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Attorneys for Defendant and Cross Complainant MEDICAL INVESTOR HOLDINGS LLC dba VERTICAL COMPANIES and TODD KAPLAN and Defendants VERTICAL WELLNESS, INC.; CHARLES HOUGHTON; MATT KAPLAN; DREW MILBURN; COURTNEY DORNE; SMOKE WALLIN; ROBERT SCOTT KAPLAN aka ROBERT SCOTT; ELYSE KAPLAN; JEFF SILVER; IRON ANGEL II, LLC; NCAMBA 9, INC.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES, VAN NUYS DIVISION

FRANCINE SHULMAN, individually and as TRUSTEE OF THE SHULMAN FAMILY TRUST DATED DECEMBER 24, 2001; IRON ANGEL, LLC; 3F, INC.; and EMERALD SKY, LLC,

Plaintiffs,

v.

TODD KAPLAN; MEDICAL INVESTOR HOLDINGS LLC dba VERTICAL COMPANIES; VERTICAL WELLNESS, INC.; CHARLES HOUGHTON; MATT KAPLAN; DREW MILBURN; COURTNEY DORNE; SMOKE WALLIN; ROBERT SCOTT KAPLAN aka ROBERT SCOTT; ELYSE KAPLAN; JEFF SILVER; IRON ANGEL II, LLC; NCAMBA 9, INC.; and DOES 1 through 10, inclusive,

Defendants.

CASE NO. 20VECV01406

Assigned for all purposes to Judge H. Cotton Department A

FIRST AMENDED CROSS-COMPLAINT FOR:

(1) Breach of Contract (Reciprocal Membership and Cultivation Agreement);
(2) Breach of Covenant of Good Faith and Fair Dealing;
(3) Breach of Contract (Iron Angel Property);
(4) Tortious Interference with Contractual Relations (Lugli Agreements);
(5) Intentional Interference with Contractual Relations (Cultivation Agreement);
(6) Intentional Interference with Contractual Relations (Lugli Agreements);

NCAMBA 9, INC.; MEDICAL INVESTOR HOLDINGS LLC dba VERTICAL COMPANIES; IRON ANGEL II, LLC; and TODD KAPLAN, an individual, Cross-Complainants, v. FRANCINE SHULMAN, individually and as TRUSTEE OF THE SHULMAN FAMILY TRUST DATE DECEMBER 24, 2001; BRANDON SHULMAN; RANDALL SHULMAN; IRON ANGEL, LLC; 3F, INC.; and EMERALD SKY, LLC, and ROES 1 through 20, inclusive, Cross-Defendants.	**(7) Tortious Interference with Contractual Relations (Reciprocal Membership and Cultivation Agreement);** **(8) Conversion; and** **(9) Fraud** Complaint Filed: November 30, 2020 Trial Date: Not set

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COMES NOW Cross Complainants, NCAMBA 9, INC. (hereinafter referred to as "NCAMBA 9"), MEDICAL INVESTOR HOLDINGS LLC dba VERTICAL COMPANIES (hereinafter referred to as "MIH"), IRON ANGEL II, LLC (hereinafter referred to as "IRON ANGEL II") and TODD KAPLAN (hereinafter referred to as "KAPLAN") ("hereinafter NCAMBA9, MIH, IRON ANGEL II, and KAPLAN are collectively referred to as "Cross-Complainants"), hereby file this Cross-Complaint for causes of action against Cross-Defendants FRANCINE SHULMAN, individually and as TRUSTEE OF THE SHULMAN FAMILY TRUST DATED DECEMBER 24, 2001; BRANDON SHULMAN; RANDALL SHULMAN; IRON ANGEL, LLC; 3F, INC.; and EMERALD SKY, LLC and ROES 1 to 20 (hereinafter collectively referred to as "Cross-Defendants") as follows:

1. At all times herein mentioned, Cross-Complainants were and are authorized to do business in the County of Los Angeles, State of California, and have intentionally and voluntarily allowed this Court to retain personal jurisdiction over them by filing the instant matter in this venue.

2. Cross-Complainants are informed and believe and thereon allege that at all times mentioned herein, Cross-Defendants, and ROES 1 through 20, inclusive, who will be designated at

a later date, were individuals or business entities organized and/or existing under, or by virtue of, the laws and doing business and/or residing in the State of California.

3. Cross-Complainants are presently unaware of the true names and capacities and liability of Cross-Defendants sued herein under the fictitious names ROES 1 through 20, inclusive, and Cross-Complainants will seek leave of court to amend this Cross-Complaint to allege the true names and capacities after the same have been ascertained.

4. Cross-Complainants are informed and believe, and based thereon allege, that Cross-Defendants, including ROES 1 through 20, inclusive, are and at all times herein mentioned were, either individuals, sole proprietorships, partnerships, registered professionals, corporations, or other legal entities which are/were entitled to do business in the State of California or were present in California, at all times relevant to the subject matter of this action.

5. FRANCINE SHULMAN, individually and as TRUSTEE OF THE SHULMAN FAMILY TRUST DATED DECEMBER 24, 2001; IRON ANGEL, LLC; 3F, INC.; and EMERALD SKY, LLC filed a Complaint in the Los Angeles County Superior Court, Case No. 20VECV01406 against Cross-Complainants, and DOES 1 to 10, inclusive, wherein they allege that Cross-Complainants are liable to them for damages allegedly sustained by them relating to the parties' purported contractual relationship. Cross-Complainants deny that they are liable and are informed and believe and based thereon allege that Cross-Defendants, including ROES 1 through 20, inclusive, are responsible in some manner for the events and damages referred to in the Complaint and caused injury and damage, proximately, to Cross-Complainants as herein alleged.

