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Jacob P. Austin [SBN 290303]
The Law Office of Jacob Austin
1455 Frazee Road, #500
San Diego, CA 92108
Telephone: (619) 357-6850
Facsimile: (888) 357-8501
E-mail: JPA@JacobAustinEsq.com

Attorney for Defendant/Cross-Complainant DARRYL COTTON

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
01/10/2019 at 12:06:00 AM
Clerk of the Superior Court
By Richard Day,Deputy Clerk

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 DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON'S MOTION TO COMPEL FURTHER RESPONSES OF PLAINTIFF/CROSS-DEFENDANT LARRY GERACI TO SPECIAL INTERROGATORIES SET TWO

Date: February 1, 2019
Time: 9:00 a.m.
Dept: C-73
Judge: The Hon. Joel R. Wohlfeil

I, JACOB P. AUSTIN, declare:

1. I am an attorney duly licensed to practice law before all the courts of the State of California and am attorney of record for Defendant/Cross-complainant Darryl Cotton. I am personally familiar with this file and can testify based upon personal knowledge of the facts stated within. I have served counsel for Plaintiff/Cross-Defendant Larry Geraci with a complete copy of this motion on the date set forth in the proof of service, filed conurrently.
2. I hereby incorporate by reference the facts stated in the foregoing to which this declaration is

attached. I have personal knowledge of each of those facts.

3. Plaintiff/Cross-Defendant should be ordered to respond to each of the Requests for Admissions as set forth in the Separate Statement attached hereto because the information sought is relevant, is not privileged or otherwise exempt from discovery, and for each of the other reasons set forth in the Statement of Questions and Answers in Dispute, served concurrently herewith.

4. I am informed and believe and thereupon allege that the responses in dispute were prepared for Plaintiff/Cross-Defendant by Plaintiff/Cross-Defendant's attorney and that each and all of the answers or objections in dispute were made by or upon the advice of attorney.

5. On October 8, 2018, I served Plaintiff/Cross-Defendant Larry Geraci with Special Interrogatories (Set Two) pursuant to Code of Civil Procedure § 2030, et seq. (EXHIBIT 1).

6. Plaintiff/Cross-Defendant's Responses to these Requests were served by mail on November 21, 2018, however, they were not verified until November 30, 2018. (EXHIBIT 2). Certain of these responses were incomplete, inadequate, evasive, and contained meritless objections.

7. On December 18, 2018, I caused to be sent a letter to Plaintiff/Cross-Defendant's counsel, advising him that certain of the responses to the Discovery were unsatisfactory, detailing the responses and objections which were disputed and requesting further responses from their client to resolve the disputed responses. (EXHIBIT 3).

8. On January 3, 2019, I caused to be sent a letter to Plaintiff/Cross-Defendant's counsel, advising him that certain of the responses to the Discovery were unsatisfactory, detailing the responses and objections which were disputed and requesting further responses from their client to resolve the disputed responses. (EXHIBIT 4).

9. The parties agreed that the response for the requests for admission for both Geraci and Berry would be served on or before November 8, 2018, and all other responses would be due on or before November 21, 2018. The parties further agreed that the time for filing any motion to compel as to any of these responses would be calculated from the date of service of the latter verified responses to avoid duplicate and or inconsistent motion hearing dates. Those responses were initially served on or about November 21, 2018. (EXHIBIT 5).

10. However, on November 28, 2018 I realized that the responses were not verified and emailed opposing counsel as much. On November 30, 2018 opposing counsel served verification of the discovery responses for Geraci and Berry (EXHIBIT 6).

4. On January 7, 2019, Mr. Weinstein's associate, Mr. Toothacre, electronically served further responses to the disputed discovery (EXHIBIT 7). However, the further responses were inadequate and did not resolve the issues.

5. On January 8, 2019, I sent an email to Mr. Toothacre, requesting further responses to Requests for Admission Set One, #12, #25, and #26 (EXHIBIT 8).

6. On January 9, 2019, I received, via email from Mr. Toothacre, further responses to Requests for Admission Set One, #12, #25, and #26 (EXHIBIT 9). While a few issues were resolved, certain further responses did not resolve all the issues.

7. To date, the discovery in the Separate Statement filed in conjunction with this motion remain in dispute.

8. The documents attached hereto are true and correct copies of the pertinent documents.

9. Prior to the filing of this Motion to Compel Further Responses, a reasonable and good faith attempt was made to resolve informally the objections and disputed responses raised by this motion with Michael R. Weinstein, in writing.

10. My rate for Legal counsel is $600.00 per hour. This is commensurate with my experience and in line with other attorneys in the area. I have spent 7.0 hours in the review of the documents, preparing meet and confer letter communication and for preparing this Motion to Compel. I will incur costs for filing in the amount of $60.00. Thus, in total, I will incur fees and costs in the amount of $4,260.00.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: January 8, 2019

THE LAW OFFICE OF JACOB AUSTIN

By _____

EXHIBIT 1

Jacob P. Austin [SBN 290303]
The Law Office of Jacob Austin
1455 Frazee Road, Suite 500
San Diego, CA 92108
Telephone: (619) 357.6850
Facsimile: (888) 357.8501
E-mail: JPA@JacobAustinEsq.com

Attorney for Defendant/Cross-Complainant DARRYL COTTON

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO – CENTRAL DIVISION

LARRY GERACI, an individual, Plaintiff, vs. DARRYL COTTON, an individual; and DOES 1-10, Inclusive, Defendants.	CASE NO. 37-2017-00010073-CU-BC-CTL **SPECIAL INTERROGATORIES TO PLAINTIFF/CROSS-DEFENDANT LARRY GERACI [SET TWO]**
DARRYL COTTON, an individual, Cross-Complainant, vs. LARRY GERACI, an individual; REBECCA BERRY, an individual; and DOES 1 through 10, Inclusive, Cross-Defendants.	**[IMAGED FILE]**

PROPOUNDING PARTY: Defendant/Cross-Complainant DARRYL COTTON

RESPONDING PARTY: Plaintiff/Cross-Defendant LARRY GERACI

SET NUMBER: Two

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Pursuant to Code of Civil Procedure section 2030.010 *et seq.*, Defendant/Cross-Complainant DARRYL COTTON, hereby demands that Plaintiff /Cross-Defendant LARRY GERACI respond to the following Special Interrogatories separately and under oath within thirty (30) days of service hereof.

INSTRUCTIONS

YOU must provide an answer or other appropriate response to each Special Interrogatory propounded herein.

Each answer/response **YOU** provide to these Special Interrogatories must be as complete and straightforward as the information which is reasonably available to **YOU** and in the possession of **YOUR AGENTS** and attorneys.

If a Special Interrogatory cannot be answered completely, **YOU** must answer same to the extent possible. If **YOU** lack sufficient personal knowledge to fully answer a Special Interrogatory, please so state, but likewise make a reasonable, diligent and good faith effort to obtain the information from other individuals and/or entities.

Whenever a Special Interrogatory may be answered by referring to a **DOCUMENT**, please do so and attach the **DOCUMENT** as an exhibit to the response. If the **DOCUMENT** contains more than one page, please refer to the page and section where **YOUR** answer to the Special Interrogatory is located.

Whenever an address and telephone number for the same **PERSON** are requested in more than one Special Interrogatory, **YOU** are required to furnish that information only in the first Special Interrogatory which requests that information.

If **YOU** assert any privilege and/or object to any Special Interrogatory, **YOU** must state with specificity in **YOUR** written response the privilege **YOU** assert and/or the grounds for **YOUR** objection(s).

YOUR answers to these Special Interrogatories must be verified, dated and signed.

DEFINITIONS

The terms used herein are defined as set follows:

1. The terms "**YOU**" and "**YOUR**" shall mean and refer to Plaintiff and Cross-Defendant Larry Geraci.

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2. The term "**COTTON**" shall mean and refer to Defendant and Cross-Complainant Darryl **COTTON**.

3. The term "**BERRY**" shall mean and refer to Cross-Defendant Rebecca **BERRY**.

4. The term "**PROPERTY**" shall mean and refer to the real **PROPERTY** located at 6176 Federal Boulevard, City and County of San Diego, California, 92114.

5. The terms "**PERSON**" or "**PERSONS**" shall mean and refer to any natural **PERSON**, firm, association, organization, partnership, business, trust, limited liability company, corporation or public entity.

6. The term "**AGENTS**" shall mean and refer to all **PERSONS** with whom **YOU** have any type of relationship – personal, professional, contractual or otherwise – including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on **YOUR** behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such **AGENTS** received compensation for their services from **YOU** or any other **PERSON**.

7. The terms "**DOCUMENT**" and "**DOCUMENTS**" shall mean and refer to any and all writings as defined by Evidence Code §250 including but not limited to **DOCUMENTS** which are handwritten, typed, printed, photocopied, sent electronically such as by electronic mail messages, facsimiles, and every other means of recording any tangible thing and forms of communication and/or representation, including letters, words, pictures, sounds or symbols, or combinations thereof, as well as all **ELECTRONICALLY STORED INFORMATION** as defined below.

8. The term "**ELECTRONICALLY STORED INFORMATION**" shall mean and refer to all information and all metadata related thereto stored electronically on a computer hard drive, laptop, external hard drive, CD, DVD or other similar device, server, in the cloud, on a cellular or other type of telephone or otherwise, regardless of whether such **ELECTRONICALLY STORED INFORMATION** also currently exists in non-electronic form, no matter how produced or maintained, in **YOUR** actual or constructive possession, in custody or control, or of which **YOU** have knowledge of its existence regardless whether it was prepared, published or released by **YOU** or by any third party. **ELECTRONICALLY STORED INFORMATION** also includes all content, profiles and related

metadata posted on the platforms/websites of any social media or other providers or any mobile application, including but not limited to social media providers and/or websites such as Facebook, Twitter, Instagram, Snap Chat, LinkedIn, Yelp, YouTube, Tumblr and Wordpress.

9. The term "**IDENTIFY**" as used herein in any Special Interrogatory seeking information concerning a **DOCUMENT** or **DOCUMENTS** is a request that **YOU** provide:

a. A description of the **DOCUMENT(S)**;

b. The date(s) of the **DOCUMENT(S)**;

c. The identity of each **PERSON** who authored and/or signed the **DOCUMENT(S)**;

d. The subject matter of the **DOCUMENT(S)**;

e. The present location of the **DOCUMENT(S)**; and

f. The identity of the custodian of the **DOCUMENT(S).**

10. The term "**IDENTIFY**" as used herein in any Special Interrogatory seeking information concerning any oral statement, conversation, discussion or communication is a request that **YOU** provide:

a. The identity of each **PERSON** who participated in or witnessed the oral statement, conversation, discussion or communication;

b. The date when and place where the oral statement, conversation, discussion or communication occurred;

c. The substance of the oral statement, conversation, discussion or communication; and

d. The identity of any and all notes, memoranda or any other **DOCUMENTS** memorializing, referring or **RELATING TO** the subject matter of the oral statement, conversation, discussion or communication.

11. The term "**IDENTIFY**" as used herein in any Special Interrogatory seeking information concerning any **PERSON** or **PERSONS** is a request that **YOU** provide:

a. The full name of each such **PERSON**;

b. The present or last known address residential and business addresses of each such **PERSON**; and

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c. The employer, position and title of each such **PERSON** during the time period specified in **YOUR** response to the Special Interrogatory.

d. If the **PERSON** is an organization or entity other than a natural **PERSON**, please provide:

(1) The full name and type of the entity or organization;

(2) The date of and state in which the entity or organization was formed;

(3) The address and telephone number of each principal place of business of the entity or organization;

(4) The nature of the business conducted by the entity or organization;

(5) A description of **YOUR** affiliation or other relationship with the entity or organization;

(6) The length of **YOUR** affiliation or other relationship with the entity or organization;

(7) The names, addresses and telephone numbers of each **PERSON** who is an employee, **AGENT**, representative or affiliate of the entity or organization with whom **YOU** have had contact; and

(8) A description of the nature of **YOUR** contact with each such **PERSON**.

12. The term "**IDENTIFY**" as used herein in any Special Interrogatory seeking information concerning any action **YOU** took and/or any activity in which **YOU** engaged is a request that **YOU** provide:

a. The date(s) on which **YOU** took or engaged in each such action and/or in activity;

b. A description of each such action and/or activity;

c. The identity of each **PERSON** who participated in, witnessed and/or has knowledge of each such action and/or activity; and

d. The identity of any and all notes, memoranda or any other **DOCUMENT**(S) memorializing, referring or **RELATING TO** the subject matter of each such action and/or activity.

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13. The term "**RELATING TO**" shall mean and refer to a reference regarding, pertaining to, describing, discussing, reflecting, mentioning, evidencing, containing, citing, summarizing, analyzing or bearing any logical or factual relevance to or connection with the subject matter of the Special Interrogatory.

14. The term "**COMPLAINT**" shall mean and refer to the **DOCUMENT** entitled "Plaintiff's Complaint For: 1. Breach of Contract; Breach of the Covenant of Good Faith and Fair Dealing; 3. Specific Performance; and 4. Declaratory Relief" **YOU** filed in this action on March 21, 2017.

15. The term "**CITY**" shall mean and refer to The City of San Diego, and any and all public officials, employees and/or any other **PERSONS** or **AGENTS** representing the **CITY** in any capacity whatsoever.

16. The "**NOVEMBER DOCUMENT**" shall mean and refer to the **DOCUMENT** executed by **COTTON** on November 2, 2016 attached as Exhibit A to **YOUR COMPLAINT**.

17. The term "**CONFIRMATION EMAIL**" as used herein shall mean and refer to **YOUR** November 2, 2016 email sent at 9:13 p.m. in response to **COTTON's** 6:55 p.m. email in which **YOU** stated, "No no problem at all."

18. The term "**DISAVOWMENT ALLEGATION**" shall mean and refer to **YOUR** contention that on November 3, 2016 **YOU** called **COTTON** and told him **YOU** never agreed to give him and equity position in the business on the **PROPERTY** to which **COTTON** acquiesced that he did not have, was not entitled to, and/or agreed to forego any ownership interest in the business on the **PROPERTY** by responding to the effect of "well, **YOU** don't get what **YOU** don't ask for."

19. The term "**CUP**" shall mean and refer to the Conditional Use Permit for the **PROPERTY** to be used as a Medical Marijuana Cooperative Collective/Marijuana Outlet ("**MO**").

20. The term "**6176 CUP APPLICATION**" shall mean and refer to any and all **DOCUMENTS** submitted to the **CITY** on October 31, 2018 by **YOU** or **YOUR AGENTS** to initiate the application process to obtain **CITY** approval of the **CUP**.

