

IN THE SUPREME COURT OF THE STATE OF NEVADA

NUVEDA, LLC,

Appellant,

v.

JENNIFER GOLDSTEIN,

Respondent.

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Mar 04 2020 05:40 p.m.
No. 79806
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court Case No.: 79806
District Court Case No.: A-15-728510-B

JOINT APPENDIX VOLUME III

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IN THE SUPREME COURT OF THE STATE OF NEVADA

NUVEDA, LLC, A NEVADA LIMITED
LIABILITY COMPANY; SHANE M.
TERRY, A NEVADA RESIDENT; AND
JENNIFER M. GOLDSTEIN, A
NEVADA RESIDENT,
Appellants,
vs.
PEIMAN BADY; AND POUYA
MOHAJER,
Respondents.

No. 69648

FILED

OCT 13 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a motion for a preliminary injunction in a corporate action seeking provisional remedies under NRS 38.222. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

In this dispute between members of a limited liability company, the individual appellants attempted to expel respondents, alleging that respondents engaged in conduct contrary to the company's best interests by agreeing to transfer certain assets to another company, CW Nevada, as well as by engaging in other bad acts. Respondents retaliated by attempting to expel appellants. Appellants sought a preliminary injunction to prevent the asset transfer pending resolution of arbitration, but the district court denied the motion for an injunction. Appellants appeal.

Appellants argue that the district court abused its discretion in denying their motion for a preliminary injunction. A preliminary injunction may be granted when the movant shows a likelihood of success on the merits and a reasonable probability that the nonmovant's conduct will cause irreparable harm if allowed to continue. *Univ. & Cmty. Coll. Sys. of Nev. v.*

Nevadans for Sound Gov't, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004). Whether to deny a motion for a preliminary injunction rests within the district court's discretion, and that decision will not be reversed absent an abuse of discretion or reliance on an erroneous legal standard. *Id.*

Appellants do not have a likelihood of success on the merits because they failed to expel respondents pursuant to the operating agreement

Appellants first argue that the district court erred in applying a civil conspiracy standard to determine whether respondents were disinterested for the purpose of evaluating whether 60% of disinterested voting interests voted to expel them. Appellants assert that the court should have considered whether respondents' interests precluded their vote. This court construes the construction of a contractual term de novo and unambiguous contracts according to their plain language. *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 486-88, 117 P.3d 219, 223-24 (2005).

The relevant provisions of the operating agreement are not ambiguous. Paragraph 6.2 of the limited liability company's operating agreement governs the expulsion of members. The operating agreement permits terminating "[a] member's interest in the company" by a vote of 60% or more of the disinterested voting interests. It defines disinterested voting members as those members whose membership "is not then being voted upon." The plain language of the operating agreement provides a procedure for expelling an individual member without any means for grouping interests; thus, appellants' argument that respondents' alleged joint action permitted appellants to group their interests and to vote to expel respondents simultaneously fails. Appellants' reliance on the interpretation of disinterestedness in *In re Amerco Derivative Litigation*, 127 Nev. 196, 252 P.3d 681 (2011), is misplaced because that case pertained

to a shareholder derivative action, which is not at issue here, and the operating agreement here expressly defines “disinterested voting member.” Further, appellants’ argument has the **absurd** consequence of permitting a holder of, e.g., a 1% interest in the company, to declare that holders of the remaining 99% are jointly acting against company best interests and to expel that majority. *See Reno Club, Inc. v. Young Inv. Co.*, 64 Nev. 312, 325, 182 P.2d 1011, 1017 (1947) (“A contract should not be construed so as to lead to an absurd result.”).

The district court’s application of a civil-conspiracy standard to determine whether respondents’ interests may be grouped for the purpose of expulsion lacks a basis in the operating agreement, and the district court accordingly erred to the extent that it relied on such a standard. However, the agreement did not provide a mechanism for appellants to expel respondents jointly rather than individually, and the record makes clear that 60% of disinterested voting interests did not vote to expel either respondent individually, such that the district court did not err in determining that appellants’ efforts to expel respondents failed or that appellants did not have a likelihood of success on the merits. *See Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) (affirming when district court reached correct result on incorrect basis).

Substantial evidence supports the district court’s finding that the asset transfer would not cause the company irreparable harm

The district court determined that appellants failed to demonstrate a basis to interfere with respondents’ majority-approved decision to transfer assets to CW and denied appellants’ request to enjoin

the transfer.¹ The record contains evidence that "a reasonable mind might accept as adequate to support" that the transfer would not cause irreparable harm. *See State Emp. Sec. Dep't v. Hilton Hotels Corp.*, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986) (internal quotation marks omitted). Accordingly, as appellants failed to show a reasonable probability of irreparable harm, we conclude that the district court did not abuse its discretion in denying appellants' motion.

Having considered appellants' contentions and concluded that they do not warrant relief, we

ORDER the judgment of the district court AFFIRMED.

Cherry, C.J.
Cherry

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

cc: Hon. Elizabeth Goff Gonzalez, Chief Judge
Stephen E. Haberfeld, Settlement Judge
Garman Turner Gordon
Jennifer M. Goldstein
Naylor & Braster
Kolesar & Leatham, Chtd.
Eighth District Court Clerk

¹Appellants do not challenge the district court's determination that the parties' respective efforts to expel each other from the company threatened to cause irreparable harm to the company or its corresponding order enjoining the parties from further efforts to expel each other.



American Arbitration Association
Dispute Resolution Services Worldwide

American Arbitration Association

Preliminary Hearing and Scheduling Order #2

AAA Case #: 01-15-005-8574

Case Name: *Shane M. Terry, Jennifer Goldstein v. NuVeda LLC, et al.*

Pursuant to the Large Complex procedures of the Commercial Arbitration Rules as amended and in effect October 1, 2013, of the American Arbitration Association ("AAA"), a preliminary hearing via telephone conference was noticed on October 26, 2017, by the AAA, and held on October 30, 2017, at 8:15 a.m. PST, before Arbitrator Nikki L. Baker. Attending the preliminary hearing was Erika Pike Turner, Esq., appearing on behalf of Claimant Shane M. Terry, and Jennifer M. Goldstein, Esq., appearing *pro se* (Mr. Terry and Ms. Goldstein are collectively referred to, where appropriate, as "Claimants"). Also appearing was Alan J. Buttell, Esq., on behalf of Respondents Pouya Mohajer, Pejman Bady, and NuVeda, LLC ("Respondents"). Also attending was Lance K. Tanaka, Vice President of AAA. Claimants and Respondents are collectively referred to herein as "the Parties".

By agreement of the Parties and/or by Order of the Arbitrator, the following is now in effect:

1. Relief Sought:

a. By Claimants:

- i. Shane Terry seeks a declaration of whether he was wrongfully expelled from NuVeda, LLC on March 10, 2016 under Section 6.2 of the Operating Agreement. Mr. Terry seeks an award of damages for the value of his shares of no less than \$8.7 million with a valuation date of March 10, 2016. As discovery is ongoing, consistent with Claimant Shane Terry's position that the termination of his membership interest on March 10, 2016 was wrongful, this amount will be updated to the relevant valuation as of the date of arbitration. Additionally, Mr. Terry has claims for breaches of fiduciary duty with additional damages alleged. Discovery is ongoing, but it is believed that the damages are in excess of \$1 million for those breaches.
- ii. Jennifer Goldstein to be supplemented.

- b. By Respondents: A declaration that the expulsion of Shane Terry as described in Mr. Terry's amended demand for arbitration was proper under the Operating Agreement.

2. Applicable Law: Nevada law applies.

3. Parties: All the necessary or appropriate parties may not be included in the

arbitration. Discovery is ongoing and one of the purposes of the pending discovery is to determine if additional parties are appropriate.

4. Additional Preliminary Matters: Any other preliminary matters not otherwise provided for herein shall be raised by the Parties by letter brief, pursuant to Paragraph 8, *infra*.

5. Conditions Precedent to Arbitration: The Parties have satisfied all conditions precedent to arbitration.

6. Claim/Counterclaim: Pursuant to the direction of the Arbitrator, the Parties have until the close of business on **October 30, 2017**, to assert or amend their claims and counterclaims. Responses are due within seven (7) business days after receipt of any claims or counterclaims. If no response is submitted, the defending party will be deemed to deny the claims or counterclaims. As discovery is ongoing, if additional facts should be discovered giving rise to additional claims and/or necessary parties, the Parties may seek amendment pursuant to a letter brief based only on newly-discovered facts.

7. Additional Status Conference: An additional status conference call is scheduled for **December 20, 2017, at 11:00 a.m. PST** before the Arbitrator. The Parties shall submit a joint agenda of the issues to address during the call to the AAA Case Administrator no later than **5:00 p.m. PST on December 19, 2017**. Alternatively, the Parties may cancel the status conference by submitting a joint letter or email to the AAA Case Administrator no later than **5:00 p.m. PST on December 19, 2017**, reflecting the Parties' agreement to cancel the status conference.

8. Motions:

- a. All motions, applications or requests for advice or direction from the Arbitrator may be made informally by letter brief via email, copying the AAA and the opposing party, or joint telephone conference. Formal motion procedure is not required, although it is allowed if the Parties wish.
- b. To the extent the Parties have discovery disputes they are unable to resolve after personally conferring on the disputes, the Parties are encouraged to consolidate the disputes into as few separate written submissions as possible. At the discretion of the Arbitrator, any discovery dispute shall be resolved on the basis of the exchange of letters or the Arbitrator may schedule a telephone conference with the Parties to resolve the dispute. Any motion regarding unresolved discovery disputes shall be made no later than **December 29, 2017**.

9. Exchange of Information/Discovery:

- a. The Parties have an existing obligation to have produced and exchanged all documents within their possession, custody or control that are relevant to this arbitration and material to its outcome, including, but not limited to, financial documents, application(s) for recreational sales, and other books and records. The Parties shall supplement any outstanding documents by no later than **November 10, 2017**.
- b. Any willful failure to make the disclosures required herein is subject to an interim order imposing sanctions, including, but not limited to, the reasonable

fees and expenses incurred for filing a motion (*see* Paragraph 8, *supra*), drawing adverse inferences, and/or excluding evidence and other submissions, under Nev. R. Civ. P. 37(a)(4) and/or R-23.

c. Written Discovery:

i. The Parties previously agreed to be governed by the Nevada Rules of Civil Procedure with respect to written discovery. Therefore, there shall be no more than forty (40) written interrogatories, including subparts, without leave of the Arbitrator.

ii. Answers and responses to discovery requests are due within thirty (30) days of receipt of the requests.

d. Depositions shall be completed by **December 29, 2017**.

i. At this time, the Arbitrator will not limit the number of depositions that each party may take. The Parties may take as many depositions as the Parties agree to. If, however, one party opposes the other party taking any deposition, the Parties can seek, consistent with Paragraph 8, *supra*, a decision from the Arbitrator on the deposition.

ii. No deposition shall exceed seven (7) hours in length, unless the Parties otherwise agree.

iii. With respect to all depositions, there shall be no speaking objections, or interference with the ability of counsel to elicit testimony from a witness, subject to privilege objections and instructions.

e. **Discovery cutoff is December 29, 2017.**

i. Please be advised that late-filed motions to compel discovery or discovery disputes are insufficient to cause a postponement of the Final Hearing.

f. Electronic Discovery:

i. Clawback agreements shall be in place for all Parties to allow for the retrieval of inadvertently disclosed attorney-client privileged and/or work product protected documents.

ii. If the cost of collection of any of the electronically stored data presents an unreasonable cost for the producing party because the data is not readily accessible and the Parties cannot reach an agreement on the handling of the cost, the Arbitrator will decide if cost sharing or cost shifting is appropriate.

g. If any party has documents that are confidential, the Arbitrator will issue a Protective Order upon the receipt of a stipulation from the Parties for such an order.

10. Subpoenas:

a. Subpoenas to secure the appearance of non-party witnesses or to obtain documents will be issued by the Arbitrator. The party requesting the subpoena shall disclose the subpoena to, and shall confer with, the other party prior to requesting its issuance and shall indicate if any party opposes the issuance. If any party objects to issuance of the subpoena or the content of any subpoena,

such objection shall be presented to the Arbitrator no more than five (5) business days after issuance is requested, unless a shorter time is ordered by the Arbitrator. Subpoenas related to discovery shall be submitted to the Arbitrator no later than **December 6, 2017**, absent good cause shown.

- b. Subpoenas for the attendance of witnesses at the Final Hearing shall be submitted to the Arbitrator no later than **January 26, 2018**.

11. Final Hearing: A Final Hearing in this matter will commence before the Arbitrator at Litigation Services on **February 12, 2018, at 9:00 a.m. PST**. The Parties estimate that this arbitration may require five (5) days of hearing time, inclusive of arguments. If, however, the Parties are able to finish the Final Hearing in less than five (5) full hearing days, they will not be charged by the Arbitrator for any of the Arbitrator's reserved but unused hearing time. This is a firm setting, and will not be changed or continued absent exceptional circumstances, upon a showing of good cause.

12. Witness Disclosures:

- a. Claimants shall file and serve a disclosure of all witnesses reasonably expected to be called by Claimants at the Final Hearing by **January 26, 2018**. The disclosure shall include a brief description of the subject matter of the testimony to be elicited from each witness.
- b. Respondents shall file and serve a disclosure of all witnesses reasonably expected to be called by Respondents at the Final Hearing by **January 26, 2018**. The disclosure shall include a brief description of the subject matter of the testimony to be elicited from each witness.
- c. On or before **December 8, 2017**, the Parties shall file and serve any supplemental expert witness reports. Expert reports shall set forth each expert's opinions and the reasons for them, and the expert's qualifications. The substance of each expert's direct testimony must be fairly and reasonably addressed in the expert's report. There shall be no additional discovery of experts, except on good cause shown to the Arbitrator or an agreement between the Parties. Any rebuttal expert witness report must be served on or before **December 29, 2017**. Any objections to expert testimony or evidence shall be raised no later than **January 26, 2018**.
- d. All witnesses whose evidence is relied upon should be available for cross-examination at the Final Hearing, if required by the other party or by the Arbitrator. If a witness who has submitted a sworn statement or expert report does not appear at the Final Hearing without a valid reason, the Arbitrator shall disregard that evidence unless, in exceptional circumstances, the Arbitrator determines otherwise. Each party shall be responsible to ensure the attendance of the witnesses on whose evidence they rely and, subject always to the Arbitrator's power to deal with costs in the award, for the costs of those witnesses attending the Final Hearing.
- e. The party presenting evidence at the Final Hearing shall give notice to the other party one (1) day before of the names of the witnesses who will be called to testify the next day and the order in which the witnesses will be called.

13. Exhibits: The Parties shall exchange copies of all exhibits to be offered and all schedules, summaries, diagrams, and charts to be used at the Final Hearing not later than **5:00 p.m. PST on January 26, 2018**. The Parties may agree to reserve documents that they will only use for cross-examination, rebuttal or impeachment, and shall so advise the Arbitrator of their agreement in this regard.

- a. The AAA does not require a copy of the exhibits for its file.
- b. Each proposed exhibit shall be pre-marked for identification using the following designations:

Party	Exhibit #	To Exhibit #
Claimants	C1	C____
Respondents	R1	R____

- c. To protect personal privacy and other legitimate interests, the Parties and their counsel must not include, or must redact where inclusion is necessary from all documents, personal identifiable information such as social security numbers and financial account numbers. If account numbers are required, only the last four digits of a number may be used.
- d. The Parties shall cooperate in preparing a joint exhibit book, indexed and pre-numbered (with the prefix J) to avoid duplicative documents and an unnecessary number of exhibit books. To the extent necessary, the Parties shall prepare a separate exhibit volume, indexed and pre-numbered, consisting of that party's prospective additional hearing exhibits. The exhibit books shall be indexed and paginated, and shall so far as possible be in consecutive chronological or by subject or some other logical order and marked so as to easily distinguish Claimants' from Respondents' exhibits. At the commencement of the Final Hearing, the Parties shall provide the Arbitrator with the exhibit volumes, indexed and pre-numbered, shall provide the separate exhibit binder to the other party, and shall have an exhibit set available for use by witnesses. The Parties shall complete the combined single set of exhibit books on or before **5:00 p.m. PST on February 8, 2018**.
- e. Any exhibit offered, which was responsive to a discovery request served upon a party but which was not produced to the other parties on or before December 29, 2017, will not be received into evidence at the Final Hearing, except for good cause shown.

14. Stipulation of Uncontested Facts: The Parties shall cooperate in an effort to prepare a statement of stipulated facts to the extent that would be cost effective and submit any agreed upon statement to the Arbitrator by **12:00 p.m. PST on February 9, 2018**.

15. Pre-Hearing Briefs: On or before **12:00 p.m. PST on February 9, 2018**, each

party may serve on the Arbitrator a pre-hearing brief on all significant disputed issues, setting forth briefly the party's position and the supporting arguments and authorities.

- a. All pre-hearing briefs shall be served on the opposing party in connection with service on the Arbitrator.
- b. Briefs may be in summary form, including the use of bullet points rather than extensive text.
- c. The Arbitrator requests that briefs not exceed thirty (30) pages with double-spaced text, excluding copies of any authorities that the Parties may submit along with their briefs. The Parties are invited to highlight any authorities as they deem appropriate.
- d. Each party is encouraged to attach no more than ten (10) documents to their respective pre-hearing brief.

16. Post-Hearing Submission Regarding Attorneys' Fees and Costs: The Parties have until five (5) business days after the close of evidence at the Final Hearing, or **February 21, 2018**, whichever is later, to file and serve any and all documentation supporting or evidencing *only* the amount of attorneys' fees and costs they seek to recover in connection with this arbitration. No other evidence and no legal arguments may be included in the submission, unless requested by the Arbitrator at the conclusion of the Final Hearing.

17. Stenographic Record and Translator: If the Parties desire a stenographic record of the Final Hearing, the Parties will arrange between themselves the presence of a court reporter. The cost of the court reporter will be divided evenly between the Parties. Pursuant to the Rules, if the Parties are not in agreement, the requesting party shall notify the other party of the arrangements for a court reporter at least three (3) calendar days in advance of the Final Hearing and shall pay the cost of the court reporter and record, subject to the Arbitrator's power to allocate costs in the award. If a translator is to be employed, the Parties shall make the necessary arrangements.

18. Communication: The Parties agree to participate in Direct Exchange. Provided there is no *ex parte* communication with the Arbitrator, the Parties may communicate directly with the Arbitrator by submitting documents to the Arbitrator and also simultaneously sending copies to the other Parties and originals to the AAA (except for hearing exhibits and discovery documents). Email submission of documents and email requests for action by the Arbitrator are allowed, provided that the AAA and all Parties also simultaneously receive copies of all of these. For convenience of the Parties, the following are the email addresses to be used:

- a. Claimant Shane Terry- eturner@gtg.legal, dciliano@gtg.legal and adiallo@gtg.legal
- b. Claimant Jennifer Goldstein- jennifer@xanthussports.com
- c. Respondents- buttelllawoffice@aim.com and alanbuttell@me.com

There shall be no direct oral or written communication between the Parties and the Arbitrator except as contemplated by this Order. Any communication to the Arbitrator shall be copied to the AAA.

19. Award: The form of the award shall be a reasoned award. The award shall be rendered not later than thirty (30) calendar days from the date of closing the Final Hearing.

20. File Destruction: The Arbitrator may destroy the submissions and documents related to this arbitration at any time following ninety (90) days after the filing of the Award, unless otherwise notified by the Parties.

21. Disclosures of the Arbitrator: Each counsel and party has a continuing obligation to protect the integrity of the arbitration proceeding by promptly providing the Arbitrator the information necessary to allow her to comply with her ongoing duties of disclosure pursuant to the *Code of Ethics for Arbitrators in Commercial Disputes* and the AAA. Counsel and the Parties acknowledge the continuing obligation to supplement the identification of potential fact and expert witnesses, consulting experts, counsel participation and representation in any capacity, and any other individual or entity interested in the outcome of the arbitration. Any issues concerning disqualification of the Arbitrator shall be raised promptly with the AAA Case Administrator.

22. Deadline Enforcement: All deadlines stated herein will be strictly enforced and adhered to in order to avoid unnecessary delay and to ensure an expedient and fair resolution of this matter. Any request for a modification of this Order shall include a statement as to whether the other party consents to the proposed modification and must confirm that the proposed modification will not require a change in the Final Hearing date. This Order shall continue in effect unless and until amended by subsequent order of the Arbitrator.

Dated: October 30, 2017

Arbitrator Signature: _____



Table of Deadlines

#	Action	Deadline
1	Deadline to assert or amend claims or counterclaims	October 30, 2017
2	Deadline to produce and exchange documents	November 10, 2017
3	Deadline to submit requests for the issuance of third-party subpoenas re discovery	December 6, 2017
4	Deadline to supplement expert reports	December 8, 2017
5	Deadline to submit agenda or cancel additional status conference	December 19, 2017, at 5:00 p.m.
6	Additional status conference	December 20, 2017, at 11:00 a.m.
7	Deadline for rebuttal expert designations and reports	December 29, 2017
8	Deadline to complete all discovery	December 29, 2017
9	Deadline to submit motion regarding any unresolved discovery disputes	December 29, 2017
10	Deadline for Claimants to provide disclosure of witnesses	January 26, 2018
11	Deadline for Respondents to provide disclosure of witnesses	January 26, 2018
12	Deadline to submit requests for witness subpoenas for hearing	January 26, 2018
13	Deadline for any objections to expert testimony or evidence	January 26, 2018
14	Deadline for Parties' exchange of proposed exhibits	January 26, 2018, at 5:00 p.m.
15	Deadline for Parties' completion of combined single set of exhibit books	February 8, 2018, at 5:00 p.m.
16	Deadline to submit pre-hearing briefs to Arbitrator and exchange same	February 9, 2018, at 12:00 p.m.
17	Deadline to submit joint statement of uncontested facts	February 9, 2018, at 12:00 p.m.
18	Final Hearing dates	February 12-16, 2018
19	Deadline to file post-hearing submissions on attorneys' fees and costs (if any)	5 days after close of Final Hearing or February 21, 2018, whichever is later
20	Estimated deadline for issuance of final award	March 16, 2018

**SUPPLEMENTAL
BUSINESS VALUATION
- and -
EXPERT REPORT**



February 23, 2018

AAA CASE NO.: AAA01-15-0005-8574

Donald R. Parker
Chartered Financial Analyst
Certified Valuation Analyst

Gryphon Valuation Consultants, Inc.

Las Vegas, Nevada
702.870.VALU (8258)
www.BizVals.com

CONFIDENTIAL

Mr. Shane Terry

February 23, 2018

c/o Garman Turner Gordon, LLP
650 White Drive Suite 100
Las Vegas, Nevada 89119

CONFIDENTIAL

ATTN: Erika Pike Turner Esq.

RE: SHANE M. TERRY, CLAIMANT, vs. NUVEDA, LLC, A NEVADA LIMITED LIABILITY COMPANY, PEJMAN BADI; POUYA MOHAJER, et al., DISTRICT COURT, CLARK COUNTY, NEVADA, DISTRICT COURT CASE NO.: A-15-728510-B, SUPREME COURT NO.: 69648, AAA CASE NO.: AAA01-15-0005-8574

Dear Mr. Terry ("Client):

I have been requested by your legal counsel to provide an update/supplemental report in respect to the previous Business Valuation Report dated May 25, 2016 ("BV Report") prepared by Gryphon Valuation Consultants, Inc. ("Gryphon") concerning the value of a 22.88% voting interest ("The Interest") in NuVeda, LLC ("Company". The BV Report provided a conclusion of value for The Interest as of March 10, 2016 ("Valuation Date") on the basis of fair market value.

The conclusion of value for The Interest as reported in the BV Report was \$8.7 million. This value was predicated upon a \$53 million fair market value of the Company and after the application of a 28% discount for your minority interest.

The BV Report is considered included herein by reference along with the Expert Witness Rebuttal Report dated November 29, 2016 ("Rebuttal Report") also prepared by Gryphon to rebut the *REPORT ON THE FAIR MARKET VALUE OF NUVEDA, LLC AS OF MARCH 10, 2016* produced by Terrence M. Clauretie, Ph.D. dated October 31, 2016 ("Clauretie Report") in reference to the above-noted matter ("The Case").

It should be noted that the BV Report contains the following language: "This report is not intended to serve as a basis for expert testimony in a court of law or other governmental agency without further analysis and any resulting documentation."

As such, I reserve the right to modify, supplement, amend or otherwise update the BV Report or this supplemental report prior to their introduction for purposes of litigation in a court of law or other governmental agency or if new information comes to light that would cause any material change in the conclusions of value presented in either report.

Summary Analyses and Opinions

Given the analysis presented herein below it is my opinion that the fair market value of The Interest as of the Valuation Date was *at least* \$27 million.

