

IN THE SUPREME COURT OF THE STATE OF NEVADA

NUVEDA, LLC, a Nevada limited liability company,

Appellant,

v.

JENNIFER M. GOLDSTEIN, a Nevada resident,

Respondent.

Supreme Court No. 79806

District Court Case No. A728510

**DOCKETING STATEMENT
CIVIL APPEALS**

Electronically Filed
Nov 05 2019 04:49 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

1. **Judicial District:** Eighth

Department: XI

County: Clark

Judge: The Honorable Elizabeth Gonzalez

District Court Case No.: A728510

2. **Attorneys Filing This Docketing Statement:**

Matthew T. Dushoff, Esq.
Kolesar & Leatham
400 South Rampart Boulevard
Suite 400
Las Vegas, Nevada 89145
702.362.7800
Attorney for NuVeda, LLC

Jason M. Wiley, Esq.
Wiley Petersen
1050 Indigo Drive
Suite 200B
Las Vegas, Nevada 89145
702.910.3329
Attorney for Nuveda, LLC

3. **Attorney Representing Respondent:**

Brian R. Irvine, Esq.
Dickinson Wright PLLC
100 W. Liberty Street
Suite 940
Reno, Nevada 89501
775.343.7500
Attorney for Jennifer M. Goldstein

4. **Nature of Disposition:**

Order Denying Motion to Vacate Arbitration Award

5. **Does this Appeal Raise Issues Concerning any of the Following:**

Child custody – No

Venue – No

Termination of Parental Rights – No

6. **Pending and Prior Proceedings in this Court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

7. **Pending and Prior Proceedings in Other Courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Goldstein v. Nuveda, LLC, American Arbitration Association Case No. 01-15-005-8574
Final Award issued March 19, 2019

8. **Nature of the Action.** Briefly describe the nature of the action and the result below:

NuVeda has appealed the *Findings of Fact, Conclusions of Law and Order*: (1) *Granting Plaintiff Jennifer M. Goldstein's Motion to Continue Hearing on NuVeda, LC's Motion to Vacate Arbitration Award and to Extend Briefing Deadlines*; (2) *Denying Defendant NuVeda, LLC's Motion to Vacate Arbitration Award*; and (3) *Confirming the Arbitration Award* entered September 9, 2019 (the "Order").

This matter involves an intra-company dispute by and between the members of NuVeda, a limited liability company that was awarded and continues to possess and conduct operations related to six marijuana licenses based in Clark County, Nevada. Ms. Goldstein initially commenced an action in the District Court alleging, among other things, that she was improperly expelled as a member of NuVeda. As the matter went forward, it was determined that Ms. Goldstein was properly removed as a member of the company. The primary issue in the Arbitration thus focused on the fair market value of Ms. Goldstein's interest in NuVeda at the time of her removal. On March 19, 2019, a *Final Award* (the "Award") was entered in the Arbitration valuing Ms. Goldstein's interest at roughly \$2 million.

NuVeda moved in the District Court to vacate the Award in the Arbitration based primarily upon irregularities concerning an expert witness. In the Arbitration, Ms. Goldstein relied upon the expert testimony of Donald Parker ("Parker"). Mr. Parker was timely disclosed as an expert witness by Ms. Goldstein's former Co-Petitioner Shane M. Terry ("Terry") and, as such, Mr. Parker's initial report and later supplements thereto addressed Mr. Terry's interest and did not – in any way – refer to Ms. Goldstein or the value of her interest in NuVeda. Ms. Goldstein failed to disclose an expert prior to the deadline to do so per relevant scheduling orders issued by the Arbitrator. Less than one month before the final hearing, Ms. Goldstein disclosed a "supplemental report" by Mr. Parker which – for the first time – (a) indicated that Mr. Parker was serving as an expert witness for Ms. Goldstein; and (b) provided a valuation of Mr. Goldstein's interest in NuVeda. NuVeda filed a motion to strike Mr. Parker's report based on the untimely disclosure, which the Arbitrator denied. Mr. Parker thus testified on Ms. Goldstein's behalf at the Arbitration's, without NuVeda having had an opportunity to examine Mr. Parker on his report and opinions before the final hearing. NuVeda asserts that the District Court erred in upholding the Final Award in the Arbitration given the untimely disclosure of Ms. Goldstein's valuation expert and

NuVeda's inability to conduct discovery related to Mr. Parker's opinion.

NuVeda further asserts that the District Court erred in denying its *Motion to Vacate Arbitration Award* ("Motion to Vacate") and in granting Ms. Goldstein's *Motion to Continue Hearing on NuVeda, LLC's Motion to Vacate Arbitration Award and to Extend Briefing Deadlines* ("Motion to Extend"). Briefly stated, NuVeda asserts that Ms. Goldstein failed to file a timely opposition to the Motion to Vacate. After recognizing that failure, Ms. Goldstein filed her Motion to Extend, but failed to offer any factual explanation (i.e. excusable neglect) for her failure to meet the initial deadline and failed to offer any points and authorities in support of her position in violation of EDCR 2.20. NuVeda asserts that the District Court erred by accepting evidence offered in support of Ms. Goldstein's reply, rather than in support of her initial Motion to Extend.

9. **Issues on Appeal.** State concisely the principal issue(s) in this appeal.

- a. Whether the district court erred in upholding the Final Award in the Arbitration given the untimely disclosure of Ms. Goldstein's valuation expert and NuVeda's inability to conduct discovery related to Mr. Parker's opinion.
- b. Whether the district court erred in granting Ms. Goldstein's Motion to Extend where the motion failed to offer any factual explanation for her failure to meet the initial deadline and failed to offer any points and authorities in support of her position in violation of EDCR 2.20.

10. **Pending Proceedings in this Court Raising the Same or Similar Issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Appellant is unaware of any pending proceedings involving the same or similar issues.

11. **Constitutional Issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

Not applicable.

12. **Other Issues.** Does the appeal involve (a) reversal of well-settled Nevada precedent; (b) an issue arising under the United States and/or Nevada Constitutions; (c) a substantial issue of first impression; (d) an issue of public policy; (e) an issue where en banc consideration is necessary to maintain uniformity of this court's decisions; or (f) a ballot question?

The instant appeal does not involve any of the listed issues.

13. **Assignment to the Court of Appeals or Retention in the Supreme Court.**

Pursuant to NRAP 17(a)(9), the matter is presumptively retained by the Supreme Court in that the case originated in the district court's business court.

14. **Trial.** If this action proceeded to trial, how many days did the trial last?
- The matter did proceed to a three day arbitration, however the issues appealed are related to the vacation of the arbitration award by the district court.
15. **Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
- Appellant does not intend to file a motion to disqualify or have a justice recuse him/herself from participation in the appeal.
16. **Date of Entry of Written Judgment or Order Appealed From.**
- September 9, 2019
17. **Date Written Notice of Entry of Judgment or Order Was Served.**
- September 9, 2019, with service effectuated by electronic means.
18. **Whether the Time for Filing the Notice of Appeal was Tolloed by a Post-Judgment Motion.**
- None.
19. **Date Notice of Appeal was Filed.**
- October 9, 2019
20. **Statute or Rule Governing the Time Limit for Filing the Notice of Appeal.**
- NRAP 4(a)
21. **Statute or Other Authority Granting this Court Jurisdiction to Review the Judgment or Order Appealed From.**
- NRS 38.247(1)(c)
22. **List All Parties Involved in the Action or Consolidated Actions in the District Court:**
- a. Parties NuVeda, LLC
Jennifer Goldstein
Shane Terry
Pejman Bady
Pouya Mohajer
- b. Parties to the Action Not Involved in the Appeal
- Shane Terry, Pejman Bady, and Pouya Mohajer were voluntarily dismissed from the arbitration proceeding.

23. **Brief Description of Each Party's Separate Claims, Counterclaims, Cross-Claims, or Third-Party Claims.**

On November 15, 2017, Ms. Goldstein filed a Second Amended Arbitration Claim against NuVeda, Pejman Bady and Pouya Mohajer, asserting a variety of wrongdoing. On January 10, 2019, the parties reached an agreement that the only issue which remained is the valuation of Ms. Goldstein's membership interest as of the date of her expulsion from NuVeda. As a result of the parties' agreement, any and all claims for relief asserted by Ms. Goldstein against Dr. Bady and Dr. Mohajer were dismissed.

24. **Whether the Judgment or Order Appealed From Adjudicated All the Claims Alleged Below and the Rights and Liabilities of All the Parties to the Action or Consolidated Actions Below.**

Yes.

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

NuVeda, LLC

Name of appellant

November 5, 2019

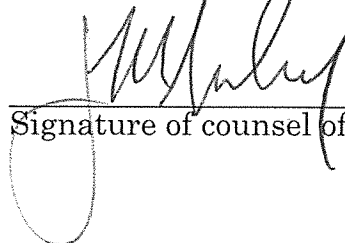
Date

Clark County, Nevada

State and county where signed

Jason M. Wiley

Name of counsel of record



Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 5th day of November, 2019, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Brian R. Irvine, Esq.

Dickinson Wright PLLC

100 West Liberty Street

Suite 940

Reno, Nevada 89501-1991

Dated this 5th day of November, 2019

Signature

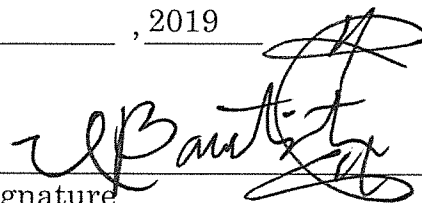


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5.	Notice of Entry of Order

EXHIBIT 1

SECOND AMENDED ARBITRATION CLAIM

Claimant: Jennifer Goldstein

AAA Case No.: AAA01-15-0005-8574

Case Name: Shane Terry v. NuVeda, et al.

BRIEF FACTUAL BACKGROUND

1. In November of 2014, following a competitive and arduous application process, NuVeda, LLC, and its subsidiaries (collectively, "NuVeda") received six valuable medical marijuana establishment ("MME") licenses from the State of Nevada.

2. These licenses grant NuVeda the right to operate two dispensaries, a cultivation facility and a production facility in Clark County, and a cultivation and production facility in Nye County.

3. Like all licensed MMEs, NuVeda is subject to strict regulatory requirements on both the state and local levels. These licenses are privileged licenses, which means they are susceptible to revocation by the issuing entities and thus require strict legal and financial transparency.

4. Defendants PEJMAN Bady ("Bady") and POUYA Mohajer ("Mohajer," and together with Bady, the "Defendants") were Members in NuVeda. By reason of Defendants Bady and Mohajer's ownership interests, and because they have directed and controlled the business affairs of the Company, they thusly owed both NuVeda and its Minority Members certain fiduciary obligations, which required them to use their utmost ability to control and manage NuVeda in a fair, just, honest, and equitable manner.

5. Defendants Bady AND Mohajer were, and remain, required to act in furtherance of the best interests of the Company and its partnerships so as to benefit all Minority Members proportionately, and not in furtherance of his or their personal interests or benefit.

6. At all times relevant hereto, Defendants Bady and Mohajer and Does 1-10 had a fiduciary obligation to exercise good faith and diligence in the administration of the affairs of the Company and in the use and preservation of its property and assets, and the highest obligations of fair dealing to the Company and its Minority Members.

7. In addition, Defendants Bady and Mohajer and Does 1-10 each owe fiduciary duties of care, loyalty and good faith to the Company and its Minority Members to act in its best interest, and to not act in a manner that benefits himself or themselves, to the detriment of NuVeda and the Minority Members.

8. To discharge these duties, Defendants Bady and Mohajer and Does 1-10 were required to exercise reasonable and prudent supervision over the business, management, policies and controls of the Company. By virtue of such duties, Defendants Bady and Mohajer was required to, among other things:

- (a) exercise good faith in ensuring that the affairs of the Company were conducted in an efficient, business-like manner;

- (b) exercise good faith in ensuring that NuVeda was operated in a diligent, honest and prudent manner and complied with all applicable federal and state laws and rules governing legal entities and their members;

- (c) manage and preserve the assets of NuVeda for the benefit of members of the Company, including, *inter alia*, avoiding corporate waste;

- (d) prepare and maintain adequate and accurate financial documentation reflecting the business dealings of the NuVeda, and afford the Minority Members access to all such records; and

- (e) refrain from unduly benefitting themselves at the expense of the Company or any of the Minority Members.

9. Defendants totally disregarded the necessity to run a compliant, transparent and professional MME.

10. Defendants Bady and Mohajer knowingly and repeatedly violated their fiduciary and other duties to the Company and the

Minority Members from the Company's inception through the date of this letter.

Defendants Bady and Mohajer's Wrongdoing.

11. Claimant is informed and believes, and thereon alleges that Defendants Bady and Mohajer:

- (i) engaged in fraudulent and deceptive schemes to defraud the Company and the governmental entities oversee MME applications and operations, which schemes were intentionally concealed from the Company's Minority Members and jeopardize the Company's privileged licenses;
- (ii) used NuVeda assets to promote their own interests, and have misappropriated and/or misused the Company's cash, credit, contracts, licenses, property, equipment, name and good will, personnel, and accounting systems, and has failed to provide accurate or complete records to the Minority Members, despite their repeated demands;
- (iii) unlawfully treated NuVeda as though they owned 100% of NuVeda membership units, with complete disregard for its corporate form;
- (iv) systematically misappropriated NuVeda assets and wrongfully used NuVeda financial resources in the past and up to the date of this Complaint, and threaten to do so in the future;
- (v) sold or transferred the most valuable assets owned by the Company without proper due diligence, protections or market awareness and entered into agreements that violated state and local laws governing MMEs;
- (vi) wrongfully attempted to terminate the ownership interest of Minority Members in violation of their fiduciary and contractual obligations, and used misleading, incomplete and indefensible valuations to repurchase the shares of Minority Members at artificially depressed valuations;
- (vii) affirmatively misrepresenting facts to Minority Members and inducing Minority Members to sign

- documents that Defendants, on information and belief, to be fraudulent;
- (viii) refused to reimburse expenses of Minority Members while reimbursing their own;
 - (ix) transferred and sold NuVeda licenses, property, contracts, personnel and other assets solely for Defendants Bady and Mohajer's benefit and with inadequate or no compensation to NuVeda;
 - (x) transferred charges and overhead of Defendants Bady and Mohajer to NuVeda through a series of schemes to depress NuVeda's profits and defraud other members;
 - (xi) Falsified government filings, tax filings and accounting records to perpetuate and conceal said fraudulent transfers of property and resources; intentionally caused third parties to falsify and/or obfuscate accounting records;
 - (xii) Failed to maintain and/or deleted necessary accounting records as required for all businesses, and especially a business subject to the complex MME regulatory structure;
 - (xiii) mischaracterized money given to and received by NuVeda for Defendants Bady and Mohajer's benefit;
 - (xiv) commingled their own funds with those of NuVeda;
 - (xv) failed to communicate effectively, honestly and directly with other Members;
 - (xvi) Conspired to and did in fact defraud the Minority Members; and
 - (xvii) fraudulently and in violation of their duties and the Operating Agreement expelled Claimant (as they had previously expelled Shane Terry) without good cause, then intentionally and purposefully depressed the price of NuVeda properties in order to facilitate buying their partners out cheaply, offering to purchase their shares for a fraction of their actual value, so Defendants could own and control NuVeda without the Minority Members, and without paying market value.

12. By violating the Operating Agreement and their fiduciary duties on matters outside the ordinary course of business, Defendants Bady and Mohajer AND DOES 1-20, at great

expense to NuVeda and its Members, violated their statutory obligations to the MEMBERS.

ATTEMPTED EXPULSION OF Claimant.

13. Despite their fiduciary obligations to the Minority Members, Defendants Bady and Mohajer endeavored to expel Claimant and Shane Terry so they could wrongfully acquire 100% of the Company.

14. On August 8, 2017, Bady and Mohajer convened a meeting of the Members. As a Company meeting had not been held in over a year, this was unusual.

15. An agenda for the meeting was distributed by Bady, which made no mention of the intent to vote on Claimant's membership.

16. Despite the vote not being listed on the agenda, and solely in furtherance of their own interests, Bady and Mohajer voted to expel Claimant from NuVeda.

17. As no good cause exists for such expulsion, the efforts of Bady and Mohajer to eliminate Claimant from the ownership structure were undertaken in bad faith and in violation of the District Court's Order. As there was no good cause under the law or the Operating Agreement, the surprise vote to expel Claimant was ineffective.

FAILURE TO COMMUNICATE AND PRODUCE DOCUMENTS.

18. Defendants Bady and Mohajer have entirely failed to communicate directly with the other Members with regard to any matter, wholly refusing to correspond in most instances, and only communicating, even for perfunctory and obligatory transmissions, through presumably NuVeda-paid counsel.

