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9 **Court-Appointed Receiver Michael Essary**

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**06/05/2020 at 08:27:00 AM**

Clerk of the Superior Court  
By Tamara Parra, Deputy Clerk

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SUPERIOR COURT OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

SALAM RAZUKI, an individual,  
Plaintiff,

v.

NINUS MALAN, an individual; CHRIS  
HAKIM, an individual; MONARCH  
MANAGEMENT CONSULTING, INC. a  
California corporation; SAN DIEGO UNITED  
HOLDING GROUP, LLC, a California limited  
liability company; FLIP MANAGEMENT,  
LLC, a California limited liability company;  
MIRA ESTE PROPERTIES, LLC, a California  
limited liability company; ROSELLE  
PROPERTIES, LLC, , a California limited  
liability company; BALBOA AVE  
COOPERATIVE, a California nonprofit mutual  
benefit corporation; CALIFORNIA CANNABIS  
GROUP, a California nonprofit mutual benefit  
corporation; DEVILISH DELIGHTS, INC., a  
California nonprofit mutual benefit corporation;  
and DOES 1-100, inclusive,

Defendants.

CASE NO.: 37-2018-00034229-CU-BC-CTL

**STATUS REPORT OF MICHAEL ESSARY,  
COURT APPOINTED RECEIVER**

Judge: Hon. Eddie C. Sturgeon

Dept: C-67

Date: June 11, 2020

Time: 1:30 p.m.

**RECEIVER'S STATUS REPORT**

I, MICHAEL ESSARY, hereby declare as follows:

1       1. I am the Court-Appointed Receiver in the above-captioned matter. I have personal  
2 knowledge of the matters set forth herein, and if called upon as a witness, I could and would testify  
3 competently thereto.

4       2. I make this declaration to provide the Court and all parties with an update regarding  
5 receivership activities.

6       3. As the Court is aware, the Balboa Ave Cooperative dispensary is located at 8861 Balboa  
7 Avenue, Suite B, San Diego, California and 8863 Balboa Avenue, Suite E, San Diego, California.  
8 The real property is owned by Defendant San Diego United Holdings Group, LLC and the State of  
9 California retail cannabis license is held by Defendant Balboa Ave Cooperative.  
10

11       4. Further, the Mira Este Facility is located at 9212 Mira Este Court, San Diego, California. The  
12 real property is owned by Defendant Mira Este Properties, LLC and the State of California  
13 manufacturing cannabis license is held by Defendant California Cannabis Group ("CCG").  
14

15       **BALBOA AVE PROPERTIES**

16       *Sale of Balboa Ave Cooperative*

17       5. On September 13, 2019, this Court approved the sale of the Balboa Ave Cooperative  
18 dispensary to CBDCA, Inc. ("CBDCA"), which is also currently operating the facility, for \$6.25  
19 million. The sale is in escrow and there are three final contingencies that must be satisfied before the  
20 sale can close: a) transfer of the use variance by the Montgomery Field Business Condominium  
21 Association (the "Association"), b) renewal of the conditional use permit, and c) approval of  
22 CBDCA's State of California Bureau of Cannabis Control license application.  
23

24       6. The transfer of the use variance permitting cannabis activities at the Balboa Ave Cooperative  
25 remains the most challenging hurdle of the sale process. Pursuant to the February 2018 settlement  
26 agreement (entered into prior to this receivership action), the use variance automatically terminates  
27 upon the transfer of the real property at which the Balboa Ave Cooperative is operating. The  
28

1 association may grant a new use variance to the transferee but may also insist upon new and additional  
2 terms.

3 7. On March 24, 2020, CBDCA emailed its proposal to the Association regarding the transfer  
4 of the use variance, and I attended a video conference on March 27, 2020 with CBDCA and the  
5 Association's board of directors, along with our attorneys, to discuss CBDCA's proposal. The  
6 Association has not yet responded despite repeated follow-ups by both my counsel and counsel for  
7 CBDCA.

