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SUPERIOR COURT OF THE STATE OF CALIFORNIA
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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1 Defendant Darryl Cotton ("Cotton") submits the following memorandum of points and authorities
2 in support of his motion to compel plaintiff Larry Geraci ("Geraci") to provide further responses to
3 Cotton's Request for Admissions (Set One) numbers 16, 20, 25, 26, 29, 30, and 33.

4 **1. INTRODUCTION**

5 Geraci initiated this action against Cotton on March 21, 2017 alleging Cotton breached a real
6 estate contract to sell Geraci his real property (the "Property"). Neither party disputes they met on
7 November 2, 2016 and executed a three-sentence document (the "November Document"). The parties,
8 however, dispute the nature of the November Document. As summarized by Geraci in his demurrer to
9 Cotton's Cross-complaint: "Geraci alleges in his Complaint that the written agreement signed November
10 2, 2016, contains all the material terms and conditions of the agreement for the purchase and sale of the
11 Property and is the entire agreement enforceable between the parties. Cotton contends that the November
12 Document, sets forth only some of the material terms and conditions agreed to by the parties and some
13 different and additional material terms and conditions not reflected in a signed writing were agreed to
14 by the parties."¹

15 Geraci alleges Cotton anticipatorily breached the agreement with Geraci by refusing to perform
16 in order to sell the Property to a third-party for a higher price. Cotton alleges the November Document
17 is a *receipt* intended to memorialize his acceptance of \$10,000 in cash towards an agreed-upon \$50,000
18 non-refundable deposit and that Geraci promised to have his attorney, Gina Austin, reduce their
19 agreement to writing; which would provide for, among other things, Cotton's bargained-for 10% equity
20 position in a contemplated Marijuana Outlet (a retail for-profit cannabis store) to be developed at the
21 Property (the "Business").

22 Geraci's allegation that the November Document is the final sales agreement is contradicted by
23 his own judicial and evidentiary admissions. Geraci admits that he confirmed via email, at Cotton's
24 specific request for written assurance, that the November Document is not a sales contract and that a
25 forthcoming "final agreement" would provide for Cotton's bargained-for "10% equity position" in the
26 Business (the "Confirmation Email"). Originally, Geraci argued the Confirmation Email was barred by
27

28 ¹ Demurrer of Geraci, filed 9/27/2017, ROA # 52.

1 the parol evidence rule and the statute of frauds. However, over a year into this litigation, Geraci was
2 confronted with Riverisland Cold Storage, Inc. v. Fresno-Maderao Production Credit Assn. (2013) 55
3 Cal. 4th 1169, which overturned 75 years of California case law by holding that the parol evidence rule
4 cannot be used as a shield to bar proof of fraud even if the evidence contradicts the written terms of an
5 agreement, and changed his tune. After Riversialnd, Geraci now alleges that the Confirmation Email
6 was sent by mistake AND that he spoke with Cotton on November 3, 2016. As now alleged by Geraci,
7 but not in his Complaint or in any submission to the Court prior to being confronted with Riverisland,
8 the day after the November Document was executed, Geraci called Cotton who *orally* agreed with him
9 that the November Document *is* a final sales agreement for the Property and that he is not entitled to an
10 equity position in the Business (the "Oral Disavowment"), notwithstanding Geraci's written promise to
11 the contrary in the Confirmation Email.

12 Cotton has propounded discovery asking Geraci to admit certain facts, respond to interrogatories,
13 and produce documents that establish (i) the actual agreement reached between the parties on November
14 2, 2016 was never reduced to writing, (ii) the November Document is not a completely integrated
15 agreement, and (iii) that Geraci and his agents have conspired, lied, and committed fraud, and
16 manufactured the Oral Disavowment to obtain a prohibited interest in the contemplated Business; i.e.
17 the motive for the fraudulent misrepresentation of the November Document as a final integrated
18 agreement.

19 Geraci's discovery responses have been vague, evasive, non-responsive, and are riddled with
20 meritless objections. Additionally, Geraci's responses have been incomplete, unduly complicated, and
21 made with qualifications that contradict his own previous pleadings and judicial and evidentiary
22 admissions. It is clear that Geraci is actively attempting to avoid responding appropriately.

