 2016 09:38:57

Sent To:
Daryl Fed B(16199544447) Sure Sep 30, 2016 09:39:19

Sep 30, 2016 10:23

From:
Daryl Fed B(16199544447) 5 min Sep 30, 2016 10:23:28

Sent To:
Daryl Fed B(16199544447) Ok Sep 30, 2016 10:23:33

Sep 30, 2016 12:24

Sent To:
Daryl Fed B(16199544447) 1661 N. 2nd Ave., El Cajon Sep 30, 2016 12:24:42

Sep 30, 2016 13:45

From: Daryl Fed B(16199544447) — Ill ck it out — Sep 30, 2016 13:45:39

Oct 3, 2016 21:01

Sent To: Daryl Fed B(16199544447) — The architect and the builder want to come out to the place tomorrow morning at 9 o'clock is that OK — Oct 3, 2016 21:01:16

Oct 4, 2016 09:02

From: Daryl Fed B(16199544447) — Yes — Oct 4, 2016 09:02:25

Sent To: Daryl Fed B(16199544447) — They should be there now — Oct 4, 2016 09:09:53

Oct 5, 2016 10:54

Sent To: Daryl Fed B(16199544447) — Is there a septic tank on the property for that front building — Oct 5, 2016 10:54:57

Oct 6, 2016 09:49

From: Daryl Fed B(16199544447) — Fyi Dennis Peron is staying at the farm thru Friday night — Oct 6, 2016 09:49:37

From: Daryl Fed B(16199544447) — Dennis is the co-author of prop 215 — Oct 6, 2016 09:49:58

From: Daryl Fed B(16199544447) — He is getting up in years and may not be with us much longer — Oct 6, 2016 09:50:30

From: Daryl Fed B(16199544447) — He's here fighting auma prop 64 — Oct 6, 2016 09:50:52

From: Daryl Fed B(16199544447) — We did a radio show on LA last night. — Oct 6, 2016 09:51:18

From: Daryl Fed B(16199544447)
If you or matt or anyonr wants a photo op with a real legendary activist now is your chance
Oct 6, 2016 09:52:44

Sent To: Daryl Fed B(16199544447)
All sounds good but I'm trying to keep it low-key
Oct 6, 2016 09:53:46

From: Daryl Fed B(16199544447)
I understand
Oct 6, 2016 09:54:23

From: Daryl Fed B(16199544447)
Just wanted you to know. Cali got med cannabis 20 yrs ago because of this guy.
Oct 6, 2016 09:55:24

Oct 8, 2016 10:42

Sent To: Daryl Fed B(16199544447)
Surveyors will be out there on Tuesday just a heads up
Oct 8, 2016 10:42:59

Oct 8, 2016 16:29

From: Daryl Fed B(16199544447)
Got it
Oct 8, 2016 16:29:25

Oct 9, 2016 16:59

From: Daryl Fed B(16199544447)
What time?
Oct 9, 2016 16:59:12

Sent To: Daryl Fed B(16199544447)
I will check they were going to get me a time
Oct 9, 2016 17:03:10

Oct 10, 2016 11:54

Sent To: Daryl Fed B(16199544447)
There getting me a time and just a few minutes I'll let you know
Oct 10, 2016 11:54:54

Oct 10, 2016 17:28

Sent To: Daryl Fed B(16199544447)
Sorry for the late notice he said he be there at 8 AM
Oct 10, 2016 17:28:30

From:
Daryl Fed B(16199544447)

Thats fine. Jeff will be here

Oct 10, 2016 17:29:10

Sent To:
Daryl Fed B(16199544447)

Thx

Oct 10, 2016 17:29:19

Oct 11, 2016 14:07

From:
Daryl Fed B(16199544447)

Your guy never showed

Oct 11, 2016 14:07:45

Sent To:
Daryl Fed B(16199544447)

Really

Oct 11, 2016 14:07:57

From:
Daryl Fed B(16199544447)

Nope

Oct 11, 2016 14:08:35

Sent To:
Daryl Fed B(16199544447)

I just looked in my email they moved it until tomorrow at 8 AM sorry about that

Oct 11, 2016 14:11:48

From:
Daryl Fed B(16199544447)

Got it

Oct 11, 2016 14:12:13

Oct 17, 2016 10:14

Sent To:
Daryl Fed B(16199544447)

My architect needs access to the buildings at 1 o'clock can you make that happen

Oct 17, 2016 10:14:31

Oct 18, 2016 13:22

Sent To:
Daryl Fed B(16199544447).

On phone.. Call you back shortly..

Oct 18, 2016 13:22:18

From:
Daryl Fed B(16199544447)

Ok

Oct 18, 2016 13:22:31

Sent To:
Daryl Fed B(16199544447)

Just called

Oct 18, 2016 13:34:06

Oct 18, 2016 14:02

From:
Daryl Fed B(16199544447)

Tag your it

Oct 18, 2016 14:02:38

Oct 18, 2016 15:49

From:
Daryl Fed B(16199544447)

Do you have time for call? Like in 20 min?

Oct 18, 2016 15:49:41

Oct 20, 2016 10:35

Sent To:
Daryl Fed B(16199544447)

Can you send me your email

Oct 20, 2016 10:35:14

Oct 20, 2016 11:43

From:
Daryl Fed B(16199544447)

I sent you an email

Oct 20, 2016 11:43:49

From:
Daryl Fed B(16199544447)

Darryl@inda-gro.com

Oct 20, 2016 11:44:16

Oct 20, 2016 13:22

Sent To:
Daryl Fed B(16199544447)

He is going to redraw them with the building on the back and I'll send you both

Oct 20, 2016 13:22:24

Oct 20, 2016 14:47

From:
Daryl Fed B(16199544447)

Sounds good.

Oct 20, 2016 14:47:31

Oct 24, 2016 11:37

Sent To:
Daryl Fed B(16199544447)

Just sent over

Oct 24, 2016 11:37:12

Sent To:
Daryl Fed B(16199544447)

That email is not going through could you recheck it for me

Oct 24, 2016 11:42:50

Oct 24, 2016 12:37

From: Daryl Fed B(16199544447) — I just sent you a TEST SEND email — Oct 24, 2016 12:37:34

From: Daryl Fed B(16199544447) — I love it! — Oct 24, 2016 12:41:45

Sent To: Daryl Fed B(16199544447) — Thank you I just sent the plans back to you — Oct 24, 2016 12:41:47

From: Daryl Fed B(16199544447) — Clean and to the point — Oct 24, 2016 12:42:14

Sent To: Daryl Fed B(16199544447) — Yes — Oct 24, 2016 12:43:48

Oct 28, 2016 10:07

Sent To: Daryl Fed B(16199544447) — Can we get together on Monday at about noon? — Oct 28, 2016 10:07:23

Oct 28, 2016 11:10

From: Daryl Fed B(16199544447) — Sure — Oct 28, 2016 11:10:58

From: Daryl Fed B(16199544447) — I'll be there — Oct 28, 2016 11:14:10

Oct 31, 2016 09:49

Sent To: Daryl Fed B(16199544447) — Can you bring a copy of the grant deed — Oct 31, 2016 09:49:51

From: Daryl Fed B(16199544447) — Yes — Oct 31, 2016 09:50:07

Nov 1, 2016 17:48

Sent To: Daryl Fed B(16199544447) — On phone.. Call you back shortly.. — Nov 1, 2016 17:48:43

Nov 2, 2016 10:49

From: Daryl Fed B(16199544447) — Good morning — Nov 2, 2016 10:49:12

From: Daryl Fed B(16199544447) — Are you available for a call? — Nov 2, 2016 10:53:34

Nov 2, 2016 11:23

From: Daryl Fed B(16199544447) — You need to hear this — Nov 2, 2016 11:23:52

Nov 8, 2016 15:21

From: Daryl Fed B(16199544447) — Can you give me a call? — Nov 8, 2016 15:21:19

Sent To: Daryl Fed B(16199544447) — Crazy day today can I give you a call tomorrow morning — Nov 8, 2016 15:32:10

From: Daryl Fed B(16199544447) — Yes — Nov 8, 2016 15:36:25

Nov 9, 2016 16:01

From: Daryl Fed B(16199544447) — Lemon Grove shot down measure v. No to dispensaries to — Nov 9, 2016 16:01:01

Sent To: Daryl Fed B(16199544447) — Good for us — Nov 9, 2016 16:01:26

From: Daryl Fed B(16199544447) — Only missed by 1% — Nov 9, 2016 16:01:32

From: Daryl Fed B(16199544447) — Hell YEAH! — Nov 9, 2016 16:01:43

Nov 14, 2016 10:26

Sent To:
Daryl Fed B(16199544447)

I just sent you an email they just need a quick signature and send back to me if you can get that back ASAP I'd appreciate it thank you

Nov 14, 2016 10:26:47

Nov 16, 2016 16:20

From:
Daryl Fed B(16199544447)

How goes it?

Nov 16, 2016 16:20:21

Sent To:
Daryl Fed B(16199544447)

No news yet

Nov 16, 2016 16:25:47

From:
Daryl Fed B(16199544447)

Did they accept the CUP application?

Nov 16, 2016 16:26:37

Sent To:
Daryl Fed B(16199544447)

We're still getting through them excepting the property

Nov 16, 2016 16:30:19

Sent To:
Daryl Fed B(16199544447)

Once the property is approved then I believe we're set to go

Nov 16, 2016 16:30:33

Nov 18, 2016 11:58

From:
Daryl Fed B(16199544447)

Did you talk with matt on the cv dispensary?

Nov 18, 2016 11:58:05

Nov 18, 2016 12:26

Sent To:
Daryl Fed B(16199544447)

Yeah I did but he seriously didn't have any interest because he met with the Chula Vista city attorney

Nov 18, 2016 12:26:07

Sent To:
Daryl Fed B(16199544447)

All those places are gonna be close down

Nov 18, 2016 12:26:13

Nov 30, 2016 19:26

From:
Daryl Fed B(16199544447)

Greetings.

Nov 30, 2016 19:26:18

From:
Daryl Fed B(16199544447)

Do you have time for a quick chat?

Nov 30, 2016 19:26:34

Sent To:
Daryl Fed B(16199544447)

Hi Darrell I've been in meetings all day I've got one now until 9 o'clock I'll try to call you first thing in the morning

Nov 30, 2016 19:29:03

From:
Daryl Fed B(16199544447)

Perfect

Nov 30, 2016 19:29:36

Dec 12, 2016 12:47

From:
Daryl Fed B(16199544447)

Do you have a moment for a call?

Dec 12, 2016 12:47:42

Sent To:
Daryl Fed B(16199544447)

Later on today I will I'm in meetings up till about 4 o'clock maybe five

Dec 12, 2016 12:54:23

From:
Daryl Fed B(16199544447)

That's fine. Give me call when you can.

Dec 12, 2016 12:57:28

Dec 12, 2016 17:42

From:
Daryl Fed B(16199544447)

Can you talk?

Dec 12, 2016 17:42:17

Dec 14, 2016 15:46

From:
Daryl Fed B(16199544447)

Something you should know before tomorrows meeting. Can you take a call?

Dec 14, 2016 15:46:52

Sent To:
Daryl Fed B(16199544447)

I'll call you in about two hours

Dec 14, 2016 15:50:24

Jan 4, 2017 12:20

Sent To:
Daryl Fed B(16199544447)

Hi Daryl I have the extreme case of the flu and I'm in bed I'll try to call you tomorrow or the next day

Jan 4, 2017 12:20:01

From:
Daryl Fed B(16199544447)

Get bettet and ttyl

Jan 4, 2017 12:20:21

Jan 5, 2017 08:52

From:
Daryl Fed B(16199544447)

Any better?

Jan 5, 2017 08:52:26

Jan 6, 2017 08:40

From:
Daryl Fed B(16199544447)

Can you call me. If for any reason you're not moving forward I need to know.

Jan 6, 2017 08:40:54

Jan 6, 2017 09:51

Sent To:
Daryl Fed B(16199544447)

I'm at the doctor now everything is going fine the meeting went great yesterday supposed to sign off on the zoning on the 24th of this month I'll try to call you later today still very sick

Jan 6, 2017 09:51:20

Jan 13, 2017 10:46

From:
Daryl Fed B(16199544447)

Are you available for a call?

Jan 13, 2017 10:46:44

Sent To:
Daryl Fed B(16199544447)

I'm in a meeting I'll call you when I'm done

Jan 13, 2017 10:46:59

From:
Daryl Fed B(16199544447)

Thx

Jan 13, 2017 10:47:18

Jan 18, 2017 10:27

Sent To:
Daryl Fed B(16199544447)

The sign off date they said it's going to be the 30th

Jan 18, 2017 10:27:46

From:
Daryl Fed B(16199544447)

This resolves the zoning issue?

Jan 18, 2017 10:34:56

Sent To:
Daryl Fed B(16199544447)

Yes

Jan 18, 2017 10:36:05

Jan 18, 2017 11:03

From:
Daryl Fed B(16199544447)

Excellent

Jan 18, 2017 11:03:42

Jan 30, 2017 15:50

Sent To:
Daryl Fed B(16199544447)

On phone.. Call you back shortly..

Jan 30, 2017 15:50:11

From:
Daryl Fed B(16199544447)

Ok

Jan 30, 2017 15:50:22

Jan 31, 2017 14:47

From:
Daryl Fed B(16199544447)

How goes it?

Jan 31, 2017 14:47:53

Sent To:
Daryl Fed B(16199544447)

We're waiting for confirmation today at about 4 o'clock

Jan 31, 2017 14:48:17

Feb 6, 2017 12:15

From:
Daryl Fed B(16199544447)

Whats new?

Feb 6, 2017 12:15:28

Feb 7, 2017 08:19

From:
Daryl Fed B(16199544447)

Based on your last text I thought you'd have some information on the zoning by now. Your lack of response suggests no resolution as of yet.

Feb 7, 2017 08:19:34

Sent To:
Daryl Fed B(16199544447)

I'm just walking in with clients they resolved it it's fine we're just waiting for final paperwork

Feb 7, 2017 08:20:16

Feb 7, 2017 10:15

From:
Daryl Fed B(16199544447)

That sounds good. Can we speak later?

Feb 7, 2017 10:15:53

Feb 7, 2017 11:27

Sent To:
Daryl Fed B(16199544447)

Not done intel 1030 tonight ... am tomorrow

Feb 7, 2017 11:27:31

Feb 7, 2017 12:16

From:
Daryl Fed B(16199544447)

K

Feb 7, 2017 12:16:35

Feb 15, 2017 08:25

Sent To:
Daryl Fed B(16199544447)

Good morning Darrell... We are preparing the documents with the attorney and hopefully will have them by the end of this week

Feb 15, 2017 08:25:27

Feb 15, 2017 13:00

From:
Daryl Fed B(16199544447)

Sounds good

Feb 15, 2017 13:00:27

Feb 22, 2017 11:38

Sent To:
Daryl Fed B(16199544447)

Contract should be ready in a couple days

Feb 22, 2017 11:38:26

Feb 23, 2017 14:38

Sent To:
Daryl Fed B(16199544447)

Can you call me when you get a chance thanks

Feb 23, 2017 14:38:23

Feb 27, 2017 08:50

Sent To:
Daryl Fed B(16199544447)

Good morning Darrell I emailed you the contract for the purchase of the property ...the relocation contract will come sometime today

Feb 27, 2017 08:50:23

Feb 27, 2017 10:04

From:
Daryl Fed B(16199544447)

Hi Larry I'm traveling today I will have a chance to look at that tomorrow and I will forward it to my attorney thank you

Feb 27, 2017 10:04:43

Mar 3, 2017 12:16

From:
Daryl Fed B(16199544447)

Did you get my email?

Mar 3, 2017 12:16:44

Sent To:
Daryl Fed B(16199544447)

Yes I did I'm having her rewrite it now

Mar 3, 2017 12:17:07

Sent To:
Daryl Fed B(16199544447)

As soon as I get it I will forward it to you

Mar 3, 2017 12:17:13

Mar 6, 2017 16:30

Sent To:
Daryl Fed B(16199544447)

Gina Austin is there she has a red jacket on if you want to have a conversation with her

Mar 6, 2017 16:30:14

Mar 7, 2017 12:05

Sent To:
Daryl Fed B(16199544447)

Just sent the contract over

Mar 7, 2017 12:05:53

From:
Daryl Fed B(16199544447)

Ill look it over tonight

Mar 7, 2017 12:10:03

Mar 16, 2017 16:47

Sent To:
Daryl Fed B(16199544447)

How's it going with the contract?

Mar 16, 2017 16:47:23

Mar 17, 2017 11:44

Sent To:
Daryl Fed B(16199544447)

Can we meet tomorrow

Mar 17, 2017 11:44:27

Apr 29, 2017 20:52

From:
Daryl Fed B(16199544447)

Check your email

Apr 29, 2017 20:52:06

May 1, 2017 09:18

Sent To:
Daryl Fed B(16199544447)

Just received your email our response is forthcoming

May 1, 2017 09:18:52

May 1, 2017 12:39

From:
Daryl Fed B(16199544447)

(1/2) I am cleaning up my documents and am about to head to the court to file. If you want to resolve this, respond to my email within the next 45 minutes. Othe

May 1, 2017 12:39:18

From:
Daryl Fed B(16199544447)

(2/2) rwise im heading to court to file.

May 1, 2017 12:39:19

Sent To:
Daryl Fed B(16199544447)

I've been in meetings all morning I will be addressing is at 1 o'clock this is easy to resolve Daryl just follow what you originally said to do.. and it's done

May 1, 2017 12:41:30

From:
Daryl Fed B(16199544447)

I tried to be reasonable despite your actions. We will let a judge and jury decide. Do not text me or contact me in any form from this point on.

May 1, 2017 12:43:40

May 8, 2017 08:03

Sent To:
Daryl Fed B(16199544447)

We will respond shortly

May 8, 2017 08:03:17

67% 5:43 PM

Larry Geraci
8589564040

SMS/MMS

Wednesday, January 4, 2017

L Hi Daryl I have the extreme case of the flu and I'm in bed I'll try to call you tomorrow or the next day 12:20 PM

12:20 PM Get bettet and ttyl

Thursday, January 5, 2017

8:52 AM Any better?

Friday, January 6, 2017

8:40 AM Can you call me. If for any reason you're not moving forward I need to know.

L I'm at the doctor now everything is going fine the meeting went great yesterday supposed to sign off on the zoning on the 24th of this month I'll try to

call you later today still very sick 9:51 AM

Friday, January 13, 2017

10:46 AM Are you available for a call?

L I'm in a meeting I'll call you when I'm done 10:47 AM

10:47 AM Thx

Wednesday, January 18, 2017

L The sign off date they said it's going to be the 30th 10:27 AM

10:34 AM This resolves the zoning issue?

L Yes 10:36 AM

11:03 AM Excellent

Monday, January 30, 2017

L On phone.. Call you back shortly.. 3:50 PM

3:50 PM Ok

Tuesday, January 31, 2017

2:47 PM How goes it?

L We're waiting for confirmation today at about 4 o'clock 2:48 PM

Monday, February 6, 2017

12:15 PM Whats new?

Tuesday, February 7, 2017

8:19 AM Based on your last text I thought you'd have some information on the zoning by now. Your lack of response suggests no resolution as of yet.

L I'm just walking in with clients they resolved it it's fine we're just waiting for final paperwork 8:20 AM

That sounds good. Can we speak later?
10:15 AM

L Not done intel 1030 tonight ... am tomorrow
11:27 AM

K
12:16 PM

Wednesday, February 15, 2017

L Good morning Darrell... We are preparing the documents with the attor

ney and hopefully will have them by the end of this week
8:25 AM

Sounds good
1:00 PM

Wednesday, February 22, 2017

L Contract should be ready in a couple days
11:38 AM

Thursday, February 23, 2017

L Can you call me when you get a chance thanks
2:38 PM

Monday, February 27, 2017

L Good morning Darrell I emailed you the contract for the purchase of the property ...the relocation contract will come sometime today
8:50 AM

Hi Larry I'm traveling today I will have a chance to look at that tomorrow and I will forward it to my attorney thank you
10:04 AM

Friday, March 3, 2017

12:16 PM Did you get my email?

L Yes I did I'm having her rewrite it now

As soon as I get it I will forward it to you 12:17 PM

Monday, March 6, 2017

L Gina Austin is there she has a red jacket on if you want to have a conversation with her 4:30 PM

Tuesday, March 7, 2017

L Just sent the contract over 12:05 PM

12:10 PM Ill look it over tonight

Thursday, March 16, 2017

L How's it going with the contract? 4:47 PM

Friday, March 17, 2017

L Can we meet tomorrow 11:44 AM

Enter message

EXHIBIT 3

SERVICES AGREEMENT CONTRACT

Date: 09/24/16

Customer: GERL Investments
5402 Ruffin Road, Ste. 200
San Diego, CA 92103

Attn: Mr. Larry Geraci
Ph: 858.956.4040
E-mail: Larry@TFCSD.net

Mr. Geraci;

Pursuant to our conversations I have developed this document to act as the Contract between us that will serve to define our relationship, services, and fee's for the development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by your company, GERL Investments.

1) The property is currently owned by me, Darryl Cotton (Cotton-Seller) and occupied by my company, Inda-Gro Induction Lighting Company (Inda-Gro-Tenant). Under separate Contract Cotton has agreed to sell the property to GERL Investments (GERL-Buyer) for $400,000.00 and a 10% equity position in the new licensed cannabis dispensary business being developed at the property by GERL.

2) Upon completion and transfer of property ownership Cotton will immediately cease being the landlord to Inda-Gro and Inda-Gro will become the tenant of GERL.

3) GERL plans to tear down the existing structure(s) and build a new structure for a commercial dispensary. Under this Agreement GERL will allow Inda-Gro to remain in the property at no charge until such time that the plan check with the City of San Diego has been approved and permits have been issued. This process is expected to take 6-9 months. At the time GERL notices Inda-Gro that the permits have been issued Inda-Gro will have 30 days to vacate the property. Inda-Gro agrees to cooperate with GERL architects to access the property during the design phase of this work.

4) Inda-Gro is agreeing to vacate the property in consideration for a relocation fee of $400,000.00 of which payment would be made in two parts. Upon execution of this Contract GERL agrees to pay Inda-Gro $200,000. Upon issuance of the permits and the 30 day notice to vacate the balance, $200,000.00 would become payable and due.

5) Inda-Gro currently operates what we refer to as a 151 Farm. This is a teaching and touring farm that demonstrates urban farming technologies which utilize our lighting systems, controls and water savings strategies utilizing Aquaponics systems. Since it is in the interest of all parties; Inda-Gro, Cotton and

GERL to identify ongoing investment opportunities with both cannabis and non-cannabis related ventures Inda-Gro and Cotton agree to use the current property to highlight the benefits of what having a licensed dispensary is to the community and once relocated Inda-Gro/Cotton would agree to continue to promote the new dispensary as an example of seed to sale retail distribution as well as identify other investment opportunities that develop from interested parties having toured our facilities and wishing to establish similar operations.

6) GERL may wish to have interested parties tour the current and new property for Inda-Gro 151 Farms. This too is acceptable and under this Agreement would be a mutual collaboration and strategic alliance in terms of the farming and cultivation aspects provided by Inda-Gro and the Site Acquisition, Design/Build Construction and Retail Cannabis Services provided by GERL for those future contracts.

TOTAL PRICE: Four Hundred Thousand and 00/100 ($ 400,000.00)

I/we accept the Service Agreement Contract as detailed and do hereby agree to the Terms as set forth herein:

Sign: _____ Print Name: _____ Date: _____
Darryl Cotton, President

Sign: _____ Print Name: _____ Date: _____
Larry Geraci

Memorandum of Understanding

Date: 09/24/16

Between:
Mr. Darryl Cotton, an individual (Cotton)
6176 Federal Boulevard
San Diego, CA 92114

Ph: 619.954.4447
E-mail: Darryl@dalbercia.us

Mr. Larry Geraci, an individual (Geraci)
GERL Investments (GERL)
5402 Ruffin Road, Ste. 200
San Diego, CA 92103

Ph: 858.956.4040
E-mail: Larry@TFCSD.net

Pursuant to conversations held by all parties this Memorandum of Understanding (MOU) will serve to act as the basis for development of a Contract or in the absence of a Contract be used as the Contract between both parties to define our mutually beneficial relationship, responsibilities, services and terms relative to the commercial development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by GERL Investments, a California Corporation.

1) Cotton believes that GERL is in the unique position having the skills, experience and financial resources to develop the property as a licensed retail dispensary of marijuana products. Therefore Cotton, as the owner of the property, hereby agrees to sell the property in 'as is' condition to GERL for the sum of $400,000.00 and a minority 10% shareholder position in GERL.

2) Upon acceptance of the Purchase Agreement for the property, GERL will begin the necessary design work necessary for the project redevelopment and simultaneous application for the CUP with the City of San Diego. Both of these processes take what is anticipated to be 9-12 months before construction would begin. In consideration of the sale price the current tenant, Inda-Gro, would be given use of the property at no charge until such time that the permits have been secured and the 30 Day Notice to Vacate, as defined in the separate Service Agreement Contract has been issued to Inda-Gro.

3) GERL shall bear all costs and submit all necessary paperwork and documentation to the City of San Diego Development Services required in which to acquire a Conditional Use Permit (CUP) to operate as a licensed Medical Marijuana Consumer Cooperative (MMCC) at the property. Cotton makes no claims as to whether or not the property is suitable or is eligible for that business. Geraci and GERL assume all responsibility, costs and liabilities for that process and whatever its final outcome and determination with the City of San Diego may be.

4) Upon issuance of permits GERL plans to demolish the existing structures on the property and construct a new 2 story retail and office building. GERL will assume all costs associated with this development

including design, engineering, planning, permits and construction related charges. Cotton makes no assurances or claims as to suitability or City of San Diego acceptability for the intended development but Geraci has stated that as a result of their due diligence which includes meetings with key representatives of the City of San Diego Development Services and Legal Department the property has been deemed acceptable for the intended use and development as described herein.

5) Upon opening of the new dispensary Geraci and Cotton have agreed that GERL will pay Cotton a monthly 10% of the dispensary's net profits. Cotton would ask that the payments be made on or before the 15th of each month accounting for the previous month's sales. Payments may be made in the form of cash or check as GERL prefers. GERL will accompany these payments with a copy of any City of San Diego or Board of Equalization tax reporting forms that would serve to reconcile the amount being paid Cotton to the amount being reported to these agencies.

6) If at some future date GERL decides to sell their interest in the dispensary Cotton may at his discretion elect to either take a 10% share in the sale price or maintain a 10% net profit relationship with the new owner. Cotton may also at some future date elect to assign his 10% to a trust or heir and the same terms and conditions would apply.

7)

I/we accept this Memorandum of Understanding and do hereby agree to the Terms and Conditions as set forth herein:

Sign: _____ Print Name: _____ Date: _____
Darryl Cotton, an individual

Sign: _____ Print Name: _____ Date: _____
Larry Geraci,an individual

Sign: _____ Print Name: _____ Date: _____
Larry Geraci, President
GERL Investments

EXHIBIT 4

E-MAILS BETWEEN COTTON AND HENDERSON – 11/02/16 – 03/16/17

NO.	DATE	TIME	FROM	TO	SUBJECT	ATTACHMENTS	PAGE #/ RANGE
1	11/02/12	9:05 am 9:58 am	Cotton Henderson	Henderson Cotton	Re: Meeting Follow Up	Yes	1
						Cotton-Henderson Mutual NDA Dated 11/02/16	2-5
2	01/31/17	11:31	Cotton	Henderson	6176 Federal Blvd	Yes	1
						1. Memorandum of Understanding Dated 01-31-17 **2.** Services Agreement Contract Dated 01/31/17	2-3 4-5
3	01/31/17 02/07/17	11:31 am 07:25 am	Cotton Henderson	Henderson Cotton	Re: 6176 Federal Blvd	Yes	1
						1. Memorandum of Understanding Dated 02-07-17 **2.** Relocation Contract Dated 02/07/17	2-3 4-5
4	02/19/17	11:05 am	Henderson	Cotton	Fwd: 6178 Federal – Purchase agreement	Yes	1
						1. Commercial Property Purchase Agreement, Joint Escrow Instructions and Related Documents Dated 02/17/17 **2.** Memorandum of Understanding Dated 01/31-17 [Executed by Henderson on 02/01/17]	2-17 18-21
5	03/16/17	11:40 am	Henderson	Cotton	6176 Federal – Purchase Agreement	Yes	1
						1. Commercial Property Purchase Agreement, Joint Escrow Instructions and Related Documents Dated 03/16/17	2-17

E-MAILS BETWEEN COTTON AND HENDERSON – 11/02/16 – 03/16/17

NO.	DATE	TIME	FROM	TO	SUBJECT	ATTACHMENTS	PAGE #/ RANGE
						2. Memorandum of Understanding Dated 01/31/17 [Executed 02/01/07]	18-19
						3. Services Agreement Contract Dated 01/31/17 [Executed by Henderson 02/01/17]	20-21

Re: Meeting Follow Up

1 message

Keith Henderson <reokeith@gmail.com> Wed, Nov 2, 2016 at 9:58 AM
To: Darryl Cotton <darryl@inda-gro.com>

Hey Darryl,

Attached is your NDA. lets get to work:

Keith Henderson
Realtor, Broker/Owner
RE/MAX PACIFIC
Direct: 760-413-1606
FAX: 619-374-2740
REOKeith@gmail.com
KeithHendersonHomes.com

Bre Lic # 01719028

On Wed, Nov 2, 2016 at 9:05 AM, Darryl Cotton <darryl@inda-gro.com> wrote:

> Hi Keith,
>
> I would be interested in continuing our discussions from yesterday. If you are agreeable I would ask that you sign and return the attacked NDA so that we may do so.
>
> Thank you.
>
> Darryl Cotton, President
>
> INDA-GRO "Sunlight in a Box" INDUCTION GROW LIGHTS
>
> darryl@inda-gro.com
> www.inda-gro.com
> Ph: 877.452.2244
> Cell: 619.954.4447
> Skype: dc.dalbercia
>
> 6176 Federal Blvd.
> San Diego, CA. 92114
> USA
>
> NOTICE: The information contained in the above message is confidential information solely for the use of the intended recipient. If the reader of this message is not the intended recipient, the reader is notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify Inda-Gro immediately by telephone at 619.266.4004.

Cotton-Henderson_Mutual_NDA.rtf.pdf
308K

MUTUAL
NONDISCLOSURE AGREEMENT

Each undersigned party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's business (including, without limitation, real property sales and development, computer programs, names and expertise of employees and consultants, know-how, formulas, processes, ideas, inventions, whether patentable or not, schematics and other technical, business, financial, customer and product development plans, forecasts, strategies and information, customer and supplier information, including such as is not publicly available in the form or arrangement in which available in the Disclosing Party's operations), which to the extent previously, presently, or subsequently disclosed to the Receiving Party is hereinafter referred to as "Proprietary Information" of the Disclosing Party.

Notwithstanding the foregoing, nothing will be considered "Proprietary Information" of the Disclosing Party unless either (1) it is first disclosed in tangible form and is conspicuously marked "Confidential," "Proprietary" or the like or (2) it is first disclosed in non-tangible form and orally identified as confidential at the time of disclosure and is summarized in tangible form conspicuously marked "Confidential" within thirty (30) days of the original disclosure.

In consideration of the parties' discussions and any access the Receiving Party may have to Proprietary Information of the Disclosing Party, the Receiving Party hereby agrees as follows:

1. **Use of Proprietary Information.**

The Receiving Party agrees:

(a.) to hold the Disclosing Party's Proprietary Information in confidence and to take reasonable precautions to protect such Proprietary Information (including, without limitation, all precautions the Receiving Party employs with respect to its confidential materials),

(b.) to not divulge any such Proprietary Information or any information derived therefrom to any third person (except consultants, subject to the conditions stated below),

(c.) not to make any use whatsoever at any time of such Proprietary Information except to evaluate internally whether to enter into a transaction currently under exploration with the Disclosing Party, and

(d.) not to copy or reverse engineer any such Proprietary Information. Any employee or consultant given access to any such Proprietary Information must have a legitimate "need to know" and shall be similarly bound in writing. Without granting any right or license, the Disclosing Party agrees that the foregoing clauses (a), (b), (c) and (d) shall not apply

to any information that the Receiving Party can document (1) is (or through no improper action or inaction by the Receiving Party or any affiliate, agent, consultant or employee, becomes) generally available to the public, or (2) was in its possession or known by it prior to receipt from the Disclosing Party, or (3) was rightfully disclosed to it by a third party, provided the Receiving Party complies with any restrictions imposed by the third party, or (4) was independently developed without use of any Proprietary Information of the Disclosing Party by employees of the Receiving Party who have had no access to such information. The Receiving Party may make disclosures required by court order, provided the Receiving Party uses reasonable efforts to limit disclosure and to obtain confidential treatment or a protective order and has allowed the Disclosing Party to participate in the proceeding.

2. **Return of Proprietary Information**.

Immediately upon (i) the decision by either party not to enter into a transaction with the other party, or (ii) a request by the Disclosing Party at any time (which will be effective if actually received or three days after mailed first class postage prepaid to the Receiving Party), the Receiving Party will turn over to the Disclosing Party all Proprietary Information of the Disclosing Party and all documents or media containing any such Proprietary Information and any and all copies or extracts thereof.

3. **Disclosure.**

Except to the extent required by law, neither party shall disclose the existence or subject matter of the negotiations or business relationship under exploration between the parties.

4. No Obligation for Transaction.

Neither party is obligated by this Agreement or the exchange of information hereunder, and neither party is obligated until and unless a definitive and final agreement is entered into, to enter into any transaction whatsoever with the other, or to negotiate in good faith or otherwise with respect thereto.

5. Acquisition of Information.

Receiving Party shall not initiate or maintain contact, except for those contacts made in the ordinary course of business, with any director, officer, employee or agent of Company regarding its business, operations, prospects, or finances, except with the written approval of Company.

6. Non-Solicitation of Company Employees.

Receiving Party shall not, without the prior written approval of Company, hire or enter into a contract with any employee, agent or representative of Company to provide services to Receiving Party or, directly or indirectly, induce or attempt to induce

or otherwise counsel, discuss, advise or encourage any employee, agent or representative of Company to leave or otherwise terminate such persons relationship with Company for a period of five (5) years following the date hereof.

7. Non-Solicitation of Customers.

Receiving Party shall not, without the prior written approval of Company, directly or indirectly, whether or not for compensation, for the purpose of engaging in competition with Company, call on or solicit any person or entity who is a customer of Company for a period of two (2) years after the date hereof.

8. Confidentiality of Negotiations.

Receiving Party and its representatives shall not make any statement, public announcement, release to any trade publication or the press, or inform any third party of the discussions or negotiations in connection with the possible negotiated transaction or the exchange of Confidential Information related to the proposed transaction. Receiving Party may make such a disclosure after written notice to Disclosing Party if it has received the written opinion of outside counsel that such disclosure must be made in order to avoid a violation of law and a copy of such opinion has been provided to Company.

9. Protection.

Receiving Party shall be responsible for any breach of this Agreement by any of its representatives and shall, at its sole expense, take all necessary measures (including but not limited to court proceedings) to restrain its representatives from prohibited disclosure or use of the Confidential Information.

10. Miscellaneous.

The Receiving Party acknowledges and agrees that due to the unique nature of the Disclosing Party's Proprietary Information, there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach may allow the Receiving Party or third parties to unfairly compete with the Disclosing Party resulting in irreparable harm to the Disclosing Party, and therefore, that upon any such breach or any threat thereof, the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever remedies it might have at law and to be indemnified by the Receiving Party from any loss or harm, including, without limitation, attorneys' fees, in connection with any breach or enforcement of the Receiving Party's obligations hereunder or the unauthorized use or release of any such Proprietary Information. The Receiving Party will notify the Disclosing Party in writing immediately upon the occurrence of any such unauthorized release or other breach of which it is aware. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement

shall otherwise remain in full force and effect.
This Agreement shall be governed by the law of the State of California without regard to the conflicts of law provisions thereof, and the sole and exclusive venue for any litigation concerning this Agreement shall be the County of San Diego, State of California, and the parties hereby irrevocably stipulate, consent and submit to the personal jurisdiction of all state and federal courts located in such County for this purpose.
This Agreement supersedes all prior discussions and writing and constitutes the entire agreement between the parties with respect to the subject matter hereof. The prevailing party in any action to enforce this Agreement shall be entitled to costs and attorney fees. No waiver or modification of this Agreement will be binding upon either party unless made in writing and signed by a duly authorized representative of such party and no failure or delay in enforcing any right will be deemed a waiver. This Agreement shall be construed as to its fair meaning and not strictly for or against either party.

In witness whereof, the parties have executed this Agreement as of November 2, 2016.

"Receiving Party"	"Disclosing Party"
DocuSigned by: KEITH HENDERSON CAB7EE6A93574E3...	
Mr. Keith Henderson, an Individual	Mr. Darryl Cotton, an Individual
Date:	Date: 11-2-16

6176 Federal Blvd

1 message

Darryl Cotton <indagrodarryl@gmail.com> Tue, Jan 31, 2017 at 11:31 AM
To: Keith Henderson -Remax Pacific <reokeith@gmail.com>

Hi Keith,

The attached documents have been modified to reflect a lower % equity and a property valuation in line with current market conditions. Please review and get back to me if you wish to proceed.

2 attachments

1-31-17 Cotton-KH-RP MOU.doc
48K

1-31-17 IndaGro-KH Service Contract.doc
691K

Memorandum of Understanding

Date: 01/31/17

Between:
Mr. Darryl Cotton, an individual (Cottonl)
6176 Federal Boulevard
San Diego, CA 92114

Ph: 619.954.4447
E-mail: Darryl@dalbercia.us

Mr. Keith Henderson, an individual (Henderson)
REMAX Pacific (RP)
1545 Hotel Circle South, Ste. 145
San Diego, CA 92108

Ph: 760.413.1606
E-mail: Reokeith@gmail.com

Pursuant to conversations held by all parties this Memorandum of Understanding (MOU) will serve to act as the basis for development of a Contract or in the absence of a Contract be used as the Contract between both parties to define our mutually beneficial relationship, responsibilities, services and terms relative to the commercial development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by Mr. Keith Henderson and REMAX Pacific, a California Corporation. This MOU and any Contract that would be entered into as a result of this MOU will bind Keith Henderson, individually and REMAX Pacific (KH-RP) to the Terms and Conditions set forth within this MOU.

1) Cotton believes that KH-RP is in the unique position having the skills, experience and financial resources to develop the property as a licensed retail dispensary of marijuana products. Therefore Cotton, as the owner of the property, hereby agrees to sell the property in 'as is' condition to KH-RP for the sum of $600,000.00 and a minority 10% shareholder position by Cotton in KH-RP or a New Business Entity (NBE) that would be formed for the ownership and operation of the new dispensary to at 6176 Federal Blvd., San Diego, CA 92114. Should an NBE be formed for the purposes of ownership and operation of the new dispensary the 10% equity would apply to the NBE and Henderson would remain personal guarantor for the NBE and the Terms and Conditions set forth in this MOU.

2) Upon acceptance of the Purchase Agreement for the property, KH-RP will begin the necessary design work necessary for the project redevelopment and simultaneous application for the CUP with the City of San Diego. Both of these processes take what is anticipated to be 9-12 months before construction would begin. In consideration of the sale price the current tenant, Inda-Gro, would be given use of the property at no charge until such time that the permits have been secured and the 30 Day Notice to Vacate, as defined in the separate Service Agreement Contract has been issued to Inda-Gro.

3) KH-RP shall bear all costs and submit all necessary paperwork and documentation to the City of San Diego Development Services required in which to acquire a Conditional Use Permit (CUP) to operate as a licensed Medical Marijuana Consumer Cooperative (MMCC) at the property. Cotton makes no

claims as to whether or not the property is suitable or is eligible for that business. KH-RP assumes all responsibility, costs and liabilities for that process and whatever its final outcome and determination with the City of San Diego may be.

4) Upon issuance of permits KH-RP plans to demolish the existing structures on the property and construct a new 2 story retail and office building. KH-RP will assume all costs associated with this development including design, engineering, planning, permits and construction related charges. Cotton makes no assurances or claims as to suitability or City of San Diego acceptability for the intended development but KH-RP has stated that as a result of their due diligence the property has been deemed acceptable for the intended use and development as described herein.

5) Upon opening of the new dispensary KH-RP have agreed that KH-RP or a NBE will pay Cotton a monthly 10% of the dispensary's net profits. Cotton would ask that the payments be made on or before the 15th of each month accounting for the previous month's sales. Payments may be made in the form of cash or check as KH-RP prefers. KH-RP will accompany these payments with a copy of any City of San Diego or Board of Equalization tax reporting forms that would serve to reconcile the amount being paid Cotton to the amount being reported to these agencies.

6) If at some future date KH-RP or the NBE decides to sell their interest in the dispensary Cotton may at his discretion elect to either take a 10% share in the sale price or maintain a 10% net profit relationship with the new owner. Cotton may also at some future date elect to assign his 10% to a trust or heir and the same terms and conditions would apply.

I/we accept this Memorandum of Understanding and do hereby agree to the Terms and Conditions as set forth herein:

Sign: _____ Print Name: _____ Date: _____

Darryl Cotton, an individual

Sign: _____ Print Name: _____ Date: _____

Keith Henderson,an individual

Sign: _____ Print Name: _____ Date: _____

SERVICES AGREEMENT CONTRACT

Date: 01/31/17

Customer: REMAX Pacific
1545 Hotel Circle South, Ste. 145
San Diego, CA 92108

Attn: Mr. Keith Henderson
Ph: 760.413.1606
E-mail: KeithHendersonHomes.com

Mr. Henderson;

Pursuant to our conversations I have developed this document to act as the Contract between us that will serve to define our relationship, services, and fee's for the development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by you or your designated entity.

1) The property is currently owned by me, Darryl Cotton (Cotton-Seller) and occupied by my company, Inda-Gro Induction Lighting Company (Inda-Gro-Tenant). Under separate Contract Cotton has agreed to sell the property to Keith Henderson (KH) for $600,000.00 and a 10% equity position in the new licensed cannabis dispensary business being developed at the property by KH.

2) Upon completion and transfer of property ownership Cotton will immediately cease being the landlord to Inda-Gro and Inda-Gro will become the tenant of KH.

3) KH plans to tear down the existing structure(s) and build a new structure for a commercial dispensary. Under this Agreement KH will allow Inda-Gro to remain in the property at no charge until such time that the plan check with the City of San Diego has been approved and permits have been issued. This process is expected to take 6-9 months. At the time KH notices Inda-Gro that the permits have been issued Inda-Gro will have 30 days to vacate the property. Inda-Gro agrees to cooperate with KH architects to access the property during the design phase of this work.

4) Inda-Gro is agreeing to vacate the property in consideration for a relocation fee of $600,000.00 of which payment would be made in two parts. Upon execution of this Contract KH agrees to pay Inda-Gro $300,000. Upon issuance of the permits and the 30 day notice to vacate the balance, $300,000.00 would become payable and due.

5) Inda-Gro currently operates what we refer to as a 151 Farm. This is a teaching and touring farm that demonstrates urban farming technologies which utilize our lighting systems, controls and water savings strategies utilizing Aquaponics systems. Since it is in the interest of all parties; Inda-Gro, Cotton and

KH to identify ongoing investment opportunities with both cannabis and non-cannabis related ventures Inda-Gro and Cotton agree to use the current property to highlight the benefits of what having a licensed dispensary is to the community and once relocated Inda-Gro/Cotton would agree to continue to promote the new dispensary as an example of seed to sale retail distribution as well as identify other investment opportunities that develop from interested parties having toured our facilities and wishing to establish similar operations.

6) KH may wish to have interested parties tour the current and new property for Inda-Gro 151 Farms. This too is acceptable and under this Agreement would be a mutual collaboration and strategic alliance in terms of the farming and cultivation aspects provided by Inda-Gro and the Site Acquisition, Design/Build Construction and Retail Cannabis Services provided by KH for those future contracts.

TOTAL PRICE: Six Hundred Thousand and 00/100 ($ 600,000.00)

I/we accept the Service Agreement Contract as detailed and do hereby agree to the Terms as set forth herein:

Sign: _____ Print Name: _____ Date: _____
Darryl Cotton, President

Sign: _____ Print Name: _____ Date: _____
Keith Henderson

Re: 6176 Federal Blvd

1 message

Darryl Cotton <indagrodarryl@gmail.com> Tue, Feb 7, 2017 at 7:25 AM
To: Keith Henderson -Remax Pacific <reokeith@gmail.com>

Hi Keith,

I received your executed documents and they are not the documents that was sent to you as attachments in the 1-31-17 e-mail. If you're interested in pursuing this project I would want the agreement based on the lower equity position and the increased property valuation as per this attachment. Let me know your thoughts.

On Tue, Jan 31, 2017 at 11:31 AM, Darryl Cotton <indagrodarryl@gmail.com> wrote:

> Hi Keith,
>
> The attached documents have been modified to reflect a lower % equity and a property valuation in line with current market conditions. Please review and get back to me if you wish to proceed.

2 attachments

02-07-17Cotton-KH-RPMOU.doc.docx
16K

02-07-17IndaGro-KHRelocationContract.doc.docx
105K

Memorandum of Understanding

Date: 02/07/17

Between:
Mr. Darryl Cotton, an individual (Cotton)
6176 Federal Boulevard
San Diego, CA 92114

Ph: 619.954.4447
E-mail: Darryl@dalbercia.us

Mr. Keith Henderson, an individual (Henderson)
REMAX Pacific (RP)
1545 Hotel Circle South, Ste. 145
San Diego, CA 92108

Ph: 760.413.1606
E-mail: Reokeith@gmail.com

Pursuant to conversations held by all parties this Memorandum of Understanding (MOU) will serve to act as the basis for development of a Contract or in the absence of a Contract be used as the Contract between both parties to define our mutually beneficial relationship, responsibilities, services and terms relative to the commercial development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by Mr. Keith Henderson and REMAX Pacific, a California Corporation. This MOU and any Contract that would be entered into as a result of this MOU will bind Keith Henderson, individually and REMAX Pacific (KH-RP) to the Terms and Conditions set forth within this MOU.

1) Cotton believes that KH-RP is in the unique position having the skills, experience and financial resources to develop the property as a licensed retail dispensary of marijuana products. Therefore Cotton, as the owner of the property, hereby agrees to sell the property in 'as is' condition to KH-RP for the sum of $600,000.00 and a minority 10% shareholder position by Cotton in KH-RP or a New Business Entity (NBE) that would be formed for the ownership and operation of the new dispensary to at 6176 Federal Blvd., San Diego, CA 92114. Should an NBE be formed for the purposes of ownership and operation of the new dispensary the 10% equity would apply to the NBE and Henderson would remain personal guarantor for the NBE and the Terms and Conditions set forth in this MOU.

2) Upon acceptance of the Purchase Agreement for the property, KH-RP will begin the necessary design work necessary for the project redevelopment and simultaneous application for the CUP with the City of San Diego. Both of these processes take what is anticipated to be 9-12 months before construction would begin. In consideration of the sale price the current tenant, Inda-Gro, would be given use of the property at no charge until such time that the permits have been secured and the 30 Day Notice to Vacate, as defined in the separate Service Agreement Contract has been issued to Inda-Gro.

3) KH-RP shall bear all costs and submit all necessary paperwork and documentation to the City of San Diego Development Services required in which to acquire a Conditional Use Permit (CUP) to operate as a licensed Medical Marijuana Consumer Cooperative (MMCC) at the property. Cotton makes no claims as to whether or not the property is suitable or is eligible for that business. KH-RP assumes all

responsibility, costs and liabilities for that process and whatever its final outcome and determination with the City of San Diego may be.

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I/we accept this Memorandum of Understanding and do hereby agree to the Terms and Conditions as set forth herein:

Sign: _____ Print Name: _____ Date: _____
Darryl Cotton, an individual

Sign: _____ Print Name: _____ Date: _____
Keith Henderson,an individual

Sign: _____ Print Name: _____ Date: _____

RELOCATION CONTRACT

Date: 02/07/17

Customer: REMAX Pacific
1545 Hotel Circle South, Ste. 145
San Diego, CA 92108

Attn: Mr. Keith Henderson
Ph: 760.413.1606
E-mail: KeithHendersonHomes.com

Mr. Henderson;

Pursuant to our conversations I have developed this document to act as the Contract between us that will serve to define our relationship, services, and fee's for the development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by you or your designated entity.

1) The property is currently owned by me, Darryl Cotton (Cotton-Seller) and occupied by my company, Inda-Gro Induction Lighting Company (Inda-Gro-Tenant). Under separate Contract Cotton has agreed to sell the property to Keith Henderson (KH) for $600,000.00 and a 10% equity position in the new licensed cannabis dispensary business being developed at the property by KH.

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4) Inda-Gro is agreeing to vacate the property in consideration for a relocation fee of $600,000.00 of which payment would be made in two parts. Upon execution of this Contract KH agrees to pay Inda-Gro $300,000. Upon issuance of the permits and the 30 day notice to vacate the balance, $300,000.00 would become payable and due.