21. The term "**CUP APPROVAL PROCESS**" shall mean and refer to any and all activities related in any way to the **CITY's** processing of the **CUP** following submission of the **6176 CUP APPLICATION**.

22. The term "**6220 CUP APPLICATION**" shall mean and refer to any and all **DOCUMENTS** related to the application for a Conditional Use Permit for an **MO** for the real **PROPERTY** located at 6220 Federal Boulevard, San Diego, California, submitted to the **CITY** in or around March 2018 by Aaron Magagna.

SPECIAL INTERROGATORIES

SPECIAL INTERROGATORY NO. 1:

IDENTIFY all **PERSONS YOU** have retained or **PERSONS** who have acted on **YOUR** behalf in connection with **YOUR** "**CUP** efforts" as alleged in Paragraph 9 of **YOUR COMPLAINT**, including but not limited to the architects, engineers, surveyors, construction professionals, attorneys, lobbyists, consultants and any **AGENTS** of whatsoever nature, regardless of whether or not any such **PERSONS** were compensated for their services.

SPECIAL INTERROGATORY NO. 2:

IDENTIFY all **PERSONS** of whom **YOU** are aware who have an established or alleged interest in the **CUP** or the **PROPERTY**.

SPECIAL INTERROGATORY NO. 3:

For each **PERSON IDENTIFIED** in **YOUR** response to Special Interrogatory No. 2, describe with specificity when and how **YOU** first became aware of his or her alleged interest in the **CUP** or **PROPERTY**.

SPECIAL INTERROGATORY NO. 4:

In addition to the **PROPERTY**, do **YOU** or any entity in which **YOU** have an interest hold an equitable or financial interest in any other real property subject to a pending application for or an approved Conditional Use Permit for marijuana sales or other marijuana-related activities?

SPECIAL INTERROGATORY NO. 5:

If **YOUR** response to Special Interrogatory No. 4 is in the affirmative, please **IDENTIFY** each such real property.

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SPECIAL INTERROGATORY NO. 6:

If **YOUR** response to Special Interrogatory No. 4 is in the affirmative, please describe with specificity **YOUR** ownership interest in each real property identified in **YOUR** response to Special Interrogatory No. 5.

SPECIAL INTERROGATORY NO. 7:

IDENTIFY each and every term and condition for the sale of the **PROPERTY** specified in the **NOVEMBER DOCUMENT**.

SPECIAL INTERROGATORY NO. 8:

IDENTIFY each and every obligation **YOU** are required to perform as specified in the **NOVEMBER DOCUMENT**.

SPECIAL INTERROGATORY NO. 9:

Please describe with specificity each and every "remaining obligation" **YOU** are required to perform as specified in the **NOVEMBER DOCUMENT**.

SPECIAL INTERROGATORY NO. 10:

Please describe with specificity each and every condition that still must be fulfilled to obtain the **CITY** approval of the **6176 CUP APPLICATION**.

SPECIAL INTERROGATORY NO. 11:

Please describe with specificity each and every issue that still must be resolved to obtain **CITY** approval of the **6176 CUP APPLICATION**.

SPECIAL INTERROGATORY NO. 12:

Please state with specificity all reasons why **YOU**, as the potential purchaser of the **PROPERTY**, did not submit the **6176 CUP APPLICATION** in **YOUR** own name.

SPECIAL INTERROGATORY NO. 13:

IDENTIFY all **DOCUMENTS RELATING TO** the **6176 CUP APPLICATION** submitted to the **CITY** which **IDENTIFY YOU** as a party having an interest in the **PROPERTY**.

SPECIAL INTERROGATORY NO. 14:

IDENTIFY all **DOCUMENTS RELATING TO** the **6176 CUP APPLICATION** reviewed by Gina Austin.

SPECIAL INTERROGATORY NO. 15:

IDENTIFY all **DOCUMENTS RELATING TO** the **6176 CUP APPLICATION** drafted or revised by Gina Austin.

SPECIAL INTERROGATORY NO. 16:

IDENTIFY all **DOCUMENTS RELATING TO** the **6176 CUP APPLICATION** reviewed by Jim Bartell.

SPECIAL INTERROGATORY NO. 17:

Please state with specificity all reasons why **YOU** emailed Abhay Schweitzer on October 5, 2016 requesting that he revise the TECHNE contract for design services for the **PROPERTY** dated October 4, 2016 entitled "Agreement Between Owner and Design Firm" to replace **YOUR** name as "Owner" under the contract with **BERRY's** name.

SPECIAL INTERROGATORY NO. 18:

IDENTIFY all **DOCUMENTS RELATING TO** the purchase of the **PROPERTY** reviewed by Gina Austin.

SPECIAL INTERROGATORY NO. 19:

IDENTIFY all **DOCUMENTS RELATING TO** the purchase of the **PROPERTY** drafted or revised by Gina Austin.

SPECIAL INTERROGATORY NO. 20:

Please describe with specificity all activities undertaken by **YOU** and **YOUR AGENTS** related to the **CUP APPROVAL PROCESS** for the period January 1, 2018 to April 30, 2018.

SPECIAL INTERROGATORY NO. 21:

IDENTIFY all **YOUR AGENTS** who engaged in activities related to the **CUP APPROVAL PROCESS** for the period January 1, 2018 to April 30, 2018.

SPECIAL INTERROGATORY NO. 22:

IDENTIFY all **DOCUMENTS RELATING TO** all activities undertaken by **YOU** and **YOUR AGENTS** related to the **CUP APPROVAL PROCESS** for the period January 1, 2018 to the April 30, 2018.

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SPECIAL INTERROGATORY NO. 23:

Please describe with specificity the current status of the **6176 CUP APPLICATION**.

SPECIAL INTERROGATORY NO. 24:

IDENTIFY all conditions of approval yet to be completed and outstanding issues to be resolved by **YOU** and **YOUR AGENTS** before the **CUP** will be eligible for approval by the **CITY**.

SPECIAL INTERROGATORY NO. 25:

IDENTIFY all actions **YOU** and **YOUR AGENTS** are taking to complete the outstanding conditions of approval and resolve the outstanding the issues **IDENTIFIED** in your response to Special Interrogatory No. _.

SPECIAL INTERROGATORY NO. 26:

Please describe with specificity all reasons **YOU** ceased to have a valid real estate salesperson license issued by the California Bureau of Real Estate.

SPECIAL INTERROGATORY NO. 27:

Please **IDENTIFY** all transactions for the purchase and sale of real property in which **YOU** have an interest (whether or not your interest is evidenced by a **DOCUMENT** filed or recorded by/with any governmental entity) for which **BERRY** acted as **YOUR** broker during **YOUR** licensure as a California real estate salesperson.

SPECIAL INTERROGATORY NO. 28:

Please **IDENTIFY** all real properties in which **YOU** have an interest for which you have received notice from law enforcement agencies and/or governmental entities that those properties are potentially associated with unlicensed marijuana sales.

SPECIAL INTERROGATORY NO. 29:

Please state the approximate number of transactions for the purchase and sale of residential real property in which **YOU** represented buyers and/or sellers during **YOUR** career as a licensed California real estate salesperson.

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SPECIAL INTERROGATORY NO. 30:

Please state the approximate number of transactions for the purchase and sale of commercial real **PROPERTY** in which **YOU** represented buyers and/or sellers during **YOUR** career as a licensed California real estate salesperson.

SPECIAL INTERROGATORY NO. 31:

IDENTIFY all transactions for the purchase and sale of real property to which **YOU** were a party as a buyer, seller or agent that closed using a maximum of a one-page document containing a non-standard real estate condition precedent (*e.g.*, a condition precedent to obtain a Conditional Use Permit for the subject property to allow the operation of a business) as the complete, final integrated agreement for the sale of the subject real property in an arms-length transaction.

SPECIAL INTERROGATORY NO. 32:

IDENTIFY any state or local statute, ordinance or other law which would disqualify **YOU** and/or any entity in which **YOU** have an equitable or financial interest from obtaining a Conditional Use Permit to operate an **MO** in San Diego, California.

SPECIAL INTERROGATORY NO. 33:

Please describe with specificity the history of **YOUR** relationship with Shawn Miller.

SPECIAL INTERROGATORY NO. 34:

Please describe with specificity the history of **YOUR** relationship with Aaron Magagna.

SPECIAL INTERROGATORY NO. 35:

Have **YOU** or **YOUR AGENTS** requested that Shawn Miller contact Mr. Joe Hurtado regarding any matter related to this litigation?

SPECIAL INTERROGATORY NO. 36:

Please explain with specificity all reasons why **BERRY**, as **YOUR AGENT**, executed Form DS-190 of the **6176 CUP APPLICATION** as the "Owner" of the **PROPERTY**.

SPECIAL INTERROGATORY NO. 37:

Please explain with specificity all reasons why **BERRY**, as **YOUR AGENT**, executed Form DS-318 of the **6176 CUP APPLICATION** as "Tenant/Lessee" of the **PROPERTY**.

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SPECIAL INTERROGATORY NO. 38:

Please explain with specificity all reasons why **YOU** authorized the submission of the **6176 CUP APPLICATION** notwithstanding the conflicting information in Forms DS-190, DS-318 and DS-3032 regarding **BERRY**'s alleged interest in the **PROPERTY**.

SPECIAL INTERROGATORY NO. 39:

IDENTIFY each written communication between **YOU** and **COTTON** – including but not limited to emails, text messages or other **DOCUMENTS** – and the specific language therein that **YOU** allege are an attempt to renegotiate the terms of the **NOVEMBER DOCUMENT**.

SPECIAL INTERROGATORY NO. 40:

IDENTIFY each written communication between **YOU** and **COTTON** – including but not limited to emails, text messages or other **DOCUMENTS** – and the specific language therein that reflects **YOU** intended to provide for the employment of **COTTON** in any capacity at any point in time.

SPECIAL INTERROGATORY NO. 41:

Please describe with specificity the "alternative consideration in lieu of Deposit" **YOU** allege **YOU** provided to **COTTON** as set forth in Paragraph 3a of the draft Purchase Agreement (First Draft) **YOU** emailed to **COTTON** on February 27, 2017 at 8:49 a.m.

SPECIAL INTERROGATORY NO. 42:

Please describe with specificity the date(s), time(s) and circumstance(s) under which **COTTON** agreed to accept the "alternative consideration in lieu of Deposit" set forth in Paragraph 3a of the Purchase Agreement (First Draft) **YOU** emailed to **COTTON** on February 27, 2017 at 8:49 a.m.

SPECIAL INTERROGATORY NO. 43:

IDENTIFY all **PERSONS** who witnessed **YOU** provide **COTTON** the "alternative consideration in lieu of Deposit" as set forth in Paragraph 3a of the Purchase Agreement (First Draft) **YOU** emailed to **COTTON** on February 27, 2017 at 8:49 a.m.

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SPECIAL INTERROGATORY NO. 44:

IDENTIFY all **DOCUMENTS** evidencing that **YOU** provided **COTTON** the "alternative consideration in lieu of Deposit" as set forth in Paragraph 3a of the Purchase Agreement (First Draft) **YOU** emailed to **COTTON** on February 27, 2017 at 8:49 a.m.

DATED: October 8, 2018

THE LAW OFFICE OF JACOB AUSTIN

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

DECLARATION RE ADDITIONAL DISCOVERY

I, JACOB P. AUSTIN, declare:

1. I am the attorney of record for Defendant/Cross-Complainant DARRYL COTTON ("**COTTON**") in this action.

2. I am propounding the attached Special Interrogatories (Set Two) to Plaintiff Larry Geraci ("**GERACI**").

3. Propounding this set of requests to Plaintiff will cause the total number of requests propounded by **COTTON** to **GERACI** to exceed the number of requests permitted by the Code of Civil Procedure.

4. Special Interrogatories (Set Two) contains a total of 44 Special Interrogatories.

5. I am familiar with the issues presented by this case and the previous discovery conducted by all parties in the case.

6. I have personally examined each of the Special Interrogatories contained in Set Two and the additional number of Special Interrogatories contained therein is warranted pursuant to the Code of Civil Procedure given the issues presented in this action and the fact that (1) **COTTON** previously conducted only minimal discovery in this proceeding in 2017, and (2) although **COTTON** served discovery requests on **GERACI** on June 6, 2018, no responses thereto were served by **GERACI** due to the discovery cutoff relative to the previous trial date.

7. **COTTON** has not served these Special Interrogatories for an improper purpose, such as to harass Plaintiff or his attorney of record, or to cause unnecessary delay or a needless increase in the cost of litigation.

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 October 8, 2018 at San Diego, California.

JACOB P. AUSTIN

POS-020

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY
Jacob P. Austin [SBN 290303] The Law Office of Jacob Austin 1455 Frazee Road, Suite 500 San Diego, CA 92108 TELEPHONE NO.: (619) 355-6850 FAX NO. (Optional): (619) 355-8501 E-MAIL ADDRESS (Optional): JacobAustinEsq@gmail.com ATTORNEY FOR (Name): Defendant/Cross-Complainant DARRYL COTTON	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA 92101-2994 BRANCH NAME: Central Division - Civil	
PETITIONER/PLAINTIFF: LARRY GERACI RESPONDENT/DEFENDANT: DARRYL COTTON, et al.	
PROOF OF PERSONAL SERVICE—CIVIL	CASE NUMBER: 37-2017-10073-CU-BC-CTL

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and **not a party to this action.**
2. I served the following **documents** *(specify):*

   ☑ The documents are listed in the *Attachment to Proof of Personal Service—Civil (Documents Served)* (form POS-020(D)).
3. I personally served the following **persons** at the address, date, and time stated:
   a. Name: Michael R. Weinstein by serving Rachel Pendergast
   b. Address: Ferris & Britton APC, 500 , Suite 1450, San Diego, CA 92101
   c. Date: October 9, 2018
   d. Time: 10:40 a.m.

   ☐ The persons are listed in the *Attachment to Proof of Personal Service—Civil (Persons Served)* (form POS-020(P)).
4. I am
   a. ☑ not a registered California process server.
   b. ☐ a registered California process server.
   c. ☐ an employee or independent contractor of a registered California process server.
   d. ☐ exempt from registration under Business & Professions Code section 22350(b).
5. My name, address, telephone number, and, if applicable, county of registration and number are *(specify):*
   Zoë Gayle Villaroman
   c/o Law Office of Jacob Austin
   1455 Frazee Road, Suite 500
   San Diego, CA 92108
6. ☑ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
7. ☐ I am a California sheriff or marshal and certify that the foregoing is true and correct.