Qualifications

In offering my analyses and opinions, I have relied on my skill, experience, training and specialized knowledge in the areas of financial analysis and business valuation. My qualifications and a list of cases in which I have been designated an expert can be found in Appendix A of the BV Report.

I do not have any present or contemplated financial interest in any of the companies or operations discussed herein nor do I have any relationship with any parties to The Case that would interfere with my ability to provide independent and objective judgment. Compensation for my work in this matter is based upon normal billing rates and is in no way contingent upon any opinion or outcome concerning The Case.

Sincerely,



Donald R. Parker, CFA, CVA
Gryphon Valuation Consultants, Inc.

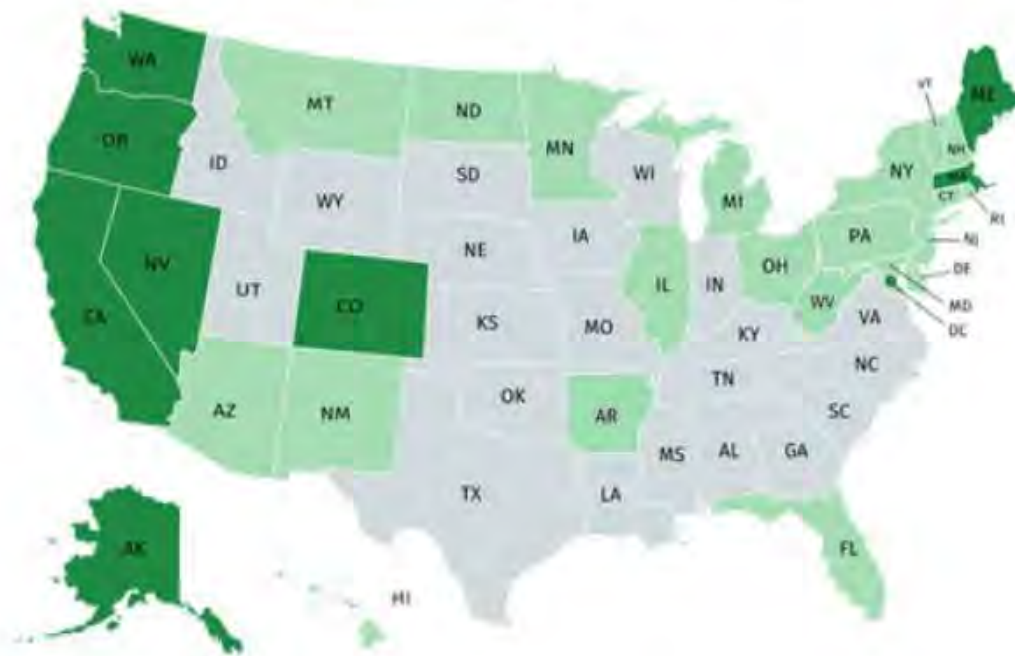
SUPPLEMENTAL ANALYSIS

The BV Report considered two Market-based approaches: 1) the Guideline Public Company Method; and 2) the Comparable Transactions Method. When the analysis in BV report was performed, the medical marijuana business in Nevada was in its infancy. In fact, the entire medical marijuana industry was rather nascent.

Maturation of the Legal Marijuana Industry

Since the production of the BV Report, as noted in the Rebuttal Report, recreational marijuana has become legal in the state of Nevada as well as in other states. The following diagram presents the current state (as of December 2017) of the marijuana industry in the US.

State by State Marijuana Regulation



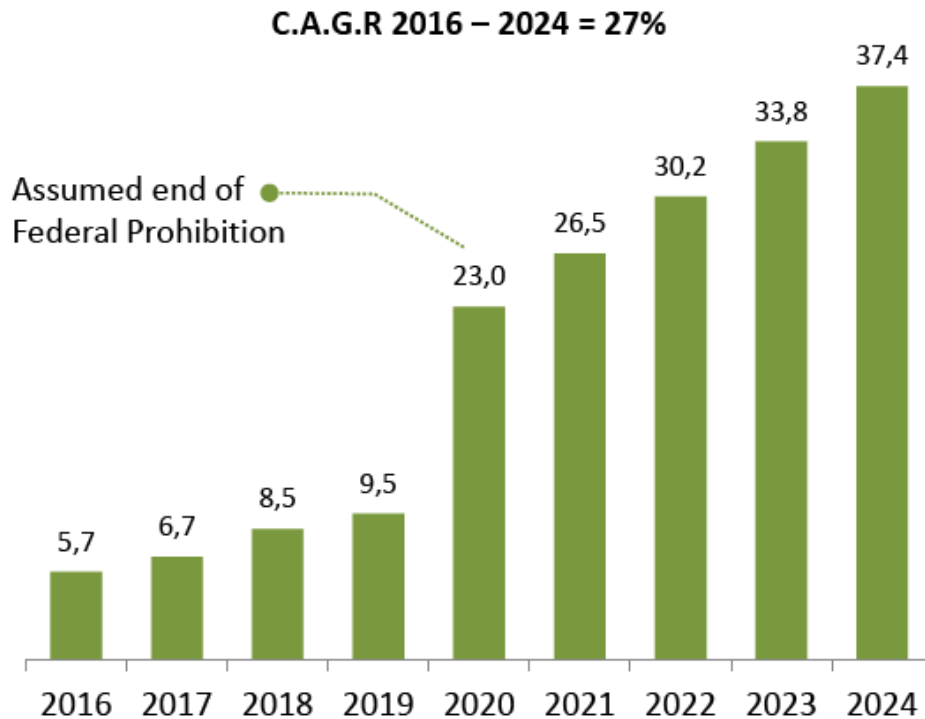
- Recreational (and Medical) marijuana legalized
- Medical marijuana broadly legalized
- No broad laws legalizing marijuana

61% of US population lives in a state where medical marijuana is legal – 22% where medicinal + recreational marijuana is legal.

Source: Marry Jane ; U.S. Census Bureau Dec. 2016 ; Ackrell Capital

From the same sources, the graph below demonstrates the expected Compound Annual Growth Rate (CAGR) in the medical/recreational marijuana industry in the US. Note that the CAGR after 2019 assumes the end of federal prohibition. Currently, marijuana is a Schedule 1¹ drug as classified by the US Drug Enforcement Agency (DEA).

Expected Industry Growth (Bn USD)

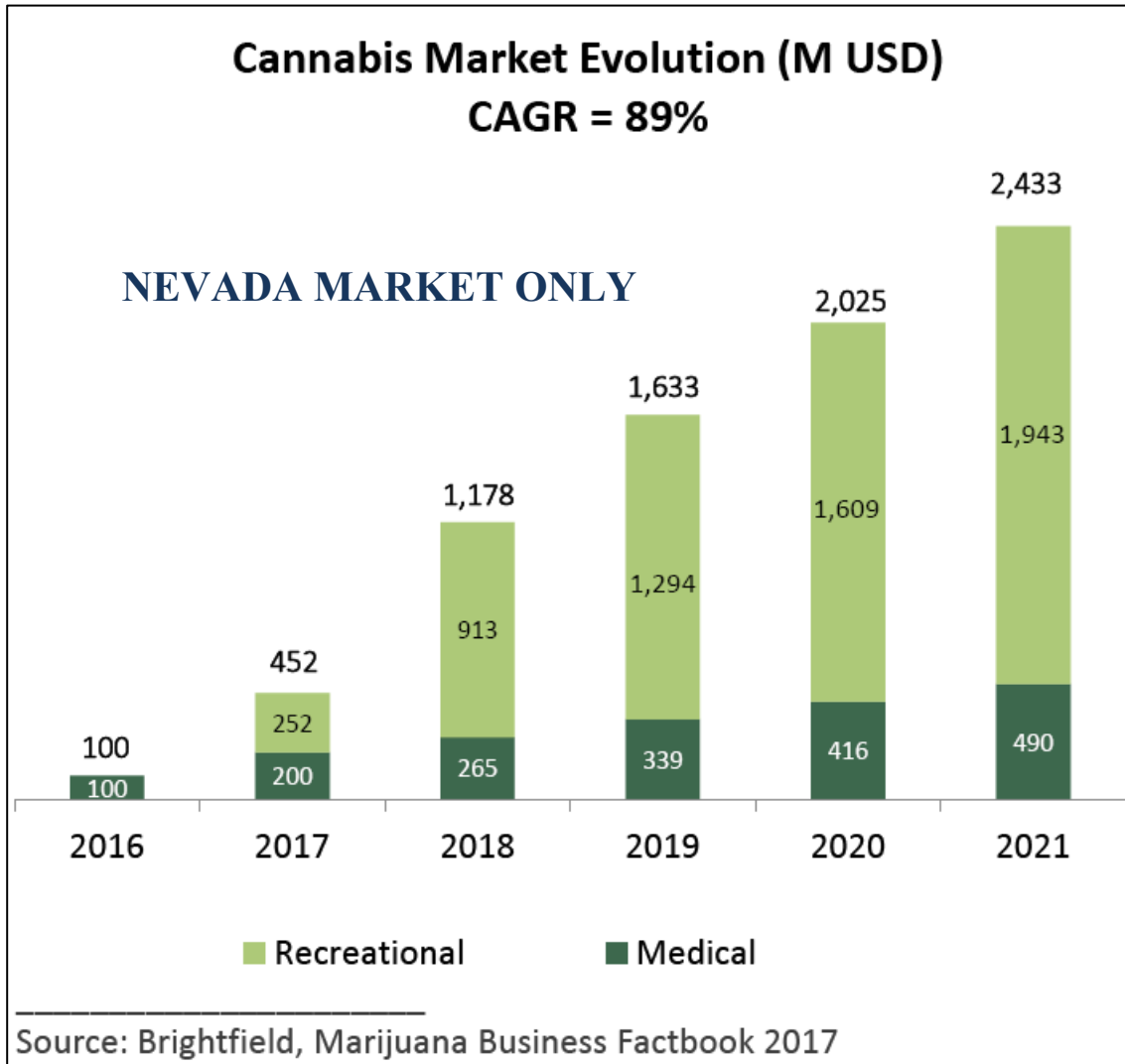


“The expected cannabis industry growth is larger and faster than even what we saw during the dot-com era”

Forbes – Dec 2016

The fact is that the medical/recreational marijuana industry is not only growing and expected to grow at a rapid pace, but it is also maturing. While the growth rate of the medical marijuana sector is expected to slow over the long-term, growth in the recreational marijuana sector is expected to accelerate. The following chart demonstrates the difference in the expected growth rates for each of these sectors of the marijuana industry.

¹ **SCHEDULE 1** (CLASS I) DRUGS are illegal because they have high abuse potential, no medical use, and severe safety concerns; for example, narcotics such as Heroin, LSD, and cocaine.



Nevada has actually eclipsed Colorado over the same period of legal recreational use by a measure of five times.

Market Approach Revisited

The Market Approach involves comparing the subject company to comparable “like” entities in which various valuation metrics such as price-to-sales or price-to-earnings ratios can be identified. The most applicable metric(s) are then applied to the subject company in order to estimate value. This approach requires either identifying comparable companies that trade in the public marketplace (Guideline Public Company Method) or analyzing actual transaction data (Comparable Transactions Method) from previous buy and sell activity (mergers and acquisitions) in the equity interests of companies similar to the subject company.

The following describes the use of the Guideline Public Company Method (GPCM).

Guideline Public Company Method (GPCM)

This method involves identifying publicly-traded companies similar to the subject company. Valuation ratios such as multiples of revenue or earnings are calculated for the guideline companies and then applied to the subject company. However, it can often be difficult to find publicly-traded companies which are truly comparable to the subject business, especially in the case of mid-sized or smaller privately-held companies. In addition, the performance indicators from publicly-traded companies may be difficult to apply directly to closely-held enterprises because public companies are typically further along in their development cycle and are often more broadly diversified in terms of their lines of business and products/services offered.

The BV Report dismissed the GPCM because, at the time, while there were publicly-traded companies that were active in the cannabis (marijuana) industry, they were largely very thinly traded and suffered from a lack of transparency. As the cannabis industry matured (largely due to the push for legalization), publicly-traded companies involved in the marijuana trade became more widely followed, both by the public at large *and* market analysts.

The Public Cannabis Company Revenue Tracker, managed by New Cannabis Ventures, ranks the top revenue producing cannabis stocks that generate industry sales of more than \$2.5 million per quarter. This data-driven, fact-based tracker continually updates the component companies based on new filings in order to stay up to date. For inclusion in the tracker, companies must file with the SEC (Securities Exchange Commission) or SEDAR (System for Electronic Document Analysis and Retrieval).

Fifteen companies currently qualify for inclusion; however, only six of the companies provide filings in US dollars. Of those six, it was determined that only two were deemed comparable to the Company – Terra Tech and Golden Leaf Holdings. Two other publicly-traded cannabis companies were also identified that were considered to be comparable to the Company for purposes of identifying relevant valuation metrics – Friday Night, Inc. and Marapharm Ventures Inc.

These four companies were chosen as comparables because they are all Nevada operators and were deemed to serve collectively as a barometer for the Nevada cannabis market. Of note, is that only Terra Tech holds the valuable dispensary permits.

Because many cannabis companies (if not nearly all) are relatively new businesses with little to no earnings (in fact, negative earnings), the valuation metric most often cited refers to a multiple of Market Capitalization to Revenues. In other words, a company's total value of equity as priced in the public market divided by its amount of revenues produced.

The table below presents the Market Capitalization to Revenue multiples (right hand column) for each of the four companies selected as appropriate comparables.²

Company Name	Market Cap (USD MM)	Revenues (USD 1000)	Mkt Cap / Revenues
Terra Tech Corp. (TRTC)	251.45	25,327.76	9.9
Golden Leaf Holdings Ltd. (GLDFF)	150.58	7,661.49	19.7
Friday Night Inc. (TGIF)	98.81	9,840.00	10.0
Marapharm Ventures Inc. (MRPHF)	56.60	287.86	196.6
Average All	139.36	10,779.3	59.1
Average without MRPHF			13.2
Selected Market Cap to Revenue Multiplier			6.6

² Market Capitalization & Revenue data were sourced from Yahoo! Finance as of the date of this report.

As noted in the above table, the average of the Market Capitalization to Revenue multiples for the all four companies was 59.1. However, Marapharm Ventures Inc was deemed to be an extreme outlier. As such, a second average was calculated, excluding MRPHF. The average Market Capitalization to Revenue multiples, excluding MRPHF was 13.2.

The Market Capitalization to Revenue multiple of 13.2 was derived from publicly-traded companies. As such, it is applicable to publicly-traded companies. Empirical research has shown that privately-held companies trade at lower valuation multiples than companies traded on a public exchange.

Appendix C provides a synopsis of Initial Public Offering (IPO) studies. These studies demonstrate that privately-held companies experience an increase in valuation multiples once they become "public." Using the empirical evidence supported by the IPO studies, it was reasoned that the Market Capitalization to Revenue multiple applicable to the Company was most likely one half of that applicable to publicly-traded companies. As such, the Revenue multiple applicable to the Company was deemed to be 6.6, or a 50% of that applicable to publicly-traded companies.

Appendix A presents the most recent financial projections as provided by the Respondents in The Case. Note that these projections are significantly reduced from the projections originally provided and used in the BV Report. The original projections are presented in Appendix B for comparison.

The following table applies the Market Capitalization to Revenue multiple of 6.6 to the projected revenues for each of the five years as provided in Appendix A.

MOST RECENT PROJECTIONS		Revenues (USD MM)	Implied Value (USD MM)
Projected NuVeda Revenue (per Exhibit 247)	Year 1	0.96	6.3
	Year 2	16.85	111.2
	Year 3	33.05	218.1
	Year 4	40.58	267.8
	Year 5	43.10	284.4
Average of Years' 2 & 3 Implied Values			164.7

Averaging the second and third year implied values results in an implied value for the Company of \$164.7 million. Reducing this value to the pro rata amount of The Interest (22.88%) and applying a 28% discount for lack of control and lack of marketability, results in an implied value for The Interest of \$27,131,000, as presented in the table below. This is significantly greater than the \$8.7 million value for The Interest concluded in the BV Report which was proffered before recreational marijuana use was legal in Nevada.

Implied FMV of The Interest (USD 1000)	
FMV of the Company	\$164,695
FMV Attributable to The Interest @ 22.88%	\$37,682
Less Combined Adjustment of 28%	(\$10,551)
FMV of The Interest	\$27,131
Implied FMV of The Interest	\$27,131

Conclusion

The above analysis applied the Guideline Public Company Method to develop a Market Capitalization to Revenue multiple deemed most appropriate for the Company. This valuation metric was then applied to the revenue projections as presented in Appendices A and B. The resulting implied values for the Company were then reduced to the implied fair market values for The Interest.

The implied values for The Interest under the Guideline Public Company Method more than supports the fair market value of \$8.7 million as concluded in the BV Report. In fact, the analysis presented herein supports a fair market value of The Interest of *at least* \$27 million.



APPENDICES

Appendix A – Most Recent 5-Year Profit & Loss Projections

The following projections were sourced from the file *Exhibit 247. CWNV Forecast II.xlsm* as provided by the Respondents in The Case.

	Year 01	Year 02	Year 03	Year 04	Year 05
Revenue					
Cultivation	0	4,151,945	17,472,825	22,432,560	22,432,560
Production	0	301,840	1,270,240	1,630,800	1,630,800
Dispensary, net of 4Front	955,500	12,401,116	14,309,466	16,511,957	19,033,458
Total Revenue	955,500	16,854,901	33,052,531	40,575,317	43,096,818
Cost of Revenue					
Cultivation	565,889	2,925,058	4,553,126	4,553,270	4,553,414
Production	0	301,840	1,270,240	1,630,800	1,630,800
Dispensary	328,126	4,258,632	4,913,970	5,670,320	6,536,222
Total Cost of Revenue	894,015	7,485,530	10,737,336	11,854,390	12,720,436
Gross Margin					
Cultivation	-565,889	1,226,887	12,919,699	17,879,290	17,879,146
Production	0	0	0	0	0
Dispensary	627,374	8,142,484	9,395,496	10,841,637	12,497,236
Total Gross Margin	61,485	9,369,371	22,315,195	28,720,927	30,376,382
Gross Margin %	6.4%	55.6%	67.5%	70.8%	70.5%
Other Expenses					
Cultivation	521,375	1,034,017	1,708,492	1,955,792	1,946,829
Production	0	24,147	101,619	130,464	130,464
Dispensary	1,592,448	3,943,404	4,302,130	4,637,916	4,955,308
Management Company	1,809,608	2,307,145	2,541,121	2,634,349	2,659,564
	3,923,432	7,308,714	8,653,363	9,358,521	9,692,165
Earnings before Int. & Taxes	-3,861,946	2,060,657	13,661,832	19,362,406	20,684,217
Percent	-404%	12%	41%	48%	48%
Interest Expense	0	0	0	0	0
Income Tax Expense	-1,544,778	824,264	5,464,733	7,744,961	8,273,688
Net Income	-2,317,168	1,236,393	8,197,099	11,617,445	12,410,529

Appendix B – Original 5-Year Profit & Loss Projections

The following projections were originally provided for use in the BV Report and were sourced from the file *NuVeda Forecast 2015102115 v1.0 Baseline w_ Nye.xlsm* as originally provided by the Respondents in The Case.

	Year 01	Year 02	Year 03	Year 04	Year 05
Revenue					
Cultivation	0	10,639,066	54,269,285	78,400,999	116,446,291
Production	0	4,438,000	17,115,356	23,434,662	11,843,827
Dispensary, net of 4Front	955,500	12,401,116	14,309,466	16,511,957	19,033,458
Total Revenue	955,500	27,478,182	85,694,107	118,347,618	147,323,576
Cost of Revenue					
Cultivation	357,962	4,788,719	16,615,438	19,679,947	27,816,145
Production	53,000	2,201,543	6,798,562	9,159,874	5,148,875
Dispensary	334,689	4,278,796	4,913,970	5,670,320	6,536,222
Total Cost of Revenue	745,650	11,269,059	28,327,970	34,510,141	39,501,242
Gross Margin					
Cultivation	-357,962	5,850,347	37,653,847	58,721,052	88,630,146
Production	-53,000	2,236,457	10,316,794	14,274,788	6,694,952
Dispensary	620,811	8,122,320	9,395,496	10,841,637	12,497,236
Total Gross Margin	209,850	16,209,123	57,366,137	83,837,477	107,822,334
Gross Margin %	22.0%	59.0%	66.9%	70.8%	73.2%
Other Expenses					
Cultivation	1,250,398	4,715,550	10,102,936	13,540,559	18,987,128
Production	206,695	836,309	1,916,765	2,424,973	1,497,707
Dispensary	1,555,920	3,343,717	3,587,100	3,789,768	3,954,762
Management Company	2,164,499	3,501,521	4,155,680	4,500,215	4,789,975
	5,177,512	12,397,097	19,762,481	24,255,515	29,229,572
Earnings before Int. & Taxes	-4,967,662	3,812,026	37,603,656	59,581,962	78,592,763

Appendix C – Initial Public Offering Studies

IPO Studies

The Emory Studies (1980-2000)

John D. Emory, ASA, of Robert W. Baird & Company, was the first business valuator to analyze the IPO market systematically for evidence of marketability discounts. Emory published an article in the September, 1985 issue of *Business Valuation Review*, "The Value of Marketability as Illustrated in Initial Public Offerings (IPOs) of Common Stock," which covered a review of 97 prospectuses from 1980-1997. Eight updates of Emory's IPO analysis in the *Business Valuation Review* have been published since. These are referred to as the Emory studies and are summarized below.

The Emory Studies 1985-2000					
Period	Number of IPOs	Discount to IPO		Range of Discounts	
		Mean	Median	High	Low
1985-1986	21	43%	43%	83%	3%
1987-1989	27	45%	45%	82%	4%
1989-1990	23	45%	40%	94%	6%
1990-1992	35	42%	40%	94%	-6%
1992-1993	54	45%	44%	90%	-4%
1994-1995	46	45%	45%	76%	6%
1995-1997	91	43%	42%	80%	5%
1997-2000 Limited	36	48%	44%	89%	-23%
1997-2000 Expanded	283	50%	52%	89%	-23%
All Years	616	45%	44%	94%	-23%

Exhibit C-1

Emory analyzed the relationship between the share prices of companies whose shares were initially offered to the public in IPOs and the prices at which their shares traded within a short period of time (5 months) immediately before their initial public offerings. This analysis resulted in discounts referred to as IPO discounts or, more correctly, Pre-IPO discounts.

Several consistencies have been observed in Mr. Emory's studies over the years. The following summarizes the four most consistent factors:

- The typical company had sales larger than most closely held companies;
- The typical IPO candidate had an average net worth larger than most companies typically valued by business valuers;
- A consistently wide range exists between the largest and smallest discounts;
- The average discount over a 16-year period of study has been 44%.

The implications of the studies are clear: presumably arms' length transactions taking place within a short time (within 5 months) before actual IPOs occur at substantial discounts to the ultimate public offering prices. According to Emory, these studies validate the existence of marketability discounts. Mr. Emory further suggests that for many smaller and/or less profitable, closely held companies with little or no prospects for an IPO or for other liquidity options, the implied marketability discounts should be even greater than indicated by his studies. Gryphon Valuation Consultants' note: Pre-IPO discounts may be exaggerated, however, by favorable market timing of IPOs by investment bankers and the "hype" surrounding the promotion of these issues by biased marketers who themselves stand to gain from a favorable public offering.

The Emory Pre-IPO studies were recently updated to look at "dot.com" company IPOs occurring from May 1997 to March 2000. The "dot.com" bubble burst in March 2000 at the height of this unprecedented period of overvaluations in the public marketplace.

As mentioned, this was a period of unprecedented growth in asset values and a time when most capital was raised through private equity offerings, but as the study points out: If these kinds of discounts were observed in situations where marketability was highly likely, what would the discounts have been where marketability was not likely?

"Dot.com" IPO Study 1997-March 2000	Mean Discount	Median Discount
11 Common Stock Transactions	54%	59%
42 Convertible Preferred Stock Transactions	54%	53%
53 Total Transactions	54%	54%

Exhibit C-2 Source: *Restricted Stock Studies, Fourth Edition*

In this study, there was actually an *inverse* correlation between revenues, capitalization rates and discounts. Companies with lower losses actually received higher discounts and companies with larger capitalizations tended to have higher discounts. This study, like the 1997 to 2000 limited study, did not include options.

IPO Studies (continued)

Emory 1997 – 2000 Limited and Expanded Studies

The latest Emory studies (aside from the “dot.com” study) were conducted in “Limited” and “Expanded” versions. The limited version included only 36 IPOs, excluded options and qualified companies as being reasonably sound by excluding those with less than \$10 million in revenue and with a loss greater than 10% of revenue for the latest 12-month period. The expanded study did not screen for financial strength and included options, though not on a fully inclusionary basis. The expanded study, without the restrictions of the limited study, found 283 qualifying transactions.