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demonstrates urban farming technologies which utilize our lighting systems, controls and water savings strategies utilizing Aquaponics systems. Since it is in the interest of all parties; Inda-Gro, Cotton and KH to identify ongoing investment opportunities with both cannabis and non-cannabis related ventures Inda-Gro and Cotton agree to use the current property to highlight the benefits of what having a licensed dispensary is to the community and once relocated Inda-Gro/Cotton would agree to continue to promote the new dispensary as an example of seed to sale retail distribution as well as identify other investment opportunities that develop from interested parties having toured our facilities and wishing to establish similar operations.

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TOTAL PRICE: Six Hundred Thousand and 00/100 ($ 600,000.00)

I/we accept the Service Agreement Contract as detailed and do hereby agree to the Terms as set forth herein:

Sign: _____ Print Name: _____ Date: _____
Darryl Cotton, President

Sign: _____ Print Name: _____ Date: _____
Keith Henderson

Fwd: 6176 Federal - Purchase agreement

1 message

Keith Henderson <reokeith@gmail.com> Sun, Feb 19, 2017 at 11:05 AM
To: Darryl Cotton <indagrodarryl@gmail.com>, Darryl Cotton <darryl@inda-gro.com>

Hey Darryl, See attached purchase agreement for 6176 Federal.

thanks,

Keith Henderson
Realtor, Broker/Owner
RE/MAX PACIFIC
Direct: 760-413-1606
FAX: 619-374-2740
REOKeith@gmail.com
KeithHendersonHomes.com

Bre Lic # 01719028

2 attachments

6176_Federal_Blvd-Documents.pdf
340K

201702011150.pdf
243K

17 CALIFORNIA ASSOCIATION OF REALTORS®

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(Selling Firm to Buyer)
(As required by the Civil Code)
(C.A.R. Form AD, Revised 12/14)

☐ (If checked) This form is being provided in connection with a transaction for a leasehold interest exceeding one year as per Civil Code section 2079.13(k) and (m).

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A Fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. **This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).**

☐ Buyer ☐ Seller ☐ Landlord ☐ Tenant _____ Date _____
Keith Henderson & Associates, Inc.

☐ Buyer ☐ Seller ☐ Landlord ☐ Tenant _____ Date _____

Agent _____ *N/A* _____ BRE Lic. # _____
Real Estate Broker (Firm)

By _____ BRE Lic. # _____ Date _____
(Salesperson or Broker-Associate)

Agency Disclosure Compliance (Civil Code §2079.14):

- When the listing brokerage company also represents Buyer/Tenant: The Listing Agent shall have one AD form signed by Seller/Landlord and a different AD form signed by Buyer/Tenant.
- When Seller/Landlord and Buyer/Tenant are represented by different brokerage companies: (i) the Listing Agent shall have one AD form signed by Seller/Landlord and (ii) the Buyer's/Tenant's Agent shall have one AD form signed by Buyer/Tenant and either that same or a different AD form presented to Seller/Landlord for signature prior to presentation of the offer. If the same form is used, Seller may sign here:

_____ _____
Seller/Landlord Date Seller/Landlord Date
Owner(s) of record

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Reviewed by _____ Date _____

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Keith Henderson
Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

CIVIL CODE SECTIONS 2079.24 (2079.16 APPEARS ON THE FRONT)

2079.13 As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings: **(a)** "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. **(b)** "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee. The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions. **(c)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee. **(d)** "Commercial real property" means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29. **(e)** "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction. **(f)** "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer. **(g)** "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation. **(h)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent. **(i)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(j)** "Offer to purchase" means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(k)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year's duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(l)** "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase. **(m)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(n)** "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor. **(o)** "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller. **(p)** "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2079.14 Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c), shall obtain a signed acknowledgement of receipt from that seller or buyer, except as provided in this section or Section 2079.15, as follows: **(a)** The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision (a). **(c)** Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgement of receipt obtained for the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgement of receipt is required. **(d)** The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

2079.15 In any circumstance in which the seller or buyer refuses to sign an acknowledgement of receipt pursuant to Section 2079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.16 Reproduced on Page 1 of this AD form.

2079.17 (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller.

(c) The confirmation required by subdivisions (a) and (b) shall be in the following form.

(DO NOT COMPLETE. SAMPLE ONLY) is the agent of (check one): ☐ the seller exclusively; or ☐ both the buyer and seller.
(Name of Listing Agent)

(DO NOT COMPLETE. SAMPLE ONLY) is the agent of (check one): ☐ the buyer exclusively; or ☐ the seller exclusively; or ☐ both the buyer and seller.
(Name of Selling Agent if not the same as the Listing Agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

2079.18 No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

2079.23 A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

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Reviewed by _____ *Date* _____

EQUAL HOUSING OPPORTUNITY

19 CALIFORNIA ASSOCIATION OF REALTORS®

COMMERCIAL PROPERTY PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

(NON-RESIDENTIAL)

(C.A.R. Form CPA, Revised 12/15)

Date Prepared: *02/17/2017*

1. **OFFER:**
   A. **THIS IS AN OFFER FROM** *Keith Henderson & Associates, Inc.* ("Buyer").
   ☐ Individual(s), ☒ A Corporation, ☐ A Partnership, ☐ An LLC, ☐ An LLP, or ☐ Other _____.
   B. **THE REAL PROPERTY** to be acquired is *6176 Federal blvd.*, situated in *SAN DIEGO* (City), *SAN DIEGO* (County), California, *92114* (Zip Code), Assessor's Parcel No. _____ ("Property").
   C. **THE PURCHASE PRICE** offered is *Four Hundred Thousand* Dollars $ *400,000.00*.
   D. **CLOSE OF ESCROW** shall occur on ☐ _____ (date) (or ☒ *180* **Days** After Acceptance).
   E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.
2. **AGENCY:**
   A. **DISCLOSURE:** The Parties each acknowledge receipt of a ☒ "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD)
   B. **CONFIRMATION:** The following agency relationships are hereby confirmed for this transaction:
   Listing Agent *N/A* (Print Firm Name) is the agent of (check one):
   ☐ the Seller exclusively; or ☐ both the Buyer and Seller.
   Selling Agent *N/A* (Print Firm Name) (if not the same as the Listing Agent) is the agent of (check one): ☐ the Buyer exclusively; or ☐ the Seller exclusively; or ☐ both the Buyer and Seller.
   C. **POTENTIALLY COMPETING BUYERS AND SELLERS:** The Parties each acknowledge receipt of a ☒ "Possible Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).
3. **FINANCE TERMS:** Buyer represents that funds will be good when deposited with Escrow Holder.
   A. **INITIAL DEPOSIT:** Deposit shall be in the amount of ..... $ *50,000.00*
   (1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, ☐ cashier's check, ☐ personal check, ☐ other _____ within 3 business days after Acceptance (or _____);
   OR (2) ☐ Buyer Deposit with Agent: Buyer has given the deposit by personal check (or _____) to the agent submitting the offer (or to _____), made payable to _____. The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within **3** business days after Acceptance (or _____).
   Deposit checks given to agent shall be an original signed check and not a copy.
   (Note: Initial and increased deposit checks received by agent shall be recorded in Broker's trust fund log.)
   B. **INCREASED DEPOSIT:** Buyer shall deposit with Escrow Holder an increased deposit in the amount of. . . $ _____ within ____ **Days** After Acceptance (or _____).
   If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.
   C. ☐ **ALL CASH OFFER:** No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or ☐ Buyer shall, within **3 (or _____) Days** After Acceptance, Deliver to Seller such verification.
   D. **LOAN(S):**
   (1) FIRST LOAN: in the amount of ..... $ _____
   This loan will be conventional financing or ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing, ☐ Other _____. This loan shall be at a fixed rate not to exceed _____ % or, ☐ an adjustable rate loan with initial rate not to exceed _____ %. Regardless of the type of loan, Buyer shall pay points not to exceed _____ % of the loan amount.
   (2) ☐ **SECOND LOAN** in the amount of ..... $ _____
   This loan will be conventional financing or ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing, ☐ Other _____. This loan shall be at a fixed rate not to exceed _____ % or, ☐ an adjustable rate loan with initial rate not to exceed _____ %. Regardless of the type of loan, Buyer shall pay points not to exceed _____ % of the loan amount.
   E. **ADDITIONAL FINANCING TERMS:** *All cash offer. Buyer is a CA Real Estate Broker, Lic # 01719028.*
   F. **BALANCE OF DOWN PAYMENT OR PURCHASE PRICE** in the amount of ..... $ *350,000.00* to be deposited with Escrow Holder pursuant to Escrow Holder instructions.
   G. **PURCHASE PRICE (TOTAL):** ..... $ *400,000.00*
   H. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within **3 (or ___) Days** After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (☐ Verification attached.)

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

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Keith Henderson Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

I. **APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (**or** ☐ is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 14B(3), in writing, remove the appraisal contingency or cancel this Agreement within **17 (or ____) Days** After Acceptance.

J. **LOAN TERMS:**

(1) LOAN APPLICATIONS: Within **3 (or ___) Days** After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. (☐ Letter attached.)

(2) LOAN CONTINGENCY: Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above **is a contingency** of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs **are not contingencies** of this Agreement.

(3) LOAN CONTINGENCY REMOVAL:

Within **21 (or ____) Days** After Acceptance, Buyer shall, as specified in paragraph 18, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.

(4) ☒ **NO LOAN CONTINGENCY:** Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

(5) LENDER LIMITS ON BUYER CREDITS: Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

K. **BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

4. SALE OF BUYER'S PROPERTY:

A. This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.

OR B. ☐ This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).

5. ADDENDA AND ADVISORIES:

A. ADDENDA:

☐ Back Up Offer Addendum (C.A.R. Form BUO)	☐ Addendum # _____ (C.A.R. Form ADM)
☐ Septic, Well and Property Monument Addendum (C.A.R. Form SWPI)	☐ Court Confirmation Addendum (C.A.R. Form CCA)
☐ Short Sale Addendum (C.A.R. Form SSA)	☐ Other

B. BUYER AND SELLER ADVISORIES:

☐ Probate Advisory (C.A.R. Form PA)	☒ Buyer's Inspection Advisory (C.A.R. Form BIA)
☐ Trust Advisory (C.A.R. Form TA)	☐ Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
☐ Short Sale Information and Advisory (C.A.R. Form SSIA)	☐ REO Advisory (C.A.R. Form REO)
	☐ Other

6. OTHER TERMS: ***Buyer shall pay for any/all costs or fees associated with applying for and obtaining the entitlements for a Conditional Use Permit for a MMCC for this property. Close of escrow shall be within 30-days of the city of San Diego issuing a C.U.P. All terms are contingent on the city issuing a CUP for this property. Buyer is granted the exclusive right to apply for and obtain this C.U.P.***

7. ALLOCATION OF COSTS

A. INSPECTIONS, REPORTS AND CERTIFICATES: Unless otherwise agreed, in writing, this paragraph only determines who is to pay for the inspection, test, certificate or service ("Report") mentioned; it **does not determine who is to pay for any work recommended or identified in the Report.**

(1) ☒ Buyer ☐ Seller shall pay for a natural hazard zone disclosure report, including tax ☐ environmental ☐ Other: _____ prepared by _____.

(2) ☐ Buyer ☐ Seller shall pay for the following Report _____ prepared by _____.

(3) ☐ Buyer ☐ Seller shall pay for the following Report _____ prepared by _____.

B. GOVERNMENT REQUIREMENTS AND RETROFIT:

(1) ☐ Buyer ☐ Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.

(2) (i) [X] Buyer [ ] Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.
(ii) [X] Buyer [ ] Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.
(iii) Buyer shall be provided, within the time specified in paragraph 18A, a copy of any required government conducted or point-of-sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.

C. ESCROW AND TITLE:
(1) (a) [X] Buyer [ ] Seller shall pay escrow fee _____.
(b) Escrow Holder shall be *Pacific Escrow - Christi Bauer*.
(c) The Parties shall, within **5 (or ___) Days** After receipt, sign and return Escrow Holder's general provisions.
(2) (a) [X] Buyer [ ] Seller shall pay for **owner's** title insurance policy specified in paragraph 17E _____.
(b) Owner's title policy to be issued by _____.
(Buyer shall pay for any title insurance policy insuring Buyer's **lender**, unless otherwise agreed in writing.)

D. OTHER COSTS:
(1) [X] Buyer [ ] Seller shall pay County transfer tax or fee _____.
(2) [X] Buyer [ ] Seller shall pay City transfer tax or fee _____.
(3) [ ] Buyer [ ] Seller shall pay Owners' Association ("OA") transfer fee _____.
(4) Seller shall pay OA fees for preparing all documents required to be delivered by Civil Code §4525.
(5) [X] Buyer [ ] Seller shall pay OA fees for preparing all documents other than those required by Civil Code §4525.
(6) Buyer to pay for any HOA certification fee.
(7) [X] Buyer [ ] Seller shall pay for any private transfer fee _____.
(8) [ ] Buyer [ ] Seller shall pay for _____.
(9) [ ] Buyer [ ] Seller shall pay for _____.

8. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:

A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are **not** included in the purchase price or excluded from the sale unless specified in paragraph 8 B, C or D.

B. ITEMS INCLUDED IN SALE:
(1) All EXISTING fixtures and fittings that are attached to the Property;
(2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers, security systems/alarms.
(3) A complete inventory of all personal property of Seller currently used in the operation of the Property and included in the purchase price shall be delivered to Buyer within the time specified in paragraph 18A.
(4) Seller represents that all items included in the purchase price are, unless otherwise specified or identified pursuant to 8B(7), owned by Seller. Within the time specified in paragraph 18A, Seller shall give Buyer a list of fixtures not owned by Seller.
(5) Seller shall deliver title to the personal property by Bill of Sale, free and clear of all liens and encumbrances, and without seller warranty of condition regardless of value.
(6) As additional security for any note in favor of Seller for any part of the purchase price, Buyer shall execute a UCC-1 Financing Statement to be filed with the Secretary of State, covering the personal property included in the purchase, replacement thereof, and insurance proceeds.
(7) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller shall, within the time specified in paragraph 18A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item. Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 18B and C.

C. ITEMS EXCLUDED FROM SALE: Unless otherwise specified, the following items are excluded from sale: _____.

D. OTHER ITEMS:
(1) Existing integrated phone and automation systems, including necessary components such as intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are ([ ] are NOT) included in the sale.

9. CLOSING AND POSSESSION:

A. Seller-occupied or vacant property: Possession shall be delivered to Buyer: (i) [ ] at 6 PM or (_____ [ ] AM/ [ ] PM) on the date of Close Of Escrow; (ii) [ ] no later than ___ calendar days After Close Of Escrow; or (iii) [ ] at ____ [ ] AM/ [ ] PM on _____.

B. Seller Remaining in Possession After Close Of Escrow: If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as [ ] C.A.R. Form CL; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.

C. Tenant Occupied Units: Possession and occupancy, subject to the rights of tenants under existing leases, shall be delivered to Buyer on Close Of Escrow.

D. At Close Of Escrow: **(i)** Seller assigns to Buyer any assignable warranty rights for items included in the sale; and **(ii)** Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.

E. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Owners' Association ("OA") to obtain keys to accessible OA facilities.

10. SECURITY DEPOSITS: Security deposits, if any, to the extent they have not been applied by Seller in accordance with any rental agreement and current Law, shall be transferred to Buyer on Close Of Escrow. Seller shall notify each tenant, in compliance with the Civil Code.

11. SELLER DISCLOSURES:

A. **NATURAL AND ENVIRONMENTAL DISCLOSURES:** Seller shall, within the time specified in paragraph 18, if required by Law: **(i)** Deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; **(ii)** even if exempt from the obligation to provide an NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and **(iii)** disclose any other zone as required by Law and provide any other information required for those zones.

B. **ADDITIONAL DISCLOSURES:** Within the time specified in paragraph 18, Seller shall Deliver to Buyer, in writing, the following disclosures, documentation and information:

(1) **RENTAL SERVICE AGREEMENTS: (i)** All current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; and **(ii)** a rental statement including names of tenants, rental rates, period of rental, date of last rent increase, security deposits, rental concessions, rebates, or other benefits, if any, and a list of delinquent rents and their duration. Seller represents that no tenant is entitled to any concession, rebate, or other benefit, except as set forth in these documents.

(2) **INCOME AND EXPENSE STATEMENTS:** The books and records, including a statement of income and expense for the 12 months preceding Acceptance. Seller represents that the books and records are those maintained in the ordinary and normal course of business, and used by Seller in the computation of federal and state income tax returns.

(3) ☐ **TENANT ESTOPPEL CERTIFICATES:** (If checked) Tenant estoppel certificates (C.A.R. Form TEC) completed by Seller or Seller's agent, and signed by tenants, acknowledging: **(i)** that tenants' rental or lease agreements are unmodified and in full force and effect (or if modified, stating all such modifications); **(ii)** that no lessor defaults exist; and **(iii)** stating the amount of any prepaid rent or security deposit.

(4) **SURVEYS, PLANS AND ENGINEERING DOCUMENTS:** Copies of surveys, plans, specifications and engineering documents, if any, in Seller's possession or control.

(5) **PERMITS:** If in Seller's possession, Copies of all permits and approvals concerning the Property, obtained from any governmental entity, including, but not limited to, certificates of occupancy, conditional use permits, development plans, and licenses and permits pertaining to the operation of the Property.

(6) **STRUCTURAL MODIFICATIONS:** Any known structural additions or alterations to, or the installation, alteration, repair or replacement of, significant components of the structure(s) upon the Property.

(7) **GOVERNMENTAL COMPLIANCE:** Any improvements, additions, alterations or repairs made by Seller, or known to Seller to have been made, without required governmental permits, final inspections, and approvals.

(8) **VIOLATION NOTICES:** Any notice of violations of any Law filed or issued against the Property and actually known to Seller.

(9) **MISCELLANEOUS ITEMS:** Any of the following, if actually known to Seller: **(i)** any current pending lawsuit(s), investigation(s), inquiry(ies), action(s), or other proceeding(s) affecting the Property, or the right to use and occupy it; **(ii)** any unsatisfied mechanic's or materialman's lien(s) affecting the Property; and **(iii)** that any tenant of the Property is the subject of a bankruptcy.

C. **WITHHOLDING TAXES**: Within the time specified in paragraph 18A, to avoid required withholding Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law, (C.A.R. Form AS or QS).

D. **NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES:** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at **http://www.npms.phmsa.dot.gov/**. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.

E. **CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**

(1) SELLER HAS: 7 (or ___) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned development or other common interest subdivision.

(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has **3 (or ___) Days** After Acceptance to request from the OA (C.A.R. Form HOA1): **(i)** Copies of any documents required by Law; **(ii)** disclosure of any pending or anticipated claim or litigation by or against the OA; **(iii)** a statement containing the location and number of designated parking and storage spaces; **(iv)** Copies of the most recent 12 months of OA minutes for regular and special meetings; and **(v)** the names and contact information of all OAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the OA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 18B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to OA or management company to pay for any of the above.

12. ☐ **ENVIRONMENTAL SURVEY** (If checked): Within _____ **Days** After Acceptance, Buyer shall be provided a phase one environmental survey report paid for and obtained by ☐Buyer ☐Seller. Buyer shall then, as specified in paragraph 18, remove this contingency or cancel this Agreement.

13. **SUBSEQUENT DISCLOSURES:** In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer of which Buyer is otherwise unaware, Seller shall promptly Deliver a subsequent or amended disclosure or notice in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies disclosed in reports ordered and paid for by Buyer.**

14. **CHANGES DURING ESCROW:**
    - **A.** Prior to Close Of Escrow, Seller may only engage in the following acts, ("Proposed Changes"), subject to Buyer's rights in paragraph 14B: **(i)** rent or lease any vacant unit or other part of the premises; **(ii)** alter, modify, or extend any existing rental or lease agreement; **(iii)** enter into, alter, modify or extend any service contract(s); or **(iv)** change the status of the condition of the Property.
    - **B.** **(1) 7 (or ☐___) Days** prior to any Proposed Changes, Seller shall Deliver written notice to Buyer of any Proposed Changes.
      (2) Within **5 (or ___) Days** After receipt of such notice, Buyer, in writing, may give Seller notice of Buyer's objection to the Proposed Changes in which case Seller shall not make the Proposed Changes.

15. **CONDITION OF PROPERTY:** Unless otherwise agreed in writing: **(i)** the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's Investigation rights; **(ii)** the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and **(iii)** all debris and personal property not included in the sale shall be removed by Close Of Escrow.
    - **A.** Seller shall, within the time specified in paragraph 18A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
    - **B.** Buyer has the right to conduct Buyer Investigations of the property and, as specified in paragraph 18B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make Repairs or take other action.
    - **C.** **Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.**

16. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**
    - **A.** Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 18B. Within the time specified in paragraph 18B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: **(i)** inspect for lead-based paint and other lead-based paint hazards; **(ii)** inspect for wood destroying pests and organisms. Any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infections (Section 1) and for conditions likely to lead to infestation or infection (Section 2); **(iii)** review the registered sex offender database; **(iv)** confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; **(v)** review and seek approval of leases that may need to be assumed by Buyer; and **(vi)** satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: **(i)** invasive or destructive Buyer Investigations except for minimally invasive testing required to prepare a Pest Control Report; or **(ii)** inspections by any governmental building or zoning inspector or government employee, unless required by Law.
    - **B.** Seller shall make the Property available for all Buyer Investigations. Buyer shall **(i)** as specified in paragraph 18B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and **(ii)** give Seller, at no cost, complete Copies of all such Investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
    - **C.** Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.
    - **D.** **Buyer indemnity and seller protection for entry upon property:** Buyer shall: **(i)** keep the Property free and clear of liens; **(ii)** repair all damage arising from Buyer Investigations; and **(iii)** indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

17. **TITLE AND VESTING:**
    - **A.** Within the time specified in paragraph 18, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 18B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.
    - **B.** Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: **(i)** monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and **(ii)** those matters which Seller has agreed to remove in writing.
    - **C.** Within the time specified in paragraph 18A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.

D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

E. Buyer shall receive a standard coverage owners CLTA policy of title insurance. An ALTA policy or the addition of endorsements may provide greater coverage for Buyer. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and shall pay any increase in cost.

18. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).

A. **SELLER HAS: 7 (or ___) Days** After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5A, 6, 7, 8B(7), 11A, B, C, D and E, 12, 15A and 17A. Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement if Seller has not Delivered the items within the time specified.

B. **(1) BUYER HAS: 17 (or ___) Days** After Acceptance, unless otherwise agreed in writing, to:
(i) complete all Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(7) and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property.
(2) Within the time specified in paragraph 18B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.
(3) By the end of the time specified in paragraph 18B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 18A, then Buyer has **5 (or ___) Days** After Delivery of any such items, or the time specified in paragraph 18B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.
(4) Continuation of Contingency: Even after the end of the time specified in paragraph 18B(1) and before Seller cancels, if at all, pursuant to paragraph 18C, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 18C(1).

C. **SELLER RIGHT TO CANCEL:**
(1) Seller right to Cancel; Buyer Contingencies: If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
(2) Seller right to Cancel; Buyer Contract Obligations: Seller, after first delivering to Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): **(i)** Deposit funds as required by paragraph 3A or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; **(ii)** Deliver a letter as required by paragraph 3J(1); **(iii)** Deliver verification as required by paragraph 3C or 3H or if Seller reasonably disapproves of the verification provided by paragraph 3C or 3H; or **(iv)** In writing assume or accept leases or liens specified in 8B(7); **(v)** Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 25B; or **(vi)** Provide evidence of authority to sign in a representative capacity as specified in paragraph 23. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

D. **NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: **(i)** be in writing; **(ii)** be signed by the applicable Buyer or Seller; and **(iii)** give the other Party at least **2** (or __) **Days** After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than **2 Days** Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 18.

E. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: **(i)** completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; **(ii)** elected to proceed with the transaction; and **(iii)** assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.

F. **CLOSE OF ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: **(i)** be signed by the applicable Buyer or Seller; and **(ii)** give the other Party at least **3 (or _____) Days** After Delivery to close escrow. A DCE may not be Delivered any earlier than **3 Days** Prior to the scheduled close of escrow.

G. **EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, **release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award.** If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within **10 Days** After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursal of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. **A Party may be subject to a civil penalty of up to $1,000 for refusal to sign cancellation instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).**

19. REPAIRS: Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: **(i)** obtain invoices and paid receipts for Repairs performed by others; **(ii)** prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and **(iii)** provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.

20. FINAL VERIFICATION OF CONDITION: Buyer shall have the right to make a final verification of the Property within **5 (or __) Days** Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: **(i)** the Property is maintained pursuant to paragraph 15; **(ii)** Repairs have been completed as agreed; and **(iii)** Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).

21. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS: Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, OA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: **(i)** for periods after Close Of Escrow, by Buyer; and **(ii)** for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.

22. BROKERS:

A. COMPENSATION: Seller or Buyer, or both, as applicable, agrees to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.

B. BROKERAGE: Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as specified in this Agreement, in connection with any act relating to the Property, including, but not limited to, inquiries, introductions, consultations and negotiations leading to this Agreement. Buyer and Seller each agree to indemnify, defend, and hold the other, the Brokers specified herein and their agents, harmless from and against any costs, expenses or liability for compensation claimed inconsistent with the warranty and representations in this paragraph.

C. SCOPE OF DUTY: Buyer and Seller acknowledge and agree that Broker: **(i)** Does not decide what price Buyer should pay or Seller should accept; **(ii)** Does not guarantee the condition of the Property; **(iii)** Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; **(iv)** Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; **(v)** Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; **(vi)** Shall not be responsible for inspecting public records or permits concerning the title or use of Property; **(vii)** Shall not be responsible for identifying the location of boundary lines or other items affecting title; **(viii)** Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; **(ix)** Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; **(x)** Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and **(xi)** Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

23. REPRESENTATIVE CAPACITY: If one or more Parties is signing the Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 40 or 41 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on the Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall Deliver to the other Party and Escrow Holder, within **3 Days** After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code 18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).

24. JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:

A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5A, 6, 7, 10, 11D, 17, 18G, 21, 22A, 23, 24, 30, 38, 39, 41, 42 and paragraph D of the section titled Real Estate Brokers on page 11. If a Copy of the separate compensation agreement(s) provided for in paragraph 22A, or paragraph D of the section titled Real Estate Brokers on page 11 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within **3 (or __) Days**, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 11 or elsewhere in this Agreement.

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within **3 Days** After Acceptance (or _____). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 10C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.

C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 22A and paragraph D of the section titled Real Estate Brokers on page 11. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 22A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.

D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: **(i)** if Buyer's initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or **(ii)** if Buyer and Seller instruct Escrow Holder to cancel escrow.

E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within **3** Days after mutual execution of the amendment.

25. REMEDIES FOR BUYER'S BREACH OF CONTRACT:

A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.

B. LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. Buyer and Seller agree that this amount is a reasonable sum given that it is impractical or extremely difficult to establish the amount of damages that would actually be suffered by Seller in the event Buyer were to breach this Agreement. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R.FORM RID).

Buyer's Initials _____ / _____ Seller's Initials _____ / _____

26. DISPUTE RESOLUTION:

A. MEDIATION: The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Consumer Mediation Center **(www. consumermediation.org)** or through any other mediation provider or service mutually agreed to by the Parties. The Parties **also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker.** Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. **Exclusions from this mediation agreement are specified in paragraph 26C.**

B. ARBITRATION OF DISPUTES: The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of transactional real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 26C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials _____ / _____ Seller's Initials _____ / _____

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

C. **ADDITIONAL MEDIATION AND ARBITRATION TERMS:**

(1) **EXCLUSIONS: The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.**

(2) **PRESERVATION OF ACTIONS: The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.**

(3) **BROKERS: Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to the Agreement.**

27. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
28. **MULTIPLE LISTING SERVICE/PROPERTY DATA SYSTEM:** If Broker is a participant of a Multiple Listing Service ("MLS") or Property Data System ("PDS"), Broker is authorized to report to the MLS or PDS a pending sale and, upon Close Of Escrow, the terms of this transaction to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS or PDS.
29. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorneys fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 26A.
30. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the written consent of Seller. Such consent shall not be unreasonably withheld unless otherwise agreed in writing. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller (C.A.R. Form AOAA).
31. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon, and inure to the benefit of, Buyer and Seller and their respective successors and assigns, except as otherwise provided herein.
32. **ENVIRONMENTAL HAZARD CONSULTATION:** Buyer and Seller acknowledge: **(i)** Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; **(ii)** Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; **(iii)** Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property; and **(iv)** Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property.
33. **AMERICANS WITH DISABILITIES ACT:** The Americans With Disabilities Act ("ADA") prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Property is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer's or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.
34. **COPIES:** Seller and Buyer each represent that Copies of all reports, documents, certificates, approvals and other documents that are furnished to the other are true, correct and unaltered Copies of the original documents, if the originals are in the possession of the furnishing party.
35. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
36. **GOVERNING LAW:** This Agreement shall be governed by the Laws of the state of California.
37. **TERMS AND CONDITIONS OF OFFER:** This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all Parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.
38. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**
39. **DEFINITIONS:** As used in this Agreement:
    A. **"Acceptance"** means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
    B. **"Agreement"** means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.

C. **"C.A.R. Form"** means the most current version of the specific form referenced or another comparable form agreed to by the parties.
D. **"Close Of Escrow" or "COE"** means the date the grant deed, or other evidence of transfer of title, is recorded.
E. **"Copy"** means copy by any means including photocopy, NCR, facsimile and electronic.
F. **"Days"** means calendar days. However, after Acceptance, the last **Day** for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
G. **"Days After"** means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
H. **"Days Prior"** means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
I. **"Deliver", "Delivered" or "Delivery",** unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 11, regardless of the method used (i.e., messenger, mail, email, fax, other).
J. **"Electronic Copy" or "Electronic Signature"** means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
K. **"Law"** means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
L. **"Repairs"** means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
M. **"Signed"** means either a handwritten or electronic signature on an original document, Copy or any counterpart.

40. AUTHORITY: Any person or persons signing this Agreement represent(s) that such person has full power and authority to bind that person's principal, and that the designated Buyer and Seller has full authority to enter into and perform this Agreement. Entering into this Agreement, and the completion of the obligations pursuant to this contract, does not violate any Articles of Incorporation, Articles of Organization, By Laws, Operating Agreement, Partnership Agreement or other document governing the activity of either Buyer or Seller.

41. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by _____, who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by ☐ _____ ☐ AM/ ☐ PM, on _____(date)).

☐ One or more Buyers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-B) for additional terms.

Date _____ BUYER _____

(Print name) *Keith Henderson & Associates, Inc.*

Date _____ BUYER _____

(Print name) _____

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

42. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer and agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

☐ (If checked) SELLER'S ACCEPTANCE IS **SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED:** _____.

☐ One or more Sellers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-S) for additional terms.

Date _____ SELLER _____

(Print name) *Owner(s) of record*

Date _____ SELLER _____

(Print name) _____

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

(_____ / _____) (Initials) **(Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE:** A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) _____ at _____ ☐ AM/ ☐ PM. **A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.**

Property Address: *6176 Federal blvd. , SAN DIEGO, 92114* Date: *February 17, 2017*

REAL ESTATE BROKERS:

A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

B. Agency relationships are confirmed as stated in paragraph 2.

C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.

D. **COOPERATING BROKER COMPENSATION:** Listing Broker agrees to pay Cooperating Broker (**Selling Firm**) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow, the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Listing Broker and Cooperating Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

Real Estate Broker (Selling Firm) *N/A* CalBRE Lic. #
By CalBRE Lic. # Date
By CalBRE Lic. # Date
Address City State Zip
Telephone Fax E-mail
Real Estate Broker (Listing Firm) *N/A* CalBRE Lic. #
By CalBRE Lic. # Date
By CalBRE Lic. # Date
Address City State Zip
Telephone Fax E-mail

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, ☐ a deposit in the amount of $), counter offer numbers ☐ Seller's Statement of Information and , and agrees to act as Escrow Holder subject to paragraph 24 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is

Escrow Holder Escrow #
By Date
Address
Phone/Fax/E-mail
Escrow Holder has the following license number #
☐ Department of Business Oversight, ☐ Department of Insurance, ☐ Bureau of Real Estate.

PRESENTATION OF OFFER: ( ) Listing Broker presented this offer to Seller on (date).
Broker or Designee Initials

REJECTION OF OFFER: ( )( ) No counter offer is being made. This offer was rejected by Seller on (date).
Seller's Initials

Buyer's Initials ( ) ( ) Seller's Initials ( ) ( )

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Reviewed by
Broker or Designee

EQUAL HOUSING OPPORTUNITY

CALIFORNIA ASSOCIATION OF REALTORS®

BUYER'S INSPECTION ADVISORY

(C.A.R. Form BIA, Revised 11/14)

Property Address: ***6176 Federal blvd. , SAN DIEGO, 92114*** ("Property").

1. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations.

2. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as those listed below. If Broker gives you referrals to professionals, Broker does not guarantee their performance.

3. YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.

A. **GENERAL CONDITION OF THE PROPERTY, ITS SYSTEMS AND COMPONENTS:** Foundation, roof (condition, age, leaks, useful life), plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa (cracks, leaks, operation), other structural and nonstructural systems and components, fixtures, built-in appliances, any personal property included in the sale, and energy efficiency of the Property.

B. **SQUARE FOOTAGE, AGE, BOUNDARIES:** Square footage, room dimensions, lot size, age of improvements and boundaries. Any numerical statements regarding these items are APPROXIMATIONS ONLY and have not been verified by Seller and cannot be verified by Brokers. Fences, hedges, walls, retaining walls and other barriers or markers do not necessarily identify true Property boundaries.

C. **WOOD DESTROYING PESTS:** Presence of, or conditions likely to lead to the presence of wood destroying pests and organisms.

D. **SOIL STABILITY:** Existence of fill or compacted soil, expansive or contracting soil, susceptibility to slippage, settling or movement, and the adequacy of drainage.

E. **WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS;WASTE DISPOSAL:** Water and utility availability, use restrictions and costs. Water quality, adequacy, condition, and performance of well systems and components. The type, size, adequacy, capacity and condition of sewer and septic systems and components, connection to sewer, and applicable fees.

F. **ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, materials, products, or conditions (including mold (airborne, toxic or otherwise), fungus or similar contaminants).

G. **EARTHQUAKES AND FLOODING:** Susceptibility of the Property to earthquake/seismic hazards and propensity of the Property to flood.

H. **FIRE, HAZARD AND OTHER INSURANCE:** The availability and cost of necessary or desired insurance may vary. The location of the Property in a seismic, flood or fire hazard zone, and other conditions, such as the age of the Property and the claims history of the Property and Buyer, may affect the availability and need for certain types of insurance. Buyer should explore insurance options early as this information may affect other decisions, including the removal of loan and inspection contingencies.

I. **BUILDING PERMITS, ZONING AND GOVERNMENTAL REQUIREMENTS:** Permits, inspections, certificates, zoning, other governmental limitations, restrictions, and requirements affecting the current or future use of the Property, its development or size.

J. **RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants, and the right of a landlord to terminate a tenancy. Deadbolt or other locks and security systems for doors and windows, including window bars, should be examined to determine whether they satisfy legal requirements.

K. **SECURITY AND SAFETY:** State and local Law may require the installation of barriers, access alarms, self-latching mechanisms and/or other measures to decrease the risk to children and other persons of existing swimming pools and hot tubs, as well as various fire safety and other measures concerning other features of the Property.

L. **NEIGHBORHOOD, AREA, SUBDIVISION CONDITIONS; PERSONAL FACTORS:** Neighborhood or area conditions, including schools, law enforcement, crime statistics, registered felons or offenders, fire protection, other government services, availability, adequacy and cost of internet connections or other technology services and installations, commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Buyer.

By signing below, Buyers acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyers are encouraged to read it carefully.

Buyer _____ Buyer _____

Keith Henderson & Associates, Inc.

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Keith Henderson Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

31 CALIFORNIA ASSOCIATION OF REALTORS®

POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER - DISCLOSURE AND CONSENT

(C.A.R. Form PRBS, 11/14)

A real estate broker (Broker), whether a corporation, partnership or sole proprietorship, may represent more than one buyer or seller. This multiple representation can occur through an individual licensed as a broker or salesperson or through different individual broker's or salespersons (associate licensees) acting under the Broker's license. The associate licensees may be working out of the same or different office locations.

Multiple Buyers: Broker (individually or through its associate licensees) may be working with many prospective buyers at the same time. These prospective buyers may have an interest in, and make offers on, the same properties. Some of these properties may be listed with Broker and some may not. Broker will not limit or restrict any particular buyer from making an offer on any particular property whether or not Broker represents other buyers interested in the same property.

Multiple Sellers: Broker (individually or through its associate licensees) may have listings on many properties at the same time. As a result, Broker will attempt to find buyers for each of those listed properties. Some listed properties may appeal to the same prospective buyers. Some properties may attract more prospective buyers than others. Some of these prospective buyers may be represented by Broker and some may not. Broker will market all listed properties to all prospective buyers whether or not Broker has another or other listed properties that may appeal to the same prospective buyers.

Dual Agency: If Seller is represented by Broker, Seller acknowledges that broker may represent prospective buyers of Seller's property and consents to Broker acting as a dual agent for both seller and buyer in that transaction. If Buyer is represented by Broker, buyer acknowledges that Broker may represent sellers of property that Buyer is interested in acquiring and consents to Broker acting as a dual agent for both buyer and seller with regard to that property.

In the event of dual agency, seller and buyer agree that: **(a)** Broker, without the prior written consent of the Buyer, will not disclose to seller that the Buyer is willing to pay a price greater than the offered price; **(b)** Broker, without the prior written consent of the seller, will not disclose to the buyer that seller is willing to sell property at a price less than the listing price; and **(c)** other than as set forth in (a) and (b) above, a dual agent is obligated to disclose known facts materially affecting the value or desirability of the property to both parties.

Offers not necessarily confidential: Buyer is advised that seller or listing agent may disclose the existence, terms, or conditions of buyer's offer unless all parties and their agent have signed a written confidentiality agreement. Whether any such information is actually disclosed depends on many factors, such as current market conditions, the prevailing practice in the real estate community, the listing agent's marketing strategy and the instructions of the seller.

Buyer and seller understand that Broker may represent more than one buyer or more than one seller and even both buyer and seller on the same transaction and consents to such relationships.

Seller and/or Buyer acknowledges reading and understanding this Possible Representation of More Than One Buyer or Seller - Disclosure and Consent and agrees to the agency possibilities disclosed.

Seller _____ ***Owner(s) of record*** Date _____
Seller _____ Date _____

Buyer _____ ***Keith Henderson & Associates, Inc.*** Date _____
Buyer _____ Date _____

Real Estate Broker (Firm) ***N/A*** _____ CalBRE Lic # _____ Date _____
By _____ CalBRE Lic # _____ Date _____

Real Estate Broker (Firm) ***N/A*** _____ CalBRE Lic # _____ Date _____
By _____ CalBRE Lic # _____ Date _____

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CALIFORNIA ASSOCIATION OF REALTORS®

ADDENDUM

(C.A.R. Form ADM, Revised 12/15)

No. 1

The following terms and conditions are hereby incorporated in and made a part of the: ☐ Purchase Agreement, ☐ Residential Lease or Month-to-Month Rental Agreement, ☐ Transfer Disclosure Statement (Note: An amendment to the TDS may give the Buyer a right to rescind), ☐ Other _____,
dated *February 17, 2017*, on property known as *6176 Federal blvd.*
SAN DIEGO, 92114
in which *Keith Henderson & Associates, Inc.* is referred to as ("Buyer/Tenant")
and *Owner(s) of record* is referred to as ("Seller/Landlord").

The Memorandum of Understanding, and Services Agreement Contract, both dated 1/31/17, shall be incorporated into this purchase agreement.

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this document.

Date _____ Date _____

Buyer/Tenant _____ Seller/Landlord _____
Keith Henderson & Associates, Inc. *Owner(s) of record*

Buyer/Tenant _____ Seller/Landlord _____

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Reviewed by _____ Date _____

EQUAL HOUSING OPPORTUNITY

Memorandum of Understanding

Date: 01/31/17

Between:
Mr. Darryl Cotton, an individual (Cotton)
6176 Federal Boulevard
San Diego, CA 92114

Ph: 619.954.4447
E-mail: Darryl@dalbercia.us

Mr. Keith Henderson, an individual (Henderson)
1545 Hotel Circle South, Ste. 145
San Diego, CA 92108

Ph: 760.413.1606
E-mail: Reokeith@gmail.com

Pursuant to conversations held by all parties this Memorandum of Understanding (MOU) will serve to act as the basis for development of a Contract or in the absence of a Contract be used as the Contract between both parties to define our mutually beneficial relationship, responsibilities, services and terms relative to the commercial development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by Mr. Keith Henderson and Keith Henderson & Associates, Inc., a California Corporation. This MOU and any Contract that would be entered into as a result of this MOU will bind Keith Henderson, individually and Keith Henderson & Associates, Inc. (KHA) to the Terms and Conditions set forth within this MOU.

1)Cotton believes that KHA is in the unique position having the skills, experience and financial resources to develop the property as a licensed retail dispensary of marijuana products. Therefore Cotton, as the owner of the property, hereby agrees to sell the property in 'as is' condition to KHA for the sum of $400,000.00 and a minority 10% shareholder position by Cotton in KHA or a New Business Entity (NBE) that would be formed for the ownership and operation of the new dispensary to at 6176 Federal Blvd., San Diego, CA 92114. Should an NBE be formed for the purposes of ownership and operation of the new dispensary the 10% equity would apply to the NBE and Henderson would remain personal guarantor for the NBE and the Terms and Conditions set forth in this MOU.

2)Upon acceptance of the Purchase Agreement for the property, KHA will begin the necessary design work necessary for the project redevelopment and simultaneous application for the CUP with the City of San Diego. Both of these processes take what is anticipated to be 9-12 months before construction would begin. In consideration of the sale price the current tenant, Inda-Gro, would be given use of the property at no charge until such time that the permits have been secured and the 30 Day Notice to Vacate, as defined in the separate Service Agreement Contract has been issued to Inda-Gro.

3)KHA shall bear all costs and submit all necessary paperwork and documentation to the City of San Diego Development Services required in which to acquire a Conditional Use Permit (CUP) to operate as a licensed Medical Marijuana Consumer Cooperative (MMCC) at the property. Cotton makes no claims as to whether or not the property is suitable or is eligible for that business. KHA assumes all responsibility, costs and liabilities for that process and whatever its final outcome and determination with the City of San Diego may be.

4)Upon issuance of permits KHA plans to demolish the existing structures on the property and construct a new 2 story retail and office building. KHA will assume all costs associated with this development including design, engineering, planning, permits and construction related charges. Cotton makes no assurances or claims as to suitability or City of San Diego acceptability for the intended development but KHA has stated that as a result of their due diligence the property has been deemed acceptable for the intended use and development as described herein.

5)Upon opening of the new dispensary KHA have agreed that KHA or a NBE will pay Cotton a monthly 10% of the dispensary's net profits. Cotton would ask that the payments be made on or before the 15th of each month accounting for the previous month's sales. Payments may be made in the form of cash or check as KHA prefers. KHA will accompany these payments with a copy of any City of San Diego or Board of Equalization tax reporting forms that would serve to reconcile the amount being paid Cotton to the amount being reported to these agencies.

6)If at some future date KHA or the NBE decides to sell their interest in the dispensary Cotton may at his discretion elect to either take a 10% share in the sale price or maintain a 10% net profit relationship with the new owner. Cotton may also at some future date elect to assign his 10% to a trust or heir and the same terms and conditions would apply.

I/we accept this Memorandum of Understanding and do hereby agree to the Terms and Conditions as set forth herein:

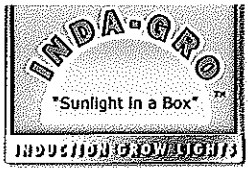
Sign: _____ Print Name: _____ Date: _____

Darryl Cotton, an individual

Sign: _____ Print Name: Keith Henderson Date: 2-1-17

Keith Henderson,an individual

Sign: _____ Print Name: _____ Date: _____



SERVICES AGREEMENT CONTRACT

Date: 01/31/17

Customer: Keith Henderson & Associates, Inc.
1545 Hotel Circle South, Ste. 145
San Diego, CA 92108

Attn: Mr. Keith Henderson
Ph: 760.413.1606
E-mail: REOKeith@gmail.com

Mr. Henderson;

Pursuant to our conversations I have developed this document to act as the Contract between us that will serve to define our relationship, services, and fee's for the development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by you or your designated entity.

1)The property is currently owned by me, Darryl Cotton (Cotton-Seller) and occupied by my company, Inda-Gro Induction Lighting Company (Inda-Gro-Tenant). Under separate Contract Cotton has agreed to sell the property to Keith Henderson (KH) for $400,000.00 and a 10% equity position in the new licensed cannabis dispensary business being developed at the property by KH.

2)Upon completion and transfer of property ownership Cotton will immediately cease being the landlord to Inda-Gro and Inda-Gro will become the tenant of KH.

3)KH plans to tear down the existing structure(s) and build a new structure for a commercial dispensary. Under this Agreement KH will allow Inda-Gro to remain in the property at no charge until such time that the plan check with the City of San Diego has been approved and permits have been issued. This process is expected to take 6-9 months. At the time KH notices Inda-Gro that the permits have been issued Inda-Gro will have 30 days to vacate the property. Inda-Gro agrees to cooperate with KH architects to access the property during the design phase of this work.

4)Inda-Gro is agreeing to vacate the property in consideration for a relocation fee of $400,000.00 of which payment would be made in two parts. Upon acceptance of the conditional use Permit (CUP) by the city of san diego, and accompanying building plans ($200,000). Upon issuance of the final permitting inspections from construction ,the balance, $200,000.00 would become payable and due.

5)Inda-Gro currently operates what we refer to as a 151 Farm. This is a teaching and touring farm that demonstrates urban farming technologies which utilize our lighting systems, controls and water savings strategies utilizing Aquaponics systems. Since it is in the interest of all parties; Inda-Gro, Cotton and KH to identify ongoing investment opportunities with both cannabis and non-cannabis related ventures Inda-Gro and Cotton agree to use the current property to highlight the benefits of what having a

licensed dispensary is to the community and once relocated Inda-Gro/Cotton would agree to continue to promote the new dispensary as an example of seed to sale retail distribution as well as identify other investment opportunities that develop from interested parties having toured our facilities and wishing to establish similar operations.

6)KH may wish to have interested parties tour the current and new property for Inda-Gro 151 Farms. This too is acceptable and under this Agreement would be a mutual collaboration and strategic alliance in terms of the farming and cultivation aspects provided by Inda-Gro and the Site Acquisition, Design/Build Construction and Retail Cannabis Services provided by KH for those future contracts.

TOTAL PRICE: Six Hundred Thousand and 00/100 ($ 400,000.00)

I/we accept the Service Agreement Contract as detailed and do hereby agree to the Terms as set forth herein:

Sign: _____ Print Name: _____ Date: _____
Darryl Cotton, President

Sign: _____ Print Name: Keith Hadson Date: 2-1-17
Keith Henderson

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

6176 Federal - Purchase Agreement

1 message

Keith Henderson <reokeith@gmail.com> Thu, Mar 16, 2017 at 11:40 AM
To: Darryl Cotton <indagrodarryl@gmail.com>, Darryl Cotton <darryl@inda-gro.com>

Hey Darryl

See attached purchase agreement for 6176 Federal, along with the MOU and other documents.

please let me know if you have any questions,

I am ready to get started ASAP,

Keith Henderson
Realtor, Broker/Owner
RE/MAX PACIFIC
Direct: 760-413-1606
FAX: 619-374-2740
REOKeith@gmail.com
KeithHendersonHomes.com

Bre Lic # 01719028

2 attachments

6176_Federal_Blvd-Documents.pdf
341K

201702011150-2.pdf
243K

38 CALIFORNIA ASSOCIATION OF REALTORS®

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(Selling Firm to Buyer)
(As required by the Civil Code)
(C.A.R. Form AD, Revised 12/14)

☐ (If checked) This form is being provided in connection with a transaction for a leasehold interest exceeding one year as per Civil Code section 2079.13(k) and (m).

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A Fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. **This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).**

☐ Buyer ☐ Seller ☐ Landlord ☐ Tenant _____ Date _____
Keith Henderson & Associates, Inc.