23 **2. BACKGROUND**

24 **A. The Discovery at Issue and Geraci's Responses.**

25 On October 8, 2018, Cotton served Geraci and Rebecca Berry ("Berry") with (i) Request for
26 Admissions (Set One) pursuant to Code of Civil Procedure ("CCP") § 2033.010; (Austin Dec. Ex. 1)
27 (ii) Request for Production (Set Two) pursuant to CCP § 2031.010; (iii) Special Interrogatories (Set
28

Two), pursuant to CCP §2030.010, and (iv) Form Interrogatories (Set Two) also pursuant to CCP § 2030.010.

Prior to the deadline to respond, opposing counsel for Geraci and Berry requested an extension to serve responses to discovery requests. The parties agreed that the responses 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 receipt of the latter verified responses to avoid duplicate and/or inconsistent motion hearing dates Austin Dec Ex. 5. Those responses were initially served on or about November 21, 2018. Austin Dec. Ex. 2. However, on November 28, 2018 counsel for Cotton realized that the responses were not verified and emailed opposing counsel regarding same. On November 30, 2018 opposing counsel served verification of the discovery responses for Geraci and Rebecca Berry. Austin Dec. Ex. 6.

Geraci's Responses to the Requests for Admissions were served by mail on November 8, 2018. Austin Dec. Ex. 2. Certain of these responses were incomplete, inadequate and contained meritless objections. On December 18, 2018 Cotton provided specific objections to Geraci's responses (Austin Dec. Ex. 3), which were supplemented by follow up letter dated January 3, 2018 (Austin Dec. Ex. 4). Additionally, counsel for Cotton sent an email on January 8, 2019 regarding objections to three additional responses provided. Austin Dec. Ex. 8.

B. Cotton's Meet and Confer Efforts

On January 7, 2019 counsel for Geraci sent a response to Cotton's meet and confer letter dated January 3, 2019. In that letter counsel for Geraci replies to Cotton's objections to discovery answers previously provided by Geraci. The response makes very small and inconsequential concessions. For example, on Request for Admission No. 16 he withdraws a compound objection but still objects based on lack of sufficient information and belief, and also adding an objection for attorney work product. Summarily, Geraci generally maintains that his responses are unambiguous and legal objections sound. They are manifestly not and warrant this motion to compel and the imposition of sanctions.

3. ARGUMENT

The primary objective of any discovery request is to educate the parties in advance of trial as to

1 the real value of their claims and defenses. Lehman v. Superior Court (1986) 179 Cal. App. 3d 558, 564.
2 A “party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter
3 involved in the pending action...if the matter is itself admissible in evidence or appears reasonably
4 calculated to lead to the discovery of admissible evidence.” CCP § 2017.010; see Norton v. Superior
5 Court (1994) 24 Cal. App.4th 1750, 1760-1761 re former CCP § 2107.010. As set forth in the Separate
6 Statement in Support of Defendant/Cross-Complainant Darryl Cotton’s Motion to Compel Further
7 Responses of Plaintiff/Cross-Defendant Larry Geraci to Request for Admission Set One (“Separate
8 Statement”) filed concurrently herewith, the information sought via these discovery devices will tend to
9 prove, as previously noted, (i) the actual agreement reached between the parties on November 2, 2016
10 was never reduced to writing, (ii) the November Document is not an integrated agreement, and (iii) that
11 Geraci and his agents have conspired, lied, and committed fraud, to obtain a prohibited interest in a
12 highly lucrative Marijuana Outlet that he is prohibited from having, by law, because of his previous
13 involvement in illegal marijuana dispensaries.

14 Geraci’s responses, by way of the disputed discovery requests, are not entitled to privileged, are
15 relevant to the subject matter of the action, and are either admissible or reasonably calculated to lead to
16 the discovery of admissible evidence. Accordingly, Geraci must provide full and complete verified
17 further responses to the requests.

18 CCP § 2033.220(a) states “each answer in a response to requests for admission shall be as
19 complete and straightforward as the information reasonably available to the responding party permits.”
20 Further, while the requests are straightforward, the responses are evasive and misconstrue the request.
21 “[A] party may not deliberately misconstrue a question for the purpose of supplying an evasive answer.”
22 Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783.

