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Attorneys for Plaintiffs-in-Intervention
SoCal Building Ventures, LLC and San Diego
Building Ventures, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO - CENTRAL DIVISION

SALAM RAZUKI, an individual, ,
Plaintiff,

v.

NINUS MALAN, et al.,
Defendants.

AND RELATED COMPLAINT-IN-
INTERVENTION

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/04/2018 at 07:38:00 PM
Clerk of the Superior Court
By Lee McAlister, Deputy Clerk

CASE NO.: 37-2018-00034229-CU-BC-CTL
(Assigned to: Hon. Eddie E. Sturgeon, Dept. C-67)

**DECLARATION OF CHRIS BERMAN IN
SUPPORT OF PLAINTIFFS-IN-
INTERVENTION'S MEMORANDUM IN
SUPPORT OF OSC RE: CONFIRMATION OF
RECEIVER AND REQUEST FOR FORENSIC
ACCOUNTING**

*[Filed concurrently with Plaintiffs-In-Intervention's
Memorandum In Support of OSC Re: Confirmation
of Receiver and Request For Forensic Accounting;
and the Declaration of Salvatore J. Zimmitti]*

DATE: September 7, 2018
TIME: 1:30 p.m.
DEPT: C-67

Action Filed: July 10, 2018

DECLARATION OF CHRIS BERMAN

I, Chris Berman, declare as follows:

1. I am an individual and am Chief Operating Officer of Plaintiff-in-Intervention SoCal Building Ventures, LLC ("SoCal"). I make this declaration in support of the Order to Show Cause why the appointment of the receiver should not be confirmed and a preliminary injunction should not be granted. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. I was personally involved with negotiating and executing three agreements with Defendants in this case; these are the: (1) Management Services and Option Agreement with Defendants Balboa, SDHG, Monarch, Hakim and Malan (the "Balboa Agreement"); (2) Management Services and Option Agreement with Defendants Cannabis Group, Devilish Delights, Mira Este, Hakim and Malan (the "Mira Este Agreement"); and (3) Management Services and Option Agreement with Defendants Roselle, Hakim, and Malan (the "Roselle Agreement") (collectively, the "Agreements").

3. Section 5.4 of the Mira Este Agreement provides for certain reimbursements to be made to Defendants by SoCal; specifically, section 5.4 reads in full:

To the extent that Old Operators provide receipts for tenant improvements made to the 1,200 sf manufacturing room, the certificate of occupancy is received, and this Agreement is executed, then Manager shall reimburse the Old Operators for \$125,000 representing 50% of the tenant improvements incurred for the 1,200 sf manufacturing room. Such payment for tenant improvements shall be due thirty (3) days after receipt of the certificate of occupancy.

4. In or about February 2018, I was asked by Mr. Hakim to pay the \$125,000 provided under section 5.4 of the Mira Este Agreement. On March 1, 2018, I emailed Mr. Hakim and asked to send "copies of [his] receipts / expense for T.I. improvements made to the 1,200 sf manufacturing space that you are seeking reimbursement on." A true and correct copy of this email and associated string is attached hereto as Exhibit A.

5. On March 6, 2018, Mr. Hakim responded via email and stated: "Attached are the expenses for Mira TI. There are more invoices relating to design and construction changes, but this should be enough for your file." Attached to this email were 8 documents, including one

DECLARATION OF CHRIS BERMAN ISO OSC RE: CONFIRMATION OF RECEIVER

1 document titled "Mira Este Bid - 7.1.17.pdf." A true and correct copy of this email is included
2 in Exhibit A, and a true and correct copy of the attached document, "Mira Este Bid - 7.1.17.pdf,"
3 reflecting a signed proposal by Mr. Hakim prepared by "Element Builders" for the sum of
4 \$266,725.00 is attached hereto as Exhibit B.

5 6. These invoices submitted by Mr. Hakim did not constitute receipts, which are
6 required under section 5.4 of the Mira Este Agreement above. However, Messrs. Hakim and
7 Malan had a habit of not providing receipts for work and asserting that invoices were typically
8 paid "in cash" and therefore receipts were not available. I was suspicious of these remarks. And
9 this particular instance, I was also confused by items on these invoices that did not appear to
10 pertain to the 1,200 sf space, and seemed to include improvements to other areas of the property
11 for which SoCal was not financially responsible.