☐ Buyer ☐ Seller ☐ Landlord ☐ Tenant _____ Date _____

Agent *N/A* BRE Lic. # _____
Real Estate Broker (Firm)

By _____ BRE Lic. # _____ Date _____
(Salesperson or Broker-Associate)

Agency Disclosure Compliance (Civil Code §2079.14):

- When the listing brokerage company also represents Buyer/Tenant: The Listing Agent shall have one AD form signed by Seller/Landlord and a different AD form signed by Buyer/Tenant.
- When Seller/Landlord and Buyer/Tenant are represented by different brokerage companies: (i) the Listing Agent shall have one AD form signed by Seller/Landlord and (ii) the Buyer's/Tenant's Agent shall have one AD form signed by Buyer/Tenant and either that same or a different AD form presented to Seller/Landlord for signature prior to presentation of the offer. If the same form is used, Seller may sign here:

Seller/Landlord *Owner(s) of record* Date Seller/Landlord Date

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Reviewed by _____ Date _____

EQUAL HOUSING OPPORTUNITY

RE/MAX Pacific, 1545 Hotel Circle South, Suite 145 San Diego, CA 92108 Phone: 760-413-1606 Fax: 619-374-2740 6176 Federal Blvd
Keith Henderson
Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

CIVIL CODE SECTIONS 2079.24 (2079.16 APPEARS ON THE FRONT)

2079.13 As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings: **(a)** "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. **(b)** "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee. The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions. **(c)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee. **(d)** "Commercial real property" means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29. **(e)** "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction. **(f)** "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer. **(g)** "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation. **(h)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent. **(i)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(j)** "Offer to purchase" means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(k)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year's duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(l)** "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase. **(m)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(n)** "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor. **(o)** "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller. **(p)** "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2079.14 Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c), shall obtain a signed acknowledgement of receipt from that seller or buyer, except as provided in this section or Section 2079.15, as follows: **(a)** The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision (a). **(c)** Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgement of receipt obtained for the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgement of receipt is required. **(d)** The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

2079.15 In any circumstance in which the seller or buyer refuses to sign an acknowledgement of receipt pursuant to Section 2079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.16 Reproduced on Page 1 of this AD form.

2079.17 (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller.

(c) The confirmation required by subdivisions (a) and (b) shall be in the following form.

(DO NOT COMPLETE. SAMPLE ONLY) is the agent of (check one): ☐ the seller exclusively; or ☐ both the buyer and seller.
(Name of Listing Agent)

(DO NOT COMPLETE. SAMPLE ONLY) is the agent of (check one): ☐ the buyer exclusively; or ☐ the seller exclusively; or ☐ both the buyer and seller.
(Name of Selling Agent if not the same as the Listing Agent)

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

2079.18 No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

2079.23 A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

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525 South Virgil Avenue, Los Angeles, California 90020

Reviewed by _____ *Date* _____

EQUAL HOUSING OPPORTUNITY

40 CALIFORNIA ASSOCIATION OF REALTORS®

COMMERCIAL PROPERTY PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

(NON-RESIDENTIAL)

(C.A.R. Form CPA, Revised 12/15)

Date Prepared: *03/16/2017*

1. OFFER:

A. THIS IS AN OFFER FROM *Keith Henderson & Associates, Inc.* ("Buyer").
☐ Individual(s), ☒ A Corporation, ☐ A Partnership, ☐ An LLC, ☐ An LLP, or ☐ Other _____.

B. THE REAL PROPERTY to be acquired is *6176 Federal blvd.*, situated in *SAN DIEGO* (City), *SAN DIEGO* (County), California, *92114* (Zip Code), Assessor's Parcel No. _____ ("Property").

C. THE PURCHASE PRICE offered is *Four Hundred Thousand* Dollars $ *400,000.00*.

D. CLOSE OF ESCROW shall occur on ☐ _____ (date) (or ☒ *180* **Days** After Acceptance).

E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.

2. AGENCY:

A. DISCLOSURE: The Parties each acknowledge receipt of a ☒ "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD)

B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction:
Listing Agent *N/A* (Print Firm Name) is the agent of (check one): ☐ the Seller exclusively; or ☐ both the Buyer and Seller.
Selling Agent *N/A* (Print Firm Name) (if not the same as the Listing Agent) is the agent of (check one): ☐ the Buyer exclusively; or ☐ the Seller exclusively; or ☐ both the Buyer and Seller.

C. POTENTIALLY COMPETING BUYERS AND SELLERS: The Parties each acknowledge receipt of a ☒ "Possible Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).

3. FINANCE TERMS: Buyer represents that funds will be good when deposited with Escrow Holder.

A. INITIAL DEPOSIT: Deposit shall be in the amount of ..... $ *50,000.00*
(1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, ☐ cashier's check, ☐ personal check, ☐ other _____ within 3 business days after Acceptance (or _____);
OR (2) ☐ Buyer Deposit with Agent: Buyer has given the deposit by personal check (or _____) to the agent submitting the offer (or to _____), made payable to _____. The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within **3** business days after Acceptance (or _____). Deposit checks given to agent shall be an original signed check and not a copy.
(Note: Initial and increased deposit checks received by agent shall be recorded in Broker's trust fund log.)

B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of. . . $ _____ within ____ **Days** After Acceptance (or _____).
If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.

C. ☐ ALL CASH OFFER: No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or ☐ Buyer shall, within **3 (or _____) Days** After Acceptance, Deliver to Seller such verification.

D. LOAN(S):

(1) FIRST LOAN: in the amount of ..... $ _____
This loan will be conventional financing or ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing, ☐ Other _____. This loan shall be at a fixed rate not to exceed _____ % or, ☐ an adjustable rate loan with initial rate not to exceed _____ %. Regardless of the type of loan, Buyer shall pay points not to exceed _____ % of the loan amount.

(2) ☐ SECOND LOAN in the amount of ..... $ _____
This loan will be conventional financing or ☐ Seller financing (C.A.R. Form SFA), ☐ assumed financing (C.A.R. Form AFA), ☐ subject to financing, ☐ Other _____. This loan shall be at a fixed rate not to exceed _____ % or, ☐ an adjustable rate loan with initial rate not to exceed _____ %. Regardless of the type of loan, Buyer shall pay points not to exceed _____ % of the loan amount.

E. ADDITIONAL FINANCING TERMS: *All cash offer. Buyer is a CA Real Estate Broker, Lic # 01719028.*

F. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of ..... $ *350,000.00*
to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

G. PURCHASE PRICE (TOTAL): ..... $ *400,000.00*

H. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS: Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within **3 (or ___) Days** After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (☐ Verification attached.)

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

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EQUAL HOUSING OPPORTUNITY

RE/MAX Pacific, 1545 Hotel Circle South, Suite 145 San Diego, CA 92108 Phone: 760-413-1606 Fax: 619-374-2740 6176 Federal Blvd
Keith Henderson Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

I. **APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (**or** ☐ is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 14B(3), in writing, remove the appraisal contingency or cancel this Agreement within **17 (or ____) Days** After Acceptance.

J. **LOAN TERMS:**

(1) LOAN APPLICATIONS: Within **3 (or ___) Days** After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. (☐ Letter attached.)

(2) LOAN CONTINGENCY: Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above **is a contingency** of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs **are not contingencies** of this Agreement.

(3) LOAN CONTINGENCY REMOVAL:

Within **21 (or ____) Days** After Acceptance, Buyer shall, as specified in paragraph 18, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.

(4) ☒ NO LOAN CONTINGENCY: Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

(5) LENDER LIMITS ON BUYER CREDITS: Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

K. **BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

4. SALE OF BUYER'S PROPERTY:

A. This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.

OR B. ☐ This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).

5. ADDENDA AND ADVISORIES:

A. ADDENDA:

☐ Back Up Offer Addendum (C.A.R. Form BUO)	☐ Addendum # _____ (C.A.R. Form ADM)
☐ Septic, Well and Property Monument Addendum (C.A.R. Form SWPI)	☐ Court Confirmation Addendum (C.A.R. Form CCA)
☐ Short Sale Addendum (C.A.R. Form SSA)	☐ Other

B. BUYER AND SELLER ADVISORIES:

☐ Probate Advisory (C.A.R. Form PA)	☒ Buyer's Inspection Advisory (C.A.R. Form BIA)
☐ Trust Advisory (C.A.R. Form TA)	☐ Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
☐ Short Sale Information and Advisory (C.A.R. Form SSIA)	☐ REO Advisory (C.A.R. Form REO)
	☐ Other

6. OTHER TERMS: ***Buyer shall pay for any/all costs or fees associated with applying for and obtaining the entitlements for a Conditional Use Permit for a MMCC for this property. Close of escrow shall be within 30-days of the city of San Diego issuing a C.U.P. All terms are contingent on the city issuing a CUP for this property. Buyer is granted the exclusive right to apply for and obtain this C.U.P.***

7. ALLOCATION OF COSTS

A. INSPECTIONS, REPORTS AND CERTIFICATES: Unless otherwise agreed, in writing, this paragraph only determines who is to pay for the inspection, test, certificate or service ("Report") mentioned; it **does not determine who is to pay for any work recommended or identified in the Report.**

(1) ☒ Buyer ☐ Seller shall pay for a natural hazard zone disclosure report, including tax ☐ environmental ☐ Other: _____ prepared by _____.

(2) ☐ Buyer ☐ Seller shall pay for the following Report _____ prepared by _____.

(3) ☐ Buyer ☐ Seller shall pay for the following Report _____ prepared by _____.

B. GOVERNMENT REQUIREMENTS AND RETROFIT:

(1) ☐ Buyer ☐ Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.

(2) (i) [X] Buyer [ ] Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.
(ii) [X] Buyer [ ] Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.
(iii) Buyer shall be provided, within the time specified in paragraph 18A, a copy of any required government conducted or point-of-sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.

C. ESCROW AND TITLE:
(1) (a) [X] Buyer [ ] Seller shall pay escrow fee _____.
(b) Escrow Holder shall be *Pacific Escrow - Christi Bauer*.
(c) The Parties shall, within **5 (or ___) Days** After receipt, sign and return Escrow Holder's general provisions.
(2) (a) [X] Buyer [ ] Seller shall pay for **owner's** title insurance policy specified in paragraph 17E _____.
(b) Owner's title policy to be issued by _____.
(Buyer shall pay for any title insurance policy insuring Buyer's **lender**, unless otherwise agreed in writing.)

D. OTHER COSTS:
(1) [X] Buyer [ ] Seller shall pay County transfer tax or fee _____.
(2) [X] Buyer [ ] Seller shall pay City transfer tax or fee _____.
(3) [ ] Buyer [ ] Seller shall pay Owners' Association ("OA") transfer fee _____.
(4) Seller shall pay OA fees for preparing all documents required to be delivered by Civil Code §4525.
(5) [X] Buyer [ ] Seller shall pay OA fees for preparing all documents other than those required by Civil Code §4525.
(6) Buyer to pay for any HOA certification fee.
(7) [X] Buyer [ ] Seller shall pay for any private transfer fee _____.
(8) [ ] Buyer [ ] Seller shall pay for _____.
(9) [ ] Buyer [ ] Seller shall pay for _____.

8. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:

A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are **not** included in the purchase price or excluded from the sale unless specified in paragraph 8 B, C or D.

B. ITEMS INCLUDED IN SALE:
(1) All EXISTING fixtures and fittings that are attached to the Property;
(2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers, security systems/alarms.
(3) A complete inventory of all personal property of Seller currently used in the operation of the Property and included in the purchase price shall be delivered to Buyer within the time specified in paragraph 18A.
(4) Seller represents that all items included in the purchase price are, unless otherwise specified or identified pursuant to 8B(7), owned by Seller. Within the time specified in paragraph 18A, Seller shall give Buyer a list of fixtures not owned by Seller.
(5) Seller shall deliver title to the personal property by Bill of Sale, free and clear of all liens and encumbrances, and without seller warranty of condition regardless of value.
(6) As additional security for any note in favor of Seller for any part of the purchase price, Buyer shall execute a UCC-1 Financing Statement to be filed with the Secretary of State, covering the personal property included in the purchase, replacement thereof, and insurance proceeds.
(7) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller shall, within the time specified in paragraph 18A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item. Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 18B and C.

C. ITEMS EXCLUDED FROM SALE: Unless otherwise specified, the following items are excluded from sale: _____

D. OTHER ITEMS:
(1) Existing integrated phone and automation systems, including necessary components such as intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are ([ ] are NOT) included in the sale.

9. CLOSING AND POSSESSION:

A. Seller-occupied or vacant property: Possession shall be delivered to Buyer: (i) [ ] at 6 PM or (_____ [ ] AM/ [ ] PM) on the date of Close Of Escrow; (ii) [ ] no later than ___ calendar days After Close Of Escrow; or (iii) [ ] at ____ [ ] AM/ [ ] PM on _____.

B. Seller Remaining in Possession After Close Of Escrow: If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as [ ] C.A.R. Form CL; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.

C. Tenant Occupied Units: Possession and occupancy, subject to the rights of tenants under existing leases, shall be delivered to Buyer on Close Of Escrow.

D. At Close Of Escrow: **(i)** Seller assigns to Buyer any assignable warranty rights for items included in the sale; and **(ii)** Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.

E. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Owners' Association ("OA") to obtain keys to accessible OA facilities.

10. SECURITY DEPOSITS: Security deposits, if any, to the extent they have not been applied by Seller in accordance with any rental agreement and current Law, shall be transferred to Buyer on Close Of Escrow. Seller shall notify each tenant, in compliance with the Civil Code.

11. SELLER DISCLOSURES:

A. NATURAL AND ENVIRONMENTAL DISCLOSURES: Seller shall, within the time specified in paragraph 18, if required by Law: **(i)** Deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; **(ii)** even if exempt from the obligation to provide an NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and **(iii)** disclose any other zone as required by Law and provide any other information required for those zones.

B. ADDITIONAL DISCLOSURES: Within the time specified in paragraph 18, Seller shall Deliver to Buyer, in writing, the following disclosures, documentation and information:

(1) RENTAL SERVICE AGREEMENTS: (i) All current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; and **(ii)** a rental statement including names of tenants, rental rates, period of rental, date of last rent increase, security deposits, rental concessions, rebates, or other benefits, if any, and a list of delinquent rents and their duration. Seller represents that no tenant is entitled to any concession, rebate, or other benefit, except as set forth in these documents.

(2) INCOME AND EXPENSE STATEMENTS: The books and records, including a statement of income and expense for the 12 months preceding Acceptance. Seller represents that the books and records are those maintained in the ordinary and normal course of business, and used by Seller in the computation of federal and state income tax returns.

(3) ☐ **TENANT ESTOPPEL CERTIFICATES:** (If checked) Tenant estoppel certificates (C.A.R. Form TEC) completed by Seller or Seller's agent, and signed by tenants, acknowledging: **(i)** that tenants' rental or lease agreements are unmodified and in full force and effect (or if modified, stating all such modifications); **(ii)** that no lessor defaults exist; and **(iii)** stating the amount of any prepaid rent or security deposit.

(4) SURVEYS, PLANS AND ENGINEERING DOCUMENTS: Copies of surveys, plans, specifications and engineering documents, if any, in Seller's possession or control.

(5) PERMITS: If in Seller's possession, Copies of all permits and approvals concerning the Property, obtained from any governmental entity, including, but not limited to, certificates of occupancy, conditional use permits, development plans, and licenses and permits pertaining to the operation of the Property.

(6) STRUCTURAL MODIFICATIONS: Any known structural additions or alterations to, or the installation, alteration, repair or replacement of, significant components of the structure(s) upon the Property.

(7) GOVERNMENTAL COMPLIANCE: Any improvements, additions, alterations or repairs made by Seller, or known to Seller to have been made, without required governmental permits, final inspections, and approvals.

(8) VIOLATION NOTICES: Any notice of violations of any Law filed or issued against the Property and actually known to Seller.

(9) MISCELLANEOUS ITEMS: Any of the following, if actually known to Seller: **(i)** any current pending lawsuit(s), investigation(s), inquiry(ies), action(s), or other proceeding(s) affecting the Property, or the right to use and occupy it; **(ii)** any unsatisfied mechanic's or materialman's lien(s) affecting the Property; and **(iii)** that any tenant of the Property is the subject of a bankruptcy.

C. WITHHOLDING TAXES: Within the time specified in paragraph 18A, to avoid required withholding Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law, (C.A.R. Form AS or QS).

D. NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES: This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at **http://www.npms.phmsa.dot.gov/**. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.

E. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:

(1) SELLER HAS: 7 (or ___) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned development or other common interest subdivision.

(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has **3 (or ___) Days** After Acceptance to request from the OA (C.A.R. Form HOA1): **(i)** Copies of any documents required by Law; **(ii)** disclosure of any pending or anticipated claim or litigation by or against the OA; **(iii)** a statement containing the location and number of designated parking and storage spaces; **(iv)** Copies of the most recent 12 months of OA minutes for regular and special meetings; and **(v)** the names and contact information of all OAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the OA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 18B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to OA or management company to pay for any of the above.

12. ☐ **ENVIRONMENTAL SURVEY** (If checked): Within _____ **Days** After Acceptance, Buyer shall be provided a phase one environmental survey report paid for and obtained by ☐ Buyer ☐ Seller. Buyer shall then, as specified in paragraph 18, remove this contingency or cancel this Agreement.
13. **SUBSEQUENT DISCLOSURES:** In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer of which Buyer is otherwise unaware, Seller shall promptly Deliver a subsequent or amended disclosure or notice in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies disclosed in reports ordered and paid for by Buyer.**
14. **CHANGES DURING ESCROW:**
    A. Prior to Close Of Escrow, Seller may only engage in the following acts, ("Proposed Changes"), subject to Buyer's rights in paragraph 14B: **(i)** rent or lease any vacant unit or other part of the premises; **(ii)** alter, modify, or extend any existing rental or lease agreement; **(iii)** enter into, alter, modify or extend any service contract(s); or **(iv)** change the status of the condition of the Property.
    B. **(1) 7 (or ☐ ___) Days** prior to any Proposed Changes, Seller shall Deliver written notice to Buyer of any Proposed Changes.
    (2) Within **5 (or ___) Days** After receipt of such notice, Buyer, in writing, may give Seller notice of Buyer's objection to the Proposed Changes in which case Seller shall not make the Proposed Changes.
15. **CONDITION OF PROPERTY:** Unless otherwise agreed in writing: **(i)** the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's Investigation rights; **(ii)** the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and **(iii)** all debris and personal property not included in the sale shall be removed by Close Of Escrow.
    A. Seller shall, within the time specified in paragraph 18A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
    B. Buyer has the right to conduct Buyer Investigations of the property and, as specified in paragraph 18B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make Repairs or take other action.
    C. **Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.**
16. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**
    A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 18B. Within the time specified in paragraph 18B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: **(i)** inspect for lead-based paint and other lead-based paint hazards; **(ii)** inspect for wood destroying pests and organisms. Any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infections (Section 1) and for conditions likely to lead to infestation or infection (Section 2); **(iii)** review the registered sex offender database; **(iv)** confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; **(v)** review and seek approval of leases that may need to be assumed by Buyer; and **(vi)** satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: **(i)** invasive or destructive Buyer Investigations except for minimally invasive testing required to prepare a Pest Control Report; or **(ii)** inspections by any governmental building or zoning inspector or government employee, unless required by Law.
    B. Seller shall make the Property available for all Buyer Investigations. Buyer shall **(i)** as specified in paragraph 18B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and **(ii)** give Seller, at no cost, complete Copies of all such Investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
    C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.
    D. **Buyer indemnity and seller protection for entry upon property:** Buyer shall: **(i)** keep the Property free and clear of liens; **(ii)** repair all damage arising from Buyer Investigations; and **(iii)** indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.
17. **TITLE AND VESTING:**
    A. Within the time specified in paragraph 18, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 18B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.
    B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: **(i)** monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and **(ii)** those matters which Seller has agreed to remove in writing.
    C. Within the time specified in paragraph 18A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.

D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

E. Buyer shall receive a standard coverage owners CLTA policy of title insurance. An ALTA policy or the addition of endorsements may provide greater coverage for Buyer. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and shall pay any increase in cost.

18. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).

A. **SELLER HAS: 7 (or ___) Days** After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5A, 6, 7, 8B(7), 11A, B, C, D and E, 12, 15A and 17A. Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement if Seller has not Delivered the items within the time specified.

B. (1) **BUYER HAS: 17 (or ___) Days** After Acceptance, unless otherwise agreed in writing, to:
(i) complete all Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(7) and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property.
(2) Within the time specified in paragraph 18B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.
(3) By the end of the time specified in paragraph 18B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 18A, then Buyer has **5 (or ___) Days** After Delivery of any such items, or the time specified in paragraph 18B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.
(4) Continuation of Contingency: Even after the end of the time specified in paragraph 18B(1) and before Seller cancels, if at all, pursuant to paragraph 18C, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 18C(1).

C. **SELLER RIGHT TO CANCEL:**
(1) Seller right to Cancel; Buyer Contingencies: If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
(2) Seller right to Cancel; Buyer Contract Obligations: Seller, after first delivering to Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): **(i)** Deposit funds as required by paragraph 3A or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; **(ii)** Deliver a letter as required by paragraph 3J(1); **(iii)** Deliver verification as required by paragraph 3C or 3H or if Seller reasonably disapproves of the verification provided by paragraph 3C or 3H; or **(iv)** In writing assume or accept leases or liens specified in 8B(7); **(v)** Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 25B; or **(vi)** Provide evidence of authority to sign in a representative capacity as specified in paragraph 23. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

D. **NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: **(i)** be in writing; **(ii)** be signed by the applicable Buyer or Seller; and **(iii)** give the other Party at least **2** (or __) **Days** After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than **2 Days** Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 18.

E. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: **(i)** completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; **(ii)** elected to proceed with the transaction; and **(iii)** assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.

F. **CLOSE OF ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: **(i)** be signed by the applicable Buyer or Seller; and **(ii)** give the other Party at least **3 (or _____) Days** After Delivery to close escrow. A DCE may not be Delivered any earlier than **3 Days** Prior to the scheduled close of escrow.

G. **EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, **release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award.** If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within **10 Days** After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursal of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. **A Party may be subject to a civil penalty of up to $1,000 for refusal to sign cancellation instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).**

19. REPAIRS: Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: **(i)** obtain invoices and paid receipts for Repairs performed by others; **(ii)** prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and **(iii)** provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.

20. FINAL VERIFICATION OF CONDITION: Buyer shall have the right to make a final verification of the Property within **5 (or __) Days** Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: **(i)** the Property is maintained pursuant to paragraph 15; **(ii)** Repairs have been completed as agreed; and **(iii)** Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).

21. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS: Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, OA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: **(i)** for periods after Close Of Escrow, by Buyer; and **(ii)** for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.

22. BROKERS:

A. COMPENSATION: Seller or Buyer, or both, as applicable, agrees to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.

B. BROKERAGE: Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as specified in this Agreement, in connection with any act relating to the Property, including, but not limited to, inquiries, introductions, consultations and negotiations leading to this Agreement. Buyer and Seller each agree to indemnify, defend, and hold the other, the Brokers specified herein and their agents, harmless from and against any costs, expenses or liability for compensation claimed inconsistent with the warranty and representations in this paragraph.

C. SCOPE OF DUTY: Buyer and Seller acknowledge and agree that Broker: **(i)** Does not decide what price Buyer should pay or Seller should accept; **(ii)** Does not guarantee the condition of the Property; **(iii)** Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; **(iv)** Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; **(v)** Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; **(vi)** Shall not be responsible for inspecting public records or permits concerning the title or use of Property; **(vii)** Shall not be responsible for identifying the location of boundary lines or other items affecting title; **(viii)** Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; **(ix)** Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; **(x)** Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and **(xi)** Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

23. REPRESENTATIVE CAPACITY: If one or more Parties is signing the Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 40 or 41 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on the Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall Deliver to the other Party and Escrow Holder, within **3 Days** After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code 18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).

24. JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:

A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5A, 6, 7, 10, 11D, 17, 18G, 21, 22A, 23, 24, 30, 38, 39, 41, 42 and paragraph D of the section titled Real Estate Brokers on page 11. If a Copy of the separate compensation agreement(s) provided for in paragraph 22A, or paragraph D of the section titled Real Estate Brokers on page 11 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within **3 (or __) Days**, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 11 or elsewhere in this Agreement.

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within **3 Days** After Acceptance (or _____). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 10C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.

C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 22A and paragraph D of the section titled Real Estate Brokers on page 11. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 22A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.

D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: **(i)** if Buyer's initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or **(ii)** if Buyer and Seller instruct Escrow Holder to cancel escrow.

E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within **3** Days after mutual execution of the amendment.

25. REMEDIES FOR BUYER'S BREACH OF CONTRACT:

A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.

B. LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. Buyer and Seller agree that this amount is a reasonable sum given that it is impractical or extremely difficult to establish the amount of damages that would actually be suffered by Seller in the event Buyer were to breach this Agreement. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R.FORM RID).

Buyer's Initials _____ / _____ Seller's Initials _____ / _____

26. DISPUTE RESOLUTION:

A. MEDIATION: The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Consumer Mediation Center **(www. consumermediation.org)** or through any other mediation provider or service mutually agreed to by the Parties. The Parties **also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker.** Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. **Exclusions from this mediation agreement are specified in paragraph 26C.**

B. ARBITRATION OF DISPUTES: The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of transactional real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 26C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials _____ / _____ Seller's Initials _____ / _____

C. **ADDITIONAL MEDIATION AND ARBITRATION TERMS:**

(1) **EXCLUSIONS: The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.**

(2) **PRESERVATION OF ACTIONS: The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.**

(3) **BROKERS: Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to the Agreement.**

27. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
28. **MULTIPLE LISTING SERVICE/PROPERTY DATA SYSTEM:** If Broker is a participant of a Multiple Listing Service ("MLS") or Property Data System ("PDS"), Broker is authorized to report to the MLS or PDS a pending sale and, upon Close Of Escrow, the terms of this transaction to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS or PDS.
29. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorneys fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 26A.
30. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the written consent of Seller. Such consent shall not be unreasonably withheld unless otherwise agreed in writing. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller (C.A.R. Form AOAA).
31. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon, and inure to the benefit of, Buyer and Seller and their respective successors and assigns, except as otherwise provided herein.
32. **ENVIRONMENTAL HAZARD CONSULTATION:** Buyer and Seller acknowledge: **(i)** Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; **(ii)** Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; **(iii)** Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property; and **(iv)** Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property.
33. **AMERICANS WITH DISABILITIES ACT:** The Americans With Disabilities Act ("ADA") prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Property is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer's or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.
34. **COPIES:** Seller and Buyer each represent that Copies of all reports, documents, certificates, approvals and other documents that are furnished to the other are true, correct and unaltered Copies of the original documents, if the originals are in the possession of the furnishing party.
35. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
36. **GOVERNING LAW:** This Agreement shall be governed by the Laws of the state of California.
37. **TERMS AND CONDITIONS OF OFFER:** This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all Parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.
38. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**
39. **DEFINITIONS:** As used in this Agreement:
    A. **"Acceptance"** means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
    B. **"Agreement"** means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.

C. **"C.A.R. Form"** means the most current version of the specific form referenced or another comparable form agreed to by the parties.
D. **"Close Of Escrow" or "COE"** means the date the grant deed, or other evidence of transfer of title, is recorded.
E. **"Copy"** means copy by any means including photocopy, NCR, facsimile and electronic.
F. **"Days"** means calendar days. However, after Acceptance, the last **Day** for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
G. **"Days After"** means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
H. **"Days Prior"** means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
I. **"Deliver", "Delivered" or "Delivery",** unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 11, regardless of the method used (i.e., messenger, mail, email, fax, other).
J. **"Electronic Copy" or "Electronic Signature"** means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
K. **"Law"** means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
L. **"Repairs"** means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
M. **"Signed"** means either a handwritten or electronic signature on an original document, Copy or any counterpart.

40. AUTHORITY: Any person or persons signing this Agreement represent(s) that such person has full power and authority to bind that person's principal, and that the designated Buyer and Seller has full authority to enter into and perform this Agreement. Entering into this Agreement, and the completion of the obligations pursuant to this contract, does not violate any Articles of Incorporation, Articles of Organization, By Laws, Operating Agreement, Partnership Agreement or other document governing the activity of either Buyer or Seller.

41. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by _____, who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by ☐ _____ ☐ AM/ ☐ PM, on _____(date)).

☐ One or more Buyers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-B) for additional terms.

Date _____ BUYER _____

(Print name) *Keith Henderson & Associates, Inc.*

Date _____ BUYER _____

(Print name) _____

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

42. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer and agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

☐ (If checked) SELLER'S ACCEPTANCE IS **SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED:** _____.

☐ One or more Sellers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-S) for additional terms.

Date _____ SELLER _____

(Print name) *Owner(s) of record*

Date _____ SELLER _____

(Print name) _____

☐ Additional Signature Addendum attached (C.A.R. Form ASA).

(_____ / _____) **(Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE:** A Copy of Signed Acceptance was
(Initials) personally received by Buyer or Buyer's authorized agent on (date) _____ at _____
☐ AM/ ☐ PM. **A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.**

Property Address: *6176 Federal blvd. , SAN DIEGO, 92114* Date: *March 16, 2017*

REAL ESTATE BROKERS:

A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

B. Agency relationships are confirmed as stated in paragraph 2.

C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.

D. **COOPERATING BROKER COMPENSATION:** Listing Broker agrees to pay Cooperating Broker (**Selling Firm**) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow, the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Listing Broker and Cooperating Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

Real Estate Broker (Selling Firm) *N/A* CalBRE Lic. #
By CalBRE Lic. # Date
By CalBRE Lic. # Date
Address City State Zip
Telephone Fax E-mail
Real Estate Broker (Listing Firm) *N/A* CalBRE Lic. #
By CalBRE Lic. # Date
By CalBRE Lic. # Date
Address City State Zip
Telephone Fax E-mail

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, ☐ a deposit in the amount of $), counter offer numbers ☐ Seller's Statement of Information and , and agrees to act as Escrow Holder subject to paragraph 24 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is

Escrow Holder Escrow #
By Date
Address
Phone/Fax/E-mail
Escrow Holder has the following license number #
☐ Department of Business Oversight, ☐ Department of Insurance, ☐ Bureau of Real Estate.

PRESENTATION OF OFFER: ( ) Listing Broker presented this offer to Seller on (date).
Broker or Designee Initials

REJECTION OF OFFER: ( )( ) No counter offer is being made. This offer was rejected by Seller on (date).
Seller's Initials

Buyer's Initials ( ) ( ) Seller's Initials ( ) ( )

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Reviewed by
Broker or Designee

EQUAL HOUSING OPPORTUNITY

CALIFORNIA ASSOCIATION OF REALTORS®

BUYER'S INSPECTION ADVISORY

(C.A.R. Form BIA, Revised 11/14)

Property Address: *6176 Federal blvd. , SAN DIEGO, 92114* ("Property").

1. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations.

2. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as those listed below. If Broker gives you referrals to professionals, Broker does not guarantee their performance.

3. YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.

A. **GENERAL CONDITION OF THE PROPERTY, ITS SYSTEMS AND COMPONENTS:** Foundation, roof (condition, age, leaks, useful life), plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa (cracks, leaks, operation), other structural and nonstructural systems and components, fixtures, built-in appliances, any personal property included in the sale, and energy efficiency of the Property.

B. **SQUARE FOOTAGE, AGE, BOUNDARIES:** Square footage, room dimensions, lot size, age of improvements and boundaries. Any numerical statements regarding these items are APPROXIMATIONS ONLY and have not been verified by Seller and cannot be verified by Brokers. Fences, hedges, walls, retaining walls and other barriers or markers do not necessarily identify true Property boundaries.

C. **WOOD DESTROYING PESTS:** Presence of, or conditions likely to lead to the presence of wood destroying pests and organisms.

D. **SOIL STABILITY:** Existence of fill or compacted soil, expansive or contracting soil, susceptibility to slippage, settling or movement, and the adequacy of drainage.

E. **WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS;WASTE DISPOSAL:** Water and utility availability, use restrictions and costs. Water quality, adequacy, condition, and performance of well systems and components. The type, size, adequacy, capacity and condition of sewer and septic systems and components, connection to sewer, and applicable fees.

F. **ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, materials, products, or conditions (including mold (airborne, toxic or otherwise), fungus or similar contaminants).

G. **EARTHQUAKES AND FLOODING:** Susceptibility of the Property to earthquake/seismic hazards and propensity of the Property to flood.

H. **FIRE, HAZARD AND OTHER INSURANCE:** The availability and cost of necessary or desired insurance may vary. The location of the Property in a seismic, flood or fire hazard zone, and other conditions, such as the age of the Property and the claims history of the Property and Buyer, may affect the availability and need for certain types of insurance. Buyer should explore insurance options early as this information may affect other decisions, including the removal of loan and inspection contingencies.

I. **BUILDING PERMITS, ZONING AND GOVERNMENTAL REQUIREMENTS:** Permits, inspections, certificates, zoning, other governmental limitations, restrictions, and requirements affecting the current or future use of the Property, its development or size.

J. **RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants, and the right of a landlord to terminate a tenancy. Deadbolt or other locks and security systems for doors and windows, including window bars, should be examined to determine whether they satisfy legal requirements.

K. **SECURITY AND SAFETY:** State and local Law may require the installation of barriers, access alarms, self-latching mechanisms and/or other measures to decrease the risk to children and other persons of existing swimming pools and hot tubs, as well as various fire safety and other measures concerning other features of the Property.

L. **NEIGHBORHOOD, AREA, SUBDIVISION CONDITIONS; PERSONAL FACTORS:** Neighborhood or area conditions, including schools, law enforcement, crime statistics, registered felons or offenders, fire protection, other government services, availability, adequacy and cost of internet connections or other technology services and installations, commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Buyer.

By signing below, Buyers acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyers are encouraged to read it carefully.

Buyer _____ Buyer _____

Keith Henderson & Associates, Inc.

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Reviewed by _____ Date _____

EQUAL HOUSING OPPORTUNITY

52 CALIFORNIA ASSOCIATION OF REALTORS®

POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER - DISCLOSURE AND CONSENT

(C.A.R. Form PRBS, 11/14)

A real estate broker (Broker), whether a corporation, partnership or sole proprietorship, may represent more than one buyer or seller. This multiple representation can occur through an individual licensed as a broker or salesperson or through different individual broker's or salespersons (associate licensees) acting under the Broker's license. The associate licensees may be working out of the same or different office locations.

Multiple Buyers: Broker (individually or through its associate licensees) may be working with many prospective buyers at the same time. These prospective buyers may have an interest in, and make offers on, the same properties. Some of these properties may be listed with Broker and some may not. Broker will not limit or restrict any particular buyer from making an offer on any particular property whether or not Broker represents other buyers interested in the same property.

Multiple Sellers: Broker (individually or through its associate licensees) may have listings on many properties at the same time. As a result, Broker will attempt to find buyers for each of those listed properties. Some listed properties may appeal to the same prospective buyers. Some properties may attract more prospective buyers than others. Some of these prospective buyers may be represented by Broker and some may not. Broker will market all listed properties to all prospective buyers whether or not Broker has another or other listed properties that may appeal to the same prospective buyers.

Dual Agency: If Seller is represented by Broker, Seller acknowledges that broker may represent prospective buyers of Seller's property and consents to Broker acting as a dual agent for both seller and buyer in that transaction. If Buyer is represented by Broker, buyer acknowledges that Broker may represent sellers of property that Buyer is interested in acquiring and consents to Broker acting as a dual agent for both buyer and seller with regard to that property.

In the event of dual agency, seller and buyer agree that: **(a)** Broker, without the prior written consent of the Buyer, will not disclose to seller that the Buyer is willing to pay a price greater than the offered price; **(b)** Broker, without the prior written consent of the seller, will not disclose to the buyer that seller is willing to sell property at a price less than the listing price; and **(c)** other than as set forth in (a) and (b) above, a dual agent is obligated to disclose known facts materially affecting the value or desirability of the property to both parties.

Offers not necessarily confidential: Buyer is advised that seller or listing agent may disclose the existence, terms, or conditions of buyer's offer unless all parties and their agent have signed a written confidentiality agreement. Whether any such information is actually disclosed depends on many factors, such as current market conditions, the prevailing practice in the real estate community, the listing agent's marketing strategy and the instructions of the seller.

Buyer and seller understand that Broker may represent more than one buyer or more than one seller and even both buyer and seller on the same transaction and consents to such relationships.

Seller and/or Buyer acknowledges reading and understanding this Possible Representation of More Than One Buyer or Seller - Disclosure and Consent and agrees to the agency possibilities disclosed.

Seller _____ ***Owner(s) of record*** Date _____
Seller _____ Date _____

Buyer _____ ***Keith Henderson & Associates, Inc.*** Date _____
Buyer _____ Date _____

Real Estate Broker (Firm) ***N/A*** _____ CalBRE Lic # _____ Date _____
By _____ CalBRE Lic # _____ Date _____

Real Estate Broker (Firm) ***N/A*** _____ CalBRE Lic # _____ Date _____
By _____ CalBRE Lic # _____ Date _____

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EQUAL HOUSING OPPORTUNITY

RE/MAX Pacific, 1545 Hotel Circle South, Suite 145 San Diego, CA 92108 Phone: 760-413-1606 Fax: 619-374-2740 6176 Federal Blvd
Keith Henderson
Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

CALIFORNIA ASSOCIATION OF REALTORS®

ADDENDUM

(C.A.R. Form ADM, Revised 12/15)

No. 1

The following terms and conditions are hereby incorporated in and made a part of the: ☐ Purchase Agreement, ☐ Residential Lease or Month-to-Month Rental Agreement, ☐ Transfer Disclosure Statement (Note: An amendment to the TDS may give the Buyer a right to rescind), ☐ Other _____,
dated *March 16, 2017*, on property known as *6176 Federal blvd.*
SAN DIEGO, 92114
in which *Keith Henderson & Associates, Inc.* is referred to as ("Buyer/Tenant")
and *Owner(s) of record* is referred to as ("Seller/Landlord").

The Memorandum of Understanding, and Services Agreement Contract, both dated 1/31/17, shall be incorporated into this purchase agreement.

Seller shall receive 10% equity of the business / MMCC upon completion. Seller shall receive either 10% of the net proceeds of the business, or $10,000 monthly, whichever is greater.

Earnest money of $50,000 shall become non-refundable after 90-days of due diligence.

The foregoing terms and conditions are hereby agreed to, and the undersigned acknowledge receipt of a copy of this document.

Date _____ Date _____

Buyer/Tenant _____ Seller/Landlord _____
Keith Henderson & Associates, Inc. *Owner(s) of record*

Buyer/Tenant _____ Seller/Landlord _____

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Reviewed by _____ Date _____

EQUAL HOUSING OPPORTUNITY

Memorandum of Understanding

Date: 01/31/17

Between:
Mr. Darryl Cotton, an individual (Cotton)
6176 Federal Boulevard
San Diego, CA 92114

Ph: 619.954.4447
E-mail: Darryl@dalbercia.us

Mr. Keith Henderson, an individual (Henderson)
1545 Hotel Circle South, Ste. 145
San Diego, CA 92108

Ph: 760.413.1606
E-mail: Reokeith@gmail.com

Pursuant to conversations held by all parties this Memorandum of Understanding (MOU) will serve to act as the basis for development of a Contract or in the absence of a Contract be used as the Contract between both parties to define our mutually beneficial relationship, responsibilities, services and terms relative to the commercial development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by Mr. Keith Henderson and Keith Henderson & Associates, Inc., a California Corporation. This MOU and any Contract that would be entered into as a result of this MOU will bind Keith Henderson, individually and Keith Henderson & Associates, Inc. (KHA) to the Terms and Conditions set forth within this MOU.

1)Cotton believes that KHA is in the unique position having the skills, experience and financial resources to develop the property as a licensed retail dispensary of marijuana products. Therefore Cotton, as the owner of the property, hereby agrees to sell the property in 'as is' condition to KHA for the sum of $400,000.00 and a minority 10% shareholder position by Cotton in KHA or a New Business Entity (NBE) that would be formed for the ownership and operation of the new dispensary to at 6176 Federal Blvd., San Diego, CA 92114. Should an NBE be formed for the purposes of ownership and operation of the new dispensary the 10% equity would apply to the NBE and Henderson would remain personal guarantor for the NBE and the Terms and Conditions set forth in this MOU.

2)Upon acceptance of the Purchase Agreement for the property, KHA will begin the necessary design work necessary for the project redevelopment and simultaneous application for the CUP with the City of San Diego. Both of these processes take what is anticipated to be 9-12 months before construction would begin. In consideration of the sale price the current tenant, Inda-Gro, would be given use of the property at no charge until such time that the permits have been secured and the 30 Day Notice to Vacate, as defined in the separate Service Agreement Contract has been issued to Inda-Gro.

3)KHA shall bear all costs and submit all necessary paperwork and documentation to the City of San Diego Development Services required in which to acquire a Conditional Use Permit (CUP) to operate as a licensed Medical Marijuana Consumer Cooperative (MMCC) at the property. Cotton makes no claims as to whether or not the property is suitable or is eligible for that business. KHA assumes all responsibility, costs and liabilities for that process and whatever its final outcome and determination with the City of San Diego may be.

4)Upon issuance of permits KHA plans to demolish the existing structures on the property and construct a new 2 story retail and office building. KHA will assume all costs associated with this development including design, engineering, planning, permits and construction related charges. Cotton makes no assurances or claims as to suitability or City of San Diego acceptability for the intended development but KHA has stated that as a result of their due diligence the property has been deemed acceptable for the intended use and development as described herein.

5)Upon opening of the new dispensary KHA have agreed that KHA or a NBE will pay Cotton a monthly 10% of the dispensary's net profits. Cotton would ask that the payments be made on or before the 15th of each month accounting for the previous month's sales. Payments may be made in the form of cash or check as KHA prefers. KHA will accompany these payments with a copy of any City of San Diego or Board of Equalization tax reporting forms that would serve to reconcile the amount being paid Cotton to the amount being reported to these agencies.

6)If at some future date KHA or the NBE decides to sell their interest in the dispensary Cotton may at his discretion elect to either take a 10% share in the sale price or maintain a 10% net profit relationship with the new owner. Cotton may also at some future date elect to assign his 10% to a trust or heir and the same terms and conditions would apply.

I/we accept this Memorandum of Understanding and do hereby agree to the Terms and Conditions as set forth herein:

Sign: _____ Print Name: _____ Date: _____

Darryl Cotton, an individual

Sign: _____ Print Name: Keith Henderson Date: 2-1-17

Keith Henderson,an individual

Sign: _____ Print Name: _____ Date: _____

INDA-GRO
"Sunlight in a Box"
INDUCTION GROW LIGHTS

SERVICES AGREEMENT CONTRACT

Date: 01/31/17

Customer: Keith Henderson & Associates, Inc.
1545 Hotel Circle South, Ste. 145
San Diego, CA 92108

Attn: Mr. Keith Henderson
Ph: 760.413.1606
E-mail: REOKeith@gmail.com

Mr. Henderson;

Pursuant to our conversations I have developed this document to act as the Contract between us that will serve to define our relationship, services, and fee's for the development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by you or your designated entity.

1)The property is currently owned by me, Darryl Cotton (Cotton-Seller) and occupied by my company, Inda-Gro Induction Lighting Company (Inda-Gro-Tenant). Under separate Contract Cotton has agreed to sell the property to Keith Henderson (KH) for $400,000.00 and a 10% equity position in the new licensed cannabis dispensary business being developed at the property by KH.

2)Upon completion and transfer of property ownership Cotton will immediately cease being the landlord to Inda-Gro and Inda-Gro will become the tenant of KH.

3)KH plans to tear down the existing structure(s) and build a new structure for a commercial dispensary. Under this Agreement KH will allow Inda-Gro to remain in the property at no charge until such time that the plan check with the City of San Diego has been approved and permits have been issued. This process is expected to take 6-9 months. At the time KH notices Inda-Gro that the permits have been issued Inda-Gro will have 30 days to vacate the property. Inda-Gro agrees to cooperate with KH architects to access the property during the design phase of this work.

4)Inda-Gro is agreeing to vacate the property in consideration for a relocation fee of $400,000.00 of which payment would be made in two parts. Upon acceptance of the conditional use Permit (CUP) by the city of san diego, and accompanying building plans ($200,000). Upon issuance of the final permitting inspections from construction ,the balance, $200,000.00 would become payable and due.

5)Inda-Gro currently operates what we refer to as a 151 Farm. This is a teaching and touring farm that demonstrates urban farming technologies which utilize our lighting systems, controls and water savings strategies utilizing Aquaponics systems. Since it is in the interest of all parties; Inda-Gro, Cotton and KH to identify ongoing investment opportunities with both cannabis and non-cannabis related ventures Inda-Gro and Cotton agree to use the current property to highlight the benefits of what having a

licensed dispensary is to the community and once relocated Inda-Gro/Cotton would agree to continue to promote the new dispensary as an example of seed to sale retail distribution as well as identify other investment opportunities that develop from interested parties having toured our facilities and wishing to establish similar operations.

6)KH may wish to have interested parties tour the current and new property for Inda-Gro 151 Farms. This too is acceptable and under this Agreement would be a mutual collaboration and strategic alliance in terms of the farming and cultivation aspects provided by Inda-Gro and the Site Acquisition, Design/Build Construction and Retail Cannabis Services provided by KH for those future contracts.

TOTAL PRICE: Six Hundred Thousand and 00/100 ($ 400,000.00)

I/we accept the Service Agreement Contract as detailed and do hereby agree to the Terms as set forth herein:

Sign: _____ Print Name: _____ Date: _____
Darryl Cotton, President

Sign: _____ Print Name: Keith Hadson Date: 2-1-17
Keith Henderson

EXHIBIT 5

E-MAILS BETWEEN COTTON AND GERACI 10/24/16 – 03/21/17

NO.	DATE	TIME	FROM	TO	SUBJECT	ATTACHMENT	PAGE #/ RANGE
1	10/24/16	12:38 pm	Geraci	Cotton	Drawing	Yes	1-2
						A102 Site Plan – Proposed Scheme B.pdf	3
2	11/02/16	03:11 pm	Geraci	Cotton	Agreement	Yes	4-5
						Cotton & Geraci Contract.pdf	6-8
3	11/02/16	06:55 pm 09:13 pm	Cotton Geraci	Geraci Cotton	Agreement Agreement	No	9
4	11/14/16	10:26 pm	Geraci	Cotton	Federal Blvd needs sig ASAP	Yes	10-11
						Authorization to view and copy Building Records from the County of San Diego Tax Assessor.pdf	12
5	02/27/17	08:49 pm	Geraci	Cotton	Federal Blvd Property	Yes	13-14
						17-0226 Fed Blvd Comm Purchase v3 (First Draft).pdf	15-40
6	03/02/17	08:51 am	Geraci	Cotton	Statement	Yes	41-42
						17-0227 Side Agreement unsigned.docx	43-48
7	03/03/17	08:22 am	Cotton	Geraci	Re: Statement	Yes	49-50
						IndaGro-GERL Service Contract.doc	51-52
8	03/07/17	12:05 pm	Geraci	Cotton	Contract Review	Yes	53-54
						17-0306 Side Agreement unsigned.docx	55-58
9	03/16/17	08:23 am	Cotton	Geraci	Re: Contract Review	No	59-60
10	03/17/17	02:15 pm	Cotton	Geraci	Re: Contract Review	No	61
11	03/18/17	01:43 pm	Geraci	Cotton	RE: Contract Review	No	62-63
12	03/19/17	09:02 am	Cotton	Geraci	Re: Contract Review	No	64
13	03/19/17	03:11 pm	Geraci	Cotton	RE: Contract Review	No	65
14	03/19/17	06:47 pm	Cotton	Geraci	Re: Contract Review	No	66
15	03/21/17	03:18 pm	Cotton	Geraci	Re: Contract Review	No	67

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Drawing

Larry Geraci <Larry@tfcsd.net>
To: Darryl Cotton <darryl@inda-gro.com>

Mon, Oct 24, 2016 at 12:38 PM

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

Fax: 858.630.3900

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From: darryl@dalbercia.us [mailto:darryl@dalbercia.us] **On Behalf Of** Darryl Cotton
Sent: Monday, October 24, 2016 12:37 PM
To: Larry Geraci <Larry@tfcsd.net>
Subject: Test Send

Darryl Cotton, President

darryl@inda-gro.com

www.inda-gro.com

Ph: 877.452.2244

Cell: 619.954.4447

Skype: dc.dalbercia

6176 Federal Blvd.

San Diego, CA. 92114

USA

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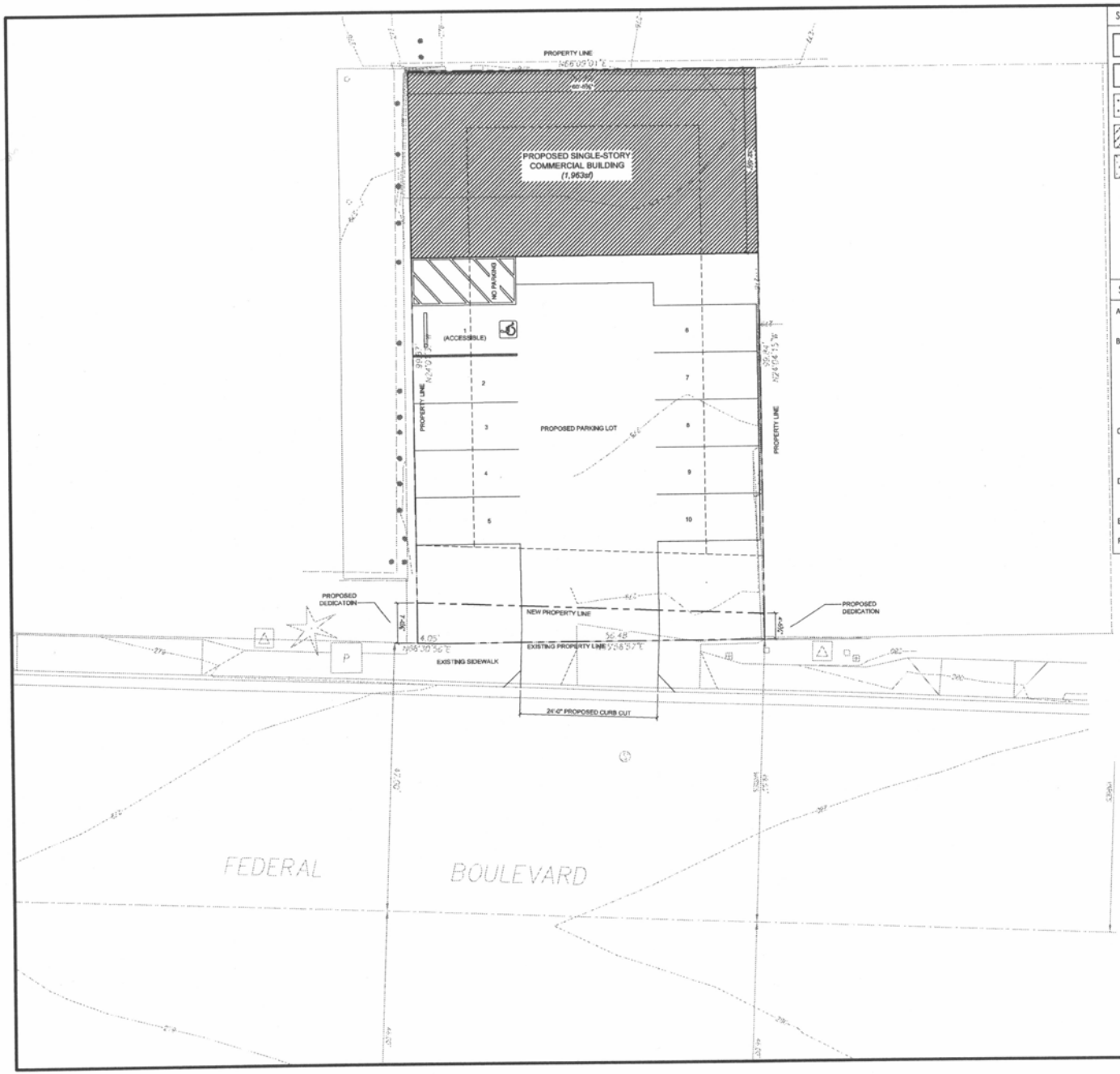
A102 Site Plan - Proposed - Scheme B.pdf
399K



SITE PLAN LEGEND

- PROPERTY LINE
- OUTLINE OF PROPOSED STRUCTURES
- AREA OF EXISTING LANDSCAPE
- AREA OF EASEMENT
- AREA OF EXISTING HARDSCAPE
- SITE DRAINAGE PATTERN

SITE PLAN NOTES

A. The site plan is for informational and general site reference only. Refer to other construction documents for complete scope of work.
B. Before commencing any site foundation or slab cutting or excavation, the contractor shall verify and mark locations of all site utilities, dimensions and conditions. These include but are not limited to property lines, setback location to all new or existing walls, easements (if any), existing site utilities, including water, sewer, gas and electrical lines and any other new or existing site items which could affect in any way the construction of the building. Flag or otherwise mark all locations of site property lines, easements (if any), underground utilities, and indicate utility type.
C. The Contractor or subcontractor shall notify TECHNE if any conflicts or discrepancy occurs between the information on this plan and actual field conditions. Do not proceed with work in conflict with these drawing until written or verbal instructions are issued by the Architect's office.
D. Protect and mark all existing building structure including walls, beams, columns, area separation walls, and other items that are part of the existing structure and not part of the scope of the tenant improvement, and mark perimeter of construction zone.
E. Coordinate with other tenants the temporary shutoff of any site utilities.
F. Refer to Topographic Survey for additional information.