19. Furthermore, Defendants Bady and Mohajer repeatedly and steadfastly refused to produce documents, keeping the Minority Members at bay (through NuVeda-paid counsel) by continually ignoring or denying their demands for access to Company records. After the Minority Members were caused to

retain an attorney to help exercise their right to review the records, Defendants Bady and Mohajer and DOES 1-5 allowed the Minority Members to review documents, which appeared to be only a small fraction of the business records of NuVeda that actually do, or should, exist.

20. Defendants Bady and Mohajer's efforts involved the willful or negligent involvement of numerous other service providers, including, inter alia, lawyers, accountants, and contractors, who prepared or had prepared false documents, with the intention of deceiving Claimant.

21. Defendants Bady and Mohajer, through their counsel, have refused to provide any meaningful financial documentation and other records of the Company.

DERIVATIVE ALLEGATIONS

22. In the alternative and concurrently herewith. Claimant brings this action derivatively in the right and for the benefit of NuVeda to redress Defendants' breaches of fiduciary duties, fraud, corporate waste and unjust enrichment.

23. Claimant will adequately and fairly represent the interests of the Company and its Members in enforcing and prosecuting its rights.

24. Claimant acquired her ownership interest in NuVeda prior to the wrongful conduct alleged herein and has continually owned her respective percentages through the time of her wrongful termination, and thus owned her shares at all times related to the allegations set forth herein.

A. Duties of Derivative Defendants and Majority Members to the Company

25. By reason of the positions of Does 1-5 (collectively, the "Derivative Defendants") as fiduciaries of the Company and because the Derivative Defendants and the Majority Members had the ability to control the business and corporate affairs of the Company, the Derivative Defendants and owed the Company and its

Members certain fiduciary obligations required to use their utmost ability to control and manage the Company in a fair, just, honest, and equitable manner.

26. The Derivative Defendants and Majority Members were and are required to act in furtherance of the best interests of the Company and its Members so as to benefit all Members equally and not in furtherance of their personal interest or benefit, and owes to the Company and its Members the fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Company and in the use and preservation of its property and assets, and the highest obligations of fair dealing.

27. In addition, Majority Members owe fiduciary duties of care, loyalty and good faith to NuVeda to act in the best interest of the Company and to not act in a manner that benefitted the Majority Members to the detriment of the Company.

28. The Derivative Defendants and Majority Members, because of their positions of control and authority with of the Company, were able to and did, directly and/or indirectly exercise control over the wrong acts complained of herein.

29. To discharge their duties, the Defendants Bady and Mohajer and the Derivative Defendants were required to exercise reasonable and prudent supervision over the management, policies and controls of the Company. By virtue of such duties, Defendants Bady and Mohajer and the Derivative Defendants were required to, among other things:

- (i) exercise good faith in ensuring that the affairs of the Company were conducted in an efficient business-like manner so as to make it possible to provide the highest quality performance and return on the investments of their business;

- (ii) exercise good faith in ensuring that the Company was operated in a diligent, honest and prudent manner and complied with all applicable federal and state laws and rules and regulations, including acting only within the scope of its legal authority;

- (iii) manage and preserve assets of the Company for the benefit of Members of the Company and prevent or rescind

any such transaction that fails to meet such ended, including, *inter alia*, rejection of interested party transactions that are not consistent with prudent allocation of the Company's assets, are unfair to the Company or evince corporate waste;

(iv) Adhere to their obligation not to deprive Members of the value of their ownership interests, including not wrongfully expulping them from the Company; and

(v) refrain from unduly benefitting themselves and other Company insiders or at the expense of the Company.

30. Each of the Derivative Defendants and Defendants Bady and Mohajer further owed NuVeda and the Members the duty of loyalty requiring that each favor the Company's interest and that of all its Members over their own or other interested parties, while conducting the affairs of NuVeda and refrain from using their position, influence or knowledge of the affairs of NuVeda to gain personal advantage, which requires, *inter alia*, scrutiny of interested party transaction and rejection of such transactions which are unfair to the Company or evince corporate waste. The duty of loyalty further requires a duty of candor requiring full and candid disclosure of all facts relevant to any potential interested party transactions.

B. Demand Futility Allegations

31. Claimant will adequately and fairly represent the interests of NuVeda and its Members in enforcing and prosecuting its rights.

32. As a result of the facts set forth herein, all efforts to obtain relief from Defendants Bady and Mohajer and the Derivative Defendants have proven futile, and any further effort will would have been futile because Defendants Bady and Mohajer and the Derivative Defendants were the only persons or entities entitled to participate in, approve, benefit from, and deliberately concealed the intentional wrongdoing alleged herein and having deliberately acted to the detriment of NuVeda, would not have responded to further efforts to obtain relief as Defendants Bady and Mohajer and the Derivative Defendants are incapable of making an independent and disinterested decision to

institute and vigorously prosecute an action against Defendants Bady and Mohajer and the Derivative Defendants.

33. Additionally, demand is excused because the misconduct complained of herein was not, and could not have been, an exercise of good faith business judgment and could not be ratified, approved, or condoned by disinterested and informed directors under any circumstances, as set forth in above.

34. Demand is excused because the Defendants Bady and Mohajer and the Derivative Defendants are subject to liability for breaching their fiduciary duties to the Company. In addition, demand is excused because Defendants Bady and Mohajer and the Derivative Defendants cannot make an impartial decision regarding a lawsuit that would harm his, her, its or their self-interest materially.

35. Demand would likewise be futile because the Derivative Defendants have not only been complacent in acting on behalf of the Company, but were necessary actors in the improper conduct alleged herein, and have actively condoned and facilitated a campaign of deceit upon the Members of the Company.

36. Defendants Bady and Mohajer and the Derivative Defendants may be protected against liability for breaches of fiduciary duty alleged in the Complaint by liability insurance policies. Because of certain provisions in the insurance policies excluding coverage under particular circumstances, if Defendants Bady and Mohajer and the Derivative Defendants were to cause the Company to sue itself or certain member(s) of NuVeda, there may be no insurance protection. This is yet another reason why the Defendants Bady and Mohajer and the Derivative Defendants are hopelessly conflicted and incapable of making any independent determination that would cause the Company to bring this action.

FIRST CAUSE OF ACTION

(BREACH OF CONTRACT: Written, Oral & Implied Agreement)
(As to Defendants Bady and Mohajer and Does 1-20)

37. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

38. The terms and conditions of the parties' agreement were in part oral, and in part implied, and in part memorialized in various writings prepared and/or executed by Defendants and their agents.

39. Pursuant to the parties' agreement, Defendants were obligated to prepare, execute and file the instruments, agreements and paperwork necessary to maintain the business and records of NuVeda and to provide Minority Members access to such records upon demand and reasonable notice, and to properly make or cause to have made the proper distributions to Minority Members, and to operate, conduct and appraise the business in a fair and business-like manner, in doing so Defendants thereby represented and warranted that the agreements, instruments and paperwork prepared by Defendants were complete, accurate, and properly executed.

40. Defendants Bady and Mohajer and Does 1-10 owed a duty of undivided loyalty to NuVeda and its members, including a duty not to misuse their position to gain an unfair advantage over the Minority Members for the benefit of themselves or any others including in the formation of the LLC and structuring and making the business and legal decisions on behalf of the Company, and creating or having created sale, purchase, guarantee and security agreements and instruments.

41. Claimant has fully performed her promises and obligations under the parties' written, oral and implied agreements related to the LLC.

42. Defendants have partially performed Defendants' obligations under the parties' agreements but have failed and refused to perform other of Defendants' obligations under the parties' agreement, and Defendants and each of them materially breached the parties' agreement by, among other things:

(1) Defendants Bady and Mohajer failed to make business-like decisions to benefit the Company, instead competing directly against the Company and to the Company's harm and jeopardy, and self-dealing in both disclosed and

clandestine agreements that put the Company's licenses at risk and compromise the value of the Company;

(2) Defendants utilized NuVeda resources for matters unrelated to the interests of the Company and at the Company's expense or harm;

(3) Defendants sold, transferred and diverted NuVeda assets to unauthorized persons and/or for improper uses;

(4) Defendants knowingly and intentionally made fraudulent and untrue statements to the Members, to Company representatives and to governmental entities to benefit Defendants and to the detriment and peril of the Company and attempted to wrongfully expulse Minority Members in contravention of the Operating Agreement and their duties;

5) And other breaches of the agreement according to proof.

43. As a proximate cause of Defendants breach of the parties' written, oral and implied agreements, Claimant has incurred general and special damages according to proof at Arbitration including those alleged herein.

WHEREFORE, Claimant prays for judgment in favor of Claimant and against Defendants.

SECOND CAUSE OF ACTION

[Unjust Enrichment]

[Against all Defendants]

44. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

45. Defendants Bady and Mohajer and the Derivative Defendants have been unjustly enriched, directly, or indirectly through affiliated parties, at the expense of the Company as alleged herein. By their wrongful acts and omissions, Defendants Bady and Mohajer and the Derivative Defendants were unjustly enriched at the expense of and the detriment of the Company.

46. Defendants Bady and Mohajer and DOES 1-10 were unjustly enriched by the gain or benefit or use the assets and ownership interests wrongfully withheld or taken from Minority Members, and for which Claimant has not been compensated, and for which the Defendants and the Derivative Defendants and DOES

1 to 10 are receiving the gain, benefit and use have not paid. A party who is deemed by law to have been unjustly enriched at the expense of another is required to make restitution to the other. Defendants Bady and Mohajer and the Derivative Defendants and DOES 1 to 10 received cash and other value from the misuse of assets of the Company and are liable to return to the Company the improper consideration and other benefits they received.

47. Defendants have thereby been unjustly enriched and received a windfall not intended by Claimant and must pay restitution to Claimant and disgorge all profits and assets associated with the gain, benefit and use of Claimant's money and ownership interests.

48. Claimant, as a shareholder of the Company at all times relevant hereto up to the time of her wrongful expulsion from the Company, seeks restitution from the Defendants Bady and Mohajer, DERIVATIVE DEFENDANT and DOES 1-10, and each of them, and seek an order of this tribunal disgorging all profits, benefits and other compensation obtained by Defendants Bady and Mohajer and the Derivative Defendants and DOES 1 to 10, and each of them, from their wrongful conduct and fiduciary breaches.

WHEREFORE, Claimant prays for judgment in favor of Claimant and against Defendants.

THIRD CAUSE OF ACTION

(Quasi-Contract)

(As to Defendants Bady and Mohajer and Does 1-10)

49. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

50. A contract implied in law for reasons of justice arises when a benefit is accepted or derived by Defendants for which the law implies an obligation to pay Claimant, namely where Defendants have used for their benefit any property of Claimant in such manner and under such circumstances that the law will impose a duty to compensate Claimant.

51. Upon agreeing to enter into a fiduciary relationship with NuVeda, Defendants Bady and Mohajer and Does 1-10 willfully assumed the obligations inherent and implied into the contract.

52. Defendants Bady and Mohajer and Does 1-10 accepted and derived a benefit from the use of NuVeda assets, including such monies that were promised to and wrongfully withheld from Claimant, for which benefit and use the law implies an obligation to pay, reimburse and compensate NuVeda and thus Claimant.

53. Defendants Bady and Mohajer and DOES 1-10 and each of them have failed to pay or compensate Claimant for the benefit and use of Claimant's money and property.

54. As a proximate cause of Defendants' failure to compensate and reimburse NuVeda, as a shareholder in the Company and directly, Claimant has incurred damages according to proof at Arbitration.

WHEREFORE, Claimant prays for judgment in favor of Claimant and against Defendants.

FOURTH CAUSE OF ACTION

(Beach of the Implied Covenant of Good Faith and Fair Dealing)
(As to Defendants Bady and Mohajer and Does 1-10)

55. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

56. Implied within every contract is an implied covenant of good faith and fair dealing, which prevents one contracting party from engaging in conduct that unfairly frustrates the other party's right to receive the benefits of the parties' agreement.

57. Defendants unfairly frustrated Claimant's right to receive the benefits due under the parties' agreement by incomplete, inadequate and fraudulent disclosures and schemes, fraudulent, inadequate and inaccurate preparation of agreements, instruments and paperwork necessary to carry out the business of

NuVeda, including the required disbursements to Claimant, and oppressive conduct such as bad faith denial access to Company records, as required by law, fraudulent pricing schemes designed to artificially limit payments to Claimant, and other tactics seeking to gain an unfair advantage, each of which constituted a breach the implied covenant of good faith and fair dealing because they frustrate Claimant's right to receive the benefits to which she is entitled under the contracts and by law.

58. As a proximate cause of Defendants' breach of the parties' written, oral and implied agreements, and the implied covenants therein, Claimant has incurred general and special damages according to proof at Arbitration including those alleged herein.

WHEREFORE, Claimant prays for judgment in favor of Claimant and against Defendants.

FIFTH CAUSE OF ACTION

(Specific Performance)

(As to Defendants Bady and Mohajer, NuVeda and Does 1-20)

59. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

60. Pursuant to the parties' agreements alleged above, including but not limited to the Operating Agreement, Defendants Bady and Mohajer and NOMINAL DEFENDANT NuVeda, through their related entities, were required to maintain her ownership interests in NuVeda as required by the agreement.

61. Defendants have breached the parties' agreement by failing to make the required distributions or increases in ownership, and Defendants Bady and Mohajer have failed to value the Company resources accurately and earnestly. As such, Claimant was given distributions that amounted to far less than the amounts to which they were each entitled.

62. In addition, Defendants Bady and Mohajer and NOMINAL DEFENDANT NuVeda failed to provide information and make disclosures to the Minority Members as required by law.

63. Claimant will suffer irreparable injury if Defendants Bady and Mohajer and NOMINAL DEFENDANT NuVeda are not required to obtain current, true and accurate valuations of the Company's property, including current and accurate appraisals for the real property owned, currently or formerly, by the Company.

64. The majority of the assets are now in the possession, custody and control of Defendants Bady and Mohajer, and Claimant has no access to said assets.

65. The Arbitrator has the power to require Defendants and their agents to execute all instruments and paperwork necessary to ensure the Claimant has been wholly restored as a Member of the Company on all records, filings and licenses.

WHEREFORE, Claimant prays for judgment in favor of Claimant and against Defendants.

SIXTH CAUSE OF ACTION

(Alter Ego Liability)

(Against Defendants Bady and Mohajer)

66. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

67. Claimant is informed and believes and thereon alleges and thereon allege Defendants have created or joined entities, including limited liability companies and partnerships, designed to be, or rendered, shell corporations to insulate Defendants Bady and Mohajer and DOES 5-10 from liability for their own wrongful acts and omissions and liabilities.

68. Claimant is informed and believes and thereon alleges and thereon allege that Defendants have not maintained the corporate formalities or separateness of NuVeda.

69. Claimant is informed and believes and thereon alleges and thereon allege that Defendants Bady and Mohajer and DOES 5-10 and engaged in a shell game including awarding or transferring contracts, assets and credit to other individuals and entities, and took and other measures to defraud Claimant.

70. There exists such a unity of interest and ownership between Defendants Bady and Mohajer, and each of them, on the one hand, and NuVeda on the other hand that the separate personality of Defendants Bady and Mohajer no longer exist, and if the acts are treated as those of NuVeda alone and not the acts of Defendants Bady and Mohajer, an inequitable result will follow.

71. Piercing the 'corporate veil' is warranted under the unique circumstances of this case as Defendants Bady and Mohajer have engaged in acts and omissions that the law views as constituting bad faith and which acts and omission have resulted in damages to NuVeda and to Claimant.

72. With respect to each of the causes of action alleged herein, the Arbitrator is requested to pierce the corporate veil and find Defendants Bady and Mohajer are the alter ego of NuVeda, and individually liable for the obligations of NuVeda.

WHEREFORE, Claimant prays for judgment against Defendants as named in this Cause of Action.

EIGHTH CAUSE OF ACTION

(Constructive Trust)

(As to Defendants Bady and Mohajer, NuVeda, and DOES 1-10)

73. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

74. The assets owned by NuVeda were transferred by Defendants Bady and Mohajer and for an amount significantly less than their market value at the time of the self-dealing transfers.

75. A constructive trust thereby arose by operation of law whereby Defendants are obligated to hold said properties, and the withheld sums and any assets acquired with said sums in trust for the sole benefit of Claimant and must disgorge said sums and assets and profits associated therewith and pay restitution to Claimant in the amount thereof.

WHEREFORE, Claimant prays for judgment against Defendants as named in this Cause of Action.

NINTH CAUSE OF ACTION

(Accounting)

(As to Defendants Bady and Mohajer and Does 1-10)

76. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

77. Defendants Bady and Mohajer and Does 1-10 have not provided members including Claimant the full and accurate accounting to which they are each entitled.