8  
9 8. Receivership funds related to the Balboa Ave Cooperative remain tight, even though CBDCA  
10 paid the full \$40,000 in rent for both May and June. The Association has recently demanded payment  
11 for repairs and painting pursuant to the February 2018 settlement agreement.

12 9. On February 7, 2020 I hired architect Kent Coston to assist with the amending and renewal  
13 of the City of San Diego conditional use permit ("CUP") granted to the Balboa Ave Cooperative real  
14 property.

15  
16 10. On or about May 5, 2020, I received a letter from the City of San Diego informing me that  
17 the CUP amendment application was deemed complete. The next step is for city staff to send an  
18 assessment letter regarding the application. Once any issues raised in that letter are resolved, then a  
19 meeting with the hearing officer can be scheduled. Mr. Coston estimates that the hearing may happen  
20 approximately sixty days after he receives the assessment letter. Assuming the project remains on  
21 track, it is my hope that the CUP amendment will be approved by the end of August.

22 Sale of Non-Cannabis Units

23  
24 11. Following the hearing on March 3, 2020, I hired SVN Vanguard to sell the five additional  
25 business condominium units within the same business park as the Balboa Ave Cooperative (located  
26 at 8859 Balboa Ave., Suite A-E). The original list price was \$1,750,000. After consulting with the  
27 broker, I reduced the list price to \$1,595,000 on or about May 8, 2020.

1 12. My broker has informed me that activity has been slower than usual due to the ongoing  
2 pandemic. However, activity is expected to pick up soon, as financing options continue to get more  
3 aggressive. They have received a lot of interest but no offers yet. Most parties continue to maintain a  
4 “wait and see” approach to these properties.

5 **MIRA ESTE FACILITY**

6 *Sale*

7  
8 13. The Mira Este Facility continues to be marketed for sale. At the last hearing on March 3,  
9 2020, broker Miklos Campuzano represented to the Court that he expected multiple offers within a  
10 matter of weeks. However, due to the COVID-19 pandemic, no offers have materialized. One of the  
11 interested companies is based in Washington and its operations were completely shutdown due to  
12 Washington being an early hotspot in this pandemic. Additionally, it has become more difficult for  
13 potential buyers to get financing.

14 14. The broker continues to market and show the property, and the list price was recently reduced  
15 to \$4.1 million.

16  
17 15. I remain in regular contact with The Loan Company, which holds the first and second deeds  
18 of trust on the Property, as well as Saad Pattah, who loaned the receivership estate \$500,000 in  
19 September of 2019 and is in the third lien position.

20 16. I previously executed a forbearance agreement with The Loan Company. However, I have  
21 been unable to make a full forbearance payment since March 2020 due to the lack of cash flow.

22  
23 17. Ivan Lavinsky, the president of The Loan Company, has confirmed with me that he does not  
24 intend to proceed with a trustee sale, though he has the ability to do so at any time, because the loans  
25 remain in default. The Loan Company remains hopeful the receivership can effectuate a market sale  
26 of the Mira Este Facility.

27 *Better Than Good*

1 18. Better Than Good ("BTG"), a former tenant/operator at the Mira Este Facility, currently owes  
2 California Cannabis Group ("CCG") approximately \$199,262.83 in past-due excise tax payment. It  
3 was BTG's responsibility to pay CCG for excise taxes they incurred, which CCG would then remit  
4 to the State of California. The outstanding excise tax liability has caused CCG to incur significant  
5 penalties from the State of California. BTG continues to make progress payments to the receivership  
6 estate to address its delinquency. In fact, this week, BTG submitted a progress payment of \$10,000.

7 Employment Law Claims  
8

9 19. In my last ex parte application, I reported labor law claims made by two former employees of  
10 BTG. Those claims were successfully settled, with BTG paying the entirety of the settlement amount.

11 20. Recently, I received another demand letter related to another former BTG employee, Anna  
12 Barberena. BTG is taking the lead in negotiations to resolve this claim as it did in the above-  
13 mentioned claims.