1 SITE PLAN - PROPOSED
SCALE: 1/8" = 1'-0"

0 4' 8' 16'

TRUE NORTH

PROJ. NORTH

TECHNE
DESIGN | DEVELOPMENT
3956 30th Street, San Diego, CA 92104
techne-us.com sustainablearchitect.org
o 619-940-5814 m 313-595-5814

CONSULTANTS

LICENSED ARCHITECT MICHAEL RENE MORTON C-19371 REN. 04/30/2015 STATE OF CALIFORNIA

OWNER

Federal Blvd. MMCC
6176 Federal Blvd.
San Diego,CA 92114

Owner
Address
City, CA Zip Code

MARK	DATE	DESCRIPTION
01	06.26.15	

PROJECT NO: 1626

CAD DWG FILE: A102 SITE PLAN - PROPOSED - SCHEME B.DWG

DRAWN BY: A.S., M.M., J.C.

CHK'D BY: A.S., M.M

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SHEET TITLE

SITE PLAN - PROPOSED - Scheme B

A102

SHEET 23 OF 48

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Agreement

Larry Geraci <Larry@tfcsd.net> Wed, Nov 2, 2016 at 3:11 PM
To: Darryl Cotton <darryl@inda-gro.com>

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

Fax: 858.630.3900

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Cotton & Geraci Contract.pdf
71K

11/02/2016

Agreement between Larry Geraci or assignee and Darryl Cotton:

Darryl Cotton has agreed to sell the property located at 6176 Federal Blvd, CA for a sum of $800,000.00 to Larry Geraci or assignee on the approval of a Marijuana Dispensary. (CUP for a dispensary)

Ten Thousand dollars (cash) has been given in good faith earnest money to be applied to the sales price of $800,000.00 and to remain in effect until license is approved. Darryl Cotton has agreed to not enter into any other contacts on this property.

Larry Geraci

Darryl Cotton

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On November 2, 2016 before me, Jessica Newell Notary Public
(insert name and title of the officer)

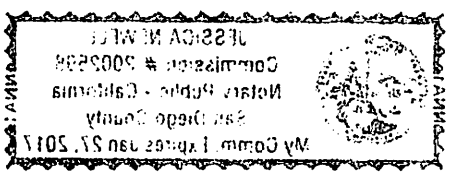
personally appeared Darryl Cotton and Larry Geraci,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

JESSICA NEWELL
Commission # 2002598
Notary Public - California
San Diego County
My Comm. Expires Jan 27, 2017

Signature _____ (Seal)


JESSICA NEWTON
Commission # 2002599
Notary Public - California
San Diego County
My Comm. Expires Jan 27, 2017

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Re: Agreement

1 message

Larry Geraci <Larry@tfcsd.net> Wed, Nov 2, 2016 at 9:13 PM
To: Darryl Cotton <darryl@inda-gro.com>

No no problem at all

Sent from my iPhone

On Nov 2, 2016, at 6:55 PM, Darryl Cotton <darryl@inda-gro.com> wrote:

Hi Larry,

Thank you for meeting today. Since we executed the Purchase Agreement in your office for the sale price of the property I just noticed the 10% equity position in the dispensary was not language added into that document. I just want to make sure that we're not missing that language in any final agreement as it is a factored element in my decision to sell the property. I'll be fine if you would simply acknowledge that here in a reply.

Regards.

Darryl Cotton, President

darryl@inda-gro.com
www.inda-gro.com
Ph: 877.452.2244
Cell: 619.954.4447
Skype: dc.dalbercia

6176 Federal Blvd.
San Diego, CA. 92114
USA

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Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Federal Blvd need sig ASAP

Larry Geraci <Larry@tfcsd.net> Mon, Nov 14, 2016 at 10:26 AM
To: Darryl Cotton <darryl@inda-gro.com>

Hi Darryl,

Can you sign and email back to me asap?

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

Fax: 858.630.3900

Circular 230 Disclaimer:

IRS regulations require us to advise you that, unless otherwise specifically noted, any federal tax advice in this communication (including any attachments, enclosures, or other accompanying materials) was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties; furthermore, this communication was not intended or written to support the promotion or marketing of any of the transactions or matters it addresses. This email is considered a confidential communication and is intended for the person or firm identified above. If you have received this in error, please contact us at (858)576-1040 and return this to us or destroy it immediately. If you are in possession of this confidential information, and you are not the intended recipient, you are hereby notified that any unauthorized disclosure, copying, distribution or dissemination of the contents hereof is strictly prohibited. Please notify the sender of this facsimile immediately and arrange for the return or destruction of this facsimile and all attachments.

Authorization to view and copy Building Records from the County of San D....pdf
35K

Authorization to view and copy Building Records from the County of San Diego Tax Assessor

I, Darryl Cotton, owner of the property located at 6176 Federal Blvd, San Diego, CA (APN 543-020-02-00) authorize Abhay Schweitzer, Benjamin Peterson, and/or Carlos Gonzalez of TECHNE to view and make copies of the County of San Diego Tax Assessor Building Records.

_____

Signature

_____/_____/_____

Date

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Federal Blvd Property

Larry Geraci <Larry@tfcsd.net> Mon, Feb 27, 2017 at 8:49 AM
To: Darryl Cotton <darryl@inda-gro.com>

Hi Daryl,

Attached is the draft purchase of the property for 400k. The additional contract for the 400k should be in today and I will forward it to you as well.

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

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17-0226 Fed Blvd Comm Purchase v3 (First Draft).pdf
347K

AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY ("**Agreement**") is made and entered into this _____ day of _____, 2017, by and between DARRYL COTTON, an individual resident of San Diego, CA ("**Seller**"), and 6176 FEDERAL BLVD TRUST dated _____, 2017, or its assignee ("**Buyer**").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually covenanted and agreed by Seller and Buyer as follows:

1. DEFINITIONS. For the purposes of this Agreement the following terms will be defined as follows:

a. **"Real Property"**: That certain real property commonly known as 6176 Federal Blvd., San Diego, California, as legally described in Exhibit "A" attached hereto and made a part hereof.

b. **"Date of Agreement"**: The latest date of execution of the Seller or the Buyer, as indicated on the signature page.

c. **"Purchase Price"**: The Purchase Price for the Property (defined below) is Four Hundred Thousand Dollars ($400,000.00).

d. **"Due Diligence Period"**: The period that expires at 5:00 p.m., California time, on the date the CUP (defined below) is issued to Buyer or its designated assign.

e. **"Escrow Agent"**: The Escrow Agent is: [NAME]

f. **"Title Company"**: The Title Company is: [NAME]

g. **"Title Approval Date"**: The Title Approval Date shall be twenty (20) days following Buyer's receipt of a Preliminary Title Report and all underlying documents.

h. **"Closing"**, **"Closing Date"** and **"Close of Escrow"**: These terms are used interchangeably in this Agreement. The closing shall occur on or at 5:00 p.m., California time, on the date fifteen (15) days from the date Buyer or its designated assign is approved by the city of San Diego for a conditional use permit to distribute medical marijuana from the Real Property ("CUP"). Notwithstanding the foregoing, in no event shall Closing occur later than March 1, 2018, unless mutually agreed by the parties.

i. **"Notices"** will be sent as follows to:

Buyer: 6176 Federal Blvd. Trust
6176 Federal Blvd.

San Diego, California 92114
Attn:
Fax No.:
Phone No.:

with a copy to: Austin Legal Group, APC
3990 Old Town Ave, A-112
San Diego, CA 92110,

Seller: Darryl Cotton
Address:
City, State, Zip
Attn:
Fax No.:
Phone No.:

Escrow Agent: [NAME]
[ADDRESS]

2. PURCHASE AND SALE. Subject to all of the terms and conditions of this Agreement and for the consideration set forth, upon Closing Seller shall convey to Buyer, and Buyer shall purchase from Seller, all of the following:

a. The Real Property and all of Seller's interest in all buildings, improvements, facilities, fixtures and paving thereon or associated therewith (collectively, the "**Improvements**"), together with all easements, hereditaments and appurtenances thereto, subject only to the Permitted Exceptions in accordance with Section 5.b;

b. All other right, title and interest of Seller constituting part and parcel of the Property (hereinafter defined), including, but not limited to, all lease rights, agreements, easements, licenses, permits, tract maps, subdivision/condominium filings and approvals, air rights, sewer agreements, water line agreements, utility agreements, water rights, oil, gas and mineral rights, all licenses and permits related to the Property, and all plans, drawings, engineering studies located within, used in connection with, or related to the Property, if any in Seller's possession (collectively, the "**Intangibles**"). (Reference herein to the "**Property**" shall include the Real Property, Improvements, and Intangibles).

3. PURCHASE PRICE AND PAYMENT; DEPOSIT. The Purchase Price will be paid as follows:

a. Deposit. There shall be no Deposit required. It is acknowledged and agreed that Buyer has provided Seller alternative consideration in lieu of the Deposit.

b. Cash Balance. Buyer shall deposit into Escrow the cash balance of the Purchase Price, plus or minus prorations and costs pursuant to Section 15, in the form of cash, bank

cashier's check or confirmed wire transfer of funds not less than one (1) business day prior to the Close of Escrow.

4. ESCROW.

a. Execution of Form Escrow Instructions. Seller shall deposit this Agreement with Escrow Agent upon full execution of same by Buyer and Seller, at which time escrow (the "**Escrow**") shall be deemed to be opened. Escrow Agent shall thereafter promptly execute the original of this Agreement, provide copies thereof to Buyer and Seller. Immediately upon receipt of such duly executed copy of this Agreement, Escrow Agent shall also notify Seller and Buyer of the opening of Escrow. This Agreement shall act as escrow instructions to Escrow Agent, and Escrow Agent shall hereby be authorized and instructed to deliver the documents and monies to be deposited into the Escrow pursuant to the terms of this Agreement. Escrow Agent shall prepare the Escrow Agent's standard-form escrow agreement (if such a form is required by Escrow Agent), which shall, to the extent that the same is consistent with the terms hereof and approved by Seller and Buyer and not exculpate Escrow Agent from acts of negligence and/or willful misconduct, inure to the benefit of Escrow Agent. Said standard form escrow instructions shall be executed by Buyer and Seller and returned to Escrow Agent within three (3) business days from the date same are received from Escrow Agent. To the extent that Escrow Agent's standard-form escrow agreement is inconsistent with the terms hereof, the terms of this Agreement shall control. Should either party fail to return the standard form escrow instructions to Escrow Agent in a timely manner, such failure shall not constitute a material breach of this Agreement.

b. Close of Escrow. Except as provided below, Escrow shall close no later than the date provided for in Section 1, above.

c. Failure to Receive CUP. Should Buyer be denied its application for the CUP or otherwise abandon its CUP application, it shall have the option to terminate this Agreement by written notice to Seller, and the parties shall have no further liability to one another, except for the "**Buyer's Indemnity**" (as detailed in Section 8 below).

5. TITLE MATTERS.

a. Preliminary Title Report/Review of Title. As soon as practicable, but in no event later than five (5) business days after the Date of Agreement, Escrow Agent shall have delivered or shall cause to be delivered to Buyer a Preliminary Title Report issued by Title Company covering the Property (the "**Preliminary Title Report**"), together with true copies of all documents evidencing matters of record shown as exceptions to title thereon. Buyer shall have the right to object to any exceptions contained in the Preliminary Title Report and thereby disapprove the condition of title by giving written notice to Seller on or before the Title Approval Date as defined in Section 1. Any such disapproval shall specify with particularity the defects Buyer disapproves. Buyer's failure to timely disapprove in writing shall be deemed an approval of all exceptions. If Buyer disapproves of any matter affecting title, Seller shall have the option to elect to (i) cure or remove any one or more of such exceptions by notifying Buyer within five (5) business days from Seller's receipt of Buyer's disapproval, or (ii) terminate this Agreement, in which event Buyer shall receive a refund of its Deposit and all accrued interest, and the parties shall have no

further liability to one another, except for the Buyer's Indemnity. Seller's failure to timely notify Buyer of its election, as provided above, shall conclusively be deemed to be Seller's election to terminate this Agreement. For three (3) business days following Seller's actual or deemed election to terminate this Agreement, Buyer shall have the right to waive, in writing, any one or more of such title defects that Seller has not elected to cure or remove and thereby rescind Seller's election to terminate and close Escrow, taking title to the Property subject to such title exceptions.

b. Permitted Exceptions. The following exceptions shown on the Preliminary Title Report (the "**Permitted Exceptions**") are approved by Buyer:

(1) Real property taxes not yet due and payable as of the Closing Date, which shall be apportioned as hereinafter provided in Section 15;

(2) Unpaid installments of assessments not due and payable on or before the Closing Date;

(3) Any matters affecting the Property that are created by, or with the written consent of, Buyer;

(4) The pre-printed exclusions and exceptions that appear in the Owner's Title Policy issued by the Title Company; and

(5) Any matter to which Buyer has not delivered a notice of a Title Objection in accordance with the terms of Section 5.a hereof.

Notwithstanding the foregoing or anything else to the contrary, Seller shall be obligated, regardless of whether Buyer objects to any such item or exception, to remove or cause to be removed on or before Closing, any and all mortgages, deeds of trust or similar liens securing the repayment of money affecting title to the Property, mechanic's liens, materialmen's liens, judgment liens, liens for delinquent taxes and/or any other liens or security interests ("**Mandatory Cure Items**").

c. Title Policy. The Title Policy shall be an ALTA Standard Owners Policy with liability in the amount of the Purchase Price, showing fee title to the Property as vested in Buyer, subject only to the Permitted Exceptions. At Buyer's election, the Title Policy to be delivered to Buyer shall be an ALTA Extended Owners Policy, provided that the issuance of said ALTA Policy does not delay the Close of Escrow. The issuance by Title Company of the standard Title Policy in favor of Buyer, insuring fee title to the Property to Buyer in the amount of the Purchase Price, subject only to the Permitted Exceptions, shall be conclusive evidence that Seller has complied with any obligation, express or implied, to convey good and marketable title to the Property to Buyer.

d. Title and Survey Costs. The cost of the standard portion of the premium for the Title Policy shall be paid by the Seller. Buyer shall pay for the survey, if necessary, and the premium for the ALTA portion of the Title Policy and all endorsements requested by Buyer.

6. SELLER'S DELIVERY OF SPECIFIED DOCUMENTS. Seller has provided to Buyer those necessary documents and materials respecting the Property identified on Exhibit "B", attached hereto and made a part hereof ("**Property Information**"). The Property Information shall include, inter alia, all disclosures from Seller regarding the Property required by California and federal law.

7. DUE DILIGENCE. Buyer shall have through the last day of the Due Diligence Period, as defined in Section 1, in which to examine, inspect, and investigate the Property Information, the Property and any other relating to the Property or its use and or Compliance with any applicable zoning ordinances, regulations, licensing or permitting affecting its use or Buyer's intention use and, in Buyers sole discretion) and, in Buyer's sole and absolute judgment and discretion, to determine whether the Property is acceptable to Buyer in its present condition and to obtain all necessary internal approvals. Notwithstanding anything to the contrary in this Agreement, Buyer may terminate this Agreement by giving notice of termination (a "**Due Diligence Termination Notice**") to Seller on or before the last day of the Due Diligence Period, in which event Buyer shall receive the immediate return of the Deposit and this Agreement shall terminate, except that Buyer's Indemnities set forth on Section 8, shall survive such termination.

8. PHYSICAL INSPECTION; BUYERS INDEMNITIES.

a. Buyer shall have the right, upon reasonable notice and during regular business hours, to physically inspect on a non-intrusive basis, and to the extent Buyer desires, to cause one or more representatives of Buyer to physically inspect on a non-intrusive basis, the Property without interfering with the occupants or operation of the Property Buyer shall make all inspections in good faith and with due diligence. All inspection fees, appraisal fees, engineering fees and other expenses of any kind incurred by Buyer relating to the inspection of the Property will be solely Buyer's expense. Seller shall cooperate with Buyer in all reasonable respects in making such inspections. To the extent that a Phase I environmental assessment acceptable to Seller justifies it, Buyer shall have the right to have an independent environmental consultant conduct an environmental inspection in excess of a Phase I assessment of the Property. Buyer shall notify Seller not less than one (1) business day in advance of making any inspections or interviews. In making any inspection or interviews hereunder, Buyer will treat, and will cause any representative of Buyer to treat, all information obtained by Buyer pursuant to the terms of this Agreement as strictly confidential except for such information which Buyer is required to disclose to its consultants, attorneys, lenders and transferees.

b. Buyer agrees to keep the Property free and clear of all mechanics' and materialmen's liens or other liens arising out of any of its activities or those of its representatives, agents or contractors. Buyer shall indemnify, defend (through legal counsel reasonably acceptable to Seller), and hold Seller, and the Property, harmless from all damage, loss or liability, including without limitation attorneys' fees and costs of court, mechanics' liens or claims, or claims or assertions thereof arising out of or in connection with the entry onto, or occupation of the Property by Buyer, its agents, employees and contractors and subcontractors. This indemnity shall survive the sale of the Property pursuant to the terms of this Agreement or, if such sale is not consummated, the termination of this Agreement. After each such inspection or investigation of the Property,

Buyer agrees to immediately restore the Property or cause the Property to be restored to its condition before each such inspection or investigation look place, at Buyer's sole expense.

9. COVENANTS OF SELLER. During the period from the Date of Agreement until the earlier of termination of the Agreement or the Close of Escrow, Seller agrees to the following:

a. Seller shall not permit or suffer to exist any new encumbrance, charge or lien or allow any easements affecting all or any portion of the Property to be placed or claimed upon the Property unless such encumbrance, charge, lien or easement has been approved in writing by Buyer or unless such monetary encumbrance, charge or lien will be removed by Seller prior to the Close of Escrow.

b. Seller shall not execute or amend, modify, renew, extend or terminate any contract without the prior written consent of Buyer, which consent shall not be unreasonably withheld. If Buyer fails to provide Seller with notice of its consent or refusal to consent, Buyer shall be deemed to have approved such contract or modification, except that no contract entered into by Seller shall be for a period longer than thirty (30) days and shall be terminable by the giving of a thirty (30) day notice.

c. Seller shall notify Buyer of any new matter that it obtains actual knowledge of affecting title in any manner, which was not previously disclosed to Buyer by the Title Report. Buyer shall notify Seller within five (5) business days of receipt of notice of its acceptance or rejection of such new matter. If Buyer rejects such matter, Seller shall notify Buyer within five (5) business days whether it will cure such matter. If Seller does not elect to cure such matter within such period, Buyer may terminate this Agreement or waive its prior disapproval within three (3) business days.

10. REPRESENTATIONS OF SELLER.

a. Seller represents and warrants to Buyer that:

(1) The execution and delivery by Seller of, and Seller's performance under, this Agreement are within Seller's powers and have been duly authorized by all requisite action.

(2) This Agreement constitutes the legal, valid and binding obligation of Seller, enforceable in accordance with its terms, subject to laws applicable generally to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting or limiting the right of contracting parties generally.

(3) Performance of this Agreement by Seller will not result in a breach of, or constitute any default under any agreement or instrument to which Seller is a party, which breach or default will adversely affect Seller's ability to perform its obligations under this Agreement.

(4) To Seller's knowledge, without duty of inquiry, the Property is not presently the subject of any condemnation or similar proceeding, and to Seller's knowledge, no such condemnation or similar proceeding is currently threatened or pending.

(5) To Seller's knowledge, there are no management, service, supply or maintenance contracts affecting the Property which shall affect the Property on or following the Close of Escrow except as set forth in Exhibit "C" attached hereto and made a part hereof.

(6) Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986 (*i.e.*, Seller is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the Code and regulations promulgated).

(7) Seller (a) is not in receivership; (b) has not made any assignment related to the Property for the benefit of creditors; (c) has not admitted in writing its inability to pay its debts as they mature; (d) has not been adjudicated a bankrupt; (e) has not filed a petition in voluntary bankruptcy, a petition or answer seeking reorganization, or an arrangement with creditors under the Federal Bankruptcy Law or any other similar law or statute of the United States or any state, and (f) does not have any such petition described in Clause (e) hereof filed against Seller.

(8) Seller has not received written notice, nor to the best of its knowledge is it aware, of any actions, suits or proceedings pending or threatened against Seller which affect title to the Property, or which would question the validity or enforceability of this Agreement or of any action taken by Seller under this Agreement, in any court or before any governmental authority, domestic or foreign.

(9) Unless otherwise disclosed herein in Exhibit D, to Seller's knowledge without duty of inquiry, there does not exists any conditions or pending or threatening lawsuits which would materially affect the Property, including but not limited to, underground storage, tanks, soil and ground water.

(10) That Seller has delivered to Buyer all written information, records, and studies in Seller's possession concerning hazardous, toxic, or governmentally regulated materials that are or have been stored, handled, disposed of, or released on the Property.

b. If after the expiration of the Due Diligence Period but prior to the Closing, Buyer or any of Buyer's partners, members, trustees and any officers, directors, employees, agents, representatives and attorneys of Buyer, its partners, members or trustees (the "**Buyer's Representatives**") obtains knowledge that any of the representations or warranties made herein by Seller are untrue, inaccurate or incorrect in any material respect, Buyer shall give Seller written notice thereof within three (3) business days of obtaining such knowledge (but, in any event, prior to the Closing). If at or prior to the Closing, Seller obtains actual knowledge that any of the representations or warranties made herein by Seller are untrue, inaccurate or incorrect in any material respect, Seller shall give Buyer written notice thereof within three (3) business days of obtaining such knowledge (but, in any event, prior to the Closing). In such cases, Buyer, may elect either (a) to consummate the transaction, or (b) to terminate this Agreement by written notice given

to Seller on the Closing Date, in which event this Agreement shall be terminated, the Property Information returned to the Seller and, thereafter, neither party shall have any further rights or obligations hereunder except as provided in any section hereof that by its terms expressly provides that it survives the termination of this Agreement.

c. The representations of Seller set forth herein shall survive the Close of Escrow for a period of twelve (12) months.

11. REPRESENTATIONS AND WARRANTIES BY BUYER.

a. Buyer represents and warrants to Seller that:

(9) Buyer is duly organized and legally existing, the execution and delivery by Buyer of, and Buyer's performance under, this Agreement are within Buyer's organizational powers, and Buyer has the authority to execute and deliver this Agreement.

(10) This Agreement constitutes the legal, valid and binding obligation of Buyer enforceable in accordance with its terms, subject to laws applicable generally to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

(11) Performance of this Agreement will not result in any breach of, or constitute any default under, any agreement or other instrument to which Buyer is a party, which breach or default will adversely affect Buyer's ability to perform its obligations under this Agreement.

(12) Buyer (a) is not in receivership or dissolution, (b) has not made any assignment for the benefit of creditors, (c) has not admitted in writing its inability to pay its debts as they mature, (d) has not been adjudicated a bankrupt, (e) has not filed a petition in voluntary bankruptcy, a petition or answer seeking reorganization, or an arrangement with creditors under the federal bankruptcy law, or any other similar law or statute of the United States or any state, or (f) does not have any such petition described in (e) filed against Buyer.

(5) Buyer hereby warrants and agrees that, prior to Closing, Buyer shall (i) conduct all examinations, inspections and investigations of each and every aspect of the Property, (ii) review all relevant documents and materials concerning the Property, and (iii) ask all questions related to the Property, which are or might be necessary, appropriate or desirable to enable Buyer to acquire full and complete knowledge concerning the condition and fitness of the Property, its suitability for any use and otherwise with respect to the Property.

12. DAMAGE. Risk of loss up to and including the Closing Date shall be borne by Seller. Seller shall immediately notify Buyer in writing of the extent of any damage to the Property. In the event of any material damage to or destruction of the Property or any portion thereof, Buyer

may, at its option, by notice to Seller given within ten (10) days after Buyer is notified of such damage or destruction (and if necessary the Closing Date shall be extended to give Buyer the full ten (10) day period to make such election): (i) terminate this Agreement and the Earnest Money shall be immediately returned to Buyer or (ii) proceed under this Agreement, receive any insurance proceeds (including any rent loss insurance applicable to any period on and after the Closing Date) due Seller as a result of such damage or destruction and assume responsibility for such repair, and Buyer shall receive a credit at Closing for any deductible, uninsured or coinsured amount under said insurance policies. If Buyer elects (ii) above, Seller will cooperate with Buyer after the Closing to assist Buyer in obtaining the insurance proceeds from Seller's insurers. If the Property is not materially damaged, then Buyer shall not have the right to terminate this Agreement, but Seller shall at its cost repair the damage before the Closing in a manner reasonably satisfactory to Buyer or if repairs cannot be completed before the Closing, credit Buyer at Closing for the reasonable cost to complete the repair. "Material damage" and "Materially damaged" means damage reasonably exceeding ten percent (10%) of the Purchase Price to repair or that entitles a tenant to terminate its Lease.

13. CONDEMNATION. Seller shall immediately notify Buyer of any proceedings in eminent domain that are contemplated, threatened or instituted by anybody having the power of eminent domain over Property. Within ten (10) days after Buyer receives written notice from Seller of proceedings in eminent domain that are contemplated, threatened or instituted by anybody having the power of eminent domain, and if necessary the Closing Date shall be extended to give Buyer the full ten (10) day period to make such election, Buyer may: (i) terminate this Agreement and the Earnest Money shall be immediately returned to Buyer; or (ii) proceed under this Agreement, in which event Seller shall, at the Closing, assign to Buyer its entire right, title and interest in and to any condemnation award related to the Real Property, and Buyer shall have the sole right during the pendency of this Agreement to negotiate and otherwise deal with the condemning authority in respect of such matter. Buyer shall not have any right or claim to monies relating to Sellers loss of income prior to closing.

14. CLOSING

a. Closing Date. The consummation of the transaction contemplated herein ("**Closing**") shall occur on or before the Closing Date set forth in Section 1. Closing shall occur through Escrow with the Escrow Agent. Unless otherwise stated herein, all funds shall be deposited into and held by Escrow Agent. Upon satisfaction or completion of all closing conditions and deliveries, the parties shall direct the Escrow Agent to immediately record and deliver the closing documents to the appropriate parties and make disbursements according to the closing statement executed by Seller and Buyer. The Escrow Agent shall agree in writing with Buyer that (1) recordation of the Deed constitutes its representation that it is holding the closing documents, closing funds and closing statements and is prepared and irrevocably committed to disburse the closing funds in accordance with the closing statements and (2) release of funds to the Seller shall irrevocably commit it to issue the Title Policy in accordance with this Agreement.

b. Seller's Deliveries in Escrow. On or prior to the Closing Date, Seller shall deliver in escrow to the Escrow Agent the following:

(13) Deed. A Special Warranty Deed mutually satisfactory to the parties, executed and acknowledged by Seller, conveying to Buyer good, indefeasible and marketable fee simple title to the Property, subject only to the Permitted Exceptions (the "**Deed**").

(14) Assignment of Intangible Property. Such assignments and other documents and certificates as Buyer may reasonably require in order to fully and completely transfer and assign to Buyer all of Seller's right, title, and interest, in and to the Intangibles, all documents and contracts related thereto, Leases, and any other permits, rights applicable to the Property, and any other documents and/or materials applicable to the Property, if any. Such assignment or similar document shall include an indemnity by Buyer to Seller for all matters relating to the assigned rights, and benefits following the Closing Date.

(3) Assignment and Assumption of Contracts. An assignment and assumption of Leases from Seller to Buyer of landlord's interest in the Leases.

(4) FIRPTA. A non-foreign person affidavit that meets the requirements of Section 1445(b)(2) of the Internal Revenue Code, as amended.

(5) Additional Documents. Any additional documents that may be reasonably required for the consummation of the transaction contemplated by this Agreement.

c. Buyer's Deliveries in Escrow. On or prior to the Closing Date, Buyer shall deliver in escrow to the Escrow Agent the following:

(1) Purchase Price. The Purchase Price, less the Deposits, plus or minus applicable prorations, deposited by Buyer with the Escrow Agent in immediate funds wired or deposited for credit into the Escrow Agent's escrow account.

(2) Assumption of Intangible Property. A duly executed assumption of the Assignment referred to in Section 14.b(2).

(3) Authority. Evidence of existence, organization, and authority of Buyer and the authority of the person executing documents on behalf of Buyer reasonably required by the Title Company.

(4) Additional Documents. Any additional documents that may be reasonably required for the consummation of the transaction contemplated by this Agreement.

d. Closing Statements. Seller and Buyer shall each execute and deposit the closing statement, such transfer tax declarations and such other instruments as are reasonably required by the Title Company or otherwise required to close the Escrow and consummate the acquisition of the Property in accordance with the terms hereof. Seller and Buyer hereby designate Escrow Agent as the "**Reporting Person**" for the transaction pursuant to Section 6045(e) of the Code and the regulations promulgated thereunder and agree to execute such documentation as is reasonably necessary to effectuate such designation.

e. Title Policy. The Escrow Agent shall deliver to Buyer the Title Policy required hereby.

f. Possession. Seller shall deliver possession of the Property to Buyer at the Closing subject to the Permitted Exceptions, and shall deliver to Buyer all keys, security codes and other information necessary for Buyer to assume possession.

g. Transfer of Title. The acceptance of transfer of title to the Property by Buyer shall be deemed to be full performance and discharge of any and all obligations on the part of Seller to be performed pursuant to the provisions of this Agreement, except where such agreements and obligations are specifically stated to survive the transfer of title.

15. COSTS, EXPENSES AND PRORATIONS.

a. Seller Will Pay. At the Closing, Seller shall be charged the following:

(1) All premiums for an ALTA Standard Coverage Title Policy;

(2) One-half of all escrow fees and costs;

(3) Seller's share of prorations; and

(4) One-half of all transfer taxes.

b. Buyer Will Pay. At the Closing, Buyer shall pay:

(1) All document recording charges;

(2) One-half of all escrow fees and costs;

(3) Additional charge for an ALTA Extended Coverage Title Policy, and the endorsements required by Buyer;

(4) One-half of all transfer taxes; and

(5) Buyer's share of prorations.

c. Prorations.

(1) Taxes. All non-delinquent real estate taxes and assessments on the Property will be prorated as of the Closing Date based on the actual current tax bill. If the Closing Date takes place before the real estate taxes are fixed for the tax year in which the Closing Date occurs, the apportionment of real estate taxes will be made on the basis of the real estate taxes for the immediately preceding tax year applied to the latest assessed valuation. All delinquent taxes and all delinquent assessments, if any, on the Property will be paid at the Closing Date from funds accruing to Seller. All supplemental taxes billed after the Closing Date for periods prior to the

Closing Date will be paid promptly by Seller. Any tax refunds received by Buyer which are allocable to the period prior to Closing will be paid by Buyer to Seller.

(2) Utilities. Gas, water, electricity, heat, fuel, sewer and other utilities and the operating expenses relating to the Property shall be prorated as of the Close of Escrow. If the parties hereto are unable to obtain final meter readings as of the Close of Escrow, then such expenses shall be estimated as of the Close of Escrow based on the prior operating history of the Property.

16. CLOSING DELIVERIES.

a. Disbursements And Other Actions by Escrow Agent. At the Closing, Escrow Agent will promptly undertake all of the following:

(1) Funds. Disburse all funds deposited with Escrow Agent by Buyer in payment of the Purchase Price for the Property as follows:

(a) Deliver to Seller the Purchase Price, less the amount of all items, costs and prorations chargeable to the account of Seller; and

(b) Disburse the remaining balance, if any, of the funds deposited by Buyer to Buyer, less amounts chargeable to Buyer.

(2) Recording. Cause the Special Warranty Deed (with documentary transfer tax information to be affixed after recording) to be recorded with the San Diego County Recorder and obtain conformed copies thereof for distribution to Buyer and Seller.

(3) Title Policy. Direct the Title Company to issue the Title Policy to Buyer.

(4) Delivery of Documents to Buyer or Seller. Deliver to Buyer the any documents (or copies thereof) deposited into escrow by Seller. Deliver to Seller any other documents (or copies thereof) deposited into Escrow by Buyer.

17. DEFAULT AND REMEDIES

a. Seller's Default. If Seller fails to comply in any material respect with any of the provisions of this Agreement, subject to a right to cure, or breaches any of its representations or warranties set forth in this Agreement prior to the Closing, then Buyer may:

(1) Terminate this Agreement and neither party shall have any further rights or obligations hereunder, except for the obligations of the parties which are expressly intended to survive such termination; or

(2) Bring an action against Seller to seek specific performance of Seller's obligations hereunder.

b. Buyer's Default - Liquidated Damages. IF BUYER FAILS TO TIMELY COMPLETE THE PURCHASE OF THE PROPERTY AS PROVIDED IN THIS AGREEMENT DUE TO ITS DEFAULT, SELLER SHALL BE RELEASED FROM ITS OBLIGATION TO SELL THE PROPERTY TO BUYER. BUYER AND SELLER HEREBY ACKNOWLEDGE AND AGREE THAT IT WOULD BE IMPRACTICAL AND/OR EXTREMELY DIFFICULT TO FIX OR ESTABLISH THE ACTUAL DAMAGE SUSTAINED BY SELLER AS A RESULT OF SUCH DEFAULT BY BUYER, AND AGREE THAT THE DEPOSITS ARE A REASONABLE APPROXIMATION THEREOF. ACCORDINGLY, IN THE EVENT THAT BUYER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY AS PROVIDED IN THIS AGREEMENT DUE TO ITS DEFAULT, THE DEPOSIT SHALL CONSTITUTE AND BE DEEMED TO BE THE AGREED AND LIQUIDATED DAMAGES OF SELLER, AND SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY. SELLER AGREES TO WAIVE ALL OTHER REMEDIES AGAINST BUYER WHICH SELLER MIGHT OTHERWISE HAVE AT LAW OR IN EQUITY BY REASON OF SUCH DEFAULT BY BUYER. THE LIQUIDATED DAMAGES ARE NOT INTENDED TO BE A FORFEITURE OR PENALTY, BUT ARE INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER.

_____ _____

Seller's Initials Buyer's Initials

c. Escrow Cancellation Following a Termination Notice. If either party terminates this Agreement as permitted under any provision of this Agreement by delivering a termination notice to Escrow Agent and the other party, Escrow shall be promptly cancelled and, Escrow Agent shall return all documents and funds to the parties who deposited them, less applicable Escrow cancellation charges and expenses. Promptly upon presentation by Escrow Agent, the parties shall sign such instruction and other instruments as may be necessary to effect the foregoing Escrow cancellation.

d. Other Expenses. If this Agreement is terminated due to the default of a party, then the defaulting party shall pay any fees due to the Escrow Agent for holding the Deposits and any fees due to the Title Company in connection with issuance of the Preliminary Title report and other title matters (together, "**Escrow Cancellation Charges**"). If Escrow fails to close for any reason, other than a default under this Agreement, Buyer and Seller shall each pay one-half (½) of any Escrow Cancellation Charges.

18. MISCELLANEOUS.

a. Entire Agreement. This Agreement, together with the Exhibits and schedules hereto, contains all representations, warranties and covenants made by Buyer and Seller and constitutes the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are replaced in total by this Agreement together with the Exhibits and schedules hereto.

b. Time. Time is of the essence in the performance of each of the parties' respective obligations contained herein.

c. Attorneys' Fees. In the event of any action or proceeding brought by either party against the other under this Agreement, the prevailing party shall be entitled to recover all costs and expenses including its attorneys' fees in such action or proceeding in such amount as the court may adjudge reasonable. The prevailing party shall be determined by the court based upon an assessment of which party's major arguments made or positions taken in the proceedings could fairly be said to have prevailed over the other party's major arguments or positions on major disputed issues in the court's decision. If the party which shall have commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

d. Assignment. Buyer's rights and obligations hereunder shall be assignable without the prior consent of Seller.

e. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

f. Confidentiality and Return of Documents. Buyer and Seller shall each maintain as confidential any and all material obtained about the other or, in the case of Buyer, about the Property or its operations, this Agreement or the transactions contemplated hereby, and shall not disclose such information to any third party. Except as may be required by law, Buyer will not divulge any such information to other persons or entities including, without limitation, appraisers, real estate brokers, or competitors of Seller. Notwithstanding the foregoing, Buyer shall have the right to disclose information with respect to the Property to its officers, directors, employees, attorneys, accountants, environmental auditors, engineers, potential lenders, and permitted assignees under this Agreement and other consultants to the extent necessary for Buyer to evaluate its acquisition of the Property provided that all such persons are told that such information is confidential and agree (in writing for any third party engineers, environmental auditors or other consultants) to keep such information confidential. If Buyer acquires the Property from Seller, either party shall have the right, subsequent to the Closing of such acquisition, to publicize the transaction (other than the parties to or the specific economics of the transaction) in whatever manner it deems appropriate; provided that any press release or other public disclosure regarding this Agreement or the transactions contemplated herein, and the wording of same, must be approved in advance by both parties, which approval shall not be unreasonably withheld. The provisions of this section shall survive the Closing or any termination of this Agreement. In the event the transaction contemplated by this Agreement does not close as provided herein, upon the request of Seller, Buyer shall promptly return to Seller all Property Information and all other documents, reports and records obtained by Buyer in connection with the investigation of the Property.

g. Interpretation of Agreement. The article, section and other headings of this Agreement are for convenience of reference only and shall not be construed to affect the meaning of any provision contained herein. Where the context so requires, the use of the singular shall include the plural and vice versa and the use of the masculine shall include the feminine and the neuter. The term “person” shall include any individual, partnership, joint venture, corporation, trust, unincorporated association, any other entity and any government or any department or agency thereof, whether acting in an individual, fiduciary or other capacity.

h. Amendments. This Agreement may be amended or modified only by a written instrument signed by Buyer and Seller.

i. Drafts Not an Offer to Enter Into a Legally Binding Contract. The parties hereto agree that the submission of a draft of this Agreement by one party to another is not intended by either party to be an offer to enter into a legally binding contract with respect to the purchase and sale of the Property. The parties shall be legally bound with respect to the purchase and sale of the Property pursuant to the terms of this Agreement only if and when both Seller and Buyer have fully executed and delivered to each other a counterpart of this Agreement (or a copy by facsimile transmission).

j. No Partnership. The relationship of the parties hereto is solely that of Seller and Buyer with respect to the Property and no joint venture or other partnership exists between the parties hereto. Neither party has any fiduciary relationship hereunder to the other.

k. No Third Party Beneficiary. The provisions of this Agreement are not intended to benefit any third parties.

l. Survival. Except as expressly set forth to the contrary herein, no representations, warranties, covenants or agreements of Seller contained herein shall survive the Closing.

m. Invalidity and Waiver. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision, unless made in writing.

n. Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in Section 1. Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by telefax or electronic mail, in which case notice shall be deemed delivered upon confirmation of delivery if sent prior to 5:00 p.m. on a business day (otherwise, the next business day), or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to the Buyer shall be deemed given by Buyer and notices given by counsel to the Seller shall be deemed given by Seller.

o. Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included,

unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. California time.

p. Brokers. The parties represent and warrant to each other that no broker or finder was instrumental in arranging or bringing about this transaction.

q. Procedure for Indemnity. The following provisions govern actions for indemnity under this Agreement. Promptly after receipt by an indemnitee of notice of any claim, such indemnitee will, if a claim in respect thereof is to be made against the indemnitor, deliver to the indemnitor written notice thereof and the indemnitor shall have the right to participate in, and, if the indemnitor agrees in writing that it will be responsible for any costs, expenses, judgments, damages and losses incurred by the indemnitee with respect to such claim, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnitee shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnitor, if the indemnitee reasonably believes that representation of such indemnitee by the counsel retained by the indemnitor would be inappropriate due to actual or potential differing interests between such indemnitee and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnitor within a reasonable time of notice of any such claim shall relieve such indemnitor of any liability to the indemnitee under this indemnity only if and to the extent that such failure is prejudicial to its ability to defend such action, and the omission so to deliver written notice to the indemnitor will not relieve it of any liability that it may have to any indemnitee other than under this indemnity. If an indemnitee settles a claim without the prior written consent of the indemnitor, then the indemnitor shall be released from liability with respect to such claim unless the indemnitor has unreasonably withheld or delayed such consent.

r. Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by the parties hereto at Closing, Buyer and Seller each agree to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the Closing any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

s. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by telephone facsimile counterparts of the signature pages.

t. Section 1031 Exchange. Either party may consummate the purchase or sale (as applicable) of the Property as part of a so-called like kind exchange (an "**Exchange**") pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended (the "**Code**"), provided that: (a) the Closing shall not be delayed or affected by reason of the Exchange nor shall the consummation or accomplishment of an Exchange be a condition precedent or condition subsequent to the exchanging party's obligations under this Agreement; (b) the exchanging party shall effect its Exchange through an assignment of this Agreement, or its rights under this Agreement, to a qualified intermediary (c) neither party shall be required to take an assignment of the purchase

agreement for relinquished or replacement property or be required to acquire or hold title to any real property for purposes of consummating an Exchange desired by the other party; and (d) the exchanging party shall pay any additional costs that would not otherwise have been incurred by the non-exchanging party had the exchanging party not consummated the transaction through an Exchange. Neither party shall by this Agreement or, acquiescence to an Exchange desired by the other party, have its rights under this Agreement affected or diminished in any manner or be responsible for compliance with or be deemed to have warranted to the exchanging party that its Exchange in fact complies with Section 1031 of the Code.

u. Incorporation of Recitals/Exhibits. All recitals set forth herein above and the exhibits attached hereto and referred to herein are incorporated in this Agreement as though fully set forth herein.

v. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

w. Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.

x. Legal Advice. Each party has received independently legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to the fair meaning and not for or against any party based upon any attribution of such party as the sole source of the language in question.

y. Memorandum of Agreement. Buyer and Seller shall execute and notarize the Memorandum of Agreement included herewith as Exhibit E, which Buyer may record with the county of San Diego, in its sole discretion.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first set forth above.

BUYER:

6176 FEDERAL BLVD TRUST

By: _____

Printed: _____

Its: Trustee

SELLER:

DARRYL COTTON.

_____

Escrow Agent has executed this Agreement in order to confirm that the Escrow Agent has received and shall hold the Deposit and the interest earned thereon, in escrow, and shall disburse the Deposit, and the interest earned thereon, pursuant to the provisions of this Agreement.

Date: _____, 2017

By: _____

Escrow Officer

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL PROPERTY
(to be provided by the Title Company)

EXHIBIT "B"

PROPERTY INFORMATION

EXHIBIT "C"

SERVICE CONTRACTS

EXHIBIT "D"

THREATENED OR PENDING LAWSUITS

EXHIBIT "E"

MEMORANDUM OF AGREEMENT

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Statement

1 message

Larry Geraci <Larry@tfcsd.net> Thu, Mar 2, 2017 at 8:51 AM
To: Darryl Cotton <darryl@inda-gro.com>

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

Fax: 858.630.3900

Circular 230 Disclaimer:

IRS regulations require us to advise you that, unless otherwise specifically noted, any federal tax advice in this communication (including any attachments, enclosures, or other accompanying materials) was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties; furthermore, this communication was not intended or written to support the promotion or marketing of any of the transactions or matters it addresses. This email is considered a confidential communication

and is intended for the person or firm identified above. If you have received this in error, please contact us at (858)576-1040 and return this to us or destroy it immediately. If you are in possession of this confidential information, and you are not the intended recipient, you are hereby notified that any unauthorized disclosure, copying, distribution or dissemination of the contents hereof is strictly prohibited. Please notify the sender of this facsimile immediately and arrange for the return or destruction of this facsimile and all attachments.

17-0227 Side Agreement unsigned.docx
35K

SIDE AGREEMENT

Dated as of March ___, 2017

By and Among

DARRYL COTTON

and

6176 FEDERAL BLVD TRUST

This Side Agreement ("Side Agreement") is made as of the ___ day of _____ 2017, by and between Darryl Cotton ("Seller") and 6176 Federal Blvd Trust ("Buyer"), a California trust. Buyer and Seller are sometimes referred to herein as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the Seller and Buyer desire to enter into a Purchase Agreement (the "Purchase Agreement"), dated of even date herewith, pursuant to which the Seller shall sell to Buyer, and Buyer shall purchase from the Seller, the property located at 6176 Federal Blvd., San Diego, California 92114 (the "Property"); and

WHEREAS, the purchase price for the Property is Four Hundred Thousand Dollars ($400,000); and

WHEREAS, a condition to the Purchase Agreement is that Buyer and Seller enter into this Side Agreement that addresses the terms under which Seller shall move his existing business located on the Property.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth below, the parties hereto agree as follows:

ARTICLE I

1. **Terms of the Side Agreement**

1.1. Buyer shall pay Four Hundred Thousand Dollars ($400,000) to cover Seller's expenses related to moving and re-establishing his business ("Payment Price").

1.2. The Payment Price is contingent on close of escrow pursuant to the Purchase Agreement.

ARTICLE II

2. Closing Conditions

2.1. Within ten (10) business days from the close of escrow on the Property, Buyer shall pay the Payment Price by wire transfer to an account provided by the Seller (see section 2.3); and

2.2. A condition precedent to the payment of the Payment Price is receipt by the Buyer of Seller's written representation that Seller has relocated his business and vacated the Property; and

2.3. If escrow does not close on the Property, the Side Agreement shall terminate in accordance with the terms of the Purchase Agreement and no payment is due or owing from Buyer to Seller.

ARTICLE III

3. General Provisions

3.1. This Side Agreement, together with the Purchase Agreement and any Exhibits and schedules hereto, contain all representations, warranties and covenants made by Buyer and Seller and constitutes the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements, in relation to this Side Agreement are replaced in total by this Side Agreement together with the Purchase Agreement, Exhibits and schedules hereto.

3.2. Time. Time is of the essence in the performance of each of the parties' respective obligations contained herein.

3.3. Wire Instructions. Buyer shall transmit Payment Price via wire transfer to the following account: _____, with the routing number or swift code of: _____, located at the following bank and address: _____.