23 An answer in response to a request for admission must “[s]pecify so much of the matter involved
24 in the request as to the truth of which the responding party lacks sufficient information or knowledge.”
25 CCP § 2033.220(b)(3). “If a responding party gives lack of information or knowledge as a reason for a
26 failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable
27 inquiry concerning the matter in the particular request has been made, and that the information known
28 or readily obtainable is insufficient to enable that party to admit the matter.” CCP § 2033.220(c);

1 Bloxham v. Saldinger (2014) 228 Cal.App.4th 729, 751.

2 Geraci admits in his discovery responses that (i) Cross-Defendant Berry is an employee and agent
3 of Geraci; (ii) Jim Bartell is a lobbyist hired by Geraci to help get the CUP Application approved on the
4 Property; (iii) Gina Austin is Geraci's marijuana land use entitlement attorney hired to help get the CUP
5 Application approved on the Property. All information requested and objected to on the bases of lack
6 of information or belief has not stated that a reasonable inquiry has been conducted. A simple inquiry
7 by Geraci to his employee/agent, lobbyist, or attorney would have provided him with the information
8 he allegedly lacks. Therefore, these responses are not code compliant and necessitate this motion to
9 compel.

10 **A. Geraci's Objections To Request for Admission are Meritless, his Substantive**
11 **Response are Deficient and Evasive.**

12 **i. Responses with No Objections that are Evasive or Non-Responsive to the**
13 **Request.**

14 In responses to Request for Admissions (Set One), Geraci qualifies his response in such a way
15 as to make the admission given non-responsive and unduly confusing. An example of this can be seen
16 in Request for Admission No. 20. The information sought by this request for admission is simple and
17 important. It is simple in that it asks Geraci to admit that the cash provided on November 2, 2016 was
18 a non-refundable deposit per the agreement of the parties. It is important because if this was an agreed-
19 to term, then it should be in the November Document as Geraci alleges the November Document is a
20 final and completely integrated agreement. However, if Geraci admits that the cash is non-refundable,
21 he is contradicting his own allegation that the November Document is a final integrated agreement
22 because the November Document states the \$10,000 is a "good faith earnest money deposit." The Terms
23 "non-refundable" and "good faith earnest money deposit" are mutually exclusive. Any doubt on this
24 point is quelled by Geraci's incomprehensible response attempting to state that he \$10,000 is both a
25 "good faith earnest money deposit" and non-refundable RFA No. 20 is set forth below:

26 **REQUEST FOR ADMISSION NO. 20:**

27 Admit that the \$10,000 YOU paid to Cotton on November 2, 2016 is a non-refundable deposit.

28 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

1 Admitted, subject to the following: The \$10,000 paid to Cotton on November 2, 2016, was a
2 non-refundable deposit to be applied to the sales price of \$800,000 if and when the CUP was approved
3 by the CITY.

4 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

5 The response is clear and straight forward. It is “admitted” subject to the explanation that
6 follows. To the extent the response is answered without the subsection explanation the request is denied.

7 **REASON FURTHER RESPONSE SHOULD BE COMPELLED:**

8 The response is unduly confusing and therefore non-responsive because the request is admitted
9 subject to “if and when the CUP was approved.” The terms “non-refundable” and “if and when” are
10 mutually exclusive. Geraci is alleging that the deposit is both non-refundable and simultaneously
11 refundable, which is manifestly unreasonable.

12 CCP § 2033.220(a) states “each answer in a response to requests for admission shall be as
13 complete and straightforward as the information reasonably available to the responding party permits.”
14 Either the \$10,000 was or was not refundable when provided on November 2, 2016.