78. Claimant is unable to ascertain the sums she is due, as the documents are in the custody and control of Defendants. A full and fair accounting of all income, assets, expenses, liabilities and distributions related to NuVeda is necessary to determine what sum is due to Claimant.

79. Claimant has no adequate remedy at law and for this reason demands Defendants provide a full itemized accounting prepared by a neutral CPA at Defendants' expense.

WHEREFORE, Claimant prays for judgment against Defendants.

TENTH CAUSE OF ACTION

(Negligence)

(As to Defendants Bady and Mohajer and DOES 1-20)

80. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

81. In connection with the matters alleged herein, Defendants Bady and Mohajer undertook to become the sole managers of the financial, investment, business and legal decisions of NuVeda, and paid a number of outside individuals and entities to assist in this capacity, referred to herein as Does 1-10.

82. In carrying out their duties, Defendants failed to exercise ordinary care, including in (1) making incomplete,

false and misleading disclosures, governmental filings and financial projections and assessments, (2) fraudulent, negligent, incomplete and inaccurate preparation of paperwork and instruments, (3) negligent and fraudulent financial and investment mismanagement of the Company, (4) negligent and intentional mismanagement of the operations of a legally-compliant MME; and (5) other breaches of the standards and duties of care required of them individually and collectively.

83. As a proximate cause of Defendants' acts and omissions, Claimant suffered damages.

WHEREFORE, Claimant prays for judgment against Defendants.

ELEVENTH CAUSE OF ACTION

(Breach of Fiduciary Duty)

(As to Defendants Bady and Mohajer and DOES 01-10)

84. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

85. Claimant is informed and believes and thereon alleges that at all times alleged herein, Defendants had an actual conflict of interest and were operating in their own self-interest without full disclosure of all material facts to Claimant.

86. Claimant justifiably relied on Defendants Bady and Mohajer and DOES 1-20 to honestly conduct the business of the Company, and fully disclose all material facts regarding NuVeda's business operations and investments, and to correctly and accurately prepare and maintain the records of the Company, and to operate the Company in accordance with the law, the Operating Agreement and the District Court's order.

87. Claimant justifiably relied on Defendants Bady and Mohajer and DOES 1-10.

88. Defendants Bady and Mohajer and DOES 1-10 breached their fiduciary duty by, among things, making incomplete, inaccurate and misleading filings, failing to put the interests of the Company ahead of their own, failing to diligently and adequately conduct the operations of the Company, failing to

preserve the value of the Company, self-dealing and putting their own interests, and the interests of their friends and families above the interests of the Company and directly and irreparably harming the Company for their own benefit.

89. Defendants committed the above acts and omissions to deprive Claimant of the value of her ownership interest in the Company.

90. As a proximate cause of Defendants' breaches of fiduciary duty, Claimant suffered damages.

91. In acting as alleged herein, Defendants acted with fraud, malice, oppression or reckless disregard for the rights and property of Claimant.

WHEREFORE, Claimant prays for judgment against Defendants.

TWELFTH CAUSE OF ACTION

(Fraud)

(As to Defendants Bady and Mohajer and DOES 1-20)

92. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

93. Throughout the course of their ownership of NuVeda, Defendants Bady and Mohajer made inaccurate and misleading statements, misrepresenting the true facts, and failed to disclose to the Company and Claimant the following material facts:

- (a) The true and correct origin of the funds they contributed to NuVeda;
- (b) Lawsuits in which Bady was a named defendant, but failed to disclose to the Minority Members or under penalty of perjury in the applications;
- (c) Ownership interests in other entities or partnerships with which the Company was negotiating contracts;
- (d) The percentage ownership interests of the Members of the Company, and the termination of such ownership interests;
- (e) The actual costs of managing and operating NuVeda;

(c) NuVeda was not going to make the promised distributions of equity and capital as promised;

(d) Other material facts and misrepresentations not yet discovered or fully known to Claimant.

(e) The paperwork and instruments prepared by Defendants did not reflect the true value of the Company, its assets, or the expenditures of NuVeda.

94. Early in the application process, Defendants, on information and belief, knowingly and intentionally defrauded the Company and its Members by concealing and misrepresent money that their friends, Mohsen Bahri and Michael Magid Golpa had secretly invested in the Company through them, allowing Defendants to artificially increase their ownership interest in the Company.

95. In exchange for the funds received from Bahri and Golpa, on information and belief, Defendants promised each of them an undisclosed ownership interest in the Company, effectively creating undisclosed "partners" for the Members.

96. On October 13, 2015, the non-Defendant Members found out that the Defendants had taken money from Bahri and Golpa and lied regarding the source of their initial investments.

97. By defrauding the Company and its Members regarding the source of Defendants' investment funds, and the issuance of phantom shares to Bahri and Golpa, Defendants defrauded the Company and its Members by inducing Claimant to join the Company and agreeing to increased percentage ownership interests, imposing debt on the Company it wouldn't otherwise have, and risking the very licenses the Company sought.

98. Claimant relied upon Defendants' representations regarding the source of the Company's money in agreeing to join the Company. Claimant would not have agreed to enter into a partnership with Defendants had Claimant known that the source of the start-up funds came not from Bady's sale of a hospital, but rather two of Defendants' friends, who were neither known to Claimant nor approved by the governing bodies to own an MME. It

was not until well after the applications had been submitted and the licenses received that Claimant learned that the applications were fraudulent.

99. On or about October 14, 2015, Claimant learned that Bady had an ownership interest in 2Prime, LLC (which he owned with his partner, Golpa). Bady had previously negotiated a loan agreement on behalf of the Company to borrow money from 2Prime, and failed to disclose his self-dealing.

100. Claimant, unaware of Bady's ownership interest in 2Prime, relied on Bady's representations that he was negotiating with Golpa, and that Golpa was insisting on terms that were less than favorable to the Company. Because it was understood that the loan was in process, the Company did not secure other loan sources.

101. On the eve of a \$50,000 payment due to the City of Las Vegas, under the threat that nonpayment would result in the revocation of the Dispensary license, Bady insisted that the Company agree to the terms of the loan or he would not complete the loan.

102. In May and June of 2017, on information and belief, Defendants knowingly and intentionally induced Claimant to execute renewal applications to be filed with the state and local jurisdictions, knowing that they intended to terminate her membership, without cause.

103. The applications included personal liability provisions for the signatories. Defendants fraudulently induced Claimant into signing them as a Member, and soon thereafter, in August of 2017, terminated her Membership interest in the Company. Claimant relied on the representations of the Company and the Company's counsel that she was a Member in good standing prior to executing the renewal applications.

104. On December 29, 2014, Bady created another company, 2113 Investors, with Joe Kennedy with the intent and purpose to

supplant the Company's ownership interest in a dispensary property.

105. The Company was in escrow on a dispensary property in the City of North Las Vegas which it had purchased at auction. The Company had worked extensively with the City of North Las Vegas to procure the property, using its own resources to assess and bid on the project.

106. After winning the auction, and prior to closing on the property which was slated to happen by the end of December 2014, on information and belief, Defendants secretively conspired to defraud the Company by having Mohajer sign the paperwork to transfer the property to 2113 Investors without disclosing the transfer to Claimants.

107. On or around December 30, 2014, when it was discovered that Mohajer had signed the Company's escrow documents over to 2113 Investors without Claimants' knowledge, Claimant addressed the fraud with the other Members. Bady admitted that he had orchestrated the surreptitious purchase, but falsely declared that he only had a minor interest in 2113 Investors.

108. Pursuant to the Operating Agreement Bady provided, he owned an 80% interest in 2113 Investors, and Joe Kennedy owned the other 20%.

109. On November 9, 2015, 2113 Investors sued the Company for non-payment of rent. On or around March 8, 2016 Defendants voted to "settle" with 2113 Investors for \$1.266 million, plus additional terms wholly unfair to the Company and far in excess of any amounts that could have been owed to 2113 Investors.

110. All of the above activities were done for the benefit of, and with the knowledge, consent, and participation of Defendants, and to the detriment of Claimant.

111. Defendants, on information and belief, knew they intended to purchase the property in a separate company, but

induced the Company to undertake all of the risk, cost and effort to successfully bid on the property knowing that they intended to transfer the escrow to 2113 Investors and away from the Company.

112. Defendants, on information and belief, knew their statements were untrue, inaccurate, incomplete or misleading, and/or Defendants had insufficient information on which to base such representations, and knew the contracts entered into by and between themselves were fraudulent.

113. Based on the fiduciary relationships of Defendants Bady and Mohajer to Claimant and the collective Defendants' singular access to the relevant information, which information was intentionally withheld from Claimant, Claimant justifiably and detrimentally relied on Defendants.

114. As a proximate cause of Defendants' actual and/or constructive fraud, Claimant suffered damages.

115. In acting as alleged herein, Defendants acted with intent to deceive, fraud, malice, oppression or reckless disregard for the rights and property of Claimant.

WHEREFORE, Claimant prays for judgment against Defendants.

THIRTEENTH CAUSE OF ACTION

(Unfair and Deceptive Business Practices)

(As to Defendants Bady and Mohajer, and DOES 1-20)

116. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

117. Defendants have engaged in conduct and made misrepresentations to individuals and entities, including Claimant, and failed to disclose material facts to the other LLC members, which conduct the law views as unfair and deceptive business practices in violation of the law, including Nev. Rev. Stat. §§ 598.0903 through 598.0999 Trade Regulation and Practices Act Nev. Rev. Stat. § 41.600.

118. As a proximate cause of Defendants unfair and deceptive business practices, Claimant and the Nominal Defendant have incurred losses, which monies equity should order restored.

WHEREFORE, Claimant prays for judgment against Defendants.

FOURTEENTH CAUSE OF ACTION

(Corporate Waste)

(Against Defendants Bady and Mohajer and NuVeda)

119. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

120. The actions herein alleged constitute corporate waste by Defendants Bady and Mohajer in that they used their powers as the controlling or Majority Members of NuVeda to expend corporate resources for the benefit of themselves, and to the great detriment of Claimant personally as a shareholder of NuVeda.

WHEREFORE, Claimant prays for judgment against Defendants.

FIFTEENTH CAUSE OF ACTION

(Constructive Fraud)

(Against Defendants Bady and Mohajer, DOES 1-20)

121. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

122. As alleged herein, Defendants Bady and Mohajer and DOES 1-20 owe Claimant fiduciary duties based on their respective positions as members of NuVeda. By failing to inform Claimant of their intent to work jointly and separately to deprive Claimant of the benefits and distributions to which she was entitled, they breached their duties of disclosure and fair representation to Claimant.

123. In addition, knowingly and willingly cooperated in the fraud being perpetrated on Claimant, and thus intended to and did defraud Claimant out of the benefit she earned through her service to the Company.

124. Early in the application process, Defendants, on information and belief, knowingly and intentionally defrauded the Company and its Members by concealing and misrepresent money that their friends, Mohsen Bahri and Michael Magid Golpa had secretly invested in the Company through them, allowing Defendants to artificially increase their ownership interest in the Company.

125. In exchange for the funds received from Bahri and Golpa, on information and belief, Defendants promised each of them an undisclosed ownership interest in the Company, effectively creating undisclosed "partners" for the Members.

126. On October 13, 2015, the non-Defendant Members found out that the Defendants had taken money from Mohsen and Golpa and lied regarding the source of their initial investments.

127. By defrauding the Company and its Members regarding the source of Defendants' investment funds, and the issuance of phantom shares to Bahri and Golpa, Defendants defrauded the Company and its Members into giving them increased ownership interests, imposed debt on the Company it wouldn't otherwise have, and risked the very licenses the Company sought. It also gave rise to claims by Bahri and Golpa that they were partners of the Company.

128. All MME owners are required to disclose litigation in which they are involved as part of the application process; each owner is obligated to submit the information under penalty of perjury.

129. Claimant relied upon Defendants' representations regarding the source of the Company's money in agreeing to join the Company. Claimant would not have agreed to enter into a partnership with Defendants had Claimant known that the source of the start-up funds came not from Bady's sale of a hospital, but rather two of Defendants' friends, who were neither known to Claimant nor approved by the governing bodies to own an MME. It was not until well after the applications had been submitted and

the licenses received that Claimant learned that the applications were fraudulent.

130. On or about October 14, 2015, Claimants learned that Bady had an ownership interest in 2Prime, LLC (which he owned with his partner, Golpa). Bady had previously negotiated a loan agreement on behalf of the Company to borrow money from 2Prime, and failed to disclose his self-dealing.

131. Claimants relied on Bady's representations that he was negotiating with Golpa, and that Golpa was insisting on terms that were less than favorable to the Company. Because it was understood that the loan was in process, the Company did not secure other loan sources.

132. On the eve of a \$50,000 payment due to the City of Las Vegas, under the threat that nonpayment would result in the revocation of the Dispensary license, Bady insisted that the Company agree to the terms of the loan or he would not complete the loan.

133. In May and June of 2017, on information and belief, Defendants knowingly and intentionally induced Claimant to execute renewal applications to be filed with the state and local jurisdictions, knowing that they intended to terminate her membership immediately thereafter, without just cause.

134. The applications included personal liability provisions for the signatories. Defendants fraudulently induced Claimant into signing them as a Member, and soon thereafter, in August of 2017, terminated her Membership interest in the Company. Claimant relied on the representations of the Company and the Company's counsel that she was a Member in good standing prior to executing the renewal applications.

135. On information and belief, on December 29, 2014, Bady created another company, 2113 Investors, with Joe Kennedy with the intent and purpose to supplant the Company's ownership interest in a dispensary property.

136. The Company was in escrow on a dispensary property in the City of North Las Vegas which it had purchased at auction. The Company had worked extensively with the City of North Las Vegas to procure the property, using its own resources to assess and bid on the project.

137. After winning the auction, and prior to closing on the property which was slated to happen by the end of December 2014, on information and belief, Defendants secretly conspired to defraud the Company by having Mohajer sign the paperwork to transfer the property to 2113 Investors without disclosing the transfer to Claimants.

138. When it was discovered that Mohajer had signed the escrow documents over to 2113 Investors without Claimants' knowledge, Claimant addressed the fraud with the other Members. Bady admitted that he had orchestrated the surreptitious purchase, but falsely declared that he only had a minor interest in 2113 Investors.

139. Pursuant to the Operating Agreement Bady accidentally provided, he owned an 80% interest in 2113 Investors, and Joe Kennedy owned the other 20%.

140. On November 9, 2015, 2113 Investors sued the Company for non-payment of rent. On or around March 8, 2016 Defendants voted to "settle" with 2113 Investors for \$1.266 million, plus additional terms wholly unfair to the Company and far in excess of any amounts that could have been owed to 2113 Investors.

141. All of the above activities were done for the benefit of, and with the knowledge, consent, and participation of Defendants, and to the detriment of Claimant.

142. Defendants, on information and belief, they intended to purchase the property in a separate company, but induced the Company to undertake all of the risk, cost and effort to

successfully bid on the property knowing that they intended to transfer the escrow to 2113 Investors and away from the Company.

143. Defendants, on information and belief, their statements were untrue, inaccurate, incomplete or misleading, and/or Defendants had insufficient information on which to base such representations, and knew the contracts entered into by and between themselves were fraudulent.

144. At all times relevant hereto there existed equitable and fiduciary duties owed to Claimant by Defendants.

145. Based on the fiduciary relationships of Defendants Bady and Mohajer to Claimant and the collective Defendants' singular access to the relevant information, which information was intentionally withheld from Claimant, their voting power, their conspiring to facilitate and ratify one another's bad acts, to keep their bad acts secret to induce Claimant's reliance, Claimant justifiably and detrimentally relied on Defendants.

146. Defendants breached that duty in a way that the law declares fraudulent because of its tendency to deceive others or to violate a duty or confidence.

147. Defendants undertook these actions with the intent to deceive Claimant until such time as they could effectuate their plan to induce the Company to use its resources and undertake great risk only to fraudulently take the Company's opportunities, engage Claimant and use her thousands of hours of uncompensated work and then terminate Claimant's ownership interests of NuVeda at a deflated price, and to cause her to accept no or substantially lessened member distributions, and thereby deny her the due and future compensation to which she is entitled.

148. As a result of these actions, Claimant has been damaged in an amount far in excess of the jurisdictional amount of this Tribunal and are entitled to punitive damages.

WHEREFORE, Claimant prays for judgment against Defendants.

SIXTENTH CAUSE OF ACTION

(Conspiracy)

(As to Defendants Bady and Mohajer and DOES 1-20)

149. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

150. In connection with the matters alleged herein, Defendants Bady and Mohajer combined and contracted to misuse the financial, investment, business and legal decisions of NuVeda, together and with outside individuals and entities, referred to herein as Does 1-10.