12 7. Consequently, I responded to Mr. Hakim's March 6, 2018 email by requesting
13 further information:

14 We've been going through some of these Invoices and **struggling a bit to identify**
15 **what expenses relate specifically to the 1,200 sf manufacturing room.** The
16 invoices total \$298,906 but there are some obvious items that don't relate to the
17 1,200 sf room (\$5,000 for Roselle engineering, \$46,400 for parking lot work)
18 some expenses that would seemingly only partially relate to the 1,200 sf room
(\$63k for HVAC, \$27k for Drywall, \$50k for Electrical) and then a bunch of
expenses related to TECHNE work that need to be reviewed.

19 We are retaining John Yeager to handle all of the accounting for our various
20 projects together in San Diego. Do you have some time on Monday to go through
all of these Invoices so all of us can a better handle on what you sent over?

21 A true and correct copy of this email is attached hereto as Exhibit C.

22 8. Mr. Hakim did not respond to this email, so I instructed Balboa's CPA, John
23 Yeager, to follow up with Defendants and their counsel, Gina Austin, directly. True and correct
24 copies of some emails in which Mr. Yeager attempted to obtain this clarifying information are
25 attached hereto as Exhibit D. Unfortunately, this information was never provided.

26 9. Given my mounting concern that these invoices were inaccurate and/or related to
27 portions of the property beyond the 1,200 sf manufacturing room, I waited to receive further
28 information and detail before SoCal paid the \$125,000 Defendants requested.

DECLARATION OF CHRIS BERMAN ISO OSC RE: CONFIRMATION OF RECEIVER

1 10. On August 22, 2018, I forwarded Mr. Hakim's March 6, 2018 email, with all of
2 the attachments, including the invoice from Element Builders for \$266,725.00 Mr. Hakim sent to
3 me and attached hereto as Exhibit B to SoCal's attorney, Salvatore Zimmitti. I have since
4 learned that the invoice from Element Builders for \$266,725.00 appears to be a fabrication and
5 that Element Builders' owner, Chris Grippi, admits that none of this work was done.

6 11. I am informed and believe that this apparently forged invoice from Element
7 Builders is one of possibly of several other forged or manipulated invoices and fraudulent
8 requests for payment by Defendants.

9 12. For example, there was a previous situation where Defendants failed to produce
10 sufficient information to confirm their request for an additional \$125,000 in reimbursements for
11 the Balboa Facility. In that case, however, SoCal paid the reimbursement. Specifically, I am
12 referring to section 1.6 of the Balboa Agreement which provides: "Further, upon the Effective
13 date **Manager shall pay the Company \$125,000 for the FF&E**, which amount shall also serve
14 as a credit against the purchase price if Manager exercises its option..."

15 13. I requested on multiple occasions a list of the \$125,000 in FF&E (i.e., "Furniture,
16 Fixtures & Equipment") Defendants allegedly installed in the Balboa Facility that they were
17 seeking reimbursement for. However, Defendants did not provide this information or any other
18 detail that would confirm the FF&E allegedly installed. Although I believed that SoCal never
19 should have paid the \$125,000 for FF&E without some measure of backup, Defendants were
20 desperate and insistent that it must be paid promptly because they were supposedly "hard up for
21 cash." Giving Defendants the benefit of the doubt, SoCal eventually agreed and paid the
22 \$125,000 as a credit against the option price. Unfortunately, in retrospect, I strongly suspect this
23 representation of \$125,000 in FF&E was fraudulent, and that Defendants never intended to honor
24 this "credit" because they never intended to allow SoCal to exercise the Balboa option.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct, and that this declaration is executed on September 3, 2018, at
27 Westlake Village, California.

28 
Chris Berman, Declarant

DECLARATION OF CHRIS BERMAN ISO OSC RE: CONFIRMATION OF RECEIVER

EXHIBIT A

Salvatore J. Zimmitti

From: Chris Berman <bermanc1976@gmail.com>
Sent: Wednesday, August 22, 2018 5:17 PM
To: Salvatore J. Zimmitti
Subject: Fwd: Mira Este: T.I. Improvements & Insurance
Attachments: Mira Este Bid - 7.1.17.pdf; Invoice Details _ Mira Este.pdf; INVOICE_418_TECHNE.pdf; INVOICE_443_TECHNE.pdf; INVOICE_449_TECHNE.pdf; INVOICE_450_TECHNE.pdf; INVOICE_461_TECHNE.pdf; INVOICE_468_TECHNE.pdf

----- Forwarded message -----

From: Chris Hakim <symbolicrealestate@gmail.com>
Date: Tue, Mar 6, 2018 at 7:10 AM
Subject: Re: Mira Este: T.I. Improvements & Insurance
To: Chris Berman <bermanc1976@gmail.com>
CC: Ninus Malan <ninusmalan@yahoo.com>, Dean Bornstein <dbadh13@gmail.com>

Attached are the expenses for Mira TI. There are more invoices relating to design and construction changes, but this should be enough for your file.