6. Cross-Complainants are informed and believe, and based thereon allege that each of the Cross-Defendants, including ROES 1 through 20, inclusive, are in some manner legally responsible for the acts and omissions alleged herein, and actually and proximately caused and contributed to the various injuries and damages referred to herein.

7. Cross-Complainants are informed and believe and based thereon allege that each of the Cross-Defendants, including ROES 1 through 20, inclusive, and named herein, is the agent, partner, joint venturer, representative, servant, employee, successor-in-interest, co-and/or conspirator, of each of the other, and at all times relevant hereto were acting within the course and

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scope of their authority as such agents, partners, joint venturers, representatives, servants, employees, successors, and/or co-conspirators, and that all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and consent of each cross-defendant designated herein and that, as a result, said Cross-Defendants are jointly and severally liable for the acts alleged herein.

8. Cross-Complainants are informed and believe and thereon allege that Cross-Defendants are, and at all times alleged herein were, alter-egos of each other, having such a unity of interest and ownership between them that separate personalizes/entities do not exist. Cross-Defendants are informed and believe, and thereon allege, that adhering to the fiction of the separate existence of said entitles and individuals would permit and abuse the corporate privilege and would promote injustice and fraud. Cross-Complainants further allege that, in doing all things herein alleged, Cross-Defendants were acting within the course and scope of their authority as such partners, members, agents, servants, aiders and abettors, principals, and alter-egos.

9. Cross-Complainants are informed and believe and thereon allege that Cross-Defendants knowingly and willfully conspired, joined and participated with each other in the conduct herein alleged in furtherance of a conspiracy between and among themselves to enrich themselves at Cross-Complainants' expense, and that each Cross-Defendant is therefore liable with each other Cross-Defendant for the conduct alleged, for the damages suffered by Cross-Complainants and for the relief being sought herein.

FACTUAL ALLEGATIONS

A. THE CULTIVATION AGREEMENT

10. In 2017 MIH, became aware of a cannabis cultivation opportunity in Santa Barbara County, California, run by Francine Shulman and her sons, Dr. Brandon Shulman and Randall Shulman. The property was and is known by the name "Iron Angel" (hereinafter referred to as "the Iron Angel Property").

11. After some initial investigation, MIH, determined that pursuing a business venture with the Shulmans made sense. At the time MIH had purchased land in Needles, California and was in the process of building out cannabis manufacturing and growing operations in anticipation

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of newly created laws in California allowing for the for-profit sale of medical and adult-use cannabis. As part of the overall plan for MIH, vertical integration of all phases of cannabis cultivation, processing, distribution and sales was contemplated. An outdoor grow operation such at that run by the Shulmans fit into that plan.

12. While MIH and the Shulmans were in preliminary discussions, Ms. Shulman entered into a lease for another property which is known as the "Sisters" property (hereinafter referred to as "the Sisters Property"). She intended to use the Sisters Property for cannabis cultivation.

13. MIH and the Shulmans originally decided to work together under the previous not-for-profit/collective model established by the State of California. The desire was to move operations forward in anticipation of California's for-profit medical and adult-use regulatory scheme. Ms. Shulman and Dr. Brandon Shulman represented to MIH that Ms. Shulman had legally compliant collectives and could legally grow and sell cannabis under then existing California law. The collectives owned by the Shulmans are The Sweet Amergris Collective, 3F, Inc., and Emerald Sky Ranch, LLC (hereinafter referred to as "the Collectives").

14. While the future of the pending regulatory model was in a constant state of change, at both the State of California and Santa Barbara County levels, the parties hoped that their plans would be allowed to move forward. With that in mind, Cross-Defendants, with the aid of their attorney, Andrew Simons, negotiated and signed the Reciprocal Membership and Cultivation Agreement, attached to the First Amended Complaint as **Exhibit A**, (the hereinafter referred to as "the Cultivation Agreement.").

15. The Cultivation Agreement was entered into by NCAMBA 9, a California nonprofit mutual benefit corporation, because at the time the parties entered into the Cultivation Agreement, California permitted only nonprofit mutual benefit corporations or collectives to cultivate cannabis for patients with prescriptions from their doctors. As the parties specifically understood prior to and at the time of entering into the Cultivation Agreement, and as expressly permitted by the Cultivation Agreement, MIH would be the entity that would actually perform under the terms of the Cultivation Agreement.

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16. During all times relevant to this matter, Ms. Shulman's son, Dr. Brandon Shulman, was active in all negotiations and consummation of all written documents, including the Cultivation Agreement. Dr. Brandon Shulman inserted himself early into the negotiation process and acted as the point of contact with MIH. Upon information and belief, he was personally involved in every decision concerning his mother, and MIH, and Ms. Shulman never entered into any agreement without the knowledge and consent of Dr. Brandon Shulman. Upon information and belief, Dr. Brandon Shulman was included in every communication with his mother. In addition to his role as advisor to his mother, Dr. Brandon Shulman was intimately involved with the day-to-day operations of the Iron Angel, Sisters and Wellsprings operations. He flew down to the operations frequently, which flights were paid for by MIH. He stayed in a camper trailer at the Iron Angel site when he was there, and later constructed an apartment for his own use, in an existing building on the Wellsprings property, (albeit without pulling any building permits, submitting building plans or otherwise complying with County of Santa Barbara regulations).