151. Defendants Bady and Mohajer, and Does 1-10, associated together to undertake acts in concert of action by agreement, understanding, or "meeting of the minds" regarding the objective and the means of pursuing it, whether explicit or by tacit agreement, including in (1) making incomplete, inaccurate and misleading disclosures, governmental filings and financial projections and assessments, (2) negligent, incomplete and inaccurate preparation of paperwork and instruments, (3) negligent financial and investment management of the Company, (4) negligent and intentional mismanagement of the operations of a legally-compliant MME; and (5) other breaches of the standards and duties of care required of them individually and collectively.

152. The association entered into by Defendants Bady and Mohajer intended to accomplish an unlawful objective for the purpose of harming the Company and its Minority Members, including Claimant.

153. The association entered into by Defendants Bady and Mohajer took steps in furtherance of their effort to accomplish an unlawful objective for the purpose of harming the Company and its Minority Members, including Claimant.

154. As a proximate cause of Defendants' negligent acts and omissions, Claimant suffered damages.

WHEREFORE, Claimant prays for judgment against Defendants.

SEVENTEENTH CAUSE OF ACTION

(Usurpation of Corporate Opportunity)

(As to Defendants Bady and Mohajer and DOES 01-10)

155. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

156. Claimant is informed and believes and thereon alleges that at all times alleged herein, Defendants were fiduciaries of the Company, and separately and together appropriated for his or their own use, opportunities that should belong to the Company.

157. The usurped opportunities were taken and operated to the detriment and harm of the Company.

158. Defendants have an interest or expectancy in the usurped opportunities.

138. Defendants committed the above acts and omissions to deprive the Company of its value and therefore to deprive Claimant of the value of her ownership interest in the Company.

159. As a proximate cause of Defendants' breaches of fiduciary duty, the Company and Claimant suffered damages.

160. In acting as alleged herein, Defendants acted with fraud, malice, oppression or reckless disregard for the rights and property of the Company and Claimant.

WHEREFORE, Claimant prays for judgment against Defendants.

EIGHTEENTH CAUSE OF ACTION

(RICO Violations)

(As to Defendants Bady and Mohajer and DOES 01-10)

161. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

162. Defendants engaged in racketeering activities as defined in NRS 207.390 and a racketeering enterprise as is defined in NRS 207.380.

163. Defendants, on information and belief, conspired to and did conceal and misrepresent the sources of money they invested in the Company to the State of Nevada, the City of Las Vegas, the City of North Las Vegas and Nye County (the "Money Laundering Scheme") in written applications that were submitted under penalty of perjury (the "Application Affidavits").

164. Furthermore, on information and belief, Defendants conspired to and did conceal and misrepresent the ownership interests they had given other undisclosed individuals, which ownership interests were required to be disclosed in the Application Affidavits.

165. In furtherance of the Money Laundering Scheme, on information and belief, Defendants submitted seven different perjured Affidavits, each submitted under the penalty of perjury: 1. the North Las Vegas Dispensary affidavit, 2. the North Las Vegas Cultivation affidavit, 3. the North Las Vegas Production Affidavit, 4. the Las Vegas Dispensary affidavit, 5. the Nye County Cultivation affidavit, 6. The Nye County Production Affidavit and 7. The Nye County Dispensary Application.

166. Defendants, on information and belief, conspired and associated with Mohsen Bahri to conceal and misrepresent money that Bahri had secretly invested in the Company (the "Bahri Funds") so that the Application Affidavits were false and perjured. Defendants represented to the Company, its Members and the governing jurisdictions that Bady had received the Bahri Funds in the sale of his business; in fact, it was the proceeds from the Bahri Association.

167. Further, on information and belief, Defendants agreed to surreptitiously and illegally violate State and Local laws requiring the disclosure of any individuals and entities with an ownership interest in an MME. In exchange for the Bahri Funds, Defendants gave Bahri an undisclosed ownership interest in the Company as part of the Money Laundering Scheme which ownership was purposefully concealed and misrepresented in the Application Affidavits and to the Company and its non-conspiring Members (the "Bahri Association").

168. Defendants, on information and belief, conspired and associated with Mike Magid Golpa to conceal and misrepresent money that Golpa had secretly invested in the Company (the "Golpa Funds") so that the Application Affidavits were false and perjured. Defendants represented to the Company, its Members and the governing jurisdictions that Bady had received the Golpa Funds in the sale of his business; in fact, it was the proceeds from the Golpa Association.

169. Further, on information and belief, Defendants agreed to surreptitiously and illegally violate State and Local laws requiring the disclosure of any individuals and entities with an ownership interest in an MME. In exchange for the Golpa Funds, Defendants gave Golpa an undisclosed ownership interest in the Company as part of the Money Laundering Scheme which ownership was purposefully concealed and misrepresented in the Application Affidavits and to the Company and its non-conspiring Members (the "Golpa Association").

170. Separate perjured Application Affidavits were submitted in furtherance of the conspiracy or association, on information and belief, after conspiring with a third party, Bahri, to surreptitiously defraud the applicable governmental entities, and the other members of the Company, including Claimant, in each of the following instances:

- (i) The State Application
- (ii) The Las Vegas Dispensary Application
- (iii) The North Las Vegas Dispensary Application
- (iv) The North Las Vegas Cultivation Application

- (v) The North Las Vegas Production Application
- (vi) The Nye County Dispensary Application
- (vii) The Nye County Cultivation Application
- (viii) The Nye County Production Application

171. Separate perjured Application Affidavits were submitted in furtherance of the conspiracy or association, on information and belief, after conspiring with a third party, Golpa, to surreptitiously defraud the applicable governmental entities, and the other members of the Company, including Claimant, in each of the following instances:

- (i) The State Application
- (ii) The Las Vegas Dispensary Application
- (iii) The North Las Vegas Dispensary Application
- (iv) The North Las Vegas Cultivation Application
- (v) The North Las Vegas Production Application
- (vi) The Nye County Dispensary Application
- (vii) The Nye County Cultivation Application
- (viii) The Nye County Production Application

172. Defendants, acting directly, and in conspiracy with one another and/or through the Bahri Association, participated directly in racketeering activity by engaging in at least two crimes related to racketeering. Under the law, Defendants were required to disclose the source of the funds each contributed to the Company in the Application Affidavits.

173. Defendants, acting directly, and in conspiracy with one another and/or through the Golpa Association, on information and belief, participated directly in racketeering activity by engaging in at least two crimes related to racketeering. Under the law, Defendants were required to disclose the source of the funds each contributed to the Company in the Application Affidavits.

174. Furthermore, all individuals who had any claim to an ownership interest were required to be disclosed in the Application Affidavits, so such individuals could undergo extensive background checks, including by the Federal Bureau of Investigation.

175. By laundering the Bahri Funds obtained from the Bahri Association, on information and belief, Defendants circumvented the background check and other ownership requirements for their associate, Bahri.

176. By laundering the Golpa Funds obtained from the Golpa Association, on information and belief, Defendants circumvented the background check and other ownership requirements for their associate, Golpa.

177. In separate instances, on information and belief, in order to fraudulently and illegally obtain licenses and other permits from the State and Local Governments, Defendants affirmatively misrepresented the source of the income obtained from the Bahri Association in violation of the law in perjured applications submitted to the following governmental entities:

- (i) The State of Nevada
- (ii) The City of Las Vegas
- (iii) The City of North Las Vegas
- (iv) Nye County

178. In separate instances, on information and belief, in order to fraudulently and illegally obtain licenses and other permits from the State and Local Governments, Defendants affirmatively misrepresented the source of the income obtained from the Golpa Association in violation of the law in perjured applications submitted to the following governmental entities:

- (i) The State of Nevada
- (ii) The City of Las Vegas
- (iii) The City of North Las Vegas
- (iv) Nye County

179. Defendants, in furtherance of the Money Laundering scheme, characterized the funds received from their secret agreements with Bahri as money derived from sale of Bady's hospital business, which was false. By conspiring with Bahri, on information and belief, Defendants intended to and did commit a

series of crimes that were related by their intended purpose: to launder funds received from unapproved investors and misrepresent the sources of those funds to governmental entities under the penalty of perjury.

180. Defendants, in furtherance of the Money Laundering scheme, characterized the funds received from their secret agreements with Golpa as money derived from sale of Bady's hospital business, which was false. By conspiring with Golpa, on information and belief, Defendants intended to and did commit a series of crimes that were related by their intended purpose: to launder funds received from unapproved investors and misrepresent the sources of those funds to governmental entities under the penalty of perjury.

181. Defendants' activities have the same or similar pattern, intent, results, accomplices, victims, or methods of commission and are not isolated events.

182. Through the Bahri Association, Defendants, on information and belief, intended to and did violate NRS 205.380, the crime of obtaining something through false pretenses, NRS 199.210, offering false evidence, NRS 205.330, fraudulent conveyance, NRS 205.377 multiple transactions involving fraud or deceit in course of enterprise or occupation, NRS 205.405 falsifying account, NRS 205.420 use of false permit, license or writing federal and state money laundering laws and Nevada's perjury laws under NRS 199.120.

183. Through the Golpa Association, Defendants, on information and belief, intended to and did violate NRS 205.380, the crime of obtaining something through false pretenses, NRS 199.210, offering false evidence, NRS 205.330, fraudulent conveyance, NRS 205.377 multiple transactions involving fraud or deceit in course of enterprise or occupation, NRS 205.405 falsifying account, NRS 205.420 use of false permit, license or writing federal and state money laundering laws and Nevada's perjury laws under NRS 199.120.

184. As Members of NuVeda and in each of the aforementioned Associations, Defendants acquired or maintained directly or indirectly an interest in, or associated with an enterprise to conduct or participate directly or indirectly in the affairs of the enterprise through a racketeering activity.

185. Defendants' commission of the predicate RICO acts, and each of them, resulted in harm to the Company and therefore to Claimant.

186. Harm to the Company and Claimant was proximately caused by Defendants' commission of the predicate RICO acts, and each of them.

187. Claimant did not participate in the commission of the predicate acts.

188. CLAIMAINT is entitled to treble damages proximately caused by the RICO violations.

WHEREFORE, Claimant prays for judgment against Defendants.

NINETEENTH CAUSE OF ACTION

(Quantum Meruit)

(As to Defendants Bady and Mohajer and Does 1-10)

189. Claimant hereby incorporates the foregoing paragraphs as though fully set forth herein.

190. Claimant, without a written agreement compelling her to do so, put in thousands of hours of work on behalf of the Company, and expended her own resources in betterment of the Company.

191. In accepting thousands of hours of work benefit has been conferred upon Defendants.

192. DEENDANTS knew of the time and resources being expended by Claimant and understood the benefit to Defendants.

WHEREFORE, Claimant prays for judgment in favor of Claimant and against Defendants.

PRAYER FOR RELIEF

WHEREFORE, Claimant requests judgment as follows:

1. Declaring that Defendants Bady and Mohajer and Does 1-10 have breached their fiduciary duties;
2. Awarding specific performance in favor of Claimant and as against Defendants Bady and Mohajer and NOMINAL DEFENDANT NuVeda reinstating the ownership interest of Claimant and Terry, and articulating the percentage ownership of all owners of the Company;
3. Awarding Claimant compensatory damages;
4. Awarding Claimant exemplary or punitive damages;
5. Awarding Claimant pre-judgment and post-judgment interest, as well as reasonable attorneys' and experts' fees, and costs; and
6. Awarding such other and further relief as the Arbitrator may deem just and proper.

IN THE ALTERNATIVE and concurrently herewith, Claimant seeks relief derivatively and requests judgment as follows:

1. Jointly and severally against all Derivative Defendants and Defendants Bady and Mohajer and in favor of the Company for the amount of damages sustained by the Company as a result of the Derivative Defendants' and Defendants Bady and Mohajer's breaches of fiduciary duties, gross mismanagement, waste of corporate assets, and unjust enrichment;
2. Directing the DERIVATIVE DEFENDANT to pay interest at the highest rate allowable by law on the amount of damages sustained by the Company, and the Derivative Defendants' profits as a result of their culpable conduct;
3. Awarding Claimant the costs and disbursements of this action, including reasonable attorneys' and experts' fees costs, and expenses; and

4. Granting such other and further relief the Arbitrator may deem just and proper.

VERIFICATION

Claimant hereby attests that the foregoing is true of the party's own knowledge, except as to the matters that are stated on information and belief, and as to those matters that the party believes it to be true.

DATED: November 15, 2017

By: 

Jennifer M. Goldstein, Esq.
200 Hoover Avenue
Suite 1113
Las Vegas, NV 89101
Phone: (415) 517-6464
Fax: (866) 303-3067
Pro Se

EXHIBIT 2



American Arbitration Association
Dispute Resolution Services Worldwide

AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL

In the Matter of the Arbitration between:

Jennifer M. Goldstein, hereinafter referred to as "Ms. Goldstein"

-and-

NuVeda, LLC, hereinafter referred to as "NuVeda"

AAA Case #: 01-15-005-8574

INTERIM AWARD OF ARBITRATOR REGARDING VALUE

On January 15, 2019, beginning at 10:00 a.m., and ending on January 17, 2019, at 11:40 a.m., the Final Hearing was held in the above-captioned matter ("this Arbitration"). David Feuerstein, Esq., and Nancy Baynard, Esq., appeared on behalf of Ms. Goldstein. Ms. Goldstein was also present. Matthew T. Dushoff, Esq. and Jason M. Wiley, Esq., appeared on behalf of Respondent. Dr. Mohajer, Dr. Bady, and Joseph Kennedy were also present.

I, NIKKI L. BAKER, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into by the parties, having been duly sworn, having duly heard and reviewed the proofs and allegations of the parties during the Final Hearing, and in the parties' pre-hearing briefs, FIND as follows:

I. SUMMARY OF RELEVANT FACTS

A. NuVeda and Its Subsidiaries Are Formed.

On or about July 9, 2014, various individuals executed an Operating Agreement for NuVeda (the "Operating Agreement"). (See JE8.) The purpose of NuVeda was and is to engage in all lawful activities, including, but not limited to, the "research, design, creation, management, licensing, advertising and consulting regarding the legal medical marijuana industry, as such matters shall be lawfully allowed under applicable state laws." (See Operating Agreement at Section 1.6.)

Contemporaneous with the formation of NuVeda, the members of NuVeda caused the formation of subsidiary companies Clark NMSD LLC ("Clark"), Clark Natural Medicinal Solutions LLC ("Clark Medicinal"), and Nye Natural Medicinal Solutions LLC ("Nye") (collectively, the "Subsidiaries"). For purposes of this Arbitration, the parties stipulated that I

was to assume, without deciding, that the Subsidiaries were at all times relevant hereto wholly-owned by NuVeda.

Through the Subsidiaries, NuVeda applied for and received six (6) valuable and privileged licenses to legally cultivate, process and dispense marijuana (collectively, the "Licenses"). More specifically, Clark obtained two (2) dispensary licenses to operate dispensaries on 3rd Street and on N. Las Vegas Blvd. Clark Medicinal obtained one (1) cultivation license and one (1) processing license. Nye also obtained one (1) cultivation license and one (1) processing license. For purposes of this Arbitration, the parties stipulated that I was to assume, without deciding, that the fair market value of NuVeda includes the fair market value of the Licenses.

B. Disputes Arise Between the Members of NuVeda, Resulting in the Commencement of an Action in District Court and This Arbitration.

Pursuant to the Operating Agreement, Ms. Goldstein was allocated a 7% nondilutable interest in NuVeda. (See JE8.) She was also named NuVeda's in-house counsel, tasked with advising the other members of NuVeda on legal matters applicable to and affecting NuVeda, and the primary author of the Operating Agreement.

Subsequently, various disagreements amongst the members resulted in initiation of this Arbitration¹ and the filing of the action styled *NuVeda, LLC et al. v. Pejman Bady, et al.*, Case No. A-15-728510-B (the "District Court Action"). The parties in the District Court Action filed competing motions for preliminary injunction. One of the key bones of contention was the Membership Interest Purchase Agreement between CWNevada, LLC ("CWNevada"), CWNV, LLC, a to-be-formed entity ("CWNV"), NuVeda, Clark and Nye, with the effective date of December 6, 2015 (the "MIPA"). Pursuant to the MIPA, Clark and Nye were to transfer the two (2) dispensary licenses, one (1) production license, and one (1) cultivation license to CWNV, in exchange for NuVeda owning 35% of CWNV. CWNevada was to own the remaining 65% interest in CWNV.