Date: October 9, 2018

Zoë Gayle Villaroman
(TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

(SIGNATURE OF PERSON WHO SERVED THE PAPERS)

SHORT TITLE: LARRY GERACI v. DARRYL COTTON, et al.	CASE NUMBER: 37-2017-10073-CU-BC-CTL

ATTACHMENT TO PROOF OF PERSONAL SERVICE—CIVIL (DOCUMENTS SERVED)

(This Attachment is for use with form POS-020)

The documents that were personally served are as follows *(describe each document specifically):*

Form Interrogatories to Plaintiff/Cross-Defendant LARRY GERACI [Set Two]
Special Interrogatories to Plaintiff/Cross-Defendant LARRY GERACI [Set Two]
Requests for Admission to Plaintiff/Cross-Defendant LARRY GERACI [Set One]
Requests for Production of Documents and Things to Plaintiff/Cross-Defendant LARRY GERACI [Set Two]
Form Interrogatories to Cross-Defendant REBECCA BERRY [Set Two]
Special Interrogatories to Cross-Defendant REBECCA BERRY [Set One]
Requests for Admission to Cross-Defendant REBECCA BERRY [Set One]
Requests for Production of Documents and Things to Cross-Defendant REBECCA BERRY [Set Two]

EXHIBIT 2

FERRIS & BRITTON
A Professional Corporation
Michael R. Weinstein (SBN 106464)
Scott H. Toothacre (SBN 146530)
501 West Broadway, Suite 1450
San Diego, California 92101
Telephone: (619) 233-3131
Fax: (619) 232-9316
mweinstein@ferrisbritton.com
stoothacre@ferrisbritton.com

Attorneys for Plaintiff/Cross-Defendant LARRY GERACI and Cross-Defendant REBECCA BERRY

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 **PLAINTIFF/CROSS-DEFENDANT LARRY GERACI'S ANSWERS TO SPECIAL INTERROGATORIES, SET TWO, PROPOUNDED BY DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON** **[IMAGED FILE]** Complaint Filed: March 21, 2017 Trial Date: January 25, 2018
DARRYL COTTON, an individual, Cross-Complainant, v. LARRY GERACI, an individual, REBECCA BERRY, an individual, and DOES 1 through 10, inclusive, Cross-Defendants.	

PROPOUNDING PARTY: DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON

RESPONDING PARTY: PLAINTIFF/CROSS-DEFENDANT LARRY GERACI

SET NO: TWO

Plaintiff/Cross-Defendant LARRY GERACI (hereinafter "Responding Party") responds to the second set of Special Interrogatories propounded by Defendant/Cross-Complainant DARRYL COTTON, as follows:

PRELIMINARY STATEMENT

These responses are made solely for the purpose of, and in relation to, this action. Each response is given subject to all appropriate objections (including but not limited to objections concerning competency, relevancy, materiality, propriety and admissibility) which would require the exclusion of any evidence contained herein if the evidence was offered in court. All such objections and grounds therefore are reserved and may be interposed at the time of trial.

The party on whose behalf the responses are given has not yet completed its investigation of the facts relating to this action, has not yet completed its discovery in this action, and has not yet completed its preparation for trial or hearing. Consequently, the following responses are given without prejudice to the answering party's right to produce, at the time of trial or hearing, subsequently discovered evidence relating to the proof of any material facts, and to produce all evidence, whenever discovered, relating to the proof of facts subsequently discovered to be material.

Except for facts explicitly admitted herein, no admissions of any nature whatsoever are to be implied or inferred. The fact that any interrogatory herein has been answered should not be taken as an admission, or a concession of the existence, of any facts set forth or assumed by such interrogatory, or that such answer constitutes evidence of any fact thus set forth or assumed. All responses must be construed as given on the basis of present recollection.

DEFINITIONS

The terms used herein are defined as set follows:

1. The terms "YOU" and "YOUR" shall mean and refer to Plaintiff and Cross-Defendant LARRY GERACI.

2. The term "COTTON" shall mean and refer to Defendant and Cross-Complainant DARRYL COTTON.

3. The term "BERRY" shall mean and refer to Cross-Defendant REBECCA BERRY.

4. The term "PROPERTY" shall mean and refer to the real property located at 6176 Federal Boulevard, City and County of San Diego, California, 92114.

5. The terms "PERSON" or "PERSONS" shall mean and refer to any natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation or public

entity.

6. The term "AGENTS" shall mean and refer to all PERSONS with whom YOU have any type of relationship - personal, professional, contractual or otherwise - including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on YOUR behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such AGENTS received compensation for their services from YOU or any other PERSON.

7. The terms "DOCUMENT" and "DOCUMENTS" shall mean and refer to any and all writings as defined by Evidence Code §250 including but not limited to DOCUMENTS which are handwritten, typed, printed, photocopied, sent electronically such as by electronic mail messages, facsimiles, and every other means of recording any tangible thing and forms of communication and/or representation, including letters, words, pictures, sounds or symbols, or combinations thereof, as well as all ELECTRONICALLY STORED INFORMATION as defined below.

8. The term "ELECTRONICALLY STORED INFORMATION" shall mean and refer to all information and all metadata related thereto stored electronically on a computer hard drive, laptop, external hard drive, CD, DVD or other similar device, server, in the cloud, on a cellular or other type of telephone or otherwise, regardless of whether such ELECTRONICALLY STORED INFORMATION also currently exists in non-electronic form, no matter how produced or maintained, in YOUR actual or constructive possession, in custody or control, or of which YOU have knowledge of its existence regardless whether it was prepared, published or released by YOU or by any third party. ELECTRONICALLY STORED INFORMATION also includes all content, profiles and related metadata posted on the platforms/websites of any social media or other providers or any mobile application, including but not limited to social media providers and/or websites such as Facebook, Twitter, Instagram, Snap Chat, Linkedin, Yelp, YouTube, Tumblr and Wordpress.

9. The term "IDENTIFY" as used herein in any Special Interrogatory seeking information concerning a DOCUMENT or DOCUMENTS is a request that YOU provide:

a. A description of the DOCUMENT(S);

b. The date(s) of the DOCUMENT(S);

c. The identity of each PERSON who authored and/or signed the DOCUMENT(S);

d. The subject matter of the DOCUMENT(S);

e. The present location of the DOCUMENT(S); and

f. The identity of the custodian of the DOCUMENT(S).

10. The term "IDENTIFY" as used herein in any Special Interrogatory seeking information concerning any oral statement, conversation, discussion or communication is a request that YOU provide:

a. The identity of each PERSON who participated in or witnessed the oral statement, conversation, discussion or communication;

b. The date when and place where the oral statement, conversation, discussion or communication occurred;

c. The substance of the oral statement, conversation, discussion or communication; and

d. The identity of any and all notes, memoranda or any other DOCUMENTS memorializing, referring or RELATING TO the subject matter of the oral statement, conversation, discussion or communication.

11. The term "IDENTIFY" as used herein in any Special Interrogatory seeking information concerning any PERSON or PERSONS is a request that YOU provide:

a. The full name of each such PERSON;

b. The present or last known address residential and business addresses of each such PERSON; and

c. The employer, position and title of each such PERSON during the time period specified in YOUR response to the Special Interrogatory.

d. If the PERSON is an organization or entity other than a natural person, please provide:

(1) The full name and type of the entity or organization;

(2) The date of and state in which the entity or organization was formed;

(3) The address and telephone number of each principal place of business of the entity or organization;

(4) The nature of the business conducted by the entity or organization;

(5) A description of YOUR affiliation or other relationship with the entity or organization;

(6) The length of YOUR affiliation or other relationship with the entity or organization;

(7) The names, addresses and telephone numbers of each PERSON who is an employee, agent, representative or affiliate of the entity or organization with whom YOU have had contact; and

(8) A description of the nature of YOUR contact with each such PERSON.

12. The term "IDENTIFY" as used herein in any Special Interrogatory seeking information concerning any action YOU took and/or any activity in which YOU engaged is a request that YOU provide:

a. The date(s) on which YOU took or engaged in each such action and/or in activity;

b. A description of each such action and/or activity;

c. The identity of each PERSON who participated in, witnessed and/or has knowledge of each such action and/or activity; and

d. The identity of any and all notes, memoranda or any other DOCUMENT(S) memorializing, referring or RELATING TO the subject matter of each such action and/or activity.

13. The term "RELATING TO" shall mean and refer to a reference regarding, pertaining to, describing, discussing, reflecting, mentioning, evidencing, containing, citing, summarizing, analyzing or bearing any logical or factual relevance to or connection with the subject matter of the Special Interrogatory.

14. The term "COMPLAINT" shall mean and refer to the DOCUMENT entitled "Plaintiffs Complaint For: 1. Breach of Contract; Breach of the Covenant of Good Faith and Fair Dealing; 3. Specific Performance; and 4. Declaratory Relief YOU filed in this action on March 21, 2017.

15. The term "CITY" shall mean and refer to The City of San Diego, and any and all public officials, employees and/or any other PERSONS or AGENTS representing the CITY in any capacity whatsoever.

16. The "NOVEMBER DOCUMENT" shall mean and refer to the DOCUMENT executed by COTTON on November 2, 2016 attached as Exhibit A to YOUR COMPLAINT.

17. The term "CONFIRMATION EMAIL" as used herein shall mean and refer to YOUR November 2, 2016 email sent at 9:13 p.m. in response to COTTON's 6:55 p.m. email in which YOU stated, "No no problem at all."

18. The term "DISAVOWMENT ALLEGATION" shall mean and refer to YOUR contention that on November 3, 2016 YOU called COTTON and told him YOU never agreed to give him and equity position in the business on the PROPERTY to which COTTON acquiesced that he did not have, was not entitled to, and/or agreed to forego any ownership interest in the business on the PROPERTY by responding to the effect of "well, YOU don't get what YOU don't ask for."

19. The term "CUP" shall mean and refer to the Conditional Use Permit for the PROPERTY to be used as a Medical Marijuana Cooperative Collective/Marijuana Outlet ("MO").

20. The term "6176 CUP APPLICATION" shall mean and refer to any and all DOCUMENTS submitted to the CITY on October 31, 2018 by YOU or YOUR AGENTS to initiate the application process to obtain CITY approval of the CUP.

21. The term "CUP APPROVAL PROCESS" shall mean and refer to any and all activities related in any way to the CITY's processing of the CUP following submission of the 6176 CUP APPLICATION.

RESPONSES TO SPECIAL INTERROGATORIES

SPECIAL INTERROGATORY NO. 1:

IDENTIFY all PERSONS YOU have retained or PERSONS who have acted on YOUR behalf in connection with YOUR "CUP efforts" as alleged in Paragraph 9 of YOUR COMPLAINT, including but not limited to the architects, engineers, surveyors, construction professionals, attorneys, lobbyists, consultants and any AGENTS of whatsoever nature, regardless of whether or not any such PERSONS were compensated for their services.

RESPONSE TO SPECIAL INTERROGATORY NO. 1:

Abhay Schweitzer
TECHNE Design Development
3856 30th Street,
San Degio, California 92104
(619) 940-5814

Jim Bartell
Bartell and Associates
53333 Mission Center Road, No. 115
San Diego, California 92108

Gina M. Austin, Esq.
Austin Legal Group

3990 Old Town Avenue, Sutie A-112
San Diego, California 92110
(619) 923-9600

Lundstrom Engineering and Surveying, Inc.
5333 Mission Cetner Road, No. 115
San Diego, California 92108

SWLA
4429 Morena Boulevard
San Diego, California 92117
(858) 270-8688

Title Pro Information Systems
13520 Scarsdale Way
San Diego, California 92128
(760) 295-3951

Doug Skinner, PG, CEG
Senior Geologist
SCST, Inc.
6280 Riverdale St, San Diego, CA 92120
(619) 280-4321

Other miscellaneous vendors

SPECIAL INTERROGATORY NO. 2:

IDENTIFY all PERSONS of whom YOU are aware who have an established or alleged interest in the CUP or the PROPERTY.

RESPONSE TO SPECIAL INTERROGATORY NO. 2:

Objection: The interrogatory is vague and ambiguous as to what is meant by established or alleged interest in the CUP or the property. Additionally, the interrogatory is impermissibly compound. [CCP § 2030.060 (c) – (d).]

Subject to and without waiving these objections, Responding Party responds as follows: Larry Geraci; Rebecca Berry, Mr. Geraci's authorized agent for the CUP application; and Darryl Cotton.

SPECIAL INTERROGATORY NO. 3:

For each PERSON IDENTIFIED in YOUR response to Special Interrogatory No. 2, describe with specificity when and how YOU first became aware of his or her alleged interest in the CUP or PROPERTY.

///

RESPONSE TO SPECIAL INTERROGATORY NO. 3:

Objection: The interrogatory is vague and ambiguous as to what is meant by established or alleged interest in the CUP or the property. Additionally, the interrogatory is impermissibly compound. [CCP § 2030.060 (c) – (d).] The interrogatory is also objectionable in that it contains impermissible subparts under the definition of IDENTIFY. [CCP § 2030.060(f).]

Subject to and without waiving these objections, Responding Party responds as follows: Larry Geraci first became aware that Darryl Cotton had an ownership interest in the property in the months prior to entering into the agreement to purchase the property on November 2, 2016, referred to in the definitions as the NOVEMBER DOCUMENT. Mr. Geraci became aware that he had a contractual interest in the property on November 2, 2016, when Mr. Cotton and I signed the NOVEMBER DOCUMENT. Larry Geraci was aware that he had an interest in the CUP application at the time the CUP application was submitted by Applicant, Rebecca Berry, his authorized agent for the CUP application.

SPECIAL INTERROGATORY NO. 4:

In addition to the PROPERTY, do YOU or any entity in which YOU have an interest hold an equitable or financial interest in any other real property subject to a pending application for or an approved Conditional Use Permit for marijuana sales or other marijuana-related activities?

RESPONSE TO SPECIAL INTERROGATORY NO. 4:

Objection: The interrogatory is vague and ambiguous as to what is meant by "equitable or financial interest in any other real property...". Additionally, the interrogatory requests information which is not relevant to the pending matter and which is not likely to lead to the discovery of matters relevant to the instant proceeding. [CCP §§ 2017.010, 2030.010Ia); *Kalabla v. Gray* (2002) 95 Cal.App.4th 1416, 1417 (citing text).[Additionally, the interrogatory is impermissibly compound. [CCP § 2030.060 (c) – (d).]

Subject to and without waiving these objections, Responding Party responds as follows: No.

SPECIAL INTERROGATORY NO. 5:

If YOUR response to Special Interrogatory No. 4 is in the affirmative, please IDENTIFY

each such real property.

RESPONSE TO SPECIAL INTERROGATORY NO. 5:

Not applicable.

SPECIAL INTERROGATORY NO. 6:

If YOUR response to Special Interrogatory No. 4 is in the affirmative, please describe with specificity YOUR ownership interest in each real property identified in YOUR response to Special Interrogatory No. 5.

RESPONSE TO SPECIAL INTERROGATORY NO. 6:

Not applicable.