The expanded study also provided additional data segmentation that is worthy of notice. This study broke out the results by year, transaction type, and industry (SIC) codes:

The Emory Study 1997 – March 2000			
Year	Number of IPOs	Discount to IPO	
		Mean	Median
1997	25	45%	38%
1998	38	47%	46%
1999	136	53%	53%
2000	84	48%	53%
Expanded Study	283	50%	52%
Exhibit C-3			

The Emory Study 1997 – March 2000			
Transaction Type	Number of IPOs	Discount to IPO	
		Mean	Median
Common Stock	81	50%	52%
Convertible Preferred Stock	153	50%	52%
Options	49	52%	50%
Exhibit C-4			

The expanded included the “dot.com” study as a subset except for where companies had multiple transactions in the five month period to the IPO. In those cases, only the transaction closest to the IPO date was used – theoretically this would be the lowest discount. Nonetheless, it’s obvious what impact the “dot.com” companies had on the expanded study results. In exhibit 2.3.3.6, the impact of the “dot.com” study inclusion is most pronounced as this was the height of the “new economy” IPO era. Exhibit 2.3.3.7 shows a very tight grouping of discount ranges regardless of transaction type. In exhibit 2.3.3.8, the mean discount ranges from 39% (Finance) to 56% (Health, Legal, Social, Engineering). Most IPOs by far, by volume, occurred in the Services industry (7000 – 7999).

The Emory Study 1997 – March 2000			
SIC Code	Number of IPOs	Discount to IPO	
		Mean	Median
1000 - 1999	3	51%	39%
2000 - 2999	17	49%	50%
3000 - 3999	46	52%	53%
4000 - 4999	16	49%	51%
5000 - 5999	32	47%	50%
6000 - 6999	6	39%	39%
7000 - 7999	148	50%	53%
8000 - 8999	15	56%	54%
Exhibit C-5			

Willamette Management Studies (1975-1997)

This study analyzed 556 companies covering 1,007 transactions. The mean discount for all periods studied was 44.2%; the median discount for all periods was 50.4%. All public offerings from the files of the *IPO Reporter* were considered. The pre-IPO transactions all occurred between one and 36 months prior to the IPO. The standard deviation observed in the study was 40%; however, the average discount exceeded 35% in all but three of the 14 periods studied, and the median discounts exceeded 40% in all but one year.

The implication of the Willamette Management Studies is that in true arms’ length private transactions occurring in a relatively short time before the IPO occur at substantial discounts to the IPO price. These studies support the validity and magnitude of marketability discounts in general and particularly for interests for which there is very little, if any, prospects for liquidity.

EXPERT REBUTTAL and RETROSPECTIVE SUMMARY REPORT



March 16, 2018

AAA CASE NO.: AAA01-15-0005-8574

Donald R. Parker
Chartered Financial Analyst
Certified Valuation Analyst

Gryphon Valuation Consultants, Inc.

Las Vegas, Nevada
702.870.VALU (8258)
www.BizVals.com

CONFIDENTIAL

Mr. Shane Terry

March 16, 2018

c/o Garman Turner Gordon, LLP
650 White Drive Suite 100
Las Vegas, Nevada 89119

CONFIDENTIAL

ATTN: Erika Pike Turner Esq.

RE: SHANE M. TERRY, CLAIMANT vs. NUVEDA, LLC, A NEVADA LIMITED LIABILITY COMPANY, PEJMAN BADI; POUYA MOHAJER, et al., RESPONDENTS, DISTRICT COURT, CLARK COUNTY, NEVADA, DISTRICT COURT CASE NO.: A-15-728510-B, SUPREME COURT NO.: 69648, AAA CASE NO.: AAA01-15-0005-8574

Dear Mr. Terry ("Client):

I have been requested by your legal counsel to provide this rebuttal expert report in respect the February 6, 2018 report produced by Terrence M. Clauretie, entitled *THE FAIR MARKET VALUE OF NuVeda, LLC. AS OF AUGUST 8, 2017 AND RETROSPECTIVE COMMENT ON REPORT OF NOVEMBER 28, 2016*, the "Clauretie Report."

Nothing in this report changes my previous finding as most recently submitted in my February 23, 2018 report *Supplemental Business Valuation and Expert Report* ("Supplemental Report"). The supplemental Report was produced as a supplement to my initial *Business Valuation Report* dated May 25, 2016 ("BV Report"). Additionally, I have also previously submitted an *Expert Rebuttal Report* dated November 28, 2016 ("Rebuttal Report"). The Rebuttal Report was produced in response to the *REPORT ON THE FAIR MARKET VALUE OF NUVEDA, LLC AS OF MARCH 10, 2016* produced by Terrence M. Clauretie, Ph.D. dated October 31, 2016 ("Clauretie Rebuttal Report"). The Clauretie Rebuttal Report was produced in response to the BV Report.

All of the noted reports were produced in reference to the above-noted matter ("The Case") concerning the Claimant's 22.88% voting interest ("The Interest") in NuVeda, LLC ("Company"), a Nevada limited liability company, as of March 10, 2016 ("Valuation Date").

I reserve the right to modify, supplement, amend or otherwise update this report or any previously submitted reports that I have produced prior to their introduction for purposes of litigation in a court of law or other governmental agency or if new information comes to light that would cause any material change in the conclusions of value or opinions presented.

Summary Analyses and Opinions

Nothing herein has changed my opinion that the fair market value of The Interest as of the Valuation Date was *at least* \$27 million as noted in the Supplemental Report.

Qualifications

In offering my analyses and opinions, I have relied on my skill, experience, training and specialized knowledge in the areas of financial analysis and business valuation. My qualifications and a list of cases in which I have been designated an expert can be found in Appendix A of the BV Report and the Rebuttal Report.

I do not have any present or contemplated financial interest in any of the companies or operations discussed herein nor do I have any relationship with any parties to The Case that would interfere with my ability to provide independent and objective judgment. Compensation for my work in this matter is based upon normal billing rates and is in no way contingent upon any opinion or outcome concerning The Case.

Sincerely,



Donald R. Parker, CFA, CVA
Gryphon Valuation Consultants, Inc.

COMMENTS AND OBSERVATIONS REGARDING THE CLAURETIE REPORT

The following notes certain excerpts from the Clauretie Report followed by my comments and observations in respect to the excerpts.

I. ASSIGNMENT:

In this section, the Clauretie Report refers to “market value.” In fact there is no standard definition of “market value.” The term doesn’t even exist among valuation terms in the International Glossary of Business Valuation Terms as published by the National Association of Certified Valuators and Analysts (NACVA). The use of the term “Market Value” is used incorrectly several times throughout the Clauretie Report. I believe what the Clauretie Report intends to refer to is *Fair Market Value* (“FMV”).¹

FMV is the only standard of value² applicable in The Case as ducted by the Company's operating agreement dated July 9, 2014 (“Agreement”) in section 6.2:

*Upon the expulsion or death of a Member, the Member’s successor-in-interest, estate or beneficiary or beneficiaries, as the case may be, shall be 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 or death. **Fair market value** may be determined informally by a unanimous good-faith agreement of all of the Voting Members. In the absence of an informal agreement as to **fair market value**, the Voting Members shall hire an appraiser to determine **fair market value**.*

II. MATERIALS RELIED UPON:

In this section, the Clauretie Report represents that it has relied on “Various discussions in the literature regarding the “Reasonable Certainty Requirement” for determining lost profits.”

The Case and my valuation opinions associated therewith have nothing to do with “lost profits.” Rather the fact set at hand involves the valuation of The Interest as of the Valuation Date based on the standard of FMV.

III. EXECUTIVE SUMMARY:

As in the Clauretie Rebuttal Report, the Clauretie Report continues to reference the “reasonable certainty requirement” as fact when in fact this is simply Mr. Clauretie’s opinion and is not consistent current valuation theory and methodology.

Mr. Clauretie’s consistent reliance on the “**reasonable certainty requirement**” was thoroughly addressed and debunked in the Rebuttal Report.

¹ **Fair Market Value**—the price, expressed in terms of cash equivalents, at which property would change hands between a hypothetical willing and able buyer and a hypothetical willing and able seller, acting at arms length in an open and unrestricted market, when neither is under compulsion to buy or sell and when both have reasonable knowledge of the relevant facts. - International Glossary of Business Valuation Terms as published by the National Association of Certified Valuators and Analysts (NACVA).

² **Standard of Value** – the identification of the type of value being utilized in a specific engagement; e.g. fair market value, fair value, investment value. Ibid.

From Mr. Clauretie's Curriculum Vitae (CV), it does not appear that Mr. Clauretie holds any business valuation designations nor is he a member of any professional business valuation organization – two requirements for being considered a “qualified appraiser.”³

Not being a member of any professional business valuation organization and not holding any business valuation designation conferred by such, would tend to indicate that Mr. Clauretie is not subject to ongoing professional education or recertification in the field of business valuation.

In item number 2, the Clauretie Report notes that “The speculative nature of a forecast of future profits is exacerbated by the lack of any significant operating revenues and profits from exercising the licenses that the enterprise owns.”

In fact the Company operated two dispensaries for all of 2017 in a market that has averaged over \$1million/day in retail revenue.⁴

In item number 5, the Clauretie Report states, in part, that “Liquidation of the company provides a “market value” since it is based on the market value of the assets and liabilities of the firm.”

This statement is nonsensical as it – aside from using the undefined term Market Value – confuses the Standard of Value⁵ with the Premise of Value.⁶ One does not define the other. Basing the value of a company on the Company's assets and liabilities defines either the Net Book Value⁷ or Adjusted Book Value⁸ method. The Clauretie Report not only fails to distinguish between Standard of Value and Premise of Value, but it doesn't seem to convey that they are two different and independent elements of current valuation methodology.

Item number 5 further states that “The market value in liquidation is appropriate, *given* the current state of litigation.”

Once again, this sentence confuses the Standard of Value with the Premise of Value. Further, the Clauretie Report continues to maintain that the litigation of The Case should impact the FMV of The Interest as of the Valuation Date. Again, this argument was addressed and debunked in the Rebuttal Report. The Clauretie Report, as in the Clauretie Rebuttal Report, continues to ignore that “but for” the actions of the Respondents, there would not have been any litigation associated with the matter at hand.

Item Number 7 states “Although *liquidation value of the company meets the definition of “fair market value”*, the fair market value of the company, on any date in the past, as a going concern can also be estimated under the assumption that there is no ongoing litigation. [Emphasis added]

³ As codified by Treas. Reg. Sec. 1.170A-17(b)(2)(iii) and Internal Revenue Code §1.170A-17(b).

⁴ <https://patch.com/nevada/lasvegas/nevada-marijuana-sales-surpass-1m-day-first-six-months>

⁵ **Standard of Value** – the identification of the type of value being utilized in a specific engagement; e.g. fair market value, fair value, investment value. International Glossary of Business Valuation Terms.

⁶ **Premise of Value**—an assumption regarding the most likely set of transactional circumstances that may be applicable to the subject valuation; e.g. going concern, liquidation. Ibid.

⁷ **Net Book Value**—with respect to a business enterprise, the difference between total assets (net of accumulated depreciation, depletion, and amortization) and total liabilities as they appear on the balance sheet (synonymous with Shareholder's Equity). With respect to a specific asset, the capitalized cost less accumulated amortization or depreciation as it appears on the books of account of the business enterprise. Ibid.

⁸ **Adjusted Book Value Method**—a method within the asset approach whereby all assets and liabilities (including off-balance sheet, intangible, and contingent) are adjusted to their fair market values. Ibid.

Again, this statement confuses the Standard of Value with the Premise of Value and goes to a lack of understanding of basic valuation theory and methodology. Further, the statement continues the Clauretie Report's reliance and reference to a fallacy by ignoring the "but for" argument regarding the fact set surrounding the litigation of The Case.

Item 8: "The liquidation value of the enterprise is still supported by the failure of the company to engage in operations as a direct result of the litigation in this matter,"

While the Clauretie Report doesn't acknowledge that this statement defines the Premise of Value as Liquidation – that is in fact exactly what it says. However, there are no statements from the Respondents that indicate their desire to liquidate the Company. In fact, quite the opposite, the Respondents, through their subsequent actions, have proven their desire to operate the Company as a going concern.⁹

The statement in Item 8 also continues to engage in the fallacy that the litigation of The Case should have an impact on the FMV of The Interest as of the Valuation Date, ignoring again, the "but for" argument.

Item 9 intimates that "additional litigation has been brought against the company."

Assuming that this statement is not referring to The Case – the Clauretie Report does not identify the "additional litigation" – and that said additional litigation was initiated after the Valuation Date, then the Clauretie Report has violated another basis tenet of basic valuation theory. That is, that information not known or reasonably knowable as of the Valuation Date cannot and should not be taken into consideration in the valuation process. The Valuation Date defines a specific point in time. Events subsequent to the Valuation Date are of no consequence to the valuation process.¹⁰

IV. VALUE OF NuVeda ON AUGUST 8, 2017; LIQUIDATION

The Clauretie Report states that **"Whether the fair market value of the firm is determined on the basis of liquidation or as a going concern it is necessary to determine the market value of the six licenses held directly or indirectly by NuVeda."**

This is not entirely correct in respect to the going concern Premise of Value. This statement effectively is akin to saying that the FMV of bar is defined by the value of its liquor license. It does not take into consideration the many intangible factors that inure to the FMV of a going concern. Such factors include, but are not limited to, location, management acumen, cost and structure of capital, vertical integration and quality of product.

Further, the Company holds licenses for three levels of vertical integration: Cultivation, Production, and Dispensary. The independent value of these licenses would be less attractive than would their value as a portfolio. It's a matter of synergies and economies of scale.

Page 4, Footnote 2. "The sales data were provided to me by *Dr. Pej Bady*. *I have not reviewed any documentation regarding the sales but accept them as being true transaction values.* It should also be noted that some sales of licenses may have involved enhancements to their value such as the existence

⁹ **Going Concern**—an ongoing operating business enterprise. Ibid.

¹⁰ Generally, the valuation analyst should consider only circumstances existing at the valuation date. An event that could affect the value may occur subsequent to the valuation date; such an occurrence is referred to as a subsequent event. Subsequent events are indicative of conditions that were not known or knowable at the valuation date, including conditions that arose subsequent to the valuation date. The valuation would not be updated to reflect those events or conditions. - Statement on Standards for Valuation Services (SSVS-1) AICPA.

of favorable leases, the existence of tenant improvements or other factors not present in the NuVeda licenses.” [Emphasis added]

This footnote is troubling. Dr. Pej Bady is a Respondent in The Case; not exactly an independent party. The Clauretie Report admits that no independent verification of the data provided by Dr. Pej Bady was conducted. The rest of the footnote is pure conjecture with no underlying basis provided.

Page 4 - 5. “I have also met with an independent person knowledgeable about the market for said licenses. Mr. Paris Belaouras, founder and principal of ACRES CANNIBUS, LLC. He has had extensive experience with buying and selling licenses related to the cannabis market in Nevada and in Arizona.”

Unless Mr. Belaouras has provided or is willing to provide an independent report with source data, the sales data as presented represents nothing more than hearsay. Further, it is unclear whether the sales data was sourced from Dr. Pej Bady or Mr. Belaouras. The Clauretie Report would appear to indicate both, but there is no clear delineation. The Clauretie Report does not provide any independent evidence of these transactions.

Page 5. TABLE ONE does not distinguish between Arizona and Nevada transactions. This is an important point because Arizona is a medical marijuana only state. Nevada has only been a recreational marijuana state since July 1, 2017.

Page 6. TABLE TWO. The Clauretie Report provided no copy of the native source as evidence of the veracity for the balance sheet presented.

Page 7. Total market value of the assets is: \$3,095,000

This undefined “Total Market Value” of assets is actually an Adjusted Book Value method as previously defined. The Clauretie Report included as a liability “attorney fees.” These fees were identified as “Liability for attorney’s fees to date for the litigation in this case,” again in contradiction with the “but for” argument.

Page 8. In this valuation the fair market value of the company, in liquidation, on August 8, 2017 is \$835,277.

Aside from the fact that Liquidation is not the appropriate Premise of Value, the essential question arises that if the Clauretie Report has correctly valued the Company at \$835,277 on the basis of FMV, would the Respondents accept a cash offer for the Company at this amount?

Page 9. TABLE 3. Assuming that this table represents the “high” value within the context of the Clauretie Report, the equity of the Company is noted to be \$1,605,277. Further assuming that the Clauretie Report is representing that this value represents the FMV of the Company, the same question should be asked: would the Respondents accept a cash offer for the Company at this amount?

Page 9. “...the question is: Can an estimate of the fair market value of NuVeda as a going concern be made from information on the fair market value of it’s [sic] licenses?”

The Clauretie Report affirms this hypothesis. However, such a conclusion, as previously discussed, does not take into consideration the many intangible factors involved in the determination of the FMV of a company under the going concern Premise of Value.

Page 10. This page lays out an entire hypothetical that bears no resemblance to the fact set of The Case. Its assumption are arbitrary and without basis. The wording “net income for, say, twenty-five years” is indicative of an arbitrary scenario.

Page 11. TABLE FOUR. This table represents a continuation of the hypothetical scenario described on page 9. It presents data that lacks basis and foundation. There are no underlying sources identified.

There are no assumed growth rates. And again, the hypothetical has no connection with the fact set presented by The Case.

Page 12. “The present value of the future profits, discounted by the expected rate of return of, say, 15%,”

Again, this statement is the continuance of a completely arbitrary hypothetical scenario that has no connection to the fact set of The Case.

Page 13. “Now one can see how the “value” of the licenses can provide insight into the value of the company as a going concern.” “...the investor’s company as a going concern can be determined by the value of the license because the market value of the license reflects a forecast of future revenues and profits (that is, a going concern).”

The fallacy in this statement has already been discussed. The correlation of a company’s adjusted book FMV (which is what the Clauretie Report has allegedly provided) and its going concern FMV are often disparate. I can only describe the Clauretie Report at this point as a forage into academic ramblings.

Page 13. Footnote 3. As will be seen below, if a minority interest discount is estimated at twenty percent the above values can be adjusted to 80% of those indicated.

Both the BV Report and the Supplemental Report applied a 28% discount to The Interest.

CONCLUSION

The Clauretie Report continues to rely on faulty assumptions, unfamiliarity with the basic tenets of current valuation theory and methodology, reliance on hearsay, misrepresentation or lack of understanding of the fact set at hand and academic ramblings that have no nexus whatsoever to The Case.

Nothing about the Clauretie Report has changed my opinion that the fair market value of The Interest as of the Valuation Date was *at least* \$27 million as noted in the Supplemental Report.

MATERIAL REFERENCED

The following documents were referenced in producing this report.

- The Clauretie Report
- International Glossary Of Business Valuation Terms as published by NACVA



Jason Wiley

From: Nikki Baker <nbaker@petersonbaker.com>
Sent: Friday, May 18, 2018 7:49 AM
To: David Feuerstein; Erika Turner
Cc: Matthew T. Dushoff; AAA Lance Tanaka (LanceTanaka@adr.org);
jwiley@wileypetersenlaw.com; Scott D. Fleming; Kristina R. Cole
Subject: RE: Ruling on the June 4th Hearing Date

Counsel:

Currently, I'm available for a call on Monday between 10:00 a.m.-1:30 p.m. PST. Please attempt to agree amongst yourselves on a time that will work for everyone.

With respect to the pending motions, my order is as follows:

Mr. Terry's motion to substitute BCP Holding 7, LLC as the real party in interest in this arbitration is GRANTED. Mr. Terry shall still make himself available to provide testimony in this arbitration. My decision is not a determination on the merits of any claims, counterclaim, and/or defenses in this arbitration. And, nothing in this order constitutes a waiver of rights for any party under the Operating Agreement.

Before a call takes place to discuss various issues, BCP Holding 7, LLC shall disclose, pursuant to Section 21 of the Preliminary Hearing and Scheduling Order #2, as amended, any individuals or entities interested in the outcome of this arbitration.

Because Ms. Turner is local counsel for Mr. Feuerstein pursuant to Judge Gonzalez's order, Ms. Turner should first address her withdrawal request from this arbitration and the district court action to Judge Gonzalez. If and when Judge Gonzalez enters an order on Ms. Turner's request, Ms. Turner is requested to provide to me a copy of said order. In the interim, Ms. Turner is relieved of any obligation to participate as local counsel in any telephonic hearings in this arbitration. *See e.g.*, SCR 42(14)(b).

For the upcoming call, the parties should be prepared to discuss (a) which of Mr. Terry's claims are being and can be assigned, (b) whether the parties should be permitted to conduct discovery on BCP Holding 7, LLC and/or Mr. Padgett, (c) whether the arbitration hearing date of June 4 should be adjourned, (d) Ms. Goldstein's motion for leave to add Joe Kennedy as a party in this arbitration, and (e) any other scheduling issues.

Thank you,

Nikki

Nikki Baker, Esq.
Peterson Baker, PLLC
702.786.1001

From: David Feuerstein <david@dfmklaw.com>
Sent: Friday, May 18, 2018 5:03 AM
To: Erika Turner <eturner@Gtg.legal>
Cc: Matthew T. Dushoff <mdushoff@klnevada.com>; Nikki Baker <nbaker@petersonbaker.com>; AAA Lance Tanaka (LanceTanaka@adr.org) <LanceTanaka@adr.org>; jwiley@wileypetersenlaw.com; Scott D. Fleming

<sfleming@klnevada.com>; Kristina R. Cole <kcole@klnevada.com>

Subject: Re: Ruling on the June 4th Hearing Date

Arbitrator Baker,

I cannot make the times set forth below. I am available any time on Monday.

Respectfully,

David Feuerstein

David Feuerstein, Esq.

FEUERSTEIN KULICK LLP

205 E. 42nd Street, 20th Floor

New York, New York 10017

Direct: 646-768-0591

Mobile: 917-509-4570

On May 17, 2018, at 8:11 PM, Erika Turner <eturner@Gtg.legal> wrote:

I am available.

Erika Pike Turner

Partner

GARMAN | TURNER | GORDON

P 725 777 3000 | D 725 244 4573

E eturner@gtg.legal

From: Matthew T. Dushoff <mdushoff@klnevada.com>

Sent: Thursday, May 17, 2018 5:10 PM

To: Nikki Baker <nbaker@petersonbaker.com>

Cc: AAA Lance Tanaka (LanceTanaka@adr.org) <LanceTanaka@adr.org>; Erika Turner <eturner@Gtg.legal>; David Feuerstein (david@dfmklaw.com) <david@dfmklaw.com>;

jwiley@wileypetersenlaw.com; Scott D. Fleming <sfleming@klnevada.com>; Kristina R. Cole

<kcole@klnevada.com>

Subject: RE: Ruling on the June 4th Hearing Date

Both Jason and I are available at 10:00 a.m. PST tomorrow. Ms. Turner is also available. I think she meant to e-mail everyone, but just emailed me. Thank you.

Matthew T. Dushoff, Esq.

Shareholder

<image001.jpg>

<image002.jpg>

Office: 702.362.7800 Cell: 702.279.8875

Web: www.klnevada.com Bio: [Attorney Bio](#)

400 S. Rampart Blvd. | Suite 400 | Las Vegas | NV 89145

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From: Nikki Baker [<mailto:nbaker@petersonbaker.com>]

Sent: Thursday, May 17, 2018 5:00 PM

To: Matthew T. Dushoff <mdushoff@klnevada.com>

Cc: AAA Lance Tanaka (LanceTanaka@adr.org) <LanceTanaka@adr.org>; eturner@gtg.legal; David Feuerstein (david@dfmklaw.com) <david@dfmklaw.com>; jwiley@wileypetersenlaw.com; Scott D. Fleming <sfleming@klnevada.com>; Kristina R. Cole <kcole@klnevada.com>

Subject: Re: Ruling on the June 4th Hearing Date

Counsel:

I'm available for a call tomorrow between 8:30-11:00 am. I am flying to Oklahoma tomorrow with my daughters around noon, so my availability is limited. If everyone can and wants to have a brief call to discuss scheduling of the arbitration hearing, I'm happy to schedule one.

To the extent that small window doesn't work for everyone, I offer this until a call is workable: if Ms. Goldstein and all Respondents agree that the June 4 start date is no longer workable and that the arbitration hearing should be adjourned for a later date, I am inclined to grant a short continuance/postponement of the arbitration hearing.

Please confer amongst yourselves and let me know tonight whether we're having a call tomorrow.