15 This request for admission is very important because as previously noted Geraci has maintained
16 that all the terms of the agreement can be found in the November Document. Therefore, if Geraci were
17 to admit without qualification, it would then be clear evidence that the November Document is not fully
18 integrated since this term “non-refundable” is material and not found in the document. Further, if he
19 were to deny the request, he would be contradicting his own statement previously made under oath that
20 the \$10,000 is non-refundable.²

21 Furthermore, a deposit, if non-refundable, would be so if the transaction does not move forward.
22 This determination must be made at the time the deposit is tendered. A condition on refundability as
23 the response suggest is ridiculous. It suggests that the only way it would be refundable is *if* the CUP
24 was approved, however at that point Geraci would be obligated to pay the full purchase price and the
25 refundability of such deposit would be operatively moot. Alternatively, if the CUP was not approved
26

27 ² “Declaration of Larry Gearci in Opposition to Defendant Darryl Cotton’s Motion to Expunge List Pendens”, p. 4 ln.11-
28 16, filed 4/10/2018, ROA # 180, “Mr. Cotton then asked for a \$10,000 non-refundable deposit and I said “ok” and that
amount was put into the written agreement.”

Geraci could request a refund and Cotton would be left with absolutely no consideration for allowing Geraci to apply for a CUP on the Property. This scenario suggested by the response is clearly illogical.

ii. Meritless Objection with No Substantive Response.

Another major point of contention in this case has been the fact that throughout the course of several months, between the period of July 21, 2016 (when the parties first began their discussions with regard to the purchase and sale of the Property) to the filing of this matter, Cotton repeatedly requested reassurances from Geraci with regard to essential terms of the contract which were not included in the November Document. These requests were made via text message, email, and over telephone. Not a single time, in response to any of these assertions did Geraci in any way refute, dispute or otherwise challenge Cotton's assertions with regards to his expectation and belief. When asked to admit facts that support Cotton's assertions, Geraci makes meritless objections and refuses to answer. Request for Admission No. 29 is a perfect example of this tactic.

REQUEST FOR ADMISSION NO. 29:

Admit that you never refuted, disputed or challenged by email or text any of the statements Cotton emailed or texted to YOU during the period July 21, 2016 through May 18, 2017 (copies of which are attached as Exhibit 2 and Exhibit 5, respectively, to the Declaration of Darryl Cotton in Support of Ex Parte Application for Appointment of Receiver and Other Relief filed June 14, 2018) in which Cotton states that he has an equity position in the CUP.

RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Objection: Each Request for Admission shall be "separately set forth" and shall be "full and complete in and of itself." [CCP § 2033.060(c)-(d)] This request is impermissibly compound, conjunctive and disjunctive. The request impermissibly requires that reference must be made to other documents in order to respond. [CCP § 2033.060(d), (f)] As a result, the request is not full and complete, in and of itself. Based on these objections, Responding Party will not respond to this request.

SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Plaintiff stands on the objection. To "refute" is one question, to "dispute" is a second question, or "challenge" is a third questions, [sic] by "email" is a forth [sic] question, or "text" message is a fifth question. Plaintiff is not required under the discovery statutes to educate opposing counsel on why the

1 request is compound, conjunctive or disjunctive.

2 **REASON FURTHER RESPONSE SHOULD BE COMPELLED:**

3 The objections are without merit. This type of boilerplate objection is not code compliant. Any
4 reference to emails sent to Geraci are there strictly for his convenience and the request does not *require*
5 review of any document to be responsive. The reference to copies of those emails are in parentheses
6 which means the request can be read without that information if necessary. Either he did object to those
7 assertions in writing or he did not.

8 This fact is important because Geraci has always maintained that the November Document is the
9 fully integrated agreement. If this was the case, any reasonable person when faced with a party asserting
10 that additional terms be memorialized into an anticipated contract, would naturally object to such
11 requests. Geraci has not responded to this request because the evidence in this cases shows,
12 unequivocally, that at no time prior to the litigation (a period of more than six months) did Geraci
13 respond to the numerous requests for assurance made by Cotton via email and text message in a way
14 that would contradict Cotton's expectation that the agreement they had reached had yet to be reduced to
15 writing.

