

Richardson C. Griswold, Esq. (CA Bar No. 246837)
GRISWOLD LAW, APC
444 S. Cedros Avenue, Suite 250
Solana Beach, California 92075
Phone: (858) 481-1300
Fax: (888) 624-9177

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

**RECEIVER MICHAEL ESSARY'S
SUPPLEMENTAL DECLARATION TO HIS
SECOND RECEIVER'S REPORT**

Judge: Hon. Eddie C. Sturgeon
Dept: C-67
Date: November 30, 2018
Time: 1:00 p.m.

SUPPLEMENTAL DECLARATION TO SECOND RECEIVER'S REPORT

1. I, Michael Essary, was appointed as the Receiver in the above-entitled matter by this Court on August 20, 2018. This declaration shall supplement my Second Receiver's Report, which

1 was filed on or around November 13, 2018 with the Court.

2 2. The purpose of this supplemental declaration is to alert the Court that I was notified
3 during the afternoon of November 27, 2018 that Far West Management has closed the Balboa Ave
4 Dispensary. I received no advanced notice of the closure. The decision to close was not brought to
5 my attention before the closure occurred. In fact, within the minutes and hours before receiving
6 notice of the closure, I had received and approved operational invoices and payments submitted by
7 Far West and Mr. Henkus via email. Notice of the closure (after it took place) came in the form of
8 emails sent by attorney Gina Austin and accountant Justus Henkus. Attached hereto as **Exhibit A** is
9 a true and correct copy of the November 27, 2018 email from Ms. Austin received at 2:50 p.m.
10 Attached hereto as **Exhibit B** is a true and correct copy of the November 27, 2018 email from Mr.
11 Henkus received at 2:53 p.m.

12 3. It is important to note that earlier on the same day (November 27, 2018), I notified Far
13 West and counsel for Ninus Malan that I intended to visit the Balboa Ave Dispensary, along with Mr.
14 Brinig's staff accountant, this week to conduct an on-site cash and operations/procedure audit.
15 Attached hereto as **Exhibit C** is a true and correct copy of my November 27, 2018 email sent at 9:38
16 a.m.

17 4. As this Court is aware, per the direction of the Court I have been allowing Defendant
18 Ninus Malan and his preferred vendors and consultants (i.e. Far West, accountant Justus Henkus) to
19 operate the Balboa Ave Dispensary. My role has been supervisory. I review and approve invoices
20 and payments, as well as maintain communication and compliance with all state and local agencies.
21 However, the daily operations are primarily handled by Defendant's team.

22 ///

24 ///

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1 5. At this time, I recommend the Court authorize me to immediately select and hire a
2 new management company and new bookkeeper/accountant for the Balboa Ave Dispensary. First, I
3 believe it is necessary based on Far West's refusal to continue acting as the management company
4 (See Exhibits A & B). Second, it is my opinion that the performance of Far West and Mr. Henkus is
5 substandard.

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7 Dated: November 28, 2018

Respectfully Submitted,


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9 _____
10 Michael Essary
11 Court Appointed Receiver
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Exhibit A



Richardson Griswold <rgriswold@griswoldlawsandiego.com>

FW: Non-performance

Austin, Gina <gaustin@austinlegalgroup.com>

Tue, Nov 27, 2018 at 2:50 PM

To: "Richardson Griswold (rgriswold@griswoldlawsandiego.com)" <rgriswold@griswoldlawsandiego.com>, "Mike (calsur@aol.com)" <calsur@aol.com>

Cc: "Leetham, Tamara" <tamara@austinlegalgroup.com>, Matthew Dart <matt@dartlawfirm.com>

Red,

We just received this email from GSG. I called Adam to confirm what it meant and he replied that they have closed the doors effective immediately. I assume Mike has another set of keys. Let me know where you want GSG to send the keys that they have.

Gina

-----Original Message-----

From: Adam Knopf [mailto:adamearth73@gmail.com]

Sent: Tuesday, November 27, 2018 2:31 PM

To: Ninus Malan; Austin, Gina; Leetham, Tamara; Matthew Dart; Heidi Rising; Judd Henkes IV

Subject: Non-performance

Ninus,

We are emailing you today to let you know that we are unfortunately unable to carry on over at Balboa without the inventory to support the operation.

As far as money owed we will still have to follow up with a final invoice

But as of now here are some rough #s owed to Far West Management

75k Management fee

50k in product owed to vendors

10k in payroll

Hopefully there is a better outcome and Fridays court hearing that frees up some money of some sort

--

Regards,

Adam Knopf

Exhibit B



Richardson Griswold <rgriswold@griswoldlawsandiego.com>

Fwd: Balboa City Tax Due

Judd Henkes IV <juddthetaxman@gmail.com>

Tue, Nov 27, 2018 at 2:53 PM

To: calsur@aol.com

Cc: Matthew Dart <matt@dartlawfirm.com>, ninusmalan@yahoo.com, Richardson Griswold <rgriswold@griswoldlawsandiego.com>, "Marilyn P. Weber" <mpw@btzforensics.com>, Adam Knopf <adamearth73@gmail.com>

Mike,

We are closing Balboa at about 2:30 today. The business is not viable given the hefty bills that are unpaid and are inability to stock the shelves with product.