SPECIAL INTERROGATORY NO. 7:

IDENTIFY each and every term and condition for the sale of the PROPERTY specified in the NOVEMBER DOCUMENT.

RESPONSE TO SPECIAL INTERROGATORY NO. 7:

Objection, the NOVEMBER DOCUMENT speaks for itself. The terms and conditions for the sale of the PROPERTY specified in the NOVEMBER DOCUMENT are as follows:

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

SPECIAL INTERROGATORY NO. 8:

IDENTIFY each and every obligation YOU are required to perform as specified in the

NOVEMBER DOCUMENT.

RESPONSE TO SPECIAL INTERROGATORY NO. 8:

Objection, the NOVEMBER DOCUMENT speaks for itself.

Subject to and without waiving this objection, Responding Party responds as follows: The obligations Mr. Geraci is required to perform under the November 2, 2016 agreement are:

1) Pay a $10,000.00 deposit.
2) Apply for and seek approval of a CUP for operation of a marijuana dispensary at the property (implicit is the obligation to make good faith efforts);
3) If a CUP is approved for the property, pay the $790,000.00 balance of the purchase price to Darryl Cotton.

SPECIAL INTERROGATORY NO. 9:

Please describe with specificity each and every "remaining obligation" YOU are required to perform as specified in the NOVEMBER DOCUMENT.

RESPONSE TO SPECIAL INTERROGATORY NO. 9:

Objection, the NOVEMBER DOCUMENT speaks for itself.

Subject to and without waiving this objection, Responding Party responds as follows: The obligations Mr. Geraci is required to perform under the November 2, 2016 agreement are:

1) Continue to seek approval of a CUP for operation of a marijuana dispensary at the property (implicit is the obligation to make good faith efforts);
2) If a CUP is approved for the property, pay the $790,000.00 balance of the purchase price to Darryl Cotton.

These obligations are continuing as of the present date.

SPECIAL INTERROGATORY NO. 10:

Please describe with specificity each and every condition that still must be fulfilled to obtain the CITY approval of the 6176 CUP APPLICATION.

///

RESPONSE TO SPECIAL INTERROGATORY NO. 10:

Objection: The interrogatory is ambiguous as phrased because the term "condition" has a specific meaning in the context of a CUP Application, namely, conditions that may be attached to any approved CUP.

Subject to and without waiving this objection, Responding Party responds as follows: The decision maker for City of San Diego Conditional Use Permits such as this one is the Hearing Officer. Prior to being scheduled for a hearing with the Hearing Officer, City of San Diego staff creates a draft version of the Conditional Use permit which incorporates all standard conditions and conditions related to each specific discipline. As of this date, Plaintiff (through Abhay Schweitzer of TECHNE) has not yet received such document from the City of San Diego. The conditions have timing associated with them which range from prior to construction, after construction or some other time. Some conditions must be satisfied continuously through the life of the permit, while some are single events. The City of San Diego is responsible for verifying that the conditions. The proposed conditions would only be satisfied in the event that the Conditional Use Permit is granted, therefore it is not possible to fulfill those conditions and then obtain approval of the Conditional Use Permit.

SPECIAL INTERROGATORY NO. 11:

Please describe with specificity each and every issue that still must be resolved to obtain CITY approval of the 6176 CUP APPLICATION.

RESPONSE TO SPECIAL INTERROGATORY NO. 11:

Responding Party is unaware of each and every issue that still must be fulfilled to obtain the City approval of the CUP application as that changes over time and is at the discretion of the City of San Diego. Nevertheless, as of this date, the City of San Diego Development Services Department is actively reviewing the latest submittal for this Conditional Use Permit, which was done on October 31, 2018. The reviews are scheduled to be completed on or about November 30, 2018, according to the Development Services own schedules for these reviews. The latest submittal, mentioned above, was done in order to address the Cycle Issues which

were received from the Development Services Department as a result of their review of the previous submittal. Those Cycle Issues, which are set forth in the attached letter dated September 26, 2018, from the City of San Diego Development Services Department to Abhay Schweitzer of TECHNE, describe in detail every issue that must be resolved in order for the reviewing staff to recommend approval of the project to the Hearing Officer. Staff does not approve or deny a project such as this one (Process Three Conditional Use Permit).

SPECIAL INTERROGATORY NO. 12:

Please state with specificity all reasons why YOU, as the potential purchaser of the PROPERTY, did not submit the 6176 CUP APPLICATION in YOUR own name.

RESPONSE TO SPECIAL INTERROGATORY NO. 12:

For two main reasons. First, I held a federal license and at the time of submittal of the CUP Application and the difference between federal and state/local enforcement of laws related to marijuana gave rise to uncertainty regarding the potential for adverse impact on my federal license. Second, for convenience of administration during the anticipated application process, I elected to have my assistant act as my agent in submitting the CUP Application.

SPECIAL INTERROGATORY NO. 13:

IDENTIFY all DOCUMENTS RELATING TO the 6176 CUP APPLICATION submitted to the CITY which IDENTIFY YOU as a party having an interest in the PROPERTY.

RESPONSE TO SPECIAL INTERROGATORY NO. 13:

Objection: This interrogatory is unduly burdensome as Responding Party, through his consultant, Abhay Schweitzer of TECHNE, has made multiple submissions in connection with the process of applying for and seeking approval of the 6176 CUP Application, nearly all of which were not reviewed by Responding Party. Notwithstanding and without waiving this objection, Responding Party will produce all documents provided to the City in connection with its successive resubmissions that have not been produced previously.

SPECIAL INTERROGATORY NO. 14:

IDENTIFY all DOCUMENTS RELATING TO the 6176 CUP APPLICATION reviewed by Gina Austin.

RESPONSE TO SPECIAL INTERROGATORY NO. 14:

Objection: This interrogatory invades the attorney-client privilege. [Cal. Evid. Code § 954.] Based on the foregoing objection, Responding Party will not reply to this interrogatory.

SPECIAL INTERROGATORY NO. 15:

IDENTIFY all DOCUMENTS RELATING TO the 6176 CUP APPLICATION drafted or revised by Gina Austin.

RESPONSE TO SPECIAL INTERROGATORY NO. 15:

Objection: This interrogatory invades the attorney-client privilege. [Cal. Evid. Code § 954.] Based on the foregoing objection, Responding Party will not reply to this interrogatory.

SPECIAL INTERROGATORY NO. 16:

IDENTIFY all DOCUMENTS RELATING TO the 6176 CUP APPLICATION reviewed by Jim Bartell.

RESPONSE TO SPECIAL INTERROGATORY NO. 16:

Objection: Plaintiff does not have personal knowledge of all documents related to the CUP application reviewed by Jim Bartell over the course of the last 2 years. Mr. Bartell has that information and his deposition can be taken.

SPECIAL INTERROGATORY NO. 17:

Please state with specificity all reasons why YOU emailed Abhay Schweitzer on October 5, 2016 requesting that he revise the TECHNE contract for design services for the PROPERTY dated October 4, 2016 entitled "Agreement Between Owner and Design Firm" to replace YOUR name as "Owner" under the contract with BERRY's name.

///

RESPONSE TO SPECIAL INTERROGATORY NO. 17:

For two main reasons. First, I held a federal license and at the time of submittal of the CUP Application and the difference between federal and state/local enforcement of laws related to marijuana gave rise to uncertainty regarding the potential for adverse impact on my federal license. Second, for convenience of administration during the anticipated application process, I elected to have my assistant act as my agent in submitting the CUP Application.

SPECIAL INTERROGATORY NO. 18:

IDENTIFY all DOCUMENTS RELATING TO the purchase of the PROPERTY reviewed by Gina Austin.

RESPONSE TO SPECIAL INTERROGATORY NO. 18:

Objection: This interrogatory invades the attorney-client privilege. [Cal. Evid. Code § 954.] Based on the foregoing objection, Responding Party will not reply to this interrogatory.

SPECIAL INTERROGATORY NO. 19:

IDENTIFY all DOCUMENTS RELATING TO the purchase of the PROPERTY drafted or revised by Gina Austin.

RESPONSE TO SPECIAL INTERROGATORY NO. 19:

Objection: This interrogatory invades the attorney-client privilege. [Cal. Evid. Code § 954.]

Subject to and without waiving this objection, Responding Party responds as follows: Gina Austin did not draft the written agreement entered into on November 2, 2016, for the purchase and sale of the property (the NOVEMBER DOCUMENT). Responding Party has produced previously all responsive documents drafted by Ms. Austin or persons employed in her law firm.

SPECIAL INTERROGATORY NO. 20:

Please describe with specificity all activities undertaken by YOU and YOUR AGENTS related to the CUP APPROVAL PROCESS for the period January 1, 2018 to April 30, 2018.

///

RESPONSE TO SPECIAL INTERROGATORY NO. 20:

Objection: The interrogatory is over-broad and unduly burdensome given the definition of AGENTS in the Interrogatories as: "The term "AGENTS" shall mean and refer to all PERSONS with whom YOU have any type of relationship - personal, professional, contractual or otherwise - including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on YOUR behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such AGENTS received compensation for their services from YOU or any other PERSON."

To the extent this interrogatory seeks information regarding the activities undertaken by Gina Austin, or Ferris & Britton or its attorneys, it invades the attorney-client privilege [Cal. Evid. Code § 954] and attorney work-product doctrine. [ ] To the extent the interrogatory seeks information from Plaintiff's accountants it violates Plaintiff's right to privacy under Article 1, Section 1, of the California Constitution. To the extent it calls for opinions and descriptions of the activities of plaintiff's expert witnesses in this case, this is an improper discovery procedure for obtaining the opinions of experts. [CCP § 2034.010 et seq.; see *Kalaba v. gray* (2002) 95 Cal.App.4th 1416, 1419.]

Additionally, the interrogatory is hopelessly compound given the definition of "Agents" as defined by Mr. Cotton herein. [Each interrogatory must be "separately set forth" and "full and complete in and of itself." [CCP § 2030.060(c)-(d).]

Notwithstanding and without waiving these objections, Responding Party responds as follows: During the specified period of January 1, 2018 to April 30, 2018, Techne, its employees and contractors lead by Abhay Schweitzer, worked approximately 55.30 hours on the approval of the referenced CUP. This work included specifically revising its drawings in order to address the previously received comments from the City of San Diego, coordinating with Geotechnical consultant, coordinating with Government Relations consultant along with calls and email with the City of San Diego Development Project Manager. A detailed record of this work is contained within its client records. Others with knowledge of this work would include persons employed or hired by the Geotechnical consultant and the Government Relations consultant to perform their work during this time period.

SPECIAL INTERROGATORY NO. 21:

IDENTIFY all YOUR AGENTS who engaged in activities related to the CUP APPROVAL PROCESS for the period January 1, 2018 to April 30, 2018.

RESPONSE TO SPECIAL INTERROGATORY NO. 21:

Objection: The interrogatory is over-broad and unduly burdensome given the definition of AGENTS in the Interrogatories as: "The term "AGENTS" shall mean and refer to all PERSONS with whom YOU have any type of relationship - personal, professional, contractual or otherwise - including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on YOUR behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such AGENTS received compensation for their services from YOU or any other PERSON."

Objection: The interrogatory is over-broad and unduly burdensome given the definition of IDENTIFY in the Interrogatories as: The term "IDENTIFY" as used herein in any Special Interrogatory seeking information concerning any action YOU took and/or any activity in which YOU engaged is a request that YOU provide:

a. The date(s) on which YOU took or engaged in each such action and/or in activity;

b. A description of each such action and/or activity;

c. The identity of each PERSON who participated in, witnessed and/or has knowledge of each such action and/or activity; and

d. The identity of any and all notes, memoranda or any other DOCUMENT(S) memorializing, referring or RELATING TO the subject matter of each such action and/or activity.

To the extent this interrogatory seeks information regarding the activities undertaken by Gina Austin, or Ferris & Britton or its attorneys, it invades the attorney-client privilege [Cal. Evid. Code § 954] and attorney work-product doctrine. [CCP § 2018.030.] To the extent the interrogatory seeks information from Plaintiff's accountants it violates Plaintiff's right to privacy under Article 1, Section 1, of the California Constitution. To the extent it calls for opinions and descriptions of the activities of plaintiff's expert witnesses in this case, this is an improper discovery procedure for obtaining the opinions of experts. [CCP § 2034.010 et seq.; see *Kalaba v. gray* (2002) 95 Cal.App.4th 1416, 1419.]

Additionally, the interrogatory is hopelessly compound given the definition of "Agents" as defined by Mr. Cotton herein. [Each interrogatory must be "separately set forth" and "full and complete in and of itself." [CCP § 2030.060(c)-(d).]

Subject to and without waiving this objection, Responding Party responds as follows: The persons primarily responsible for activities related to the CUP APPROVAL PROCESS for the period January 1, 2018 to April 30, 2018, were: 1) TECHNE, led by Abhay Schweitzer, its employees and contractors; and 2) Bartell & Associates, let by Jim Bartell, its employees and contractors, and 3) SCST, Inc., represented by Doug Skinner, its employees and contractors. .

SPECIAL INTERROGATORY NO. 22:

IDENTIFY all DOCUMENTS RELATING TO all activities undertaken by YOU and YOUR AGENTS related to the CUP APPROVAL PROCESS for the period January 1, 2018 to the April 30, 2018.

RESPONSE TO SPECIAL INTERROGATORY NO. 22:

Objection: The interrogatory is over-broad and unduly burdensome given the definition of AGENTS in the Interrogatories as: "The term "AGENTS" shall mean and refer to all PERSONS with whom YOU have any type of relationship - personal, professional, contractual or otherwise - including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on YOUR behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such AGENTS received compensation for their services from YOU or any other PERSON."

Objection: The interrogatory is over-broad and unduly burdensome given the definition of IDENTIFY in the Interrogatories as: The term "IDENTIFY" as used herein in any Special Interrogatory seeking information concerning any action YOU took and/or any activity in which YOU engaged is a request that YOU provide:

a. The date(s) on which YOU took or engaged in each such action and/or in activity;

b. A description of each such action and/or activity;

c. The identity of each PERSON who participated in, witnessed and/or has knowledge of

each such action and/or activity; and

d. The identity of any and all notes, memoranda or any other DOCUMENT(S) memorializing, referring or RELATING TO the subject matter of each such action and/or activity.

To the extent this interrogatory seeks information regarding the activities undertaken by Gina Austin, or Ferris & Britton or its attorneys, it invades the attorney-client privilege [Cal. Evid. Code § 954] and attorney work-product doctrine. [CCP § 2018.030.] To the extent the interrogatory seeks information from Plaintiff's accountants it violates Plaintiff's right to privacy under Article 1, Section 1, of the California Constitution. To the extent it calls for opinions and descriptions of the activities of plaintiff's expert witnesses in this case, this is an improper discovery procedure for obtaining the opinions of experts. [CCP § 2034.010 et seq.; see *Kalaba v. gray* (2002) 95 Cal.App.4th 1416, 1419.]