During the evidentiary hearing on the motions, Brian Padgett, the manager of CWNevada, provided testimony on two points that are relevant to this Award. Mr. Padgett testified that "the total value benefit of everything that [CWNeveda] brings to the table we valued at \$22 million." (See JE164 at 42:1-2.) Additionally, when questioned about the amount of money NuVeda would be required to raise on its own under the MIPA, Mr. Padgett confirmed NuVeda would not have to raise any money:

Q. Mr. Padgett, there's a lot of talk about NuVeda raising funds and having to raise funds on their own in order to go forward. Let me ask you this question. Signing the CW deal how much money does NuVeda in its own, through its work through Mr. Terry, the CEO, have to raise in order to go forward with this CW deal?

A. No money.

(*Id.* at 42:23-43:4.)

¹ This Arbitration was originally commenced by Ms. Goldstein and Shane Terry. During the pendency of this Arbitration, Mr. Terry sold his 21% interest in NuVeda and assigned his claims in this Arbitration to BCP Holding 7, LLC ("BCP"). Brian Padgett signed the agreement with Mr. Terry on behalf of BCP. BCP substituted into this case and then dismissed with prejudice all claims against Respondents.

After the evidentiary hearing, the Honorable District Court Judge Elizabeth Gonzalez denied the motions, finding, based on the evidence presented during the evidentiary hearing, "that there is no basis to disturb the decision made by the majority of members interests to transfer certain assets of NuVeda to [CWNV]." (See JE165.) The District Court further ordered "that pending the completion of the contemplated arbitration, the parties are to take no further action to expulse each other on the factual basis presented to the Court during the evidentiary hearing." (*Id.*) The District Court's decision was appealed to the Nevada Supreme Court. By Order of Affirmance entered on October 13, 2017, the Nevada Supreme Court affirmed the District Court's decision.

C. Ms. Goldstein is Expulsed From NuVeda.

During the pendency of this Arbitration, on August 8, 2017, the requisite number of Disinterested Voting Interests voted to expulse Ms. Goldstein from NuVeda pursuant to Section 6.2 of the Operating Agreement. Given that Ms. Goldstein elected to abandon any claim that she was wrongfully expulsed from NuVeda (*see* Section I(F), *infra*), the parties did not present at the Final Hearing any meaningful evidence concerning the circumstances surrounding her expulsion.

The vote to expulse Ms. Goldstein triggered certain obligations of NuVeda. Specifically, Ms. Goldstein was "entitled to receive from the Company, in exchange for all of the former Member's Ownership Interest, the fair market value of that Member's Ownership Interest, adjusted for profits and losses to the date of the expulsion...." (*See* Operating Agreement at Section 6.2.) If the fair market value of Ms. Goldstein's interests could not be agreed upon, "the Voting Members shall hire an appraiser to determine fair market value." (*Id.*)² The Operating Agreement further provides that "[t]he Voting Members may elect, by written notice that is provided to the expelled or deceased Member's successor-in-interest, estate or beneficiary or beneficiaries, within thirty (30) days after the Member's expulsion or death, to purchase the former Member's Ownership Interest over a one-year (1-year) period, in four (4) equal installments, with the first installment being due sixty (60) days after the Member's expulsion or date of death." (*Id.*)

D. Certain Relevant NuVeda Contracts Are In Effect at the Time Ms. Goldstein Is Expulsed or Shortly Thereafter.

According to the testimony provided by Dr. Bady and Mr. Kennedy, Clark Medicinal entered into an Inter-Company Agreement dated April 14, 2016 (the "APEX Agreement"). (*See* JE259.) Pursuant to the APEX Agreement, Clark Medicinal contributed its cultivation license and its production license to APEX Operations, LLC, in exchange for other entities loaning approximately \$6,000,000.00 in financing. Mr. Kennedy testified that approximately \$9,000,000.00 in loans were ultimately provided. Once the loans are repaid, Clark Medicinal will receive a 40% interest in the net income received by APEX Operations, LLC. (*See* Transcript at 358:3-20.) Dr. Bady testified that the APEX Agreement was in effect at the time Ms. Goldstein was expulsed.

² Mr. Kennedy testified that he understood that this provision required NuVeda to "get an independent appraiser, licensed appraiser to appraise the company as of the date of the expulsion...." (*See* Transcript of Final Hearing ("Transcript") at 338:20-24.)

According to the testimony provided by Dr. Bady, the MIPA was also still in effect as of August 8, 2017.³ However, the four (4) licenses required to be transferred by Clark and Nye pursuant to the MIPA had not yet been transferred to CWNV. The fact that three (3) of these licenses were still held by Clark and Nye is confirmed in a Purchase and Sale Agreement dated September 20, 2017 ("PSA"). (See JE263.) It is not clear why Nye's production license was omitted from the PSA. Although the PSA was later purportedly rescinded, Dr. Bady and Mr. Kennedy testified that, when they signed the PSA, they believed the facts stated thereon were true and correct. Additionally, neither Dr. Bady nor Mr. Kennedy denied that they were aware of and/or negotiating the PSA at the time Ms. Goldstein was expelled.

E. NuVeda Purports to Determine the Fair Market Value of Ms. Goldstein's Interest in NuVeda.

Sometime before August 13, Mr. Kennedy spoke with Michael R. Webster with Webster Business Group about performing an appraisal of NuVeda. Mr. Webster apprised Mr. Kennedy of the information Mr. Webster needed to conduct the appraisal. In response, Mr. Kennedy prepared a document titled "Assets and Liabilities as of 8-8-2017" ("Aug. 8 Document"). (See JE262.) Mr. Kennedy testified that he prepared the Aug. 8 Document by looking at NuVeda's (actual) balance sheets and profit & loss statements. Among other information contained in the Aug. 8 Document is Mr. Kennedy's assessment that NuVeda's 35% interest in CWNV had a value of \$3,500,000.00. (*Id.*)

On August 13, 2017, Mr. Kennedy, on behalf of NuVeda, retained and met with Mr. Webster. Mr. Webster was asked to "establish the value of Nuveda LLC in accordance with procedure in the removal of its Manager Jennifer Goldstein who's total compensation is seven percent (7%)." (See JE261.) To this end, Mr. Kennedy provided to Mr. Webster the Aug. 8 Document. The information contained in the Aug. 8 Document was then copied into a letter dated August 19, 2017, which purported to be a Certified Business Appraisal of NuVeda (the "Webster Appraisal"). (*Id.*) Although Mr. Webster claims to have spent a total of four (4) hours working on the Webster Appraisal, he testified that he spent "[m]aybe 10 minutes" simply adding up the assets Mr. Kennedy provided in the Aug. 8 Document, and subtracting from the total amount of the assets the liabilities that were also provided by Mr. Kennedy in the Aug. 8 Document. Mr. Webster did not undertake any effort to verify any of the information provided by Mr. Kennedy in the Aug. 8 Document.⁴ Nor did Mr. Webster inquire about whether NuVeda was generating any revenue. Nevertheless, after performing this elementary calculation, Mr. Webster concluded in the Webster Appraisal that the fair market value of NuVeda on August 8, 2017, was \$1,695,277.00. (*Id.*)

On September 2, 2017, NuVeda's former counsel provided a copy of the Webster Appraisal to Ms. Goldstein. (See JE258.) In response, Ms. Goldstein thanked counsel and asked counsel to "provide the underlying documentation supporting these numbers" on the grounds that providing this documentation "might save all sides some time and resources." (*Id.*) Perhaps due in part to the fact that the parties were already embroiled in this Arbitration, no such documentation was forthcoming.

³ The validity, enforcement and/or reasonableness of the MIPA was not at issue in this Arbitration.

⁴ In the Webster Appraisal, Mr. Webster states that he "does not warrant the accuracy of the information contained herein." (JE261.)

F. The Parties Agree to Narrow the Issues for the Final Hearing.

On November 15, 2017, Ms. Goldstein filed a Second Amended Arbitration Claim against NuVeda, Dr. Bady, and Dr. Mohajer, asserting a variety of wrongdoing. On January 10, 2019, the parties reached an agreement "that the only issue that remains is the valuation of Ms. Goldstein's shares of August 8, 2017 and whether Ms. Goldstein is entitled to her attorneys' fees because she was never offered the actual fair market value of her shares of that date." In this regard, NuVeda conceded that Ms. Goldstein should be compensated for her 7% Membership Interest. This agreement was confirmed both in e-mails and on the record at the Final Hearing.

As a result of the parties' agreement, any and all claims for relief asserted by Ms. Goldstein against individual respondents, Dr. Bady and Dr. Mohajer, were dismissed. Additionally, Ms. Goldstein abandoned any argument that she was wrongfully expelled from NuVeda. In exchange, Dr. Bady and Dr. Mohajer agreed to waive any claim to recover attorneys' fees and costs against Ms. Goldstein. Finally, during the Final Hearing, Ms. Goldstein abandoned any claim to recover attorneys' fees and costs from Dr. Bady and Dr. Mohajer, individually.

II. DISCUSSION

A. Whether the Webster Appraisal Complied With the Operating Agreement.

The first issue raised by Ms. Goldstein is whether the Webster Appraisal complied with NuVeda's obligation under the Operating Agreement to "hire an appraiser to determine [the] fair market value" of Ms. Goldstein's Membership Interest. (See Operating Agreement at Section 6.2.) Ms. Goldstein claims that the Operating Agreement required NuVeda to include her in the appraisal process. She also argues that the Webster Appraisal did not accurately reflect the fair market value of NuVeda and inappropriately relied solely on the Aug. 8 Document, without verifying the accuracy of the information contained in the Aug. 8 Document. NuVeda disagrees. Each of Ms. Goldstein's arguments is addressed in turn.

1. Was NuVeda required to include Ms. Goldstein in the appraisal process?

Any analysis of the terms of the Operating Agreement necessarily begins with the well-established rules of contract interpretation in Nevada. "Generally, when a contract is clear on its face, it 'will be construed from the written language and enforced as written.' The court has no authority to alter the terms of an unambiguous contract." *Canfora v. Coast Hotels & Casinos, Inc.*, 121 Nev. 771, 776, 121 P.3d 599, 603 (2005); *see also Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("Under well-settled rules of contract construction a court has no power to create a new contract for the parties which they have not created or intended for themselves."). Simply put, under Nevada law, contracts must be enforced as written. *See Sandy Valley Assoc. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 953-54, 35 P.3d 964, 967 (2001). If, however, contract language is ambiguous, a court may look to parol evidence to determine what the parties intended in the contract. *See Ringle v. Bruton*, 120 Nev. 82, 86 P.3d 1032, 1037 (2004) ("The parol evidence rule does not permit the admission of evidence that would change the contract terms when the terms of a written agreement are clear, definite, and unambiguous.").

While Ms. Goldstein's first argument appears to have some merit with respect to certain sentences contained in Section 6.2, the attractiveness of Ms. Goldstein's argument diminishes

rather rapidly when compared with other sentences in the Operating Agreement. By way of an example, which is by no means exhaustive, Section 6.1 of the Operating Agreement, which addresses what happens when a Member resigns, states that "[f]air market value may be determined informally by unanimous agreement of all of the Voting Members, *including the resigning Member*." (See Operating Agreement at Section 6.1.) (Emphasis added.) No similar language is found in Section 6.2. See e.g., *Galloway v. Truesdall*, 422 P.2d 237 (Nev. 1967) ("The maxim 'EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS', the expression of one thing is the exclusion of another, has been repeatedly confirmed in this State."). The plain language of Section 6.2 does not support Ms. Goldstein's argument.

Even if the term "Voting Members" were ambiguous as used in Section 6.2, the parties' actions and inactions cut against Ms. Goldstein's argument. See, e.g., *Casino Operations Inc. v. Graham*, 86 Nev. 764, 768, 476 P.2d 953, 956 (1970) (holding that "[w]hen the parties to a contract perform under it and demonstrate by their conduct that they knew what they were talking about, the courts should enforce that intent."); *Thompson v. Fairleigh*, 187 S.W.2d 812, 816 (Ky. 1945) ("There is an old saying of an English judge: 'Show me what the parties did under the contract and I will show you what the contract means.'").

If I were to accept Ms. Goldstein's interpretation of the term "Voting Members" in Section 6.2 to include Ms. Goldstein, one would expect to see some evidence that Ms. Goldstein, as the primary author of the Operating Agreement and legal counsel to NuVeda, informed NuVeda of her right to be part of the appraisal process when she was expelled in August 2017. Or, at minimum, one would expect Ms. Goldstein to have complained that she was left out of the process when the Webster Appraisal was provided to her on September 2, 2017. No such evidence was produced. In this way, Ms. Goldstein's lack of contemporaneous actions and statements carry more weight than her arguments now. See *Shapiro v. Sec'y of Health & Human Servs.*, 101 Fed. Cl. 532, 538 (2011) (stating that "[w]here such testimony is in conflict with contemporaneous documents we can give it little weight.").

Similarly, NuVeda proceeded on its own to hire an appraiser, thereby indicating that it interpreted the term "Voting Members" in Section 6.2 to not include Ms. Goldstein. For the reasons set forth above, I find that NuVeda did not violate the Operating Agreement when it failed to include Ms. Goldstein in the appraisal process.

2. Did NuVeda fail to have an appraiser determine fair market value?

Whether the Webster Appraisal complied with the Operating Agreement is a horse of a different hue. According to the plain language of the Operating Agreement, NuVeda was obligated to "hire an appraiser to determine fair market value." (See Operating Agreement at Section 6.2) Ms. Goldstein's expert witness, Donald Parker, and NuVeda's expert witness, Dr. Clauretie, disagreed on most things, but managed to find common ground on the definition of the term "fair market value." The term "fair market value" is defined "as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts." (See RESPO57616; see also Transcript at 467:11-15.) The Webster Appraisal does not comply with this definition for several reasons.

To begin, the Webster Letter was a "book value"⁵ or liquidation evaluation of Ms. Goldstein's ownership interest in NuVeda. (See Transcript at 272:21-22.) ("I simply subtracted the liabilities from the assets to obtain the value."). A "book value represents the total amount a company is worth if all of its assets are sold and all the liabilities are paid back. This is the amount that the company's creditors and investors can expect to receive if the company goes for liquidation."⁶ (See also Mr. Parker's March 16, 2018, Report at 2.) ("Basing the value of a company on the Company's assets and liabilities defines either the Net Book Value or Adjusted Book Value method."). Tellingly, Section 6.1 of the Operating Agreement provides that when a Member voluntarily resigns his membership, the Member "shall be entitled to receive from the Company *only the book value of his Ownership Interest*, adjusted for profits and losses to the date of resignation...." (See Operating Agreement at Section 6.1.) (Emphasis added). Therefore, if the Members of NuVeda intended for an expelled Member to obtain "only the book value of his Ownership Interest," they would and could have said so in Section 6.2. Instead, Section 6.2 requires the appraiser to determine the fair market value.

Furthermore, the Webster Appraisal did not meaningfully appraise anything. The common meaning of the word "appraise" is "to estimate the monetary value of; determine the worth of; assess."⁷ Yet, Mr. Webster did not "appraise" NuVeda's assets or liabilities; rather, he accepted the values given to him by Mr. Kennedy, who, in turn, received information concerning NuVeda's assets from Dr. Bady and/or came up with these numbers based on what he had "heard" licenses were "going for." (See JE262.) Thus, as Ms. Goldstein's counsel argued at the Final Hearing, the appraising was actually performed by Mr. Kennedy or Dr. Bady, on behalf of NuVeda, not by an independent appraiser. NuVeda's failure to have an appraiser actually appraise NuVeda violated Section 6.2 of the Operating Agreement.⁸

In a similar vein, Mr. Webster did not verify whether the assets and liabilities set forth in the Aug. 8 Document, which were copied and used in the Webster Appraisal, were accurate. Had he done so, Mr. Webster may have discovered that the actual balance sheets and profit & loss statements for NuVeda do not appear to support the numbers he utilized. For example, the Liabilities section of NuVeda's Balance Sheet as of December 31, 2017, only includes the debt owed to 2 Prime LLC. (See JE256.) No mention is made of the Judgment to 2113 Investors, Attorney Fees for Litigation, the 4 Front Litigation or a Debt to Windmill group, and there is no indication that these debts were paid off between August 8, 2017, and December 31, 2017. (*Id.*)⁹ By way of another example, as shown in NuVeda's Profit & Loss statements for 2015, 2016 and 2017, NuVeda had paid \$130,615.74 in legal fees. It is unclear, however, what those legal fees were for. Regardless, there is simply no evidence that NuVeda was liable for \$510,513.00 in legal fees. The actual books and records produced in this Arbitration establish that the Webster Appraisal is unreliable and does not reflect the fair market value of NuVeda.

⁵ The term "book value" is commonly defined as (1) "the value of a business, property, etc., as stated in a book of accounts (distinguished from market value)", and (2) "total assets minus all liabilities; net worth." See <https://www.dictionary.com/browse/book-value> (last visited Jan. 23, 2019).

⁶ See <https://www.investopedia.com/articles/investing/110613/market-value-versus-book-value.asp> (last visited Jan. 18, 2019).