3.4. Attorneys' Fees. In the event of any action or proceeding brought by either party against the other under this Side Agreement, the prevailing party shall be entitled to recover all costs and expenses including its attorneys' fees in such action or proceeding in such amount as the court may adjudge reasonable. The prevailing party shall be determined by the court based upon an assessment of which party's major arguments made or positions taken in the proceedings could fairly be said to have prevailed over the other party's major arguments or positions on major disputed issues in the court's decision. If the party which shall have commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

3.5. Assignment. Buyer's rights and obligations hereunder shall be assignable without the prior consent of Seller.

3.6. Governing Law. This Side Agreement shall be governed by and construed in accordance with the laws of the State of California.

3.7. Confidentiality and Return of Documents. Buyer and Seller shall each maintain as confidential any and all material obtained about the other or, in the case of Buyer, about the Property or its operations, this Side Agreement or the transactions contemplated hereby, and shall not disclose such information to any third party. Except as may be required by law, Buyer shall not divulge any such information to other persons or entities including, without limitation, appraisers, real estate brokers, or competitors of Seller. Notwithstanding the foregoing, Buyer shall have the right to disclose information with respect to the Property to its officers, directors, employees, attorneys, accountants, environmental auditors, engineers, potential lenders, and permitted assignees under this Side Agreement and other consultants to the extent necessary for Buyer to evaluate its acquisition of the Property provided that all such persons are told that such information is confidential and agree (in writing for any third party engineers, environmental auditors or other consultants) to keep such information confidential. If Buyer acquires the Property from Seller, either party shall have the right, subsequent to the Closing of such acquisition, to publicize the transaction (other than the parties to or the specific economics of the transaction) in whatever manner it deems appropriate; provided that any press release or other public disclosure regarding this Side Agreement or the transactions contemplated herein, and the wording of same, must be approved in advance by both parties, which approval shall not be unreasonably withheld. The provisions of this section shall survive the Closing or any termination of this Side Agreement. In the event the transaction contemplated by this Side Agreement does not close as provided herein, upon the request of Seller, Buyer shall promptly return to Seller all Property Information and all other documents, reports and records obtained by Buyer in connection with the investigation of the Property.

3.8. Interpretation of Side Agreement. The article, section and other headings of this Side Agreement are for convenience of reference only and shall not be construed to affect the meaning of any provision contained herein. Where the context so requires, the use of the singular shall include the plural and vice versa and the use of the masculine shall include the feminine and the neuter. The term "person" shall include any individual, partnership, joint venture, corporation, trust, unincorporated association, any other entity and any government or any department or agency thereof, whether acting in an individual, fiduciary or other capacity.

3.9. Amendments. This Side Agreement may be amended or modified only by a written instrument signed by Buyer and Seller.

3.10. Drafts Not an Offer to Enter Into a Legally Binding Contract. The parties hereto agree that the submission of a draft of this Side Agreement by one party to another is not intended by either party to be an offer to enter into a legally binding contract with respect to the purchase and sale of the Property. The parties shall be legally bound with respect to the purchase and sale of the Property pursuant to the terms of this Side Agreement only if and when both Seller and Buyer have fully executed and delivered to each other a counterpart of this Side Agreement (or a copy by facsimile transmission).

3.11. No Partnership. The relationship of the parties hereto is solely that of Seller and Buyer with respect to the Property and no joint venture or other partnership exists between the parties hereto. Neither party has any fiduciary relationship hereunder to the other.

3.12. No Third Party Beneficiary. The provisions of this Side Agreement are not intended to benefit any third parties.

3.13. Invalidity and Waiver. If any portion of this Side Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Side Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Side Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision, unless made in writing.

3.14. Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following addresses:

IF TO BUYER:

6176 Federal Blvd. Trust
6176 Federal Blvd.
San Diego, California 92114
Attn:
Fax No.:
Phone No.:

with a copy to:

Austin Legal Group, APC
3990 Old Town Ave, A-112
San Diego, CA 92110

IF TO SELLER:

Darryl Cotton
Address:
City, State, Zip:
Attn:
Fax No.:
Phone No.:

Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by telefax or electronic mail, in which case notice shall be deemed delivered upon confirmation of delivery if sent prior to 5:00 p.m. on a business day (otherwise, the next business day), or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. A party's address may be changed by written notice to the other party; provided,

however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to the Buyer shall be deemed given by Buyer and notices given by counsel to the Seller shall be deemed given by Seller.

3.15. Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. California time.

3.16. Brokers. The parties represent and warrant to each other that no broker or finder was instrumental in arranging or bringing about this transaction.

3.17. Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by the parties hereto at Closing, Buyer and Seller each agree to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the Closing any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

3.18. Execution in Counterparts. This Side Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Side Agreement. To facilitate execution of this Side Agreement, the parties may execute and exchange by telephone facsimile counterparts of the signature pages.

3.19. Incorporation of Recitals/Exhibits. All recitals set forth herein above and the exhibits attached hereto and referred to herein are incorporated in this Side Agreement as though fully set forth herein.

3.20. Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Side Agreement shall not invalidate this Side Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Side Agreement. The exercise of any remedy provided in this Side Agreement shall not be a waiver of any consistent remedy provided by law, and the provisions of this Side Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.

3.21. Legal Advice. Each party has independently received legal advice from its attorneys with respect to the advisability of executing this Side Agreement and the meaning of the provisions hereof. The provisions of this Side Agreement shall be construed as to the fair meaning and not for or against any party based upon any attribution of such party as the sole source of the language in question.

IN WITNESS WHEREOF, the parties hereto have executed this Side Agreement, in duplicate originals, by their respective officers hereunto duly authorized, the day and year herein written.

BUYER:

6176 FEDERAL BLVD. TRUST

By: _____

Printed: _____

Its: Trustee

SELLER:

DARRYL COTTON:

_____

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Re: Statement

Darryl Cotton <indagrodarryl@gmail.com> Fri, Mar 3, 2017 at 8:22 AM
To: Larry Geraci <Larry@tfcsd.net>

Larry,

I read the Side Agreement in your attachment and I see that no reference is made to the 10% equity position as per my Inda-Gro GERL Service Agreement (see attached) in the new store. In fact para 3.11 looks to avoid our agreement completely. It looks like counsel did not get a copy of that document. Can you explain?

On Thu, Mar 2, 2017 at 8:51 AM, Larry Geraci <Larry@tfcsd.net> wrote:

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

Fax: 858.630.3900

Circular 230 Disclaimer:

IRS regulations require us to advise you that, unless otherwise specifically noted, any federal tax advice in this communication (including any attachments, enclosures, or other accompanying materials) was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties; furthermore, this communication was not intended or written to support the promotion or marketing of any of the transactions or matters it addresses. This email is considered a confidential communication and is intended for the person or firm identified above. If you have received this in error, please contact us at (858) 576-1040 and return this to us or destroy it immediately. If you are in possession of this confidential information, and you are not the intended recipient, you are hereby notified that any unauthorized disclosure, copying, distribution or dissemination of the contents hereof is strictly prohibited. Please notify the sender of this facsimile immediately and arrange for the return or destruction of this facsimile and all attachments.

IndaGro-GERL Service Contract.doc
691K

SERVICES AGREEMENT CONTRACT

Date: 09/24/16

Customer: GERL Investments
5402 Ruffin Road, Ste. 200
San Diego, CA 92103

Attn: Mr. Larry Geraci
Ph: 858.956.4040
E-mail: Larry@TFCSD.net

Mr. Geraci;

Pursuant to our conversations I have developed this document to act as the Contract between us that will serve to define our relationship, services, and fee's for the development of 6176 Federal Boulevard San Diego, CA. 92114 (hereinafter referred to as the property) as a new dispensary to be owned and managed by your company, GERL Investments.

1) The property is currently owned by me, Darryl Cotton (Cotton-Seller) and occupied by my company, Inda-Gro Induction Lighting Company (Inda-Gro-Tenant). Under separate Contract Cotton has agreed to sell the property to GERL Investments (GERL-Buyer) for $400,000.00 and a 10% equity position in the new licensed cannabis dispensary business being developed at the property by GERL.

2) Upon completion and transfer of property ownership Cotton will immediately cease being the landlord to Inda-Gro and Inda-Gro will become the tenant of GERL.

3) GERL plans to tear down the existing structure(s) and build a new structure for a commercial dispensary. Under this Agreement GERL will allow Inda-Gro to remain in the property at no charge until such time that the plan check with the City of San Diego has been approved and permits have been issued. This process is expected to take 6-9 months. At the time GERL notices Inda-Gro that the permits have been issued Inda-Gro will have 30 days to vacate the property. Inda-Gro agrees to cooperate with GERL architects to access the property during the design phase of this work.

4) Inda-Gro is agreeing to vacate the property in consideration for a relocation fee of $400,000.00 of which payment would be made in two parts. Upon execution of this Contract GERL agrees to pay Inda-Gro $200,000. Upon issuance of the permits and the 30 day notice to vacate the balance, $200,000.00 would become payable and due.

5) Inda-Gro currently operates what we refer to as a 151 Farm. This is a teaching and touring farm that demonstrates urban farming technologies which utilize our lighting systems, controls and water savings strategies utilizing Aquaponics systems. Since it is in the interest of all parties; Inda-Gro, Cotton and

GERL to identify ongoing investment opportunities with both cannabis and non-cannabis related ventures Inda-Gro and Cotton agree to use the current property to highlight the benefits of what having a licensed dispensary is to the community and once relocated Inda-Gro/Cotton would agree to continue to promote the new dispensary as an example of seed to sale retail distribution as well as identify other investment opportunities that develop from interested parties having toured our facilities and wishing to establish similar operations.

6) GERL may wish to have interested parties tour the current and new property for Inda-Gro 151 Farms. This too is acceptable and under this Agreement would be a mutual collaboration and strategic alliance in terms of the farming and cultivation aspects provided by Inda-Gro and the Site Acquisition, Design/Build Construction and Retail Cannabis Services provided by GERL for those future contracts.

TOTAL PRICE: Four Hundred Thousand and 00/100 ($ 400,000.00)

I/we accept the Service Agreement Contract as detailed and do hereby agree to the Terms as set forth herein:

Sign: _____ Print Name: _____ Date: _____
Darryl Cotton, President

Sign: _____ Print Name: _____ Date: _____
Larry Geraci

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Contract Review

Larry Geraci <Larry@tfcsd.net> Tue, Mar 7, 2017 at 12:05 PM
To: Darryl Cotton <darryl@inda-gro.com>

Hi Daryl,

I have not reviewed this yet but wanted you to look at it and give me your thoughts. Talking to Matt, the 10k a month might be difficult to hit until the sixth month....can we do 5k, and on the seventh month start 10k?

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

Fax: 858.630.3900

Circular 230 Disclaimer:

IRS regulations require us to advise you that, unless otherwise specifically noted, any federal tax advice in this communication (including any attachments, enclosures, or other accompanying materials) was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties; furthermore, this communication was not intended or written to support the promotion or marketing of any of the transactions or matters it addresses. This email is considered a confidential communication and is intended for the person or firm identified above. If you have received this in error, please contact us at (858)576-1040 and return this to us or destroy it immediately. If you are in possession of this confidential information, and you are not the intended recipient, you are hereby notified that any unauthorized disclosure, copying, distribution or dissemination of the contents hereof is strictly prohibited. Please notify the sender of this facsimile immediately and arrange for the return or destruction of this facsimile and all attachments.

17-0306 Side Agreement unsigned v2.docx
38K

SIDE AGREEMENT

This Side Agreement ("Side Agreement") is made as of the ___ day of _____ 2017, by and between Darryl Cotton ("Seller") and 6176 Federal Blvd Trust, dated _____, 2017 ("Buyer"). Buyer and Seller are sometimes referred to herein as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the Seller and Buyer have entered into a Purchase Agreement (the "Purchase Agreement"), dated as of approximate even date herewith, pursuant to which the Seller shall sell to Buyer, and Buyer shall purchase from the Seller, the property located at 6176 Federal Blvd., San Diego, California 92114 (the "Property");

WHEREAS, The Buyer intends to operate a licensed medical cannabis at the property ("Business"); and

WHEREAS, in conjunction with Buyer's purchase of the Property, Buyer has agreed to pay Seller $400,000.00 to reimburse and otherwise compensate Seller for Seller relocating his business located at the Property, and to share in certain profits of Buyer's future Business.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth below, the parties hereto agree as follows:

ARTICLE I
SIDE AGREEMENT

1.1. Within 10 days from the closing of the purchase of the Property pursuant to the Purchase Agreement, and conditioned upon Seller being fully vacated from the Property prior to such closing, Buyer shall pay to Seller in cash or cash equivalent, the sum of Four Hundred Thousand Dollars ($400,000.00) to an account to be designated by Seller in writing.

1.2. In addition to the above, conditioned upon the timely closing of the purchase of the Property pursuant to the Purchase Agreement, Buyer hereby agrees to pay to Seller 10% of the net revenues of Buyer's Business after all expenses and liabilities have been paid. Profits will be paid on the 10th day of each month following the month in which they accrued. Further, Buyer hereby guarantees a profits payment of not less than $5,000.00 per month for the first three months the Business is open (i.e. profits would be paid in months 2-4 for profits accrued in months 1-3) and $10,000.00 a month for each month thereafter the Business is operating on the Property.

ARTICLE II
GENERAL TERMS

2. Entire Agreement. This Side Agreement, together with the Purchase Agreement and any Exhibits and schedules hereto or thereto, contain all representations, warranties and covenants made by Buyer and Seller and constitutes the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements, in relation to this Side Agreement are replaced in total by this Side Agreement together with the Purchase Agreement, Exhibits and schedules hereto.

2.1. Time. Time is of the essence in the performance of each of the parties' respective obligations contained herein.

2.2. Termination. If escrow does not close on the Property according to the terms of the Purchase Agreement, the Side Agreement shall terminate and Buyer and Seller shall have no obligations to each other under this Agreement.

2.3. Attorneys' Fees. In the event of any action or proceeding brought by either party against the other under this Side Agreement, the prevailing party shall be entitled to recover all costs and expenses including its attorneys' fees in such action or proceeding in such amount as the court may adjudge reasonable. The prevailing party shall be determined by the court based upon an assessment of which party's major arguments made or positions taken in the proceedings could fairly be said to have prevailed over the other party's major arguments or positions on major disputed issues in the court's decision. If the party which shall have commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

2.4. Assignment. Buyer's rights and obligations hereunder shall be assignable without the prior consent of Seller.

2.5. Governing Law. This Side Agreement shall be governed by and construed in accordance with the laws of the State of California.

2.6. Confidentiality and Return of Documents. Buyer and Seller shall each maintain as confidential this Side Agreement and the transactions contemplated hereby, and shall not disclose such information to any third party, except their respective attorneys.

2.7. Interpretation of Side Agreement. The article, section and other headings of this Side Agreement are for convenience of reference only and shall not be construed to affect the meaning of any provision contained herein. Where the context so requires, the use of the singular shall include the plural and vice versa and the use of the masculine shall include the feminine and the neuter. The term "person" shall include any individual, partnership, joint venture, corporation, trust, unincorporated association, any other entity and any government or any department or agency thereof, whether acting in an individual, fiduciary or other capacity.

2.8. Amendments. This Side Agreement may be amended or modified only by a written instrument signed by Buyer and Seller.

2.9. No Partnership. The relationship of the parties hereto is solely that of Seller and Buyer with respect to the Property and no joint venture or other partnership exists between the parties hereto. Neither party has any fiduciary relationship hereunder to the other.

2.10. No Third Party Beneficiary. The provisions of this Side Agreement are not intended to benefit any third parties.

2.11. Invalidity and Waiver. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Side Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision, unless made in writing.

2.12. Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following addresses:

IF TO BUYER:

6176 Federal Blvd. Trust
Address:
City, State, Zip:
Attn:
Fax No.:
Phone No.:

with a copy to:

Austin Legal Group, APC
3990 Old Town Ave, A-112
San Diego, CA 92110

IF TO SELLER:

Darryl Cotton
Address:
City, State, Zip:
Attn:
Fax No.:
Phone No.:

Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one business day after deposit with such courier, (b) sent by telefax or electronic mail, in which case notice shall be deemed delivered upon confirmation of delivery if sent prior to 5:00 p.m. on a business day (otherwise, the next business day), or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to the Buyer shall be deemed given by Buyer and notices given by counsel to the Seller shall be deemed given by Seller.

2.13. Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday,

Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. California time.

2.14. Brokers. The parties represent and warrant to each other that no broker or finder was instrumental in arranging or bringing about this transaction.

2.15. Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by the parties hereto, Buyer and Seller each agree to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the closing any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

2.16. Execution in Counterparts. This Side Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Side Agreement. To facilitate execution of this Side Agreement, the parties may execute and exchange by telephone facsimile counterparts of the signature pages.

2.17. Incorporation of Recitals/Exhibits. All recitals set forth herein above are incorporated in this Agreement as though fully set forth herein.

2.18. Legal Advice. Each party has independently received legal advice from its attorneys with respect to the advisability of executing this Side Agreement and the meaning of the provisions hereof. The provisions of this Side Agreement shall be construed as to the fair meaning and not for or against any party based upon any attribution of such party as the sole source of the language in question.

IN WITNESS WHEREOF, the parties hereto have executed this Side Agreement, in duplicate originals, by their respective officers hereunto duly authorized, the day and year herein written.

BUYER: SELLER:

6176 FEDERAL BLVD. TRUST **DARRYL COTTON:**

By: _____ _____

Printed: _____

Its: Trustee

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Re: Contract Review

1 message

Darryl Cotton <indagrodarryl@gmail.com> Thu, Mar 16, 2017 at 8:23 PM
To: Larry Geraci <Larry@tfcsd.net>

Larry,

My apologies ahead of time as I am going to provide frank comments on the agreement so that we can finalize it and get this closed. And, so that you understand where I am coming from, just want to lay out a few of our milestones.

Throughout October we had discussions regarding the sale of my property. We met on 11/2 and agreed upon an $800,000 purchase price, a $50,000 non-refundable deposit, a 10% equity stake with a monthly guaranteed minimum $10,000 payment and to definitive agreements that contained a few other conditions (e.g., I stay at the property if the CUP is issued until construction starts). We executed a good faith agreement that day stating the sale of the property was for the $800,000 and that as a sign of good faith, you were providing a $10,000 deposit towards the required $50,000 non-refundable deposit. That same day you scanned and emailed to me the agreement and I replied and noted that the agreement did not contain the 10% equity stake in the dispensary. I asked you to please respond and confirm via email that a condition of the sale was my 10% equity stake. You did not respond and confirm the 10% as I requested.

Almost 4 months later, on 2/27, you forwarded a draft purchase agreement for the property that again did not contain the agreed upon 10% equity stake, it also does not mention the remaining $40,000 towards the non-refundable deposit. I called you about this and we spoke.

On 3/2, you forwarded a draft Side Agreement that again did not contain the 10% equity stake. I replied the next day on 3/3 raising the 10% equity issue and attaching the draft services agreement that I drafted that contains some of the terms we had agreed upon.

On 3/7, email below, you forwarded a revised Side Agreement that did contain the 10% equity stake, but in the body of the email you requested that the $10,000 minimum monthly payment be held off until month 7 and that months 1-6 be reduced to $5,000 a month. I know from our conversations that you have spent over $300,000 on lobbying and zoning efforts for this property, which has caused you to be strapped for cash. However, I am not in a position to take a $5,000 reduction for 6 months.

The long and short of it, we started these negotiations 4 months ago and the drafts and our communications have not reflected what we agreed upon and are still far from reflecting our original agreement. Here is my proposal, please have your attorney Gina revise the Purchase Agreement and Side Agreement to incorporate all the terms we have agreed upon so that we can execute final versions and get this closed.

Please have these terms incorporated into revised drafts:

- The remaining $40,000 deposit, which is nonrefundable in the event you choose to not close on the property if the CUP is denied. And which is to be provided upon execution of the final agreements.
- If the CUP is granted, my business can remain at the property until the city has finalized the plans and construction begins at the property.
- A 10% equity stake with a minimum guaranteed monthly distribution of $10,000, whichever is greater.
- A clause that my 10% equity stake carries with it consent rights for any material decisions. Those items that are to require my consent can be standard minority consent rights, but basically that my consent is required for large decisions like the issuance of employee bonus and for agreements with

suppliers and vendors that are not done on an arm-lengths basis. A friend of mine said that these are standard "Minority Shareholder Protection Rights."

- A provision requiring that upon the creation of the formation and governance documents of the CUP entity, that there is a requirement that the accounting is to be done by a third-party accounting firm that will also be responsible for calculating my 10% monthly equity distributions.
- The incorporation of all the terms in the MOU that I created that Gina references in the draft purchase agreement.
- Please have Gina delete the clause in the purchase agreement that says both you and I had our own counsel review the agreement. You told me I could just communicate with Gina and though I tried to engage an attorney, I did not ultimately do so for cost reasons.

The intent of all this is to ensure that the agreement we have agreed upon can be executed and verified. Having said all this, I really want to finalize this as soon as possible - I found out today that a CUP application for my property was submitted in October, which I am assuming is from someone connected to you. Although, I note that you told me that the $40,000 deposit balance would be paid once the CUP was submitted and that you were waiting on certain zoning issues to be resolved. Which is not the case.

Ultimately, the main point is that we were supposed to execute our agreements as soon as possible so that I could receive the total $50,000 non-refundable deposit and you would take the risk of the non-approval of the CUP. If this keeps dragging on and we do not finalize and execute our agreements, then you may get a denial from the city on the CUP and then simply walk away. At that point, the property having been denied, no other party would be willing to take on that risk. If you are not willing to take on that risk as originally agreed upon, please let me know as there are other parties who would match your terms and be willing to take on that risk.

Please confirm by Monday 12:00 PM whether we are on the same page and you plan to continue with our agreement. Or, if not, so I can return your $10,000 of the $50,000 required deposit. If, hopefully, we can work through this, please confirm that revised final drafts that incorporate the terms above will be provided by Wednesday at 12:00 PM. I promise to review and provide comments that same day so we can execute the same or next day.

In anticipation of your reply, I remain,

Darryl Cotton

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Re: Contract Review

1 message

Darryl Cotton <indagrodarryl@gmail.com> Fri, Mar 17, 2017 at 2:15 PM
To: Larry Geraci <Larry@tfcsd.net>

Larry, I received your text asking to meet in person tomorrow. I would prefer that until we have final agreements, that we converse exclusively via email. My greatest concern is that you will get a denial on the CUP application and not provide the remaining $40,000 non-refundable deposit. To be frank, I feel that you are not dealing with me in good faith, you told me repeatedly that you could not submit a CUP application until certain zoning issues had been resolved and that you had spent hundreds of thousands of dollars on getting them resolved. You lied to me, I found out yesterday from the City of San Diego that you submitted a CUP application on October 31, 2016 BEFORE we even signed our agreement on the 2nd of November. There is no situation where an oral agreement will convince me that you are dealing with me in good faith and will honor our agreement. We need a final written, legal, binding agreement.

Please confirm, as requested, by 12:00 PM Monday that you are honoring our agreement and will have final drafts (reflecting completely the below) by Wednesday at 12:00 PM.

It is unfortunate that matters have turned out like this, but hearing from the city that the application had been submitted before our deal was signed and that it is already under review, meaning you have been lying to me for months, forces me to take this course of action.

Again, please respond to this email so that there is a clear record of our conversations from this point forward or at least until we have final executed documents.

-Darryl

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

RE: Contract Review

1 message

Larry Geraci <Larry@tfcsd.net> Sat, Mar 18, 2017 at 1:43 PM
To: Darryl Cotton <indagrodarryl@gmail.com>

Darryl,

I have an attorney working on the situation now. I will follow up by Wednesday with the response as their timing will play a factor.

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

Fax: 858.630.3900

Circular 230 Disclaimer:

IRS regulations require us to advise you that, unless otherwise specifically noted, any federal tax advice in this communication (including any attachments, enclosures, or other accompanying materials) was not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties; furthermore, this communication was not intended or written to support the promotion or marketing of any of the transactions or matters it addresses. This email is considered a confidential communication and is intended for the person or firm identified above. If you have received this in error, please contact us at (858)576-1040 and return this to us or destroy it immediately. If you are in possession of this confidential information, and you are not the intended recipient, you are hereby notified that any unauthorized disclosure, copying, distribution or dissemination of the contents hereof is strictly prohibited. Please notify the sender of this facsimile immediately and arrange for the return or destruction of this facsimile and all attachments.

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Re: Contract Review

1 message

Darryl Cotton <indagrodarryl@gmail.com> Sun, Mar 19, 2017 at 9:02 AM
To: Larry Geraci <Larry@tfcsd.net>

Larry,

I understand that drafting the agreements will take time, but you don't need to consult with your attorneys to tell me whether or not you are going to honor our agreement.

I need written confirmation that you will honor our agreement so that I know that you are not just playing for time - hoping to get a response from the City before you put down in writing that you owe me the remainder of the $50,000 nonrefundable deposit we agreed to.

If I do not have a written confirmation from you by 12:00 PM tomorrow, I will contacting the City of San Diego and let them know that our agreement was not completed and that the application pending on my property needs to be denied because the applicant has no right to my property.

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

RE: Contract Review

1 message

Larry Geraci <Larry@tfcsd.net> Sun, Mar 19, 2017 at 3:11 PM
To: Darryl Cotton <indagrodarryl@gmail.com>

Darryl,

At this point, you keep changing your mind every time we talk. My attorneys will move forward on the agreement as planned. Any signed written agreement will be followed by the letter of the law. It's not about any deposit, it's about you changing what is not in writing. So there is no confusion, the attorneys will move forward with an agreement.

As to lying about the status, read the comment below from the city on Wednesday 3/15/2017. We are addressing this currently with the city. I have been forthright with you this entire process.

To: 'Abhay Schweitzer' <abhay@techne-us.com>
Subject: PTS 520606 - Federal Boulevard MMCC
Importance: High

Good Afternoon,

I am the Development Project Manager assigned to the above referenced project. The project is located in the CO-2-1 (Commercial Office) Zone. Please note that per the San Diego Municipal Code, a Medical Marijuana Consumer Cooperative is not a permitted use in this Zone and staff will be recommending denial of this application.

Pease advise if you wish to continue the processing of the subject application through the full review process, or staff could schedule a hearing immediately with a recommendation of denial. Please note that all costs associated with the processing of the application would be charged to the deposit account and not refunded.

Please notify me at your earliest convenience of your preference.

Regards,

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Re: Contract Review

1 message

Darryl Cotton <indagrodarryl@gmail.com> Sun, Mar 19, 2017 at 6:47 PM
To: Larry Geraci <Larry@tfcsd.net>

Larry,

I have not been changing my mind. The only additional requests have been in regards to putting in place third party accounting and other mechanisms to ensure that my interests are protected. I have only done so because you kept providing draft agreements that continuously failed the terms we agreed to.

It is blatantly clear to me now that you have been stringing me along, even now all your responses are to buy more time. So there is no confusion, you have until tomorrow 12:00 PM to provide confirmation as requested below. If you don't, I am emailing the City of San Diego regarding the fact that no third-party has any interest in my property and the application currently pending needs to be denied.

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Re: Contract Review

1 message

Darryl Cotton <indagrodarryl@gmail.com> Tue, Mar 21, 2017 at 3:18 PM
To: Larry Geraci <Larry@tfcsd.net>

Larry, I have been in communications over the last 2 days with Firouzeh, the Development Project Manager for the City of San Diego who is handling CUP applications. She made it 100% clear that there are no restrictions on my property and that there is no recommendation that a CUP application on my property be denied. In fact she told me the application had just passed the "Deemed Complete' phase and was entering the review process. She also confirmed that the application was paid for in October, before we even signed our agreement.

This is our last communication, you have failed to live up to your agreement and have continuously lied to me and kept pushing off creating final legal agreements because you wanted to push it off to get a response from the City without taking the risk of losing the non-refundable deposit in the event the CUP application is denied.

To be clear, as of now, you have no interest in my property, contingent or otherwise. I will be entering into an agreement with a third-party to sell my property and they will be taking on the potential costs associated with any litigation arising from this failed agreement with you.

Darryl Cotton

EXHIBIT 6

City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

THE CITY OF SAN DIEGO

General Application

FORM DS-3032
AUGUST 2013

Part I *(Must be completed for all permits/approvals)*

1. Approval Type: *Separate electrical, plumbing and/or mechanical permits are required for projects other than single-family residences or duplexes* ☐ Electrical/Plumbing/Mechanical ☐ Sign ☐ Structure ☐ Grading ☐ Public Right-of-Way; ☐ Subdivision ☐ Demolition/Removal ☐ Development Approval ☐ Vesting Tentative Map ☐ Tentative Map ☐ Map Waiver ☑ Other: CUP

2. Project Address/Location: *Include Building or Suite No.*
6176 Federal Blvd.

Project Title:
Federal Blvd. MMCC

Project No.: *For City Use Only*
520606

Legal Description: *(Lot, Block, Subdivision Name & Map Number)*
TR#:2 001100 BLK 25*LOT 20 PER MAP 2121 IN* City/Muni/Twp: SAN DIEGO

Assessor's Parcel Number:
543-020-02

Existing Use: ☐ House/Duplex ☐ Condominium/Apartment/Townhouse ☑ Commercial/Non-Residential ☐ Vacant Land

Proposed Use: ☐ House/Duplex ☐ Condominium/Apartment/Townhouse ☑ Commercial/Non-Residential ☐ Vacant Land

Project Description:
The project consists of the construction of a new MMCC facility

3. Property Owner/Lessee Tenant Name: *Check one* ☐ Owner ☑ Lessee or Tenant
Rebecca Berry
Telephone:
Fax:

Address:	City:	State:	Zip Code:	E-mail Address:
5982 Gullstrand Street	San Diego	CA	92122	becky@tfcsd.net

4. Permit Holder Name - This is the property owner, person, or entity that is granted authority by the property owner to be responsible for scheduling inspections, receiving notices of failed inspections, permit expirations or revocation hearings, and who has the right to cancel the approval (in addition to the property owner). SDMC Section 113.0103.
Name: Rebecca Berry
Telephone:
Fax:

Address:	City:	State:	Zip Code:	E-mail Address:
5982 Gullstrand Street	San Diego	CA	92122	becky@tfcsd.net

5. Licensed Design Professional (if required): (check one) ☑ Architect ☐ Engineer
License No.: C-19371
Name: Michael R Morton AIA
Telephone:
Fax:

Address:	City:	State:	Zip Code:	E-mail Address:
3956 30th Street	San Diego	CA	92104	

6. Historical Resources/Lead Hazard Prevention and Control (not required for roof mounted electric-photovoltaic permits, deferred fire approvals, or completion of expired permit approvals) -

a. Year constructed for all structures on project site: 1951
b. HRB Site # and/or historic district if property is designated or in a historic district (if none write N/A): N/A
c. Does the project include any permanent or temporary alterations or impacts to the exterior (cutting-patching-access-repair, roof repair or replacement, windows added-removed-repaired-replaced, etc)? ☑ Yes ☐ No
d. Does the project include any foundation repair, digging, trenching or other site work? ☑ Yes ☐ No

I certify that the information above is correct and accurate to the best of my knowledge. I understand that the project will be distributed/reviewed based on the information provided.

Print Name: Abhay Schweitzer Signature: (APPT) Date: 10/28/2016

7. Notice of Violation - If you have received a Notice of Violation, Civil Penalty Notice and Order, or Stipulated Judgment, a copy must be provided at the time of project submittal. Is there an active code enforcement violation case on this site? ☐ No ☐ Yes, copy attached

8. Applicant Name: *Check one* ☐ Property Owner ☐ Authorized Agent of Property Owner ☑ Other Person per M.C. Section 112.0102
Telephone:
Fax:
Rebecca Berry

Address:	City:	State:	Zip Code:	E-mail Address:
5982 Gullstrand Street	San Diego	CA	92122	becky@tfcsd.net

Applicant's Signature: I certify that I have read this application and state that the above information is correct, and that I am the property owner, authorized agent of the property owner, or other person having a legal right, interest, or entitlement to the use of the property that is the subject of this application (Municipal Code Section 112.0102). I understand that the applicant is responsible for knowing and complying with the governing policies and regulations applicable to the proposed development or permit. The City is not liable for any damages or loss resulting from the actual or alleged failure to inform the applicant of any applicable laws or regulations, including before or during final inspections. City approval of a permit application, including all related plans and documents, is not a grant of approval to violate any applicable policy or regulation, nor does it constitute a waiver by the City to pursue any remedy, which may be available to enforce and correct violations of the applicable policies and regulations. I authorize representatives of the city to enter the above-identified property for inspection purposes. I have the authority and grant City staff and advisory bodies the right to make copies of any plans or reports submitted for review and permit processing for the duration of this project.

Signature: Rebecca Berry Date: Oct. 31 2016

City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

THE CITY OF SAN DIEGO

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit ☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☒ Conditional Use Permit ☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment • ☐ **Other** _____

Project Title — **Project No.** *For City Use Only*

Federal Blvd. MMCC

Project Address:

6176 Federal Blvd., San Diego, CA 92114

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ **Yes** ☒ **No**

Name of Individual (type or print):	Name of Individual (type or print):
Darryl Cotton	Rebecca Berry
☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency	☐ Owner ☒ Tenant/Lessee ☐ Redevelopment Agency
Street Address: 6176 Federal Blvd	Street Address: 5982 Gullstrand St
City/State/Zip: San Diego Ca 92114	City/State/Zip: San Diego / Ca / 92122
Phone No: (619)954-4447 — Fax No:	Phone No: 8589996882 — Fax No:
Signature: — Date: 10-31-2016	Signature: Rebecca Berry — Date: 10-31-2016

Name of Individual (type or print):	Name of Individual (type or print):
☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency	☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
Street Address:	Street Address:
City/State/Zip:	City/State/Zip:
Phone No: — Fax No:	Phone No: — Fax No:
Signature: — Date:	Signature: — Date:

City of San Diego
Development Services
1222 First Ave., MS-401
San Diego, CA 92101
(619) 446-5000

THE CITY OF SAN DIEGO

Affidavit for Medical Marijuana Consumer Cooperatives for Conditional Use Permit (CUP)

FORM
DS-190
MARCH 2014

The purpose of this affidavit is for the property owner, authorized agent, or business owner of the Medical Marijuana Consumer Cooperative (MMCC) to affirm that all uses within 1,000 feet from the subject property line have been identified, including residential zones within 100 feet, as defined in San Diego Municipal Code (SDMC), Sections 113.0103 and 141.0614.

The proposed MMCC location must be 100 feet from any residential zone and not within 1,000 feet of the property line of the following:

1. Public park
2. Church
3. Child care center
4. Playground
5. City library
6. Minor-oriented facility
7. Other medical marijuana consumer cooperatives
8. Residential care facility
9. Schools

GENERAL INFORMATION

Project Name:
Federal Blvd. MMCC

Project No.: *For City Use Only*
520604

Project Address:
6176 Federal Blvd., San Diego, CA 92114

Date Information Verified by Owner or Authorized Agent:
10/28/2016

DECLARATION: *The property owner, authorized agent, or business owner of the Medical Marijuana Consumer Cooperative must complete the following section and sign their name where indicated.*

We are aware that the business described above is subject to the Medical Marijuana Consumer Cooperatives (MMCC) regulated by SDMC, Section 141.0614 and Chapter 4, Article 2, Division 15. We hereby affirm under penalty of perjury that the proposed business location is not within 1,000 feet, measured in accordance with SDMC, Section 113.0225, of the property line of any public park, church, child care center, playground, library owned and operated by the City of San Diego, minor-oriented facility, other medical marijuana consumer cooperative, residential care facility, or schools; and is 100 feet from any residential zone as identified on the 1000-foot radius map and spreadsheet submitted with the Conditional Use Permit application.

Property Owner or Authorized Agent Name: *Check one* ☒ Owner ☐ Agent

Telephone No.:

Mailing Address:

City:

State:

Zip Code:

Signature:

Date:

Business Owner Name:
Rebecca Berry

Telephone No.:
(858) 999-6882

Mailing Address:
5982 Gullstrand Street

City:
San Diego

State:
CA

Zip Code:
92122

Signature: Rebecca Berry

Date: Oct 31 2016

Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.
Upon request, this information is available in alternative formats for persons with disabilities.

City of San Diego
Development Services
Attn: Deposit Accounts
1222 First Ave., MS-401
San Diego, CA 92101
THE CITY OF SAN DIEGO (619) 446-5000

Deposit Account/Financially Responsible Party

FORM
DS-3242
AUGUST 2014

Project Address/Location:
6176 Federal Blvd. San Diego, CA. 92114

Project No.: FOR CITY USE ONLY 520606

Internal Order No.: FOR CITY USE ONLY

Approval Type: *Check appropriate box for type of approval requested:*

☐ Grading ☐ Public Right-of-Way ☐ Subdivision ☐ Neighborhood Use ☐ Coastal ☐ Neighborhood Development
☐ Site Development ☐ Planned Development ☑ Conditional Use ☐ Variance ☐ Vesting Tentative Map
☐ Tentative Map ☐ Map Waiver ☐ Other: _____

Is the project subject to a Reimbursement Agreement? ☐ No ☐ Yes
If yes, provide Reimbursement Agreement Application Project Number or Resolution/Ordinance No.: _____

Deposit Trust Fund Account Information: A deposit into a Trust Fund account with an initial deposit to pay for the review, inspection and/or project management services is required. The initial deposit is drawn against to pay for these services. The Financially Responsible Party will receive a monthly statement reflecting the charges made against the account, and an invoice when additional deposits are necessary to maintain a minimum balance. The payment of the invoice will be required in order to continue processing your project. At the end of the project, any remaining funds will be returned to the Financially Responsible Party.

FINANCIALLY RESPONSIBLE PARTY

Name/Firm Name:	Address:	E-mail:
Rebecca Berry	5982 Gullstrand Street	

City:	State:	Zip Code:	Telephone:	Fax No.:
San Diego	CA	92122		

Financially Responsible Party Declaration: I understand that City expenses may exceed the estimated advance deposit and, when requested by the City of San Diego, will provide additional funds to maintain a positive balance. Further, the sale or other disposition of the property does not relieve the individual or Company/Corporation of their obligation to maintain a positive balance in the trust account, unless the City of San Diego approves a Change of Responsible Party and transfer of funds. Should the account go into deficit, all City work may stop until the requested advance deposit is received.

☐ This is a continuation of existing Project No.: _____ Internal Order No.: _____

NOTE: Using an existing opened account may be allowed when:
1. Same location for both projects;
2. Same Financially Responsible Party;
3. Same decision process (Ministerial and discretionary projects may not be combined);
4. Same project manager is managing both projects; and
5. Preliminary Review results in a project application.

Please be advised: *Billing statements cannot distinguish charges between two different projects.*

Please Print Legibly.

Print Name: REBECCA BERRY Title: PRESIDENT

Signature*: Rebecca Berry Date: 10/31/16

***The name of the individual and the person who signs this declaration must be the same. If a corporation is listed, a corporate officer must sign the declaration (President, Vice-President, Chairman, Secretary or Treasurer).**

FOR CITY USE ONLY

Project Title: Federal Blvd. MMCC Date Requested: 10/31/16

☐ Keep existing Project No.: _____ as lead or ☐ Use new Project No.: _____ as lead

ACCOUNT CLOSURE AUTHORIZATION

Date Requested: _____ ☐ Completed ☐ Inactive ☐ Withdrawn ☐ Collections

Print Name: _____ Signature: _____

Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.
Upon request, this information is available in alternative formats for persons with disabilities.

From: **Brianna Harris** brianna@bhpsonline.com
Subject: [Scan] Federal mmcc- receipt
Date: October 31, 2016 at 4:20 PM
To: ahbay@techne-us.com, ben@techne-us.com

BH

Hi,

Please see attached paid receipt. Pts# 520606.

Thank you,
Brianna
--
Sent with Genius Scan for iOS.
http://dl.tglapp.com/genius-scan

Invoice Number: 724497

Status: Paid
Issued: 10/31/2016 02:51 PM Gonzalez, Dolores
Voided:
Customer: Berry, Rebecca
Firm:

Payment: On 10/31/2016 03:46 PM To: Wilkins, Jenni

Payment Method	Document	Refundable To	Pt
Check	3640	Rebecca A Berry	$8
			$8

Development: 327754 Devel Num 327754
Project: 520606 Federal Blvd MMCC
Job: 1002936 Project

Project Manager: Gonzalez, Dolores

Approval: 18 26167 PRJ Project Approval

Fee Description	Quantity	Units	Fee Amount
Close Out Fee	1.00	Each	$545.00
Deposit Account	8,245.00	Dollars	$8,245.00
Mapping	1.00	Each	$10.00
		Approval Total:	$8,800.00
		Job Total:	$8,800.00
		Project Total:	$8,800.00
		Invoice Total:	$8,800.00

EXHIBIT 7

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Federal Boulevard MMCC

Tirandazi, Firouzeh <FTirandazi@sandiego.gov> Tue, Mar 21, 2017 at 8:54 AM
To: "dcotton@fleetsystems.net" <dcotton@fleetsystems.net>
Cc: "becky@tfcsd.net" <becky@tfcsd.net>, "brianna@bhpsonline.com" <brianna@bhpsonline.com>

Good Morning Mr. Cotton,

As a follow-up to our conversation this morning regarding your potential interest as property owner in withdrawing the above referenced CUP application, I just noticed that you are not the financial responsible party for the subject application. As such, I will also need written acknowledgement from Ms. Rebecca Berry, the applicant, who is the financial responsible party, to withdraw the subject CUP application.

As requested, here is a link to the 2/14 Council docket and supporting material - Item No. 51:
http://dockets.sandiego.gov/sirepub/pubmtgframe.aspx?meetid=3410&doctype=Agenda

Regards,

Firouzeh Tirandazi

Development Project Manager

City of San Diego

Development Services Department

(619)446-5325

sandiego.gov

OpenDSD Now: Pay Invoices and Deposits Online

CONFIDENTIAL COMMUNICATION

This electronic mail message and any attachments are intended only for the use of the addressee(s) named above and may contain information that is privileged, confidential and exempt from disclosure

EXHIBIT 8

LexisNexis | Accurint® for Legal Professionals

Important: The Public Records and commercially available data sources used on reports have errors. Data is sometimes entered poorly, processed incorrectly and is generally not free from defect. This system should not be relied upon as definitively accurate. Before relying on any data this system supplies, it should be independently verified. For Secretary of State documents, the following data is for information purposes only and is not an official record. Certified copies may be obtained from that individual state´s Department of State. The criminal record data in this product or service may include records that have been expunged, sealed, or otherwise have become inaccessible to the public since the date on which the data was last updated or collected.

Accurint does not constitute a "consumer report" as that term is defined in the federal Fair Credit Reporting Act, 15 USC 1681 et seq. (FCRA). Accordingly, Accurint may not be used in whole or in part as a factor in determining eligibility for credit, insurance, employment or another permissible purpose under the FCRA.