Thanks,

Nikki

Sent from my iPhone

On May 17, 2018, at 4:18 PM, Matthew T. Dushoff <mdushoff@klnevada.com> wrote:

Arbitrator Baker,

This correspondence is in response to your e-mail that you sent yesterday. You stated that you intend to schedule a conference next week to discuss the issues surrounding the pending motions, discovery on Mr. Padgett and/or BCP 7 and whether the arbitration hearing date of June 4th should be adjourned. I have spoken to both Mr. Feuerstein and Mr. Wiley and we are concerned that we will not be able to complete all that is necessary in this matter in time for the June 4th date. We still need to complete the depositions of Ms. Goldstein and Mr. Terry [Note: As you are aware, we stayed the discovery in this matter until May 1st with hopes of coming to a settlement. On May 1st, once we realized there was not going to be a settlement, we requested dates for Ms. Goldstein's and Mr. Terry's depositions. However, on that same day, we received the notice that Mr. Terry sold his interests to BCP 7. This created a seismic shift in this case. As such, we have not been able to coordinate a time between all the parties to set those depositions.] It also appears that there also may need to be a 30(b)(6) depo of BCP 7. Moreover, we also have deadlines approaching for witness subpoenas, exhibits, trial

briefs, rebuttal expert reports, objections to testimony or evidence, etc . . . Yet, at this time, we still are unsure who are the parties at interest in this case.

We understand that you are setting a conference call for next week to discuss the issues you raised in your May 16th correspondence. However, because time is of the essence, can we have a conference call tomorrow solely on the issue of whether the hearing will be continued, so that we can plan accordingly. Thank you.

Matthew T. Dushoff, Esq.

Shareholder

<MD_3a1a7fe2-3cb1-4ac4-8d67-5406cb3bd5c8.jpg>

<KolesarLeathamLogo_RGB_cb6b71e1-44dc-4578-9a1d-bdb6a6b6b734.jpg>

Office: 702.362.7800 Cell: 702.279.8875

Web: www.klnevada.com Bio: [Attorney Bio](#)

400 S. Rampart Blvd. | Suite 400 | Las Vegas | NV 89145

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American Arbitration Association
Dispute Resolution Services Worldwide

American Arbitration Association
Preliminary Hearing and Scheduling Order #6

AAA Case #: 01-15-005-8574

Case Name: BCP Holdings 7, LLC, Jennifer Goldstein v. NuVeda LLC, et al.

This Order confirms the new Final Hearing dates and amends other pertinent deadlines set forth in the Preliminary Hearing and Scheduling Order #2 dated October 30, 2017, as subsequently amended (collectively, "Scheduling Order #2").

By agreement of the Parties and/or by Order of the Arbitrator, the following is now in effect:

1. Section 10 of Scheduling Order #2 is amended to reflect the revised deadline:

Subpoenas:

- b. Subpoenas for the attendance of witnesses at the Final Hearing shall be submitted to the Arbitrator no later than **December 14, 2018**.
2. Section 11 of Scheduling Order #2 is amended to reflect the revised deadline:

Final Hearing: A Final Hearing in this matter will commence before the Arbitrator at Litigation Services on **January 14-18, 2019, at 10:00 a.m. PST**. The Parties estimate that this arbitration may require five (5) days of hearing time, inclusive of arguments. If, however, the Parties are able to finish the Final Hearing in less than five (5) full hearing days, they will not be charged by the Arbitrator for any of the Arbitrator's reserved but unused hearing time. This is a firm setting, and will not be changed or continued absent exceptional circumstances, upon a showing of good cause.

3. Section 12 of Scheduling Order #2 is amended to reflect the revised deadlines:

Witness Disclosures:

- a. Claimant shall file and serve a disclosure of all witnesses reasonably expected to be called by Claimant at the Final Hearing by **December 4, 2018**. The disclosure shall include a brief description of the subject matter of the testimony to be elicited from each witness.
 - b. Respondents shall file and serve a disclosure of all witnesses reasonably expected to be called by Respondents at the Final Hearing by **December 4, 2018**. The disclosure shall include a brief description of the subject matter of the testimony to be elicited from each witness.

- c. On or before **December 14, 2018**, the Parties shall file and serve any supplemental expert witness reports. Expert reports shall set forth each expert's opinions and the reasons for them, and the expert's qualifications. The substance of each expert's direct testimony must be fairly and reasonably addressed in the expert's report. There shall be no additional discovery of experts, except on good cause shown to the Arbitrator or an agreement between the Parties. Any rebuttal expert witness report shall be served on or before **December 29, 2018**. Any objections to expert testimony or evidence shall be raised no later than **January 4, 2019**.

4. Section 13 of Scheduling Order #2 is amended to reflect the revised deadlines:

Exhibits: The Parties shall exchange copies of all exhibits to be offered and all schedules, summaries, diagrams, and charts to be used at the Final Hearing not later than **5:00 p.m. PST on December 21, 2018**. Any objections to the exhibits are due on **January 4, 2019**. The Parties may agree to reserve documents that they will use only for cross-examination, rebuttal or impeachment, and shall so advise the Arbitrator of their agreement in this regard.

- d. The Parties shall cooperate in preparing a joint exhibit book, indexed and pre-numbered (with the prefix J) to avoid duplicative documents and an unnecessary number of exhibit books. To the extent necessary, the Parties shall prepare a separate exhibit volume, indexed and pre-numbered, consisting of that party's prospective additional hearing exhibits. The exhibit books shall be indexed and paginated, and shall so far as possible be in consecutive chronological or by subject or some other logical order and marked so as to easily distinguish Claimant's from Respondents' exhibits. At the commencement of the Final Hearing, the Parties shall provide the Arbitrator with the exhibit volumes, indexed and pre-numbered, shall provide the separate exhibit binder to the other party, and shall have an exhibit set available for use by witnesses. If no objections to the exhibits, the Parties shall complete the combined single set of exhibit books on or before **5:00 p.m. PST on January 7, 2019**.

5. Section 14 of Scheduling Order #2 is amended to reflect the revised deadline:

Stipulation of Uncontested Facts: The Parties shall cooperate in an effort to prepare a statement of stipulated facts to the extent that would be cost effective and submit any agreed upon statement to the Arbitrator by **12:00 p.m. PST on January 11, 2019**.

6. Section 15 of Scheduling Order #2 is amended to reflect the revised deadline:

Pre-Hearing Briefs: On or before **12:00 p.m. PST on January 11, 2019**, each party may serve on the Arbitrator a pre-hearing brief on all significant disputed issues, setting forth briefly the party's position and the supporting arguments and authorities.

7. Section 16 of Scheduling Order #2 is amended to reflect the revised deadline:

Post-Hearing Submission Regarding Attorneys' Fees and Costs: The Parties have until five (5) business days after the close of evidence at the Final Hearing, to file and serve any and all documentation supporting or evidencing *only* the amount of attorneys' fees and costs

they seek to recover in connection with this arbitration. No other evidence and no legal arguments may be included in the submission, unless requested by the Arbitrator at the conclusion of the Final Hearing.

8. Upon receipt of any objections to expert testimony and evidence and/or exhibits, the Arbitrator will decide whether to hold a conference call with the Parties during the week of January 7 to hear any arguments and rule on the objections before the Final Hearing commences. If no conference call is scheduled, the Parties shall be prepared to address the objections when the Parties convene for the Final Hearing on January 14.

9. Unless specifically amended in this Order or in a prior order, all other deadlines and sections in Scheduling Order #2 remain in full force and effect.

10. **Deadline Enforcement:** All deadlines stated herein will be strictly enforced and adhered to in order to avoid unnecessary delay and to ensure an expedient and fair resolution of this matter. This Order shall continue in effect unless and until amended by subsequent order of the Arbitrator. However, the Parties may agree to modify the new deadlines set forth in Sections 3 and 4, *supra*, without obtaining the Arbitrator's consent to the modification, provided the proposed modification will not require a change in the Final Hearing date.

Dated: November 1, 2018.

Arbitrator Signature: _____

A handwritten signature in blue ink, appearing to read "Nikki Abaker", is written over a horizontal line.

Table of New Deadlines

#	Action	Deadline
1	Deadline to supplement expert reports	December 14
2	Deadline for rebuttal expert designations and reports	December 29
3	Deadline for Claimant to provide disclosure of witnesses	December 4
4	Deadline for Respondents to provide disclosure of witnesses	December 4
5	Deadline to submit requests for witness subpoenas for hearing	December 14
6	Deadline for any objections to expert testimony or evidence	January 4
7	Deadline for Parties' exchange of proposed exhibits	December 21, at 5:00 p.m.
8	Deadline for objections to exhibits	January 4
9	Deadline for Parties' completion of combined single set of exhibit books	January 7, at 5:00 p.m.
10	Deadline to submit pre-hearing briefs to Arbitrator and exchange same	January 11, at 12:00 p.m.
11	Deadline to submit joint statement of uncontested facts	January 11, at 12:00 p.m.
12	Final Hearing dates	January 14-18
13	Deadline to file post-hearing submissions on attorneys' fees and costs (if any)	5 business days after close of Final Hearing
14	Estimated deadline for issuance of final award	February 15

EXPERT WITNESS REPORT

REPORT DATE: DECEMBER 13, 2018

SHANE TERRY

v.

NUVEDA, LLC, ET AL.

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4. REVIEW AND OPINIONS	6

CURRICULUM VITAE



December 13, 2018

Matthew T. Dushoff, Esq.
KOLESAR & LEATHAM
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Re: Shane Terry v. NuVeda, LLC, et al.

Dear Mr. Dushoff:

Anthem Forensics ("Anthem") was engaged in the above-captioned matter by Pejman Bady. Relative to this engagement, we were asked to review and analyze the business valuation analyses presented by Donald Parker of Gryphon Valuation Consultants, Inc.

This report outlines the results of our review and presents the opinions and conclusions reached therefrom. Please note that if information becomes available to us that we deem relevant to the scope of this engagement, we reserve the right to supplement our report accordingly. This report is not to be used for any other purpose than as explicitly stated herein.

We issued a report on November 29, 2016 and subsequent to its issuance we received data pertinent to our analysis. As such, this report supplements our November 29, 2016 report. It bears noting that any portions of our November 29, 2016 report that are not discussed in this report have not changed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe L. Leauanae', with a small dot at the end.

Joseph L. Leauanae, CPA, CITP, CFF, CFE, ABV, ASA
joe@anthemforensics.com

1. INTRODUCTION

Pursuant to the foregoing, Anthem has been engaged to provide expert witness services in this matter. The compensation to be paid for Joseph Leauanae's study and for testifying as to Anthem's findings is \$330 per hour. Please note that Mr. Leauanae's curriculum vitae, which includes his testifying experience and a list of authored publications, has been attached to this report.

We received discovery disclosures during the preparation of this report that contained information and documentation that was ultimately used to form the conclusions and opinions presented herein.

Our results, conclusions, and opinions are based upon the information we have received and reviewed through the date of this report. They are also based upon pertinent accounting and financial standards, our current understanding of the facts relative to this matter, and our years of professional experience providing forensic accounting, economic damage calculation, and business valuation services.

If information is made available to us subsequent to the issuance of this report, and if that information causes us to revise our conclusions or reassess cogent facts, we reserve the right to modify our opinions and supplement our report accordingly.

2. BACKGROUND

The following narrative provides a summary of the events that culminated in the issuance of this report. We are not proposing this background information as a factual statement nor do we intend to testify as to its veracity. Rather, this background information allows us to put our opinions and conclusions in context with the events and circumstances upon which they are based. Please note that the background information presented herein has been summarized to reflect pertinent information relative to our analyses and is not intended to provide a comprehensive timeline of all information bearing on this matter.

On or about April 14, 2014, NuVeda, LLC ("NuVeda" or "Company") was incorporated in Nevada.¹

On or about July 9, 2014 the Operating Agreement for NuVeda, LLC ("Operating Agreement") was made effective.² Pursuant to the Operating Agreement, NuVeda's purpose encompassed

¹ Nevada Secretary of State.

² While the effective date stated in the Operating Agreement is July 9, 2014, the document was signed on July 16, 2014.

“research, design, creation, management, licensing, advising and consulting regarding the legal medical marijuana industry, as such matters shall be lawfully allowed under applicable state laws. Such purpose shall be broadly read to include providing management or other professional services to any individual, group or entity that is lawfully licensed, or seeking to become lawfully licensed, under any state statutory scheme providing for the legal cultivation, processing or dispensing of medical marijuana.”³

Pursuant to the Operating Agreement, as of July 16, 2014 the member interests in NuVeda were as follows⁴:

Pejman Bady	46.5 percent
Pouya Mohajer	21.0 percent
Shane Terry	21.0 percent
Jennifer Goldstein	7.0 percent
John Penders	1.75 percent
Ryan Winmill	1.75 percent
Joe Kennedy	1.0 percent

On or about November 3, 2014, NuVeda received notice from the State of Nevada of the State’s intent to approve the following applications:

1. Clark NMSD, LLC dba NuVeda, a Dispensary establishment at 2113 N. Las Vegas Boulevard in the NORTH LAS VEGAS local jurisdiction.
2. Clark NMSD, LLC dba NuVeda, a Dispensary establishment at 1320 S. 3rd Street in the LAS VEGAS local jurisdiction.
3. Clark Natural Medicinal Solutions, LLC, a Cultivation establishment at 13655 Apex Star Court in the NORTH LAS VEGAS local jurisdiction.
4. Clark Natural Medicinal Solutions, LLC dba NuVeda, a Production establishment at 13655 Apex Star Court in the NORTH LAS VEGAS local jurisdiction.
5. Nye Natural Medicinal Solutions, LLC, a Cultivation establishment at 2801 E. Thousandaire Blvd. in the NYE local jurisdiction.
6. Nye Natural Medicinal Solutions, LLC dba NuVeda, a Production establishment at 2801 E. Thousandaire Blvd. in the NYE local jurisdiction.

³ Operating Agreement for NuVeda, LLC, p. 2.

⁴ Operating Agreement for NuVeda, LLC, p. 23.

On or about March 10, 2016, it is our understanding that Shane Terry was expelled from equity membership in NuVeda.

On or about April 9, 2016, Michael Webster of Webster Business Group issued a Certified Business Appraisal of NuVeda LLC, to which an addendum was added on July 16, 2016 (collectively, “Webster report”).

On or about May 25, 2016, Donald Parker of Gryphon Valuation Consultants, Inc. issued a business valuation report (“Parker 2016 valuation report”).

On or about June 3, 2016, Shane Terry filed an Amended Demand for Arbitration.

On or about June 17, 2016, NuVeda, LLC, Pouya Mohajer, and Pejman Bady filed a Response to the Arbitration Demand and the Amended Demand for Arbitration and Counterclaim.

On or about October 31, 2016, Terrence M. Clauretie issued a report on the fair market value of NuVeda as of March 10, 2016 (“Clauretie 2016 first report”). This report was subsequently updated on November 29, 2016 (“Clauretie 2016 second report”).

In or about November 2016, Anthem was retained to review and analyze the business valuation analysis presented in the Parker 2016 valuation report.

On or about November 28, 2016, Donald Parker issued an expert rebuttal report (“Parker 2016 rebuttal report”).

On or about November 29, 2016, Anthem issued its initial report (“Anthem 2016 report”).

On or about February 6, 2018, Terrence M. Clauretie issued a report regarding the fair market value of NuVeda as of August 8, 2017 (“Clauretie 2018 report”).

On or about February 23, 2018, Donald Parker issued a supplemental business valuation report (“Parker 2018 valuation report”).

On or about March 16, 2018, Donald Parker issued an expert rebuttal and retrospective summary report (“Parker 2018 rebuttal report”).

3. ANALYSIS CONSIDERATIONS

Our analysis is necessarily based upon certain considerations and assumptions regarding potentially disputed facts and legal arguments. These considerations and assumptions may impact our analysis, conclusions, and opinions, but may not be part of our testimony at this time as they may be outside our area of expertise or the current scope of our engagement. As a predicate to the opinions presented in this report, please note the following considerations and assumptions:

1. We have seen various combinations of parties in this matter referenced as “claimants”, “respondents”, “plaintiffs”, and “defendants”. To simplify references within this report, and with no intention of either providing legal characterization or limiting the parties to this action, we have referred to Shane Terry either by name or as “plaintiff” and we have collectively referred to NuVeda, LLC, Pejman Bady, Pouya Mohajer, DOE Individuals I-X, and ROE Entities I-X as “defendants”.
2. We have assumed that the Parker 2016 valuation report and the Parker 2018 valuation report (collectively, “Parker valuation reports”) reflect the entirety of plaintiff’s support for his business valuation assertions since we have not received any other purported valuation analyses. The Anthem 2016 report provided our observations and criticisms of the Parker 2016 valuation report. Since those observations and criticisms remain unchanged, the observations and criticisms presented in this report are incremental to the observations and criticisms presented in the Anthem 2016 report.
3. Please note that this report does not address the Parker 2016 rebuttal report or the Parker 2018 rebuttal report.
4. As of the date of this report we may not have received the entirety of Parker’s work file. As such, we reserve the right to update our analysis upon receipt of that information.
5. While this report and the Anthem 2016 report directly address the assessments, assumptions, and calculations in the Parker valuation reports, it is our understanding that counsel for defendants may retain experts to address other aspects/issues related to the captioned litigation. As such, our reports should not be construed as encapsulating all of the expert opinions that defendants may wish to present, nor should our reports be construed as a recitation of all claims by defendants relative to the captioned matter.
6. If information becomes available to us that we deem relevant to the scope of this engagement, we reserve the right to modify our opinions and report accordingly. This report is not to be used for any other purpose than as explicitly stated herein.

4. REVIEW AND OPINIONS

The valuation date presented in the Parker 2018 valuation report is March 10, 2016, which is the same valuation date used in the Parker 2016 valuation report. It bears noting that the Parker 2018 valuation report only discusses a market approach analysis, stating as follows:

The [Parker 2016 valuation report] dismissed the [guideline public company method, under the market approach] because, *at the time* [emphasis added], while there were publicly-traded companies that were active in the cannabis (marijuana) industry, they were largely very thinly traded and suffered from a lack of transparency. As the cannabis industry matured (largely due to the push for legalization), publicly-traded companies involved in the marijuana trade became more widely followed, both by the public at large *and* market analysts.

As demonstrated above, Parker admits that the only reason he was able to supplement his original valuation analysis with the application of a market approach was because he used information that was not known, knowable, or applicable in March 10, 2016.

A fundamental consideration in business valuation is that value should be determined as of a specific date using information that was known or knowable as of that date. Given that the Parker 2018 valuation report, which claims to assess business value as of March 10, 2016, would have been obviated absent the ability to consider post-March 10, 2016 information, it is our opinion that the entirety of the Parker 2018 valuation report is improper for purposes of assessing the Company's business value as of March 10, 2016 and should therefore be disregarded. As previously stated, the Anthem 2016 report has already addressed the deficiencies in the Parker 2016 valuation report.



Joseph L. Leauanae

CPA, CITP, CFF, CFE, ABV, ASA

Joseph L. Leauanae has been providing litigation support and financial valuation services for over 20 years. His engagements in these areas involve the application of forensic or investigative accounting techniques, the valuation of businesses and intangible assets, and the quantification of economic damages.

The following is a summary of Mr. Leauanae's forensic accounting, business valuation, and economic damage calculation experience.

Forensic/Investigative Accounting

Mr. Leauanae's forensic accounting experience includes the investigation and/or reconstruction of accounting records in cases relating to marital dissolution, embezzlement, fraud detection and documentation, theft, intellectual property, contract disputes, shareholder disputes, wrongful termination/death, personal injury, and business interruption. Sample experience includes the following:

- Performing investigative accounting relative to the valuation and tracing of marital/community assets in divorce cases.
- Performing investigative accounting in commercial litigation matters.
- Reconstructing accounting records as a result of theft, floods, fire, and other natural disasters.
- Performing investigative accounting analyses relative to criminal fraud trials and claims.

Financial Valuation

Mr. Leauanae's financial valuation experience includes valuing businesses and intellectual property in a number of diverse industries and in both cooperative and contentious appraisal environments. Sample experience includes the following:

- Performing valuations for matters involving marital dissolution, including assessing separate vs. community property allocations.
- Consulting on synergy considerations in business combination transactions.
- Performing valuations for shareholder disputes and buy-outs.
- Performing valuations to assist with gift and estate tax planning.

Economic Damage Calculation

Mr. Leauanae's economic damage calculation experience includes the analysis and preparation of economic damage calculations for matters involving contract disputes, business interruption, and intellectual property infringement. He has also analyzed and quantified economic losses in personal injury, wrongful death, and wrongful termination matters. Sample experience includes the following:

- Analyzing plaintiff/defendant claims for lost profits, and the diminution of business value, in commercial litigation matters.
- Computing economic damages relative to intellectual property infringement.

Educational Qualifications

Mr. Leauanae earned a Bachelor of Science degree in Accounting and a Master of Business Administration degree, with an emphasis in Management of Technology, from the University of Utah.

Professional Certifications

- Licensed as a Certified Public Accountant in Nevada, California, and Utah
- Member of the Association of International Certified Professional Accountants (AICPA)
- Member of the Nevada Society of Certified Public Accountants (NSCPA)
- Certified Information Technology Professional by the AICPA
- Certified in Financial Forensics by the AICPA
- Certified Fraud Examiner by the Association of Certified Fraud Examiners
- Accredited in Business Valuation by the AICPA
- Accredited Senior Appraiser by the American Society of Appraisers

Professional Affiliations/Activities

- Chair, Utah Association of Certified Public Accountants (UACPA) Business Valuation Committee, 2003 – 2004
- Chair, UACPA Business Valuation - Litigation Services Committee, 2005 - 2006
- Member, NSCPA Business Valuation Committee, 2004 – 2005, 2008
- Member, NSCPA Litigation Consulting Services Committee, 2007
- Member, AICPA Business Valuation and Forensic & Litigation Services' Editorial Advisory Board, 2004 – 2007
- Member, AICPA ABV Credential Committee, 2008 – 2010
- Member, ACFE Las Vegas Chapter Board, 2009 – 2011
- Mentor, AICPA ABV Mentor program, 2008 – 2011
- Member, AICPA ABV Champions Task Force, 2010 – 2012
- Director, NSCPA Las Vegas Chapter Board, 2013 – 2014

Publications

- "The Science and Art of Business Valuation", THE JOURNAL ENTRY (November 2001)
- "Enron Demonstrates Weaknesses in the Attestation Process", THE CPA JOURNAL (September 2002)
- "Truth or Dare: Assessing the Reliability of Financial Statements in a Post-Enron World", UTAH BAR JOURNAL (October 2002)
- "Expert Witness Qualifications and Selection", JOURNAL OF FINANCIAL CRIME (December 2004)
- "A Unified Approach to Calculating Economic Damages", TEXAS PARALEGAL JOURNAL (Summer 2005)
- "Rebutting Your Client: How Much Involvement is Too Much? (From An Expert's Point of View)", TEXAS PARALEGAL JOURNAL (Fall 2005)
- "Valuation Discounts for Holding Companies", THE JOURNAL ENTRY (October 2005)
- "Personal Injury: How Much for How Long?", THE JOURNAL ENTRY (November 2005)
- "Developing a Business Valuation Practice", AICPA FVS CONSULTING DIGEST (March 2011)
- "Forensic Accounting: Those 'Other' Accountants", THE SILVER STATE CPA (July 2012)
- "The Pitfalls of 'Managing' Discovery", FAMILY LAWYER MAGAZINE (Spring 2017)

Select Speaking Engagements

- "Valuation of Intangible Assets", Utah State Bar, 2002 Mid-Year Convention (March 2002)

- “Applying Forensic Accounting Skills in the Business Valuation Process”, Utah Association of Certified Public Accountants, Business Valuation Symposium (September 2002)
- “Introduction to Forensic Accounting and Business Valuation”, Beta Alpha Psi, University of Utah Chapter (November 2002)
- “Trademark Dilution and Damages”, The Bar Association of San Francisco, Barristers Club (June 2003)
- “What Tax Practitioners Need To Know About Business Valuation”, Utah Association of Certified Public Accountants, 31st Annual Tax Symposium (November 2005)
- “Forensic Accounting Cases”, Association of Certified Fraud Examiners, Salt Lake Chapter (April 2007)
- “When Auditing Isn’t Enough: A Forensic Accountant’s Perspective”, Northern Utah Association of Government Auditors, Professional Development Conference (May 2007)
- “Forensic Accounting – A Primer for Management Accountants”, Institute of Management Accountants, Salt Lake Chapter (September 2007)
- “Business Valuation”, Idaho Society of CPAs, Idaho State Tax Update (November 2007)
- “Payroll Fraud and A/P Fraud”, Northern Utah Association of Government Auditors, Professional Development Conference (May 2008)
- “An Introduction to Forensic Accounting”, Beta Alpha Psi / CFE, UNLV Chapter (November 2008)
- “How To Use Forensic Accountants in a Divorce Case”, Advanced Family Law Strategies Seminar, Las Vegas (December 2008)
- “Overview of Forensic Accounting: Financial Investigations to Business Valuations”, Clark County Bar Association CLE Seminar, Las Vegas (June 2009)
- “Litigating Business Valuations in Divorce Cases”, Advanced Family Law Financial Strategies Seminar, Las Vegas (December 2009)
- “The Role of Forensic Accounting in Turnarounds: How to Find and Follow the Money”, Turnaround Management Association of Nevada, Las Vegas (May 2010)
- “Forensic Accounting: A Continuous Study of Ethical Quandaries”, Institute of Internal Auditors, Las Vegas Chapter (November 2011)
- “CPA 2.0: Specialization for Career Enhancement”, AICPA Practitioners Symposium TECH+ Conference (June 2012)
- “Business Valuation – A Primer for Management Accountants”, Institute of Management Accountants, Las Vegas Chapter (August 2013)
- “Litigating Business Values in Divorce Cases”, State Bar of Nevada, Family Law Conference (March 2017)
- “Dividing Trust Assets in Divorce”, National Business Institute, Complex Assets in Divorce Seminar (May 2017)
- “BV and Forensic Accounting: Navigating the Intersection of Fact and Fiction”, American Society of Appraisers, Advanced Business Valuation Conference (October 2017)

- “The Alimony Double Dip”, State Bar of Nevada, Annual State Bar of Nevada Advanced Family Law Program (December 2017)
- “Forensic Accounting: Choose Your Own (Mis)Adventure”, Nevada Society of CPAs, Las Vegas Chapter (February 2018)
- “Dexterity in Damages: Covering All the Angles”, AICPA Forensic & Valuation Services Conference (November 2018)
- “Lightning Round: Experts Go Toe-to-Toe on Key Tactics”, AICPA Forensic & Valuation Services Conference (November 2018)

Summary of Expert Witness Testimony

The following list only identifies cases in which Mr. Leauanae has provided expert witness testimony in a deposition or court setting. It does not include cases wherein he was designated an expert witness or issued an expert report if he did not ultimately provide testimony in deposition or court.

