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Attorney For
Court-Appointed Receiver Michael Essary

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

**SUPPLEMENTAL DECLARATION OF
RECEIVER MICHAEL ESSARY IN
RESPONSE TO THIRD SUPPLEMENTAL
DECLARATION OF DEFENDANT NINUS
MALAN**

Judge: Hon. Eddie C. Sturgeon
Dept: C-67
Date: September 7, 2018
Time: 1:30 p.m.

SUPPLEMENT DECLARATION OF RECEIVER MICHAEL ESSARY

1. I, Michael Essary, was appointed as the Receiver in the above-entitled matter by this
Court on August 20, 2018.

2. I reviewed the Third Supplemental Declaration of Defendant Ninus Malan, which was

1 filed with this Court on September 4, 2018. I felt it necessary to provide this Court with a limited
2 response to blatantly false statements made by Mr. Malan about our August 27, 2018 in-person
3 meeting within paragraph 86 of his declaration.

4 3. I do have a pre-planned trip to Germany. It will not affect my ability to perform my
5 duties as receiver should this Court desire my services. As a professional, I travel from time to time
6 and am able to keep in contact with my office staff and counsel to ensure smooth operations while I
7 am away.

8 4. During our meeting, I urged Mr. Malan and Mr. Henkus to provide financial
9 information regarding the Balboa Ave operations as soon as possible. Mr. Malan stated that
10 accountant John Yaeger had most, if not all, of the previous financial information based on his
11 previous service as the accountant for the operations. I told Mr. Malan I would contact Mr. Yaeger
12 to attempt to obtain the historical financial information. However, I warned Mr. Malan that Mr.
13 Yaeger would likely charge for the time he incurred in tracking down such information. I never
14 stated I would continue working with Mr. Yaeger on a go-forward basis. In fact, I contacted Mr.
15 Yaeger the day after the August 20th hearing to inform him that I would no longer be working with
16 him based on the Court's orders on August 20, 2018. Finally, Mr. Yaeger did call my cell phone
17 during the meeting in response to my earlier email request regarding tracking down previous bank
18 statements. Out of respect for the meeting I was attending to, I allowed the call to go to my voicemail.

19 5. I never stated I would "eventually end up selling the properties and businesses" or
20 anything close to that effect. Nevertheless, in the hypothetical and unlikely event I ever did oversee
21 the sale of any property or business related to this receivership, it is my customary practice to not
22 charge a commission. But again, there was no discussion of the possible sale of any property or
23 business during our meeting.

24 6. As the Receiver, I have been ordered to "control" the finances per the direction of this
25 Court. However, I never stated Mr. Malan would not receive any money for a long time. The premise
26 is absurd given that, at this point, as stated in my Report, I am still striving to get a grasp of how
27 much money is coming into the Marijuana Operations, let alone how much in net funds will be
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1 available to Mr. Malan and under what timeline.

2 7. I never stated I wanted to rewrite or change the terms of the Far West management
3 contract. To the contrary, I actually instigated a conversation about extending the management terms
4 for Far West, as the current management agreement is set to expire soon.


5 8. I never stated I do not have enough time to manage the businesses and finances. I did
6 state that it appeared I would not have enough time to produce a comprehensive and helpful receiver's
7 report for the Court by September 5, 2018 due to the lack of documentation and reports from the
8 parties in the matter.

9 9. I did preliminarily propose that my billing and my attorney's billing would potentially
10 be split 50/50 between Balboa Ave and Mira Este due to the practical difficulty—and in some cases,
11 impossibility—to decipher some of the time incurred precisely between the two operations as many
12 of my duties touch both operations. Nevertheless, I also stated that this would ultimately be a decision
13 made by the Court if further discussion amongst the parties and counsel needed to take place.

14 10. I did not spend the meeting on Facebook. I have no desire or plan to sell any property
15 or business related to this receivership. I serve at the pleasure of this Court and am fully engaged
16 with my Court-ordered duties.

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

19 Executed this 6th day of September 2018 at San Diego, California.

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22 Michael Essary
23 Court-Appointed Receiver
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PROOF OF SERVICE

Salam Razuki v. Ninus Malan, et al.

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

I am employed in the County of San Diego, State of California. I am over the age of 18 and am not a party to the within action. I am employed by Griswold Law, APC and my business address is 444 S. Cedros Avenue, Suite 250, Solana Beach, California 92075.

On *September 6, 2018*, I served the documents described as **SUPPLEMENTAL DECLARATION OF RECEIVER MICHAEL ESSARY IN RESPONSE TO THIRD SUPPLEMENTAL DECLARATION OF DEFENDANT NINUS MALAN** on each interested party, as follows:

SEE ATTACHED SERVICE LIST

 (VIA MAIL) I placed a true and correct copy(ies) of the foregoing document in a sealed envelope(s) addressed to each interested party as set forth above. I caused each such envelope, with postage thereon fully prepaid, to be deposited with the United States Postal Service. I am readily 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.

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

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on *September 6, 2018*, in Solana Beach, California.


Katie Westendorf

SERVICE LIST

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