Additionally, the interrogatory is hopelessly compound given the definition of "Agents" as defined by Mr. Cotton herein. [Each interrogatory must be "separately set forth" and "full and complete in and of itself." [CCP § 2030.060(c)-(d).]

Subject to and without waiving this objection, Responding Party responds as follows:

During the specified period, TECHNE worked on the following drawings relating to activities undertaken related to the CUP approval process:

G001

G002

TOPOGRAPHIC SURVEY

A101

A102a

A102b

A103

A104

A105

A106

A107

A108

A109

A201

A202

A203

A301

A302

Each of these particular drawings are a combination of various files referenced into one final document or drawing. The references above are only to the final product by indicating the numbering of each drawing sheet only.

In addition, TECHNE is in possession of numerous emails and digital chats both internal and external to its organization that relate to its working on this CUP approval process. TECHNE is also in possession of Response letters to each reviewing discipline received from the Development Services Department

SPECIAL INTERROGATORY NO. 23:

Please describe with specificity the current status of the 6176 CUP APPLICATION.

RESPONSE TO SPECIAL INTERROGATORY NO. 23:

As of November 20, 2018, the City of San Diego is reviewing the latest submittal which was done on October 31, 2018. The following is a list of the due dates for each individual review, as published by the Development Services Department:

1. Planning - Due 11.27.2018 - Completed 11.19.2018
2. Environmental - Due 11.30.2018
3. Landscape - Due 11.27.2018
4. Engineering - Due 11.27.2018
5. Transportation - Due 11.27.2018
6. Community Planning Group - Due 11.27.2018

Per TECHNE's communications with the City of San Diego Development Services staff, it has received written confirmation that the only major issue, related to separation from an adjacent Residential Zoned property, has been cleared. The latest submittal addressed this issue along with

a host of other minor corrections (cycle issues) per the City's last review. It is anticipated that at the conclusion of the current review the issues will be cleared at which point the project's Environmental Reviewer will issue the appropriate environmental determination. Should there be no appeal filed related to the Environmental Determination, the project will then be scheduled for a hearing with the Hearing Officer.

SPECIAL INTERROGATORY NO. 24:

IDENTIFY all conditions of approval yet to be completed and outstanding issues to be resolved by YOU and YOUR AGENTS before the CUP will be eligible for approval by the CITY.

RESPONSE TO SPECIAL INTERROGATORY NO. 24:

Objection: The interrogatory is over-broad and unduly burdensome given the definition of AGENTS in the Interrogatories as: "The term "AGENTS" shall mean and refer to all PERSONS with whom YOU have any type of relationship - personal, professional, contractual or otherwise - including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on YOUR behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such AGENTS received compensation for their services from YOU or any other PERSON."

Objection: The interrogatory is over-broad and unduly burdensome given the definition of IDENTIFY in the Interrogatories as: The term "IDENTIFY" as used herein in any Special Interrogatory seeking information concerning any action YOU took and/or any activity in which YOU engaged is a request that YOU provide:

a. The date(s) on which YOU took or engaged in each such action and/or in activity;

b. A description of each such action and/or activity;

c. The identity of each PERSON who participated in, witnessed and/or has knowledge of each such action and/or activity; and

d. The identity of any and all notes, memoranda or any other DOCUMENT(S) memorializing, referring or RELATING TO the subject matter of each such action and/or activity.

To the extent this interrogatory seeks information regarding the activities undertaken by Gina Austin, or Ferris & Britton or its attorneys, it invades the attorney-client privilege [Cal. Evid. Code § 954] and attorney work-product doctrine. [CCP § 2018.030.] To the extent the interrogatory seeks information from Plaintiff's accountants it violates Plaintiff's right to privacy under Article 1, Section 1, of the California Constitution. To the extent it calls for opinions and descriptions of the activities of plaintiff's expert witnesses in this case, this is an improper discovery procedure for obtaining the opinions of experts. [CCP § 2034.010 et seq.; see *Kalaba v. gray* (2002) 95 Cal.App.4th 1416, 1419.]

Additionally, the interrogatory is hopelessly compound given the definition of "Agents" as defined by Mr. Cotton herein. [Each interrogatory must be "separately set forth" and "full and complete in and of itself." [CCP § 2030.060(c)-(d).]

Subject to and without waving these objections, see the responses to SPECIAL INTERROGATORY NO. 10 and NO. 11 above. Besides what has been detailed, Responding Party's consultant is not aware of any other outstanding issues that need to be resolved. Responding Party is currently waiting on confirmation that the issues have been resolved.

SPECIAL INTERROGATORY NO. 25:

IDENTIFY all actions YOU and YOUR AGENTS are taking to complete the outstanding conditions of approval and resolve the outstanding the issues IDENTIFIED in your response to Special Interrogatory No. 24.

RESPONSE TO SPECIAL INTERROGATORY NO. 25:

Objection: The interrogatory is over-broad and unduly burdensome given the definition of AGENTS in the Interrogatories as: "The term "AGENTS" shall mean and refer to all PERSONS with whom YOU have any type of relationship - personal, professional, contractual or otherwise - including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on YOUR behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such AGENTS received compensation for their services from YOU or any other PERSON."

Objection: The interrogatory is over-broad and unduly burdensome given the definition of

IDENTIFY in the Interrogatories as: The term "IDENTIFY" as used herein in any Special Interrogatory seeking information concerning any action YOU took and/or any activity in which YOU engaged is a request that YOU provide:

a. The date(s) on which YOU took or engaged in each such action and/or in activity;

b. A description of each such action and/or activity;

c. The identity of each PERSON who participated in, witnessed and/or has knowledge of each such action and/or activity; and

d. The identity of any and all notes, memoranda or any other DOCUMENT(S) memorializing, referring or RELATING TO the subject matter of each such action and/or activity.

To the extent this interrogatory seeks information regarding the activities undertaken by Gina Austin, or Ferris & Britton or its attorneys, it invades the attorney-client privilege [Cal. Evid. Code § 954] and attorney work-product doctrine. [CCP § 2018.030.] To the extent the interrogatory seeks information from Plaintiff's accountants it violates Plaintiff's right to privacy under Article 1, Section 1, of the California Constitution. To the extent it calls for opinions and descriptions of the activities of plaintiff's expert witnesses in this case, this is an improper discovery procedure for obtaining the opinions of experts. [CCP § 2034.010 et seq.; see *Kalaba v. gray* (2002) 95 Cal.App.4th 1416, 1419.]

Additionally, the interrogatory is hopelessly compound given the definition of "Agents" as defined by Mr. Cotton herein. [Each interrogatory must be "separately set forth" and "full and complete in and of itself." [CCP § 2030.060(c)-(d).]

Subject to and without waiving these objections, Responding Party responds as follows: On October 31, 2018, TECHNE resubmitted the plans, documents and responses requested by the City of San Diego Development Services Department in relation to the previous submittal. Since that date, TECHNE's staff has monitored the review due dates to ensure receipt of a timely response from the reviewers and development project manager. It is anticipated that the latest submittal, which is under review, will result in all outstanding issues being cleared.

SPECIAL INTERROGATORY NO. 26:

Please describe with specificity all reasons YOU ceased to have a valid real estate

salesperson license issued by the California Bureau of Real Estate.

RESPONSE TO SPECIAL INTERROGATORY NO. 26:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence.

Subject to and without waiving this objection, Responding Party responds as follow: I let my license expire.

SPECIAL INTERROGATORY NO. 27:

Please IDENTIFY all transactions for the purchase and sale of real property in which YOU have an interest (whether or not your interest is evidenced by a DOCUMENT filed or recorded by/with any governmental entity) for which BERRY acted as YOUR broker during YOUR licensure as a California real estate salesperson.

RESPONSE TO SPECIAL INTERROGATORY NO. 27:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. Based on the foregoing objection, Responding Party will not respond to this interrogatory.

SPECIAL INTERROGATORY NO. 28:

Please IDENTIFY all real properties in which YOU have an interest for which you have received notice from law enforcement agencies and/or governmental entities that those properties are potentially associated with unlicensed marijuana sales.

RESPONSE TO SPECIAL INTERROGATORY NO. 28:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. The interrogatory is also unlimited as to time.

Subject to and without waiving this objection, Responding Party responds as follow: None currently.

///

SPECIAL INTERROGATORY NO. 29:

Please state the approximate number of transactions for the purchase and sale of residential real property in which YOU represented buyers and/or sellers during YOUR career as a licensed California real estate salesperson.

RESPONSE TO SPECIAL INTERROGATORY NO. 29:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. Based on the foregoing objection, Responding Party will not respond to this interrogatory.

SPECIAL INTERROGATORY NO. 30:

Please state the approximate number of transactions for the purchase and sale of commercial real PROPERTY in which YOU represented buyers and/or sellers during YOUR career as a licensed California real estate salesperson.

RESPONSE TO SPECIAL INTERROGATORY NO. 30:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. Based on the foregoing objection, Responding Party will not respond to this interrogatory.

SPECIAL INTERROGATORY NO. 31:

IDENTIFY all transactions for the purchase and sale of real property to which YOU were a party as a buyer, seller or agent that closed using a maximum of a one-page document containing a nonstandard real estate condition precedent (e.g., a condition precedent to obtain a Conditional Use Permit for the subject property to allow the operation of a business) as the complete, final integrated agreement for the sale of the subject real property in an arms-length transaction.

RESPONSE TO SPECIAL INTERROGATORY NO. 31:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. Based on the foregoing objection, Responding Party will not respond to this interrogatory.

SPECIAL INTERROGATORY NO. 32:

IDENTIFY any state or local statute, ordinance or other law which would disqualify YOU and/or any entity in which YOU have an equitable or financial interest from obtaining a Conditional Use Permit to operate an MO in San Diego, California.

RESPONSE TO SPECIAL INTERROGATORY NO. 32:

Objection: The interrogatory calls for a legal opinion or conclusion.

Subject to and without waiving this objection, Responding Party responds as follow: Larry Geraci is not aware of any state or local statute, ordinance or other law, which would disqualify him or any entity in which he has an equitable or financial interest from obtaining a CUP to operate an MO in San Diego, California.

SPECIAL INTERROGATORY NO. 33:

Please describe with specificity the history of YOUR relationship with Shawn Miller.

RESPONSE TO SPECIAL INTERROGATORY NO. 33:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection, Responding Party responds as follow: Larry Geraci does not have any relationship with Shawn Miller.

SPECIAL INTERROGATORY NO. 34:

Please describe with specificity the history of YOUR relationship with Aaron Magagna.

RESPONSE TO SPECIAL INTERROGATORY NO. 34:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection, Responding Party responds as follow: Larry Geraci does not have any relationship with Aaron Magagna.

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SPECIAL INTERROGATORY NO. 35:

Have YOU or YOUR AGENTS requested that Shawn Miller contact Mr. Joe Hurtado regarding any matter related to this litigation?

RESPONSE TO SPECIAL INTERROGATORY NO. 35:

Not that I am aware. Moreover, I have never requested or authorized any person to do so.

SPECIAL INTERROGATORY NO. 36:

Please explain with specificity all reasons why BERRY, as YOUR AGENT, executed Form DS-190 of the 6176 CUP APPLICATION as the "Owner" of the PROPERTY.

RESPONSE TO SPECIAL INTERROGATORY NO. 36:

This answer assumes the interrogatory is referring to Form DS-290 signed by Rebecca Berry on October 31, 2016. On that form Rebecca Berry was identified as a business owner, not the property owner. On that same date Rebecca Berry also signed Form DS-3032 submitted to the CITY as part of the 6176 CUP APPLICATION, and in box 8 Rebecca Berry was identified as the Applicant who was an "Other Person per M.C. Section 112.0102."

SPECIAL INTERROGATORY NO. 37:

Please explain with specificity all reasons why BERRY, as YOUR AGENT, executed Form DS-318 of the 6176 CUP APPLICATION as "Tenant/Lessee" of the PROPERTY.

RESPONSE TO SPECIAL INTERROGATORY NO. 37:

Rebecca Berry understood at the time she signed Form DS-318 that she was the agent of Mr. Geraci who had an interest in the property and that it was proper for her to sign the form as it had been drafted for her to sign.

SPECIAL INTERROGATORY NO. 38:

Please explain with specificity all reasons why YOU authorized the submission of the 6176 CUP APPLICATION notwithstanding the conflicting information in Forms DS-190, DS-318 and DS-3032 regarding BERRY's alleged interest in the PROPERTY.

RESPONSE TO SPECIAL INTERROGATORY NO. 38:

Objection: The interrogatory assumes that Plaintiff authorized the submission of the 6176 CUP APPL.ICATION with "conflicting information' and with knowledge of the "conflicting information." Subject to and without waiving this objection, Responding Party responds as follow: The listed forms were submitted in the form provided by the consultants.

SPECIAL INTERROGATORY NO. 39:

IDENTIFY each written communication between YOU and COTTON - including but not limited to emails, text messages or other DOCUMENTS - and the specific language therein that YOU allege are an attempt to renegotiate the terms of the NOVEMBER DOCUMENT.

RESPONSE TO SPECIAL INTERROGATORY NO. 39:

Responding Party has previously produced all documents evidencing an attempt to negotiate the NOVEMBER DOCUMENT, all of which were created during the time period of approximately November 3, 2016, through the filing of the complaint on or about March 21, 2017.

SPECIAL INTERROGATORY NO. 40:

IDENTIFY each written communication between YOU and COTTON - including but not limited to emails, text messages or other DOCUMENTS - and the specific language therein that reflects YOU intended to provide for the employment of COTTON in any capacity at any point in time.

RESPONSE TO SPECIAL INTERROGATORY NO. 40:

Responding Party has previously produced all documents that are written communications between Responding Party and Mr. Cotton regarding any and all matters. Responding Party never agreed to provide Mr. Cotton employment in any capacity at any point in time.

SPECIAL INTERROGATORY NO. 41:

Please describe with specificity the "alternative consideration in lieu of Deposit" YOU allege YOU provided to COTTON as set forth in Paragraph 3a of the draft Purchase Agreement

(First Draft) YOU emailed to COTTON on February 27, 2017 at 8:49 a.m.

RESPONSE TO SPECIAL INTERROGATORY NO. 41:

Objection: Calls for a legal opinion or conclusion.

Subject to and without waiving this objection, Responding Party responds as follows: The First Draft was prepared by counsel and Responding Party does not know what counsel intended.