17. Ms. Shulman's other son, Randall Shulman, was also heavily involved in the negotiation and consummation of the Cultivation Agreement. Critically, Cross-Defendants were represented by their own attorney in completing that transaction, and it was their attorney that drafted and prepared the Cultivation Agreement. Thus, Ms. Shulman was, and is, far from the vulnerable elderly individual as alleged by the Cross-Defendants in their First Amended Complaint. She is an intelligent, "Harley riding," shrewd and well counseled businessperson who was well versed in the business of cannabis production. She also supposedly closed on a $3 million business, and was well aware of the opportunities and risks associated with same. Further, she did not act alone. Rather, she acted with the aid and counsel of her sons and with her own attorney.

18. As contemplated by the express terms of the Cultivation Agreement, in response to the ever-evolving pending for-profit State of California and Santa Barbara County regulatory schemes, the Shulmans and MIH decided to create new, for-profit entities, to act as the Licensees for the respective properties. The Sisters Property would be licensed under Iron Angel, LLC, which was owned by Ms. Shulman. The Iron Angel Property would be licensed under Iron Angel

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II, LLC, owned by Mr. Kaplan. Because of Ms. Shulman's "relationship" with the owners of the Sisters Property, and because she claimed that the owner would be hesitant to sign an agreement with somebody she did not know, Ms. Shulman demanded that Iron Angel, LLC, which she owned, to be the applicant for the Sisters Property's cannabis licenses, leaving Iron Angel II, LLC, owned by Todd Kaplan, to be the applicant for the cannabis licenses on the Iron Angel Property. As alleged in the Cross-Defendants' First Amended Complaint, the potential growing area on the Sisters Property was much larger than Iron Angel, so Ms. Shuman stood to gain much more from having her name on the Sisters Property.

19. In January 2018 these two entities were formed and the license application processes for the two sites began. Cannabis operations on the two sites ramped up, MIH spent millions of dollars making improvements and beginning cannabis operations, as the manager of operations, on both the Iron Angel and Sisters Properties.

20. Soon after the Cultivation Agreement was entered into and MIH began investing in and working upon the Properties, MIH discovered that there were significant issues that Cross-Defendants had never disclosed to MIH.

21. First, subsequent to entering the Cultivation Agreement, MIH learned that an employee or associate of Shulman, Vincent Torres, had illegally and without proper permits put inroads and altered grading on the Iron Angel Property, resulting in fines and remediation of the illegal work.

22. Second, subsequent to signing the Cultivation Agreement, MIH learned that, the Shulmans were operating an illegal and unpermitted cannabis extraction (manufacturing) facility on the Iron Angel Property since at least June 2017. Such manufacturing was neither authorized nor allowed by State law or Santa Barbara County regulations. However, in order to move the transaction forward with MIH, the Shulmans shut down the illegal manufacturing facility and had their attorney deal with inroad construction and grading problems with the County, never disclosing them to MIH.

23. Further, after operations began, there were also considerable problems caused by the Shulmans. Subsequent to beginning the cannabis license application processes on both the

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Iron Angel and Sisters Properties, Vincent Torres (the same individual responsible for the improper road improvements and grading on the Iron Angel Property), without knowledge or permission from anyone, took it upon himself to relocate a crossing on the Sisters Property that ran through the Santa Ynez River and make other alterations to the stream bed and stream banks. As a result, in May 2018, the California Department of Fish and Wildlife ("CDFW") began an investigation into these unpermitted and illegal river alterations as they related to the cannabis operations on the property. Because of this investigation, the cannabis licensing was held up because CDFW had to sign off that there were no violations before any licenses would be issued. This meant that the licenses could not be obtained until after the temporary licenses would expire.

24. Rather than continuing operations, and risk having to destroy any crops that would have existed after the licenses expired, all the parties decided that best course of action was to withdraw the Sisters Property licenses and move all cannabis operations from that Property.

25. At great expense, MIH funded the removal of the cannabis operations. Due to the potential long-term rental obligation, the Shulmans, through their attorney, negotiated a termination of the lease for the Sisters Property claiming a default.

26. Accordingly, the Iron Angel, LLC license applications on the Sisters Property were withdrawn and licensing was not pursued on that Property.

27. At all times, Ms. Shulman, Dr. Brandon Shulman and Randall Shulman were intimately involved in the issue with the CDFW, the cessation of cannabis operations on the Sisters Property, and the termination of the Sisters Lease.

28. The loss of the Sisters Property, and the resultant loss of anticipated revenue, together with the expenses of creating and then having to move the cannabis operations, changed the potential profitability of the enterprise contemplated by the Cultivation Agreement. None of this was attributable to any actions or failures to act by NCAMBA9, MIH or any of their representatives or related companies.

29. After operations on Iron Angel did not turn out to be as profitable as intended, combined with the loss of the Sisters Property. Cross-Defendants, without any proof whatsoever, claimed that they were not given revenues to which they claim they were entitled.

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30. Rather than acting in accordance with the terms of the Cultivation Agreement regarding seeking and obtaining an audit of the records of the operations, Cross-Defendants simply locked MIH out of the Iron Angel Property and threatened MIH employees with guns, when MIH employees, including Mr. Kaplan, tried to enter the Property.

31. Worse yet, after wrongfully locking MIH out of Iron Angel, Cross-Defendants then illegally seized control of the parties' harvest cannabis crop, sold over 6,200 pounds of cannabis without the Licensee's consent, and kept all of the revenue, without reimbursing Iron Angel II, LLC or MIH for the expenses incurred in creating the harvested cannabis crop. This was done all to the detriment of MIH and its related companies. In particular, Iron Angel II, LLC and MIH have been damaged to the tune of millions of dollars as a result.