16 Also, aside from being factually unsupported, any response would expose Geraci's fraud. If he
17 admits the request as posed, then it provides strong evidence that he knew his claim was fraudulently
18 filed in order to stop the sale of the Property to a third party as has been consistently asserted by Cotton.
19 Alternatively, if he denies, then he would be obligated to provide evidence that doesn't exist. In addition
20 to contradicting his own complaint, the fact that Geraci never responded to refute, dispute, or challenge
21 any of the emails or text messages shows that Cotton gave him a fair opportunity to provide such
22 assurances which Geraci never did thereby justifying Cotton's termination of the contract prior to a
23 third-party sale.

24 Furthermore, "a party may not deliberately misconstrue a question for the purpose of supplying
25 an evasive answer. Where the question is somewhat ambiguous, but the nature of the information sought
26 is apparent, the proper solution is to provide an appropriate response." Deyo v. Kilbourne (1978) 84
27 Cal.App.3d 771, 783 (citations omitted). CCP § 2033.220(a) states "each answer in a response to
28 requests for admission shall be as complete and straightforward as the information reasonably available

1 to the responding party permits.” Here Geraci deliberately misconstrues the question as one that is
2 compound in order to avoid providing an answer that would be detrimental to his case. Despite the use
3 of the terms “refuted, disputed, or challenged” the request is not compound because such an objection
4 should only apply where there is more than a single subject covered by the question. Clement V. Alegre
5 (2009) 177 Cal.App.4th 1277, 1291. Even if it were compound, *arguendo*, the nature of the admission
6 requested is clear and would be tantamount to a partially objectionable request subject to CCP § 2033.230
7 (a) which states “if only a part of a request for admission is objectionable, the remainder of the request
8 shall be answered.”

9 **iii. Responses that Contained Meritless Objection and Incomplete Evasive or**
10 **Non-Responsive Responses.**

11 In response to Cotton’s Request for Admissions (Set One) propounded on Geraci, one of the
12 tactics used was to respond with a clearly meritless objections and provide a response that was evasive
13 or non-responsive to the request asked. Geraci’s response to Request for Admission No. 16. is
14 illustrative of this tactic in general:

15 **REQUEST FOR ADMISSION NO. 16:**

16 Admit that Gina Austin reviewed the final version of the 6176 CUP APPLICATION prior to
17 its submission to the CITY.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

19 Objection: The request is impermissibly compound in that it refers to several agreements.
20 [CCP § 2033.060(f)].

21 Notwithstanding and without waiving this objection, Responding Party responds as follows:
22 Responding Party lacks sufficient information and belief to admit or deny whether or not Gina Austin
23 reviewed the final version of the 6176 CUP APPLICATION prior to its submission to the CITY.

24 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

25 After consideration of defendant's objections responding party responds that the previously stated
26 ground for objection that the request was compound was erroneously asserted as to this request and is
27 hereby withdrawn.

1 Nevertheless, the request violates the attorney work product doctrine to the extent that Gina Austin was
2 acting as Geraci's attorney. Specifically the request states: "This request asks Geraci admit or deny *that*
3 *his attorney Gina Austin* reviewed the final version of the 6176 CUP APPLICATION." (Italics and
4 bold added.) Additionally, should Geraci be required to respond to this request, it would violate the
5 attorney-client privilege to the extent that Austin may have told Geraci that she reviewed the final
6 version of the 6176 CUP APPLICATION prior to its submission to the CITY. Plaintiff will defend a
7 motion to compel further responses on these grounds.

8 **REASON FURTHER RESPONSE SHOULD BE COMPELLED:**

9 The objection is without merit. This request asks Geraci admit or deny that his attorney Gina
10 Austin reviewed the final version of the 6176 CUP APPLICATION. The original objection was that the
11 question is compound in that it refers to several *agreements*. This objection was subsequently withdrawn
12 because of it's obvious groundlessness; only one document was referenced.

13 Despite this withdrawal the response is also evasive. An answer in response to a request for
14 admission must "[s]pecify so much of the matter involved in the request as to the truth of which the
15 responding party lacks sufficient information or knowledge." CCP§ 2033.220, subd. (b)(3). "If a
16 responding party gives lack of information or knowledge as a reason for a failure to admit all or part of
17 a request for admission, that party shall state in the answer that a reasonable inquiry concerning the
18 matter in the particular request has been made, and that the information known or readily obtainable is
19 insufficient to enable that party to admit the matter." CCP§ 2033.220(c). This includes agents: "A party
20 cannot plead ignorance to information which can be obtained from sources under his
21 control." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771,782. This includes a party's agents or
22 employees. Gordon v. Sup. Ct. (U.Z.MFG.Co) (1984) 161 Cal.App 3d 15,167-168.