SPECIAL INTERROGATORY NO. 42:

Please describe with specificity the date(s), time(s) and circumstance(s) under which COTTON agreed to accept the "alternative consideration in lieu of Deposit" set forth in Paragraph 3a of the Purchase Agreement (First Draft) YOU emailed to COTTON on February 27, 2017 at 8:49 a.m.

RESPONSE TO SPECIAL INTERROGATORY NO. 42:

Objection: Calls for a legal opinion or conclusion.

Subject to and without waiving this objection, Responding Party responds as follows: The First Draft was prepared by counsel and Responding Party does not know what counsel intended.

SPECIAL INTERROGATORY NO. 43:

IDENTIFY all PERSONS who witnessed YOU provide COTTON the "alternative consideration in lieu of Deposit" as set forth in Paragraph 3 a of the Purchase Agreement (First Draft) YOU emailed to COTTON on February 27, 2017 at 8:49 a.m.

RESPONSE TO SPECIAL INTERROGATORY NO. 43:

Objection: Calls for a legal opinion or conclusion.

Subject to and without waiving this objection, Responding Party responds as follows: The First Draft was prepared by counsel and Responding Party does not know what counsel intended.

SPECIAL INTERROGATORY NO. 44:

IDENTIFY all DOCUMENTS evidencing that YOU provided COTTON the "alternative consideration in lieu of Deposit" as set forth in Paragraph 3a of the Purchase Agreement (First

Draft) YOU emailed to COTTON on February 27,2017 at 8:49 a.m.

RESPONSE TO SPECIAL INTERROGATORY NO. 44:

Objection: Calls for a legal opinion or conclusion.

Subject to and without waiving this objection, Responding Party responds as follows: The First Draft was prepared by counsel and Responding Party does not know what counsel intended.

Dated: November 21, 2018

FERRIS & BRITTON,
A Professional Corporation

By: Michael R. Weinstein
Michael R. Weinstein
Scott H. Toothacre
Attorneys for Plaintiff/Cross-Defendant
LARRY GERACI and Cross-Defendant
REBECCA BERRY

FERRIS & BRITTON
A Professional Corporation
Michael R. Weinstein (SBN 106464)
Scott H. Toothacre (SBN 146530)
501 West Broadway, Suite 1450
San Diego, California 92101
Telephone: (619) 233-3131
Fax: (619) 232-9316
mweinstein@ferrisbritton.com
stoothacre@ferrisbritton.com

Attorneys for Plaintiff/Cross-Defendant LARRY GERACI and Cross-Defendant REBECCA BERRY

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 **PROOF OF SERVICE BY MAIL** **[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.	Complaint Filed: March 21, 2017 Trial Date: January 25, 2019

I, Rachel M. Prendergast, declare that: I am over the age of 18 years and not a party to the case; I am employed in the County of San Diego, California; and my business address is: 501 West Broadway, Suite 1450, San Diego, California 92101.

///

///

On, November 21, 2018, I served the following document(s):

1. **PLAINTIFF/CROSS-DEFENDANT LARRY GERACI'S RESPONSES TO REQUEST FOR PRODUCTION, SET ONE, PROPOUNDED BY DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON (Original Verification to follow);**
2. **CROSS-DEFENDANT REBECCA BERRY'S RESPONSES TO REQUEST FOR PRODUCTION, SET ONE, PROPOUNDED BY DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON (Original Verification to follow);**
3. **PLAINTIFF/CROSS-DEFENDANT LARRY GERACI'S RESPONSES TO SPECIAL INTERROGATORIES, SET ONE, PROPOUNDED BY DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON (Original Verification to follow); and**
4. **CROSS-DEFENDANT REBECCA BERRY'S RESPONSES TO SPECIAL INTERROGATORIES, SET ONE, PROPOUNDED BY DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON (Original Verification to follow).**
5. **PLAINTIFF/CROSS-DEFENDANT LARRY GERACI'S RESPONSES TO FORM INTERROGATORIES, SET TWO, (Original Verification to follow); and**
6. **CROSS-DEFENDANT REBECCA BERRY'S RESPONSES TO FORM INTERROGATORIES-GENERAL, SET TWO (Original Verification to follow)**

BY MAIL. I placed a true copy of each document in a separate envelope addressed to each addressee, respectively, and then sealed each envelope and, with postage thereon fully prepaid, I placed each for deposit in the United States Postal Service, this same day, at my business address shown above, following ordinary business practices:

Jacob Austin, Esq.
LAW OFFICE OF JACOB AUSTIN
1455 Frazee Road. Suite 500
San Diego, California 92108
Tel: (619) 357-6850
Fax: (888)357-8501
jpa@jacobaustinesq.com
Attorney for Defendant and Cross-Complainant Darryl Cotton

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: November 21, 2018

FERRIS & BRITTON,
A Professional Corporation

Rachel M. Prendergast, Paralegal

VERIFICATION

I, Larry Geraci, declare:

I am the Plaintiff and a Cross-Defendant in the above-captioned lawsuit. I have read the foregoing document entitled **PLAINTIFF/CROSS-DEFENDANT LARRY GERACI'S ANSWERS TO SPECIAL INTERROGATORIES, SET TWO, PROPOUNDED BY DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON**. The matters stated in it are true to the best of my knowledge and belief.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 29 day of November, 2018, at San Diego, California.

LARRY GERACI

EXHIBIT 3

Jacob P. Austin
Attorney at Law
1455 Frazee Rd. #500
San Diego, California 92108
jpa@JacobAustinEsq.com
P: 619.357.6850 F: 888.357.8501

December 18, 2018

Via Electronic Mail
MWeinstein@ferrisbritton.com
SToothacre@farrisbritton.com

Michael R. Weinstein
Scott Toothacre
Ferris & Britton APC
501 West Broadway, Suite 1450
San Diego, CA 92101

Re: *Larry Geraci v. Darryl Cotton, et al.*
San Diego Superior Court Case No. 37-2017-00010073-CU-BU-CTL
Special Interrogatories (Set Two-Geraci)

Dear Mr. Weinstein:

I am in receipt of and have reviewed the discovery responses served by you on November 21, 2018 on behalf of your client Larry Geraci.

After a careful review of the responses I have found certain deficiencies. As such, pursuant to California Code of Civil Procedure (CCP) § 2016.040 may this letter serve as a "reasonable and good faith attempt at informal resolution."

SPECIAL INTERROGATORY NO. 16:
IDENTIFY all **DOCUMENTS RELATING TO** the **6176 CUP APPLICATION** reviewed by Jim Bartell.

RESPONSE TO SPECIAL INTERROGATORY NO. 16:
Objection. Plaintiff does not have personal knowledge of all documents related to the CUP application reviewed by Jim Bartell over the course of the last two years. Mr. Bartell has that information and his deposition can be taken.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 16:

The response is evasive. Plaintiff/Cross-defendant must respond as to all DOCUMENTS that are under his custody and control. He is clearly under control of DOCUMENTS that are in the possession of his hired consultant, Jim Bartell and can readily IDENTIFY and produce them. (Plaintiff has also refused to produce documents in response to Defendant/Cross-complainant's Production of Documents, Set Two, which requests all DOCUMENTS having to do with his responses to these Special Interrogatories, and which are the subject of a related Motion filed concurrently.)

SPECIAL INTERROGATORY NO. 20:

Please describe with specificity all activities undertaken by **YOU** and **YOUR AGENTS** related to the **CUP APPROVAL PROCESS** for the period January 1, 2018 to April 30, 2018.

RESPONSE TO SPECIAL INTERROGATORY NO. 20:

Objection: The interrogatory is over-broad and unduly burdensome given the definition of AGENTS in the Interrogatories as "The term "**AGENTS**" shall mean and refer to all **PERSONS** with whom **YOU** have any type of relationship – personal, professional, contractual or otherwise – including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on **YOUR** behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such **AGENTS** received compensation for their services from **YOU** or any other **PERSON**."

To the extent this interrogatory seeks information regarding the activities undertaken by Gina Austin, or Ferris & Britton or its attorneys, it invades the attorney-client privilege [Cal.Evid.Code section 954] and attorney work product doctrine. [ ] [SIC] To the extent the Interrogatory seeks information from Plaintiff's accountants it violates Plaintiff's right to privacy under Article 1, Section 1, of the California Constitution. To the extent it calls for opinions and descriptions of the activities of plaintiff's expert witnesses in this case, this is an improper discovery procedure for obtaining the opinions of experts. [CCP section 2034.010 et seq.; see Kabala v Gray (2002) 95 Cal.App. 4th 1416, 1419.]

Notwithstanding and without waiving these objections, Responding Party responds as follows: During the specified period of January 1, 2018 to April 30. 2018. Techne, its employees and contractors lead by Abhay Schweizer, worked approximately 55.30 hours on the approval of the referenced CUP. This work included specifically revising its drawings in order to address the previously received comments from the City of San Diego, coordinating with geotechnical consultant, coordinating with Governmental Relations consultant along with calls and email with the City of San Diego Development Project Manager. A detailed record of this work is contained within its client records. Others with knowledge of this work would include persons employed or hired by the Geotechnical consultant and the Government Relations consultant to perform their work during this time period.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 20:

The response is evasive and incomplete. Defendant/Cross-complainant has asked for all activities for all AGENTS of Plaintiff, not just Techne. The term AGENTS is clearly and specifically defined. The interrogatory does not call for attorney work product and does not invade

the attorney work product rule. However, if there are privileged documents, the proper course is to prepare a privilege log. Defendant/Cross-complainant is entitled to the information as a response will support Defendant/Cross-complainant's operative Cross-complaint.

SPECIAL INTERROGATORY NO. 22:

IDENTIFY all **DOCUMENTS RELATING TO** all activities undertaken by **YOU** and **YOUR AGENTS** related to the **CUP APPROVAL PROCESS** for the period January 1, 2018 to the April 30, 2018.

RESPONSE TO SPECIAL INTERROGATORY NO. 22:

Objection: The interrogatory is over-broad and unduly burdensome given the definition of AGENTS in the Interrogatories as "The term "**AGENTS**" shall mean and refer to all **PERSONS** with whom **YOU** have any type of relationship – personal, professional, contractual or otherwise – including but not limited to friends, acquaintances, associates, affiliates, consultants, contractors or employees, attorneys, accountants, investigators, experts, insurance companies and their agents and employees, and anyone else acting on **YOUR** behalf or at you instruction in any capacity whatsoever, regardless of whether or not any such **AGENTS** received compensation for their services from **YOU** or any other **PERSON**."

Objection: The interrogatory is over-broad and unduly burdensome given the definition of IDENTIFY in the Interrogatories as: "The term "**IDENTIFY**" as used herein in any Special Interrogatory seeking information concerning any action **YOU** took and/or any activity in which **YOU** engaged is a request that **YOU** provide:

a. The date(s) on which **YOU** took or engaged in each such action and/or in activity;
b. A description of each such action and/or activity;
c. The identity of each **PERSON** who participated in, witnessed and/or has knowledge of each such action and/or activity; and
d. The identity of any and all notes, memoranda or any other **DOCUMENT**(S) memorializing, referring or **RELATING TO** the subject matter of each such action and/or activity.

To the extent this interrogatory seeks information regarding the activities undertaken by Gina Austin, or Ferris & Britton or its attorneys, it invade the attorney-client privilege [Cal.Evid.Code section 954] and attorney work product doctrine. [ ] [SIC] To the extent the Interrogatory seeks information from Plaintiff's accountants it violates Plaintiff's right to privacy under Article 1, Section 1, of the California Constitution. To the extent it calls for opinions and descriptions of the activities of plaintiff's expert witnesses in this case, this is an improper discovery procedure for obtaining the opinions of experts. [CCP section 2034.010et seq.; see Kabala v Gray (2002) 95 Cal.App. 4th 1416, 1419.]

Additionally, the interrogatory is hopelessly compound given the definition of "Agents" as defined by Mr. Cotton herein. Each interrogatory must be "separately set forth" and "full and complete in and of itself." [CCP section 2030.060 (c)-(d).]

Subject to and without waiving this objection, Responding Party responds as follows:

During the specified period, TECHNE worked on the following drawings relating to activities undertaken related to the CUP approval process:

GOOl
0002
TOPOGRAPHIC SURVEY
AIOI
A102a
A102b
A103
A104
A105
A106
A107
A108
A109
A201
A202
A203
A301
A302

Each of these particular drawings are a combination of various files referenced into one final document or drawing. The references above are only to the final product by indicating the numbering of each drawing sheet only.

In addition, TECHNE is in possession of numerous emails and digital chats both internal and external to its organization that relate to its working on this CUP approval process. TECHNE is also in possession of Response letters to each reviewing discipline received from the Development Services Department.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 22:

The response is evasive and incomplete. Defendant/Cross-complainant has asked for all activities for all AGENTS of Plaintiff,/Cross-defendant, not just Techne. The term AGENTS is clearly and specifically defined. The interrogatory does not call for attorney work product, and does not invade the attorney work product rule. However, if there are privileged documents, the proper course is to prepare a privilege log. Defendant/Cross-complainant is entitled to the information as a response will support Defendant/Cross-complainant's operative Cross-complaint. Expert opinion has not been called for at this time, therefore that objection has no merit.

SPECIAL INTERROGATORY NO. 26:

Please describe with specificity all reasons **YOU** ceased to have a valid real estate salesperson license issued by the California Bureau of Real Estate.

RESPONSE TO SPECIAL INTERROGATORY NO. 26:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection, Responding party responds as follows: I let my license expire.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 26:

The response does not answer the question and is thus evasive. A response is relevant to show that Plaintiff is a seasoned real estate professional and is aware of his fiduciary duties in a real estate transaction, which goes to the allegations of Defendant/Cross-complainant's operative Cross-Complaint, and is therefore relevant and admissible.

SPECIAL INTERROGATORY NO. 27:

Please **IDENTIFY** all transactions for the purchase and sale of real property in which **YOU** have an interest (whether or not your interest is evidenced by a **DOCUMENT** filed or recorded by/with any governmental entity) for which **BERRY** acted as **YOUR** broker during **YOUR** licensure as a California real estate salesperson.

RESPONSE TO SPECIAL INTERROGATORY NO. 27:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. Based on the foregoing objection, Responding Party will not respond to this interrogatory.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 27:

The objections are without merit. The response is evasive. A response will tend to prove or disprove the allegations of Defendant/Cross-complainant's operative Cross-Complaint, and is therefore relevant and admissible.

SPECIAL INTERROGATORY NO. 28:

Please **IDENTIFY** all real properties in which **YOU** have an interest for which you have received notice from law enforcement agencies and/or governmental entities that those properties are potentially associated with unlicensed marijuana sales.