32. Cross-Defendants remain in control of the Iron Angel Property and their licenses and continue cannabis operations on the Property in violation of the Cultivation Agreement. They have provided no monetary compensation to Iron Angel II, LLC or MIH and have provided no accounting for revenues, expenses and profits to which MIH and Iron Ange II, LLC are entitled.

B. <u>THE WELLSPRINGS RANCH PROPERTY</u>

33. At nearly the same time as the Cultivation Agreement was being consummated, Ms. Shulman introduced Mr. Kaplan to Mr. Russell Lugli, the owner of a property knowns as Wellsprings Ranch (hereinafter referred to as "the Wellsprings Ranch Property"). Ms. Shulman had previously entered into an agreement to purchase the Wellsprings Ranch Property, although she did not have the financial capability to complete the transaction. Through that introduction, Mr. Kaplan became well acquainted with Mr. Lugli and his wife.

34. Agreements were reached with Mr. Lugli and the Shulmans whereby Todd Kaplan, or an entity to be created, would become the part owner of the Wellsprings Ranch Property. Ms. Shulman did not have sufficient funds to participate in the purchase transaction, or to fund the costs for the cannabis operations on the Wellsprings Property. Consequently, the Wellsprings Property was not included in the Cultivation Agreement.

35. Agreements were also reached whereby Mr. Lugli agreed to allow cannabis operations to continue prior to the consummation of the purchase of the Wellsprings Property.

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MIH made substantial payments (approximately 1.5 million dollars) to Mr. Lugli to preserve the option to purchase.

36. Upon information and belief, when the Shulmans did not get exactly what they wanted vis-à-vis their desired share of the Wellsprings Ranch cannabis operations, despite having funded zero to make those operations possible, they contacted Mr. Lugli and caused him to terminate the contract for purchase.

37. Ms. Shulman, with the aid of her sons, Brandon and Randall Shulman, wrongfully interfered with that contractual relationship. MIH has spent over a million dollars on the Wellsprings Ranch Property, only to have the Shulmans ruin any chance of that operation becoming profitable.

38. The Shulmans have not reimbursed MIH or any of its related entities for these expenses.

39. MIH and its related entities have suffered millions of dollars of damages as a direct and proximate result of the Shulmans' wrongful actions.

FIRST CAUSE OF ACTION

(Breach of Contract - Reciprocal Membership and Cultivation Agreement)

(By Cross-Complainants NCAMBA 9, MIH, and Iron Angel II As to all Cross-Defendants, including ROES 1 through 20)

40. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

41. Cross-Complainant NCAMBA9, Inc., entered into a Reciprocal Membership and Cultivation Agreement, (the "Cultivation Agreement"), with Cross-Defendants, whereby NCAMBA9 or its assignee, MIH, would take over cultivation operations on the Iron Angel Property and Sisters Property. The Cultivation Agreement is attached to the Cross-Complainants' First Amended Complaint as **Exhibit A.** Iron Angel II was a third party beneficiary of the Cultivation Agreement.

42. The Cultivation Agreement also contemplated that it would be altered to take into account the new State of California laws and Santa Barbara County ordinances.

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43. The parties to the Cultivation Agreement agreed to create two new entities, Iron Angel, LLC and Iron Angel II, LLC to become the licensees for the operations.

44. Ms. Shulman demanded that she become the licensee on the Sisters Property, which had five times the potential growing area of Iron Angel.

45. As a result, Iron Angel, LLC, owned by Ms. Shulman, became the licensee for operations on the Sisters Property. Iron Angel II, LLC, owned by Mr. Kaplan, became the licensee for the Iron Angel Property.

46. Section 6 of the Cultivation provides for how revenues and expenses are to be split. Paragraph 6.2 of the Cultivation Agreement has specific provisions to provide accounting for operations, including how disputes concerning accounting matters and compensation would be resolved, which is by independent audit. If a discrepancy greater than five percent is found, NCAMBA9 or assigns would have to pay for the audit, and an annual audit thereafter.

47. Rather than avail themselves of the contractual right to have an independent audit of the financial books and records, Cross-Defendants exercised self-help by forcibly and without notice excluding Cross-Complainants from the Iron Angel Property. This was done on the basis of an unfounded allegation that there was a default of the Cultivation Agreement.

48. Because of Cross-Defendants' actions, Iron Angel II, LLC was forcibly excluded from the Iron Angel Property. As a result, the Cross-Defendants' took possession of over 6,200 pounds of harvested cannabis, have not provided an accounting of the revenues from selling the 6,200 pound of cannabis and have failed and refused to pay any of the expenses incurred by Iron Angel II, LLC and/or MIH to bring the cannabis crop to fruition.

49. By breaching the Cultivation Agreement as set forth above, Cross-Defendants have caused actual and consequential damages to Iron Angel II, LLC and MIH in an amount to be proven at trial.

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SECOND CAUSE OF ACTION

(Breach of Covenant of Good Faith and Fair Dealing)

(By Cross-Complainants NCAMBA 9, MIH, And Iron Angel II as to all Cross-Defendants, including ROES 1 through 20)

50. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

51. NCAMBA9, Inc., Ms. Shulman as trustee for the Shulman Family Trust, 3F, Inc., and Emerald Sky, entered into a Reciprocal Membership and Cultivation Agreement in July 2017, (the "Cultivation Agreement").