⁷ See <https://www.dictionary.com/browse/appraise?s=t> (last visited Jan. 23, 2019).

⁸ In fact, Mr. Webster confirmed that he had never appraised a cannabis business before, and that his limited understanding of the cannabis industry in Nevada was based on what he had read. (See Transcript at 277:16-23; 290:20-23.)

⁹ A prospective purchaser of any interest in NuVeda would not rely solely on a sheet of assets and liabilities prepared by Mr. Kennedy. Rather, the purchaser would want to review the actual books and records of NuVeda.

What's more, the Webster Appraisal does not take into account the sales that had occurred to date. For instance, if one were to add the sales listed by CWNevada¹⁰ for July and August 2017 for the 3rd Street and N. Las Vegas dispensaries (Rows F-I in JE249), divide that by two (2), and multiply that by twelve (12), that would equal \$7,455,029.00. NuVeda's 35% share of that equals \$2,609,260.16 for one (1) year. Put simply, NuVeda's contention that the fair market value of NuVeda was only \$1.6 million is belied by the record.

If more were required, NuVeda failed to sufficiently explain why the value of its interest in CWNV totaled \$4,790,000.00 in March 2016 (see NUVEDA 000436), but purportedly declined to \$3,500,000.00 in August 2017, despite the commencement of recreational marijuana sales in July 2017. (See e.g., Transcript at 393:7-10.) This is yet another reason why Mr. Webster needed to do more, much more, for the Webster Appraisal to qualify as a fair market value appraisal.

Finally, common sense¹¹ compels the conclusion that while a willing buyer may have purchased NuVeda for \$1,695,277.00 on or about August 8, 2017, no willing seller, much less NuVeda, would have sold NuVeda for that amount on or about August 8, 2017. In fact, NuVeda admitted during the Final Hearing that it would not have sold NuVeda for that amount on August 8, 2017. While this fact, by itself, may not establish that the Webster Appraisal did not determine the fair market value of NuVeda, when this fact is coupled with the other fatal flaws contained in the Webster Appraisal, the inescapable conclusion is that the Webster Appraisal did not establish the fair market value of NuVeda. As such, NuVeda failed to "hire an appraiser to determine fair market value" of Ms. Goldstein's Ownership Interest.

B. The Fair Market Value of Ms. Goldstein's Ownership Interest.

Having decided that the Webster Appraisal does not reflect the fair market value of NuVeda as of August 8, 2017, I must now determine the fair market value of Ms. Goldstein's Ownership Interest as of that date. In order to make this determination, I must utilize the definition of "fair market value" "as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts." This means that I must decide the fair market value based on certain relevant facts as of August 8, 2017, such as (i) the MIPA was still in effect and NuVeda owned 35% of CWNV in exchange for transferring four licenses, despite that the licenses had not yet been transferred, (ii) the 3rd Street and N. Las Vegas dispensaries were operational and generating sales from both medicinal and recreational marijuana, (iii) NuVeda had no plan to liquidate its assets, and (iv) the APEX Agreement was still in effect.¹²

The evidence submitted during the Final Hearing regarding fair market value consisted of, among other things, conflicting expert opinions, actual contracts entered into by NuVeda

¹⁰ It is unclear why this spreadsheet is from CWNevada, instead of CWNV. For purposes of this analysis, I presumed that the amounts stated in this spreadsheet do not reflect simply CWNevada's 65% of the sales, but reflect all sales at these locations.

¹¹ As the standard jury instruction states, "[a]lthough you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women."

¹² In response to a direct question I posed before closing arguments, neither party argued that the fair market value should be "adjusted for profits and losses to the date of the expulsion..." or provided sufficient information to make such an adjustment. Therefore, my determination of the fair market value of Ms. Goldstein's Ownership Interest will not include any such adjustment.

and/or the Subsidiaries, testimony by current and former members of NuVeda, and bits and pieces of information of sales of other marijuana licenses.

The standard that governs the admissibility of expert testimony is well-known. NRS 50.275 governs the admissibility of expert testimony. "To testify as an expert witness under NRS 50.275, the witness must satisfy ... three requirements: (1) he or she must be qualified in an area of 'scientific, technical or other specialized knowledge' (the qualification requirement); (2) his or her specialized knowledge must 'assist the trier of fact to understand the evidence or to determine a fact in issue' (the assistance requirement); and (3) his or her testimony must be limited 'to matters within the scope of [his or her specialized] knowledge' (the limited scope requirement)." *Hallmark v. Eldridge*, 124 Nev. 492, 498, 189 P.3d 646, 650 (2008) (quoting NRS 50.275). The district court has "wide discretion" to determine the admissibility of expert testimony on a "case-by-case basis." *Higgs v. State*, 126 Nev. 1, 18, 222 P.3d 648, 659 (2010).

Here, there were reasons to discredit certain aspects of Mr. Parker's opinions.¹³ *First*, Mr. Parker's opinion utilized projected data for CWNV, not NuVeda. *Second*, he failed to discount any value of the licenses by 35% to reflect the MIPA arrangement. *Third*, Mr. Parker used profit and loss projections that did not conform to actual data.

Similarly, there were reasons to discredit Dr. Clauretie's opinions. *First*, he did not conduct a reasonable investigation into or verify the accuracy or comparability of the information contained in the vague Table One in his February 6, 2018, report. Rather, this information was provided to him by Dr. Bady and he sought confirmation concerning the information from Paris Balaouras, an individual he was directed to speak to by Dr. Bady. And, NuVeda failed to present sufficient evidence to establish that Table One actually contained relevant, comparable information.¹⁴ Indeed, NuVeda never produced the underlying document utilized to prepare Table One.

Second, Dr. Clauretie's chief reason why the Webster Appraisal/liquidation method was appropriate was because NuVeda "indicated that they had trouble getting investments into the company because of the ongoing litigation that was ongoing at the time." (See Transcript at 429:4-6.) However, NuVeda was not in liquidation in August 2017. And, no substantial evidence of problems obtaining investments into NuVeda because of this Arbitration and/or the District Court Action was presented at the Final Hearing. In fact, the evidence was quite the opposite. The evidence established that NuVeda had no obligation to raise funds on its own under the MIPA, and that NuVeda obtained the requisite loans and/or investment in the APEX Agreement. *Third*, Dr. Clauretie did nothing to confirm the assets and liabilities information provided to him by NuVeda. *Fourth*, Dr. Clauretie conceded that he was not familiar with the cannabis market in Nevada. *Finally*, he effectively admitted that, if NuVeda knew in August 2017 about the value that was being negotiated in the PSA but did not him about it, he "wouldn't stand by this report."

¹³ The parties raised numerous objections to the experts' testimony and opinions. For the sake of brevity, I do not address every aspect of each expert's testimony that I found credible and every aspect that I found not credible. Rather, pursuant to the discussion at the end of the Final Hearing, I address a few points from each expert's testimony and opinions.

¹⁴ No specific details were included in Table One, such as the size of any dispensary, the location of the business, and whether reductions or discounts were applied to or included in the value of the license. NuVeda argued that the value of the Licenses should be discounted for certain liabilities, lack of control, and lack of marketability. If, however, I were to accept the values in Table One and those values were already discounted, NuVeda would be asking me to discount the value of the Licenses twice. NuVeda was required to offer sufficient information before I could accept the values set forth in Table One.

Mr. Leauanae's testimony was, in parts, unhelpful. He did not provide an opinion on the fair market value of Ms. Goldstein's Ownership Interest. Mr. Leauanae also wrongly believed that, in August 2017, NuVeda did not have any operations or revenue. Interestingly, at times, Mr. Leauanae's criticisms of Mr. Parker's opinions could equally apply to Dr. Clauretie's opinions. (*See e.g.*, Transcript at 522:17-24.)

However, there were aspects of the experts' opinions that did assist me in understanding the evidence or deciding a fact in issue. Taking into account and weighing all of the evidence, I determined that the fairest way to evaluate fair market value was to analyze two contracts signed by NuVeda and/or one or more the Subsidiaries, actual sales reports, and aspects of the experts' testimony.

First, I relied on the MIPA to perform part of the fair market valuation.¹⁵ In December 2015, CWNevada valued its contribution of \$22,000,000.00 for a 65% share of CWNV. This results in a total valuation of CWNV of \$33,846,153.80, before the sale of recreational marijuana was approved. NuVeda's share of that amount equals \$11,846,153.80.

Mr. Terry testified that recreational sales totaled 4-5 times more than medicinal sales. However, the information provided in Exhibit 249 for the 3rd Street and N. Las Vegas dispensaries reveal recreational sales are on average 3-4 times more valuable than medicinal sales. Therefore, applying a multiplier of 3.5 to NuVeda's share of \$11,846,153.80, equals a fair market value of NuVeda's interest in CWNV at \$41,461,538.30 as of August 8, 2017. Taking 7% of that amount (\$2,902,307.68) and further reducing it by 30%¹⁶ for lack of control and lack of marketability equals \$2,031,615.38. Based on the evidence, I find that the production and cultivation licenses held by Clark Medicinal were worth \$200,000.00 each (or \$400,000.00 total). Ms. Goldstein's 7% share of that amount, reduced by 30% equals \$19,600.00. Based on these calculations, the fair market value of Ms. Goldstein's Ownership Interest as of August 8, 2017, equals \$2,051,215.38.

I also considered the values assigned in the PSA. In exchange for the transfer of three (3) licenses, CWNevada agreed to make a "monthly payment of 2.625% of CW's Gross sales. Payment shall be subject to an absolute minimum of two hundred thirty five thousand eight hundred seventy dollars per month (\$235,870)." Said payments were to begin on January 1, 2018, and the minimum term for these payments was eight (8) years. This equals a minimum value of \$22,643,520.00. Additionally, CWNevada agreed to transfer a two percent (2%) equity holding in CWNevada. Mr. Parker valued this interest at \$4,000,000.00. Thus, NuVeda (or its Subsidiaries) and CWNevada valued the three (3) licenses at a *minimum* price of \$26,643,520.00. Adding \$200,000.00 to that amount for Nye's remaining production license, plus \$400,000.00 for Clark Medicinal's licenses, that equals a total fair market value of \$27,243,520.00. Taking 7% of that amount and further reducing it by 30% equals \$1,334,932.48 for Ms. Goldstein's Ownership Interest.

However, basing the fair market value of the three (3) licenses on the PSA leads to a skewed result because the value assigned in the PSA was a minimum amount for a minimum number of years. And, the PSA was rescinded for reasons unknown. Therefore, I find that the

¹⁵ If the MIPA were not in effect, the four (4) licenses would be owned 100% by NuVeda, thereby increasing the value of Ms. Goldstein's Ownership Interest.

¹⁶ The experts disagreed on the percentage that should be utilized to discount for lack of control and lack of marketability. Mr. Parker proposed a 28% discount. Dr. Clauretie utilized a 20% discount. Mr. Leauanae testified he would apply a 40-45% discount. After weighing the conflicting opinions, I settled on a 30% discount for lack of control and lack of marketability.

MIPA, which NuVeda claims was and is still in effect, provides a more accurate and reliable value of Ms. Goldstein's Ownership Interest. I find that the fair market value of Ms. Goldstein's Ownership Interest in NuVeda as of August 8, 2017, equals **\$2,051,215.38**,¹⁷ and that NuVeda owes Ms. Goldstein this amount.

I further find that, for the reasons set forth above, Ms. Goldstein is the prevailing party in this Arbitration on her valuation claim against NuVeda. Therefore, Ms. Goldstein is entitled to recover from NuVeda reasonable fees, costs and expenses under Section 12.10 of the Operating Agreement. Ms. Goldstein has until **5:00 p.m. PST on Friday, February 15, 2019**, to submit for my review, and serve on NuVeda's counsel and AAA, sufficient and reliable documentation concerning the fees and costs she seeks to recover consistent with the above. She shall also separate out those fees and costs incurred to prosecute her claim against NuVeda from the fees and costs she incurred to prosecute her claims against Dr. Bady and Dr. Mohajer. If Ms. Goldstein is unable to do so, she shall provide legal authority for an award of the fees and costs she seeks. Additionally, Ms. Goldstein shall include in this submission any argument for and calculation of any pre-judgment interest she believes is due to her.

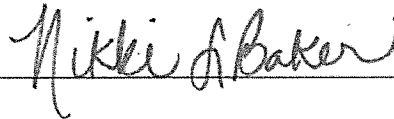
NuVeda shall have until **5:00 p.m. PST on Monday, February 25, 2019**, to respond to Ms. Goldstein's submission on attorneys' fees, costs, and pre-judgment interest. No reply submission is permitted.

Following receipt and review of the above, I will issue the Final Award, which will include the monetary finding above, as well as the specific amount of fees, costs, and pre-judgment interest, if any, awarded to Ms. Goldstein.

This Award shall remain in full force and effect until such time as a final Award is rendered.

Dated: February 7, 2019.

Arbitrator Signature: _____



¹⁷ For a "sanity check," I performed many other calculations utilizing, among other information, CWNevada's sales, the \$25,000,000.00 value Dr. Bady was allegedly going to receive from Mr. Bahri, and an assumption valuing the licenses under the MIPA at \$22,000,000.00 (CWNevada's investment). The different calculations resulted in values ranging from \$1,362,171.20 to \$1,907,046.40, thereby further confirming this number fairly reflects the fair market value of Ms. Goldstein's Ownership Interest.

EXHIBIT 3



American Arbitration Association
Dispute Resolution Services Worldwide

AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL

In the Matter of the Arbitration between:

Jennifer M. Goldstein, hereinafter referred to as "Ms. Goldstein"

-and-

NuVeda, LLC, hereinafter referred to as "NuVeda"

AAA Case #: 01-15-005-8574

FINAL AWARD

I, Nikki L. Baker, THE UNDERSIGNED ARBITRATOR, having been duly sworn, and having been appointed in accordance with the arbitration agreement entered into between the above referenced parties, and reviewed the evidence and arguments set forth in Ms. Goldstein's submissions regarding attorneys' fees, costs, and prejudgment interest on February 15, 2019, being represented by David Feuerstein, Esq., and Nancy Baynard, Esq., and in NuVeda's response to the same on February 25, 2019, being represented by Matthew T. Dushoff, Esq. and Jason M. Wiley, Esq., I FIND as follows:

A. Attorneys' Fees.

Ms. Goldstein requests an award of \$332,352.77 in attorneys' fees. When considering the reasonableness of attorneys' fees, Nevada courts look to the following four factors:

- (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill;
- (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation;
- (3) the work actually performed by the lawyer: the skill, time and attention given to the work; and
- (4) the result: whether the attorney was successful and what benefits were derived.

Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969); *Shuette v. Beazer Homes Holdings Corp.*, 124 P.3d 530, 549 (Nev. 2005).

In Nevada, "the method upon which a reasonable fee is determined is subject to the discretion of the court," which "is tempered only by reason and fairness." *Shuette*, 124 P.3d at 548–49. "Accordingly, in determining the amount of fees to award, the court is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, including those based on a 'lodestar' amount or a contingency fee." *Id.*

Here, the qualities and skills of Mr. Feuerstein, and the associates who worked with him in this Arbitration, as well as all of the other advocates presently in this Arbitration are not disputable. And, the hourly rates charged by Ms. Goldstein's counsel are well within the prevailing market rates for commercial litigation in Nevada. *See e.g., In re USA Commercial Mortg. Co. v. USA SPE LLC*, Case Nos. 2:07-CV-892-RCJ-GWF and 3:07-CV-241-RCJ-GWF, 2013 WL 3944184, *20 (D. Nev. 2013) ("The Court finds that those suggested hourly rates are reasonable in comparison to prevailing market rates for complex commercial litigation in Nevada of between \$350 and \$775 an hour...."). NuVeda does not claim otherwise. As a result, this factor weighs in favor of the reasonableness of the attorneys' fees.

As to the second and third factors, the work performed by Mr. Feuerstein is evidenced by his Declaration and the invoices attached thereto as Exhibit D. For the reasons set forth more fully in Section B, *infra*, I disallow any recovery for the fees incurred on February 23, 2018, and February 26, 2018 (totaling \$1,350.00), relating to Mr. Feuerstein's *pro hac* application. With respect to the remainder of the work performed by Mr. Feuerstein and his team, the number of hours expended were reasonable. This factor, thus, weighs in favor of the reasonableness of the attorneys' fees.

Fourth and finally, the result of the work performed by Mr. Feuerstein and his team on behalf of Ms. Goldstein resulted in Ms. Goldstein prevailing in this Arbitration on the issue of value of her Ownership Interest in NuVeda. This successful result satisfies the fourth prong of the *Brunzell* test.