<u>Ref</u>	<u>Case Name</u>	<u>Retention</u>	<u>Jurisdiction</u>
1	<i>Perez v. Perez</i>	<i>Radford J. Smith, Chtd.</i> Counsel for Husband	Eighth Judicial District Court, Clark County
2	<i>Swanson v. Swanson</i>	<i>Radford J. Smith, Chtd.</i> Counsel for Wife	Eighth Judicial District Court, Clark County
3	<i>Mello, et al. v. Jess Arndell Construction Co., et al.</i>	<i>Koeller, Nebeker, Carlson & Haluck LLP</i> Counsel for Jess Arndell Construction Co.	Second Judicial District Court, Washoe County
4	<i>CRND v. SeeLevel</i>	<i>Wood Crapo, LLC</i> Counsel for CRND	Fourth Judicial District Court, Utah County
5	<i>Bianchi v. Bank of America</i>	<i>Holland & Hart LLP</i> Counsel for Bank of America	Eighth Judicial District Court, Clark County
6	<i>Rasmuson v. Rasmuson</i>	<i>Radford J. Smith, Chtd.</i> Counsel for Wife	Eighth Judicial District Court, Clark County
7	<i>Madonia v. Madonia</i>	<i>Bruce I. Shapiro, Ltd.</i> Counsel for Husband	Eighth Judicial District Court, Clark County
8	<i>Two Rivers Manufacturing, LLC, et al. v. Ecko Products, Inc., et al.</i>	<i>Lewis and Roca LLP</i> Counsel for Two Rivers Manufacturing, LLC	Eighth Judicial District Court, Clark County

<u>Ref</u>	<u>Case Name</u>	<u>Retention</u>	<u>Jurisdiction</u>
9	<i>Bacon v. Soiberg</i>	<i>Throne & Hauser Kelleher & Kelleher Joint Retention</i>	Eighth Judicial District Court, Clark County
10	<i>Ferguson v. Ferguson</i>	<i>Rhonda L. Mushkin Chartered Law Offices of James S. Kent, Ltd. Joint Retention</i>	Eighth Judicial District Court, Clark County
11	<i>Alvin J. Watson, et al. v. Eaton Electrical Inc., et al.</i>	<i>Lewis and Roca LLP Counsel for Alvin J. Watson</i>	U.S. District Court
12	<i>Gastager v. Gastager</i>	<i>The Law Office of Michael R. Balabon The Law Office of M. Lani Esteban-Trinidad, P.C. Joint Retention</i>	Eighth Judicial District Court, Clark County
13	<i>Jones v. Jones</i>	<i>Kelleher & Kelleher Counsel for Husband</i>	Eighth Judicial District Court, Clark County
14	<i>Meyer v. Meyer</i>	<i>Kunin & Carman Counsel for Wife</i>	Eighth Judicial District Court, Clark County
15	<i>Nelson v. Nelson</i>	<i>The Dickerson Law Group Counsel for Wife</i>	Eighth Judicial District Court, Clark County
16	<i>Lindsey v. Lindsey</i>	<i>Pecos Law Group Counsel for Wife</i>	Eighth Judicial District Court, Clark County
17	<i>Petculescu v. Petculescu</i>	<i>Lee, Hernandez, Brooks, Garofalo & Blake Dempsey, Roberts & Smith, Ltd. Joint Retention</i>	Eighth Judicial District Court, Clark County
18	<i>Murphy v. Murphy</i>	<i>Rebecca L. Burton, P.C. Counsel for Wife</i>	Eighth Judicial District Court, Clark County
19	<i>Ophthalmic Associates, LLP, et al. v. Triple Net Properties, LLC, et al.</i>	<i>Santoro, Driggs, Walch, Kearney, Holley & Thompson Counsel for Triple Net Properties, LLC</i>	Eighth Judicial District Court, Clark County

<u>Ref</u>	<u>Case Name</u>	<u>Retention</u>	<u>Jurisdiction</u>
20	<i>Lori A. Seright Pompei v. Premier Properties of Mesquite, Inc., et al. (2011)</i>	<i>Bingham & Snow, LLP Counsel for Lori A. Seright Pompei</i>	Eighth Judicial District Court, Clark County
21	<i>Ferrando v. Ferrando</i>	<i>Kelleher & Kelleher Counsel for Wife</i>	Eighth Judicial District Court, Clark County
22	<i>Que v. Que</i>	<i>The Abrams Law Firm Counsel for Wife</i>	Eighth Judicial District Court, Clark County
23	<i>Ketchum v. Ketchum</i>	<i>The Abrams Law Firm Counsel for Wife</i>	Eighth Judicial District Court, Clark County
24	<i>David B. Gam, et al. v. Brandon Gerson, et al.</i>	<i>The Harris Firm PC Counsel for Brandon Gerson</i>	Eighth Judicial District Court, Clark County
25	<i>Terry Lamuraglia v. Clark County</i>	<i>Law Office of Daniel Marks Counsel for Terry Lamuraglia</i>	Eighth Judicial District Court, Clark County
26	<i>Tiedemann v. Tiedemann</i>	<i>The Abrams Law Firm Naimi & Dilbeck, Chtd. Joint Retention</i>	Eighth Judicial District Court, Clark County
27	<i>Acosta v. D'Acosta</i>	<i>Willick Law Group Counsel for Wife</i>	Eighth Judicial District Court, Clark County
28	<i>In the Matter of the Estate of Martin J. Blanchard</i>	<i>Trent, Tyrell & Associates James M. Davis Law Office Joint Retention</i>	Eighth Judicial District Court, Clark County
29	<i>Castillo v. Castillo</i>	<i>The Abrams Law Firm R. Nathan Gibbs LTD Joint Retention</i>	Eighth Judicial District Court, Clark County
30	<i>Shwentarsky v. Shwentarsky</i>	<i>The Fine Law Group Counsel for Wife</i>	Eighth Judicial District Court, Clark County
31	<i>Faught v. Faught</i>	<i>The Abrams Law Firm Counsel for Wife</i>	Eighth Judicial District Court, Clark County
32	<i>Lori A. Seright Pompei v. Premier Properties of Mesquite, Inc., et al. (2012)</i>	<i>Bingham & Snow, LLP Counsel for Lori A. Seright Pompei</i>	Eighth Judicial District Court, Clark County
33	<i>Tuscano, LLC v. Colorado Belle Gaming, LLC</i>	<i>Aldrich Law Firm, Ltd. Counsel for Tuscano, LLC</i>	Eighth Judicial District Court, Clark County

<u>Ref</u>	<u>Case Name</u>	<u>Retention</u>	<u>Jurisdiction</u>
34	<i>Templeton v. Templeton</i>	<i>Law Office of Daniel Marks</i> Counsel for Wife	Eighth Judicial District Court, Clark County
35	<i>Kaula v. Keam</i>	<i>Kelleher & Kelleher</i> Counsel for Wife	Eighth Judicial District Court, Clark County
36	<i>Eason v. Eason</i>	<i>Kelleher & Kelleher</i> Counsel for Wife	Eighth Judicial District Court, Clark County
37	<i>Michael Carlson v. Charles E. Cleveland II</i>	<i>Court Appointment</i>	Eighth Judicial District Court, Clark County
38	<i>Virgin Valley Water District v. Michael E. Johnson, et al.</i>	<i>Bingham Snow & Caldwell, LLC</i> Counsel for Virgin Valley Water District	Eighth Judicial District Court, Clark County
39	<i>The Guardianship of Anthony D. Critelli v. Gemma Ganci, et al.</i>	<i>The Harris Firm, PC</i> <i>Rob Graham & Associates</i> Counsel for The Guardianship of Anthony D. Critelli	Eighth Judicial District Court, Clark County
40	<i>Schulte v. Schulte</i>	<i>Court Appointment</i>	Eighth Judicial District Court, Clark County
41	<i>Martella v. Martella</i>	<i>Kelleher & Kelleher</i> Counsel for Wife	Eighth Judicial District Court, Clark County
42	<i>In the Matter of the Testamentary Trust of George A. Steiner</i>	Russell Steiner c/o <i>Solomon Duggins & Freer, Ltd.</i>	Eighth Judicial District Court, Clark County
43	<i>Advantage Services, LLC v. Resort Stays Marketing, LLC, et al.</i>	<i>Cotton, Driggs, Walch, Holley, Woloson & Thompson</i> Counsel for Advantage Services, LLC	Eighth Judicial District Court, Clark County
44	<i>Screws v. Screws</i>	<i>Kelleher & Kelleher</i> Counsel for Husband	Eighth Judicial District Court, Clark County
45	<i>Alabaster Holdings, LLC, et al. v. Eagle Mortgage Company, Inc., et al.</i>	Alabaster Holdings, LLC c/o <i>Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP</i>	Eighth Judicial District Court, Clark County

<u>Ref</u>	<u>Case Name</u>	<u>Retention</u>	<u>Jurisdiction</u>
46	<i>Ambulance Management Group, LLC v. Dr. Richard Henderson</i>	<i>The Reid Firm</i> Counsel for Ambulance Management Group, LLC	Eighth Judicial District Court, Clark County
47	<i>Rebel Communications, LLC v. Virgin Valley Water District, et al.</i>	<i>Pitegoff Law Office</i> Counsel for Virgin Valley Water District	U.S. District Court
48	<i>Brightwell v. Helfrich</i>	<i>The Dickerson Law Group</i> <i>James M. Davis Law Office</i> Joint Retention	Eighth Judicial District Court, Clark County
49	<i>D.W. "Doc" Wiener v. Klipper Chemtrol Corporation</i>	<i>Lovato Law Firm, P.C.</i> Counsel for D.W. "Doc" Wiener/Trustee	Eighth Judicial District Court, Clark County
50	<i>Hickman v. Hickman</i>	<i>Kainen Law Group, PLLC</i> Counsel for Husband	Eighth Judicial District Court, Clark County
51	<i>Larsen v. Larsen</i>	<i>Kainen Law Group, PLLC</i> Counsel for Husband	Eighth Judicial District Court, Clark County
52	<i>In the Matter of the Estate of Edward DeWayne Mulick</i>	<i>Edwards & Chambers, LLP</i> Counsel for Carrie Kovach, Stephanie Mulick, and Edward Mulick	Eighth Judicial District Court, Clark County
53	<i>Beasley v. Beasley</i>	<i>Kelleher & Kelleher</i> Counsel for Wife	Eighth Judicial District Court, Clark County
54	<i>Chew v. Hazell</i>	<i>Kelleher & Kelleher</i> Counsel for Wife	Eighth Judicial District Court, Clark County
55	<i>Ellerbe v. Ellerbe</i>	<i>Kainen Law Group, PLLC</i> Counsel for Husband	Eighth Judicial District Court, Clark County
56	<i>Grasso v. Grasso</i>	<i>Court Appointment</i>	Eighth Judicial District Court, Clark County
57	<i>Shah Virani v. Arif B. Virani, et al.</i>	<i>Flader & Hirji, LLP</i> Counsel for Shah Virani	Eighth Judicial District Court, Clark County
58	<i>Cioffi-Kogod v. Kogod</i>	<i>Radford J. Smith, Chtd.</i> Counsel for Wife	Eighth Judicial District Court, Clark County

<u>Ref</u>	<u>Case Name</u>	<u>Retention</u>	<u>Jurisdiction</u>
59	<i>Boutos v. Tallow</i>	<i>Court Appointment</i>	Eighth Judicial District Court, Clark County
60	<i>David J. Winterton, et al. v. Henry E. Lichtenberger, et al.</i>	<i>Lipson, Neilson, Cole, Seltzer & Garin, P.C.</i> Counsel for Henry E. Lichtenberger	Eighth Judicial District Court, Clark County
61	<i>Mace Management Group, LLC and Mandown, LLC v. Hard Rock Hotel, Inc., et al.</i>	<i>Shumway Van & Hansen</i> Counsel for Mace Management Group, LLC and Mandown, LLC	Eighth Judicial District Court, Clark County
62	<i>Diamant v. Diamant</i>	<i>The Abrams & Mayo Law Firm</i> Counsel for Husband	Eighth Judicial District Court, Clark County
63	<i>Lamb v. Lamb</i>	<i>The Abrams & Mayo Law Firm</i> Counsel for Wife	Eighth Judicial District Court, Clark County
64	<i>Sami Kovanen v. Buckley Dikes, et al.</i>	<i>Odunze PLLC</i> Counsel for Sami Kovanen	Eighth Judicial District Court, Clark County
65	<i>China Housing & Land Development, Inc. v. Pope Asset Management, LLC, et al.</i>	<i>Chasey Law Offices</i> Counsel for Pope Asset Management, LLC	Eighth Judicial District Court, Clark County
66	<i>Labrum v. Hite</i>	<i>Kunin Law Group</i> <i>Fine Carman Price</i> Counsel for Husband	Eighth Judicial District Court, Clark County
67	<i>TDN Money Systems, Inc. v. Everi Payments, Inc.</i>	<i>Pisanelli Bice PLLC</i> Counsel for Everi Payments, Inc.	U.S. District Court
68	<i>Wardwell v. Wardwell</i>	<i>Ford & Friedman</i> Counsel for Wife	Eighth Judicial District Court, Clark County
69	<i>In re: U.S.A. DAWGS, Inc.</i>	<i>Holly Driggs Walch Fine Wray Puzey Thompson</i> Counsel for GemCap Lending	U.S. Bankruptcy Court
70	<i>Fullam v. Fullam</i>	<i>Law Offices of F. Peter James, Esq.</i> <i>Kunin Law Group</i> Joint Retention	Eighth Judicial District Court, Clark County

**SUPPLEMENTAL
VALUATION
- and -
EXPERT REPORT**



NuVeda

December 14, 2018

AAA CASE NO.: AAA01-15-0005-8574

Donald R. Parker
Chartered Financial Analyst
Certified Valuation Analyst

Gryphon Valuation Consultants, Inc.

Las Vegas, Nevada
702.870.VALU (8258)
www.BizVals.com

CONFIDENTIAL

Feuerstein Kulick LLP
205 E. 42nd Street, 20th Floor
New York, NY 10017

December 14, 2018

CONFIDENTIAL

ATTN: David Feuerstein, Esq.

RE: JENNIFER GOLDSTEIN, CLAIMANT. CASE NAME: SHANE TERRY vs. NUVEDA, et al., AAA
CASE NO.: AAA01-15-0005-8574.

I was requested by Feuerstein Kulick LLP (Client), through Gryphon Valuation Consultants, Inc. ("Gryphon"), to provide the following Supplemental Valuation and Expert Report ("Supplemental Report"), on behalf of the above-named Claimant in respect to the above-noted case (The Case") concerning the fair market value ("FMV") of a 7.0% interest ("The Interest") in NuVeda, LLC ("Company") under certain various scenarios.

Summary Analyses and Opinions

Given the analysis presented in the Supplemental Report, I have reached the following opinions regarding the FMV of The Interest under each of two scenarios as of the noted dates:

- | | |
|---|-------------|
| 1. The Company "stayed the course" up to present day: | \$5,000,000 |
| 2. Claimant was properly expelled in August 2017: | \$8,000,000 |

Qualifications

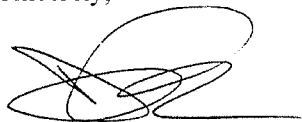
In offering my analyses and opinions, I have relied upon my experience, training and specialized knowledge in the areas of financial analysis and business valuation. My qualifications and a list of cases in which I have been designated an expert can be found in Appendix A.

All information and documents that I have relied upon in offering my opinions are noted within the Supplemental Report.

I do not have any present or contemplated financial interest in the Company nor do I have any relationship with any parties to The Case that would interfere with my ability to provide independent and objective judgment. Compensation for my work in this matter is based upon normal billing rates and is in no way contingent upon any opinion or outcome concerning The Case.

I reserve the right to modify, supplement, amend or otherwise update the Supplemental Report should new information come to light that would cause any material change in the opinions of value presented therein.

Sincerely,



Donald R. Parker, CFA, CVA
Gryphon Valuation Consultants, Inc.

SUPPLEMENTAL ANALYSIS

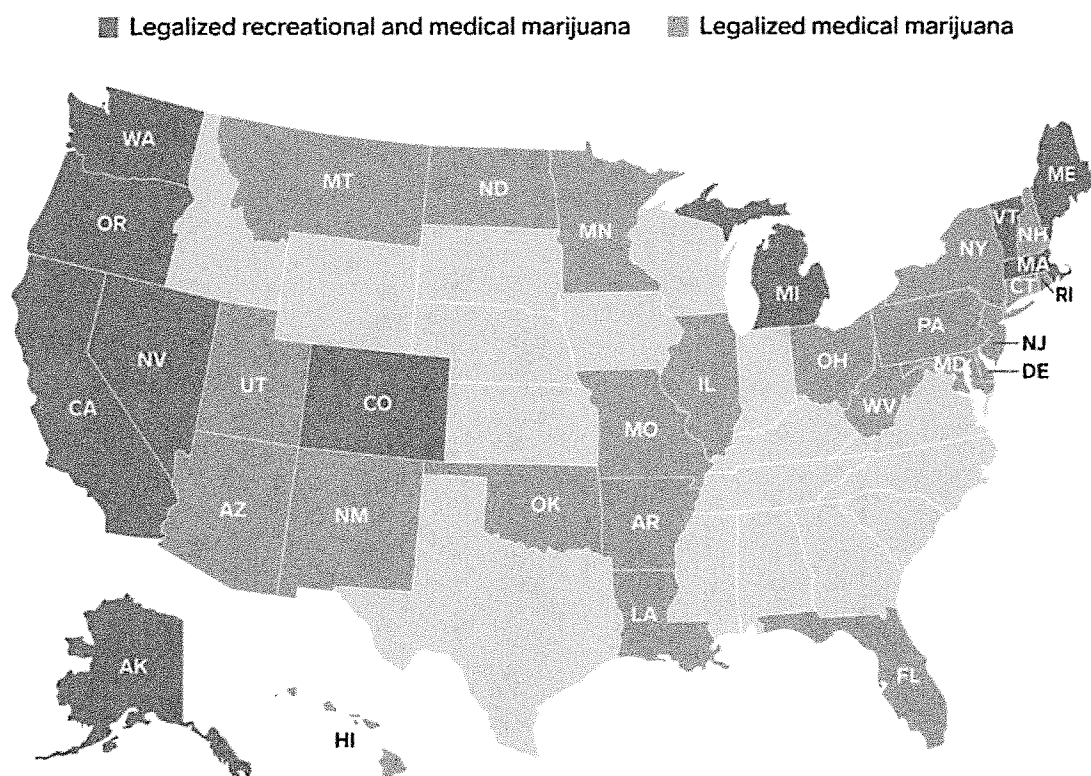
This Supplemental Report references and updates information provided in two previous reports: 1) the Business Valuation Report dated May 25, 2016 produced by Gryphon providing a value for a 22.88% interest in the Company as of March 10, 2016 (“BV Report”) and 2) the Supplemental Business Valuation and Expert Report dated February 3, 2018 (“BV Supplemental Report”), also produced by Gryphon for the purpose of updating the BV Report. These reports were produced on behalf of Shane Terry and are herein collectively referred to as the “Terry Reports.” The 22.88% interest in the Company that was the subject of the Terry Reports is further herein referred to as the “Terry Interest.”

The Terry Reports are considered fully incorporated herein by reference.

Maturation of the Legal Marijuana Industry

Since the production of the Terry Reports, recreational marijuana has become legal in the state of Nevada as well as in other states. The following diagram presents the current state (as of September 2018) of the marijuana industry in the US.

States where marijuana is legal



Insider Inc.

Description of the Scenarios

The following describes the two scenarios addressed hereunder:

Scenario 1

The Company “stayed the course” up to present day. In other words, the assumption is that the Company operated in accordance with its original plan of operation and the revised projections as presented in Appendix A of the BV Supplemental Report were achieved. This is very similar to the underlying analysis presented in the BV Supplemental Report. The result is an estimate of what the FMV of The Interest would be at present day.

Scenario 2

Very much the same as Scenario 1 except that it is assumed that the Claimant was properly expelled in August 2017 in accordance with the relevant provisions of the Company's Agreement as defined and presented in the BV Report. The result is an estimate of what the FMV of The Interest would have been on or about August 2017.

VALUATION ANALYSIS UNDER EACH OF THE SCENARIOS

The BV Supplemental Report introduced the Guideline Public Company Method (GPCM) that developed certain valuation metrics sourced from public company market participants to determine an implied value for the Terry Interest. This Supplement Report uses the GPCM to imply a value for The Interest both retrospectively *and* as of the current date using the most recent available data for the exact same four publicly-traded companies referenced in the BV Supplemental Report.¹

Scenario 1 Valuation

The table below presents the Market Capitalization to Revenue multiples (right hand column) for each of the four companies selected as appropriate comparables.²

MOST RECENT DATA - TRAILING TWELVE MONTHS			
Company Name	Market Cap (USD MM)	Revenues (USD 1000)	Mkt Cap / Revenues
Terra Tech Corp. (TRTC)	167.93	32,428.92	5.2
Golden Leaf Holdings Ltd. (GLDFF)	121.01	16,028.74	7.5
1933 Industries Inc. (TGIF)	104.68	8,744.99	12.0
Liht Cannabis Corp. (LIHTF)	47.61	649.95	73.2
Average All	110.31	14,463.2	24.5
Average without LIHTF			8.2
Selected Market Cap to Revenue Multiplier			4.1

As noted in the above table, the average of the Market Capitalization to Revenue multiples for the all four companies was 24.5. However, Liht Cannabis Corp was deemed to be an extreme outlier. As such, a second average was calculated, excluding LIHTF. The average Market Capitalization to Revenue multiples, excluding LIHTF was 8.2.

The Market Capitalization to Revenue multiple of 8.2 was derived from publicly-traded companies. As such, it is applicable to publicly-traded companies. Empirical research has shown that privately-held companies trade at lower valuation multiples than companies traded on a public exchange.

Appendix C of the BV Supplemental Report provides a synopsis of Initial Public Offering (IPO) studies. These studies demonstrate that privately-held companies experience an increase in valuation multiples once they become “public.” Using the empirical evidence supported by the IPO studies, it was reasoned that the Market Capitalization to Revenue multiple applicable to the Company was most likely one half of that applicable to publicly-traded companies. As such, the Revenue multiple applicable to the Company was deemed to be 4.1, or a 50% of that applicable to publicly-traded companies.

Appendix A of the BV Supplemental Report presents the most recent financial projections as provided by the Respondents in The Case.

¹ Friday Night Inc. is now 1933 Industries Inc. Marapharm Ventures Inc. is now Liht Cannabis Corp.

² Market Capitalization & Revenue data were sourced from Yahoo! Finance as of the date of this report.

The following table applies the Market Capitalization to Revenue multiple of 4.1 to the projected revenues for each of the five years as provided in Appendix A of the BV Supplemental Report.