52. Iron Angel II, LLC was formed for purposes of holding the State of California issued Cultivation Licenses for the Iron Angel property located at 5930 Santa Rosa Road, Lompoc, California, (the "Iron Angel Property").

53. Cross-Defendants formed Iron Angel, LLC for purposes of holding the State of California issued Cultivations Licenses for the Sisters Property located at 5000 Santa Rosa Road, Lompoc, California, (the "Sisters Property").

54. The Cultivation Agreement contemplated by its terms that the parties to the Cultivation Agreement would change, to take into account the new California Cannabis Regulations.

55. The Cultivation Agreement contained, by operation of law, an implied covenant of good faith and fair dealing that neither party will do anything that will injure the rights of the other to receive the benefits of the agreement.

56. Francine Shulman, along with her two sons, Dr. Brandon Shulman and Randall Shulman devised a plan to allow Todd Kaplan, through his subsidiaries, to invest millions of dollars into the Iron Angel, Sisters and Wellsprings properties and then, without justification or any legitimate, factual basis, forcibly excluded Cross-Complainants from the Iron Angel Property.

57. The Cultivation Agreement had a specific provision that allowed Francine Shulman to demand an audit of NCAMBA9's books to make sure that payments were properly calculated. (*See* **Exhibit A** to Cross-Defendants' First Amended Complaint, Paragraph 6.2.)

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58. Rather than availing herself of this provision, Francine Shulman and Dr. Brandon Shulman undertook the self-help remedy of forcibly excluding Cross-Complainants, thereby intentionally and maliciously preventing Cross-Complainants from receiving the benefits of the Cultivation Agreement.

59. Cross-Complainants, including Todd Kaplan and MIH had, up to that point, performed all of their obligations under the terms of the Cultivation Agreement.

60. Francine Shulman had no factual or legal basis for declaring alleging a default under the terms of the Cultivation Agreement.

61. Francine Shulman, Dr. Brandon Shulman and Randall Shulman had discretion as to how alleged concerns about the finances of the operation on the properties were to be reviewed.

62. Francine Shulman, Dr. Brandon Shulman and Randall Shulman took the course of action that was most damaging to Cross-Complainants, and, in so doing, they breached their obligation to use best efforts to do any and all of the above expected acts in the venture's best interest.

63. In so doing, Francine Shulman, Dr. Brandon Shulman and Randall Shulman acted in a manner inconsistent with the reasonable expectations of Cross-Complainants, including Todd Kaplan and MIH in resolving any alleged issues with the contract.

64. This act of self-help, without question, was the most disruptive course of action for resolving any alleges issues with performance by either party.

65. In excluding the rightful licensee, Francine Shulman, Dr. Brandon Shulman and Randall Shulman put the licenses on the Iron Angel Property in jeopardy, to the detriment of Cross-Complainants, including MIH. Accordingly, the breach of the implied covenant and fair dealing went far beyond the parameters of the Cultivation Agreement itself.

66. All of Cross-Complainants' investment in the Iron Angel Property has been lost, and all of the then growing, and harvested cannabis wrongfully confiscated and wrongfully retained by Francine Shulman, Dr. Brandon Shulman and Randall Shulman.

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67. As a direct and proximate result of Francine Shulman's conduct, with the aid of Dr. Brandon Shulman and Randall Shulman, material breaches of the implied duty of good faith and fair dealing, Cross-Complainants have been harmed as alleged above.

THIRD CAUSE OF ACTION

(Breach of Contract - Iron Angel Property)

(As to All Cross-Defendants, including ROES 1 through 20)

68. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

69. Cross-Complainant Iron Angel II, LLC had a Lease Agreement dated December 20, 2017 whereby Iron Angel II leased certain real property located at 5930 Santa Rosa Road, Lompoc, CA 93436, ("the Iron Angel Property") from Francine Shulman and Dr. Barry Shulman as Trustees of the Shulman Family Trust Dated December 24, 2001, Kim L. Marienthal and Barbara N. Marienthal as Trustees of the Kim L. Marienthal and Barbara N. Marienthal 2003 Trust, (collectively referred to as the "Landlord").

70. The Iron Angel Lease has specific provisions for declaring a default and evicting the Tenant under the terms of the Lease.

71. The Landlord completely ignored such specific provisions, did not provide contractually required notice and did not institute formal legal proceedings to evict Iron Angel II, LLC.

72. The Landlord violated the terms of the Iron Angel Lease by exercising self-help, without any notice or legal proceedings, to exclude Iron Angel II from the leased premises.

73. The breach of the express terms of the Iron Angel Lease by the Landlord caused Iron Angel II to wrongfully lose possession and control of the Iron Angel Property.

74. As a direct result of this wrongful eviction, Iron Angel II has suffered actual and consequential damages in an amount to be proven at trial.

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FOURTH CAUSE OF ACTION

(Tortious Interference with Contractual Relations - Lugli Agreements)

(As to Francine Shulman, Brandon Shulman and Randall Shulman)

75. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

76. Cross-Complainant MIH had contractual relationships with the Rusty and Susan Lugli, (the" Luglis"), with a probability of economic benefit from those relationships, through the purchase of real estate owned by the Luglis and having the Luglis participate in MIH, (the "Lugli Agreements").

77. At all relevant times, Francine Shulman, Dr. Brandon Shulman and Randall Shulman were aware of Cross-Complainant's existing relationships with the Luglis and of Cross-Complainant's probability of future economic benefit from those relationships.

78. Francine Shulman, Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually, knew of and tortiously interfered with Cross-Complainant's prospective by encouraging the Luglis to declare an alleged default under the terms of the Purchase Agreement and other Lugli Agreements between Cross-Complainants and the Luglis.