Your DPPA Permissible Use: Civil, Criminal, Administrative, or Arbitral Proceedings
Your GLBA Permissible Use: Use by Persons Holding a Legal or Beneficial Interest Relating to the Consumer
Your DMF Permissible Use: No Permissible Purpose

Comprehensive Report

Date: 06/19/17
Reference Code: 2403.002

Report Legend:
S - Shared Address
D - Deceased
✓ - Probable Current Address

Report processed by:

Finch, Thornton & Baird, LLP
4747 EXECUTIVE DR STE 700
SAN DIEGO, CA 92121
858-737-3100 Main Phone
619-293-7362 Fax

Subject Information
(Best Information for Subject)
Name: **LAWRENCE EDWARD GERACI**
Date of Birth: **10/xx/1960**
Age: **56**
SSN: **101-52-xxxx** issued in **New York** between **1/1/1973** and **12/31/1974**

AKAs
(Names Associated with Subject)
LAWRENCE E GERACI
Age: **56** SSN: **101-52-xxxx**
LAWRENCE GERACI
Age: **56** SSN: **101-52-xxxx**
Utility Locator - Connect Date: 5/3/2013
LARRY E GERACI
Age: **56** SSN: **101-52-xxxx**
LARRY GERACI
Age: **56** SSN: **101-52-xxxx**
Utility Locator - Connect Date: 10/19/2012
LARRY EDWARD GERACI
Age: **56** SSN: **101-52-xxxx**
LAWRENCE E GRACI
Age: **56** SSN: **101-52-xxxx**
LARRY E GERACI LARRY
Age: **56** SSN: **101-52-xxxx**
L PALMER DARRELL
Age: **56** SSN: **101-52-xxxx**
LARRY GERACY
Age: **56** SSN: **101-52-xxxx**
LARRY E GERACI
Age: **56** SSN: **545-57-xxxx**
LARRY PALMER
Age: **56** SSN: **545-57-xxxx**

Indicators

Bankruptcy: **No**
Property: **Yes**
Corporate Affiliations: **Yes**

Comprehensive Report Summary:

Bankruptcies:
None Found
Liens and Judgments:
1 Found
UCC Filings:
None Found
Phones Plus:
5 Found
People at Work:
50 Found
Address(es) Found:
0 Verified and 19 Non-Verified Found
Possible Properties Owned:
17 Found
Watercraft:
None Found
FAA Certifications:
None Found
Possible Criminal Records:
None Found
Sexual Offenses:
None Found
Professional Licenses:
3 Found
Voter Registration:
None Found
Hunting/Fishing Permit:
None Found
Concealed Weapons Permit:
None Found
Possible Associates:
5 Found
DEA Controlled Substances:
None Found
Neighbors:
1st Neighborhood - 6 Found
2nd Neighborhood - 3 Found
3rd Neighborhood - 2 Found
4th Neighborhood - 4 Found

Others Associated With Subjects SSN:
(DOES NOT usually indicate any type of fraud or deception)
LAWRENCE LAYSSARD
101-52-xxxx issued in New York between 1/1/1973 and 12/31/1974

Address Summary:

5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY (Jul 1993 - May 2017)
5402 RUFFIN RD STE 2, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY (2000 - Jul 2014)
4635 4641 EDGEWARE RD, SAN DIEGO, CA 92116, SAN DIEGO COUNTY (Dec 1999 - Nov 2016)
4635 EDGEWARE RD 41, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Feb 1990 - 2016)
2026 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY (Mar 1979 - 2016)
340 5TH AVE APT D, CHULA VISTA, CA 91910-3761, SAN DIEGO COUNTY (Oct 2012 - Jan 2014)
Utility Locator - Connect Date: 10/19/2012
220 W STATE ST APT, EL CENTRO, CA 92243-2525, IMPERIAL COUNTY (Jun 2006 - Jun 2012)
3690 6TH AVE, SAN DIEGO, CA 92103-4331, SAN DIEGO COUNTY (Dec 2000 - Mar 2009)
JENNA PL, ESCONDIDO, CA 92029, SAN DIEGO COUNTY (Sep 2004 - Sep 2007)
2720 POINSETTIA DR, SAN DIEGO, CA 92106-1124, SAN DIEGO COUNTY (Jun 1999 - Dec 2002)
4637 EDGEWARE RD, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Mar 1979 - Jun 2001)
4635 EDGEWARE RD 4641, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Dec 1999)
2412 FAIRMOUNT AVE APT J, SAN DIEGO, CA 92105-6312, SAN DIEGO COUNTY (Dec 1998)
5100 MARLBOROUGH DR APT 106, SAN DIEGO, CA 92116-2020, SAN DIEGO COUNTY (Mar 1979 - Dec 1995)
4637 EDGAWATER, SAN DIEGO, CA 92116, SAN DIEGO COUNTY (Feb 1994)
EDGWEAR, SAN DIEGO, CA 92029, SAN DIEGO COUNTY (Nov 1993)

3520 LEBON DR UNIT 5319, SAN DIEGO, CA 92122-4591, SAN DIEGO COUNTY (Jan 1990 - Dec 1990)
2295 GRAND AVE APT 9, SAN DIEGO, CA 92109-4744, SAN DIEGO COUNTY (Feb 1989)
4677 EDGEWARE RD, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Jan 1983)

Active Address(es):

[None Found]

Previous And Non-Verified Address(es):

5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY (Jul 1993 - May 2017)

Name Associated with Address:

LARRY E GERACI

Current Residents at Address:

MICHAEL J CAMPBELL
LAWRENCE EDWARD GERACI
PAMELA JEAN GERACI

Current phones listed at this address:

858-560-6544 - PDT JAN MEADER UNIQUE TAX SERVICE
858-472-1281

Property Ownership Information for this Address

Property:

Parcel Number - 369-192-10-00
Owner Name: LARRY GERACI
Property Address: - 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY
Owner Address: 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY
Assessed Value - $1,167,352
Land Size - 38333 SF
Year Built - 1979
Legal Description - LOT 10
Data Source - B

Property:

Parcel Number - 369-192-10-00
Owner Name: RUFFIN BUSINESS SUITES LLC
Property Address: - 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
Sale Date - 11/08/2000
Sale Price - $1,000,000
Subdivision Name - HAZARD COMM PARK
Assessed Value - $1,272,886
Land Size - 38,333 Square Feet
Year Built - 1977
Seller Name: ROGER K BECK
Legal Description - LOT 10 TR 8503
Loan Amount - $655,000
Loan Type - PRIVATE PARTY LENDER
Lender Name - CLINE DEANNA
Data Source - A

Neighborhood Profile (2010 Census)

Average Age: 36
Median Household Income: $75,601
Median Owner Occupied Home Value: $353,571
Average Years of Education: 14

5402 RUFFIN RD STE 2, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY (2000 - Jul 2014)

Name Associated with Address:

LARRY E GERACI
858-576-1040

Neighborhood Profile (2010 Census)

Average Age: 36
Median Household Income: $75,601
Median Owner Occupied Home Value: $353,571
Average Years of Education: 14

4635 4641 EDGEWARE RD, SAN DIEGO, CA 92116, SAN DIEGO COUNTY (Dec 1999 - Nov 2016)

Name Associated with Address:

LARRY GERACI

Property Ownership Information for this Address

Property:

Parcel Number - 440-664-10-00
Owner Name: LARRY GERACI
Property Address - 4635 4641 EDGEWARE RD, SAN DIEGO, CA 92116, SAN DIEGO COUNTY
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY

Sale Date - 11/02/2016
Loan Amount - $502,000
Loan Type - PRIVATE PARTY LENDER
Data Source - A

Neighborhood Profile (2010 Census)
Average Age: 31
Median Household Income: $66,912
Median Owner Occupied Home Value: $450,000
Average Years of Education: 14

4635 EDGEWARE RD 41, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Feb 1990 - 2016)

Name Associated with Address:
LARRY GERACI

Property Ownership Information for this Address

Property:
Parcel Number - 440-664-10-00
Owner Name: LARRY GERACI
Property Address: - 4635 EDGEWARE RD, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY
Sale Price - $265,000
Subdivision Name - KENSINGTON PARK
Assessed Value - $411,832
Land Size - 5,998 Square Feet
Seller Name: JULIUS GY SZEKERES
Legal Description - LOT 9 BLK 23 TR 1245
Loan Amount - $245,000
Loan Type - PRIVATE PARTY LENDER
Lender Name - SZEKERES JULIUS GY
Data Source - A

Property:
Parcel Number - 4406641000
Owner Name: LARRY GERACI
Property Address - 4635 EDGEWARE RD 41, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY
Owner Address: 4635 EDGEWARE RD 41, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY
Loan Amount - $17,000
Loan Type - CONVENTIONAL
Data Source - A

Neighborhood Profile (2010 Census)
Average Age: 38
Median Household Income: $61,912
Median Owner Occupied Home Value: $716,667
Average Years of Education: 14

2026 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY (Mar 1979 - 2016)

Name Associated with Address:
LARRY GERACI

Property Ownership Information for this Address

Property:
Parcel Number - 238-461-33-00
Owner Name: LARRY GERACI
Property Address: - 2026 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY
Sale Price - $349,000
Subdivision Name - ESCONDIDO TR 700R
Assessed Value - $615,602
Land Size - 19,950 Square Feet
Seller Name: L & W INVESTMENTS INC
Legal Description - LOT 16 TR 12379
Loan Amount - $279,200
Loan Type - CONVENTIONAL
Lender Name - CIVICBANK COMMERCE
Data Source - A

Neighborhood Profile (2010 Census)
Average Age: 46
Median Household Income: $131,793
Median Owner Occupied Home Value: $739,155
Average Years of Education: 14

340 5TH AVE APT D, CHULA VISTA, CA 91910-3761, SAN DIEGO COUNTY (Oct 2012 - Jan 2014)

Utility Locator - Connect Date: 10/19/2012

Name Associated with Address:
LAWRENCE E GERACI

Property Ownership Information for this Address

Property:
Parcel Number - 567-102-42-00

Owner Name: MR M BOOGAARD
Owner Name 2: CYNTHIA K BOOGAARD
Property Address: - 340 5TH AVE, CHULA VISTA, CA 91910-3797, SAN DIEGO COUNTY
Sale Price - $1,450,000
Subdivision Name - CHULA VISTA
Assessed Value - $1,920,257
Land Size - 31,363 Square Feet
Seller Name: EL GAR CONSTRUCTION INC
Legal Description - POR LOT 6 1/4 SEC 149 TR 505
Loan Amount - $1,015,000
Loan Type - CONVENTIONAL
Lender Name - WASHINGTON MUTUAL BK
Data Source - A

Neighborhood Profile (2010 Census)

Average Age: 33
Median Household Income: $30,185
Median Owner Occupied Home Value: $336,905
Average Years of Education: 11

220 W STATE ST APT, EL CENTRO, CA 92243-2525, IMPERIAL COUNTY (Jun 2006 - Jun 2012)

Name Associated with Address:

LARRY GERACI

Property Ownership Information for this Address

Property:

Parcel Number - 053-133-007-000
Owner Name: RAMON ARIAS
Owner Name 2: ADRIAN K ARIAS
Property Address: - 220 W STATE ST, EL CENTRO, CA 92243-2525, IMPERIAL COUNTY
Sale Date - 08/13/2012
Sale Price - $288,000
Subdivision Name - EL CENTRO
Assessed Value - $245,905
Seller Name: MARLENE F BAJAK
Legal Description - LOTS 23&24 BL 28B SUB OF BL 28B 29 30 31B 44B 45 47B OM 2-34
Data Source - A

Neighborhood Profile (2010 Census)

Average Age: 34
Median Household Income: $28,977
Median Owner Occupied Home Value: $219,375
Average Years of Education: 10

3690 6TH AVE, SAN DIEGO, CA 92103-4331, SAN DIEGO COUNTY (Dec 2000 - Mar 2009)

Name Associated with Address:

LARRY E GERACI

Current Residents at Address:

TAMMY ANN PACKARD

Property Ownership Information for this Address

Property:

Parcel Number - 452-282-09-00
Owner Name: TAMMY A PACKARD
Property Address: - 3690 6TH AVE, SAN DIEGO, CA 92103-4331, SAN DIEGO COUNTY
Sale Date - 01/04/2000
Sale Price - $557,000
Subdivision Name - BROOKES ADD
Assessed Value - $723,169
Land Size - 7,484 Square Feet
Seller Name: ARLENE S WHALEN
Legal Description - (EX ST WID) LOTS 11&12 BLK 6 TR 596
Loan Amount - $445,600
Loan Type - CONVENTIONAL
Lender Name - FIRST FRANKLIN FIN´L
Data Source - A

Neighborhood Profile (2010 Census)

Average Age: 42
Median Household Income: $54,534
Median Owner Occupied Home Value: $625,691
Average Years of Education: 14

JENNA PL, ESCONDIDO, CA 92029, SAN DIEGO COUNTY (Sep 2004 - Sep 2007)

Name Associated with Address:

LARRY GERACI

2720 POINSETTIA DR, SAN DIEGO, CA 92106-1124, SAN DIEGO COUNTY (Jun 1999 - Dec 2002)

Name Associated with Address:

LAWRENCE E GERACI

Current Residents at Address:

ALEXANDER ERIK HOUSE

SUPANNEE HOUSE

Property Ownership Information for this Address

Property:

Parcel Number - 449-704-05-00

Owner Name: ALEXANDER HOUSE

Owner Name 2: MS HOUSE

Property Address: - 2720 POINSETTIA DR, SAN DIEGO, CA 92106-1124, SAN DIEGO COUNTY

Sale Date - 02/21/2001

Sale Price - $630,000

Subdivision Name - PLUMOSA PARK

Assessed Value - $863,026

Land Size - 5,200 Square Feet

Seller Name: PATRICK G LOONEY

Seller Name 2: KAREN H LOONEY

Legal Description - LOT 5 BLK H TR 1820

Loan Amount - $503,200

Loan Type - CONVENTIONAL

Lender Name - WASHINGTON MUTUAL BK FA

Data Source - A

Neighborhood Profile (2010 Census)

Average Age: 40

Median Household Income: $96,807

Median Owner Occupied Home Value: $819,160

Average Years of Education: 15

4637 EDGEWARE RD, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Mar 1979 - Jun 2001)

Name Associated with Address:

LARRY E GERACI

Current Residents at Address:

AMADO OLASCOAGA

YOLANDA OLASCOAGA

RAUL N VILLARREAL

OLASCOAGA LUCERO

Neighborhood Profile (2010 Census)

Average Age: 38

Median Household Income: $61,912

Median Owner Occupied Home Value: $716,667

Average Years of Education: 14

4635 EDGEWARE RD 4641, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Dec 1999)

Name Associated with Address:

LARRY GERACI

Neighborhood Profile (2010 Census)

Average Age: 38

Median Household Income: $61,912

Median Owner Occupied Home Value: $716,667

Average Years of Education: 14

2412 FAIRMOUNT AVE APT J, SAN DIEGO, CA 92105-6312, SAN DIEGO COUNTY (Dec 1998)

Name Associated with Address:

LAWRENCE E GERACI

Neighborhood Profile (2010 Census)

Average Age: 28

Median Household Income: $32,868

Median Owner Occupied Home Value: $391,905

Average Years of Education: 12

5100 MARLBOROUGH DR APT 106, SAN DIEGO, CA 92116-2020, SAN DIEGO COUNTY (Mar 1979 - Dec 1995)

Name Associated with Address:

LARRY EDWARD GERACI

Property Ownership Information for this Address

Property:

Parcel Number - 440-192-18-00

Owner Name: MELODY A ACKER

Property Address: - 5100 MARLBOROUGH DR, SAN DIEGO, CA 92116-2020, SAN DIEGO COUNTY

Sale Date - 07/20/2004

Sale Price - $1,109,000

Subdivision Name - KENSINGTON HEIGHTS UN #1

Assessed Value - $1,150,000

Land Size - 4,948 Square Feet

Seller Name: WARD D JOHNSON

Legal Description - LOT 6 BLK 6 TR 1875
Loan Amount - $700,000
Loan Type - CONVENTIONAL
Lender Name - CUYAMACA BK
Data Source - A

Neighborhood Profile (2010 Census)
Average Age: 47
Median Household Income: $106,000
Median Owner Occupied Home Value: $872,238
Average Years of Education: 16

4637 EDGAWATER, SAN DIEGO, CA 92116, SAN DIEGO COUNTY (Feb 1994)

Name Associated with Address:
LARRY E GERACI

Neighborhood Profile (2010 Census)
Average Age: 31
Median Household Income: $66,912
Median Owner Occupied Home Value: $450,000
Average Years of Education: 14

EDGWEAR, SAN DIEGO, CA 92029, SAN DIEGO COUNTY (Nov 1993)

Name Associated with Address:
LARRY E GERACI

3520 LEBON DR UNIT 5319, SAN DIEGO, CA 92122-4591, SAN DIEGO COUNTY (Jan 1990 - Dec 1990)

Name Associated with Address:
LARRY E GERACI

Property Ownership Information for this Address

Property:
Parcel Number - 345-190-30-78
Owner Name: ZHUZHU ZHANG
Owner Name 2: CAI TIANJI
Property Address: - 3520 LEBON DR UNIT 5319, SAN DIEGO, CA 92122-4591, SAN DIEGO COUNTY
Sale Date - 01/20/2015
Sale Price - $215,000
Subdivision Name - UNIVERSITY CENTER
Assessed Value - $218,278
Land Size - 275,720 Square Feet
Seller Name: KAM W AUYEUNG
Seller Name 2: LISA H AUYEUNG
Legal Description - US5319PER DOCS05-562878&05-596050&UND INT IN PHASE 1 LOT 9 TR 10987
Data Source - A

Neighborhood Profile (2010 Census)
Average Age: 29
Median Household Income: $56,571
Median Owner Occupied Home Value: $377,778
Average Years of Education: 16

2295 GRAND AVE APT 9, SAN DIEGO, CA 92109-4744, SAN DIEGO COUNTY (Feb 1989)

Name Associated with Address:
LAWRENCE E GERACI

Current Residents at Address:
JERRY DWANE ANDREWS
SHEILA ANN BELL
SHEILA A BELL

Property Ownership Information for this Address

Property:
Parcel Number - 424-211-05-00
Owner Name: EHYA MANOU
Property Address: - 2295 GRAND AVE, SAN DIEGO, CA 92109-4722, SAN DIEGO COUNTY
Owner Address: 2295 GRAND AVE, SAN DIEGO, CA 92109-4722, SAN DIEGO COUNTY
Sale Price - $470,000
Subdivision Name - GAILLARD
Land Size - 10,001 Square Feet
Seller Name: NEPTUNE INVESTMENT LIMITED
Legal Description - LOT 1
Loan Amount - $352,500
Loan Type - CONVENTIONAL
Lender Name - AMERICAN SVGS BK
Data Source - A

Neighborhood Profile (2010 Census)
Average Age: 28
Median Household Income: $49,037
Median Owner Occupied Home Value: $379,730

Average Years of Education: 13
4677 EDGEWARE RD, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Jan 1983)
Name Associated with Address:
LAWRENCE E GERACI
Neighborhood Profile (2010 Census)
Average Age: 38
Median Household Income: $61,912
Median Owner Occupied Home Value: $716,667
Average Years of Education: 14

Bankruptcies:
[None Found]

Liens and Judgments:
Filing Number: 950484269
Filing Type: COUNTY TAX LIEN
Location: SAN DIEGO COUNTY/RECORDER OF DEEDS
State: CA
Original Filing Date: 10/26/1995
Amount: $78
Debtor Name: GERACI, LARRY
Debtor SSN: 101-52-xxxx
Debtor Address: 5100 MARLBOROUGH DR # 106, SAN DIEGO, CA 92116-2020
Debtor Name: TAX & FINANCIAL SERVICES
Debtor SSN:
Debtor Address: 5100 MARLBOROUGH DR # 106, SAN DIEGO, CA 92116-2020
Creditor: COUNTY OF SAN DIEGO

UCC Filings:
[None Found]

Phones Plus:
Phones Plus1
Name: GERACI, LARRY
Address: 340 5TH AVE APT D, CHULA VISTA, CA 91910-3761
Phone Number: 619-313-7990 - PDT
Phone Type: Mobile
Carrier: T-MOBILE USA, INC. - (CORONADO, CA)

Phones Plus2
Name: GERACI, LARRY
Address: 2026 JENNA PL, ESCONDIDO, CA 92029-5435
Phone Number: 760-745-8888 - PDT
Phone Type: Residential
Carrier: PACIFIC BELL - (ESCONDIDO, CA)

Phones Plus3
Name: GERACI, LARRY
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone Number: 858-431-6867 - PDT
Phone Type: Mobile
Carrier: NEW CINGULAR WIRLESS - (LA JOLLA, CA)

Phones Plus4
Name: GERACI, LARRY
Address: 340 5TH AVE APT D, CHULA VISTA, CA 91910-3761
Phone Number: 858-576-1040 - PDT
Carrier: PACIFIC BELL - (LINDA VISTA, CA)

Phones Plus5
Name: GERACI, LARRY
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone Number: 858-576-1040 - PDT
Carrier: PACIFIC BELL - (LINDA VISTA, CA)

People at Work:
Maximum 50 People at Work records returned

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: PACIFIC LENDING INVESTMENT GROUP, INC.
Phone: 858-576-1040
FEIN:
Dates: Dec 6, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: TAX & FINANCIAL CENTER, INC
Phone: 858-576-1040
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: GERL INVESTMENT, LLC
Phone: 858-576-1040
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: RUFFIN BUSINESS SUITES, LLC.
Phone:
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: JL INDIA STREET, LLC
Phone:
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: LST INVESTMENTS, LLC
Phone: 858-576-1040
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: JL INDUSTRIES, LLC
Phone:
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: JL 6TH AVENUE PROPERTY, LLC
Phone:
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: EC INVESTMENT PROPERTIES, L.P.
Phone:
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: JL 10TH AVENUE PROPERTY LLC
Phone:
FEIN:

Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: LMJ 35TH STREET PROPERTY LLC
Phone:
FEIN:
Dates: Nov 14, 2016 - Apr 4, 2017

Name: LARRY GERACI
Title: INCORPORATOR
SSN: 101-52-xxxx
Company: SOUND RUSH, INC.
Phone:
FEIN:
Dates: Sep 12, 2016 - Mar 10, 2017

Name: LARRY GERACI
Title: PRESIDENT
SSN: 101-52-xxxx
Company: TAX & FINANCIAL CENTER, INC
Phone: 858-576-1040
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: GERL INVESTMENT, LLC
Phone: 858-576-1040
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: RUFFIN BUSINESS SUITES, LLC.
Phone:
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: JL INDIA STREET, LLC
Phone:
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: LST INVESTMENTS, LLC
Phone: 858-576-1040
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: JL INDUSTRIES, LLC
Phone:
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: PRESIDENT
SSN: 101-52-xxxx
Company: PACIFIC LENDING INVESTMENT GROUP, INC.
Phone: 858-576-1040

FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: JL 6TH AVENUE PROPERTY, LLC
Phone:
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: PARTNER
SSN: 101-52-xxxx
Company: EC INVESTMENT PROPERTIES, L.P.
Phone:
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: JL 10TH AVENUE PROPERTY LLC
Phone:
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: LMJ 35TH STREET PROPERTY LLC
Phone:
FEIN:
Dates: Oct 5, 2015 - Jan 3, 2017

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: PACIFIC LENDING I VESTMEN GROUP, I
Phone:
FEIN:
Dates: Nov 14, 2016

Name: LARRY GERACI
Title: INCORPORATOR
SSN: 101-52-xxxx
Company: SOUND RUSH INC
Phone:
FEIN:
Dates: May 15, 2013 - Aug 10, 2016

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: LMJ 35TH STREET PROPERTY LLC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Oct 5, 2015 - May 3, 2016

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: JL 10TH AVENUE PROPERTY LLC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Jun 18, 2013 - May 3, 2016

Name: LARRY GERACI
Title: PARTNER

SSN: 101-52-xxxx
Company: EC INVESTMENT PROPERTIES, L.P.
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Oct 2, 2012 - May 3, 2016

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: JL 6TH AVENUE PROPERTY, LLC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Aug 14, 2012 - May 3, 2016

Name: LARRY GERACI
Title: PRESIDENT
SSN: 101-52-xxxx
Company: PACIFIC LENDING INVESTMENT GROUP, INC.
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone: 858-576-1040
FEIN:
Dates: Nov 16, 2010 - May 3, 2016

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: JL INDUSTRIES, LLC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Feb 16, 2010 - May 3, 2016

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: LST INVESTMENTS, LLC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone: 858-576-1040
FEIN:
Dates: Nov 24, 2009 - May 3, 2016

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: JL INDIA STREET, LLC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Aug 17, 2004 - May 3, 2016

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: GERL INVESTMENT, LLC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone: 858-576-1040
FEIN:
Dates: May 20, 2002 - May 3, 2016

Name: LARRY GERACI
Title: MEMBER
SSN: 101-52-xxxx
Company: RUFFIN BUSINESS SUITES, LLC.
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Mar 28, 2002 - May 3, 2016

Name: LARRY GERACI
Title: PRESIDENT
SSN: 101-52-xxxx
Company: TAX & FINANCIAL CENTER, INC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone: 858-576-1040
FEIN:
Dates: Oct 1, 2001 - May 3, 2016

Name: LARRY GERACI
Title: PARTN
SSN: 101-52-xxxx
Company: EC INVESTMENT PROPERTIES LP
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Sep 20, 2012

Name: LARRY GERACI
Title: INCORPORATOR
SSN: 101-52-xxxx
Company: SOUND RUSH INC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: May 23, 2011 - Jul 6, 2011

Name: LARRY E GERACI
SSN: 101-52-xxxx
Company: TAX & FINANCIAL CENTER INC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone: 858-576-1040 - PDT
FEIN:
Dates: Oct 18, 2009 - Sep 25, 2010

Name: LARRY GERACI
Title: AGENT
SSN: 101-52-xxxx
Company: JL INDUSTRIES LLC
Address: 7083 HOLLYWOOD BLVD STE 180, LOS ANGELES, CA 90028-8902
Phone:
FEIN:
Dates: Nov 16, 2009

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: LST INVESTMENTS LLC
Address: 7083 HOLLYWOOD BLVD, LOS ANGELES, CA 90028-8901
Phone:
FEIN:
Dates: Sep 23, 2009

Name: LARRY GERACI
Title: AGENT
SSN: 101-52-xxxx
Company: LST INVESTMENTS LLC
Address: 7083 HOLLYWOOD BLVD STE 180, LOS ANGELES, CA 90028-8902
Phone:
FEIN:
Dates: Sep 23, 2009

Name: LARRY GERACI
Title: PRESIDENT
SSN: 101-52-xxxx
Company: JL EQUITIES, INC.
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Oct 17, 2006 - Jul 14, 2009

Name: LARRY GERACI
SSN: 101-52-xxxx
Company: XAS STREET PROPERTY C&G
Address: 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318
Phone:
FEIN:
Dates: Apr 28, 2009

Name: LARRY GERACI
Title: CONTACT
SSN: 101-52-xxxx
Company: XAS STREET PROPERTY C&G
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Apr 28, 2009

Name: LARRY GERACI
Title: CONTACT
SSN: 101-52-xxxx
Company: ADAPTIVE NETWORKS INC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: May 19, 2008 - Jun 1, 2008

Name: LARRY GERACI
Title: CONTACT
SSN: 101-52-xxxx
Company: C & I GRADING INC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Feb 1, 2008

Name: LARRY GERACI
Title: CONTACT
SSN: 101-52-xxxx
Company: MBR SOLUTIONS INC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Jan 1, 2008 - Jan 17, 2008

Name: LARRY GERACI
Title: CONTACT
SSN: 101-52-xxxx
Company: ESG ENT INC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Nov 1, 2007 - Nov 15, 2007

Name: LARRY GERACI
Title: CONTACT
SSN: 101-52-xxxx
Company: ZPM INC
Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301
Phone:
FEIN:
Dates: Nov 1, 2007 - Nov 15, 2007

Possible Properties Owned by Subject:

Property:
Parcel Number - 440-664-10-00
Owner Name: LARRY GERACI
Property Address - 4635 4641 EDGEWARE RD, SAN DIEGO, CA 92116, SAN DIEGO COUNTY
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY

Sale Date - 11/02/2016
Loan Amount - $502,000
Loan Type - PRIVATE PARTY LENDER
Data Source - A

Property:
Parcel Number - 440-664-10-00
Owner Name: LARRY GERACI
Property Address: - 4635 EDGEWARE RD, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY
Sale Price - $265,000
Subdivision Name - KENSINGTON PARK
Assessed Value - $411,832
Land Size - 5,998 Square Feet
Seller Name: JULIUS GY SZEKERES
Legal Description - LOT 9 BLK 23 TR 1245
Loan Amount - $245,000
Loan Type - PRIVATE PARTY LENDER
Lender Name - SZEKERES JULIUS GY
Data Source - A

Property:
Parcel Number - 238-461-33-00
Owner Name: LARRY GERACI
Property Address: - 2026 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY
Sale Price - $349,000
Subdivision Name - ESCONDIDO TR 700R
Assessed Value - $615,602
Land Size - 19,950 Square Feet
Seller Name: L & W INVESTMENTS INC
Legal Description - LOT 16 TR 12379
Loan Amount - $279,200
Loan Type - CONVENTIONAL
Lender Name - CIVICBANK COMMERCE
Data Source - A

Property:
Parcel Number - 024-260-062
Page - 87
Owner Name: LARRY GERACI
Property Address: - CALIPATRIA, CA 92233, IMPERIAL COUNTY
Owner Address: 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY
Assessed Value - $100,000
Legal Description - LOT 4 LS 10-11 OF NE4 SEC 21 12-14 9.54AC
Data Source - B

Property:
Parcel Number - 053-135-025
Page - 91
Owner Name: LARRY GERACI
Property Address: - EL CENTRO, CA 92243, IMPERIAL COUNTY
Owner Address: 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY
Assessed Value - $215,000
Legal Description - LOTS 29 & 30 BLK 29 SUB OF BLKS 28B 29 30 31B 44B 45 & 47B
Data Source - B

Property:
Parcel Number - 238-461-33-00
Owner Name: LARRY GERACI
Property Address - 2026 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY
Owner Address: 2026 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY
Sale Date - 09/26/2011
Seller Name: GERACI LARRY 1999 TRUST
Loan Amount - $250,000
Loan Type - CONVENTIONAL
Data Source - A

Property:
Parcel Number - 024-260-062
Owner Name: LARRY GERACI
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY

Sale Date - 01/05/2010
Seller Name: VEGA GERACI PARTNERSHIP,
Loan Type - THIS CODE IS USED ONLY FOR BKFS LEGACY
Data Source - B

Property:
Parcel Number - 369-192-10-00
Owner Name: LARRY GERACI
Property Address: - 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY
Owner Address: 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY
Assessed Value - $1,167,352
Land Size - 38333 SF
Year Built - 1979
Legal Description - LOT 10
Data Source - B

Property:
Parcel Number - 053-135-025
Owner Name: LARRY GERACI
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
Sale Date - 12/15/2009
Seller Name: VEGA GERACI PARTNERSHIP,
Loan Type - THIS CODE IS USED ONLY FOR BKFS LEGACY
Data Source - B

Property:
Parcel Number - 053-133-007-000
Owner Name: LARRY GERACI
Owner Name 2: SAMUEL VEGA
Property Address: - 220 W STATE ST, EL CENTRO, CA 92243-2525, IMPERIAL COUNTY
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
Sale Date - 06/08/2006
Sale Price - $50,000
Assessed Value - $386,286
Land Size - 699 Square Feet
Seller Name: MAX LEIMGRUBER
Legal Description - LOTS 23&24 BL 28B SUB OF BL 28B 29 30 31B 44B 45 47B OM 2-34
Data Source - A

Property:
Parcel Number - 053-133-007-000
Owner Name: LARRY GERACI
Property Address - 220 W STATE ST, EL CENTRO, CA 92243-2525, IMPERIAL COUNTY
Loan Amount - $200,000
Loan Type - PRIVATE PARTY LENDER
Data Source - A

Property:
Parcel Number - 053-135-25
Owner Name: LARRY GERACI
Owner Name 2: LARRY GERACI 1999 TRUST
Other Owners: SAMUEL VEGA , SILVIA VEGA
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
Sale Date - 12/04/2006
Sale Price - $84,000
Seller Name: MCELDOWNEY, GEORGE
Legal Description - BLOCKS30 31B 44 45&47B
Loan Type - THIS CODE IS USED ONLY FOR BKFS LEGACY
Data Source - B

Property:
Parcel Number - 053-133-07
Owner Name: LARRY GERACI
Owner Name 2: SAMUEL VEGA
Other Owners: SILVIA VEGA
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
Sale Date - 06/08/2006
Sale Price - $50,000
Seller Name: LEIMGRUBER, MAX
Legal Description - SUBDIVISION BLKS28-B 29 30 31-B 44-B 45&47-B

Loan Type - THIS CODE IS USED ONLY FOR BKFS LEGACY
Data Source - B

Property:
Parcel Number - 203-20-041
Owner Name: LARRY GERACI
Owner Name 2: THE LARRY GERACI 1999 TRUST
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
Sale Date - 07/15/2005
Seller Name: HICE, DOYCE L
Loan Type - THIS CODE IS USED ONLY FOR BKFS LEGACY
Data Source - B

Property:
Parcel Number - 112-32-451
Owner Name: LARRY GERACI
Owner Name 2: CHRISTINE E GERACI
Property Address - 9608 E 37TH PL, YUMA, AZ 85365-4914, YUMA COUNTY
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
Sale Date - 06/16/2005
Seller Name: LARRY GERACI
Seller Name 2: THE LARRY GERACI 1999 TRUST
Loan Type - THIS CODE IS USED ONLY FOR BKFS LEGACY
Data Source - B

Property:
Parcel Number - 203-20-041
Book - 2142
Page - 812
Owner Name: LARRY GERACI
Owner Name 2: LARRY GERACI
Other Owners: SAMUEL VEGA , SILVIA VEGA , SAMUEL VEGA , SILVIA VEGA
Property Address: - 28841 E SAN JOSE AVEAZ
Owner Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
Sale Date - 10/16/1996
Sale Price - $32,900
Land Usage - SFR
Total Market Value - $40,601
Assessed Value - $4,060
Land Value - $18,563
Improvement Value - $22,038
Land Size - 6,750 Square Feet
Year Built - 1945
Legal Description - SUB:WELLTON ANNEX BLK:33 LOT:7 SECT,TWN,RNG:WAN-B33-LT7
Data Source - A

Property:
Parcel Number - 369-192-10-00
Owner Name: LARRY GERACI
Property Address - 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY
Owner Address: 5402 RUFFIN RD, SAN DIEGO, CA 92123-1318, SAN DIEGO COUNTY
Sale Date - 11/08/2000
Sale Price - $1,000,000
Seller Name: BECK ROGER K TRUST
Loan Amount - $655,000
Loan Type - PRIVATE PARTY LENDER
Data Source - A

Watercraft:
[None Found]

FAA Certifications:
[None Found]

Possible Criminal Records:
[None Found]

Sexual Offenses:
[None Found]

Professional License(s):

Professional License 1
Name: GERACI, LARRY
Gender: M
License Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
License State: California
License Number: 01141323
License Type: REAL ESTATE AGENT
Issue Date: Mar 05, 2013
Expiration Date: Mar 04, 2017

Professional License 2
Name: GERACI, LARRY E
License Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
License State: California
License Number: 01141323
License Type: REAL ESTATE
Profession/Board: REAL ESTATE
License Status: VALID UNTIL 07/11/2008
Issue Date: Jul 12, 2004
Expiration Date: Jul 11, 2008

Professional License 3
Name: GERACI, LARRY
License Address: 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY
License Type: IRS ENROLLED AGENT
Profession/Board: IRS ENROLLED AGENTS

Voter Registration:
[None Found]

Hunting/Fishing Permit:
[None Found]

Concealed Weapons Permit:
[None Found]

DEA Controlled Substances:
[None Found]

Possible Associates:
LICIA AYN BARNETT DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981

Names Associated with Associate:
LICIA AYN LINDGREN DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981
LICIA A LINDEREN DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981
LICIA LINDGREN DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981
LICA BARNETT DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981
LICIA AYN NAVARRO DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981
LISA A LINDGREN DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981
LICIA A BAMETT DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981
LICIA A LINDGREN DOB: 12/1963
573-53-xxxx issued in California between 1/1/1978 and 12/31/1979
LICIA A LINDREN DOB: 12/xx/1963
573-63-xxxx issued in California between 1/1/1981 and 12/31/1981

Previous And Non-Verified Address(es):
3645 RIVIERA DR, SAN DIEGO, CA 92109-6641, SAN DIEGO COUNTY (Jun 1982 - Oct 2015)
S 5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY (Aug 1979 - Jul 2010)
1449 ROLLING KNOLL RD, DIAMOND BAR, CA 91765-2640, LOS ANGELES COUNTY (Jun 2000 - Mar 2005)

EDWARD JAMES LINDGREN DOB: 1/xx/1961

550-49-xxxx issued in California between 1/1/1977 and 12/31/1978
Names Associated with Associate:
EDWARD J LINDREN
550-49-xxxx issued in California between 1/1/1977 and 12/31/1978
Previous And Non-Verified Address(es):
10179 AVENIDA MAGNIFICA, SAN DIEGO, CA 92131-1445, SAN DIEGO COUNTY (Dec 1998 - Oct 2012)
5402 RUFFIN RD STE 200, SAN DIEGO, CA 92123-1301, SAN DIEGO COUNTY (Dec 1995 - Aug 2011)
4635 EDGEWARE RD, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Aug 1979 - Jan 2003)

TAMMY ANN PACKARD DOB: 2/xx/1965
002-62-xxxx issued in New Hampshire between 1/1/1980 and 12/31/1981
Previous And Non-Verified Address(es):
3635 7TH AVE UNIT 8C, SAN DIEGO, CA 92103-4310, SAN DIEGO COUNTY (2012 - Jun 2016)
3690 6TH AVE, SAN DIEGO, CA 92103-4331, SAN DIEGO COUNTY (Jun 1997 - Feb 2015)
PO BOX 80481, SAN DIEGO, CA 92138-0481, SAN DIEGO COUNTY (Oct 1983 - Sep 2011)

RICHARD SAART DOB: 4/xx/1959
032-52-xxxx issued in Massachusetts between 1/1/1975 and 12/31/1976
Names Associated with Associate:
RICHARD V SAART DOB: 4/xx/1959
032-52-xxxx issued in Massachusetts between 1/1/1975 and 12/31/1976
RICHARD V SAART DOB: 4/xx/1959
Previous And Non-Verified Address(es):
3690 6TH AVE, SAN DIEGO, CA 92103-4331, SAN DIEGO COUNTY (Dec 2000 - Sep 2012)
1536 OCEAN DR APT, VERO BEACH, FL 32963-2337, INDIAN RIVER COUNTY (Feb 1997 - Mar 2000)
2720 POINSETTIA DR, SAN DIEGO, CA 92106-1124, SAN DIEGO COUNTY (Jul 1999)

SAMUEL C VEGA DOB: 7/xx/1966
560-33-xxxx issued in California between 1/1/1974 and 12/31/1975
Names Associated with Associate:
SAMMY C VEGA DOB: 7/xx/1966
560-33-xxxx issued in California between 1/1/1974 and 12/31/1975
SAMEUL C VEGA DOB: 7/xx/1966
560-33-xxxx issued in California between 1/1/1974 and 12/31/1975
SAMUEL S VEGA DOB: 7/xx/1966
560-33-xxxx issued in California between 1/1/1974 and 12/31/1975
SAMUEL VEGA DOB: 7/xx/1966
Active Address(es):
293 W HORNE RD, EL CENTRO, CA 92243-9615, IMPERIAL COUNTY (Jun 1992 - May 2015)
Current phones listed at this address:
760-353-7212 - PDT VEGA SAMUEL C
619-284-3327

Previous And Non-Verified Address(es):
675 DESERT WILLOW ST, IMPERIAL, CA 92251-8913, IMPERIAL COUNTY (Dec 1987 - Dec 2015)
PO BOX 566, EL CENTRO, CA 92244-0566, IMPERIAL COUNTY (Jun 1992 - Apr 2015)

Neighbors:
Neighborhood:
2026 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY (Mar 1979 - 2016)

Address(es):
2027 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY (Mar 1979 - Mar 2017)
COLLEEN JOYCE MCLEOD DOB: 1934
481-38-xxxx issued in Iowa between 1/1/1951 and 12/31/1953
2022 JENNA PL, ESCONDIDO, CA 92029-5436, SAN DIEGO COUNTY (Jun 2005 - Dec 2016)
LINDSAY J VANLEEUWEN DOB: 12/xx/1979
618-05-xxxx issued in California between 1/1/1988 and 12/31/1988
2031 JENNA PL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY (Aug 1993 - Mar 2017)
CHRISTINA M CUTRI
558-98-xxxx issued in California between 1/1/1970 and 12/31/1970
2031 JENNA PL APL, ESCONDIDO, CA 92029-5435, SAN DIEGO COUNTY (Jun 1994 - Mar 2017)
JOHN SILVIO RUFO DOB: 12/xx/1960
025-46-xxxx issued in Massachusetts between 1/1/1970 and 12/31/1971
2019 JENNA PL, ESCONDIDO, CA 92029-5437, SAN DIEGO COUNTY (Oct 1997 - Mar 2017)
Residents:

JERRY J PUDA DOB: 12/xx/1952
341-44-xxxx issued in Illinois between 1/1/1966 and 12/31/1967
APRIL S PUDA DOB: 4/xx/1953
550-90-xxxx issued in California between 1/1/1968 and 12/31/1968

2018 JENNA PL, ESCONDIDO, CA 92029-5436, SAN DIEGO COUNTY (Aug 1993 - Mar 2017)
Residents:
GUILLERMO H FRIEDERICHSEN DOB: 12/xx/1956
567-13-xxxx issued in California between 1/1/1972 and 12/31/1972
MARY JO FRIEDERICHSEN DOB: 8/xx/1957
546-33-xxxx issued in California between 1/1/1974 and 12/31/1975

Neighborhood:
4635 EDGEWARE RD 41, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (Feb 1990 - 2016)

Address(es):
4636 EDGEWARE RD, SAN DIEGO, CA 92116-4701, SAN DIEGO COUNTY (2003 - Mar 2017)
TIMOTHY J MALONE DOB: 3/xx/1975
537-08-xxxx issued in Washington between 1/1/1988 and 12/31/1988
619-688-0932 - PDT MALONE TIMOTHY J

4632 EDGEWARE RD, SAN DIEGO, CA 92116-4701, SAN DIEGO COUNTY (Sep 2000 - Mar 2017)
SHERYL LYNNE HOPWOOD DOB: 2/xx/1952
075-42-xxxx issued in New York between 1/1/1966 and 12/31/1967
4635 EDGEWARE RD, SAN DIEGO, CA 92116-4702, SAN DIEGO COUNTY (2012 - Jan 2017)
RICHARD LEE DAVIS DOB: 11/xx/1967
297-66-xxxx issued in Ohio between 1/1/1975 and 12/31/1975

Neighborhood:
340 5TH AVE APT D, CHULA VISTA, CA 91910-3761, SAN DIEGO COUNTY (Oct 2012 - Jan 2014)

Address(es):
340 5TH AVE APT C, CHULA VISTA, CA 91910-3761, SAN DIEGO COUNTY (Jan 2001 - Mar 2017)
ALMA LOPEZ
573-25-xxxx issued in California between 1/1/1973 and 12/31/1974

340 5TH AVE APT E, CHULA VISTA, CA 91910-3761, SAN DIEGO COUNTY (May 2007 - Jan 2017)
ANA CELIA SERRANO DOB: 6/xx/1974
563-93-xxxx issued in California between 1/1/1987 and 12/31/1987

Neighborhood:
220 W STATE ST APT, EL CENTRO, CA 92243-2525, IMPERIAL COUNTY (Jun 2006 - Jun 2012)

Address(es):
226 W STATE ST, EL CENTRO, CA 92243-2534, IMPERIAL COUNTY (Oct 1990 - Mar 2017)
Residents:
HUGO N OLIVAS DOB: 8/xx/1975
559-86-xxxx issued in California between 1/1/1967 and 12/31/1968
NORMA ALICIA OLIVAS DOB: 5/xx/1972
604-07-xxxx issued in California between 1/1/1988 and 12/31/1988
IDELFONSA VALDEZ OLIVAS DOB: 1/xx/1953
604-07-xxxx issued in California between 1/1/1988 and 12/31/1988
DONNOVAN O SANTOS DOB: 8/xx/1993
Current phones listed at this address:
760-337-2843 - PDT OLIVAS HUGO
760-337-9429

201 W STATE ST APT 8, EL CENTRO, CA 92243-2522, IMPERIAL COUNTY (Apr 2011 - Mar 2017)
MIRIAM BELTRAN
614-84-xxxx issued in California between 9/1/1995 and 12/29/1995
201 W STATE ST APT W, EL CENTRO, CA 92243-2522, IMPERIAL COUNTY (Aug 2016 - Mar 2017)
PAULO FLORES DOB: 6/xx/1980
220 W STATE ST APT A, EL CENTRO, CA 92243-2537, IMPERIAL COUNTY (Dec 2016 - Jan 2017)
GIOVANNI P PORRAS SOLIS

EXHIBIT 9

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

RE: Project no 520606, Federal Blvd MMCC

1 message

Cac, Cherlyn <CCac@sandiego.gov> Fri, Jun 1, 2018 at 2:52 PM
To: Darryl Cotton <indagrodarryl@gmail.com>, Jake Austin <jacobaustinesq@gmail.com>
Cc: "Quinn, James" <JPQuinn@sandiego.gov>

Dear Darryl Cotton,

On April 20, 2018, I had sent a letter to project's point of contact for project inactivity and would be closing the project, due to inactivity for 90 days. I have received an email with intent to continue the project.

We are waiting for a resubmittal from the applicant to address all the review comments in the last review of this project.

Regards,

Cherlyn Cac

Development Project Manager

City of San Diego, Development Services

1222 First Ave., MS 501

San Diego, CA 92101

(619) 236-6327

The City of SAN DIEGO

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or copying of this communication is strictly prohibited. If you received this e-mail message in error, please immediately notify the sender by replying to this message or by telephone. Thank you.

From: Darryl Cotton [mailto:indagrodarryl@gmail.com]
Sent: Wednesday, May 30, 2018 3:31 PM
To: Quinn, James <JPQuinn@sandiego.gov>; Cac, Cherlyn <CCac@sandiego.gov>
Cc: Jake Austin <jacobaustinesq@gmail.com>
Subject: Project no 520606

Mr. Quinn;

Thank you for meeting with me earlier today without my having scheduled an appointment with you. As the Senior Engineering Geologist for the DSD I really appreciate your having looked into whether or not the soils report that would have been provided to the DSD-LDR-Engineer assigned to this project Mr. Kreg Mills, has of today's date, not yet been documented as having been received or submitted to your department for Mr. Mills review and subsequent recommendations.

Ms. Cac;

As a follow up to my meeting with Mr. Quinn today would you, as the Project Manager for this pending CUP application, be able to tell me if there is a deadline whereby that report had to have been submitted so as to maintain the CUP Application and what that deadline is?

In anticipation of your reply I remain.

Darryl Cotton

Property Owner of Record

6176 Federal Blvd., SD CA 92114

Jacob P. Austin [SBN 290303]
The Law Office of Jacob Austin
1455 Frazee Road, #500
San Diego, CA 92118
Telephone: (619) 357-6850
Facsimile: (888) 357-8501
E-mail:JPA@JacobAustinEsq.com

Attorney for Defendant/Cross-Complainant DARRYL COTTON

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

LARRY GERACI, an individual, Plaintiff, vs. DARRYL COTTON, an individual; and DOES 1 through 10, inclusive, Defendants. AND RELATED CROSS-ACTION.	Case No. 37-2017-00010073-CU-BC-CTL **DECLARATION OF JOE HURTADO IN SUPPORT OF *EX PARTE* APPLICATION FOR ORDERS APPOINTING A RECEIVER TO MANAGE THE CONDITIONAL USE PERMIT FOR DEFENDANT'S REAL PROPERTY; AND OTHER RELIEF** Date: June 14, 2018 Time: 8:30 a.m. Dept: C-73 Judge: The Hon. Joel R. Wohlfeil

I, Joe Hurtado, declare as follows:

1. I am an individual over the age of 18 years, residing in the County of San Diego, and not a party to this action.

2. The facts contained in this declaration are true and correct of my own personal knowledge, except those facts which are stated upon information and belief; and, as to those facts, I believe them to be true. If called upon to do so, I could and would competently testify as to the truth of the facts stated herein.

3. I graduated from New York University School of Law in 2009.

4. Upon graduation, I clerked in the United States District Court in the Northern District of California for a year.

5. Upon completion of my clerkship, I joined the Mergers & Acquisitions group at Latham & Watkins in New York City as an Associate.

6. In 2013, I left the practice of law and joined the Corporate Strategy & Development department at UnitedHealth Group in Minneapolis as a Manager.

7. I left UnitedHealth Group in August of 2015, relocated to San Diego and enrolled in the Master of Science in Real Estate (MSRE) degree program at the University of San Diego. In my studies in the MSRE program, we discussed the effect that the legalization of medical cannabis was having on real property values in California.

8. Between late-2016 and early-2017, the following sequence of events took place: (i) Mr. Darryl Cotton informed me that he had entered into a conditional agreement for the sale of his real property located at 6176 Federal Boulevard, San Diego, California (the "Property") to Mr. Lawrence Geraci; (ii) Mr. Cotton told me that he expected Mr. Geraci would breach their agreement; (iii) Mr. Cotton asked that I help him to locate a new buyer for his Property; (iv) I confirmed with Mr. Geraci's attorney, Mrs. Gina Austin, that she was in the process of reducing to writing the agreement between Mr. Geraci and Mr. Cotton for the sale of the Property; (v) I entered into a contingent agreement with Mr. Richard Martin to facilitate his purchase of Mr. Cotton's Property in the event the transaction between Mr. Cotton and Mr. Geraci did not close as contemplated; and (vi) I brokered a deal between Mr. Cotton and Mr. Martin for the sale of Mr. Cotton's Property to Mr. Martin.

9. The day after the deal between Mr. Cotton and Mr. Martin had been reached on March 21, 2017, I was informed by Mr. Cotton that Mr. Geraci had served him with a lawsuit alleging a document executed in November of 2016 was the final written agreement for Mr. Cotton's Property (the "Geraci Litigation").

10. Throughout the course of the Geraci Litigation, the following sequence of events took place: (i) Mr. Cotton attempted to represent himself *pro se* in the Geraci Litigation; (ii) Mr. Cotton chose to no longer represent himself in the Geraci Litigation and asked that I help him finance and facilitate

his legal representation; (iii) I identified Attorney David S. Demian of Finch, Thornton & Baird for Mr. Cotton to interview to represent him in his legal matters; (iv) Attorney Demian undertook the representation of Mr. Cotton in various legal matters related to Mr. Cotton's Property; (v) Attorney Demian's representation of Mr. Cotton was terminated after I informed Mr. Cotton that Attorney Demian had failed to raise material evidence at a Court hearing at which I was present on December 7, 2017; and (vi) I facilitated Mr. Cotton's legal representation by Attorney Jacob Austin after Mr. Cotton's relationship with Attorney Demian was terminated.

11. On March 6, 2017, I attended a local event in San Diego for the kick-off of a new business center at which Mrs. Austin was the keynote speaker. Mr. Cotton had planned to attend the event to speak with Mrs. Austin regarding comments to the written agreements for the purchase of his Property by Mr. Geraci. However, Mr. Cotton could not make it and asked that I communicate so to Mrs. Austin.

12. At that point in time, after speaking with Mr. Cotton, I decided to attend the event because I was doubtful that Mr. Geraci would fail to live up to his end of the bargain. The deal Mr. Geraci had reached with Mr. Cotton was very favorable to him given the competition in San Diego for properties that qualified for CUPs with the City for cannabis related businesses.

13. My primary goal in attending the event was to speak with Ms. Austin to convey Mr. Cotton's message that he would not be attending and to personally confirm with Ms. Austin that a final agreement for the sale of Mr. Cotton's Property to Mr. Geraci had not been executed.

14. My conversation with Mrs. Austin was short, clear, direct, unambiguous and with no possibility for misinterpretation. Mrs. Austin acknowledged that she was working on the drafts for Mr. Geraci's purchase of Mr. Cotton's Property and that no final agreement had yet been executed.

15. I have reviewed some of Mrs. Austin's submissions to the Court on behalf of Mr. Geraci arguing that Mr. Cotton and Mr. Geraci entered into a final agreement for the Property in November of 2016. It is my belief that Mr. Geraci is falsely representing that document as the final agreement for the Property and that Mrs. Austin knows this is a false representation.

16. In January of 2018 I provided a supporting declaration for Mr. Cotton in which I noted I spoke with Ms. Austin at the event in March of 2017. This statement by itself is inconsequential to the Geraci Litigation. I had hoped, since prior to then I had not provided a declaration or been involved in

the litigation, that my declaration would let her know I was aware of her contradictory statements to the Court. And, consequently, she would inform Mr. Geraci about our conversation in March of 2017 which would lead to a material positive effect on the Geraci Litigation for Mr. Cotton (without me personally having to become involved).

17. I do not understand how Mrs. Austin can ethically reconcile her representations in March of 2017 and her arguments to the Court alleging facts that contradict her statements to me. Mr. Austin, counsel for Mr. Cotton, and I have spoken about the conversation I had with Ms. Austin in March of 2017 and information, such as the Metadata Evidence (as defined in Mr. Cotton's submissions to the Court), that reflect that Mrs. Austin is making false representations to the Court. Mr. Austin forwarded me an email from Mr. Weinstein in which Mr. Weinstein defends Ms. Austin by stating the following:

> Ms. Austin has made no misrepresentations to the court. No declaration signed under penalty of perjury by Gina Austin has been submitted as evidence to the Court in any proceeding in any of the two cases. She has appeared as counsel in the Writ of Mandate case and argued with me in opposition to Mr. Cotton's first ex parte application for issuance of a writ of mandate heard by Judge Sturgeon. That is it – legal argument.

Therefore, based on this email from Mr. Weinstein, it appears to me that Mr. Weinstein and Mrs. Austin believe they can make *legal arguments* to the Court that contain factual statements that they know to be false and not be in violation of any rules or codes of ethical conduct for attorneys. I believe this to be incorrect.

18. I have not previously provided my detailed testimony for the following reasons: (i) my professional and personal networks are conservative in nature and I did not want there to be a public record of my involvement in a cannabis related real estate transaction; (ii) I believed that the evidence presented by Mr. Cotton, especially the Confirmation Email and communications sent by Mr. Geraci to Mr. Cotton, is more than sufficient to prove his case and that my testimony would be unnecessary; (iii) Mr. Cotton is an intelligent, strong-willed and politically passionate individual; however, I did not want to be publicly associated with him because of his history related to his political activism for medical cannabis; (iv) the Court's orders in this action have repeatedly stated that Mr. Cotton is unlikely to prevail in this litigation and I have finite capital to allocate toward financing his legal defense (irrespective of the merits of his case); (v) on January 17, 2018, I was threatened by an individual, Mr. Shawn Miller, who told me that it would be in my "best interest" to use my influence with

Mr. Cotton to convince him to "settle with Geraci"; (v) Mr. Cotton has been the victim of an armed-robbery at his Property, reported to the police, that he believes occurred at the direction of Mr. Geraci; and (vi) Mr. Cotton, on a separate incident, showed me video of being accosted by an individual known as Logan who told Mr. Cotton that he should settle with Mr. Geraci for his own good.