MOST RECENT PROJECTIONS using MOST RECENT DATA		Revenues (USD MM)	Implied Value (USD MM)
Projected NuVeda Revenue (per Exhibit 247)	Year 1	0.96	3.9
	Year 2	16.85	69.1
	Year 3	33.05	135.5
	Year 4	40.58	166.4
	Year 5	43.10	176.7
Average of Years' 2 & 3 Implied Values			102.3

Following the methodology employed in the BV Supplemental Report, the second and third year implied values were averaged, resulting in an implied value for the Company of \$102.3 million. Reducing this value to the pro rata amount of The Interest (7.0%) and applying a 28% discount for lack of control and lack of marketability³, results in an implied value for The Interest of \$5,000,000 (rounded), as presented in the table below.

Most Current Implied FMV of The Interest (USD 1000)	
FMV of the Company	\$102,310
FMV Attributable to The Interest @ 7.0%	\$7,162
Less Combined Adjustment of 28%	(\$2,005)
FMV of The Interest	\$5,156
Implied FMV of The Interest	\$5,156

The implied FMV of The Interest under Scenario 1 was concluded to be \$5,000,000 (rounded).

³ See Appendix K of the BV Report.

Scenario 2 Valuation

The table below presents the Market Capitalization to Revenue multiples (right hand column) for each of the four companies selected as appropriate comparables.⁴

HISTORICAL DATA			
Company Name	Market Cap (USD MM)	Revenues (USD 1000)	Mkt Cap / Revenues
Terra Tech Corp. (TRTC)	251.45	25,327.76	9.9
Golden Leaf Holdings Ltd. (GLDFF)	150.58	7,661.49	19.7
Friday Night Inc. (TGIF)	98.81	9,840.00	10.0
Marapharm Ventures Inc. (MRPHF)	56.60	287.86	196.6
Average All	139.36	10,779.3	59.1
Average without MRPHF			13.2
Selected Market Cap to Revenue Multiplier			6.6

The average of the Market Capitalization to Revenue multiples for the all four companies was 59.1. As in Scenario 1, Marapharm Ventures Inc. was deemed to be an extreme outlier. As such, a second average was calculated, excluding MRPHF. The average Market Capitalization to Revenue multiples, excluding MRPHF was 13.2.

As in Scenario 1, the Market Capitalization to Revenue multiple of 13.2 was derived from publicly-traded companies. As such, it is applicable to publicly-traded companies. Empirical research has shown that privately-held companies trade at lower valuation multiples than companies traded on a public exchange.

As such, adhering to the same methodology utilized in Scenario 1, the Revenue multiple applicable to the Company was deemed to be 6.6, or a 50% of that applicable to publicly-traded companies.

The following table applies the Market Capitalization to Revenue multiple of 6.6 to the projected revenues for each of the five years as provided in Appendix A of the BV Supplemental Report.

MOST RECENT PROJECTIONS using HISTORICAL DATA		Revenues (USD MM)	Implied Value (USD MM)
Projected NuVeda Revenue (per Exhibit 247)	Year 1	0.96	6.3
	Year 2	16.85	111.2
	Year 3	33.05	218.1
	Year 4	40.58	267.8
	Year 5	43.10	284.4
Average of Years' 2 & 3 Implied Values			164.7

⁴ Market Capitalization & Revenue data were sourced from Yahoo! Finance as of retrospective dates that estimated the market participants' publicly available data at or about August 2017.

Again, following the methodology employed in the BV Supplemental Report, the second and third year implied values were averaged, resulting in an implied value for the Company of \$164.7 million. Reducing this value to the pro rata amount of The Interest (7.0%) and applying a 28% discount for lack of control and lack of marketability⁵, results in an implied value for The Interest of \$8,000,000 (rounded), as presented in the table below.

Historical Implied FMV of The Interest (USD 1000)	
FMV of the Company	\$164,695
FMV Attributable to The Interest @ 7.0%	\$11,529
Less Combined Adjustment of 28%	<u>(\$3,228)</u>
FMV of The Interest	\$8,301
Implied FMV of The Interest	\$8,301

The implied FMV of The Interest under Scenario 2 was concluded to be \$8,000,000 (rounded).

⁵ See Appendix K of the BV Report.

Conclusion

The above analysis used the Guideline Public Company Method to develop Market Capitalization to Revenue multiples deemed most appropriate to the Company under each of the scenarios. The valuation metrics were then applied to the revenue projections as previously noted. The resulting implied values for the Company were then reduced to fair market values given the specific characteristics of The Interest.

- | | |
|---|-------------|
| 1. The Company “stayed the course” up to present day: | \$5,000,000 |
| 2. Claimant was properly expelled in August 2017: | \$8,000,000 |

APPENDICES

APPENDIX A: QUALIFICATIONS OF CONSULTANT/EXPERT

Donald R. Parker**Curriculum Vitae**

Chartered Financial Analyst®
Certified Valuation Analyst



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 dParker@BizVals.com
 www.BizVals.com

Professional Designations	Chartered Financial Analyst® (CFA®) CFA Institute Certified Valuation Analyst (CVA) National Association of Certified Valuators and Analysts (NACVA)
Education	B.S., University of Central Florida, Orlando, Florida, Business Administration Minor Degree in Computer Science
Professional Experience	Gryphon Valuation Consultants, Inc. – Las Vegas, NV Founder, President, 2003 to present Private Advisory Group, LLC – Las Vegas, NV Co-founder, Partner, 2001 to 2003 The Investment Counsel Company of the S.E. – Las Vegas, NV Senior V.P., Portfolio Manager, Global Equity Strategist, 1998 to 2001 Gryphon Capital Management Company – Las Vegas, NV Co-Founder, President, 1992 to 2001 National Investor Data Services – Southampton, NY EBS – Maitland, FL Senior Programmer/Analyst, 1988 to 1992 The Investment Counsel Company of the S.E. – Orlando, FL Vice President, Director of Research, 1981 to 1988
Professional Memberships and Associations	CFA Institute Member, 1993 to Present National Association of Certified Valuators and Analysts (NACVA) Member, 2001 to present Institute of Business Appraisers (IBA) Member, 2011 to present American Business Appraisers National Network (ABA) Member, 2013 to present CFA Society of Nevada President (2006/2008), Charter Member (2003) Southern Nevada Estate Planning Council Member, 2001 to present Clark County Bar Association Associate Member, 2001 to present Financial Planning Association of Nevada Charter President, Member 1999 to 2001 Las Vegas Chapter of the Turnaround Management Association Charter Member, 2003
Community and Other Organizations	Summerlin Rotary Club (Las Vegas) President (2004/05), Charter Member (1997), Paul Harris Fellow

Page 1 of 2

Donald R. Parker**Curriculum Vitae**

Publications	<p>Contributor, An Employee's Guide to Stock Options (McGraw Hill), Beth V. Walker, 2003</p> <p>Featured Contributor, The Trust Equation (Financial Forum Publishing), Drozdeck & Fisher, 2003</p> <p>Personal Interview, Advisors Group Starts Local Chapter – The Southern Nevada Society of Financial Analysts (Las Vegas Review Journal), John G. Edwards, July 5, 2003</p> <p>Featured Spotlight, Star Gazers – Review/Journal Stock Picking Contest (Las Vegas Review Journal), John G. Edwards, January 4, 2004</p> <p>Ongoing source for financial opinion and expert commentary (Las Vegas Review-Journal)</p>
Published Articles	<p>Corporate Alchemy: Creating Something from Nothing The CEO-CFO Group Newsletter, December 2003</p> <p>Alphabet Soup: Integrity and Professional Designations The CEO-CFO Group Newsletter, April 2004</p> <p>The Business of Business Valuations: No Longer a Part-time Job The CEO-CFO Group Newsletter, March 2004</p> <p>Physician Practice Valuation: Today's Chaotic World of Healthcare Vegas, Inc. Healthcare Quarterly, February 2014</p>
Speaking Engagements	<p>Building Value in Your Company for a Planned Exit The CEO-CFO Group, October 2005</p> <p>The Business of Business Valuations: No Longer a Part-time Job Nevada Society of Certified Public Accountants -- Management of an Accounting Practice Committee, August, 2004 Financial Planning Association of Nevada, September, 2004 Merrill Lynch – CPE Seminar Series for CPAs, November 2008</p> <p>The Evolution of the Business of Business Valuations Regis University, May, August, 2004</p> <p>Intangible Asset Management: The CFO's New Frontier The CEO-CFO Group, December 2003</p> <p>Asset Management: An Evolution in Process Southwestern Financial Forum, November, 2002</p> <p>Estate Planning: Yes, I've Got Everything Done... Morgan Stanley Estate Planning Series, 2001 through 2003</p> <p>Client Service and Costs: An Inverse Relationship Financial Planning Association of Nevada, April, 2002</p> <p>Wall Street Rolls Craps, Tumbling Dice for Vegas? The CEO-CFO Group, September 2008</p> <p>Financial Institutions in Crisis, Fair Value or Mark-to-Market Reporting Turnaround Management Association of Nevada, July 2009</p> <p>Are We OK?, The Economic Impact on Las Vegas The CEO-CFO Breakfast Group, March 2010</p> <p>Investing for Retirement and Estate Planning Financial Planning Association of Nevada, April 2011</p> <p>Business Valuation – Critiquing the Expert On-going CLE Series, August 2012 to present</p> <p>Nevada Restricted Entities – Incremental Discounts Wealth Counsel, November 2012</p> <p>Business Valuation – Beyond the Numbers On-going CPE Series, February 2014 to present</p>

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Litigation Consulting Engagements

1. Gramly Construction, Inc. v. Rebeil, et al., Case No. A418651 Dept. III District Court, Clark County, Nevada. Restricted Securities Valuation Report. Deposition on behalf of plaintiff, April 2003.
2. Sobie v. Las Vegas Hilton, et al., Case No. 00-A-424083 Dept. II District Court, Clark County, Nevada. Damages Report on behalf of plaintiff, June 2004. Supplemental Report, October 2005. Deposition, December 2005.
3. Butler v. Butler, Case No. D308059 Dept. H District Court, Family Division, Clark County, Nevada. Business Valuation Report and Trial Testimony as neutral party. October 2004.
4. Pifer-Radovich v. Radovich, Case No. D317809 Dept. H District Court, Family Division, Clark County, Nevada. Damages Report and Trial Testimony on behalf of plaintiff, April 2005.
5. JM Landscape Company v. First Nevada Business Brokers, Case No. A481-341, Clark County District Court, Dept. 7. Business Valuation Report and Mediation Testimony on behalf of plaintiff, June 2005.
6. Tae Yi v. Desert Chrysler-Plymouth, Inc., et al., Case No. A452911 District Court, Clark County Nevada. Damages Report on behalf of plaintiff, August 2005.
7. Coinmach Corporation v. Wynn Sunrise LLC, Case No. CV-S-04-1468-PMP (RJJ), United States District Court, District of Nevada. Damages Report on behalf of plaintiff, June 2005. Deposition, July 2005.
8. First Advisory, LCC v. American Water Star, Inc., et al., Case No. CV-S-04-1557 ECR (RJJ), United States District Court, District of Nevada. Securities Analysis Report on behalf of plaintiff. September-October 2005.
9. Case v. Case, Case No. D324156 Dept. H District Court, Family Division, Clark County, Nevada. Business Valuation Report on behalf of defendant. Deposition and Trial Testimony, January 2006.
10. Bell v. Bell, Case No. 336179, Dept. I District Court, Family Division, Clark County, Nevada. Business Valuation Report as neutral party, December 2005. Trial Testimony, March 2006.
11. Dadson Washer Service v. Coinmach Corporation, et al., Case No. CV-S-05-0778-KJD (PAL), United States District Court, District of Nevada. Damages Report, January 2006.
12. Markley Enterprises, Inc. v. Bret DelChambre, et. al., Case No. A507196, Clark County District Court, District of Nevada. Rebuttal Expert Report-Business Valuation, June 2006 and Trial Testimony, June 2007.
13. Fabig v. Fabig, Case No. 07-D-382719, Dept. J District Court, Family Division, Clark County, Nevada. Business Valuation Report as neutral party, December 2007. Business Valuation on behalf of Plaintiff. September 2008.
14. Sellouk v. Sellouk, Case No. D-08-402330-D, Dept. E District Court, Family Division, Clark County, Nevada. Business Valuation Report for Plaintiff, February 2009. Trial Testimony, September 2009.
15. Beeman, et al. v. D'Alessio, et al., Case No. A561146, Dept. No. XIII, Clark County District Court, District of Nevada. Rebuttal Expert Report-Business Valuation for Defendant. May 2010.

Page 1 of 3

Donald R. Parker, CFA, CVA

Litigation Consulting Engagements

16. Corrigan Management, Inc., et al. v. Golden Tavern Group, LLC, et al., Case No. 09-A599655, Dept. No. XXV, Clark County District Court, District of Nevada. Business Valuation/Damages Report for plaintiff, June 2010; Rebuttal Expert Report–Business Valuation, August 2010. Deposition, February 2012. Settled.
17. McCormick v. McCormick, Case No. D-08-396104-D, Dept. Q. District Court, Family Division, Clark County, Nevada. Damages/Interest Calculation Report for Plaintiff, July & September 2012; Trial Testimony, September 2012.
18. Lubawy & Associates, Inc. v. Anthony Perkins, et al., Case No. A-11-651500-C, Dept. No. VIII, Clark County District Court, District of Nevada. Business Valuation/Damages Report for plaintiff. February 2013 – Settled.
19. Robert J. Futoran, M.D. v. Women’s Cancer Center of Nevada, et al., Case No. A-11-651098-B, Dept. No. XXVIII, Clark County District Court, District of Nevada. Medical Practice Valuation for plaintiff, March 2013 to June 2015. Trial Testimony, September 2014. Supplemental Experts Reports April 2015.
20. Alexander R. Sardarian v. Natalia Vasilevica, Case No. BD 570633, Superior Court of California, County of Los Angeles, Central District. Business Valuation Consultant as neutral party. March 2013.
21. John Arthur Gilbert v. Coffee & Rader, CPA’s; Steve M. Coffey; John R. Rader, Case No. A-13-688369-C, Dept. No. II, District Court, Clark County, Nevada. Business Valuation for plaintiff. April 2014 – Settled.
22. Gordon D. Brooks, Case No. 14-01006-MKN, Honorable Mike K. Nakagawa, United States Bankruptcy Court, District of Nevada. Appropriateness of Investment Security Selection for defendant, May 2014 to Present. Deposition November 2014. Trial Testimony for Defendant. April 2015 – Found for Defendant.
23. Matter of Guardianship, Robert Marquez Covarrubias, An Adult Ward, Case No.: G-11-035-974-A, Dept. No.: E, Appraisal of the inventory of the Estate of the above-named Ward.
24. America Clinical Solutions, LLC v. Robert Wooding, Eighth Judicial District Court, Clark County Nevada, Case No. A-14-701103-B, Dept. XXX [Business Court]. Expert Report for plaintiff. June 2015.
25. Sprague v. Sprague, Dissolution of Marriage, Expert Opinion: Valuation of Architectural & Building Cos. July 2015.
26. Estate of William G. Couper, Deceased. Case No: P-15-083991-E, Dept. No. PC-1, Eighth Judicial District Court, Clark County, Nevada. Stock Option Valuation Expert Report. September 2015.
27. Ardyss International, LLC v. Various Creditors, Potential Bankruptcy, Expert Business Valuation Report, September 2015 – January 2016. Settled.
28. Gary Thorne, et al. v. Michael Manion, et al. and Draft Bars LLC; Turbo Tap LLC; 22 Bar Pods LLC; and Lots of Cabbage LLC, Case No.: A-14-701235-B, Dept. No. : XIII, District Court, Clark County, Nevada. Expert reports provided on behalf of defendant. Trial Testimony. May 2015 – March 2016.
29. Duffy v. Duffy, Marital Dissolution, District Court, Family Division, Clark County Nevada, Case No. D-14-506296-D, Dept. No. Q. Expert Report for plaintiff. June 2015 – Settled.
30. Hall v. Hall, Marital Dissolution, District Court, Family Division, Clark County Nevada, Case No. D-15-516046-D, Dept. No. Q. Expert Report for defendant. January 2016 – Settled.
31. Marquis Aurbach Coffing, P.C., v. Terry Dorfman, T Dorfman Inc, Breach of Contract, United States District Court, District of Nevada, Case No. 2:15-CV-0070 1-JCM-NJK, Expert Report for plaintiff. January 2016, Deposition May 2016 – Settled.
32. Premier Exhibitions, Inc. v. James Beckman and Image Quest Worldwide, et al., Breach of Contract, District Court, Clark County, Nevada, Case No. A-14-711290-C, Dept. No. XXX, Expert Rebuttal Report for defendant. April 2016 – Ongoing.

Page 2 of 3

Donald R. Parker, CFA, CVA

Litigation Consulting Engagements

33. Sporting Supplies International, Inc. v. Molot-Oruzhe, Ltd., Breach of Contract, International Centre for Dispute Resolution, American Arbitration Association, Case No. 01-16-0001-0146. Expert Damages Report for Respondent/Counterclaimant. July 2016.
34. Shani Investments, Inc. v. GO Investments, Inc., GOI Texas, Inc., 4Tutis, Inc., Ohad Sagiv, et al., Breach of Contract /Fiduciary Duty, District Court, Clark County, Nevada, Case No. A-14-698891-C, Dept. No. XXX, Expert Damages Report for plaintiff. June 2016 – Ongoing.
35. Elia Rocco Tarantino, Claimant v. AGS, LLC, A Delaware Limited Liability Company dba, American Gaming Systems, Respondent, American Arbitration Association, Case No. 01-16-0002-4639. Expert Damages Report for claimant. March 2017 – Settled.
36. Benjamin Joffs and Mckell Joffs, Individually and Derivatively On Behalf Of ALTK Investments, Inc., Plaintiffs v. Angel Fajardo, Jr., an Individual; South Wind Financial, Inc., A Nevada Corporation; et al. Expert Business Valuation Report. April 2017 – Ongoing.
37. Encore Group Of Professionals, LLC, Plaintiff v. Gabriel J. Daley, et al., Defendants, Case No. A-16-735644-C, Dept. No. XXI X, District Court, Clark County, Nevada. Expert Business Valuation Report for Plaintiff. May 2017.
38. Melissa Lourdes Banker, Plaintiff, v. Dipesh S. Banker, Defendant, District Court, Family Division Clark County, Nevada, Case No. D-16-539404-D, Dept. No. J. Expert Business Valuation Report for Defendant. May 2017.
39. Shane M. Terry, Claimant, vs. NuVeda, LLC, a Nevada Limited Liability Company, Pejman Bady; Pouya Mohajer, et al., District Court, Clark County, Nevada, District Court Case No.: A-15-728510-B, Supreme Court No.: 69648, AAA Case No.: Aaa01-15-0005-8574 . Expert Business Valuation Report for Plaintiff. May 2017. Supplemental Valuation & Expert Report February 2018. Expert Rebuttal & Retrospective Summary Report March 2018.
40. James Gabroy, M.D., an Individual; and James Gabroy, M.D. Prof. Corp., a Nevada Professional Corporation, Plaintiff, vs. Crystal Cleaning Service, LLC, a Nevada Limited Liability Company, et al, Defendants, Case No.: A-16-74683 I-C, Dept. No.: Xi, District Court, Clark County, Nevada. Expert Damages and Practice Valuation Report for Plaintiff. March 2018.

Fees: The fees for services provided by the Consultant/Expert are as follows:

Consultant/Expert Fees: Except as outlined herein, the Client shall compensate Consultant/Expert at the rate of \$375 per hour for all tasks performed under this agreement, including but not limited to analysis, calculations, conclusions, preparation of reports, time required to prepare for any testimony and to respond to any subpoena and necessary travel time outside the local area. Client shall also reimburse Consultant/Expert for reasonable expenses specifically related to this engagement not ordinarily incurred in the Consultant/Expert's normal course of business (e.g., purchased research/databases). Fees will be billed by the quarter of an hour, with a minimum charge for any task of one quarter of an hour. For testimony at deposition, trial or other venue the Client shall compensate Consultant/Expert at the rate of \$450 per hour to be billed in hourly increments with a four hour minimum payable in advance for each instance or appearance. This rate for testimony shall apply both while Consultant/Expert is waiting to give testimony, whether at an office or court and for time taken for breaks or meals, as well as for time spent actually giving testimony.



December 28, 2018

JASON M. WILEY, ESQ.

Via Electronic Mail (nbaker@petersonbaker.com)

Ms. Nikki Baker, Esq.
Peterson Baker PLLC
10001 Park Run Drive
Las Vegas, Nevada 89145

WILEY PETERSEN
1050 INDIGO DRIVE
SUITE 130
LAS VEGAS, NEVADA 89145

Re: AAA Case No. 01-15-005-8574, *Terry et al. v. NuVeda, LLC et al.*
Respondent NuVeda, LLC's Motion to Strike the Supplemental
Valuation and Expert Report dated December 14, 2018

Dear Arbitrator Baker:

702.910.3329 | OFFICE

702.845.7401 | CELL

jwiley@wileypetersenlaw.com

Respondent NuVeda, LLC ("NuVeda"), by and through its attorney of record, the law firm Wiley Petersen, hereby files NuVeda, LLC's Motion to Strike the Supplemental Valuation and Expert Report prepared by Donald R. Parker ("December 2018 Parker Report") and disclosed by Claimant Jennifer Goldstein ("Goldstein" or "Claimant"). NuVeda asserts that the December 2018 Parker Report should be stricken because it is not a supplement. Instead, the December 2018 Parker Report is an initial expert report by Goldstein, and it was not disclosed before the deadline for initial expert disclosures set forth the operative scheduling order. This motion is made and based upon the Memorandum of Points and Authorities herein, the papers and pleadings previously filed, and any argument the Arbitrator wishes to entertain.

www.wileypetersenlaw.com

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

On November 1, 2018, the Preliminary Hearing and Scheduling Order #6 ("Scheduling Order #6") was issued setting forth an amendment in the remaining deadlines in this arbitration proceeding. Scheduling Order #6 particularly allowed the parties to file and serve "any supplemental expert witness reports" on or before December 14, 2018. At the time the order was issued, Goldstein had not served any expert report, and therefore, there was no reason for Goldstein to supplement a prior expert report. Nevertheless, the subject December 2018 Parker Report was served by Goldstein and was styled as a supplemental valuation, even though Goldstein had never disclosed a prior valuation relating to her purported interest in NuVeda. The rules applicable to this arbitration proceeding and the operative scheduling orders prohibit this initial expert report. Therefore, NuVeda brings this Motion to Strike and seeks an order excluding any testimony by Donald Parker at the final arbitration hearing related to the conclusions set forth in the December 2018 Parker Report.

ADMITTED TO THE STATE BAR OF:

NEVADA
IOWA

II. Statement of Relevant Facts and Procedural History

In June 2016, Claimants Shane Terry ("Terry") and Goldstein filed a Demand for Arbitration and the pending Eighth Judicial District Court matter against NuVeda, Dr. Pejman Bady ("Bady"), and Dr. Pouya Mohajer ("Mohajer") was assigned as American Arbitration Association Case No. 01-15-005-8574 and commonly referred to as *Terry et al. v. NuVeda, LLC et al.*

On October 30, 2017, the Arbitrator issued Preliminary Hearing and Scheduling Order #2 ("Scheduling Order #2"), a true and correct copy of which is appended hereto as **Exhibit A**. Scheduling Order #2 set forth the following amendments and scheduling changes, among other things:

9. Exchange of Information/Discovery:

b. Any willful failure to make the disclosures required herein is subject to an interim order imposing sanctions, including, but not limited to, the reasonable Page 3 of 8 fees and expenses incurred for filing a motion (see Paragraph 8, *supra*), drawing adverse inferences, and/or excluding evidence and other submissions, under Nev. R. Civ. P. 37(a)(4) and/or R-23. . . .

12. Witness Disclosures:

c. On or before December 8, 2017, the Parties shall file and serve any supplemental expert witness reports. Expert reports shall set forth each expert's opinions and the reasons for them, and the expert's qualifications. The substance of each expert's direct testimony must be fairly and reasonably addressed in the expert's report. There shall be no additional discovery of experts, except on good cause shown to the Arbitrator or an agreement between the Parties. Any rebuttal expert witness report must be served on or before December 29, 2017. Any objections to expert testimony or evidence shall be raised no later than January 26, 2018. . . .

22. Deadline Enforcement: All deadlines stated herein will be strictly enforced and adhered to in order to avoid unnecessary delay and to ensure an expedient and fair resolution of this matter. . . .