79. Francine Shulman, Brandon Shulman and Randall Shulman, jointly, severally and individually were successful in having the Luglis declare a default and claim a termination the Lugli Agreements, resulting in the Cross-Complainants being unable to consummate the purchase of the Wellsprings Property and having the Luglis participate in MIH.

80. Francine Shulman, Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually tortiously interfered with these established contractual relations.

81. Francine Shulman, Dr. Brandon Shulman's and Randall Shulman's tortious interference with Cross-Complainant's contractual relations is evidenced by the following examples, which includes, but is not limited to the following:

a. Actively participating in getting the Luglis to terminate the real estate purchase agreement; and

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b. Actively participating in getting the Luglis to terminate their investment in MIH.

82. As a direct and proximate result of Francine Shulman's, Dr. Brandon Shulman's and Randall Shulman's tortious actions, Cross-Complainant has suffered harm to business reputation, time and expense in trying to save this existing contractual relationship, and related financial harm, including actual, consequential and punitive damages in an amount to be proven at trial.

FIFTH CAUSE OF ACTION

(Intentional Interference with Contractual Relations - Cultivation Agreement)

(As to Brandon Shulman and Randall Shulman)

83. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

84. Cross-Complainants had contractual relationships with the Cross-Defendants in this action, with a probability of economic benefit from those relationships.

85. At all relevant times, Dr. Brandon Shulman and Randall Shulman were aware of Cross- Complainants existing relationships with the Cross-Defendants and of the Cross-Complainants' probability of future economic benefit from those relationships.

86. Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually, knew of and intentionally interfered with Cross-Complainants' prospective by encouraging their mother, Francine Shulman to declare an alleged default under the terms of the Cultivation Agreement.

87. Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually participated in the scheme to unlawful lock the Cross-Complainants out of the Iron Angel Property.

88. Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually were successful in having Francine Shulman declare a default and terminate the Cultivation Agreement, resulting in the Cross-Complainants being unlawfully locked out of the Iron Angel Property.

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89. Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually intentionally interfered with this established contractual relation.

90. After the wrongful termination of the Cultivation Agreement, Dr. Brandon Shulman inserted himself as an owner of Iron Angel, LLC, and thereby profited from the wrongful termination of said Cultivation Agreement.

91. Dr. Brandon Shulman's and Randall Shulman's intentional interference with Cross-Complainants' contractual relations is evidenced by the following examples, which includes, but is not limited to the following:

a. Actively participating in wrongfully locking Cross-Complainants out of the Iron Angel Property; and

b. Wrongfully gaining possession of over 6,200 pounds of cannabis; and

c. Selling the 6,200 pounds of cannabis without the knowledge or permission of the Cross-Complainants.

SIXTH CAUSE OF ACTION

(Intentional Interference with Contractual Relations - Lugli Agreements)

(As to Francine Shulman, Brandon Shulman and Randall Shulman)

92. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

93. Cross-Complainants had contractual relationships with the Rusty and Susan Lugli, (the" Luglis"), with a probability of economic benefit from those relationships, the through purchase of real estate owned by the Luglis and having the Luglis participate in MIH, (the "Lugli Agreements").

94. At all relevant times, Francine Shulman, Dr. Brandon Shulman and Randall Shulman were aware of Cross-Complainants' existing relationships with the Luglis and of Cross-Complainants' probability of future economic benefit from those relationships.

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95. Francine Shulman, Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually, knew of and intentionally interfered with Cross-Complainants' prospective by encouraging the Luglis to declare an alleged default under the terms of the Purchase Agreement and other Lugli Agreements between Cross-Complainants and the Luglis.

96. Francine Shulman, Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually were successful in having the Luglis declare a default and terminate the Lugli Agreements, resulting in the Cross-Complainants being unable to consummate the purchase of the Wellsprings Ranch Property and having the Luglis participate in MIH..

97. Francine Shulman, Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually intentionally interfered with these established contractual relations.

98. Francine Shulman, Dr. Brandon Shulman's and Randall Shulman's intentional interference with Cross-Complainants' contractual relations is evidenced by the following examples, which includes, but is not limited to the following:

a. Actively participating in getting the Luglis to terminate the real estate purchase agreement; and

b. Actively participating in getting the Luglis to terminate their investment in MIH

99. As a direct and proximate result of Francine Shulman's, Dr. Brandon Shulman's and Randall Shulman's intentional actions, Cross-Complainants have suffered harm to business reputation, time and expense in to trying and save this existing contractual relationship, and related financial harm, including actual, consequential and punitive damages in an amount to be proven at trial.

SEVENTH CAUSE OF ACTION

(Tortious Interference with Contractual Relations – Reciprocal Membership and Cultivation Agreement)

(As to Brandon Shulman and Randall Shulman)

100. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

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101. Cross-Complainants had contractual relationships with the Cross-Defendants in this action, with a probability of economic benefit from those relationships.

102. At all relevant times, Dr. Brandon Shulman and Randall Shulman were aware of Cross-Complainants existing relationships with the Cross-Defendants and of Cross-Complainants' probability of future economic benefit from those relationships.

103. Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually, knew of and tortiously interfered with Cross-Complainants' prospective by encouraging their mother, Francine Shulman to declare an alleged default under the terms of the Cultivation Agreement.

104. Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually participated in the scheme to unlawful lock the Cross-Complainants out of the Iron Angel Property.

105. Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually were successful in having Francine Shulman declare a default and terminate the Cultivation Agreement, resulting in the Cross-Complainants being unlawfully locked out of the Iron Angel Property.