23 Geraci supplements his response with an attorney work product/attorney-client privilege
24 objection. This objection misses the mark. "[T]he attorney-client privilege only protects disclosure of
25 communications; it does not protect disclosure of the underlying facts upon which the communications
26 are based, and it does not extend to independent witnesses or their discovery." Aerojet-General Corp.
27 v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996, 1004. This request is clearly asking for
28 the underlying facts, whether Gina Austin did or did not review the 6176 Cup Application submitted to

1 the City of San Diego. It does not ask whether she approved it, or had any opinions or communication
2 about it, simply if she reviewed the submission.

3 In this case, Mrs. Austin is and was Geraci's attorney, who purports to be an expert in the
4 cannabis industry with regards to land use entitlements, to assist him with the CUP Application. A
5 simple inquiry to Mrs. Austin or a review of any accounting done should give Geraci the knowledge he
6 allegedly lacks with respect to this request. This is important because Cotton has alleged that Mrs.
7 Austin is knowingly helping Geraci acquire an interest in a Marijuana Outlet, via a proxy Berry, that he
8 is prohibited from because of his previous involvement with illegal marijuana dispensaries.

9 **B. The Underlying Fraudulent Scheme Requires Geraci to Avoid Certain Admissions**
10 **or Disclosures.**

11 The regulatory schemes being effectuated by the State of California and the City of San Diego
12 governing the licensing of marijuana businesses prohibit individuals who have previously been
13 sanctioned with illegal marijuana activities from having an ownership interest in a legal Marijuana
14 Outlet. San Diego Municipal Code ("SDMC") §42.1501 materially states: "the intent of this Division
15 [is] to ensure that marijuana is not diverted for illegal purposes, and to limit its use to those persons
16 authorized under state law." California Bus. & Prof. Code § 26057 applies to the licensing of marijuana
17 operations and provides the criteria pursuant to which a license may be denied, including the "[f]ailure
18 to provide information required by the licensing authority" and "[t]he applicant... has been sanctioned
19 by a licensing authority or a city... for unauthorized commercial cannabis activities..." Bus. & Prof.
20 Code § 26057(b)(3), (7). Additionally, various other provisions void marijuana licenses acquired
21 through fraud and other unlawful actions. *See, e.g.*, Bus. & Prof. Code § 480(d) ("A board may deny a
22 license regulated by this code on the ground that the applicant knowingly made a false statement of fact
23 that is required to be revealed in the application for the license.")

24 Geraci has admitted in his response to Request for Admission No.7 that he has been a named
25 defendant and sanctioned in at least three actions by the City for owning/managing illegal marijuana
26 dispensaries. Austin Dec. Ex. 2 7:17-28. Geraci is not named as a person with an interest in the Property
27 or the 6176 CUP Application in contravention of numerous City and State laws. Neither Geraci, nor his
28 counsel have ever addressed this issue. Upon resolution of the instant discovery disputes; Cotton intends

1 to file a motion for leave to file an amended complaint to include, inter alia, an abuse of process claim
2 against Geraci's attorneys.

3 **4. CONCLUSION**

4 Geraci has failed to provide further verified responses to properly propounded Requests for
5 Admissions, necessitating this motion to compel. Based on the foregoing, Cotton respectfully requests
6 that the court:

7 1. Issue an order that Geraci provide further responses, without objection, to
8 Defendant/Cross-complainant's Requests for Admissions as set forth in its Separate Statement filed
9 concurrently herewith.

10 2. Issue an order that Geraci be sanctioned for Cottons fees and costs in the amount of
\$2,940.00

11 DATED: January 9, 2018

THE LAW OFFICE OF JACOB AUSTIN

13 By Jacob P. Austin
14 JACOB P. AUSTIN
15 Attorney for Defendant/Cross-Complainant
16 DARRYL COTTON
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