See Scheduling Order #2. At the time that Scheduling Order #2 was issued, the parties had already made various expert disclosures, and the initial expert disclosure deadline was closed. In particular, Respondents had disclosed an expert report by Joseph Leauanae of Anthem Forensics dated November 29, 2016 ("2016 Anthem Report"), a true and correct copy of which is appended hereto as **Exhibit B**. Claimant Terry had also disclosed a Business Valuation Report by Donald Parker dated March 10, 2016 ("March 2016 Parker Report"), a true and correct copy of which is appended hereto as **Exhibit C**, and an Expert Rebuttal Report by Donald Parker dated November 28, 2016 ("November 2016 Parker Report"), a true and correct copy of which is appended hereto as **Exhibit D**. Claimant Goldstein had not disclosed any expert reports at that time. Moreover, the Parker Reports did not address Goldstein's claims and/or interest in NuVeda.

The deadline for supplemental and rebuttal expert reports was amended various times after Scheduling Order #2 was issued. But no order was entered by the Arbitrator opening the deadline for disclosure of an initial expert report. In 2018, Claimant Terry disclosed additional expert reports by Donald Parker. The Supplemental Business Valuation and Expert Report dated February 18, 2018 ("February 2018 Parker Report") and the Expert Rebuttal and Retrospective Summary Report dated March 16, 2018 ("March 2018 Parker Report") were disclosed by Claimant

Terry. True and correct copies of the February 2018 Parker Report and the March 2018 Parker Report are appended hereto as **Exhibit E** and **Exhibit F**, respectively. Neither of these reports addressed Goldstein's claims and/or interest in NuVeda.

On November 1, 2018, Scheduling Order #6 was issued by the Arbitrator. A true and correct copy of Scheduling Order #6 is appended hereto as **Exhibit G**. Scheduling Order #6 set forth, among other things, the following:

3. . . . Witness Disclosures: . . .

c. On or before December 14, 2018, the Parties shall file and serve any supplemental expert witness reports. Expert reports shall set forth each expert's opinions and the reasons for them, and the expert's qualifications. The substance of each expert's direct testimony must be fairly and reasonably addressed in the expert's report. There shall be no additional discovery of experts, except on good cause shown to the Arbitrator or an agreement between the Parties. Any rebuttal expert witness report shall be served on or before December 29, 2018. Any objections to expert testimony or evidence shall be raised no later than January 4, 2019. . .

10. Deadline Enforcement: All deadlines stated herein will be strictly enforced and adhered to in order to avoid unnecessary delay and to ensure an expedient and fair resolution of this matter. . .

See Scheduling Order #6. After Scheduling Order #6 was issued, Respondents disclosed the Expert Witness Report by Joseph Leauanae of Anthem Forensics dated December 13, 2018 ("2018 Anthem Report"), a true and correct copy of which is appended hereto as **Exhibit H**. The 2018 Anthem Report supplemented the 2016 Anthem Report, and therefore, it was disclosed in compliance with Scheduling Order #6.

On last day permitted for supplemental expert report disclosures, Claimant Goldstein disclosed for the first time an expert report. The December 2018 Parker Report was disclosed on December 14, 2018. A true and correct copy of the December 2018 Parker Report is appended hereto as **Exhibit I**. The title of the December 2018 Parker Report is styled as a "supplemental" report, but this description is clearly misleading. The report is the first expert report disclosed by Claimant Goldstein and the report addresses Goldstein's alleged 7% interest in NuVeda, which had not been specifically addressed in any prior expert report.

The cover page of the report states that Mr. Parker was requested to provide a valuation and expert report "on behalf of the above-named Claimant [Goldstein] . . . concerning the fair market value . . . of a 7.0% interest" in NuVeda under certain scenarios. The cover page then provides the estimated value (1) assuming the company stayed the course up to the present day and (2) assuming that Goldstein was properly expelled in August 2017. These value opinions are not supplemental or rebuttal in nature. They are initial valuations that were disclosed for the first time in the December 2018 Parker Report.

The first paragraph on page 1 of the report concedes that the March 2016 Parker Report and February 2018 Parker Report were produced on behalf of Claimant Terry and the "22.88% interest in the Company . . . was the subject of the Terry Reports . . ." However, contrary to all logic, the beginning paragraph declares that it is a supplemental report that updates the prior Terry Reports. This is simply untrue and constitutes a misleading characterization of the March 2016 Parker Report. Because the report is not supplemental in nature, Respondents hereby bring the instant motion.

III. Legal Argument

Pursuant to the Nevada Rules of Civil Procedure, the Eighth Judicial District Court Rules, the operative scheduling orders, and AAA's arbitration rules, the December 2018 Parker Report should be stricken because it was not timely disclosed as an initial expert disclosure, and Goldstein failed to properly obtain an amendment in the initial expert deadline before disclosing the report.

A. The Deadline Enforcement provisions in the Scheduling Orders require that the Arbitrator strike the December 2018 Parker Report.

Scheduling Order #2 and Scheduling Order #6 include a Deadline Enforcement provision that states that "all deadlines stated herein will be strictly enforced." The December 2018 Parker Report was not timely disclosed as an initial expert report. Claimant Goldstein has disingenuously attempted to disguise this initial expert report by naming the valuation of Goldstein's interest a supplemental report. However, a fair review of the report clearly establishes that it is not supplemental in nature, but instead sets for an initial valuation of Goldstein's purported interest. Scheduling Order #2 and Scheduling Order #6 do not allow the disclosure of this initial expert report, and therefore, the December 2018 Parker Report should be stricken and Mr. Parker should be prohibited from testifying at the arbitration hearing regarding his conclusions set forth therein.

B. The December 2018 Parker Report should be stricken pursuant to NRCP 6(a) and EDCR 2.35 as Goldstein cannot show good cause and excusable neglect.

NRCP 6(b) provides the following:

When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the parties, by written stipulation of counsel filed in the action, may enlarge the period, or the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect . . .

EDCR 2.35 (a) provides:

Stipulations or motions to extend any date set by the discovery scheduling order must be in writing and supported by a showing of good cause for the extension and be received by the discovery commissioner within 20 days before the discovery cut-off date or any extension thereof. A request made beyond the period specified above shall not be granted unless the moving party, attorney, or other person demonstrates that the failure to act was the result of excusable neglect.

[Emphasis added]

Black's Law Dictionary defines "excusable neglect" as:

A failure – which the law will excuse – to take some proper step at the proper time . . . not because of the party's own carelessness, inattention, or willful disregard of the court's process, but because of some unexpected or unavoidable hindrance or accident or because of reliance on the care and vigilance of the party's counsel or on a promise made by the adverse party.

Black's Law Dictionary 1133 99th ed. 2009) [emphasis added]

The Nevada Supreme Court has not defined “excusable neglect” in the context of EDCR 2.35, but the Court has done so in matters seeking to enlarge time pursuant to NRCP 6(b)(2) and as a basis for setting aside judgment under NRCP 60(b)(1). In those cases, the Court has held the concept of “excusable neglect” does not apply to a party losing a fully briefed and argued motion, but instead, the concept applies to instances where some external factor beyond a party's control affect the party's ability to act or respond as other required. *Moseley v. Eighth Judicial Dist. Court*, 124 Nev. 654, 667-68, 188 P.3d 1136, 1145-46 (2008) (concluding that, under NRCP 60(b)(2), excusable neglect may justify an enlargement of time to allow for substitution of a deceased party where the delay was caused by a lack of cooperation from the decedent's family and attorney; *Stoecklein v. Johnson Elec., Inc.*, 109 Nev. 268, 273, 849 P.2d 305, 308 (1993) affirming a district court's finding of excusable neglect under NRCP 60(b)(1) where default judgment resulted from a lack of notice); *Yochum v. Davis*, 98 Nev. 484, 486-87, 653 P.2d 1215, 1216-17 (1982) (reversing a district court's order denying a motion to set aside a default judgment under NRCP 60(b)(1) where default resulted from a lack of procedural knowledge).

In this case, Claimant Goldstein has not sought to reopen the initial expert deadline. Instead, a initial report was disclosed, without an accompanying motion to modify the applicable deadline. However, even assuming Goldstein did file such a motion, the December 2018 Parker Report should still be stricken because Goldstein cannot establish good cause and excusable neglect. This arbitration matter has been pending since 2016. There is no justification for Goldstein to wait for the end of the discovery period and the eve of the final arbitration hearing (scheduled for January 14-18, 2019) to disclose an initial valuation of her alleged interest in NuVeda. Goldstein cannot show any diligence, nor any unexpected or unavoidable hindrance that prevented her from disclosing a valuation of her alleged interest at the beginning of the arbitration proceeding. Therefore, the deadline should not be amended to allow the tardy disclosure, and the December 2018 Parker Report should still be stricken.

C. R-23 of the AAA's Arbitration Rules allows the Arbitrator to exclude evidence that is not disclosed in compliance with the operative scheduling orders.

R-23 (Enforcement Powers of the Arbitrator) of AAA's Commercial Arbitration Rules and Mediation Procedures, Including Procedures for Large Complex Commercial Disputes, as Amended and Effective October 1, 2013, provides in pertinent part the following:

The arbitrator shall have the authority to issue any orders necessary to enforce the provisions of rules R-21 and R-22 and to otherwise achieve a fair, efficient and economical resolution of the case, including, without limitation:

...

(d) in the case of willful non-compliance with any order issued by the arbitrator, drawing adverse inferences, excluding evidence and other submissions, and/or making special allocations of costs or an interim award of costs arising from such non-compliance; and

(e) issuing any other enforcement orders which the arbitrator is empowered to issue under applicable law.

Nikki Baker, Esq.
December 28, 2018
6

R-23 provides the Arbitrator with the power to make any order that is necessary to achieve a fair and efficient resolution of the case, including the power to exclude evidence. In this case, Goldstein should not be permitted to offer evidence from Mr. Parker regarding his valuation of her alleged interest in NuVeda. This information was not timely disclosed and, therefore, Respondents request that the Arbitrator issue an order precluding the evidence.

Based upon the foregoing, NuVeda respectfully petitions the Arbitrator for an order striking the December 2018 Parker Report (**Exhibit I**) and precluding Mr. Parker from testifying regarding his valuation of Goldstein's purported interest at trial.

Regards,

A handwritten signature in blue ink, appearing to read "J. M. Wiley", is positioned above the typed name.

Jason M. Wiley, Esq.

JMW:JMW

cc: David Feuerstein, Esq.
Jennifer Goldstein, Esq.
Matthew Dushoff, Esq.
Scott Fleming, Esq.
Lance Tanaka

All via electronic mail

Jason Wiley

From: Nikki Baker <nbaker@petersonbaker.com>
Sent: Wednesday, January 9, 2019 12:51 PM
To: AAA Lance Tanaka
Cc: jwiley@wileypetersenlaw.com; Kristina R. Cole; Matthew T. Dushoff; Scott D. Fleming; David Feuerstein
Subject: RE: Supplemental Witness Disclosure Statement
Attachments: RE: Shane Terry, Jennifer Goldstein v NuVeda, Penman Bady, Pouya Mohair -... (525 KB); Preliminary Hearing and Scheduling Order2 (002) (136 KB)

Counsel:

The following summarizes my rulings on the three motions that were addressed during the telephonic hearing today:

1. Respondents Bady and Mohajer's Motion in Limine re: precluding Goldstein's alleged damages, or in the alternative, a Motion for Summary Judgment is **GRANTED IN PART AND DENIED IN PART** as follows:
 - (a) Section 11.3 of NuVeda's Operating Agreement states, in pertinent part, that I, as the Arbitrator, "shall neither have nor exercise any power ... to award special, indirect, consequential or punitive damages." In light of this restriction, Claimant Goldstein has withdrawn her claim for punitive damages against Respondents.
 - (b) Additionally, assuming I find that Claimant Goldstein was properly expelled from NuVeda in August 2017, Claimant Goldstein is precluded from seeking any compensatory damages against Respondents Bady and Mohajer; rather, her compensatory damages will be limited to recovering from NuVeda the value of her shares in NuVeda at the time she was expelled. Nothing about this ruling precludes Claimant Goldstein from arguing that she is entitled to recover any award of attorneys' fees and costs against Respondent NuVeda and/or Respondents Bady and Mohajer. Claimant Goldstein is also not seeking attorneys' fees as special damages.
 - (c) If, however, I find that Claimant Goldstein was improperly expelled from NuVeda, she will be reinstated as a member of NuVeda. However, she will not present, because she does not have any, expert testimony that will confirm her opinion that NuVeda is effectively worthless in value as a result of actions taken by Respondents Bady and Mohajer. Claimant will be limited to offering lay testimony on this point and will be limited to offering evidence of actions taken by Respondents Bady and Mohajer that were previously disclosed. The parties will brief, either in their prehearing briefs or in a separate bench brief, whether the alleged zero value of NuVeda is an appropriate topic for lay testimony. Nothing about this decision precludes Respondents Bady and Mohajer from making a motion for a directed verdict during the arbitration hearing based on any failure by Claimant Goldstein to meet her burden of proving both the fact and amount of damages, with respect to her claims against Respondents Bady and Mohajer.
2. Respondent NuVeda's Motion to Strike Supplemental Valuation & Expert Report of Donald Parker dated December 14, 2018 is **DENIED**. Additionally, the opinions offered in Respondents' rebuttal to this report will be not be stricken on the basis that the report was not disclosed on or by the December 29 deadline. [Also, if counsel wish to see the emails I referred to during the call, wherein Claimants revised the draft scheduling order I circulated to include a supplemental, not an initial, expert report deadline, those emails are attached.]
3. Claimant Goldstein's Motion seeking an order precluding NuVeda from submitting any evidence that is inconsistent with the facts that it admitted by failing to timely answer RFAs is **DENIED**, and NuVeda's countermotion to withdraw or amend its responses to the RFAs is **GRANTED**. I find that good cause was shown as to why Mr. Wiley did not provide the responses to the RFAs after he became counsel of record—Mr. Wiley was not aware of the outstanding RFAs, and Claimant did not give Mr. Wiley fair warning of the consequence of non-compliance, rather she generally referred to filing a motion to compel. Additionally, if NuVeda's countermotion is not granted, the presentation of the merits at the arbitration hearing will be

subservied. Finally, Claimant's counsel admitted during the hearing that Claimant Goldstein did not materially rely on NuVeda's failure to timely answer the RFAs in considering what discovery she should conduct and how she has prepared her claims for the arbitration hearing. Therefore, I find that Claimant did not establish that granting NuVeda's counter-motion will prejudice Claimant in maintaining her claims.

Thank you,

Nikki

Nikki Baker, Esq.
Peterson Baker, PLLC
702.786.1001

From: Nikki Baker
Sent: Tuesday, January 08, 2019 12:53 PM
To: AAA Lance Tanaka <LanceTanaka@adr.org>
Cc: jwiley@wileypetersenlaw.com; Kristina R. Cole <kcole@knevada.com>; Matthew T. Dushoff <mdushoff@knevada.com>; Scott D. Fleming <sfleming@knevada.com>; David Feuerstein <david@dfmklaw.com>
Subject: Re: Supplemental Witness Disclosure Statement

Counsel:

Given that there does not appear to be any prejudice to Claimant if Respondents are allowed to supplement their witness list to identify Mr. Webster, I will allow the supplementation. The issue of whether and to what extent Mr. Webster will be allowed to testify at the hearing will be addressed when I issue a decision on Claimant's motion after briefing is completed on Thursday.

Thank you,

Nikki

Sent from my iPhone

On Jan 8, 2019, at 12:11 PM, AAA Lance Tanaka <LanceTanaka@adr.org> wrote:

Dear Arbitrator Baker,

We are in receipt of Mr. Dushoff's email of Jan. 18, 2018 (w/attached Supplement Witness Disclosure Statement) and Mr. Feuerstein's email Jan. 18, 2018 in objection to said submittal.

We await your guidance as to how you wish to address this matter.

Sincerely,

Lance K. Tanaka

<imagef5bba1.PNG> | **Lance Tanaka**

American Arbitration Association

16 Market Square

1400 16th Street, Suite 400, Denver, CO 80202

T: 303 831 0824 F: 646 640 1840 E: LanceTanaka@adr.org

adr.org | icdr.org | aaamediation.org

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From: David Feuerstein [<mailto:david@dfmklaw.com>]

Sent: Tuesday, January 08, 2019 12:58 PM

To: Matthew T. Dushoff; AAA Lance Tanaka; Nikki Baker (nbaker@petersonbaker.com)

Cc: jwiley@wileypetersenlaw.com; Kristina R. Cole; Scott D. Fleming

Subject: Re: Supplemental Witness Disclosure Statement

This email originated outside of the American Arbitration Association. Use caution before opening attachments and/or clicking on links.

We respectfully object to Mr. Webster being added at this late hour. Leaving aside the fact that he was not included in the original witness list, it is hard to fathom what relevant facts Mr. Webster can testify to in the event Claimant prevails on its motion to exclude him as an expert witness. Indeed, if Mr. Webster is not an expert (and it's hard to see how he can be given that all he did was add and subtract numbers provided by Mr. Kennedy), his opinion with respect to NuVeda's valuation is inadmissible. And beyond his NuVeda "appraisal", there seems to be very little Mr. Webster can add to the dispute.

From: "Matthew T. Dushoff" <mdushoff@klnevada.com>

Date: Tuesday, January 8, 2019 at 2:43 PM

To: David Feuerstein <david@dfmklaw.com>, "AAA Lance Tanaka (LanceTanaka@adr.org)" <LanceTanaka@adr.org>, "Nikki Baker (nbaker@petersonbaker.com)" <nbaker@petersonbaker.com>

Cc: "jwiley@wileypetersenlaw.com" <jwiley@wileypetersenlaw.com>, "Kristina R. Cole" <kcole@klnevada.com>, "Scott D. Fleming" <sfleming@klnevada.com>

Subject: Supplemental Witness Disclosure Statement



All parties reserved the right to supplement witnesses and documents. As such, attached is our supplemental witness list, which inadvertently left off Michael Webster from the list. Mr. Webster provided the Business appraisal of NuVeda 11 days after Ms. Goldstein was expelled from NuVeda in August 2017. Mr. Feuerstein and Ms. Goldstein are fully aware of Mr. Webster and his appraisal as that is what they are attacking. So, there is no prejudice to them. Thank you.

Matthew T. Dushoff, Esq.

Shareholder

<image001.jpg>

<image003.jpg>

Office: 702.362.7800 Cell: 702.279.8875

Web: www.klnevada.com Bio: [Attorney Bio](#)

400 S. Rampart Blvd. | Suite 400 | Las Vegas | NV 89145

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AMERICAN ARBITRATION ASSOCIATION

BCP Holdings 7, LLC,)
JENNIFER GOLDSTEIN,)
)
Plaintiffs,)
)
vs.) Case No.
) 01-15-005-8574
)
NUVEDA, LLC, a Nevada limited)
liability compay; et al.,)
)
Defendants.)
-----)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE ARBITRATOR NIKKI BAKER
TUESDAY, JANUARY 15, 2019
LAS VEGAS, NEVADA
VOLUME 1

REPORTED BY:
KENDALL D. HEATH
NEV. CCR NO. 475
CALIF. CSR NO. 11861
JOB NO.: 3194923
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AMERICAN ARBITRATION ASSOCIATION

BCP Holdings 7, LLC,)
JENNIFER GOLDSTEIN,)
)
Plaintiffs,)
)
vs.) Case No.
) 01-15-005-8574
)
NUVEDA, LLC, a Nevada limited)
liability company; et al.,)
)
Defendants.)
-----)

ARBITRATION PROCEEDINGS - VOLUME 1,
held Tuesday, January 15, 2019, commencing at
9:55 a.m. at the offices of Kolesar &
Leatham, 400 South Rampart, Suite 400, Las
Vegas, Nevada, taken before Kendall D. Heath,
Certified Court Reporter, Certificate No.
475, in and for the State of Nevada.

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ARBITRATOR
NIKKI BAKER, ESQ.
PETERSON BAKER
10001 Park Run Drive
Las Vegas, NV 89145
(702) 786-1001
nbaker@petersonbaker.com

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16 Las Vegas, NV 89145

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18 mdushoff@klnevada.com

19

20 ALSO PRESENT:

21 Jennifer Goldstein

22 Pejman Bady

23 Pouya Mohajer

24 Joe Kennedy

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1 Las Vegas, Nevada

2 Tuesday, January 15, 2019

3 -o0o-

4 ARBITRATOR BAKER: This is the time set for
5 the final arbitration hearing in the matter titled
6 Jennifer Goldstein versus NuVeda, LLC. The case
7 number, 01-15-005-8574.

8 Let's start over here, and please state your
9 appearances for the record.

10 MR. FEUERSTEIN: Good morning. I'm David
11 Feuerstein, with Feuerstein & Kulick, on behalf of the
12 claimant.

13 MS. BAYNARD: Nancy Baynard, Feuerstein &
14 Kulick, on behalf of the claimant.

15 MS. GOLDSTEIN: Jennifer Goldstein, claimant.

16 DR. BADY: Pej Bady, NuVeda.

17 DR. MOHAJER: Pouya Mohajer.

18 MR. KENNEDY: Joe Kennedy, NuVeda.

19 MR. DUSHOFF: And Matthew Dushoff, Kolesar &
20 Leatham. I have been retained as co-counsel now for
21 NuVeda since my clients have been dismissed from the
22 case.

23 MR. WILEY: Jason Wiley, of the law firm
24 Wiley Petersen, on behalf of NuVeda, LLC.

25 ARBITRATOR BAKER: And Mr. Dushoff alluded to

Page 7

1 the dismissal of the individual respondents. I'd
2 like -- I have your e-mail, again, thank you,
3 Mr. Feuerstein, but I'd like the parties to state on
4 the record, so it's clear, exactly what claims
5 Ms. Goldstein has dismissed and what claims she's
6 going forward on.

7 MR. FEUERSTEIN: Ms. Goldstein has dismissed
8 the claims against the individual respondents in the
9 context of her being readmitted to the partnership
10 with damages that would have resulted in the valuation
11 of her percentage ownership of NuVeda once being
12 admitted.

13 She's maintaining her claim that the
14 expulsion of her in August of 2017 was improper, that
15 the valuation that was offered was not appropriate or
16 good in faith, and that her legal fees -- because of
17 that gross conduct, that her legal fees should be
18 paid. And we've left open the question of whether the
19 legal fees ought to be paid by NuVeda or by the
20 individual respondents who voted her out.

21 ARBITRATOR BAKER: Real quick, before you
22 respond, just so I'm clear, is she contesting that she
23 was expelled?

24 MR. FEUERSTEIN: She has assumed for purposes
25 of the arbitration that the -- that she was expelled

1 from the company, as a part of the vote by the
2 disinterested members.

3 ARBITRATOR BAKER: Okay.

4 MR. FEUERSTEIN: The expulsion, I think, as a
5 whole, requires in part the buyout of her interest at
6 the fair market value --

7 ARBITRATOR BAKER: Okay.

8 MR. FEUERSTEIN: -- and you can't -- I don't
9 think you can divorce the two. And so if you don't
10 offer a fair market value, I would argue that the
11 expulsion was improper; but we're assuming that the
12 vote happened and we're just talking about what the
13 appropriate valuation should be.

14 ARBITRATOR BAKER: So, for example -- again,
15 I just want to make sure we're on the same page -- if
16 I find that the number that was calculated by
17 Mr. Webster, and NuVeda says, That's the fair market
18 value of the company and your percentage is
19 seven percent and there's your number -- if I find
20 that that was improper and that she was entitled to
21 more money, Ms. Goldstein is not asking to be
22 reinstated or to say that the expulsion was null and
23 void; rather, she's saying, It was improper amount,
24 here's what I'm owed, and I get attorneys' fees and
25 costs. Is that accurate?

1 MR. FEUERSTEIN: Not only, Here's what I'm
2 owed, but here's what I should be paid.

3 ARBITRATOR BAKER: Right, right. Okay.

4 MR. FEUERSTEIN: Yeah, yeah.

5 ARBITRATOR BAKER: Yes. Fair enough. Fair
6 enough. Okay. I just wanted to make sure.

7 MR. FEUERSTEIN: Yes.

8 ARBITRATOR BAKER: And so I have in the
9 briefs there was a mention of two claims: Breach of
10 contract concerning the operating agreement; and
11 breach of covenant, good faith, and fair dealing,
12 concerning the operating agreement.

13 And the damages are -- as I understand it, is
14 the value of interest as against NuVeda; and then
15 she's reserving the right to seek attorneys' fees and
16 costs from the individual respondents as well as
17 NuVeda?

18 MR. FEUERSTEIN: Correct.

19 ARBITRATOR BAKER: Okay. Counsel?

20 MR. DUSHOFF: That was not even close to my
21 understanding.

22 ARBITRATOR BAKER: Okay.

23 MR. DUSHOFF: My understanding, and I think
24 you've got it through the e-mails, is that she's
25 agreeing that she was expelled from there; and that

1 that all we're talking about today is the value.
2 Period.