Sincerely,

On Thu, Mar 1, 2018 at 2:21 PM, Chris Berman <bermanc1976@gmail.com> wrote:
Guys,

A couple things related to Mira Este:

- 1) Here is the copy of the Insurance we just locked up. This is what has been preventing us from getting operational at Mira Este.
- 2) Can you send us copies of your receipts / expenses for T.I. improvements made to the 1,200 sf manufacturing space that you are seeking reimbursement on?

Thanks,
Chris

--

Chris Hakim
Broker
License #01353790
858-373-8781 DIRECT
619-900-4185 OFFICE

1545 Hotel Circle South Ste. 145

San Diego, CA 92108

EXHIBIT B



Proposal

1704 Hornblend St, San Diego, CA 92109

Ph: 858-414-4601

License #965397

Owner:	Mira Este MMM
Attn:	Ninus Malan
Ph:	
Email:	

Date:	6/16/2017
Job Name:	Mira Este MMM
Job Address:	9212 Mira Este Ct

We hereby propose to furnish all material and necessary equipment and perform all labor to complete the above project

Trade	Scope of Work	Cost
Demo	Remove 1200 SF of existing T-Bar Ceiling.	\$ 1,090.00
	Remove 4' high run of DW for all new electrical outlets on existing walls	\$ 910.00
Parking Lot	Remove and replace concrete and asphalt totaling 2500 SF	\$ 46,400.00
	Form and pour 130 LF of concrete curb	
	Form and pour 350 SF of concrete sidewalk with truncated domes	
	Form and pour 500 SF of concrete for ADA Parking Stall	
	Install 3" of asphalt totaling 200 SF	
	Install 1" to 6" of asphalt totaling 950 SF	
	Replace signs and posts for ADA parking	
Drywall	Install (2) wheel stops	
	Frame, hang and finish 69 LF interior drywall partitions.	\$ 8,625.00
	Frame, Hang w/ (2) layers DW, finish 100 LF for fire rated corridor	\$ 14,000.00
	Frame, Hang w/ (2) layers DW, finish 185 SF for fire rated cor. Ceiling	\$ 1,980.00
	Patch 728 SF of drywall for new electrical on existing walls	\$ 2,730.00
T-Bar	Supply and install 1200 SF of new T-Bar grid system with washable tiles	\$ 7,200.00
Doors	Supply and install (4) Solid Core doors with timely frames Includes all hardware	\$ 4,400.00

Flooring	Supply and install 1200 SF of Commercial Hybrid click flooring	\$	6,850.00
	Scrap glue and prep subfloor	\$	950.00
	Supply and install 1200 SF of Floor Underlayment	\$	580.00
Base	Supply and install 280 LF of Roppe Rubber Base	\$	840.00
Paint	Paint all walls in work area with (2) coats of paint	\$	2,700.00
	Paint (4) doors		
Plumbing	Run condensate line to existing Men's restroom sink	\$	1,100.00
HVAC	Supply and install: (1) Five Ton Mitsubishi Mini Split multi zone system w/ (4) wall mounted fan coils per schedule, (1) Three Ton Mitsubishi mini split multi zone system w/ (4) wall mounted fan coils per schedule, mixing branch boxes, thermostats, refrigeration lines, condensate pumps, control wires, (2) fans and ducting per plan, louvers per plan	\$	63,200.00
Electrical	install receptacles, light fixtures, emergency lighting, exit signs dedicated circuits.	\$	12,125.00
	Light Fixture Package	\$	10,500.00
	New Panel 100A, 100B, New 200 Amp feed from meter, refeed existing Truck panel from new panel A	\$	27,250.00
Lighting Controls	Supply and install Nlight Lighting Controls, Relay Packs and Sensors	\$	4,175.00
Signage	Supply and install custom ADA interior signage	\$	580.00
Trash	Pick up trash and take to dump. (4) trips	\$	1,200.00
Final Clean Up	Give a overall final clean up at completion of construction	\$	600.00
Title 24	3rd Party Title 24 inspection for Lighting	\$	1,500.00
Supervision	(4) Weeks of site supervision and meeting with inspectors	\$	7,000.00
P&O	14% Profit and Overhead	\$	35,290.00