106. Dr. Brandon Shulman and Randall Shulman, jointly, severally and individually tortiously interfered with this established contractual relation.

107. After the wrongful termination of the Cultivation Agreement, Dr. Brandon Shulman inserted himself as an owner of Iron Angel, LLC, and thereby profited from the wrongful termination of said Cultivation Agreement.

108. Dr. Brandon Shulman's and Randall Shulman's tortious interference with Cross-Complainants' contractual relations is evidenced by the following examples, which includes, but is not limited to the following:

a. Actively participating in wrongfully locking Cross-Complainants out of the Iron Angel Property; and

b. Wrongfully gaining possession of over 6,200 pounds of cannabis; and

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c. Selling the 6,200 pounds of cannabis without the knowledge or permission of the Cross-Complaints; and

d. Failing to pay any share of the overheard and other expenses incurred in order to produce the 6,200 pounds of cannabis; and

e. Keeping all of the proceeds from the sale of the cannabis, without accounting for or sharing the revenues from said sales; and

f. Wrongfully seizing personal property and equipment belonging to the Cross-Complainants.

109. As a direct and proximate result of Brandon Shulman's and Randall Shulman's tortious actions, Cross-Complainants have suffered harm to business reputation, time and expense in trying to save this existing contractual relationship, and related financial harm, including actual, consequential and punitive damages in an amount to be proven at trial.

EIGHTH CAUSE OF ACTION

(Conversion)

(As to Iron Angel, LLC, Francine Shulman, Brandon Shulman and Randall Shulman)

110. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

111. Iron Angel II, LLC and/or the other Cross-Complainants had the right to possess the Iron Angel Property, were the rightful owner of any cannabis products grown on such property and were the rightful owners of the CDFA and Santa Barbara County Licenses on the Iron Angel Property, all personal property of Iron Angel II, LLC and/or the other Cross-Complainants.

112. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman intentionally and wrongfully exercised self-help to take possession of the Iron Angel Property, take possession of all cannabis products located on the property, to actively prevent Iron Angel II, LLC from having access to said cannabis products, to commandeer Iron Angel II, LLC's cannabis licenses on the Property, and to put the licenses in the name of Iron Angel, LLC, an entity owned by Francine Shulman and Dr. Brandon Shulman, all personal property of Iron Angel II, LLC and/or other Cross-Complainants.

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113. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman sold over 6,200 pounds of cannabis products belonging to Iron Angel II, LLC, products of which they had no legal right to possess or sell and wrongfully transferred the CDFA and Santa Barbara County cannabis licenses to an entity owned or controlled by them.

114. At no time did Iron Angel II, LLC and/or the other Cross-Complainants ever consent to the illegal dispossession of Iron Angel II, LLC from the Iron Angel Property, the taking possession of and sale of cannabis products by Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman, Randall Shulman, or the transferring Iron Angel II, LLC's cannabis licenses to Iron Angel, LLC.

115. Cross-Complainants have made demand for the return of the cannabis products, an accounting and proper sharing of the revenue and expenses from the cultivation and sale of the cannabis products, and a return of the CDFA and Santa Barbara County cannabis licenses into Iron Angel II, LLC's name for the Iron Angel Property, to no avail.

116. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman have failed and refused to return the cannabis products, provide an accounting and proper sharing of the revenue and expenses from the cultivation and sale of the cannabis products, and refused to change the CDFA and Santa Barbara County cannabis licenses into Iron Angel II, LLC's name for the Iron Angel Property.

117. As a direct result of the conversion of the Cross-Complainants personal property by Iron Angel, LLC Francine Shulman, Dr. Brandon Shulman and Randall Shulman as set forth abo above, the Cross-Complainants have suffered actual, consequential and compensatory damages and are entitled to punitive damages in amounts to be proven at trial.

NINTH CAUSE OF ACTION

(Fraud)

(As to all Cross-Defendants, including ROES 1 through 20)

118. Cross-Complainants repeat and reallege each of the allegations set forth in the preceding paragraphs.

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119. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman intentionally failed to disclose to the Cross-Complainants, and actively concealed their plan to, without notice or institution of legal proceedings, exercise self-help to take possession of the Iron Angel Property, take possession of all cannabis products located on the property, to commandeer Iron Angel II, LLC's cannabis licenses on the Property, and to put the licenses in the name of Iron Angel, LLC, an entity owned by Francine Shulman and Brandon Shulman.

120. These acts were performed without the knowledge or consent of Iron Angel II, LLC, owned by Todd Kaplan or any of the other Cross-Complainants.

121. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman, Individually, and in concert, failed to disclose their plan to exercise self-help as set forth above in order to actively prevent the Cross-Complainants from being able to use legal means to protect themselves to secure the cannabis product, to maintain possession of the Iron Angel Property and to preserve the Iron Angel II, LLC Licenses, and the business associated with such licenses.

122. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman actively and intentionally failed to make disclosure of their fraudulent plan with the intent that the Cross-Complainants would not be able to protect their rights using legal means.

123. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman provided false, incomplete or misleading information to the California Department of Food and Agriculture ("CDFA"), and Santa Barbara County to sell over 6,200 pounds of cannabis products that they had no legal right to possess or sell.

124. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman knew, or had reason to know that the Cross-Complainants would have instituted legal proceedings to prevent the illegal takeover of possession and illegal sales of over 6,200 pounds of cannabis product, without the knowledge or consent of the Iron Angel II, LLC, the licensee for the Iron Angel Property, to illegally transfer the Iron Angel II license to Iron Angel, LLC, the entity owned by Francine Shulman and Dr. Brandon Shulman and to wrongfully terminate Iron Angel II, LLC's right to possession of the Iron Angel Property.