RESPONSE TO SPECIAL INTERROGATORY NO. 28:

Objection: The interrogatory calls for information which is neither relevant, nor calculated to lead to the discovery of admissible evidence. The interrogatory is also unlimited as to time. Subject to and without waiving this objection, Responding Party responds as follows: None currently.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 28:

The response is evasive. Defendant/Cross-complainant did not ask for identification of just current interests. The objections are without merit. A response will tend to prove or disprove the allegations of Defendant/Cross-complainant's operative Cross-Complaint, and it is therefore relevant and admissible.

SPECIAL INTERROGATORY NO. 30:

Please state the approximate number of transactions for the purchase and sale of commercial real **PROPERTY** in which **YOU** represented buyers and/or sellers during **YOUR** career as a licensed California real estate salesperson.

RESPONSE TO SPECIAL INTERROGATORY NO. 30:

Objection. The interrogatory calls for information which is neither relevant, nor likely to lead to the discovery of admissible evidence. Based on the foregoing objections, Responding Party will not respond to this interrogatory.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 30:

The response is evasive. The objections are without merit. A response will tend to prove or disprove the allegations of Defendant/Cross-complainant's operative Cross-Complaint, and it is therefore relevant and admissible.

SPECIAL INTERROGATORY NO. 31:

IDENTIFY all transactions for the purchase and sale of real property to which **YOU** were a party as a buyer, seller or agent that closed using a maximum of a one-page document containing a non-standard real estate condition precedent (*e.g.*, a condition precedent to obtain a Conditional Use Permit for the subject property to allow the operation of a business) as the complete, final integrated agreement for the sale of the subject real property in an arms-length transaction.

RESPONSE TO SPECIAL INTERROGATORY NO. 31:

Objection. The interrogatory calls for information which is neither relevant, nor likely to lead to the discovery of admissible evidence. Based on the foregoing objections, Responding Party will not respond to this interrogatory.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 31:

The response is evasive. The objections are without merit. A response will tend to prove or disprove the allegations of Defendant/Cross-complainant's operative Cross-Complaint, and it is therefore relevant and admissible.

SPECIAL INTERROGATORY NO. 36:

Please explain with specificity all reasons why **BERRY**, as **YOUR AGENT**, executed Form DS-190 of the **6176 CUP APPLICATION** as the "Owner" of the **PROPERTY**.

RESPONSE TO SPECIAL INTERROGATORY NO. 36:

This answer assumes the interrogatory is referring to Form DS-290 signed by Rebecca Berry on October 31. 2016. On that form Rebecca Berry was identified as a business owner, not the property owner. On that same date Rebecca Berry also signed form DS-3032 submitted to the City as part of the 6176 CUP APPLICATION, and in box 8 Rebecca Berry was identified as the Applicant who was an "Other person per M.C. Section 112.0102."

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 36:

The response is evasive. The interrogatory is not asking about DS-290, but rather DS-190. A response to the question as posed is required.

SPECIAL INTERROGATORY NO. 39:

IDENTIFY each written communication between YOU and COTTON – including but not limited to emails, text messages or other DOCUMENTS – and the specific language therein that YOU allege are an attempt to renegotiate the terms of the NOVEMBER DOCUMENT.

RESPONSE TO SPECIAL INTERROGATORY NO. 39:

Responding Party has previously produced all documents evidencing an attempt to negotiate the NOVEMBER DOCUMENT, all of which were created during the time period of approximately November 3, 2016, through the filing of the complaint on or about March 21, 2017.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 36:

Plaintiff was asked to IDENTIFY documents. It is an improper response to refer Propounding Party to documents from which an answer may or may not be found.

SPECIAL INTERROGATORY NO. 41:

Please describe with specificity the "alternative consideration in lieu of Deposit" **YOU** allege **YOU** provided to **COTTON** as set forth in Paragraph 3a of the draft Purchase Agreement (First Draft) **YOU** emailed to **COTTON** on February 27, 2017 at 8:49 a.m.

RESPONSE TO SPECIAL INTERROGATORY NO. 41:

Objection: Call for a legal opinion of conclusion. Subject to and without waiving this objection. Responding Party responds as follows: The First Draft was prepared by counsel and Responding Party does not know what counsel intended.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 41:

The response is evasive. The objections are without merit. A response will tend to prove or disprove Defendant/Cross-complainant's allegations of the operative Cross-Complaint, and it is therefore relevant and admissible. Further, a legal conclusion is not required to respond; Propounding Party is asking about Plaintiff's own allegations.

SPECIAL INTERROGATORY NO. 42:

Please describe with specificity the date(s), time(s) and circumstance(s) under which **COTTON** agreed to accept the "alternative consideration in lieu of Deposit" set forth in Paragraph 3a of the Purchase Agreement (First Draft) **YOU** emailed to **COTTON** on February 27, 2017 at 8:49 a.m.

RESPONSE TO SPECIAL INTERROGATORY NO. 42:

Objection: Call for a legal opinion of conclusion. Subject to and without waiving this objection. Responding Party responds as follows: The First Draft was prepared by counsel and Responding Party does not know what counsel intended.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 42:

The response is evasive. The objections are without merit. A response will tend to prove or disprove the allegations of Defendant/Cross-complainant's operative Cross-Complaint, and it is therefore relevant and admissible. Further, a legal conclusion is not required to respond; Propounding party is asking Plaintiff a question about a document that he himself emailed to Defendant/Cross-complainant. It is unreasonable to believe that Plaintiff had no idea what the document contained.

SPECIAL INTERROGATORY NO. 43:

IDENTIFY all **PERSONS** who witnessed **YOU** provide **COTTON** the "alternative consideration in lieu of Deposit" as set forth in Paragraph 3a of the Purchase Agreement (First Draft) **YOU** emailed to **COTTON** on February 27, 2017 at 8:49 a.m.

RESPONSE TO SPECIAL INTERROGATORY NO. 43:

Objection: Call for a legal opinion of conclusion. Subject to and without waiving this objection. Responding Party responds as follows: The First Draft was prepared by counsel and Responding Party does not know what counsel intended.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 43:

The response is evasive. The objections are without merit. A response will tend to prove or disprove the allegations of Defendant/Cross-complainant's operative Cross-Complaint, and it is therefore relevant and admissible. Further, a legal conclusion is not required to respond; Propounding party is asking Plaintiff a question about a document that he himself emailed to Defendant/Cross-complainant. It is unreasonable to believe that Plaintiff had no idea what the document contained.

SPECIAL INTERROGATORY NO. 44:

IDENTIFY all **DOCUMENTS** evidencing that **YOU** provided **COTTON** the "alternative consideration in lieu of Deposit" as set forth in Paragraph 3a of the Purchase Agreement (First Draft) **YOU** emailed to **COTTON** on February 27, 2017 at 8:49 a.m.

RESPONSE TO SPECIAL INTERROGATORY NO. 44:

Objection: Call for a legal opinion of conclusion. Subject to and without waiving this objection. Responding Party responds as follows: The First Draft was prepared by counsel and Responding Party does not know what counsel intended.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 44:

The response is evasive. The objections are without merit. A response will tend to prove or disprove the allegations of Defendant/Cross-complainant's operative Cross-Complaint, and it is therefore relevant and admissible. Further, a legal conclusion is not required to respond; Propounding party is asking Plaintiff a question about a document that he himself emailed to Defendant/Cross-complainant. It is unreasonable to believe that Plaintiff had no idea what the document contained.

Please supplement your responses by December 25, 2018.

Sincerely,

THE LAW OFFICE OF JACOB AUSTIN

Jacob P. Austin

EXHIBIT 4

Jacob P. Austin
Attorney at Law
1455 Frazee Rd. #500
San Diego, California 92108
jpa@JacobAustinEsq.com
P: 619.357.6850 **F:** 888.357.8501

January 3, 2019

Via Electronic Mail
MWeinstein@ferrisbritton.com
SToothacre@ferrisbritton.com

Michael R. Weinstein
Scott Toothacre
Ferris & Britton APC
501 West Broadway, Suite 1450
San Diego, CA 92101

Re: *Larry Geraci v. Darryl Cotton, et al.*
San Diego Superior Court Case No. 37-2017-00010073-CU-BU-CTL
BERRY, RFA SET ONE, SPROGS SET TWO, RFP SET TWO

Dear Mr. Weinstein:

I am in receipt of and have reviewed the discovery responses served by you on November 8, 2018 and November 21, 2018 on behalf of your clients Larry Geraci and Rebecca Berry.

After a careful review of the responses I have found certain deficiencies which I hope this letter can help facilitate the resolution of. As such, pursuant to California Code of Civil Procedure (CCP) § 2016.040 may this letter serve a "reasonable and good faith attempt at informal resolution." This letter shall address the responses of Rebecca Berry with regards to Request for Admissions (Set One), Special Interrogatories (Set Two), and Request for Production (Set Two). Please provide further responses by close of business day on January 7, 2019 to avoid a Motion to Compel being filed.

CROSS-DEFENDANT REBECCA BERRY'S RESPONSES TO REQUESTS FOR ADMISSION (SET ONE)

REQUEST FOR ADMISSION NO. 12:

Admit that YOU identified yourself as the "Owner" of the PROPERTY on Form DS-190 submitted to the CITY as part of the 6176 CUP APPLICATION.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Denied as to the Form DS-290 signed by me on October 31, 2016. On that form I was identified as a business owner. On that same date I also signed Form DS-3032 submitted to the CITY as part of the 6176 CUP APPLICATION, in box 8, I was identified as the Applicant who was an "Other Person per M. C. Section 112. 0102."

OBJECTION TO RESPONSE TO REQUEST FOR ADMISSION NO. 12:

The response is evasive. "[A] party may not deliberately misconstrue a question for the purpose of supplying an evasive answer." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783. The request is as to Form DS-190, which she executed as the Owner and which she admits is a false representation. The request does not ask about or refer to Forms DS-290 or DS-3032.

Furthermore, upon review of the City of San Diego Development Services website, which lists its forms there is no Form DS-290. A search of previously provided documents during discovery did not reveal that a Form DS-290 was ever used or referenced in the CUP application with the City. It appears that you have purposefully manufactured this form in order to evade answering the request which reflects that Berry made a knowing and willful false representation in the CUP application with the City. If counsel is mistaken, I ask that you provide the bates number of the previously produced Form DS-290.

REQUEST FOR ADMISSION NO. 14:

Admit that at the time YOU signed the DS-190 form YOU knew YOUR assertion that YOU were owner of the PROPERTY was false.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Not applicable. See Response to Request for Admission No. 12, in which I respond: Denied as to the Form DS-290 signed by me on October 31, 2016. On that form I was identified as a business owner. On that same date I also signed Form DS-3032 submitted to the CITY as part of the 6176

CUP APPLICATION, in box 8, I was identified as the Applicant who was an "Other Person per M.C. Section 112.0102."

OBJECTION TO RESPONSE TO REQUEST FOR ADMISSION NO. 14:

The response is evasive. "Parties must state the truth, the whole truth, and nothing but the truth in answering written interrogatories." Scheiding v. Dinwiddie Const. Co. (1999) 69 Cal.App.4th 64, 76.

Additionally, "a party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783 (citations omitted). It is clear from the request that the form DS-190 is referenced.

Upon review of the City of San Diego Development Services website, which lists forms in numerical order there is no DS-290, and review of all the discovery that has been provided in this case, there has never been a Form DS-290 produced or even referenced. It appears that you have purposefully manufactured this form in order to evade answering the request as posed. If counsel is mistaken, I ask that you provide the bates number of the previously produced DS-290.

REQUEST FOR ADMISSION NO. 17:

Admit that, at the time YOU signed Form DS-318, YOU knew YOUR assertion that YOU were "Tenant/Lessee" of the PROPERTY was false.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Denied, subject to the following: I understood at the time I signed this form that I was the agent of Mr. Geraci who had an interest in the property and that it was proper for me to sign the form as it had been drafted for me to sign.

OBJECTION TO RESPONSE TO REQUEST FOR ADMISSION NO. 17:

The response is evasive and non-responsive. "Parties must state the truth, the whole truth, and nothing but the truth in answering written interrogatories." Scheiding v. Dinwiddie Const. Co. (1999) 69 Cal.App.4th 64, 76.

The request asks whether Ms. Berry knew she was not a "Tenant/Lessee" at the time she executed the DS-318 form, not whether she had a justification for doing so. Please instruct your client to respond by admitting or denying with no qualification as the simple request calls for.

CROSS-DEFENDANT REBECCA BERRY'S ANSWERS TO SPECIAL INTERROGATORIES, SET TWO

SPECIAL INTERROGATORY NO. 12:

Please explain all reasons why YOU completed Form DS-190 stating that YOU were the "Owner" of the PROPERTY.

RESPONSE TO SPECIAL INTERROGATORY NO. 12:

This answer assumes the interrogatory is referring to Form DS-290 signed by Rebecca Berry on October 31, 2016. On that form Rebecca Berry was identified as a business owner, not the property owner. On that same date Rebecca Berry also signed Form DS-3032 submitted to the CITY as part of the 6176 CUP APPLICATION, and in box 8 Rebecca Berry was identified as the Applicant who was an "Other Person per M.C. Section 112.0102."

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 12:

The response is evasive.

"[A] party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783 (citations omitted). It is clear from the request that the form DS-190 is referenced.

Upon review of the City of San Diego Development Services website, which lists forms in numerical order there is no DS-290, and review of all the discovery that has been provided in this case, there has never been a Form DS-290 produced or even referenced. It appears that you have purposefully manufactured this form in order to evade answering the request as posed.

SPECIAL INTERROGATORY NO. 15:

Please IDENTIFY all PERSONS who instructed YOU to state that YOU were the "Tenant/Lessee" of the PROPERTY on Form DS-318.

RESPONSE TO SPECIAL INTERROGATORY NO. 15: No person "instructed" Rebecca Berry to fill out the form to so state. Rebecca Berry understood at the time she signed this form that she was the agent of Mr. Geraci who had an interest in the property and that it was proper for her to sign the form as it had been drafted for her to sign.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 15:

This response seeks to avoid ascribing culpability to anyone with regards to who asked her to execute the forms. She has already admitted in Response to Special Interrogatory no. 14 that the documents were drafted for her. This is clearly evasive and misconstrues the question.

"[A] party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783 (citations omitted). It is clear from the request that the form DS-190 is referenced. The request, regardless of the use of the term instructed or any other synonym, is clear in asking for the individual who directed her to execute the form. Ms. Berry has always been described as an agent and would not act on her own accord. Therefore, she must respond without qualification.

SPECIAL INTERROGATORY NO. 18:

IDENTIFY any arms-length real estate transactions to which YOU were a party, either as a buyer, seller, real estate agent or broker, in which a maximum of a one-page agreement was used as a complete and integrated agreement for the purchase and sale of real property.