Option

Lighting for Corridor with ceiling sensors, emergencies and lighting controls

\$2,950.00

Excludes

Permits, , Cabinets, Low Voltage Wiring, Stucco, Exterior Paint

Landscaping, Roofing, Relocate Panel HP, Storefront, Building Concrete

Total**\$ 266,725.00**

NOTE: This proposal may be withdrawn if not accepted within 30 days

WE AGREE hereby to the price and scope of work described above.**Submitted by: Chris Grippi****Signature:**

ACCEPTED - You are hereby authorized to furnish all material, equipment and labor required to complete the work described in the above proposal, for which the undersigned agrees to pay the amount stated in said proposal and according to the terms thereof. Any changes involving extra cost of labor or materials will be executed only on submission and acceptance of a written and approved change order.

Date of acceptance: 7/1/2017**Accepted by:** Chris Hakim**Signature:**DocuSigned by:
Chris Hakim

003047B05D0D47B...

EXHIBIT C

Salvatore J. Zimmitti

From: Chris Berman <bermanc1976@gmail.com>
Sent: Tuesday, August 28, 2018 9:59 PM
To: Salvatore J. Zimmitti
Subject: Fwd: Mira Este: T.I. Improvements & Insurance
Attachments: Mira Este Bid - 7.1.17.pdf; Invoice Details _ Mira Este.pdf; INVOICE_418_TECHNE.pdf; INVOICE_443_TECHNE.pdf; INVOICE_449_TECHNE.pdf; INVOICE_450_TECHNE.pdf; INVOICE_461_TECHNE.pdf; INVOICE_468_TECHNE.pdf

----- Forwarded message -----

From: Chris Berman <bermanc1976@gmail.com>
Date: Fri, Mar 16, 2018 at 3:57 PM
Subject: Fwd: Mira Este: T.I. Improvements & Insurance
To: Chris Hakim <symbolicrealestate@gmail.com>, John Yaeger <john@jhypartners.com>, Ninus Malan <ninusmalan@yahoo.com>, Dean Bornstein <dbadh13@gmail.com>, Jim Townsend <jtproducer34@gmail.com>

Hi Chris,

We've been going through some of these Invoices and struggling a bit to identify what expenses relate specifically to the 1,200 sf manufacturing room. The invoices total \$298,906 but there are some obvious items that don't relate to the 1,200 sf room (\$5,000 for Roselle engineering, \$46,400 for parking lot work) some expenses that would seemingly only partially relate to the 1,200 sf room (\$63k for HVAC, \$27k for Drywall, \$50k for Electrical) and then a bunch of expenses related to TECHNE work that need to be reviewed.

We are retaining John Yeager to handle all of the accounting for our various projects together in San Diego. Do you have some time on Monday to go through all of these Invoices so all of us can a better handle on what you sent over?

Thanks,
Chris

----- Forwarded message -----

From: Chris Hakim <symbolicrealestate@gmail.com>
Date: Tue, Mar 6, 2018 at 7:09 AM
Subject: Re: Mira Este: T.I. Improvements & Insurance
To: Chris Berman <bermanc1976@gmail.com>
Cc: Ninus Malan <ninusmalan@yahoo.com>, Dean Bornstein <dbadh13@gmail.com>

Attached are the expenses for Mira TI. There are more invoices relating to design and construction changes, but this should be enough for your file.

Sincerely,

On Thu, Mar 1, 2018 at 2:21 PM, Chris Berman <bermanc1976@gmail.com> wrote:
Guys,

A couple things related to Mira Este:

- 1) Here is the copy of the Insurance we just locked up. This is what has been preventing us from getting operational at Mira Este.
- 2) Can you send us copies of your receipts / expenses for T.I. improvements made to the 1,200 sf manufacturing space that you are seeking reimbursement on?

Thanks,
Chris

--

Chris Hakim
Broker
License #01353790
858-373-8781 DIRECT
619-900-4185 OFFICE

1545 Hotel Circle South Ste. 145
San Diego, CA 92108

EXHIBIT D

Salvatore J. Zimmitti

From: Chris Berman <bermanc1976@gmail.com>
Sent: Tuesday, August 28, 2018 10:04 PM
To: Salvatore J. Zimmitti
Subject: Fwd: Update - Mira Este Invoices

----- Forwarded message -----

From: John Yaeger <john@jhypartners.com>
Date: Mon, Mar 26, 2018 at 4:50 PM
Subject: RE: Update - Mira Este Invoices
To: Dean Bornstein <dbadh13@gmail.com>
Cc: Jim Townsend <jtproducer34@gmail.com>, Chris Berman <bermanc1976@gmail.com>

Hi Dean,

I was unable to get ahold of Chris Hakim today to go over the invoices, but I was able to talk to Ninus a little about getting Gina involved to discuss the project – which he is comfortable with. I'm going to draft an email to Gina by tomorrow morning to see if she can help explaining what costs were needed for this 1,200 sq ft space.

