



Darryl Cotton <indagrodarryl@gmail.com>

Geraci v. Cotton - Settlement Proposal - SETTLEMENT COMMUNICATION

Michael Weinstein <MWeinstein@ferrisbritton.com>

Tue, May 9, 2017 at 3:59 PM

To: Darryl Cotton <indagrodarryl@gmail.com>

Cc: "Larry E. Geraci EA (Larry@tfcscd.net)" <Larry@tfcscd.net>

Dear Mr. Cotton,

I will get right to the point.

Mr. Geraci is willing to settle the disputes between you on the following key terms and conditions:

1. Any settlement will be binding only upon the signing by all parties of a written settlement agreement, including a written amendment to the agreement for the sale of the property. The written settlement agreement will include the following key terms and conditions listed in items 2 through 6 below.
2. Cotton agrees and warrants that he will not conduct a marijuana growing operation at the property at any time. If any such growing operation presently exists, Cotton agrees to dismantle and remove his marijuana growing operation from the property within 14 calendar days of the date all parties have signed the settlement agreement. Cotton will give written notice by email to Geraci and his attorney, Michael Weinstein, that no marijuana growing operation exists or has been dismantled and removed, and permit inspection of the premises by Geraci and/or his representative within 2 business days of having given such notice so that Geraci may confirm there is no marijuana growing operation on the property. Once any existing marijuana growing operation at the party is dismantled and removed, any resumption by Cotton of a marijuana growing operation at the property shall be deemed a material breach of the agreements by Cotton.
3. Cotton and Geraci will sign a written amendment which amends the terms and conditions of the 11/02/16 written agreement for the sale of the property located at 6176 Federal Blvd., CA from Cotton to Geraci or his assignee to provide for a total purchase price of \$925,000, as follows:
 - a) The down payment will be increased from \$10,000 to \$50,000. Cotton acknowledges prior receipt of \$10,000. That balance of the down payment, \$40,000, will be paid by Geraci to Cotton within 3 business days of confirmation that there is no marijuana growing operation on the property. The total deposit of \$50,000 is non-refundable.

b) The \$875,000 remaining balance of the purchase price (\$925,000 - \$10,000 - \$40,000 = \$875,000) will be paid by Geraci to Cotton within 10 business days of the approval by the City of San Diego of a Conditional Use Permit that allows the operation of a medical marijuana dispensary on the property (a Medical Marijuana Consumer Cooperative or MMCC), if such approval is obtained. The approval of a Conditional Use Permit is a condition precedent to the completion of the sale. If the City of San Diego not approve and issue such Conditional Use Permit or if, before any such approval is obtained, Geraci gives written notice to Cotton that Geraci has decided, in his sole discretion, not to continue to pursue approval of the Conditional Use Permit, then the purchase and sale will not be completed and Cotton's sole recourse is to retain the non-refundable deposit of \$50,000.

c) Cotton will cooperate with all efforts to obtain approval of the Conditional Use Permit, including executing any documents or acknowledgments necessary for the favorable processing of said permit application.

d) The Lis Pendens recorded against the property shall be removed by Geraci within 3 business days of either a) Geraci having given written notice to Cotton that Geraci has decided, in his sole discretion, not to continue to pursue approval of the Conditional Use Permit, or b) Geraci having obtained approval of the Conditional Use Permit.

4. Within 3 business days of confirmation that there is no marijuana growing operation on the property, the parties will sign and file a dismissal with prejudice of the entire lawsuit (thereby dismissing Geraci's Complaint and Cotton's Cross-Complaint with prejudice).

5. With the exception of the rights and obligations of each party under the written agreement for the sale of the property, as amended, each party will mutually and generally release the other party and that other party's agents, partners, associates, employees and assigns (including but not limited to Rebecca Berry as it related to Mr. Geraci), from all claims, liabilities, obligations and damages of any kind based on any theory, whether in contract or tort, that either party has or may have against the other party and/or their respective agents, partners, associates, employees, and assigns arising out of or related to any events and circumstances occurring prior to the date of execution of the written settlement agreement and the written amendment to the agreement for the sale of the property. The mutual general release will contain the standard waiver of Section 1542 of the California Civil Code.

6. Each party shall bear their own attorney's fees and costs in connection with this dispute, including but not limited to the present lawsuit and the negotiation and execution of the written settlement agreement and written amendment to the agreement for the sale of the property. However, should there be a subsequent dispute arising under the written settlement agreement and/or the written amendment to the agreement for the sale of the property, then the prevailing party in any action legal action to enforce or based upon such agreement(s) shall be entitled to recover his reasonable attorneys' fees and costs.

Mr. Cotton, these are the principal terms and conditions of the proposed settlement by Mr. Geraci. Under this proposal, you will be receiving a larger down payment (\$50K) and a larger total purchase price (\$925K) than under the original written agreement. If you advise me that these key terms and conditions are acceptable to you in concept, then I will draft a more detailed proposed written settlement agreement and written amendment to the agreement for the sale of property containing these key terms and conditions for your review. As stated above, no settlement is binding on either of you until all parties sign a formal written settlement agreement and written amendment to the agreement for the sale of property that is mutually satisfactory to all parties.

I look forward to hearing back from you.

Respectfully,

Michael Weinstein

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