19. The language used by Logan sounds similar me to that used by Mr. Miller, leading me to believe there is a reasonable possibility that these individuals were both sent by, or someone connected to, Mr. Geraci.

20. I am now providing my testimony at the request of Mr. Austin because I believe his legal arguments regarding the parol evidence rule are meritorious and that Mr. Cotton will prevail in this action as a matter of law.

21. Additionally, I am providing my testimony because on May 27, 2018 I was present at a meeting at which Ms. Corina Young described a meeting to Mr. Cotton and his attorney, Mr. Austin, that she had with Mr. Jim Bartell on or around October of 2017. She met with Mr. Bartell upon her attorney's recommendation, Mr. Matthew Shapiro, when she informed him that she was contemplating investing in Mr. Cotton's litigation against Mr. Geraci. Mr. Bartell informed her that he "owns" the CUP on Mr. Cotton's Property and he would be getting it denied "because everyone hates Darryl."

22. Ms. Young was attempting to defuse the situation between Mr. Cotton and a Mr. Aaron Magagna who had submitted a competing CUP within 1,000 feet of Mr. Cotton's Property and who appears to have numerous connections to Mr. Geraci.

23. Subsequent to the May 27, 2018, Ms. Young and I had several conversations in which she first attempted to argue on behalf of Mr. Magagna, until such time that Mr. Magagna attempted to coerce Ms. Young into changing her testimony regarding the meeting with Mr. Bartell and he offered her financial compensation for doing so. Attached hereto as **Exhibit A** are true and correct copies of my text messages with Ms. Young on June 1, 2018. I am breaching her confidence by providing them, but am doing so because I believe her testimony is required to prove Mr. Bartell's statements and that Mr. Shapiro and Mr. Magagna are closely connected to Mr. Bartell and Mrs. Austin, both of whom are agents of Mr. Geraci.

24. Upon information and belief, according to a statement from a third-party, Mr. Magagna is also currently represented by Mrs. Austin.

25. On June 4, 2018, Ms. Young hired independent counsel and stated she would not be providing any statements until her attorney reviewed the Geraci Litigation. Subsequent to June 4, 2018, Ms. Young communicated that she would neither confirm nor deny the statements in our text messages and, if subpoenaed, upon the advice of counsel, she would be invoke her right under the 5th Amendment to not self-incriminate herself.

26. Lastly, I wish to clearly state that I do ***not*** share, support or condone in any manner Mr. Cotton's beliefs regarding the various conspiracies he has alleged in his public filings regarding the Court, the City of San Diego or any of their respective employees.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 13, 2018.

/s/
JOE HURTADO

EXHIBIT A

48% 10:32 AM

Corina Young
16196330228

Fri, 06/01/2018

Look, I don't know what to say because at the end of the day as discussed yiurr being put in a shitty situatiom and it benefits me. Anything i say is suspect. I'm sorry about Darryl and the situation. Talk to your attorney first about this before saying anything more to me or anyone. I just want you to know I can't NOT tell the truth. Jake has already sent emails and I have to provide my testimony to confirm what you said in front of him and darryl. And I'm sorry because although you told me about Aaron in confidence, under oath, I won't be able to lie about it. The whole situation has spiraled out of control.

10:17 AM

I have no words.

10:23 AM

I will be getting an attorney. You are all opportunistic assholes.

Enter message

48% 10:33 AM

Corina Young
16196330228

I will be getting an attorney. You are all opportunistic assholes.
10:31 AM

Matt, Cotton, Gina, Jacob... now you... it's so disgusting to disrupt and destroy people's lives. I'm fucking hiding from Cotton!!!
10:35 AM

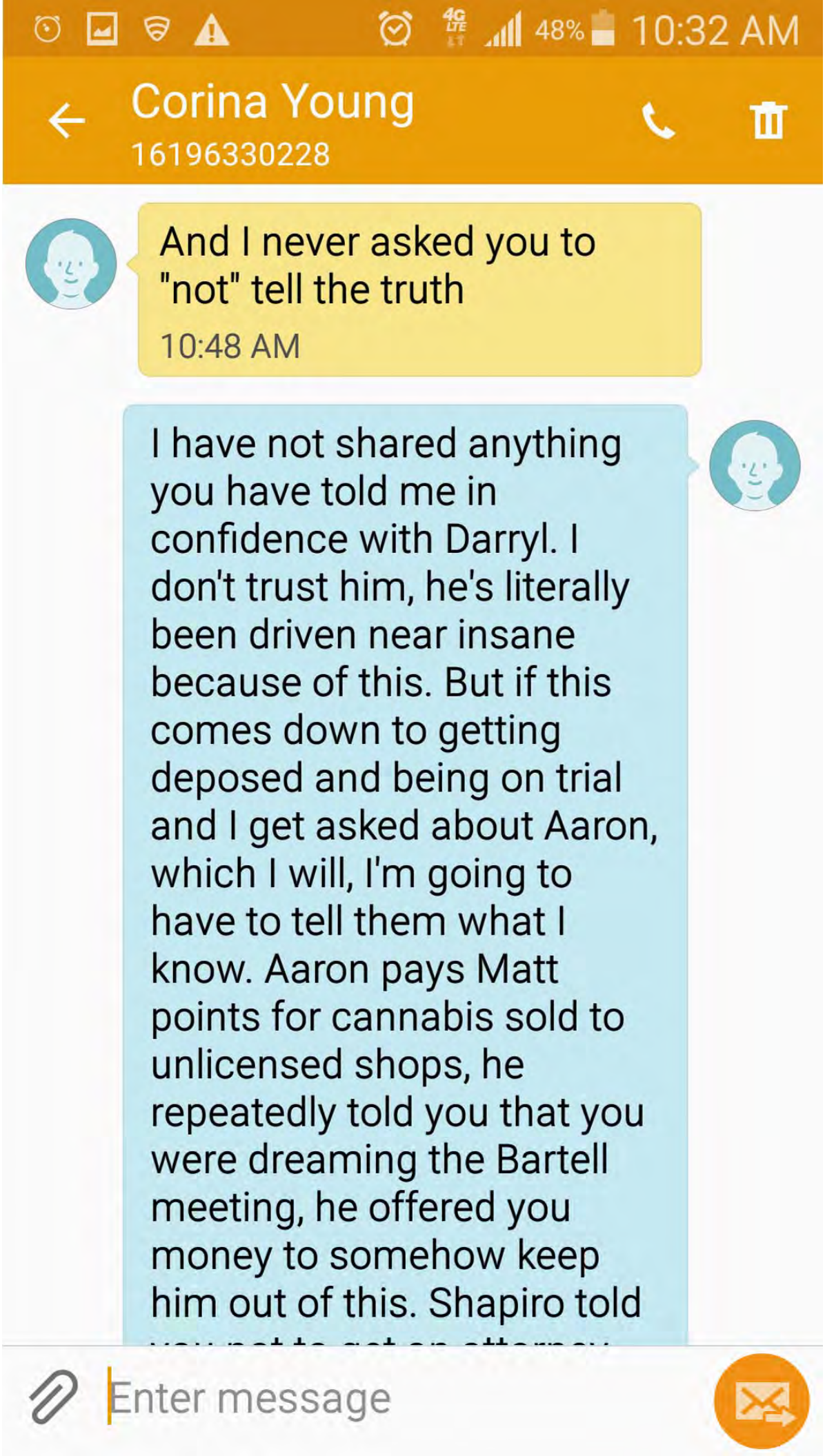
Now things I told you in confidence... seriously? You know Jim is on my CUP.
10:37 AM

You know is jeopardizes my future and everything I have worked so hard for.
10:38 AM

I hate you
10:46 AM

And I never asked you to "not" tell the truth

Enter message


48% 10:32 AM
Corina Young
16196330228
And I never asked you to "not" tell the truth
10:48 AM
I have not shared anything you have told me in confidence with Darryl. I don't trust him, he's literally been driven near insane because of this. But if this comes down to getting deposed and being on trial and I get asked about Aaron, which I will, I'm going to have to tell them what I know. Aaron pays Matt points for cannabis sold to unlicensed shops, he repeatedly told you that you were dreaming the Bartell meeting, he offered you money to somehow keep him out of this. Shapiro told
Enter message

48% 10:33 AM

Corina Young
16196330228

I have not shared anything you have told me in confidence with Darryl. I don't trust him, he's literally been driven near insane because of this. But if this comes down to getting deposed and being on trial and I get asked about Aaron, which I will, I'm going to have to tell them what I know. Aaron pays Matt points for cannabis sold to unlicensed shops, he repeatedly told you that you were dreaming the Bartell meeting, he offered you money to somehow keep him out of this. Shapiro told you not to get an attorney. That is so unethical! Believe it or not, I have moved heaven and earth myself to not get involved. Gina told me in march of 2017 she was working on drafts for the property and I have NEVER provided my testimony on that because I don't want to be involved. I don't want to be a witness even though I have testimony that proves she's in on it. Darryl and Jacob have begged me for months to provide my testimony and I have not.

10:48 AM

Enter message

48% 10:33 AM

Corina Young
16196330228

And I never asked you to "not" tell the truth
10:49 AM

I know. I'm not saying you did. I just meant that there is no situation where I cannot. I would stay out of it if I could. But that's not an option for me either now.
10:49 AM

I dont know what to believe anymore
10:51 AM

In this business everyone make points. Thanks not a big deal. I'm more bothered by the fact Matt literally knows every deal offer that I have had.
10:54 AM

I know. But it's not ethical for attorneys to facility cannabis transactions and get paid point for every deal. I know it's normal in the industry, but it's not ethical for

Enter message

48% 10:33 AM

Corina Young
16196330228

I know. But it's not ethical for attorneys to facility cannabis transactions and get paid point for every deal. I know it's normal in the industry, but it's not ethical for attorneys. That's why he's going to try to discredit you and say you're a pothead, to make it look like you have a bad memory or are a liar. When you talk to your attorney, he will confirm that Gerais lawsuit is fraudulent and matt's actions are unethical. And Aarons actions speak for themselves. Just tell everything to your attorney and follow his advice.

10:59 AM

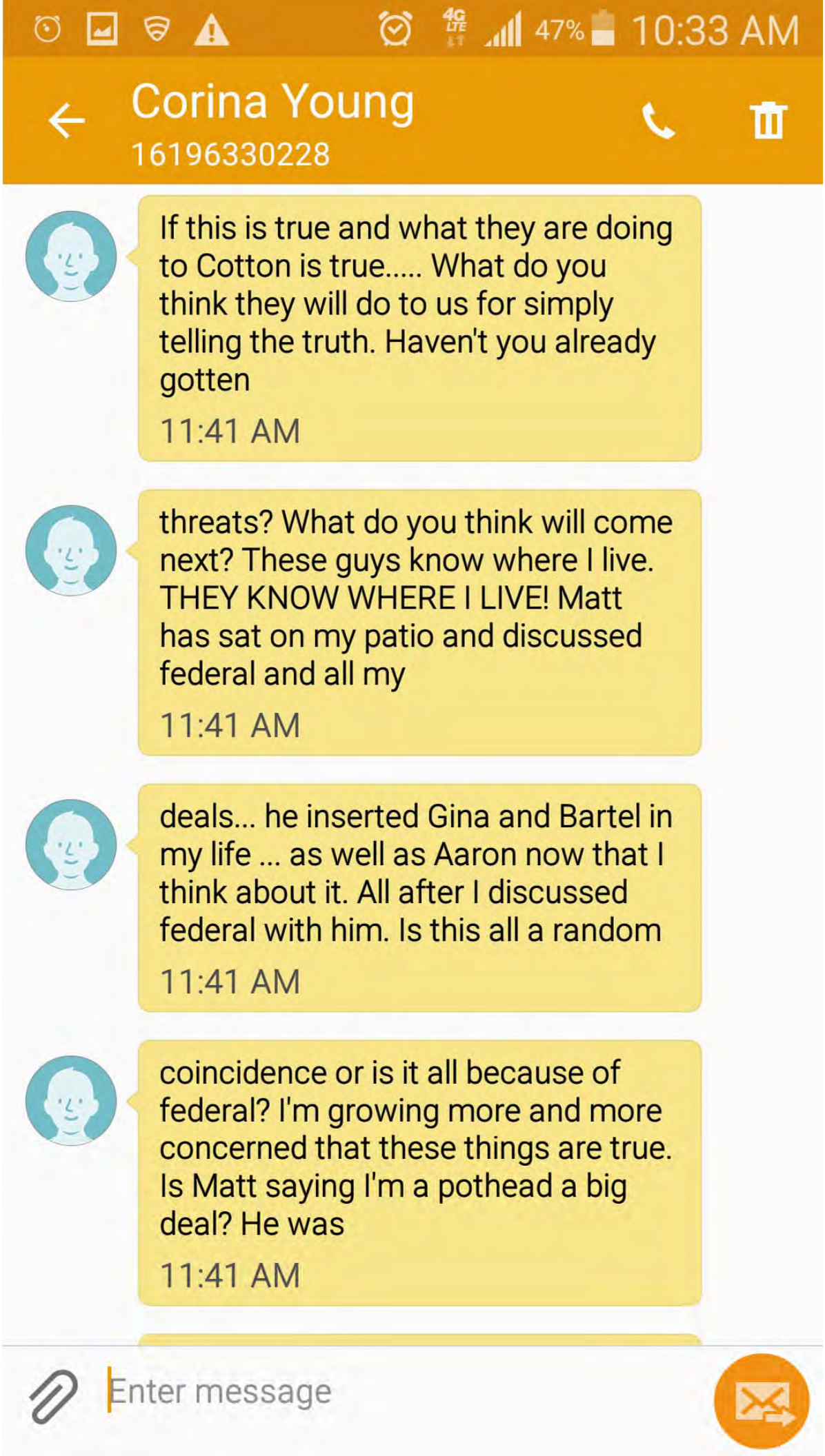
Matt can't use attorney client privileged information in any way against you. Have your attorney send him a letter explicitly stating as much.

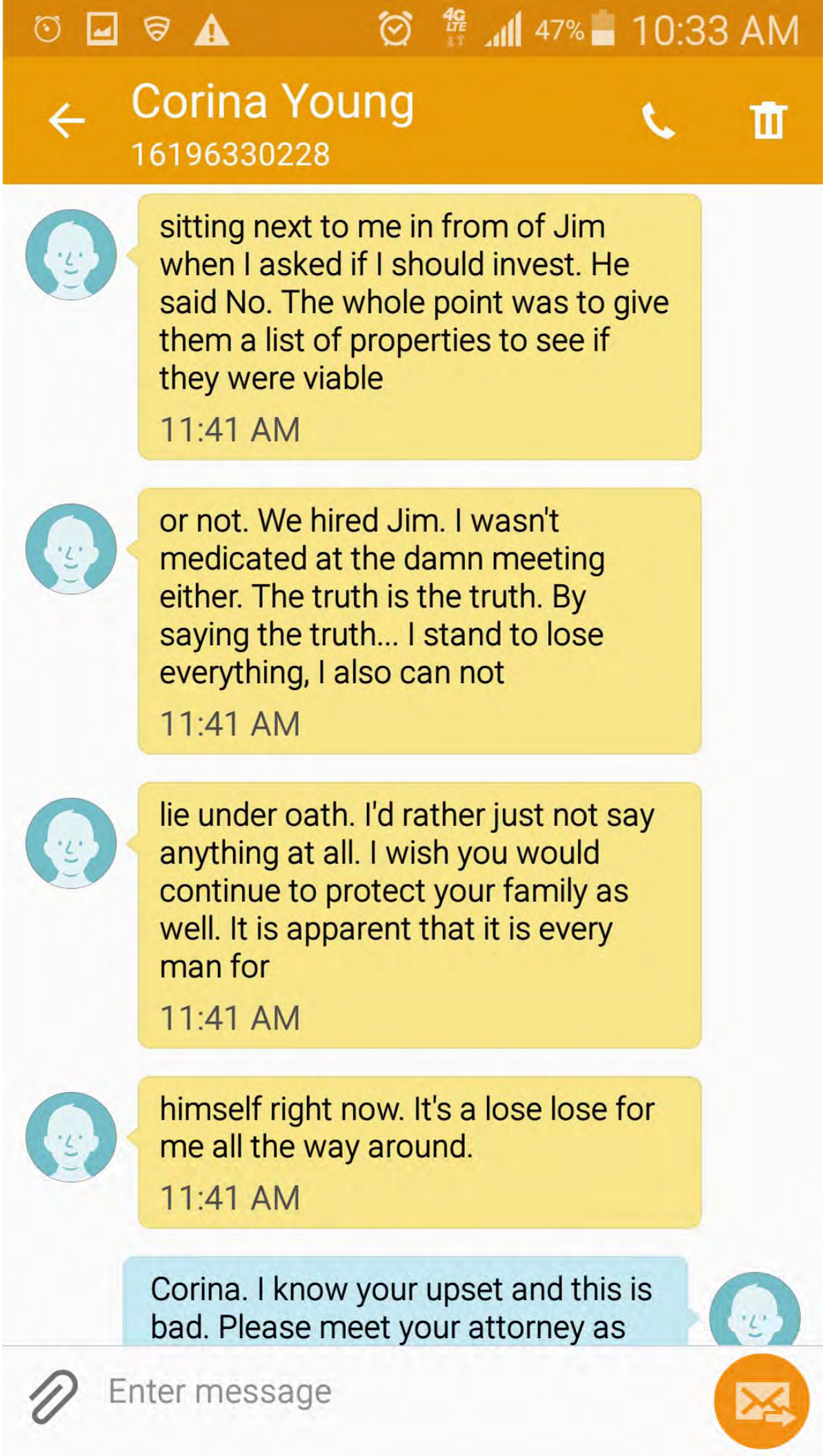
11:00 AM

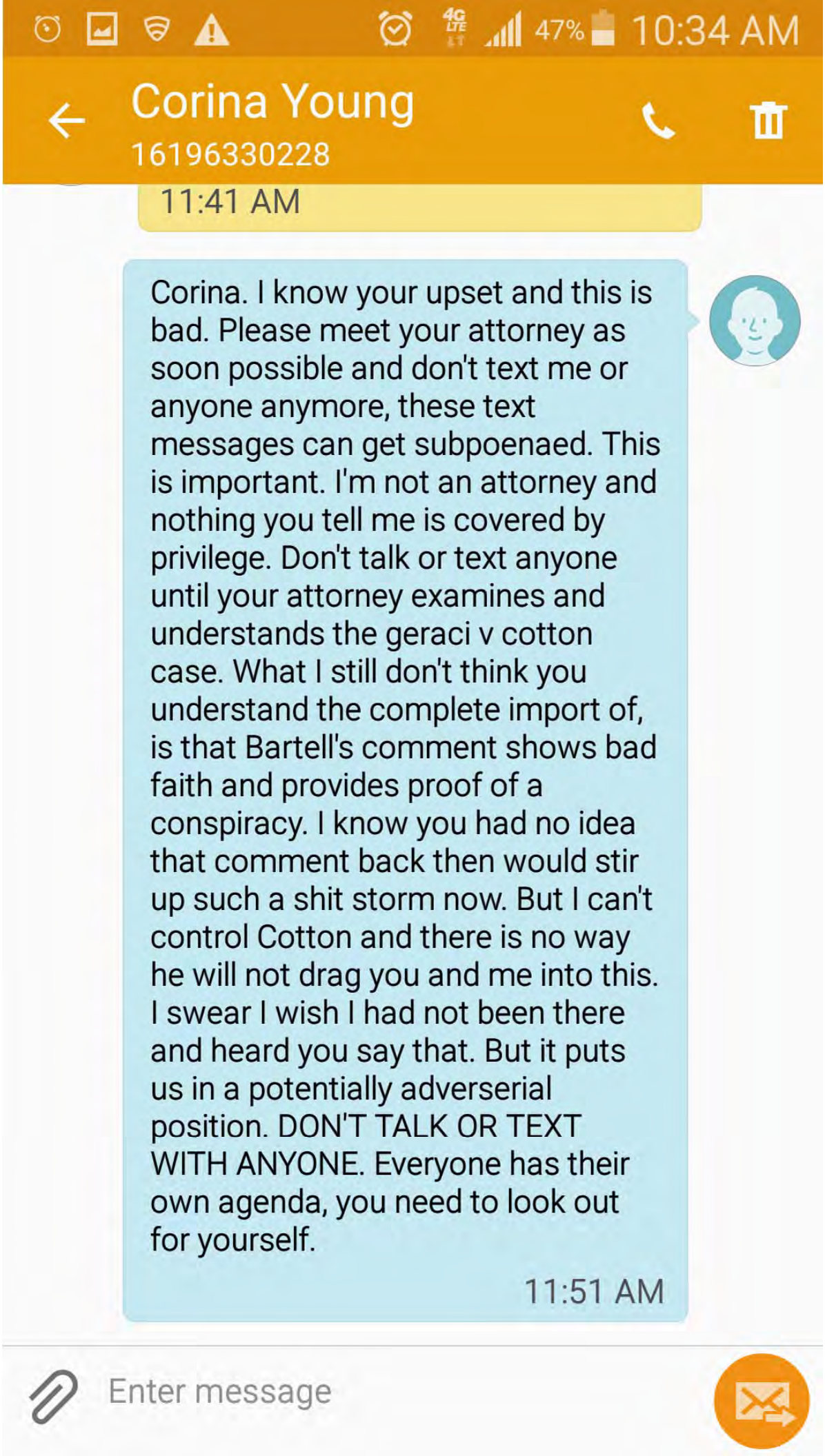
If I lose my La MESA CUP over any of this... I'm suing everyone

11:00 AM

Enter message


47% 10:33 AM
Corina Young
16196330228
If this is true and what they are doing to Cotton is true..... What do you think they will do to us for simply telling the truth. Haven't you already gotten
11:41 AM
threats? What do you think will come next? These guys know where I live. THEY KNOW WHERE I LIVE! Matt has sat on my patio and discussed federal and all my
11:41 AM
deals... he inserted Gina and Bartel in my life ... as well as Aaron now that I think about it. All after I discussed federal with him. Is this all a random
11:41 AM
coincidence or is it all because of federal? I'm growing more and more concerned that these things are true. Is Matt saying I'm a pothead a big deal? He was
11:41 AM
Enter message


47% 10:33 AM
Corina Young
16196330228
sitting next to me in from of Jim when I asked if I should invest. He said No. The whole point was to give them a list of properties to see if they were viable
11:41 AM
or not. We hired Jim. I wasn't medicated at the damn meeting either. The truth is the truth. By saying the truth... I stand to lose everything, I also can not
11:41 AM
lie under oath. I'd rather just not say anything at all. I wish you would continue to protect your family as well. It is apparent that it is every man for
11:41 AM
himself right now. It's a lose lose for me all the way around.
11:41 AM
Corina. I know your upset and this is bad. Please meet your attorney as
Enter message



47% 10:34 AM

Corina Young
16196330228

11:41 AM

Corina. I know your upset and this is bad. Please meet your attorney as soon possible and don't text me or anyone anymore, these text messages can get subpoenaed. This is important. I'm not an attorney and nothing you tell me is covered by privilege. Don't talk or text anyone until your attorney examines and understands the geraci v cotton case. What I still don't think you understand the complete import of, is that Bartell's comment shows bad faith and provides proof of a conspiracy. I know you had no idea that comment back then would stir up such a shit storm now. But I can't control Cotton and there is no way he will not drag you and me into this. I swear I wish I had not been there and heard you say that. But it puts us in a potentially adverserial position. DON'T TALK OR TEXT WITH ANYONE. Everyone has their own agenda, you need to look out for yourself.

11:51 AM

Enter message

Jacob P. Austin [SBN 290303]
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Attorney for Defendant/Cross-Complainant DARRYL COTTON

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

LARRY GERACI, an individual, Plaintiff, vs. DARRYL COTTON, an individual; and DOES 1 through 10, inclusive, Defendants. AND RELATED CROSS-ACTION.	Case No. 37-2017-00010073-CU-BC-CTL **DARRYL COTTON'S NOTICE OF LODGMENT IN SUPPORT OF *EX PARTE* APPLICATION FOR ORDERS: APPOINTING A RECEIVER TO MANAGE THE CONDITIONAL USE PERMIT FOR DEFENDANT'S REAL PROPERTY; AND OTHER RELIEF** Date: June 14, 2018 Time: 8:30 a.m. Dept: C-73 Judge: The Hon. Joel R. Wohlfeil

Defendant/Cross-Complainant DARRYL COTTON hereby submits the following lodgment of documents in support of his *Ex Parte* Application for Orders: (1) Appointing a Receiver to Manage the Conditional Use Permit for Defendant's Real Property; and Other Relief:

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/ / /

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TAB NO.	DESCRIPTION OF DOCUMENTS
1.	Plaintiff's Complaint for: 1. Breach of Contract; 2. Breach of the Covenant of Good Faith and Fair Dealing; 3. Specific Performance; and 4. Declaratory Relief filed March 21, 2017 [SDSC ROA 1]
2.	Notice of *Lis Pendens* filed and recorded March 22, 2017 [SDSC ROA 9]
3.	Defendant's Answer to Plaintiff's Complaint filed May 8, 2017 [SDSC ROA 17]
4.	Cotton's Cross-Complaint for: 1. Quiet Title, 2. Slander of Title, 3. Fraud/ Fraudulent Misrepresentation, 4. Fraud in the Inducement, 5. Breach of Contract, 6. Breach of Oral Contract, 7. Breach of Implied Contract, 8. Breach of Implied Covenant of Good Faith and Fair Dealing, 9. Trespass, 10. Conspiracy, 11. Declaratory and Injunctive Relief filed May 12, 2017 [SDSC ROA 19]
5.	Cross-Defendant Rebecca Berry's Notice of Demurrer and Demurrer to Defendant's Cross-Complaint filed June 9, 2017 [SDSC ROA 23]
6.	Memorandum of Points and Authorities in Support of Cross-Defendant Rebecca Berry's Notice of Demurrer and Demurrer to Defendant's Cross-Complaint filed June 9, 2017 [SDSC ROA 24]
7.	Request for Judicial Notice in Support of of Cross-Defendant Rebecca Berry's Notice of Demurrer and Demurrer to Defendant's Cross-Complaint filed June 9, 2017 [SDSC ROA 25]
8.	Cross-Defendant Larry Geraci's Notice of Demurrer and Demurrer to Cross-Complaint by Darryl Cotton filed June 16, 2017 [SDSC ROA 28]
9.	Request for Judicial Notice in Support of Cross-Defendant Larry Geraci's Notice of Demurrer and Demurrer to Cross-Complaint by Darryl Cotton filed June 16, 2017 [SDSC ROA 29]
10.	Memorandum of Points and Authorities in Support of Cross-Defendant Larry Geraci's Notice of Demurrer and Demurrer to Cross-Complaint by Darryl Cotton filed June 16, 2017 [SDSC ROA 30]
11.	Declaration of Michael R. Weinstein in Support of Cross-Defendant Larry Geraci's Notice of Demurrer and Demurrer to Cross-Complaint by Darryl Cotton and Proof of Service filed June 16, 2017 [SDSC ROA 31-32]

TAB NO.	DESCRIPTION OF DOCUMENTS
12.	Second Amended Cross-Complaint for: (1) Breach of Contract; (2) Intentional Misrepresentation; (3) Negligent Misrepresentation; (4) False Promise; and (5) Declaratory Relief and Proof of Service filed August 25, 2017 [SDSC ROA 47]
13.	Cross-Defendant Rebecca Berry's Answer to Cross-Complainant Darryl Cotton's Unverified Second Amended Cross-Complaint and Proof of Service filed September 5, 2017 [SDSC ROA 49-50]
14.	Notice of Demurrer and Demurrer by Cross-Defendant Larry Geraci to Second Amended Cross-Complaint by Darryl Cotton filed September 28, 2017 [SDSC ROA 52]
15.	Memorandum of Points and Authorities in Support of Cross-Defendant Larry Geraci's Demurrer to Second Amended Cross-Complaint by Darryl Cotton filed September 28, 2017 [SDSC ROA 53]
16.	Declaration of Michael R. Weinstein in Support of Cross-Defendant Larry Geraci's Demurrer to Second Amended Cross-Complaint by Darryl Cotton and Proof of Service filed September 28, 2017 [SDSC ROA 54-55]
17.	Darryl Cotton's Opposition to Larry Geraci's Demurrer to the Second Amended Cross-Complaint and Proof of Service filed October 23, 2017 [SDSC ROA 56-57]
18.	Reply Memorandum of Points and Authorities in Support of Cross-Defendant Larry Geraci's Demurrer to Second Amended Cross-Complaint by Darryl Cotton and Proof of Service filed October 27, 2017 [SDSC ROA 58-59]
19.	Notice of Entry of Judgment of Order re November 6, 2017 Hearing on Larry Geraci's Demurrer to Second Amended Cross-Complaint by Darryl Cotton and Proof of Service filed November 9, 2017 [SDSC ROA 65]
20.	Cross-Defendant Larry Geraci's Answer to Cross-Complainant Darryl Cotton's Unverified Second Amended Cross-Complaint and Proof of Service filed November 28, 2017 [SDSC ROA 66-67]
21.	*Ex Parte* Application by Defendant Darryl Cotton for Orders: (1) Shortening Time for Hearing on Darryl Cotton's Motion to Expunge Notice of Pendency of Action (*Lis Pendens)* [CCP 405.30 et seq.]; and Compelling Testimony of Plaintiff and Cross-Defendant Larry Geraci filed April 4, 2018 [SDSC ROA 160]

TAB NO.	DESCRIPTION OF DOCUMENTS
22.	Memorandum of Points and Authorities in Support of *Ex Parte* Application by Defendant Darryl Cotton for Orders: (1) Shortening Time for Hearing on Darryl Cotton's Motion to Expunge Notice of Pendency of Action (*Lis Pendens)* [CCP 405.30 et seq.]; and Compelling Testimony of Plaintiff and Cross-Defendant Larry Geraci filed April 4, 2018 [SDSC ROA 160]
23.	Declaration of Jacob P. Austin in Support of *Ex Parte* Application by Defendant Darryl Cotton for Orders: (1) Shortening Time for Hearing on Darryl Cotton's Motion to Expunge Notice of Pendency of Action (*Lis Pendens*) [CCP 405.30 et seq.]; and Compelling Testimony of Plaintiff and Cross-Defendant Larry Geraci filed April 4, 2018 [SDSC ROA 160]
24.	Notice of Lodgment in Support of *Ex Parte* Application by Defendant Darryl Cotton for Orders: (1) Shortening Time for Hearing on Darryl Cotton's Motion to Expunge Notice of Pendency of Action (*Lis Pendens*) [CCP 405.30 et seq.]; and Compelling Testimony of Plaintiff and Cross-Defendant Larry Geraci filed April 4, 2018 [SDSC ROA 160]
25.	Notice of Motion and Motion to Expunge Notice of Pendency of Action (*Lis Pendens*) filed April 4, 2018 [SDSC ROA 161]
26.	Darryl Cotton's Memorandum of Points and Authorities in Support of Motion to Expunge Notice of Pendency of Action (*Lis Pendens*) filed April 4, 2018 [SDSC ROA 161]
27.	Darryl Cotton's Declaration in Support of Motion to Expunge Notice of Pendency of Action (*Lis Pendens*) and Proof of Service filed April 4, 2018 [SDSC ROA 161]
28.	Minute Order re Hearing Darryl Cotton's *Ex Parte* Application by Defendant Darryl Cotton for Orders: (1) Shortening Time for Hearing on Darryl Cotton's Motion to Expunge Notice of Pendency of Action (*Lis Pendens)* [CCP 405.30 et seq.]; and Compelling Testimony of Plaintiff and Cross-Defendant Larry Geraci filed April 5, 2018 [SDSC ROA 162]
29.	Opposition to *Ex Parte* Application by Defendant Darryl Cotton for Orders: (1) Shortening Time for Hearing on Darryl Cotton's Motion to Expunge Notice of Pendency of Action (*Lis Pendens)* [CCP 405.30 et seq.]; and Compelling Testimony of Plaintiff and Cross-Defendant Larry Geraci filed April 5, 2018 [SDSC ROA 163]

TAB NO.	DESCRIPTION OF DOCUMENTS
30.	Plaintiff Larry Geraci's Memorandum of Points and Authorities in Opposition to Defendant Darryl Cotton's Motion to Expunge Lis Pendens filed April 10, 2018 [SDSC ROA 179]
31.	Declaration of Larry Geraci in Opposition to Defendant Darryl Cotton's Motion to Expunge Lis Pendens filed April 10, 2018 [SDSC ROA 180]
32.	Declaration of Abhay Schweitzer in Opposition to Defendant Darryl Cotton's Motion to Expunge Lis Pendens filed April 10, 2018 [SDSC ROA 181]
33.	Declaration of Michael R. Weinstein in Opposition to Defendant Darryl Cotton's Motion to Expunge Lis Pendens filed April 10, 2018 [SDSC ROA 182]
34.	Notice of Lodgment in Opposition to Defendant Darryl Cotton's Motion to Expunge Lis Pendens and Proof of Service filed April 10, 2018 [SDSC ROA 183-184]
35.	Plaintiff Larry Geraci's Objections to Evidence Lodged by Defendant Darryl Cotton in Support of His Motion to Expunge Lis Pendens filed April 10, 2018 [SDSC ROA 185]
36.	Plaintiff Larry Geraci's Objections to Request for Judicial Notice in Support of Defendant Darryl Cotton's Motion to Expunge Lis Pendens filed April 10, 2018 [SDSC ROA 186]
37.	Tentative Ruling on Defendant's Motion to Expunge Lis Pendens filed April 11, 2018 [SDSC ROA 191]
38.	Minute Order re Defendant's Motion to Expunge Lis Pendens filed April 13, 2018 [SDSC ROA 192]
39.	Notice of Ruling on Defendant's Motion to Expunge Lis Pendens filed April 13, 2018 [SDSC ROA 195]
40.	Notice of Motion and Motion by Plaintiff/Cross-Defendant Larry Geraci for a Preliminary Injunction or Other Order to Compel Access to the Subject Property for Soils Testing filed February 27, 2018 [SDSC ROA 115]
41.	Memorandum of Points and Authorities in Support of Motion by Plaintiff/Cross-Defendant Larry Geraci for a Preliminary Injunction or Other Order to Compel Access to the Subject Property for Soils Testing filed February 27, 2018 [SDSC ROA 116]

TAB NO.	DESCRIPTION OF DOCUMENTS
42.	Declaration of Larry Geraci in Support of Motion by Plaintiff/Cross-Defendant Larry Geraci for a Preliminary Injunction or Other Order to Compel Access to the Subject Property for Soils Testing filed February 27, 2018 [SDSC ROA 117]
43.	Declaration of Michael R. Weinstein in Support of Motion by Plaintiff/Cross-Defendant Larry Geraci for a Preliminary Injunction or Other Order to Compel Access to the Subject Property for Soils Testing filed February 27, 2018 [SDSC ROA 118]
44.	Declaration of Abhay Schweitzer in Support of Motion by Plaintiff/Cross-Defendant Larry Geraci for a Preliminary Injunction or Other Order to Compel Access to the Subject Property for Soils Testing filed February 27, 2018 [SDSC ROA 119]
45.	Notice of Lodgment in Support of Motion by Plaintiff/Cross-Defendant Larry Geraci for a Preliminary Injunction or Other Order to Compel Access to the Subject Property for Soils Testing and Proof of Service filed February 27, 2018 [SDSC ROA 120-121]
46.	Notice of Ruling After Hearing re Motion by Plaintiff/Cross-Defendant Larry Geraci for a Preliminary Injunction or Other Order to Compel Access to the Subject Property for Soils Testing filed March 26, 2018 [SDSC ROA 149]
47.	Order Granting Ex Parte Application by Plaintiff/Cross-Defendant Larry Geraci and Cross-Defendant Rebecca Berry for Appointment of Court Clerk or Court Clerk's Designee as Elisor Filed April 3, 2018 [SDSC ROA 159]

DATED: June 13, 2018

THE LAW OFFICE OF JACOB AUSTIN

By_____/s/_____
JACOB P. AUSTIN

EXHIBIT 10 [ROA 180]

FERRIS & BRITTON
A Professional Corporation
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
04/10/2018 at 11:10:00 AM
Clerk of the Superior Court
By Katelin O'Keefe, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

LARRY GERACI, an individual, Plaintiff, v. DARRYL COTTON, an individual; and DOES 1 through 10, inclusive, Defendants.	Case No. 37-2017-00010073-CU-BC-CTL Judge: Hon. Joel R. Wohlfeil Dept.: C-73 **DECLARATION OF LARRY GERACI IN OPPOSITION TO DEFENDANT DARRYL COTTON'S MOTION TO EXPUNGE LIS PENDENS** **[IMAGED FILE]**
DARRYL COTTON, an individual, Cross-Complainant, v. LARRY GERACI, an individual, REBECCA BERRY, an individual, and DOES 1 THROUGH 10, INCLUSIVE, Cross-Defendants.	**Hearing Date: April 13, 2018** **Hearing Time: 9:00 a.m.** Filed: March 21, 2017 Trial Date: May 11, 2018

I, Larry Geraci, declare:

1. I am an adult individual residing in the County of San Diego, State of California, and I am one of the real parties in interest in this action. I have personal knowledge of the foregoing facts and if called as a witness could and would so testify.

2. In approximately September of 2015, I began lining up a team to assist in my efforts to develop and operate a Medical Marijuana Consumer Cooperative (MMCC) business (aka a medical

marijuana dispensary) in San Diego County. At the time, I had not yet identified a property for the MMCC business. I hired a consultant, Neal Dutta of Apollo Realty, to help locate and identify potential property sites for the business. I hired a design professional, Abhay Schweitzer of TECHNE. I hired a public affairs and public relations consultant with experience in the industry, Jim Bartell of Bartell & Associates. In addition, I hired a land use attorney, Gina Austin of Austin Legal Group.

3. The search to identify potential locations for the business took some time, as there are a number of requirements that had to be met. For example: a) only four (4) MMCCs are allowed in a City Council District; b) MMCCs are not allowed within 1,000 feet of public parks, churches, child care centers, playgrounds, City libraries, minor-oriented facilities, other MMCCs, residential facilities, or schools; c) MMCCs are not allowed within 100 feet of a residential zone; and d) the zoning had to be proper as MMCC's are allowed only in certain zones. In approximately June 2016, Neal Dutta identified to me real property owned by Darryl Cotton located at 6176 Federal Blvd., City of San Diego, San Diego County, California, Assessor's Parcel No. 543-020-02-00 (the "Property") as a potential site for acquisition and development for use and operation as a MMCC. And in approximately mid-July 2016 Mr. Dutta put me in contact with Mr. Cotton and I expressed my interest to Mr. Cotton in acquiring his Property if our further investigation satisfied us that the Property might meet the requirements for an MMCC site.

4. For several months after the initial contact, my consultant, Jim Bartell, investigated issues related to whether the location might meet the requirements for an MMCC site, including zoning issues and issues related to meeting the required distances from certain types of facilities and residential areas. For example, the City had plans for street widening in the area that potentially impacted the ability of the Property to meet the required distances. Although none of these issues were resolved to a certainty, I determined that I was still interested in acquiring the Property.

5. Thereafter I approached Mr. Cotton to discuss the possibility of my purchase of the Property. Specifically, I was interested in purchasing the Property from Mr. Cotton contingent upon my obtaining approval of a Conditional Use Permit ("CUP") for use as a MMCC. As the purchaser, I was willing to bear the substantial expense of applying for and obtaining CUP approval and understood that if I did not obtain CUP approval then I would not close the purchase and I would lose my

investment. I was willing to pay a price for the Property based on what I anticipated it might be worth if I obtained CUP approval. Mr. Cotton told me that he was willing to make the purchase and sale conditional upon CUP approval because if the condition was satisfied he would be receiving a much higher price than the Property would be worth in the absence of its approval for use as a medical marijuana dispensary. We agreed on a down payment of $10,000.00 and a purchase price of $800,000.00. On November 2, 2016, Mr. Cotton and I executed a written purchase and sale agreement for my purchase of the Property from him on the terms and conditions stated in the agreement (hereafter the "Nov 2nd Written Agreement"). A true and correct copy of the Nov 2nd Written Agreement, which was executed before a notary, is attached as Exhibit 2 to Defendant and Cross-Defendant, Larry Geraci's Notice of Lodgment in Support of Opposition to Motion to Expunge Lis Pendens (hereafter the "Geraci NOL"). I tendered the $10,000 deposit to Mr. Cotton as acknowledged in the Nov 2nd Written Agreement.

6. In paragraph 5 of his supporting declaration, Darryl Cotton states:

> "On November 2, 2016, Geraci and I met at Geraci's office to negotiate the final terms of the sale of the Property. At the meeting, we reached an oral agreement on the material terms for the sale of the Property (the "November Agreement"). The November Agreement consisted of the following: If the CUP was approved, then Geraci would, inter alia, provide me: (i) a total purchase price of $800,000; (ii) a 10% equity stake in the MO; and (iii) a minimum monthly equity distribution of $10,000. If the CUP was denied, I would keep an agreed upon $50,000 non-refundable deposit ("NRD") and the transaction would not close. In other words, the issuance of a CUP at the Property was a condition precedent for closing on the sale of the Property and, if the CUP was denied, I would keep my Property and the $50,000 NRD."

Darryl Cotton and I did meet at my office on November 2, 2016, to negotiate the final terms of the sale of the Property and we reached an agreement on the final terms of the sale of the Property. That agreement was not oral. We put our agreement in writing in a simple and straightforward written

agreement that we both signed before a notary. (See paragraph 5, *supra*, Nov 2nd Written Agreement, Exhibit 2 to Geraci NOL.) The written agreement states in its entirety:

> **11/02/2016**
>
> **Agreement between Larry Geraci or assignee and Darryl Cotton:**
>
> **Darryl Cotton has agreed to sell the property located at 6176 Federal Blvd., CA for a sum of $800,000 to Larry Geraci or assignee on the approval of a Marijuana Dispensary. (CUP for a dispensary.)**
>
> **Ten Thousand dollars (cash) has been given in good faith earnest money to be applied to the sales price of $800,000.00 and to remain in effect until the license is approved. Darryl Cotton has agreed to not enter into any other contacts [sic] on this property.**
>
> **/s/ Larry Geraci** **/s/ Darryl Cotton**

I never agreed to pay Mr. Cotton a $50,000.00 non-refundable deposit. At the meeting, Mr. Cotton stated he would like a $50,000 non-refundable deposit. I said "no." Mr. Cotton then asked for a $10,000 non-refundable deposit and I said "ok" and that amount was put into the written agreement. After he signed the written agreement, I paid him the $10,000 cash as we had agreed. If I had agreed to pay Mr. Cotton a $50,000 deposit, it would have been a very simple thing to change "$10,000" to $50,000" in the agreement before we signed it.

I never agreed to pay Mr. Cotton a 10% equity stake in the marijuana dispensary. I never agreed to pay Mr. Cotton a minimum monthly equity distribution of $10,000. If I had agreed to pay Mr. Cotton a 10% equity stake in the marijuana dispensary and a minimum monthly equity distribution of $10,000, then it would have also been a simple thing to add a sentence or two to the agreement to say so.

What I did agree to was to pay Mr. Cotton a total purchase price of $800,000, with the balance of $790,000 due upon approval of a CUP. If the CUP was not approved, then he would keep the Property and the $10,000. So that is how the agreement was written.

7. In paragraph 6 of his supporting declaration, Darryl Cotton states:

> "At the November 2, 2016, meeting we reached the November Agreement, Geraci: (i) provided me with $10,000 in cash towards the NRD of $50,000, for which I executed a document to record my receipt thereof (the "Receipt"); (ii)

promised to have his attorney, Gina Austin ("Austin"), ***promptly*** reduce the oral November Agreement to written agreements for execution; and (iii) promised to not submit the CUP to the City until he paid me the balance of the NRD."

I did pay Mr. Cotton the $10,000 cash after we signed the Nov 2nd Written Agreement. As stated above, I never agreed to a $50,000 deposit and, if I had, it would have been a simple thing to state that in our written agreement.

Mr. Cotton refers to the written agreement (i.e., the Nov 2nd Written Agreement) as a "Receipt." Calling the Agreement a "Receipt" was never discussed. There would have been no need for a written agreement before a notary simply to document my payment to him of $10,000. In addition, had the intention been merely to document a written "Receipt" for the $10,000 payment, then we could have identified on the document that it was a "Receipt" and there would have been no need to put in all the material terms and conditions of the deal. Instead, the document is expressly called an "Agreement" because that is what we intended.

I did not promise to have attorney Gina Austin reduce the oral agreement to written agreements for execution. What we did discuss was that Mr. Cotton wanted to categorize or allocate the $800,000. At his request, I agreed to pay him for the property into two parts: $400,000 as payment for the property and $400,000 as payment for the relocation of his business. As this would benefit him for tax purposes but would not affect the total purchase price or any other terms and conditions of the purchase, I stated a willingness to later amend the agreement in that way.

I did not promise to delay submitting the CUP to the City until I paid the alleged $40,000 balance of the deposit. I agreed to pay a $10,000 deposit only. Also, we had previously discussed the long lead-time to obtain CUP approval and that we had already begun the application submittal process as discussed in paragraph 8 below.

8. Prior entering into the Nov 2nd Written Agreement, Darryl Cotton and I discussed the CUP application and approval process and that his consent as property owner would be needed to submit with the CUP application. I discussed with him that my assistant Rebecca Berry would act as my authorized agent to apply for the CUP on my behalf. Mr. Cotton agreed to Ms. Berry serving as

the Applicant on my behalf to attempt to obtain approval of a CUP for the operation of a MMCC or marijuana dispensary on the Property. On October 31, 2016, as owner of the Property, Mr. Cotton signed Form DS-318, the Ownership Disclosure Statement for a Conditional Use Permit, by which he acknowledged that an application for a permit (CUP) would be filed with the City of San Diego on the subject Property with the intent to record an encumbrance against the property. The Ownership Disclosure Statement was also signed by my authorized agent and employee, Rebecca Berry, who was serving as the CUP applicant on my behalf. A true and correct copy of the Ownership Disclosure Statement signed on October 31, 2016, by Darryl Cotton and Rebecca Berry is attached as Exhibit 1 to the Geraci NOL. Mr. Cotton provided that consent and authorization as we had discussed that approval of a CUP would be a condition of the purchase and sale of the Property.

9. As noted above, I had already put together my team for the MMCC project. My design professional, Abhay Schweitzer, and his firm, TECHNE, is and has been responsible for the design of the Project and the CUP application and approval process. Mr. Schweitzer was responsible for coordinating the efforts of the team to put together the CUP Application for the MMCC at the Property and Mr. Schweitzer has been and still is the principal person involved in dealings with the City of San Diego in connection with the CUP Application approval process. Mr. Schweitzer's declaration (Declaration of Abhay Schweitzer in Support of Opposition to Motion to Expunge Lis Pendens) has been submitted concurrently herewith and describes in greater detail the CUP Application submitted to the City of San Diego, which submission included the Ownership Disclosure Statement signed by Darryl Cotton and Rebecca Berry.

10. After we signed the Nov 2nd Written Agreement for my purchase of the Property, Mr. Cotton immediately began attempts to renegotiate our deal for the purchase of the Property. This literally occurred the evening of the day he signed the Nov 2nd Written Agreement.

On November 2, 2016, at approximately 6:55 p.m., Mr. Cotton sent me an email, which stated:

> Hi Larry,
>
> Thank you for meeting today. Since we examined the Purchase Agreement in your office for the sale price of the property I just noticed the 10% equity position in the dispensary was not language added into that document. I just want to make sure that we're not missing that language in any final agreement as it is a factored

element in my decision to sell the property. I'll be fine if you simply acknowledge that here in a reply.

I receive my emails on my phone. It was after 9:00 p.m. in the evening that I glanced at my phone and read the first sentence, "Thank you for meeting with me today." And I responded from my phone "No no problem at all." I was responding to his thanking me for the meeting.

The next day I read the entire email and I telephoned Mr. Cotton because the total purchase price I agreed to pay for the subject property was $800,000 and I had never agreed to provide him a 10% equity position in the dispensary as part of my purchase of the property. I spoke with Mr. Cotton by telephone at approximately 12:40 p.m. for approximately 3-minutes. A true and correct copy of the Call Detail from my firm's telephone provider showing those two telephone calls is attached as Exhibit 3 to the Geraci NOL. During that telephone call I told Mr. Cotton that a 10% equity position in the dispensary was not part of our agreement as I had never agreed to pay him any other amounts above the $800,000 purchase price for the property. Mr. Cotton's response was to say something to the effect of "well, you don't get what you don't ask for." He was not upset and he commented further to the effect that things are "looking pretty good—we all should make some money here." And that was the end of the discussion.