Also, I am having Ninus and Chris sign the engagement letters for all of the entities aside from SD Business Ventures. Do you still want assistance with the books for that entity? Not sure if there's going to be that much activity aside from the investments that it picks up from these SD investments.

Thanks

John

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The discussion above is as of this date, based solely on the limited information provided and is subject to change based on changes in accounting pronouncements, tax regulations and law. We assume no responsibility for providing updated advice at a later date.

From: John Yaeger
Sent: Monday, March 26, 2018 10:43 AM
To: Dean Bornstein <dbadh13@gmail.com>
Cc: 'Jim Townsend' <jtproducer34@gmail.com>; Chris Berman <bermanc1976@gmail.com>
Subject: Update - Mira Este Invoices

Morning Dean,

Hope you had a good weekend. I finished going through the invoices that Chris Hakim originally sent over the best that I can, but I have some questions that I have been trying to connect with Chris and Ninus on. Aside from the HVAC and asphalt line items, the problem that I'm having is that it's hard for me to tell what is directly allocated to the 1,200 sq ft space and what is not. After talking to both Chris and Ninus, they are saying that even the big asphalt line item and other expenses found on the invoices should be allocated directly to the 1,200 sq ft space due to the fact that the city required these updates to be completed for the approval of the 1,200 sq ft space. For example, according to Ninus, the city required additional parking spots for the new 1,200 sq ft space, which is why those asphalt costs were needed. They are also planning on submitting some additional invoices for this 1,200 sq ft project. This approach is completely different than what you and I discussed last week, and is going to be difficult to disprove, but I have a call with Chris and Ninus after lunch today to discuss in more detail. I think that Gina Austin might be a good person to get involved. According to some of the invoices, she was involved with the project and might be able to give us some insight on what the city actually required.

Depending on what time we finish up with our call, I'll try to give you an update after I talk to Chris and Ninus later today.

Please let me know if you have any questions.

Thanks

John

John H. Yaeger, CPA | Partner

JHY Partners

Certified Public Accountants

O: 858-299-1289 | C: 760-207-9353 | F: 858-299-1291

john@jhypartners.com

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Salvatore J. Zimmitti

From: Chris Berman <bermanc1976@gmail.com>
Sent: Tuesday, August 28, 2018 10:03 PM
To: Salvatore J. Zimmitti
Subject: Fwd: FW: Confirmation - Mira Este

----- Forwarded message -----

From: John Yaeger <john@jhypartners.com>
Date: Tue, Mar 27, 2018 at 8:11 PM
Subject: FW: Confirmation - Mira Este
To: Dean Bornstein <dbadh13@gmail.com>
Cc: Chris Berman <bermanc1976@gmail.com>, Jim Townsend <jtproducer34@gmail.com>

Hi Dean,

Hope you're doing well. I wanted to let you know that I sent a request to Gina through Ninus this morning. He said that he forwarded it onto Gina shortly after receiving it. She would need his approval to discuss the project anyways, so I thought it was best that it came from him or Chris. Please see below.

Thanks

John

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From: Ninus Malan <ninusmalan@yahoo.com>
Sent: Tuesday, March 27, 2018 7:38 AM
To: John Yaeger <john@jhypartners.com>
Subject: Fwd: Confirmation - Mira Este

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: John Yaeger <john@jhypartners.com>

Date: 3/27/18 7:12 AM (GMT-08:00)

To: Ninus Malan <ninusmalan@yahoo.com>

Subject: Confirmation - Mira Este

Hi Ninus,

Hope you're doing well. Given the struggles to identify the costs directly associated with the 1,200 sq ft room, I think that it would be best to have Gina Austin confirm the additional expenses needed to get the room certified. The best way may be for her to write a memo explaining the different costs associated with this specific part of the project. For example, how the city required additional parking spots or a new HVAC for more ventilation. I believe that having her explain these parts of the project will go a long way with Dean.

Thanks

John

John H. Yaeger, CPA | Partner

JHY Partners

Certified Public Accountants

O: 858-299-1289 | C: 760-207-9353 | F: 858-299-1291

john@jhypartners.com

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