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125. In furtherance of their fraudulent scheme, and in order to sell over 6,200 pounds of cannabis product, Francine Shulman, Dr. Brandon Shulman and Randall Shulman contacted potential purchasers of the cannabis product prior to taking wrongful possession of the Iron Angel II, LLC cannabis product and without the right to legally possess or sell such product.

126. In order to sell over 6,200 pounds of cannabis product without being the licensed entity entitled to possess such product, Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman either, (i) intentionally deceived the purchaser(s) of the cannabis product into believing that they had the legal right to sell the cannabis products, or (ii), sold the cannabis products to illegal purchasers, all without the knowledge or consent of the rightful owner of the cannabis products, Iron Angel II, LLC.

127. At no time did Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman have the right to legally possess the cannabis products, to sell such cannabis products, to dispossess Iron Angel II, LLC from possession of the Iron Angel Property or to transfer the Iron Angel II, LLC licenses to Iron Angel, LLC.

128. Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman provided false, incomplete or misleading information to the CDFA and Santa Barbara County, for the purpose of transferring the applicable cannabis licenses from Iron Angel II, LLC to Iron Angel, LLC.

129. The plan to exercise self-help and take control of the State and County Licensed Premises, to illegally seize possession and control of harvested cannabis products belonging to the licensee Iron Angel II, LLC, and to sell such products without accounting for the revenue, or sharing the proceeds of such cannabis product sales, and to illegally transfer the license from Iron Angel II, LLC to Iron Angel, LLC, were all material matters and information to the Cross Complainants.

130. Concealing their plan was an essential element in order to intentionally lull the Cross-Complainants into a false sense of security and to prevent them from taking the legal steps necessary to protect not only their cannabis product, but also Iron Angel II's license on the Iron Angel Property and the business associated with such license.

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131. Because of such active and intentional concealment, Iron Angel II relied on the status quo being maintained and was lulled into not actively seeking legal means to prevent the unlawful dispossession from the licensed premises and the illegal taking and subsequent sale of cannabis products and transfer of the Iron Angel II, LLC's licenses to Iron Angel, LLC.

132. The Cross-Complainants reliance on maintaining the status quo until legal proceedings were instituted by Iron Angel, LLC, Francine Shulman, Dr. Brandon Shulman and Randall Shulman was justified.

133. As a direct result of the fraud perpetrated on the Cross-Complainants by Iron Angel, LLC Francine Shulman, Dr. Brandon Shulman and Randall Shulman, the Cross-Complainants have suffered actual, consequential and compensatory damages and are entitled to punitive damages in amounts to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Cross-Complainants request entry of judgment in their favor and against Cross-Defendants as follows:

1. Actual damages, statutory damages, exemplary damages, consequential damages, compensatory punitive damages, treble damages, and such other relief as provided by the statutes cited herein;

2. An accounting of money owed to Cross-Complainants;

3. Pre-judgment and post-judgment interest on such monetary relief;

4. Restitution of monies expended by Cross-Complainants;

5. The costs of bringing this suit, including reasonable attorneys' fees; and

6. All other relief to which Cross-Complainants may be entitled at law or equity.

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Dated: November 1, 2021

CALLAHAN & BLAINE, APLC

By: _____

Michael J. Sachs
Scott D. Nelson
Attorneys for Defendant and Cross Complainant MEDICAL INVESTOR HOLDINGS LLC dba VERTICAL COMPANIES and TODD KAPLAN and Defendants VERTICAL WELLNESS, INC.; CHARLES HOUGHTON; MATT KAPLAN; DREW MILBURN; COURTNEY DORNE; SMOKE WALLIN; ROBERT SCOTT KAPLAN aka ROBERT SCOTT; ELYSE KAPLAN; JEFF SILVER; IRON ANGEL II, LLC; NCAMBA 9, INC.

Dated: November 1, 2021

By: _____

RACHEL F. KASHANI
Attorney for all Defendants and Cross-Complainants

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PROOF OF SERVICE

(CODE CIV. PROC. § 1013A(3))

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 years and am not a party to the within action; my business address is **3 Hutton Centre Drive, Ninth Floor, Santa Ana, California 92707**.

On November 5, 2021, I served the following document(s) described as:

FIRST AMENDED CROSS-COMPLAINT

on the interested parties in this action by placing: ☐ the original ☐ a true copy thereof enclosed in a sealed envelope addressed as follows:

Please see attached "Service List"

☐ **BY MAIL:** I deposited such envelope in the mail at Santa Ana, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

☐ **BY FEDERAL EXPRESS**: I deposited such envelopes at Santa Ana, California for collection and delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary business practices. I am "readily familiar" with the firm's practice of collection and processing packages for overnight delivery by Federal Express. They are deposited with a facility regularly maintained by Federal Express for receipt on the same day in the ordinary course of business.

☒ **BY EMAIL:** My electronic service address is erichards@callahan-law.com. Based upon agreement of the parties to accept service at the email addresses listed below, I transmitted the foregoing documents by electronic mail to the party(s) identified on the attached service list by using the electronic mail as indicated. Said electronic mail was verified as complete and without error and equivalent to personal service.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on November 5, 2021, at Santa Ana, California.

Elena Richards

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SERVICE LIST

Francine Shulman v. Todd Kaplan, et al.
LASC Case No. 20VECV01406

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