11. To be clear, prior to signing the Nov 2nd Written Agreement, Mr. Cotton expressed a desire to participate in different ways in the *operation* of the future MMCC business at the Property. Mr. Cotton is a hydroponic grower and purported to have useful experience he could provide regarding the operation of such a business. Prior to signing the Nov 2nd Written Agreement we had preliminary discussions related to his desire to be involved in the *operation* of the business (not related to the purchase of the Property) and we discussed the *possibility* of compensation to him (e.g., a percentage of the net profits) in exchange for his providing various services to the business—but we never reached an agreement as to those matters related to the operation of my future MMCC business. Those discussions were not related to the purchase and sale of the Property, which we never agreed to amend or modify.

12. Beginning in or about mid-February 2017, and after the zoning issues had been resolved, Mr. Cotton began making increasing demands for compensation in connection with the sale. We were several months into the CUP application process which could potentially take many more months to

successfully complete (if it could be successfully completed and approval obtained) and I had already committed substantial resources to the project. I was very concerned that Mr. Cotton was going to interfere with the completion of that process to my detriment now that the zoning issues were resolved. I tried my best to discuss and work out with him some further compensation arrangement that was reasonable and avoid the risk he might try to "torpedo" the project and find another buyer. For example, on several successive occasions I had my attorney draft written agreements that contained terms that I that I believed I could live with and hoped would be sufficient to satisfy his demands for additional compensation, but Mr. Cotton would reject them as not satisfactory. Mr. Cotton continued to insist on, among other things, a 10% equity position, to which I was not willing to agree, as well as on minimum monthly distributions in amounts that I thought were unreasonable and to which I was unwilling to agree. Despite our back and forth communications during the period of approximately mid-February 2017 through approximately mid-March 2017, we were not able to re-negotiate terms for the purchase of the property to which we were both willing to agree. The Nov. 2nd Written Agreement was never amended or modified. Mr. Cotton emailed me that I was not living up to my agreement and I responded to him that he kept trying to change the deal. As a result, no re-negotiated written agreement regarding the purchase and sale of the property was ever signed by Mr. Cotton or me after we signed and agreed to the terms and conditions in the Nov 2d Written Agreement.

13. Ultimately, Mr. Cotton was extremely unhappy with my refusal to accede to his demands and the failure to reach agreement regarding his possible involvement with the *operation* of the business to be operated at the Property and my refusal to modify or amend the terms and conditions we agreed to in the Nov 2nd Written Agreement regarding my purchase from him of the Property. Mr. Cotton made clear that he had no intention of living up to and performing his obligations under the Agreement and affirmatively threatened to take action to halt the CUP application process.

14. Mr. Cotton thereafter made good on his threats. On the morning of March 21, 2017, Mr. Cotton had a conversation with Firouzeh Tirandazi at the City of San Diego, who was in charge of processing the CUP Application, regarding Mr. Cotton's interest in withdrawing the CUP Application. That discussion is confirmed in an 8:54 a.m. e-mail from Ms. Tirandazi to Mr. Cotton with a cc to

Rebecca Berry. A true and correct copy of that March 21, 2017, at 8:54 a.m. e-mail is attached as Exhibit 4 to the Geraci NOL.

15. That same day, March 21, 2017, at 3:18 p.m. Mr. Cotton emailed me, reinforcing that he would not honor the Nov 2nd Written Agreement. In his email he stated that I had no interest in his property and that "I will be entering into an agreement with a third party to sell my property and they will be taking on the potential costs associated with any litigation arising from this failed agreement with you. A true and correct copy of that March 21, 2017, at 3:18 p.m. e-mail is attached as Exhibit 5 to the Geraci NOL.

16. Four minutes later that same day, at 3:25 p.m., Mr. Cotton e-mailed Ms. Tirandazi at the City, with a cc to both me and Rebecca Berry, stating falsely to Ms. Tirandazi: "... the potential buyer, Larry Gerasi [sic] (cc'ed herein), and I have failed to finalize the purchase of my property. As of today, there are no third-parties that have any direct, indirect or contingent interests in my property. The application currently pending on my property should be denied because the applicants have no legal access to my property. A true and correct copy of that March 21, 2017, at 3:25 p.m. e-mail is attached as Exhibit 6 to the Geraci NOL. Mr. Cotton's email was false as we had a signed agreement for the purchase and sale of the Property – the Nov 2nd Written Agreement.

17. Fortunately, the City determined Mr. Cotton did not have the authority to withdraw the CUP application without the consent of the Applicant (Rebecca Berry, my authorized agent).

18. Due to Mr. Cotton's clearly stated intention to not perform his obligations under the written Agreement and in light of his affirmative steps taken to attempt to withdraw the CUP application, I went forward on March 21, 2017, with the filing of my lawsuit against Mr. Cotton to enforce the Nov 2nd Written Agreement.

19. Since the March 21, 2017 filing of my lawsuit, we have continued to diligently pursue our CUP Application and approval of the CUP. Despite Mr. Cotton's attempts to withdraw the CUP application, we have completed the initial phase of the CUP process whereby the City deemed the CUP application complete (although not yet approved) and determined it was located in an area with proper zoning. We have not yet reached the stage of a formal City hearing and there has been no final determination to approve the CUP. The current status of the CUP Application is set forth in the

Declaration of Abhay Schweitzer.

20. Mr. Cotton also has made good on the statement in his March 21, 2017, at 3:18 p.m. email (referenced in paragraph 15 above - see Exhibit 5 to the Geraci NOL) stating that he would be "entering into an agreement with a third party to sell my property and they will be taking on the potential costs associated with any litigation arising from this failed agreement with you. We have learned through documents produced in my lawsuit that well prior to March 21, 2017, Mr. Cotton had been negotiating with other potential buyers of the Property to see if he could get a better deal than he had agreed to with me. As of March 21, 2017, Cotton had already entered into a real estate purchase and sale agreement to sell the Property to another person, Richard John Martin II.

21. Although he entered into this alternate purchase agreement with Mr. Martin as early as March 21, 2017, to our knowledge in the nine (9) months since, neither Mr. Cotton nor Mr. Martin or other agent has submitted a separate CUP Application to the City for processing. During that time, we continued to process our CUP Application at great effort and expense.

22. During approximately the last 17 months, I have incurred substantial expenses in excess of $150,000 in pursuing the MMCC project and the related CUP application.

23. Finally, Mr. Cotton has asserted from the outset of his lawsuit and, again, in paragraph 16 of his supporting declaration, that he did not discover until March 16, 2017, that I had submitted the CUP Application back on October 31, 2016. That is a blatant lie. I kept Mr. Cotton apprised of the status of the CUP application and the problems we were encountering (e.g., an initial zoning issue) from the outset. Attached as Exhibit 7 is a true and correct copy of a text message Mr. Cotton sent me on November 16, 2016, in which he asks me, "Did they accept the CUP application?" Mr. Cotton was well aware at that time that we had already submitted the CUP application and were awaiting the City's completion of its initial review of the completeness of the application. Until the City deems the CUP application complete it does not proceed to the next step—the review of the CUP application.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9th day of April, 2018.

LARRY GERACI

EXHIBIT 11 [ROA 1]

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
03/21/2017 at 10:11:00 AM
Clerk of the Superior Court
By Carla Brennan,Deputy Clerk

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Attorneys for Plaintiff
LARRY GERACI

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

LARRY GERACI, an individual, Plaintiff, v. DARRYL COTTON, an individual; and DOES 1 through 10, inclusive, Defendants.	Case No. 37-2017-00010073-CU-BC-CTL **PLAINTIFF'S COMPLAINT FOR:** **1. BREACH OF CONTRACT;** **2. BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING;** **3. SPECIFIC PERFORMANCE; and** **4. DECLARATORY RELIEF.**

Plaintiff, LARRY GERACI, alleges as follows:

1. Plaintiff, LARRY GERACI ("GERACI"), is, and at all times mentioned was, an individual residing within the County of San Diego, State of California.

2. Defendant, DARRYL COTTON ("COTTON"), is, and at all times mentioned was, an individual residing within the County of San Diego, State of California.

3. The real estate purchase and sale agreement entered into between Plaintiff GERACI and Defendant COTTON that is the subject of this action was entered into in San Diego County, California, and concerns real property located at 6176 Federal Blvd., City of San Diego, San Diego County, California (the "PROPERTY").

4. Currently, and at all times since approximately 1998, Defendant COTTON owned the PROPERTY.

5. Plaintiff GERACI does not know the true names or capacities of the defendants sued herein as DOES 1 through 20 and therefore sue such defendants by their fictitious names. Plaintiff is

informed and believe and based thereon allege that each of the fictitiously-named defendants is in some way and manner responsible for the wrongful acts and occurrences herein alleged, and that damages as herein alleged were proximately caused by their conduct. Plaintiff will seek leave of Court to amend this complaint to state the true names and/or capacities of such fictitiously-named defendants when the same are ascertained.

6. Plaintiff alleges on information and belief that at all times mentioned herein, each and every defendant was the agent, employee, joint venture, partner, principal, predecessor, or successor in interest and/or the alter ego of each of the remaining defendants, and in doing the acts herein alleged, were acting, whether individually or through their duly authorized agents and/or representatives, within the scope and course of said agencies, service, employment, joint ventures, partnerships, corporate structures and/or associations, whether actual or ostensible, with the express and/or implied knowledge, permission, and consent of the remaining defendants, and each of them, and that said defendants ratified and approved the acts of all of the other defendants.

GENERAL ALLEGATIONS

7. On November 2, 2016, Plaintiff GERACI and Defendant COTTON entered into a written agreement for the purchase and sale of the PROPERTY on the terms and conditions stated therein. A true and correct copy of said written agreement is attached hereto as Exhibit A.

8. On or about November 2, 2016, GERACI paid to COTTON $10,000.00 good faith earnest money to be applied to the sales price of $800,000.00 and to remain in effect until the license, known as a Conditional Use Permit or CUP is approved, all in accordance with the terms and conditions of the written agreement.

9. Based upon and in reliance on the written agreement, Plaintiff GERACI has engaged and continues to engage in efforts to obtain a CUP for a medical marijuana dispensary at the PROPERTY, as contemplated by the parties and their written agreement. The CUP process is a long, time-consuming process, which can take many months if not years to navigate. Plaintiff GERACI's efforts include, but have not been limited to, hiring a consultant to coordinate the CUP efforts as well as hiring an architect. Plaintiff GERACI estimates he has incurred expenses to date of more than $300,000.00 on the CUP process, all in reliance on the written agreement for the purchase and sale of

the PROPERTY to him by Defendant COTTON.

FIRST CAUSE OF ACTION

(For Breach of Contract against Defendant COTTON and DOES 1-5)

10. Plaintiffs re-allege and incorporate herein by reference the allegations contained in paragraphs 1 through 9 above.

11. Defendant COTTON has anticipatorily breached the contract by stating that he will not perform the written agreement according to its terms. Among other things, COTTON has stated that, contrary to the written terms, the parties agreed to a down payment or earnest money in the amount of $50,000.00 and that he will not perform unless GERACI makes a further down payment. COTTON has also stated that, contrary to the written terms, he is entitled to a 10% ownership interest in the PROPERTY and that he will not perform unless GERACI transfers to him a 10% ownership interest. COTTON has also threatened to contact the City of San Diego to sabotage the CUP process by withdrawing his acknowledgment that GERACI has a right to possession or control of the PROPERTY if GERACI will not accede to his additional terms and conditions and, on March 21, 2017, COTTON made good on his threat when he contacted the City of San Diego and attempted to withdraw the CUP application.

12. As result of Defendant COTTON's anticipatory breach, Plaintiff GERACI will suffer damages in an amount according to proof or, alternatively, for return of all sums expended by GERACI in reliance on the agreement, including but not limited to the estimated $300,000.00 or more expended to date on the CUP process for the PROPERTY.

SECOND CAUSE OF ACTION

(For Breach of the Implied Covenant of Good Faith and Fair Dealing against Defendant COTTON and DOES 1-5)

13. Plaintiffs re-allege and incorporate herein by reference the allegations contained in paragraphs 1 through 12 above.

14. Each contract has implied in it a covenant of good faith and fair dealing that neither party will undertake actions that, even if not a material breach, will deprive the other of the benefits of the agreement. By having threatened to contact the City of San Diego to sabotage the CUP process by

withdrawing his acknowledgment that Plaintiff GERACI has a right to possession or control of the PROPERTY if GERACI will not accede to his additional terms and conditions, Defendant COTTON has breached the implied covenant of good faith and fair dealing.

15. As result of Defendant COTTON's breach of the implied covenant of good faith and fair dealing, Plaintiff GERACI will suffer damages in an amount according to proof or, alternatively, for return of all sums expended by GERACI in reliance on the agreement, including but not limited to the estimated $300,000.00 or more expended to date on the CUP process for the PROPERTY.

THIRD CAUSE OF ACTION

(For Specific Performance against Defendants COTTON and DOES 1-5)

16. Plaintiffs re-allege and incorporate herein by reference the allegations contained in paragraphs 1 through 15 above.

17. The aforementioned written agreement for the sale of the PROPERTY is a valid and binding contract between Plaintiff GERACI and Defendant COTTON.

18. The aforementioned written agreement for the sale of the PROPERTY states the terms and conditions of the agreement with sufficient fullness and clarity so that the agreement is susceptible to specific performance.

19. The aforementioned written agreement for the purchase and sale of the PROPERTY is a writing that satisfies the statute of frauds.

20. The aforementioned written agreement for the purchase and sale of the PROPERTY is fair and equitable and is supported by adequate consideration.

21. Plaintiff GERACI has duly performed all of his obligations for which performance has been required to date under the agreement. GERACI is ready and willing to perform his remaining obligations under the agreement, namely: a) to continue with his good faith efforts to obtain a CUP for a medical marijuana dispensary; and b) if he obtains CUP approval for a medical marijuana dispensary thus satisfying that condition precedent, then to pay the remaining $790,000.00 balance of the purchase price.

22. Defendant COTTON is able to specifically perform his obligations under the contract, namely: a) to not enter into any other contracts to sell or otherwise encumber the PROPERTY; and b) if

Plaintiff GERACI obtains CUP approval for a medical marijuana dispensary thus satisfying that condition precedent, then to deliver title to the PROPERTY to GERACI or his assignee in exchange for receipt of payment from GERACI or assignee of the remaining $790,000.00 balance of the purchase price.

23. Plaintiff GERACI has demanded that Defendant COTTON refrain from taking actions that interfere with GERACI's attempt to obtain approval of a CUP for a medical marijuana dispensary and to specifically perform the contract upon satisfaction of the condition that such approval is in fact obtained.

24. Defendant COTTON has indicated that he has or will interfere with Plaintiff GERACI's attempt to obtain approval of a CUP for a medical marijuana dispensary and that COTTON does not intend to satisfy his obligations under the written agreement to deliver title to the PROPERTY upon satisfaction of the condition that GERACI obtain approval of a CUP for a medical marijuana dispensary and tender the remaining balance of the purchase price.

25. The aforementioned written agreement for the purchase and sale of the PROPERTY constitutes a contract for the sale of real property and, thus, Plaintiff GERACI's lack of a plain, speedy, and adequate legal remedy is presumed.

26. Based on the foregoing, Plaintiff GERACI is entitled to an order and judgment thereon specifically enforcing the written agreement for the purchase and sale of the PROPERTY from Defendant COTTON to GERACI or his assignee in accordance with its terms and conditions.

FOURTH CAUSE OF ACTION

(For Declaratory Relief against Defendants COTTON and DOES 1-5)

27. Plaintiffs re-allege and incorporate herein by reference the allegations contained in paragraphs 1 through 14 above.

28. An actual controversy has arisen and now exists between Defendant COTTON, on the one hand, and Plaintiff GERACI, on the other hand, in that COTTON contends that the written agreement contains terms and condition that conflict with or are in addition to the terms stated in the written agreement. GERACI disputes those conflicting or additional contract terms.

29. Plaintiff GERACI desires a judicial determination of the terms and conditions of the written agreement as well as of the rights, duties, and obligations of Plaintiff GERACI and defendants thereunder in connection with the purchase and sale of the PROPERTY by COTTON to GERACI or his assignee. Such a declaration is necessary and appropriate at this time so that each party may ascertain their rights, duties, and obligations thereunder.

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

On the First and Second Causes of Action:

1. For compensatory damages in an amount in excess of $300,000.00 according to proof at trial.

On the Third Cause of Action:

2. For specific performance of the written agreement for the purchase and sale of the PROPERTY according to its terms and conditions; and

3. If specific performance cannot be granted, then damages in an amount in excess of $300,000.00 according to proof at trial.

On the Fourth Cause of Action:

4. For declaratory relief in the form of a judicial determination of the terms and conditions of the written agreement and the duties, rights and obligations of each party under the written agreement.

On all Causes of Action:

5. For temporary and permanent injunctive relief as follows: that Defendants, and each of them, and each of their respective directors, officers, representatives, agents, employees, attorneys, and all persons acting in concert with or participating with them, directly or indirectly, be enjoined and restrained from taking any action that interferes with Plaintiff GERACI' efforts to obtain approval of a Conditional Use Permit (CUP) for a medical marijuana dispensary at the PROPERTY;

6. For costs of suit incurred herein; and

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7. For such other and further relief as the Court may deem just and proper.

Dated: March 21, 2017

FERRIS & BRITTON,
A Professional Corporation

By: Michael R. Weinstein
Michael R. Weinstein
Scott H. Toothacre

Attorneys for Plaintiff
LARRY GERACI

EXHIBIT A

11/02/2016

Agreement between Larry Geraci or assignee and Darryl Cotton:

Darryl Cotton has agreed to sell the property located at 6176 Federal Blvd, CA for a sum of $800,000.00 to Larry Geraci or assignee on the approval of a Marijuana Dispensary. (CUP for a dispensary)

Ten Thousand dollars (cash) has been given in good faith earnest money to be applied to the sales price of $800,000.00 and to remain in effect until license is approved. Darryl Cotton has agreed to not enter into any other contacts on this property.

Larry Geraci

Darryl Cotton

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On November 2, 2016 before me, Jessica Newell Notary Public
(insert name and title of the officer)

personally appeared Darryl Cotton and Larry Geraci,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

JESSICA NEWELL
Commission # 2002598
Notary Public - California
San Diego County
My Comm. Expires Jan 27, 2017

Signature [signature] (Seal)

EXHIBIT 12 [ROA 47]

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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
08/25/2017 at 11:44:00 AM
Clerk of the Superior Court
By Richard Day, Deputy Clerk

Attorneys for Defendant and Cross-Complainant Darryl Cotton

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

CENTRAL DIVISION

LARRY GERACI, an individual,

Plaintiff,

v.

DARRYL COTTON, an individual; and DOES 1 through 10, inclusive,

Defendants.

CASE NO: 37-2017-00010073-CU-BC-CTL

SECOND AMENDED CROSS-COMPLAINT FOR:

(1) BREACH OF CONTRACT;
(2) INTENTIONAL MISREPRESENTATION;
(3) NEGLIGENT MISREPRESENTATION;
(4) FALSE PROMISE; AND
(5) DECLARATORY RELIEF.

[IMAGED FILE]

Assigned to:
Hon. Joel R. Wohlfeil, Dept. C-73

Complaint Filed: March 21, 2017
Trial Date: Not Set

DARRYL COTTON, an individual,

Cross-Complainant

v.

LARRY GERACI, an individual; REBECCA BERRY, an individual; and ROES 1 through 50,

Cross-Defendants.

/ / / / /

Defendant and cross-complainant Darryl Cotton ("Cotton") alleges as follows:

1. Venue is proper in this Court because the events described below took place in this judicial district and the real property at issue is located in this judicial district.

2. Cotton is, and at all times mentioned was, an individual residing within the County of San Diego, California.

3. Cotton was at all times material to this action the sole record owner of the commercial real property located at 6176 Federal Boulevard, San Diego, California 92114 ("Property") which is the subject of this dispute.

4. Cotton is informed and believes plaintiff and cross-defendant Larry Geraci ("Geraci") is, and at all times mentioned was, an individual residing within the County of San Diego, California.

5. Cotton is informed and believes cross-defendant Rebecca Berry ("Berry") is, and at all times mentioned was, an individual residing within the County of San Diego, California.

6. Cotton does not know the true names and capacities of the cross-defendants named as ROES 1 through 50 and therefore sues them by fictitious names. Cotton is informed and believes that ROES 1 through 50 are in some way responsible for the events described in this Second Amended Cross-Complaint. Cotton will seek leave to amend this Second Amended Cross-Complaint when the true names and capacities of these cross-defendants have been ascertained.

7. At all times mentioned, each cross-defendant was an agent, principal, representative, employee, or partner of the other cross-defendants, and acted within the course and scope of such agency, representation, employment, and/or partnership, and with permission of the other cross-defendants.

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FINCH, THORNTON & BAIRD, LLP
4747 Executive Drive - Suite 700
San Diego, CA 92121
(858) 737-3100

GENERAL ALLEGATIONS

8. In or around August 2016, Geraci first contacted Cotton seeking to purchase the Property. Geraci desired to buy the Property from Cotton because it meets certain requirements of the City of San Diego ("City") for obtaining a Conditional Use Permit ("CUP") to operate a Medical Marijuana Consumer Cooperative ("MMCC") at the Property. The Property is one of a very limited number of properties located in San Diego City Council District 4 that potentially satisfy the CUP requirements for a MMCC.

9. Over the ensuing weeks and months, Geraci and Cotton negotiated extensively regarding the terms of a potential sale of the Property. During these negotiations, Geraci represented to Cotton, among other things, that:

(a) Geraci was a trustworthy individual because Geraci operated in a fiduciary capacity for many high net worth individuals and businesses as an enrolled agent for the IRS and the owner-manager of Tax and Financial Center, Inc., an accounting and financial advisory business;

(b) Geraci, through his due diligence, had uncovered a critical zoning issue that would prevent the Property from being issued a CUP to operate a MMCC unless Geraci lobbied with the City to have the zoning issue resolved first;

(c) Geraci, through his personal and professional relationships, was in a unique position to lobby and influence key City political figures to have the zoning issue favorably resolved and obtain approval of the CUP application once submitted; and

(d) Geraci was qualified to successfully operate a MMCC because he owned and operated several other marijuana dispensaries in the San Diego County area.

10. Cotton, acting in good faith based upon Geraci's representations during the sale negotiations, assisted Geraci with preliminary due diligence in investigating the feasibility of a CUP application at the Property while the parties negotiated the terms of a possible deal. However, despite the parties' work on a CUP application, Geraci represented to Cotton that a CUP application for the Property could not actually be submitted until after the critical zoning issue was resolved or the application would be summarily rejected by the City.

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11. On or around October 31, 2016, Geraci asked Cotton to execute an Ownership Disclosure Statement, which is a required component of all CUP applications. Geraci told Cotton that he needed the signed document to show that Geraci had access to the Property in connection with his lobbying efforts to resolve the zoning issue and his eventual preparation of a CUP application. Geraci also requested that Cotton sign the Ownership Disclosure Statement as an indication of good-faith while the parties negotiated on the sale terms. At no time did Geraci indicate to Cotton that a CUP application would be filed prior to the parties entering into a final written agreement for the sale of the Property. In fact, Geraci repeatedly maintained to Cotton that the critical zoning issue needed to be resolved before a CUP application could even be submitted.

12. The Ownership Disclosure Statement that Geraci provided to Cotton to sign in October 2016 incorrectly indicated that Cotton had leased the Property to Berry. However, Cotton has never met Berry personally and never entered into a lease or any other type of agreement with her. At the time, Geraci told Cotton that Berry was a trusted employee who was very familiar with MMCC operations and who was involved with his other MMCC dispensaries. Cotton's understanding was that Geraci was unable to list himself on the application because of Geraci's other legal issues but that Berry was Geraci's agent and was working in concert with him and at his direction. Based upon Geraci's assurances that listing Berry as a tenant on the Ownership Disclosure Statement was necessary and proper, Cotton executed the Ownership Disclosure Statement that Geraci provided to him.

13. On November 2, 2016, Geraci and Cotton met at Geraci's office in an effort to negotiate the final terms of their deal for the sale of the Property. The parties reached an agreement on the material terms for the sale of the Property. The parties further agreed to cooperate in good faith to promptly reduce the complete agreement, including all of the agreed-upon terms, to writing.

14. The material terms of the agreement reached by the parties at the November 2, 2016 meeting included, without limitation, the following key deal points:

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(a) Geraci agreed to pay the total sum of $800,000 in consideration for the purchase of the Property, with a $50,000 non-refundable deposit payable to Cotton immediately upon the parties' execution of final integrated written agreements and the remaining $750,000 payable to Cotton upon the City's approval of a CUP application for the Property;

(b) The parties agreed that the City's approval of a CUP application to operate a MMCC at the Property would be a condition precedent to closing of the sale (in other words, the sale of the Property would be completed and title transferred to Geraci only upon the City's approval of the CUP application and Geraci's payment of the $750,000 balance of the purchase price to Cotton; if the City denied the CUP application, the parties agreed the sale of the Property would be automatically terminated and Cotton would be entitled to retain the entire $50,000 non-refundable deposit);

(c) Geraci agreed to grant Cotton a ten percent (10%) equity stake in the MMCC that would operate at the Property following the City's approval of the CUP application; and

(d) Geraci agreed that, after the MMCC commenced operations at the Property, Geraci would pay Cotton ten percent (10%) of the MMCC's monthly profits and Geraci would guarantee that such payments would amount to at least $10,000 per month.

15. At Geraci's request, the sale was to be documented in two final written agreements, a real estate purchase agreement and a separate side agreement, which together would contain all the agreed-upon terms from the November 2, 2016 meeting. At that meeting, Geraci also offered to have his attorney "quickly" draft the final integrated agreements and Cotton agreed.

16. Although the parties came to a final agreement on the purchase price and deposit amounts at their November 2, 2016 meeting, Geraci requested additional time to come up with the $50,000 non-refundable deposit. Geraci claimed he needed extra time because he had limited cashflow and would require the cash he did have to fund the lobbying efforts needed to resolve the zoning issue at the Property and to prepare the CUP application.

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17. Cotton was hesitant to grant Geraci more time to pay the non-refundable deposit but Geraci offered to pay $10,000 towards the $50,000 total deposit immediately as a show of "good-faith," even though the parties had not reduced their final agreement to writing. Cotton was understandably concerned that Geraci would file the CUP application before paying the balance of the non-refundable deposit and Cotton would never receive the remainder of the non-refundable deposit if the City denied the CUP application before Geraci paid the remaining $40,000 (thereby avoiding the parties' agreement that the $50,000 non-refundable deposit was intended to shift to Geraci some of the risk of the CUP application being denied). Despite his reservations, Cotton agreed to Geraci's request and accepted the lesser $10,000 initial deposit amount based upon Geraci's express promise to pay the $40,000 balance of the non-refundable deposit prior to submission of the CUP application, at the latest.

18. At the November 2, 2016 meeting, the parties executed a three-sentence document related to their agreement on the purchase price for the Property at Geraci's request, which read as follows:

> Darryl Cotton has agreed to sell the property located at 6176 Federal Blvd, CA for a sum of $800,000.00 to Larry Geraci or assignee on the approval of a Marijuana Dispensary. (CUP for a dispensary)
>
> Ten Thousand dollars (cash) has been given in good faith earnest money to be applied to the sales price of $800,000.00 and to remain in effect until license is approved. Darryl Cotton has agreed not to enter into any other contacts on this property.

Geraci assured Cotton that the document was intended to merely create a record of Cotton's receipt of the $10,000 "good-faith" deposit and provide evidence of the parties' agreement on the purchase price and good-faith agreement to enter into final integrated agreement documents related to the sale of the Property. Geraci emailed Cotton a scanned copy of the executed document the same day. Following closer review of the executed document, Cotton wrote in an email to Geraci several hours later (still on the same day):

> I just noticed the 10% equity position in the dispensary was not language added into that document. I just want to make sure that we're not missing that language in any final agreement as it is a factored element in my decision to sell the property. I'll be fine if you would simply acknowledge that here in a reply.

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Approximately two hours later, Geraci replied via email, "No no problem at all."

19. Thereafter, Cotton continued to operate in good faith under the assumption that Geraci's attorney would promptly draft the fully integrated agreement documents as the parties had agreed and the parties would shortly execute the written agreements to document their agreed-upon deal. However, over the following months, Geraci proved generally unresponsive and continuously failed to make substantive progress on his promises, including his promises to promptly deliver the draft final agreement documents, pay the balance of the non-refundable deposit, and keep Cotton apprised of the status of the zoning issue.

20. Over the weeks and months that followed, Cotton repeatedly reached out to Geraci regarding the status of the zoning issue, the payment of the remaining balance of the non-refundable deposit, and the status of the draft documents. For example, on January 6, 2017, after Cotton became exasperated with Geraci's failure to provide any substantive updates, he texted Geraci, "Can you call me. If for any reason you're not moving forward I need to know." Geraci replied via text, stating: "I'm at the doctor now everything is going fine the meeting went great yesterday supposed to sign off on the zoning on the 24th of this month I'll try to call you later today still very sick."

21. Between January 18, 2017 and February 7, 2017, the following exchange took place between Geraci and Cotton via text message:

> Geraci: "The sign off date they said it's going to be the 30th."
> Cotton: "This resolves the zoning issue?"
> Geraci: "Yes"
> Cotton: "Excellent"...
>
> Cotton: "How goes it?"
> Geraci: "We're waiting for confirmation today at about 4 o'clock"
>
> Cotton: "Whats new?"
>
> Cotton: "Based on your last text I thought you'd have some information on the zoning by now. Your lack of response suggests no resolution as of yet."
> Geraci: "I'm just walking in with clients they resolved it its fine we're just waiting for final paperwork."

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The above communications between Geraci and Cotton regarding the zoning issue conveyed to Cotton that the issue had still not yet been fully resolved at that time. As noted, Geraci had previously represented to Cotton that the CUP application could not be submitted until the zoning issue was resolved, which was key because Geraci's submission of the CUP application was the outside date the parties had agreed upon for payment of the $40,000 balance of the non-refundable deposit to Cotton. As it turns out, Geraci's representations were untrue and he knew they were untrue as he had already submitted the CUP application months prior.

22. With respect to the promised final agreement documents, Geraci continuously failed to timely deliver the documents as agreed. On February 15, 2017, more than two months after the parties reached their agreement, Geraci texted Cotton, "We are preparing the documents with the attorney and hopefully will have them by the end of this week." On February 22, 2017, Geraci again texted Cotton, "Contract should be ready in a couple days."

23. On February 27, 2017, nearly three months after the parties reached an agreement on the terms of the sale, Geraci finally emailed Cotton a draft real estate purchase agreement and stated: "Attached is the draft purchase of the property for 400k. The additional contract for the 400k should be in today and I will forward it to you as well." However, upon review, the draft purchase agreement was missing many of the key deal points agreed upon by the parties at their November 2, 2016 meeting. After Cotton called Geraci for an explanation, Geraci claimed it was simply due to miscommunication with his attorney and promised to have her revise the agreement to accurately reflect their deal points.

24. On March 2, 2017, Geraci first emailed Cotton a draft of the separate side agreement that was to incorporate other terms of the parties' deal. Cotton immediately reviewed the draft side agreement and emailed Geraci the next day stating: "I see that no reference is made to the 10% equity position... [and] para 3.11 looks to avoid our agreement completely." Paragraph 3.11 of the draft side agreement stated that the parties had no joint venture or partnership agreement of any kind, which contradicted the parties' express agreement that Cotton would receive a ten percent equity stake in the MMCC business as a condition of the sale of the Property.

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25. On or about March 3, 2017, Cotton told Geraci he was considering retaining an attorney to revise the incomplete and incorrect draft documents provided by Geraci. Geraci dissuaded Cotton from doing so by assuring Cotton the errors were simply due to a misunderstanding with his attorney and that Cotton could speak with her directly regarding any comments on the drafts.

26. On March 7, 2017, Geraci emailed Cotton a revised draft of the side agreement along with a cover email that stated: "... the 10k a month might be difficult to hit until the sixth month... can we do 5k, and on the seventh month start 10k?". Cotton, increasingly frustrated with Geraci's failure to abide by the parties' agreement, responded to Geraci on March 16, 2017 in an email which included the following:

> We started these negotiations 4 months ago and the drafts and our communications have not reflected what agreed upon and are still far from reflecting our original agreement. Here is my proposal, please have your attorney Gina revise the Purchase Agreement and the Side Agreement to incorporate all the terms we have agreed upon so that we can execute final versions and get this closed... Please confirm by Monday 12:00 PM whether we are on the same page and you plan to continue with our agreement ... If, hopefully, we can work through this, please confirm that revised final drafts that incorporate the terms will be provided by Wednesday at 12:00 PM. I promise to review and provide comments that same day so we can execute the same or next day.

27. On the same day, Cotton contacted the City's Development Project Manager responsible for CUP applications. **At that time, Cotton discovered for the first time that Geraci had submitted a CUP application for the Property way back on October 31, 2016, before the parties even agreed upon the final terms of their deal and contrary to Geraci's express representations over the previous five months**. Cotton expressed his disappointment and frustration in the same March 16, 2017 email to Geraci:

> I found out today that a CUP application for my property was submitted in October, which I am assuming is from someone connected to you. Although, I note that you told me that the $40,000 deposit balance would be paid once the CUP was submitted and that you were waiting on certain zoning issues to be resolved. Which is not the case.

28. On March 17, 2017, after Geraci requested an in-person meeting via text message, Cotton replied in an email to Geraci which including the following:

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> I would prefer that until we have final agreements that we converse exclusively via email. My greatest concern is that you get a denial on the CUP application and not provide the remaining $40,000 non-refundable deposit. To be frank, I feel that you are not dealing with me in good faith, you told me repeatedly that you could not submit a CUP application until certain zoning issues had been resolved and that you had spent hundreds of thousands of dollars on getting them resolved. You lied to me, I found out yesterday from the City of San Diego that you submitted a CUP application on October 31 2016 BEFORE we even signed our agreement on the 2nd of November... Please confirm by 12:00 PM Monday that you are honoring our agreement and will have final drafts (reflecting completely the below) by Wednesday at 12:00 PM.

Geraci did not provide the requested confirmation that he would honor their agreement or proffer the requested agreements prior to Cotton's deadlines.

29. On March 21, 2017, Cotton emailed Geraci to confirm their agreement was terminated and that Geraci no longer had any interest in the Property. Cotton also notified Geraci that he intended to move forward with a new buyer for the Property.

30. On March 22, 2017, Geraci's attorney, Michael Weinstein ("Weinstein"), emailed Cotton a copy of a complaint filed by Geraci in which Geraci claims for the very first time that the three-sentence document signed by the parties on November 2, 2016 constituted the parties' complete agreement regarding the Property, contrary to the parties' further agreement the same day, the entire course of dealings between the parties, and Geraci's own statements and actions.

31. On March 28, 2017, Weinstein emailed Cotton and indicated that Geraci intended to continue to pursue the CUP application and would be posting notices on Cotton's property. Cotton responded via email the same day and objected to Geraci or his agents entering the Property and reiterated the fact that Geraci has no rights to the Property.

32. The defendants' refusal to acknowledge they have no interest in the Property and to step aside from the CUP application has diminished the value of the Property, reduced the price Cotton will be able to receive for the Property, and caused Cotton to incur costs and attorneys' fees to protect his interest in his Property.

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FIRST CAUSE OF ACTION

(Breach of Contract – Against Geraci and ROES 1 through 50)

33. Cotton realleges and incorporates by reference paragraphs 1 through 32, above, as though set forth in full at this point.

34. Geraci and Cotton entered into an agreement to negotiate and collaborate in good faith on mutually acceptable purchase and sale documents reflecting the terms for a purchase and sale of the Property and a side agreement for Cotton to obtain an equity position in the MMCC to operate at the Property. This agreement is comprised of (a) the November 2, 2016 document signed by Geraci and Cotton, and (b) the November 2, 2016 email exchange between Geraci and Cotton including other agreed-upon terms and the parties' agreement to negotiate and collaborate in good faith on final deal documents. True and correct copies of the agreement are attached hereto as Exhibits 1 and 2, respectively.

35. Cotton performed all conditions, covenants, and promises required on his part to be performed in accordance with the terms and conditions of the contract between the parties or has been excused from performance.

36. Under the parties' contract, Geraci was bound to negotiate the terms of an agreement for the Property in good faith. Geraci breached his obligation to negotiate in good faith by, among other things, intentionally delaying the process of negotiations, failing to deliver acceptable final purchase documents, failing to pay the agreed-upon non-refundable deposit, demanding new and unreasonable terms in order to further delay and hinder the process of negotiations, and failing to timely or constructively respond to Cotton's requests and communications.

37. As a direct and proximate result of Geraci's breaches of the contract, Cotton has been damaged in an amount not yet fully ascertainable and to be determined according to proof at trial.

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SECOND CAUSE OF ACTION

(Intentional Misrepresentation – Against Geraci and ROES 1 through 50)

38. Cotton realleges and incorporates by reference paragraphs 1 through 37, above, as though set forth in full at this point.

39. Defendants made statements to Cotton that: (a) were false representations of material facts; (b) defendants knew to be false or were made recklessly and without regard for their truth; (c) defendants intended Cotton to rely upon; (d) Cotton reasonably and justifiably relied upon; (e) Cotton's reasonable reliance upon was a substantial factor in causing harm and damage to Cotton; and (f) caused damages to Cotton as a direct and proximate result of such fraudulent statements as described in paragraphs 1 through 32 above.

40. The intentional misrepresentations by defendants include at least the following:

(a) On or about October 31, 2016, Geraci fraudulently induced Cotton to execute the Ownership Disclosure Statement by (i) falsely representing that Geraci needed to show he had access to the Property in connection with his lobbying efforts to resolve the zoning issue and in connection with the preparation of a CUP application; and (ii) by indicating the document would only be used as a show of good-faith while the parties negotiated on the sale terms;

(b) On or about November 2, 2016, Geraci fraudulently induced Cotton to execute the document Geraci now alleges is the fully integrated agreement between the parties by representing that (i) the CUP application would not be filed until the zoning issue was resolved; (ii) Geraci would honor the terms of the complete agreement reached by the parties at their November 2, 2016 meeting; (iii) Geraci would pay the $40,000 remainder of the $50,000 non-refundable deposit to Cotton on or before filing a CUP application; and (iv) Geraci understood and agreed the document was not intended to be the final agreement between the parties for the purchase of the Property and did not contain all material terms of the parties' agreement;

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(c) On multiple occasions, Geraci represented to Cotton that a CUP application for the Property could not be submitted until after the zoning issue was resolved;

(d) On multiple occasions, Geraci represented to Cotton that Geraci had not yet filed a CUP application with respect to the Property when the CUP application had already been filed; and

(e) On multiple occasions, Geraci represented to Cotton that the preliminary work of preparing a CUP application was merely underway, when, in fact, the CUP application had already been filed.

41. Defendants, through their intentional misrepresentations and the actions taken in reliance upon such misrepresentations, have diminished the value of the Property, reduced the price Cotton will be able to receive for the Property, and caused Cotton to incur costs and attorneys' fees to protect his interest in his Property. As a further result of the intentional misrepresentations, Cotton has been deprived of the remaining $40,000 of the non-refundable deposit that Geraci promised to pay prior to filing a CUP application for the Property.

42. The misrepresentations were intentional, willful, malicious, outrageous, unjustified, done in bad faith and in conscious disregard of the rights of Cotton, with the intent to deprive Cotton of his interest in the Property. This intentional, willful, malicious, outrageous and unjustified conduct entitles Cotton to an award of general, compensatory, special, exemplary and/or punitive damages under Civil Code section 3294.

THIRD CAUSE OF ACTION

(Negligent Misrepresentation – Against Geraci and ROES 1 through 50)

43. Cotton realleges and incorporates by reference paragraphs 1 through 42, above, as though set forth in full at this point.

44. Defendants made statements to Cotton that: (a) were false representations of material facts; (b) defendants had no reasonable grounds for believing were true when the statements were made; (c) defendants intended Cotton to rely upon; (d) Cotton reasonably and justifiably relied upon; (e) Cotton's reasonable reliance upon was a substantial factor in causing harm and damage to Cotton; and (f) caused damages to Cotton as a direct and

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proximate result of such fraudulent statements as described in paragraphs 1 through 32 above.

45. The negligent misrepresentations by defendants include at least the following:

(a) On or about October 31, 2016, Geraci fraudulently induced Cotton to execute the Ownership Disclosure Statement by (i) falsely representing that Geraci needed to show he had access to the Property in connection with his lobbying efforts to resolve the zoning issue and in connection with the preparation of a CUP application; and (ii) by indicating the document would only be used as a show of good-faith while the parties negotiated on the sale terms;

(b) On or about November 2, 2016, Geraci fraudulently induced Cotton to execute the document Geraci now alleges is the fully integrated agreement between the parties by representing that (i) the CUP application would not be filed until the zoning issue was resolved; (ii) Geraci would honor the terms of the complete agreement reached by the parties at their November 2, 2016 meeting; (iii) Geraci would pay the $40,000 remainder of the $50,000 non-refundable deposit to Cotton on or before filing a CUP application; and (iv) Geraci understood and agreed the document was not intended to be the final agreement between the parties for the purchase of the Property and did not contain all material terms of the parties' agreement;

(c) On multiple occasions, Geraci represented to Cotton that a CUP application for the Property could not be submitted until after the zoning issue was resolved;

(d) On multiple occasions, Geraci represented to Cotton that Geraci had not yet filed a CUP application with respect to the Property when the CUP application had already been filed; and

(e) On multiple occasions, Geraci represented to Cotton that the preliminary work of preparing a CUP application was merely underway, when, in fact, the CUP application had already been filed.

46. Defendants, through their negligent misrepresentations and the actions taken in reliance upon such misrepresentations, have diminished the value of the Property, reduced the price Cotton will be able to receive for the Property, and caused Cotton to incur costs and

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attorneys' fees to protect his interest in his Property. As a further result of the negligent misrepresentations, Cotton has been deprived of the remaining $40,000 of the non-refundable deposit that Geraci promised to pay prior to filing a CUP application for the Property.

FOURTH CAUSE OF ACTION

(False Promise – Against Geraci and ROES 1 through 50)

47. Cotton realleges and incorporates by reference paragraphs 1 through 46, above, as though set forth in full at this point.

48. On November 2, 2016, among other things, Geraci falsely promised the following to Cotton without any intent of fulfilling the promises:

(a) Geraci would pay Cotton the remaining $40,000 of the non-refundable deposit prior to filing a CUP application;

(b) Geraci would cause his attorney to promptly draft the final integrated agreements to document the agreed-upon deal between the parties;

(c) Geraci would pay Cotton the greater of $10,000 per month or 10% of the monthly profits for the MMCC at the Property if the CUP was granted; and

(d) Cotton would be a 10% owner of the MMCC business operating at Property if the CUP was granted.

49. Geraci had no intent to perform the promises he made to Cotton on November 2, 2016 when he made them.

50. Geraci intended to deceive Cotton in order to, among other things, cause Cotton to rely on the false promises and execute the document signed by the parties at their November 2, 2016 meeting so that Geraci could later deceitfully allege that the document contained the parties' entire agreement.

51. Cotton reasonably relied on Geraci's promises.

52. Geraci failed to perform the promises he made on November 2, 2016.

53. Defendants, through their false promises and the actions taken in reliance upon such false promises, have diminished the value of the Property, reduced the price Cotton will be able to receive for the Property, and caused Cotton to incur costs and attorneys' fees to

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protect his interest in his Property. As a further result of the false promises, Cotton has been deprived of the remaining $40,000 of the non-refundable deposit that Geraci promised to pay prior to filing a CUP application for the Property.

54. The false promises were intentional, willful, malicious, outrageous, unjustified, done in bad faith and in conscious disregard of the rights of Cotton, with the intent to deprive Cotton of his interest in the Property. This intentional, willful, malicious, outrageous and unjustified conduct entitles Cotton to an award of general, compensatory, special, exemplary and/or punitive damages under Civil Code section 3294.

FIFTH CAUSE OF ACTION

(Declaratory Relief – Against Geraci, Berry, and ROES 1 through 50)

55. Cotton realleges and incorporates by reference paragraphs 1 through 54, above, as though set forth in full at this point.

56. An actual controversy has arisen and now exists between Cotton and all defendants concerning their respective rights, liabilities, obligations and duties with respect to the Property and the CUP application for the Property filed on or around October 31, 2016.

57. A declaration of rights is necessary and appropriate at this time in order for the parties to ascertain their respective rights, liabilities, and obligations because no adequate remedy other than as prayed for exists by which the rights of the parties may be ascertained.

58. Accordingly, Cotton respectfully requests a judicial declaration of rights, liabilities, and obligations of the parties. Specifically, Cotton requests a judicial declaration that (a) defendants have no right or interest whatsoever in the Property, (b) Cotton is the sole interest-holder in the CUP application for the Property submitted on or around October 31, 2016, (c) defendants have no interest in the CUP application for the Property submitted on or around October 31, 2016, and (d) the Lis Pendens filed by Geraci be released.

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PRAYER FOR RELIEF

WHEREFORE, Cotton prays for relief as follows:

ON THE FIRST CAUSE OF ACTION:

1. For general, special, and consequential damages in an amount not yet fully ascertained and according to proof at trial, but at least $40,000; and

2. For compensatory and reliance damages in an amount not yet fully ascertained and according to proof at trial.

ON THE SECOND CAUSE OF ACTION

1. For general, special, and consequential damages in an amount not yet fully ascertained but at least $40,000;

2. For compensatory and reliance damages in an amount not yet fully ascertained and according to proof at trial; and

3. For punitive and exemplary damages in an amount just and reasonable to punish and deter defendants.

ON THE THIRD CAUSE OF ACTION

1. For general, special, and consequential damages in an amount not yet fully ascertained but at least $40,000; and

2. For compensatory and reliance damages in an amount not yet fully ascertained and according to proof at trial.

ON THE FOURTH CAUSE OF ACTION

1. For general, special, and consequential damages in an amount not yet fully ascertained but at least $40,000;

2. For compensatory and reliance damages in an amount not yet fully ascertained and according to proof at trial; and

3. For punitive and exemplary damages in an amount just and reasonable to punish and deter defendants.

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ON THE FIFTH CAUSE OF ACTION

1. For a judicial declaration that defendants have no right or interest whatsoever in the Property;

2. For a judicial declaration that Cotton is the sole interest-holder in the CUP application for the Property submitted on or around October 31, 2016, defendants have no right or interest in said CUP application, and that defendants are enjoined from further pursuing such CUP application for the Property; and

3. For a judicial order that the Lis Pendens filed by Geraci on the Property be released.

ON ALL CAUSES OF ACTION

1. For interest on all sums at the maximum legal rates from dates according to proof;

2. For costs of suit; and

3. For such other relief as the Court deems just.

DATED: August 25, 2017

Respectfully submitted,

FINCH, THORNTON & BAIRD, LLP

By: _____
DAVID S. DEMIAN
ADAM C. WITT
Attorneys for Defendant and Cross-Complainant Darryl Cotton

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EXHIBIT 1

11/02/2016

Agreement between Larry Geraci or assignee and Darryl Cotton:

Darryl Cotton has agreed to sell the property located at 6176 Federal Blvd, CA for a sum of $800,000.00 to Larry Geraci or assignee on the approval of a Marijuana Dispensary. (CUP for a dispensary)

Ten Thousand dollars (cash) has been given in good faith earnest money to be applied to the sales price of $800,000.00 and to remain in effect until license is approved. Darryl Cotton has agreed to not enter into any other contacts on this property.

Larry Geraci

Darryl Cotton

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On November 2, 2016 before me, Jessica Newell Notary Public
(insert name and title of the officer)

personally appeared Darryl Cotton and Larry Geraci,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

JESSICA NEWELL
Commission # 2002598
Notary Public - California
San Diego County
My Comm. Expires Jan 27, 2017

Signature [signature] (Seal)

JESSICA M. WATT
Commission # 2002598
Notary Public - California
San Diego County
My Comm. Expires Jan 27, 2017

EXHIBIT 2

Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Agreement

2 messages

Larry Geraci <Larry@tfcsd.net>
To: Darryl Cotton <darryl@inda-gro.com>

Wed, Nov 2, 2016 at 3:11 PM

Best Regards,

Larry E. Geraci, EA

Tax & Financial Center, Inc

5402 Ruffin Rd, Ste 200

San Diego, Ca 92123

Web: Larrygeraci.com

Bus: 858.576.1040

Fax: 858.630.3900

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Cotton & Geraci Contract.pdf
71K

Larry Geraci <Larry@tfcsd.net> Wed, Nov 2, 2016 at 9:13 PM
To: Darryl Cotton <darryl@inda-gro.com>

No no problem at all

Sent from my iPhone

On Nov 2, 2016, at 6:55 PM, Darryl Cotton <darryl@inda-gro.com> wrote:

Hi Larry,

Thank you for meeting today. Since we executed the Purchase Agreement in your office for the sale price of the property I just noticed the 10% equity position in the dispensary was not language added into that document. I just want to make sure that we're not missing that language in any final agreement as it is a factored element in my decision to sell the property. I'll be fine if you would simply acknowledge that here in a reply.

Regards.

Darryl Cotton, President

INDA-GRO "Sunlight in a Box" INDUSTRIAL GROW LIGHTS

darryl@inda-gro.com
www.inda-gro.com
Ph: 877.452.2244
Cell: 619.954.4447
Skype: dc.dalbercia

6176 Federal Blvd.
San Diego, CA. 92114
USA

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