We will be doing final cash counts, inventory counts, etc. at closing. I will still be assisting as a CPA but Far West as a management company will not be operating Balboa after today.

Please let me know if you have any questions.

Regards,

Justus H Henkes IV, Inc.
Justus "Judd" Henkes IV, CPA
7734 Herschel Ave., Ste L
La Jolla, CA 92037
Direct: 619-384-8875
FAX: 888-327-3522
juddthetaxman@gmail.com

[Quoted text hidden]

[Quoted text hidden]

<Cannabis Business Tax - City of San Diego Oct.pdf>

Exhibit C



Richardson Griswold <rgriswold@griswoldlawsandiego.com>

Re: Spreadsheet through 11/25

calsur@aol.com <calsur@aol.com>

Tue, Nov 27, 2018 at 9:38 AM

To: heidi@goldenstategreens.com, mpw@btzforensics.com, NinusMalan@yahoo.com, adamearth73@gmail.com, juddthetaxman@gmail.com, gaustin@austinlegalgroup.com

Cc: rgriswold@griswoldlawsandiego.com, brian@btzforensics.com

Thank you Heidi.

Wanted to give you notice that as part of the Brinig audit Marilyn and I will be visiting the Treehouse this week for an on-site cash and procedure audit.

Normal practice for these types of audits is that they are not scheduled, but we wanted to narrow the time frame for your schedule so we will be at the Treehouse this week on either Wednesday - Thursday - or Friday at opening: 7:00am. I know it's a bit inconvenient, but if you or someone with complete access and control could be there at 7:00am those 3 days we will show up on one of them and conduct our audit. Below is a list of the items we will be looking at:

- * Paid Invoices
- * Pending Invoices
- * Daily cash sheets
- * POS daily transaction reports
- * ATM machine transaction receipts
- * Access to cash in vault, drawers and ATM to count cash
- * Inventory control sheets

Our goal is to accomplish this audit quickly and with as little interruption to your business as possible. Please let us know if you have any questions?

Thank you

Mike

In a message dated 11/26/2018 5:36:25 PM Pacific Standard Time, heidi@goldenstategreens.com writes:

Good evening! Please see attached spreadsheet. Please note were we closed on Thanksgiving so there will not be an entry for that day. Have a great evening.

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 444 S. Cedros Avenue, Suite 250, Solana Beach, California 92075.

6 On *November 28, 2018*, I served the documents described as **RECEIVER MICHAEL**
7 **ESSARY'S SUPPLEMENTAL DECLARATION TO HIS SECOND RECEIVER'S REPORT**
on each interested party, as follows:

8
9 **SEE ATTACHED SERVICE LIST**

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
14 United States Postal Service on that same day with postage thereon fully prepaid in the ordinary
course of business.

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

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

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

22 I declare under penalty of perjury under the laws of the State of California that the foregoing
23 is true and correct. Executed on *November 28, 2018*, in Solana Beach, California.

24 

25 Katie Westendorf

SERVICE LIST

Counsel for Plaintiff Salam Razuki

Steven A. Elia, Esq.

Maura Griffin, Esq.

LAW OFFICES OF STEVEN A. ELIA, APC

2221 Camino Del Rio South, Suite 207

San Diego, CA 92108

Email: steve@elialaw.com; MG@mauragriffinlaw.com

Counsel for Defendant Ninus Malan

Steven Blake, Esq.

Daniel Watts, Esq.

GALUPPO & BLAKE, APLC

2792 Gateway Road, Suite 102

Carlsbad, CA 92009

Email: sblake@galuppolaw.com; dwatts@galuppolaw.com

Gina M. Austin, Esq.

Tamara M. Leetham, Esq.

AUSTIN LEGAL GROUP, APC

3990 Old Town Avenue, Suite A-112

San Diego, CA 92110

Email: gaustin@austinlegalgroup.com; tamara@austinlegalgroup.com

Counsel for Defendant Chris Hakim

Charles F. Gorla, Esq.

GORIA, WEBER & JARVIS

1011 Camino del Rio South, #210

San Diego, CA 92108

Email: chasgoria@gmail.com

Counsel for SoCal Building Ventures, LLC

Robert Fuller, Esq.

Salvatore Zimmitti, Esq.

NELSON HARDIMAN LLP

1100 Glendon Avenue, Suite 1400

Los Angeles, CA 90024

Email: rfuller@nelsonhardiman.com; szimmitti@nelsonhardiman.com