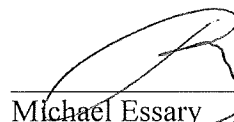
14 21. My counsel remains in communication with counsel for BTG and Ms. Barberena.  
15

16 **STATUS OF DELINQUENT RECEIVER AND ATTORNEY FEES**

17 22. My fees, and those of my counsel, have been unpaid since September 2019. My unpaid fees,  
18 through the end of May, total \$103,730, while those of my counsel, for the same period, total  
19 \$146,482.51.

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

22 Executed this 4 day of June 2020 at San Diego, California  
23

24  
25   
26 Michael Essary  
27 Court-Appointed Receiver  
28

1 **PROOF OF SERVICE**

2 *Salam Razuki v. Ninus Malan, et al.*

3 *San Diego County Superior Court Case No. 37-2018-00034229-CU-BC-CTL*

4 I am employed in the County of San Diego, State of California. I am over the age of 18 and  
5 am not a party to the within action. I am employed by Griswold Law, APC and my business address  
is 705 North Vulcan Avenue, Encinitas, California 92024.

6 On *June 5, 2020*, I served the documents described as **STATUS REPORT OF MICHAEL**  
7 **ESSARY, COURT APPOINTED RECEIVER** on each interested party, as follows:

8 **SEE ATTACHED SERVICE LIST**

9  
10    **(VIA MAIL)** I placed a true and correct copy(ies) of the foregoing document in a sealed  
11 envelope(s) addressed to each interested party as set forth above. I caused each such envelope, with  
12 postage thereon fully prepaid, to be deposited with the United States Postal Service. I am readily  
13 familiar with the firm's practice for collection and processing of correspondence for mailing with the  
United States Postal Service. Under that practice, the correspondence would be deposited with the  
United States Postal Service on that same day with postage thereon fully prepaid in the ordinary  
course of business.

14    **(VIA OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package provided  
15 by an overnight delivery carrier and addressed to each interested party. I placed the envelope or  
16 package for collection and overnight delivery in the overnight delivery carrier depository at Encinitas,  
California to ensure next day delivery.

17    **X (VIA ELECTRONIC MAIL)** I caused true and correct copy(ies) of the foregoing document(s)  
18 to be transmitted via **One Legal e-service** to each interested party at the electronic service addresses  
listed on the attached service list.

19    **(BY FACSIMILE)** I transmitted a true and correct copy(ies) of the foregoing documents via  
20 facsimile.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing  
22 is true and correct. Executed on *June 5, 2020*, in Encinitas, California.

23   
24 Katie Westendorf

## SERVICE LIST

<p><u>Counsel for Plaintiff Salam Razuki</u>          ELIA LAW FIRM, APC          Steven A. Elia, Esq.          Maura Griffin, Esq.          2221 Camino Del Rio South          Suite 207          San Diego, CA 92108          Email: <a href="mailto:steve@elialaw.com">steve@elialaw.com</a>;  <a href="mailto:MG@mauragriffinlaw.com">MG@mauragriffinlaw.com</a>;  <a href="mailto:maura@elialaw.com">maura@elialaw.com</a>;  <a href="mailto:maria@elialaw.com">maria@elialaw.com</a></p>	<p><u>Counsel for Defendants Ninus Malan, Monarch Management Consulting, Balboa Ave Cooperative, San Diego United Holdings Group, and California Cannabis Group</u>          NOONAN LANCE BOYER &amp; BANACH, LLP          James R. Lance, Esq.          Genevieve M. Ruch, Esq.          701 Island Avenue, Suite 400, San Diego, CA 92101          Email: <a href="mailto:jlance@noonanlance.com">jlance@noonanlance.com</a>;  <a href="mailto:gruch@noonanlance.com">gruch@noonanlance.com</a>;  <a href="mailto:bcrena@noonanlance.com">bcrena@noonanlance.com</a></p>
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