RESPONSE TO SPECIAL INTERROGATORY NO. 18:

Objection: The request is neither relevant to the subject matter of the action nor reasonably calculated to lead to the discovery of admissible evidence. (CCP § 2017.010.) Based on the foregoing objection, Responding Party will not respond to this interrogatory.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 18:

This response is non-responsive and the objections lack merit. A response will tend to prove or disprove the allegations of the operative Cross-Complaint, and it is therefore relevant and admissible. Further, Mr. Geraci's real estate experience and Ms. Berry's admitted role as an agent for Mr. Geraci would inform Ms. Berry as to knowledge of the Statute of Frauds.

"[A] party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783 (citations omitted).

Additionally, "Objection as to irrelevancy or immateriality to issues cannot be used to deny discovery, and an order denying a motion for further answers to interrogatories, if predicated solely on an invalid objection, must be deemed an abuse of discretion." Coy v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210.

SPECIAL INTERROGATORY NO. 19:

Of those real estate transactions IDENTIFIED in YOUR response to Special Interrogatory No. 18, IDENTIFY the transactions in which the agreement contained a non-standard real estate condition precedent (e.g., the approval for a Conditional Use Permit to allow the operation of a contemplated business).

RESPONSE TO SPECIAL INTERROGATORY NO. 19:

Objection: The request is neither relevant to the subject matter of the action nor reasonably calculated to lead to the discovery of admissible evidence. (CCP § 2017.010.) Based on the foregoing objection. Responding Party will not respond to this interrogatory.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 19:

This response is non-responsive and the objections lack merit. A response will tend to prove or disprove the allegations of the operative Cross-Complaint, and it is therefore relevant and admissible.

Additionally, "Objection as to irrelevancy or immateriality to issues cannot be used to deny discovery, and an order denying a motion for further answers to interrogatories, if predicated solely on an invalid objection, must be deemed an abuse of discretion." Coy v. Superior Court of Contra Costa County, (1962) 58 Cal.2d 210.

SPECIAL INTERROGATORY NO. 21:

Please reconcile YOUR conflicting responses in Forms DS-190, DS-318 and Form DS 3032 as to the nature of your relationship to the PROPERTY in the 6176 CUP APPLICATION.

RESPONSE TO SPECIAL INTERROGATORY NO. 21:

Objection: Vague, ambiguous, and argumentative as phrased. Notwithstanding and without waiving these objections. Responding Party responds as follows: Rebecca Berry agreed to act as Larry Geraci's authorized agent to apply for the CUP on his behalf.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 21:

The response is evasive. "Parties must state the truth, the whole truth, and nothing but the truth in answering written interrogatories." Scheiding v. Dinwiddie Const. Co. (1999) 69 Cal.App.4th 64, 76.

Additionally, "a party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783 (citations omitted). "Objection as to irrelevancy or immateriality to issues cannot be used to deny discovery, and an order denying a motion for further answers to interrogatories, if predicated solely on an invalid objection, must be deemed an abuse of discretion." Coy v. Superior Court of Contra Costa County, (1962) 58 Cal.2d 210. This request asks to reconcile the conflict on the relevant application forms, the response as given is non-responsive.

SPECIAL INTERROGATORY NO. 22:

Please state with specificity when YOU first became aware of the DISAVOWMENT ALLEGATION.

RESPONSE TO SPECIAL INTERROGATORY NO. 22:

Objection: The interrogatory calls for information protected from disclosure by the attorney client privilege and/or the attorney work-product doctrine. Rebecca Berry has not become aware of the DISAVOWMENT ALLEGATION through non-privileged sources.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 22:

The request does not call for attorney work product and does not invade the work product rule. However, if there are privileged documents, the proper course is to prepare a privilege log. Defendant/Cross-complainant is entitled to the information as a response will support the operative Cross-complaint. "[A] party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783 (citations omitted).

SPECIAL INTERROGATORY NO. 23:

IDENTIFY the PERSON(S) who first informed YOU of the DISAVOWMENT ALLEGATION.

RESPONSE TO SPECIAL INTERROGATORY NO. 23:

Objection: The interrogatory calls for information protected from disclosure by the attorney client privilege and/or the attorney work-product doctrine. Rebecca Berry has not become aware of the DISAVOWMENT ALLEGATION through non-privileged sources.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 22:

Again, this response misconstrues the question. "[A] party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cai.App.3d 771, 783 (citations omitted). The interrogatory asks Ms. Berry to IDENTIFY the PERSON. If that was an attorney, the disclosure of the attorney's identity is not privileged. If it were privileged, then a privilege log is the appropriate response.

SPECIAL INTERROGATORY NO. 24:

Please state with specificity all information regarding the DISAVOWMENT ALLEGATION relayed by each PERSON IDENTIFIED in YOUR response to Special Interrogatory No. 23.

RESPONSE TO SPECIAL INTERROGATORY NO. 24:

Objection: The interrogatory calls for information protected from disclosure by the attorney client privilege and/or the attorney work-product doctrine. Rebecca Berry has not become aware of the DISAVOWMENT ALLEGATION through non-privileged sources.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 24:

This response is non-responsive. If the information sought is privileged please provide a privilege log.

SPECIAL INTERROGATORY NO. 25:

IDENTIFY all documents related to the DISAVOWMENT ALLEGATION.

RESPONSE TO SPECIAL INTERROGATORY NO. 25:

Objection: The request is vague and ambiguous as phrased. Subject to and without waiving this objection. Responding Party responds as follows: Responding Party is not aware of any contemporaneous writings related to the DISAVOWMENT ALLEGATION.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 25:

The response is evasive. "Parties must state the truth, the whole truth, and nothing but the truth in answering written interrogatories." Scheiding v. Dinwiddie Const. Co. (1999) 69 Cal.App.4th 64, 76. Additionally, "a party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783 (citation omitted).

SPECIAL INTERROGATORY NO. 26:

IDENTIFY each capacity for which YOU receive compensation from GERACI or his AGENTS.

RESPONSE TO SPECIAL INTERROGATORY NO. 26:

Objection: The request is vague and ambiguous as phrased. Also, the request is neither relevant to the subject matter of the action nor reasonably calculated to lead to the discovery of admissible evidence. (CCP § 2017.010.) In addition, the interrogatory invades the responding party's right to privacy. (Cal. Const. Art. 1, Sec. 1). Subject to and without waiving these objections, Responding Party responds as follows: Rebecca Berry receives wages to compensate her as administrative assistant employed by the Tax & Financial Center.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 26:

The response is evasive. "[A] party may not deliberately misconstrue a question for the purpose of supplying an evasive answer. Indeed, where the question is somewhat ambiguous, but the nature of the information sought is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783 (citations omitted).

Objection as to irrelevancy or immateriality to issues cannot be used to deny discovery, and an order denying a motion for further answers to interrogatories, if predicated solely on an invalid objection, must be deemed an abuse of discretion. Coy v. Superior Court of Contra Costa County, (1962) 58 Cal.2d 210. The information is relevant. Cotton is entitled to know the nature of the relationship between the Cross Co-Defendants. It has been conceded that Ms. Berry was an agent and therefore it is conceivable that if Ms. Berry would have been compensated in various capacities such as working as an agent, as an employee, as a partner or broker in the various dealing with Geraci. She is motivated to protect that relationship and make false statements to the court (e.g., she is not aware of the Statute of Frauds).

"The constitutional right of privacy embodied in Cal Const Art I § 1, is not absolute. Thus, in deciding whether to allow a discovery demand which impacts upon one's right to privacy, courts perform a balancing test, weighing the public need in the sense of the importance or primacy of the evidence sought against the weight of the constitutional right. If the sought-after evidence is anticipated to play a major role in a case, the right to privacy may give way." Denari v. Superior Court (Cal. App. 5th Dist. Nov. 22, 1989) 215 Cal. App. 3d 1488.

SPECIAL INTERROGATORY NO. 27:

IDENTIFY any real estate transaction in which YOU acted as a broker for GERACI.

RESPONSE TO SPECIAL INTERROGATORY NO. 27:

Objection: The request is neither relevant to the subject matter of the action nor reasonably calculated to lead to the discovery of admissible evidence. (CCP § 2017.010.) Based on the foregoing objections, the Responding Party will not respond to this interrogatory.

OBJECTION TO RESPONSE TO SPECIAL INTERROGATORY NO. 27:

Objection as to irrelevancy or immateriality to issues cannot be used to deny discovery, and an order denying a motion for further answers to interrogatories, if predicated solely on an invalid objection, must be deemed an abuse of discretion. Coy v. Superior Court of Contra Costa County, (1962) 58 Cal.2d 210.

The information is relevant. Cotton is entitled to know the nature of the relationship between the Cross Co-Defendants. It has been conceded that Ms. Berry was an agent and therefore it is conceivable that if Ms. Berry also acted as a broker for various real estate transactions she may be motivated to lie or cover up wrongdoing by Geraci.

CROSS-DEFENDANT REBECCA BERRY'S RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS, SET TWO

REQUEST FOR PRODUCTION NO. 25 (1):

Please produce all DOCUMENTS IDENTIFIED, referenced in and in any way RELATING TO your Responses to the Special Interrogatories [Set One] propounded by Defendant/Cross Complainant DARRYL COTTON to Cross-Defendant REBECCA BERRY.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25 (1):

Plaintiff will fully comply with this request by producing DOCUMENTS so identified, if any.

OBJECTION TO RESPONSE TO REQUEST FOR PRODUCTION NO. 25 (1):

This response is non-responsive to the request. It has not complied either with CCP § 2031.220, which requires a party to provide a statement that "all documents" in the party's possession or control to which objection was not made were provided, or with CCP § 2031.230, which requires that a representation of inability to comply include an affirmation that "a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." Cross-Defendant must provide all documents by party in chronological order. The production of some documents does not negate the preceding noted requirements.

REQUEST FOR PRODUCTION NO. 26 (2):

Please produce all DOCUMENTS IDENTIFIED, referenced in and in any way RELATING TO your Form Interrogatories [Set Two] propounded by Defendant/Cross- Complainant DARRYL COTTON to Cross-Defendant REBECCA BERRY.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26 (2):

Plaintiff will fully comply with this request, by producing DOCUMENTS so identified, if any.

OBJECTION TO RESPONSE TO REQUEST FOR PRODUCTION NO. 26 (2):

This response is non-responsive to the request. It has not complied either with CCP § 2031.220, which requires a party to provide a statement that "all documents" in the party's possession or control to which objection was not made were provided, or with CCP § 2031.230, which requires that a representation of inability to comply include an affirmation that "a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." Cross-Defendant must provide all documents by party in chronological order. The production of some documents does not negate the preceding noted requirements.

REQUEST FOR PRODUCTION NO. 27 (3):

Please produce all DOCUMENTS IDENTIFIED, referenced in and in any way RELATING TO your Responses to the Requests for Admissions [Set One] propounded by Defendant/Cross Complainant DARRYL COTTON to Cross-Defendant REBECCA BERRY.

RESPONSE TO REQUEST FOR PRODUCTION NO. 27 (3):

Plaintiff will fully comply with this request by producing DOCUMENTS so identified, if any.

OBJECTION TO RESPONSE TO REQUEST FOR PRODUCTION NO. 27 (3):

This response is non-responsive to the request. It does not comply either with CCP § 2031.220, which requires a party to provide a statement that "all documents" in the party's possession or control to which objection was not made were provided, or with CCP § 2031.230, which requires that a representation of inability to comply include an affirmation that "a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." Cross-Defendant must provide all documents by party in chronological order. The production of some documents does not negate the preceding noted requirements.

Sincerely,

THE LAW OFFICE OF JACOB AUSTIN

Jacob P. Austin

Jacob P. Austin [SBN 290303]
The Law Office of Jacob Austin
1455 Frazee Road, #500
San Diego, CA 92108
Telephone: (619) 357-6850
Facsimile: (888) 357-8501
E-mail: JPA@JacobAustinEsq.com
Attorney for Defendant/Cross-Complainant DARRYL COTTON

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By Jessica Pascual,Deputy Clerk

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

NOTICE OF MOTION OF DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON TO COMPEL FURTHER RESPONSES OF PLAINTIFF/CROSS-DEFENDANT LARRY GERACI TO REQUEST FOR ADMISSIONS SET ONE

Date: February 8, 2019
Time: 9:00 a.m.
Dept: C-73
Judge: The Hon. Joel R. Wohlfeil

TO EACH PARTY AND TO THE ATTORNEY OF RECORD FOR EACH PARTY IN THIS ACTION:

YOU ARE HEREBY NOTIFIED THAT at 9:00 a.m. on February 8, 2019, or as soon thereafter as the matter may be heard, in Department 73 of this Court, located at 330 West Broadway, San Diego, California, Defendant/Cross-Complainant Darryl Cotton will move this Court for an order compelling Plaintiff/Cross-Defendant Larry Geraci to furnish further responses to the Requests for Admissions (Set One) ("Motion") shown on the separate statement of questions and responses in dispute ("Separate

Statement"), filed herewith. This Motion will be made on the ground that these requests are relevant to the subject matter of this action and do not relate to privileged matters. Plaintiff/Cross-Defendant's refusal to answer properly to same is without substantial justification and constitutes misuse of the discovery process.

Defendant/Cross-Complainant has made reasonable and good faith efforts to resolve this matter in writing.

NOTICE IS ALSO HEREBY GIVEN that Defendant/Cross-Complainant will also seek sanctions for Plaintiff/Cross-Defendant's willful refusal to provide complete and proper responses and for misuse of the discovery process, necessitating this Motion.

This Motion will be based on this Notice, the Memorandum of Points and Authorities, the Separate Statement, the Declaration of Attorney Jacob P. Austin, and the exhibits thereto as filed with the Court, the complete files and records in this action and upon such other documentary or oral evidence which may be presented at the hearing of this motion.

DATED: January 15, 2019

THE LAW OFFICE OF JACOB AUSTIN

By _____

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

Jacob P. Austin [SBN 290303]
The Law Office of Jacob Austin
1455 Frazee Road, #500
San Diego, CA 92108
Telephone: (619) 357-6850
Facsimile: (888) 357-8501
E-mail: JPA@JacobAustinEsq.com

Attorney for Defendant/Cross-Complainant DARRYL COTTON

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COUNTY OF SAN DIEGO, HALL OF JUSTICE

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 DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON'S MOTION TO COMPEL PLAINTIFF/CROSS-DEFENDANT LARRY GERACI'S FURTHER RESPONSES TO COTTON'S REQUESTS FOR ADMISSIONS SET ONE

Accompanying Papers: Notice of Motion, Separate Statement of Disputed Discovery Responses, Declaration of Jacob P. Austin.

Date: February 8, 2019
Time: 9:00 a.m.
Dept: C-73
Judge: The Hon. Joel R. Wohlfeil

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