Nevertheless, Ms. Goldstein was unable or unwilling to separate out those fees that were incurred relating to her dismissed claims against Dr. Bady and Dr. Mohajer from those that were incurred to arbitrate the fair market value of her Ownership Interest. Nor did Ms. Goldstein provide to me any legal authority that would justify an award of all of the fees incurred for all of the work performed by Mr. Feuerstein and his team. And, Ms. Goldstein failed to sufficiently explain how all of the work Mr. Feuerstein performed over the past year was relevant to Ms. Goldstein's valuation claim against NuVeda, which is the only claim that proceeded to the Final Hearing. As evidenced by, among other things, the shortening of the duration of the Final Hearing, the facts related to Ms. Goldstein's claims against Dr. Bady and Dr. Mohajer were not the exact same as those related to the valuation claim against NuVeda, although there was overlap.

Therefore, I will award to Ms. Goldstein all of the fees she incurred after January 11, 2019, the date she agreed to dismiss her claims against Dr. Bady and Dr. Mohajer.¹ These fees total

¹I also considered awarding all of the fees incurred relating to Mr. Parker's expert report and the motions in limine that were filed relative to the expert reports. However, the invoices contained block billing on the relevant entries, and each relevant entry also contained time for a task unrelated to the expert reports, thereby preventing the time spent on the relevant tasks from being fairly separated out. (*See e.g.*, Entry by NB on January 8, 2019.) Therefore, the reduced percentage of 34% was applied to

\$36,982.50. I will also award to her \$64,847.35 in attorneys' fees, which represents 34% of the balance of the billable attorney time, minus the \$1,350.00 in fees disallowed above. I find that, under the circumstances of this case and the factors set forth in *Brunzell*, \$101,829.85 represents a reasonable amount of attorneys' fees that Ms. Goldstein is entitled to be awarded under Section 12.10 of the Operating Agreement for prosecuting and prevailing on her valuation claim against NuVeda.²

B. Costs.

I turn now to the \$95,002.32 in costs sought by Ms. Goldstein. Respondents do not specifically challenge the costs incurred for the expert fees (\$9,300.00), the court stenographer (\$6,878.30), or the arbitration fees, including administrative fees, arbitrator compensation, and other expenses outlined in Exhibit H (\$23,676.25), except to argue that Ms. Goldstein failed to apportion the amounts incurred with respect to her claims against Dr. Bady and Dr. Mohajer and her claims against NuVeda. With respect to NuVeda's arguments concerning the expert fees and the court stenographer fees, I find that Ms. Goldstein is entitled to be reimbursed for the full amount of those costs.

As for the arbitration fees, including administrative fees, arbitrator compensation, and other expenses outlined in Exhibit H ("Arbitration Fees"), NuVeda's arguments have some merit. Subsequent to the parties' submissions, I was informed by AAA that of the total Arbitration Fees (representing administrative fees (\$7,700.00) and arbitrator fees (\$71,327.05)), Ms. Goldstein's share equals \$33,885.20. If I added half of the arbitrator compensation fees incurred after January 11, 2019, to the administrative fee reflected in Exhibit H and to 34% of the total arbitrator compensation fees incurred prior to January 11, 2019, the total would equal *more* than Ms. Goldstein's actual share of the Arbitration Fees. Therefore, I find that it is reasonable to require NuVeda to reimburse Ms. Goldstein the sum of \$33,885.20, which represents Ms. Goldstein's share of the Arbitration Fees.

Next, NuVeda challenges the costs incurred for air travel, lodging, and ground travel for Ms. Goldstein's out-of-state counsel. Courts have held that "under normal circumstances, a party that hires counsel from outside the forum of the litigation may not be compensated for travel time, travel costs, or the costs of local counsel." *Interfaith Cmty. Org. v. Honeywell Int'l, Inc.*, 426 F.3d 694, 710 (3d Cir. 2005), *as amended* (Nov. 10, 2005); *Guckenberger v. Boston Univ.*, 8 F. Supp. 2d 91, 106 (D. Mass. 1998) (travel time deducted where, *inter alia*, retention of California counsel was not essential but rather a "judgment call by the plaintiffs").

To be sure, Ms. Goldstein was entitled to counsel of her choosing, and such counsel may be located outside the State of Nevada. However, there are attorneys in Las Vegas who were competent to arbitrate a matter such as this one. It is not reasonable to require NuVeda to pay for Ms. Goldstein's counsels' travel to and from Nevada for this Arbitration, hotel stays, and

those entries. See *Mendez v. Cnty. of San Bernardino*, 540 F.3d 1109, 1129 (9th Cir.2008), *overruled on other grounds by Arizona v. ASARCO LLC*, 773 F.3d 1050 (9th Cir.2014) (stating that block billing practices "are legitimate grounds for reducing or eliminating certain claimed hours, but not for denying all fees.").

² Under the circumstances of this Arbitration and because I have awarded to Ms. Goldstein the full hourly rate for her attorneys' work, I am not awarding the 5% "success fee" in the amount of \$102,560.78. Ms. Goldstein was certainly free to negotiate paying a lower amount during the pendency of this Arbitration in exchange for paying a success fee later, and such an arrangement does not seem unreasonable as between Ms. Goldstein and her counsel. However, I find that it is not reasonable to require NuVeda to shoulder the obligation of paying the success fee.

transportation while in town. Therefore, I disallow the air travel, lodging, and ground travel expenses incurred for Ms. Goldstein's out-of-state counsel to attend the Final Hearing.

Additionally, pursuant to the Nevada Supreme Court's decision in *Cadle Co. v. Woods & Erickson, LLP*, a court may not award any costs to Ms. Goldstein without "evidence enabling the Court to determine that those costs were reasonable, necessary, and actually incurred." 131 Nev. Adv. Op 15, 345 P.3d 1049, 1054 (2015) (finding the trial court abused its discretion when it awarded costs without "justifying documentation" to support the costs). Ms. Goldstein did not submit "justifying documentation" for her air travel, hotel, ground travel and/or food expenses that she now claims as costs. This is yet another reason to deny Ms. Goldstein recovery of these costs.

Finally, NuVeda argues that the \$1,138.26 charge for legal research is unreasonable. Ms. Goldstein does not provide any other details concerning the topics on which her counsel performed legal research. Nor was the "schedule showing the current basis upon which" "certain costs and expenses" were computed by Ms. Goldstein's counsel included in Exhibit C to Mr. Feuerstein's Declaration. Nevertheless, and because there is little doubt that Ms. Goldstein's counsel performed certain legal research, I find that Ms. Goldstein should recover the reasonable amount of \$400.00 for legal research costs. In total, I find that Ms. Goldstein should be awarded \$50,463.50 in reasonable costs.³

C. Prejudgment Interest.

Lastly, Ms. Goldstein requests \$205,795.87 in prejudgment interest on the value assigned to her Ownership Interest, beginning on August 8, 2017, through February 7, 2019, the date of the Interim Award, plus additional prejudgment interest. NuVeda argues that only a percentage of that amount is recoverable because Ms. Goldstein does not distinguish the amount between Dr. Bady and Dr. Mohajer, and NuVeda. Because the fair market value of Ms. Goldstein's Ownership Interest is and was owed by NuVeda pursuant to Section 6.2 of the Operating Agreement, no such distinction was required to be made. The full amount of prejudgment interest is owed by NuVeda under NRS 99.040(1) up to and including the date of this Final Award.

Ms. Goldstein also seeks an award of prejudgment interest on the attorneys' fees paid by Ms. Goldstein. However, because these attorneys' fees were not awarded as special damages, but rather under Section 12.10 of the Operating Agreement, prejudgment interest on attorneys' fees is not appropriate. In addition, the amount of attorneys' fees actually paid by Ms. Goldstein was unknown by NuVeda until her submission on February 15, 2019. If more were needed, Ms. Goldstein did not establish whether the fees paid were attributable to the claims against NuVeda. For any or all of these reasons, prejudgment interest on the fees paid by Ms. Goldstein is not warranted.

³ Ms. Goldstein also requests that she be awarded \$47,660.50 in expenses she purportedly "advanced on behalf of NuVeda that were not reimbursed as part of the valuation..." However, such expenses are not recoverable under Section 12.10 of the Operating Agreement. Nor did the parties agree in writing on January 11 or at the beginning of the Final Hearing that the reimbursement of such expenses was to be considered when determining the fair market value of Ms. Goldstein's Ownership Interest as of August 8, 2017. And, Ms. Goldstein did not present any "justifying documentation" for these expenses. If Ms. Goldstein has a claim to recover this amount from NuVeda, such a claim was not before me and, therefore, I make no decision on whether Ms. Goldstein should be reimbursed for expenses she advanced on behalf of NuVeda, except to say that such expenses are not reimbursable under the plain language of Section 12.10 of the Operating Agreement.

Therefore, based on the Findings set forth in the Interim Award of Arbitrator Regarding Value dated February 7, 2019, which is incorporated by reference herein, and the Findings set forth above, I AWARD as follows:

1. Ms. Goldstein is awarded, and NuVeda shall pay Ms. Goldstein, the sum of TWO MILLION FIFTY-ONE THOUSAND TWO HUNDRED FIFTEEN DOLLARS AND THIRTY-EIGHT CENTS (\$2,051,215.38), which represents the fair market value of Ms. Goldstein's Ownership Interest in NuVeda as of August 8, 2017.

2. Ms. Goldstein is also awarded, and NuVeda shall pay Ms. Goldstein, the sum of TWO HUNDRED TWENTY-TWO THOUSAND SIX HUNDRED FIFTY-FIVE DOLLARS AND SEVEN CENTS (\$222,655.07), which represents prejudgment interest accrued on the above amount beginning on August 8, 2017, and continuing until and including March 19, 2019.

3. Ms. Goldstein is also awarded, and NuVeda shall pay Ms. Goldstein, the sum of ONE HUNDRED FIFTY-TWO THOUSAND TWO HUNDRED NINETY-THREE DOLLARS AND THIRTY-FIVE CENTS (\$152,293.35), which represents the amount of reasonable fees, costs, and expenses Ms. Goldstein is entitled to recover as the prevailing party under Section 12.10 of the Operating Agreement.

4. The above sums shall accrue post-judgment interest at the applicable statutory rate of interest commencing on March 20, 2019, until paid in full.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

Dated: March 19, 2019.

Arbitrator Signature: _____

Miki Abaker

Subscribed and sworn to before me
this 19TH day of March, 2019.

Erin L. Parcels

NOTARY PUBLIC

My Commission expires: March 14, 2022

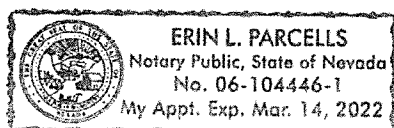


EXHIBIT 4



1 **FFCO**
2 DICKINSON WRIGHT PLLC
3 BRIAN R. IRVINE
4 Nevada Bar No. 7758
5 BROOKS T. WESTERGARD
6 Nevada Bar No. 14300
7 100 West Liberty Street
8 Suite 940
9 Reno, Nevada 89501
10 Tel.: (775) 343-7500
11 Fax: (844) 670-6009
12 Email: birvine@dickinsonwright.com
13 Email: bwestergard@dickinsonwright.com

14 *Attorneys for Plaintiff Jennifer M. Goldstein*

15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 NUVEDA, LLC, a Nevada limited liability
18 company, SHANE M. TERRY, a Nevada
19 resident; and JENNIFER M. GOLDSTEIN, a
20 Nevada resident,

21 Plaintiffs,
22 vs.

23 PEJMAN BADY; POUYA MOHAJER; DOE
24 Individuals I-X and ROE Entities I-X, inclusive,
25 Defendants.

Case No.: A-15-728510-B
Dept. No.: 11

**[PROPOSED] FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER: (1) GRANTING PLAINTIFF
JENNIFER M. GOLDSTEIN'S
MOTION TO CONTINUE HEARING
ON NUVEDA, LLC'S MOTION TO
VACATE ARBITRATION AWARD
AND TO EXTEND BRIEFING
DEADLINES; (2) DENYING
DEFENDANT NUVEDA, LLC'S
MOTION TO VACATE ARBITRATION
AWARD; AND (3) CONFIRMING THE
ARBITRATION AWARD**

Hearing Date: August 12, 2019

26 This matter having come on for hearing related to Plaintiff Jennifer M. Goldstein's
27 Motion to Continue Hearing on NuVeda, LLC's Motion to Vacate Arbitration Award and to
28 Extend Briefing Deadlines (the "Motion to Continue") and Defendant NuVeda, LLC's Motion to
Vacate Arbitration Award (the "Motion to Vacate") before the Court on August 12, 2019.
Plaintiff Goldstein appeared by and through her counsel of record Brian Irvine of the law firm of

1 Dickinson Wright PLLC; and Defendant NuVeda, LLC appeared by and through its counsel of
2 record Matthew Dushoff of the law firm of Kolesar & Leatham and Jason Wiley of the law firm
3 of Wiley Petersen; the Court having read and considered the pleadings filed by the parties; the
4 Court having considered the oral and written arguments of counsel, and with the intent of
5 deciding the issues before the Court related to the Motion to Continue and the Motion to Vacate.
6 The Court makes the following findings of fact and conclusions of law:

7 **FINDINGS OF FACT**

8 1. On July 9, 2014, the parties entered into an Operating Agreement for NuVeda,
9 LLC (“NuVeda”) to operate dispensaries, cultivation and processing facilities for medical
10 marijuana (“MME”) pursuant to licenses obtained from certain political subdivisions.

11 2. The Operating Agreement for NuVeda provided that Plaintiff Goldstein
12 (“Goldstein”) held a 7% ownership interest in NuVeda.

13 3. Certain disputes arose between the parties over the existence and vesting of
14 certain membership interests, management and control of NuVeda.

15 4. On December 3, 2015, Goldstein and another minority owner of NuVeda, Shane
16 Terry (“Terry”), filed a complaint in this Court against the majority owners of Nuveda, Pejman
17 Bady (“Bady”) and Pouya Mohajer (“Mohajer”), and contemporaneously therewith, filed a
18 Motion for Preliminary Injunction, requesting that this Court enjoin any transfer of NuVeda’s
19 membership interests.

20 5. Goldstein and Terry also commenced a private arbitration proceeding with the
21 American Arbitration Association against NuVeda, Bady and Mohajer, which was captioned and
22 referred to as *Terry, et al. v. NuVeda, LLC, et al.*, AAA Case No. 01-15-005-8574 (the
23 “Arbitration”).

24 6. On December 28, 2015 and January 6 – 8, 2016, this Court held an evidentiary
25 hearing on the Motion for Preliminary Injunction (the “Preliminary Injunction Hearing”).

26 7. On January 13, 2016, this Court issued its Findings of Fact and Conclusions of
27 Law Denying the Motion for Preliminary Injunction.
28

1 8. On March 10, 2016, a NuVeda Officer Meeting was conducted, and Terry was
2 expelled from NuVeda.

3 9. On August 8, 2017, during the pendency of this case and the Arbitration, the
4 members of NuVeda conducted a meeting during which a majority of members possessing
5 greater than 60% voting interest in NuVeda voted to expel Goldstein from Nuveda pursuant to
6 Section 6.2 of the Operating Agreement.

7 10. The vote to expel Goldstein triggered certain obligations of NuVeda. Specifically,
8 Goldstein was “entitled to receive from the Company, in exchange for all of the former
9 Member’s Ownership Interest, the fair market value of that Member’s Ownership Interest,
10 adjusted for profits and losses to the date of expulsion.” (*See* Operating Agreement at Section
11 6.2) If the fair market value of Goldstein’s interest could not be agreed upon, the NuVeda Voting
12 Members were required to “hire an appraiser to determine fair market value.” (*Id.*)

13 11. On August 19, 2017, after being retained by NuVeda, the Webster Business
14 Group provided a Certified Business Appraisal based upon the Asset Valuation Approach
15 (Liquidation) of NuVeda (the “Webster Valuation”), affixing NuVeda’s fair market value at
16 \$1,695,277.00.

17 12. During the pendency of the Arbitration, the parties disclosed numerous expert
18 reports offering competing opinions as to the fair market value of NuVeda.

19 13. On December 14, 2018, Goldstein disclosed the supplemental expert report of
20 Donald Parker (“the Parker Report”), in which Mr. Parker opined that the fair market value of
21 NuVeda was approximately \$165 million and that Goldstein’s interest in NuVeda had a fair
22 market value of \$5 million to \$8 million after applying a discount rate of 28%.

23 14. NuVeda filed a Motion to Strike the Parker Report in the Arbitration, arguing that
24 the report was not timely disclosed pursuant to the deadlines established by the Arbitrator.

25 15. On January 9, 2019, the arbitrator held a telephonic hearing on NuVeda’s Motion
26 to Strike, as well as several other motions that were pending prior to the Arbitration hearing. The
27 Arbitrator denied NuVeda’s Motion to Strike and also ruled that NuVeda’s expert report
28

1 rebutting Mr. Parker's December 14, 2018 supplemental report would not be stricken on the
2 basis that the rebuttal report had not been timely disclosed.

3 16. The parties conducted the three-day Arbitration hearing on January 15-17, 2019.
4 The parties agreed prior to the Arbitration hearing that the only issues that remained for the
5 Arbitrator to decide was the valuation of Goldstein's interest in NuVeda as of August 8, 2017,
6 the date on which Goldstein was expelled from NuVeda, and whether Goldstein was entitled to
7 an attorneys' fees award because she did not receive the fair market value of her interest in
8 NuVeda.

9 17. Following the Arbitration hearing, the Arbitrator issued her Interim Award of
10 Arbitrator Regarding Value ("Interim Award"), finding that NuVeda had failed to meet its
11 obligations under the Operating Agreement to hire an appraiser to establish the fair market value
12 of Goldstein's interest in NuVeda for several reasons; most importantly because the Webster
13 Valuation computed the "book value" or "liquidation value" of Goldstein's interest rather than
14 the fair market value of her interest.

15 18. The Arbitrator's Interim Award concluded that the fair market value of NuVeda
16 was approximately \$41.5 million as of August 8, 2017, based in part upon the testimony of Brian
17 Padgett, a member of CWNevada, LLC, during the preliminary injunction hearing before the
18 Court in January 2016, and after applying a discount rate of 30% for lack of marketability and
19 control, valued Goldstein's 7% interest in NuVeda at \$2,051,215.38 and ruled that NuVeda owed
20 Goldstein that amount.

21 19. On March 19, 2019, the Arbitrator issued her Final Award, which incorporated
22 the valuation of Goldstein's interest contained in the Interim Award and ruled that NuVeda owed
23 Goldstein \$2,051,215.38, plus prejudgment interest from August 8, 2017 to the date of the Final
24 Award in the amount of \$222,655.07, and also awarded Goldstein attorneys' fees and costs in the
25 amount of \$152,293.35 as the prevailing party under Section 12.10 of the Operating Agreement,
26 for a total award of \$2,426,163.80.

27 20. On June 17, 2019, NuVeda filed the Motion to Vacate, arguing that the Final
28 Award should be vacated for two reasons: (a) the Arbitrator exceeded her powers and manifestly

1 disregarded the law and her own scheduling orders in considering the opinions contained in the
2 Parker Report, which NuVeda characterized as a direct expert report rather than a supplemental
3 expert report, and which NuVeda argued was disclosed past the deadline established by the
4 Arbitrator for the disclosure of direct expert reports; and (b) the Arbitrator exceeded her powers
5 and manifestly disregarded the law in looking outside the plain language of the Operating
6 Agreement and the provisions relating to the valuation of an expelled member's interest.

7 21. On July 1, 2019, Goldstein filed the Motion to Continue seeking to (a) continue
8 the hearing on NuVeda's Motion to Vacate; and (b) extend the deadline within which to file an
9 opposition to NuVeda's Motion to Vacate. In so moving the Court, Goldstein cited EDCR 2.22
10 as the only point and authority in support of her legal positions set forth therein. In its July 12,
11 2019 Opposition to the Motion to Continue, NuVeda argued that the Motion to Continue should
12 be denied because the lone points and authorities in support of Goldstein's position was EDCR
13 2.22(d), which applied to the request to continue the hearing. NuVeda argued that Goldstein
14 failed to cite the applicable rules and standards – that being EDCR 2.25 and NRCP 6 – in support
15 of her petition to extend the briefing deadline. Moreover, NuVeda argued that Goldstein's
16 Motion to Continue should be disregarded since it was not timely filed.

17 22. Goldstein filed her Reply in support of the Motion to Continue on July 16, 2019
18 and filed her Opposition to the Motion to Vacate on July 25, 2019.

19 22. If any finding of fact is properly a conclusion of law, it shall be treated as if
20 appropriately identified and designated.

21 CONCLUSIONS OF LAW

22 Motion to Continue

23 23. The Motion to Continue was made pursuant to EDCR 2.22(d), which provides
24 that the Court may continue a hearing “upon a showing by motion supported by affidavit or oral
25 testimony that such continuance is in good faith, reasonably necessary and is not sought merely
26 for delay.”
27
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1 24. Goldstein's basis for the Motion to Continue was that she had engaged new
2 counsel to oppose the Motion to Vacate, and that her counsel was in the process of obtaining the
3 file from Goldstein's prior counsel so they could review it in order to prepare Goldstein's
4 opposition, which necessitated additional time to brief the Motion to Vacate and a brief
5 continuance of the hearing on the Motion to Vacate.

6 25. In its Opposition to the Motion to Continue, NuVeda argued that the Motion to
7 Continue should be denied because the lone points and authorities relied upon in support of
8 Goldstein's position was EDCR 2.22(d), which applied to the request to continue the hearing.
9 NuVeda argued that Goldstein failed to cite the applicable rules and standards – that being
10 EDCR 2.25 and NRCP 6 – in support of her petition to extend the briefing deadline. Moreover,
11 NuVeda argued that Goldstein's Motion to Continue should be disregarded since it was not
12 timely filed, and that this Court should deny the Motion to Continue on that basis and, by
13 extension, grant the Motion to Vacate pursuant to EDCR 2.20(e).

14 26. In her Reply in support of the Motion to Continue and at the hearing, counsel for
15 Goldstein acknowledged that the Motion to Continue was not filed within the deadline set forth
16 in EDCR 2.20(e) because counsel was not aware that this Court had suspended EDCR 1.14(a)
17 through (c) in a March 12, 2019 Administrative Order, which had the effect of reducing
18 Goldstein's time to respond to the Motion to Vacate.

19 27. In her Reply in support of the Motion to Continue and at the hearing, Goldstein
20 also requested that this Court consider the Motion to Continue under EDCR 2.25(a), which
21 provides, in relevant part, that "a request for extension made after the expiration of the specified
22 period shall not be granted unless the moving party, attorney or other person demonstrates that
23 the failure to act was the result of excusable neglect."

24 28. The Court finds that Goldstein has demonstrated excusable neglect in failing to
25 file the Motion to Continue or the Opposition to the Motion to Vacate prior to the expiration of
26 the deadline established by EDCR 2.20(e), and this Court will therefore consider Goldstein's
27 Opposition to the Motion to Vacate and decide that Motion on the merits.

1 29. In addition, the Court finds that there was no prejudice to NuVeda due to the late
2 filing of the Motion to Continue, as NuVeda was able to file its Opposition to the Motion to
3 Continue, Goldstein filed her Opposition to the Motion to Vacate well in advance of the hearing,
4 NuVeda was able to file a Reply in support of the Motion to Vacate, and this Court reviewed and
5 considered all of those pleadings prior to the hearing.

6 30. Moreover, this Court's decision to allow Goldstein to file her Opposition to the
7 Motion to Vacate and to consider that Opposition is consistent with both this Court's stated
8 policy that its Rules "must be liberally construed . . . to promote and facilitate the administration
9 of justice" (EDCR 1.10), and the Nevada Supreme Court's long recognized and "basic
10 underlying policy to have each case decided upon its merits." *Hotel Last Frontier Corp. v.*
11 *Frontier Props., Inc.*, 79 Nev. 150, 155, 380 P.2d 293, 295 (1963).

12 **Motion to Vacate**

13 31. This Court may vacate an arbitration award pursuant to NRS 38.241(1)(d) where
14 the arbitrator exceeded her powers, or under the common law where: (a) the award is arbitrary,
15 capricious, or unsupported by the agreement; or (b) where the arbitrator manifestly disregarded
16 the law.

17 32. With regard to NuVeda's argument that the Arbitrator exceeded her powers and
18 manifestly disregarded the law by relying on Parker's expert witness testimony and the Parker
19 Report, this Court finds that the Arbitrator did not exceed her powers or manifestly disregard the
20 law.

21 33. Under both AAA's Commercial Arbitration Rules for Large, Complex Cases,
22 which governed Arbitration, and Nevada law, the Arbitrator has broad discretion to manage the
23 pre-hearing disclosure of documents and information, including the disclosure of expert reports.
24 This Court will not second-guess the Arbitrator's decision to allow Goldstein to disclose Parker
25 or the Arbitrator's decision to consider his testimony.

26 34. In addition, based upon its review of the Interim Award, the Final Award and the
27 arbitration record, this Court finds that NuVeda was not prejudiced in any way by the
28

1 Arbitrator's decision to consider the Parker Report and the testimony of Parker. NuVeda was
2 permitted to rely on an expert report rebutting the Parker Report, despite the fact that the rebuttal
3 expert report was not disclosed within the deadline imposed by the Arbitrator's Scheduling
4 Order, and all of NuVeda's experts testified at length and offered detailed criticism of the Parker
5 Report. NuVeda was also afforded opportunity to cross-examine Parker about all of his opinions.

6 35. Finally, this Court finds that the Arbitrator did not solely rely upon Parker's
7 valuation of Goldstein's interest in her Award, and arrived at her valuation of Goldstein's
8 interest based upon Terry's testimony at the hearing, Padgett's testimony at the preliminary
9 injunction hearing, as well as other testimony and documentary evidence. NuVeda itself admits
10 that the Award only relied on portions of Parker's opinions. Accordingly, even if this Court were
11 to find that the Arbitrator erred in allowing Goldstein to disclose the Parker Report or relying on
12 Mr. Parker's opinions, which it does not, such error would have constituted harmless error.

13 36. With regard to NuVeda's argument that the Arbitrator erred in interpreting the
14 Operating Agreement and in ruling that the Webster Report did not meet NuVeda's obligation
15 under the Operating Agreement to hire an appraiser to determine the fair market value of
16 Goldstein's interest in NuVeda, this Court finds that the Arbitrator did not exceed her powers or
17 manifestly disregard the law, and that the Interim Award and Final Award were not arbitrary,
18 capricious, or unsupported by the agreement.

19 37. The Court finds that the Arbitrator's interpretation of the Operating Agreement
20 evades judicial review by this Court. (*See Castaneda v. Palm Beach Resort Condominiums*, 127
21 Nev. 1124, 373 P.3d 901 (2011) ("Furthermore, to the extent the Castanedas argue that the
22 arbitrator misinterpreted the contract provision on financing, this argument evades judicial
23 review." (citing *Hill v. Norfolk and Western Ry. Co.*, 814 F.2d 1192, 1195 (7th Cir.1987) (The
24 question in reviewing an arbitration award "is not whether the arbitrator or arbitrators erred in
25 interpreting the contract; it is not whether they clearly erred in interpreting the contract; it is not
26 whether they grossly erred in interpreting the contract; it is whether they interpreted the contract.
27 If they did, their interpretation is conclusive."))).
28

1 38. The Court further finds that the Arbitrator's ruling that the Webster Report, which
2 purported to calculate Goldstein's interest using "book value" or "liquidation value," did not
3 comply with NuVeda's obligation under Section 6.2 of the Operating Agreement to hire an
4 appraiser to determine the fair market value of Goldstein's interest in NuVeda, is consistent with
5 Nevada law, as book value is not typically an accepted method to calculate fair market value.
6 (See *American Ethanol, Inc. v. Cordillera Fund, L.P.*, 127 Nev.147, 155, n. 7, 252 P.3d 663, 668,
7 n. 7 (2011) (noting that in determining the value of corporate stock, "[b]ook value is entitled to
8 little, if any, weight in determining the value of corporate stock, and many other factors must be
9 taken into consideration.")).

10 39. Finally, this Court finds that NRS 38.241(4) requires this Court to confirm the
11 Final Award upon denial of the Motion to Vacate.

12 40. If any conclusion of law is properly a finding of fact, it shall be treated as if
13 appropriately identified and designated.

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ORDER

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Motion to Continue is granted.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Motion to Vacate is denied.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Arbitrator's Final Award is confirmed.

IT IS SO ORDERED.

Dated this 6 day of September, 2019.

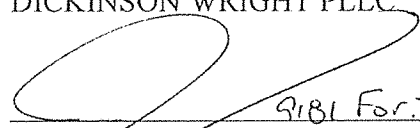

DISTRICT COURT JUDGE

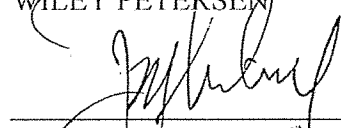
Respectfully submitted by:

Approved by:

DICKINSON WRIGHT PLLC

WILEY PETERSEN

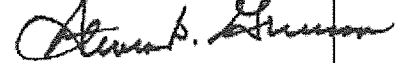

BRIAN R. IRVINE
Nevada Bar No. 7758
BROOKS T. WESTERGARD
Nevada Bar No. 14300
100 West Liberty Street
Suite 940
Reno, Nevada 89501
Tel.: (775) 343-7500
Fax: (844) 670-6009
Email: birvine@dickinsonwright.com
Email: bwestergard@dickinsonwright.com


JASON M. WILEY #9274
RYAN S. PETERSEN
1050 Indigo Drive, Suite 130
Las Vegas, NV 89145

Attorneys for NuVeda, LLC

Attorneys for Plaintiff Jennifer M. Goldstein

EXHIBIT 5



NEOJ
DICKINSON WRIGHT PLLC
BRIAN R. IRVINE
Nevada Bar No. 7758
BROOKS T. WESTERGARD
Nevada Bar No. 14300
100 West Liberty Street
Suite 940
Reno, Nevada 89501
Tel.: (775) 343-7500
Fax: (844) 670-6009
Email: birvine@dickinsonwright.com
Email: bwestergard@dickinsonwright.com

Attorneys for Plaintiff Jennifer M. Goldstein

DISTRICT COURT
CLARK COUNTY, NEVADA

NUVEDA, LLC, a Nevada limited liability
company, SHANE M. TERRY, a Nevada
resident; and JENNIFER M. GOLDSTEIN, a
Nevada resident,

Case No.: A-15-728510-B

Dept. No.: XI

Plaintiffs,

vs.

PEJMAN BADY; POUYA MOHAJER; DOE
Individuals I-X and ROE Entities I-X, inclusive,

Defendants.

NOTICE OF ENTRY OF ORDER

Please take notice that on the 6th day of September, 2019, the Findings of Fact,
Conclusions of Law and Order: (1) Granting Plaintiff Jennifer M. Goldstein's Motion to
Continue Hearing on Nuveda, LLC's Motion to Vacate Arbitration Award and to Extend
Briefing Deadlines; (2) Denying Defendant Nuveda, LLC's Motion to Vacate Arbitration

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1 Award; and (3) Confirming the Arbitration Award. A copy of this document is attached hereto
2 as **Exhibit 1**.

3 DATED this 9th day of September, 2019.

4
5 DICKINSON WRIGHT PLLC

6
7 /s/ Brian R. Irvine
8 BRIAN R. IRVINE
9 Nevada Bar No. 7758
10 BROOKS T. WESTERGARD
11 Nevada Bar No. 14300
12 100 West Liberty Street
13 Suite 940
14 Reno, Nevada 89501
15 Tel.: (775) 343-7500
16 Fax: (844) 670-6009
17 Email: birvine@dickinsonwright.com
18 Email: bwestergard@dickinsonwright.com

19
20 *Attorneys for Plaintiff Jennifer M. Goldstein*
21
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23
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25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of DICKINSON WRIGHT PLLC, and that on this date,
3 pursuant to NRCP 5(b), I am serving a true and correct copy of the **FINDINGS OF FACT,**
4 **CONCLUSIONS OF LAW AND ORDER: (1) GRANTING PLAINTIFF JENNIFER M.**
5 **GOLDSTEIN'S MOTION TO CONTINUE HEARING ON NUVEDA, LLC'S MOTION**
6 **TO VACATE ARBITRATION AWARD AND TO EXTEND BRIEFING DEADLINES;**
7 **(2) DENYING DEFENDANT NUVEDA, LLC'S MOTION TO VACATE**
8 **ARBITRATION AWARD; AND (3) CONFIRMING THE ARBITRATION AWARD** to
9 the following individuals by United States Mail, postage fully prepaid:

10 Jason M. Wiley, Esq
11 Ryan S. Petersen
WILEY PETERSON
12 1050 Indigo Drive, Suite 130
Las Vegas, NV 89145

Matthew T. Dushoff
Scott D. Fleming
KOLESAR & LEATHAM
400 South Rampart Boulevard
Suite 400
Las Vegas, NV 89145

14 Shane Terry
15 222 Karen Avenue, Suite 3305
Las Vegas, NV 89109

16 DATED this 9th day of September, 2019.

17
18 /s/ Cindy S. Grinstead
19 An Employee of DICKINSON WRIGHT PLLC
20
21
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25
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27
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