3 Because my clients have -- they're gone.
4 They have no liability for attorneys' fees or anything
5 in this matter. And you made it clear that only if
6 it's an improper expulsion is there an opportunity --
7 is there a chance for my clients potentially to get
8 damages and have to pay attorneys' fees.

9 But that went by the wayside when -- then
10 when we made the agreement that this is just a value
11 case, that she was expelled and so forth; so now I
12 prepared the value case based upon what we all agreed
13 to.

14 And now, all the sudden, now I got to change
15 gears as we're sitting here right now and defend my
16 clients?

17 And where my clients are gone, there's no
18 cause of action against them that survives. And you
19 made that clear, unless she was able to testify that
20 it was worthless against them. Any attorneys' fees
21 claim in this case would be against NuVeda, definitely
22 not against Pej and Pouya.

23 So when I said I'm now being retained as
24 counsel for them, well, I can't be counsel for them
25 and for them as well, because my understanding is they

1 were done. I'm literally blown away right now to say
2 that all the sudden my clients are back in this thing,
3 because they are -- they are gone and this was the
4 agreement. You saw it. This was a value case. You
5 know, she was expelled. She agrees that she was
6 expelled. And this is the value of her case.

7 And not challenging whether it was -- that it
8 was a good or bad expulsion. It was that, yes, she
9 was expelled and here's the value of that. Because
10 now I'm sitting here, and now I've got to defend my
11 clients again?

12 That was definitely not the agreement that I
13 understood here, that all attorneys' fees in this case
14 would have been from NuVeda; and that basically, Hey,
15 this is a value case. She was expelled. Agreed she
16 was expelled, you know. And that, Okay, I'm not
17 coming back in. What's the value of my share? It was
18 a -- it's a simple matter. Now, that just complicates
19 everything.

20 MR. FEUERSTEIN: Can I respond?

21 ARBITRATOR BAKER: Yes, go ahead.

22 MR. FEUERSTEIN: So the -- this stems -- this
23 agreement stems from the ruling that was on the
24 motions in limine made by the respondents. And what
25 your order wrote with respect to the damages that

1 Ms. Goldstein would seek in the event that your
2 determination that there was a proper expulsion was
3 that -- and you said, and I'm quoting, "Nothing about
4 this ruling precludes Claimant Goldstein from arguing
5 that she's entitled to recover any award of attorneys'
6 fees and costs against Respondent NuVeda and/or
7 Respondents Bady and Mohajer."

8 Now, when we made the agreement to sort of
9 peel away from that, that's what we were keeping in.

10 Moreover, the question of whether -- of
11 whether the expulsion was proper, we're not asking --
12 we're not going back to the issue of did you have good
13 cause? That's not our question.

14 Our point is simply the fact of you had a --
15 Section 6.2 has a provision that requires you to do
16 all these steps and ultimately pay the fair market
17 value. And, ultimately, if you didn't pay the fair
18 market value and we had to bring a case, section I
19 think 12.10, says we're entitled to our attorneys'
20 fees.

21 And we left open the question -- I think it's
22 only a question of law, not a question of facts, as to
23 whether the respondents would be liable for those
24 fees. We're not -- we're not suggesting that we're
25 taking testimony or putting in facts in evidence that

1 are going to bear on whether, you know, there was good
2 cause for Ms. Goldstein to be expelled.

3 All we're suggesting is, I think it's
4 ambiguous, at a minimum, as to who is responsible for
5 the legal fees as a result of the action that took
6 place.

7 ARBITRATOR BAKER: And I believe when we had
8 the telephonic hearing, I said, you know, my initial
9 impression is that if your claim is against NuVeda,
10 right, you say you weren't paid the value, then the
11 attorneys' fees would be against NuVeda. I think I
12 left open the issue, because the way I see this case
13 is here's the claims, because you're not seeking
14 attorneys' fees as special damages; right?

15 MR. FEUERSTEIN: That's right, as special
16 damages.

17 ARBITRATOR BAKER: As special damages.

18 So as I saw it, you know, if it were just
19 stealing the valuation, the claims are against NuVeda;
20 but I didn't foreclose an argument when we addressed
21 the attorneys' fees and costs. When I say, you know,
22 what the decision is and then I'm going to give the
23 parties an opportunity to address it, that was what I
24 left open was the attorneys' fees and costs.

25 And, again, my initial thought was, as I

1 said, it seems to be a NuVeda issue. But I didn't
2 think the parties had fully explored the issue, and I
3 think that attorneys' fees come at the end of case,
4 was my ...

5 MR. WILEY: No, I agree with that assessment;
6 and I think that's exactly what was addressed and as
7 we left it once our conference was ended.

8 Subsequent to that, I'm of the same opinion
9 of Mr. Dushoff. We had discussions where this was
10 going to go forward with respect to NuVeda and NuVeda
11 only. And any claim for attorneys' fees would be, I
12 guess, submitted for review with respect to NuVeda.
13 And that's why Mr. Dushoff has come in as
14 co-counsel.

15 MR. DUSHOFF: We even bargained, we gave
16 up -- Pej and Pouya -- Dr. Bady and Dr. Mohajer gave
17 up their right to seek attorneys' fees, and so did
18 NuVeda, in order to make this deal.

19 So we -- my clients gave up their right to
20 seek attorneys' fees. The only way you were going to
21 grant attorneys' fees or anything against my clients
22 is if there was an improper -- two-fold: If they were
23 improperly expelled; right, if it was an improper
24 expulsion.

25 ARBITRATOR BAKER: Right.

1 MR. DUSHOFF: And Ms. Goldstein could somehow
2 say that the values were worthless; otherwise -- and
3 whether she could even testify, which I have a whole
4 set of rules, but that's -- that's gone by the
5 wayside. They gave up their rights, and we have the
6 correspondence. I know Dave will back me up on
7 that -- is that they gave up their rights to
8 attorneys' fees in order to make this bargain.

9 This case is against NuVeda, it's a value;
10 it's our experts versus their experts, and that's it.

11 Anything beyond that, whether it -- the truth
12 is, my clients gave up their rights for that specific
13 purpose. They asked, and we had to -- I had to really
14 convince my clients to say, Listen, we'll give up our
15 right in order to make this specifically a value case,
16 not whether they have attorneys' fees against them.
17 Because now, all of a sudden, my client -- I get the
18 attorneys' fees against NuVeda, but my clients are
19 potentially liable for it?

20 That was never in the discussions. That was
21 never in agreement. And I piggyback on Mr. Wiley
22 saying, Yes, I agree after yours that's what it was,
23 but then we had that subsequent agreement, and they
24 gave up their rights. And now I'm sitting here going,
25 Sorry, guys. I know we bargained for this, but now,

1 as I'm sitting here, now you're still subject to it?
2 That -- that was not -- they're not getting the
3 benefit of the bargain on that. That's what we agreed
4 to.

5 MR. FEUERSTEIN: Well, the benefit of the
6 bargain is that we dropped the personal -- all the
7 personal claims against their client. So to suggest
8 that there's no benefit of the bargain I think is a
9 little bit overstated.

10 We obviously took away their personal
11 liability with respect to everything else. I don't --
12 I -- frankly, guys, I don't recall ever saying that
13 what we're -- we're taking and waiving our legal-fee
14 claim against the individuals. I don't.

15 And if that was the impress- -- I mean, I
16 thought we were all talking about item B in the
17 Arbitrator's sort of ruling dated January 9, 2019.

18 So, you know, I thought, and I distinctly
19 remember this part, Mr. Dushoff, which was the quid
20 pro quo of our agreement, was I was going to -- or Ms.
21 Goldstein was going to give up her claims as against
22 the individuals and ask them to be reinstated and the
23 diminution in value of her -- of her percentage, but
24 that the rest of the case, which was really just item
25 B, goes on.

1 And, by the way, it sounds to me -- not that
2 I want to suggest that Arbitrator Baker has already
3 made up her mind with respect to something, but it
4 sounds to me like I have a pretty long night ahead of
5 me to try to persuade her that the contract and titles
6 need to get damages against the individuals anyway.

7 And, as I said, it's a legal argument; it has
8 nothing to do with the facts that's going to take
9 place in this hearing.

10 ARBITRATOR BAKER: Right. And again, what I
11 was anticipating when I -- when we had the hearing and
12 when I issued the order was, again, it was going to be
13 attorneys' fees argument, you know, the contract
14 provision, here's what it says, at the end of the
15 case. Or actually after the case is over, likely,
16 because I will say, Here's my initial ruling, sort of
17 a preliminary, submit attorneys' fees and costs.

18 And at the time it was -- it was anticipating
19 if NuVeda or the other individual respondents
20 succeeded, I didn't want both parties spending time
21 and money putting invoices together and preparing
22 motion for summary judgment -- or a motion for
23 attorneys' fees, only for me to say, Well, you know,
24 You win, or You win, and then it was a waste of time.

25 So I was anticipating issuing my initial

1 decision, Here's how I find, and then allowing the
2 prevailing party.

3 Now it sounds like it'll just be the claimant
4 that would be able to recover attorneys' fees, not
5 respondents, if that was the arrangement.

6 MR. DUSHOFF: Right, but if I'm making -- if
7 I'm making the deal, say, okay, and they're saying,
8 listen, we're dismissing all causes of action against
9 the individual capacity, which Mr. Feuerstein said,
10 then how on earth in a case like that are my clients
11 individually liable for attorneys' fees if all the
12 causes of action against them in their individual
13 capacity have been de- -- I've never seen that before.

14 I mean, NuVeda, I agree; but subsequent to
15 your ruling, we agreed, okay -- and you just stated --
16 they're all gone against my clients, all right,
17 they -- there's no issues of whether they properly
18 expelled, it's good faith or that, so that's done and
19 they're out.

20 So how would they be individually liable in
21 an attorneys' fees when they have no causes of action
22 against them? And I apologize if it -- if it -- if
23 it's me, but I really don't understand that.

24 ARBITRATOR BAKER: Yeah. Well, again, I have
25 not fully explored, you know, and really delved into

1 the attorneys' fees provision. I have not made -- I
2 mean, I couldn't sit here and tell you. I'm just --
3 as I said in the call, I don't know how that would
4 work, but I had not explored the issue.

5 So it's -- how do you guys want to handle
6 this? Because I understand your point of view,
7 because it would have -- it may effect how you defend
8 this case if the individuals might potentially be
9 liable for attorneys' fees. Do you guys want to take
10 a minute and talk about it without me, and I can go
11 out there, to try to get a resolution?

12 Unless you want me to spend a few minutes
13 looking at the attorneys' fees provision, you want to
14 make a couple of arguments, and I'll make a decision
15 right now on whether -- if she's successful against
16 NuVeda, whether she would possibly be able to get
17 attorneys' fees and costs against the individuals. If
18 you guys want to make that argument, I mean, I can
19 certainly look at that. I just have not delved into
20 that.

21 So how do you want to handle it?

22 MR. FEUERSTEIN: Why don't we step out for a
23 moment.

24 ARBITRATOR BAKER: Yeah, I can step out.

25 MR. FEUERSTEIN: Well, I think -- I'd like to

1 speak to my client first --

2 MR. DUSHOFF: Oh, okay.

3 MR. FEUERSTEIN: -- and then I can speak to
4 you guys.

5 MR. DUSHOFF: Okay.

6 MR. FEUERSTEIN: So if we could take a couple
7 minutes.

8 ARBITRATOR BAKER: Yeah. Let's take a little
9 break.

10 MR. DUSHOFF: Okay.

11 (Break taken.)

12 ARBITRATOR BAKER: Back on the record.

13 MR. FEUERSTEIN: So I think there is truly a
14 disconnect between what the parties agreed to and what
15 was discussed amongst ourselves, by virtue of our
16 decision to whittle down the case.

17 It was our understanding and our operation,
18 in fact I remember when we edited the sort of e-mail
19 to you, Arbitrator Baker, was that we were absolutely
20 reserving the right to seek damages as against Pej
21 and -- well, Dr. Bady and Dr. Mohajer, the individual
22 respondents. It's why --

23 ARBITRATOR BAKER: Can I --

24 MR. FEUERSTEIN: Yeah.

25 ARBITRATOR BAKER: -- just pause. When you

1 say "seek damages," you don't mean actual compensatory
2 damages; you mean attorneys' fees --

3 MR. FEUERSTEIN: Attorneys' fees --

4 ARBITRATOR BAKER: -- and cost -- okay.

5 MR. FEUERSTEIN: Attorneys' fees as a product
6 of the contract.

7 ARBITRATOR BAKER: Okay.

8 MR. FEUERSTEIN: We believe that -- as we set
9 forth in our prearbitration brief, that there are two
10 steps in section 6.2. One is the payment of money,
11 which is clearly an issue of NuVeda. But the question
12 of whether the appraisal, which they now claim they
13 completed, whether that was done properly pursuant to
14 the terms of the agreement or within good faith and
15 fair dealing, could arguably be caused by the
16 voting -- quote/unquote, "voting members" is what the
17 agreement says.

18 And if it's determined by you that the
19 Webster Report, which is their, quote/unquote, "fair
20 market appraisal," wasn't done in good faith and fair
21 dealing because it was significantly too low, then I
22 think there is an argument to say that the legal fees
23 incurred were a product of that appraisal; and that,
24 therefore, Ms. Goldstein should be able to seek those
25 legal fees and costs against the individual

1 respondents.

2 ARBITRATOR BAKER: Okay. Before I get to
3 respondents, what are you proposing as far as, are
4 we -- do you want me to decide the issue? I mean, I
5 was looking at the attorneys' fees provision when we
6 were out during the break.

7 Is this something you want me to decide now,
8 or you guys want to make arguments on it? Do you have
9 a preference, and then I'll ask the respondents.

10 MR. FEUERSTEIN: Yeah. No, I -- from our
11 perspective, whether -- you know, whether -- whether
12 the individual respondents are potentially liable for
13 the legal fees and costs of the claimant is something
14 that's a matter of law to be decided at the end.

15 Our preference would be to simply get to the
16 merits. Let's get the witnesses on the stand. Let's
17 get the facts into the record. And let's make our
18 arguments at the end as to whether we're entitled to
19 seek our legal fees and costs from the individuals.

20 If it's determined at that point, when we do
21 it on the papers and we have all the law in front of
22 us, that you agree with us, then you can make that
23 decision.

24 Nothing, though, should be changed in terms
25 of trial strategy; right? We're either -- we going to

1 make the same arguments. I've already opened my
2 kimono to tell them what we're arguing, so I don't
3 think there's any need to sort of upset the apple cart
4 and have that argument up front.

5 ARBITRATOR BAKER: Okay.

6 MR. DUSHOFF: I absolutely believe that you
7 need to make a ruling right now and here's why.

8 They agree that all causes of action against
9 my clients, Dr. Bady and Dr. Mohajer, have been
10 dismissed, all of them. Okay. When we made that
11 agreement to dismiss all of them, we're going to give
12 up our rights to attorneys' fees. Okay. There's no
13 dispute about that. Okay.

14 If all of them are dismissed against my
15 clients in their individual capacities, there's no way
16 that they can get the attorneys' fees from my clients.

17 I understand the NuVeda argument. Now, for
18 the first time in this entire case -- and you read the
19 second amended complaint and been in this case
20 forever -- the first time you've ever seen the
21 argument that there's a breach of good faith and fair
22 dealing regarding the fair market value, that she was
23 improperly expelled.

24 The improper expulsion issue was you didn't
25 do it in good faith, you didn't have reasons to do it;

1 right? You didn't have reasons to do it.

2 Well, they, for -- that is gone. And that's
3 what you had -- that was the argument before you when
4 you made your motion. When you made your ruling and
5 we made the motion, that was the argument that was
6 made.

7 And if you said that there was an improper
8 expulsion because of -- you didn't have good faith
9 then, then, Ms. Goldstein, you can come in here and
10 testify whether you have damages or not -- if you can,
11 and you say it's worthless.

12 But my clients bargained to be out of this
13 case. I told them, You guys are out. We did it. You
14 guys are out of this case. You're not responsible for
15 anything.

16 Now, all of the sudden, we're sitting here
17 right now and saying, Well, yes, we dismissed all the
18 causes of action against them; but, however, there's
19 still a chance that they can be held for attorneys'
20 fees. Which makes it difficult for me, because I
21 already associated with NuVeda and they're done. For
22 all intent and purposes, they're done. They're out of
23 this case. And this case was a value case, period.
24 There's no cause of action against them at all.

25 You want to get attorneys' fees from NuVeda?

1 Okay. If you decide that the -- you know what? It
2 wasn't -- you know, that wasn't proper and fair market
3 value, it wasn't --

4 ARBITRATOR BAKER: Right.

5 MR. DUSHOFF: -- it shouldn't have been
6 116,000; it should have been 1.2 million, 10 million,
7 whatever your decision is.

8 But that would be against NuVeda, and NuVeda
9 gave up their rights for attorneys' fees as well.

10 But my clients made a bargain here, they made
11 a deal after your ruling; and they dismissed all the
12 causes of action. And Mr. Feuerstein will agree to
13 that, that they dismissed all the causes of action
14 against my clients in their individual capacity.

15 And for the first time in my career I'm
16 sitting here trying to defend clients who have no
17 causes of action against them, yet could still be
18 liable for attorneys' fees, which is -- which is
19 dumbfounding to me. I truly don't understand that.

20 And I have to know now if I have to sit here
21 and defend my clients. Because after your ruling, we
22 made a bargain and we made a deal and my clients gave
23 up their right to attorneys' fees in this case in
24 order to have all the causes of action against them
25 dismissed. They were dismissed against my clients in

1 their individual capacity.

2 They can't now sit here and still potentially
3 be held liable for attorneys' fees when there are no
4 causes of action in their individual capacities.

5 MR. FEUERSTEIN: I have stuff to say. I
6 mean, you know, I already explained what the e-mail
7 and the judgment was from January 10th and what it
8 said. And it opened -- left open a door that we could
9 seek it.

10 We then had a -- we then negotiated this deal
11 between the parties. And Mr. Dushoff sent to me an
12 e-mail and asked me whether I approved of the e-mail.
13 And I -- if you -- I don't know if you have the e-mail
14 from Mr. Dushoff. It's on my computer. It's dated
15 January 10th at 4 p.m., but that may -- the time
16 change may have it wrong for -- or different for you.

17 But if you read the agreement, what it says
18 is whether Ms. Goldstein is entitled to her attorneys'
19 fees because she was never offered the actual fair
20 market value of her shares as of that date. That was
21 the deal. That was language that I insisted on
22 including in there, in particular because the issue
23 was still remaining open as of the July 9th --
24 January 19th rule.

25 So, you know, I appreciate Mr. Dushoff's

1 advocacy here, but my understanding of the deal that
2 we struck is the deal that was -- we were keeping that
3 paragraph in. We were arguing the point to this
4 within the deal.

5 To me, everything else is irrelevant. The
6 deal is set forth in that agreement. We were leaving
7 in the idea of whether she was -- could seek her
8 attorneys' fees against the individual respondents
9 from our understanding of your ruling. So that was
10 what my understanding was.

11 MR. DUSHOFF: And if I may just comment?

12 MR. WILEY: Let me comment on that first,
13 because I've got it pulled up here. It states that,
14 in that e-mail, the included language, as of --
15 Ms. Goldstein's shares as of August 8, 2017, and
16 whether Ms. Goldstein is entitled to her attorneys'
17 fees because she was never offered the actual fair
18 market value of her shares as of that date. That is
19 a -- an action that would be against NuVeda, the
20 offering of her fair market value for her shares of --
21 as of that date. That's simply -- and you would agree
22 with me, Dave -- that has -- that only has to do with
23 NuVeda.

24 MR. FEUERSTEIN: The payment -- I said, the
25 payment of -- the payment of money from NuVeda to

1 Ms. Goldstein is a NuVeda action; right? That was a
2 NuVeda obligation of the agreement.

3 MR. WILEY: And that was the included
4 language --

5 MR. FEUERSTEIN: But the step before that --

6 MR. WILEY: Well, it doesn't say that. I
7 mean, that's -- and that's what's problematic about
8 this whole thing, because obviously Matt and I are on
9 the same page.

10 MR. FEUERSTEIN: Shocking.

11 (Cross-talking.)

12 ARBITRATOR BAKER: Hold on. Hold on.

13 MR. WILEY: -- as evidenced by the fact
14 that -- you know, as evidenced by the fact that he
15 associated in as co-counsel because we thought we were
16 totally done with it as far as Pej and Pouya in their
17 individual capacity. And if you want to rely upon
18 that language, I mean, it talks about the --

19 MR. DUSHOFF: If I may. Why would I even
20 assume that there'd be attorneys' fees against my
21 client when they have been dismissed from this cause
22 of action? When he says attorneys' fees, why would he
23 even assume that my clients would be responsible for
24 any attorneys' fees when they've already -- we agreed
25 that they're dismissed?

1 You've done this for a long time, too.
2 There's never a case where clients are dismissed from
3 the case, but you're still liable for attorneys' fees.

4 What? More likely than not, my clients are
5 entitled to attorneys' fees because they've been
6 totally dismissed from the case that they've been
7 litigating for three years. But they gave up that
8 right, so they should not be sitting here having their
9 necks out on the line for this. Sigh.

10 ARBITRATOR BAKER: Good. Okay. Well, again,
11 I understand, I think where the confusion came in my
12 ruling was, I'm not making a decision on the
13 attorneys' fees issue at that point. It had not -- it
14 had not been fully laid out, because it wasn't special
15 damages. And that's why I asked that question --

16 MR. WILEY: Right.

17 ARBITRATOR BAKER: -- as far as what the
18 damages were going to be and what evidence you were
19 going to be able to admit at the hearing.

20 So, I guess -- I mean, I can read the
21 attorneys' fees provision. But I'm hesitant not to at
22 least give you a chance to give me a case or two.

23 Mr. Dushoff, can you get through today and we
24 can address the issue first thing in the morning?

25 I mean, my initial looking at this, I don't

1 see any claim for attorneys' fees against individuals.
2 You know, even looking at the last sentence of the
3 paragraph says, "The prevailing party shall mean the
4 party that is determined in the arbitration, action,
5 or proceeding, to have prevailed or who prevails by
6 dismissal, default, or otherwise."

7 I think that goes into Mr. Dushoff's
8 argument, they would be the party, arguably. And I
9 know there's case law about voluntary dismissal of
10 claims; but they would arguably be the party that
11 would be entitled to attorneys' fees and costs because
12 the claims against them have been dismissed.

13 MR. FEUERSTEIN: Yeah, but they waived --
14 that, there's no dispute, they waived.

15 ARBITRATOR BAKER: But they waived it. But
16 that's why I'm saying that I don't know how you then
17 turn it around -- claimant can turn that around and
18 say somehow they would be the prevailing party against
19 the individual respondents, even if it is found that
20 the fair market value that was determined by Webster
21 was not accurate and fair.

22 So, look, I -- you know, I don't -- because I
23 just feel like that it hasn't been briefed, but just a
24 plain reading of this, I don't see it.

25 I understand Mr. Dushoff's position, you

1 know. My preference would be, let's get through
2 today. I would give both parties the opportunity to
3 give -- if you can give me a case or something that
4 shows otherwise, I will certainly look at it. And we
5 can address it first thing in the morning.

6 Mr. Dushoff, can you -- can we just move
7 forward --

8 MR. DUSHOFF: Yeah.

9 ARBITRATOR BAKER: -- today?

10 MR. DUSHOFF: Yeah. I understand your
11 position. We can move forward on that. You've
12 understood -- you understood my position?

13 ARBITRATOR BAKER: I do. I understand both
14 sides. And again, I'm just looking at the provision
15 itself. But I don't have -- neither side has given me
16 any sort of case law.

17 So if you want, by tomorrow morning, to give
18 me -- if you have a case or two, I'll entertain just
19 super-short arguments. You don't even have to put
20 something together in writing, though you certainly
21 can. Send it to me tonight or first thing in the
22 morning, I'm an early riser, unfortunately.

23 But those are my initial thoughts, just
24 looking at the black letter for the contract; but I'm
25 not going to foreclose you the opportunity to provide

1 me something, and same for respondents, that applies
2 to this attorneys' fees provision.

3 But for now, let's move forward. And I
4 appreciate you letting us do that.

5 So with that said, given that both sides
6 submitted prehearing briefs, do the both sides just
7 want to proceed with testimony; or would you like to
8 make a short opening? I've read both briefs. I
9 understand what the arguments are, but I'm not going
10 to foreclose a very brief opening.

11 MR. FEUERSTEIN: I don't think -- I think we
12 can get started --

13 ARBITRATOR BAKER: Okay.

14 MR. FEUERSTEIN: -- and move ahead.

15 MR. DUSHOFF: Agreed.

16 MR. WILEY: Agreed.

17 MR. FEUERSTEIN: I would like just to peek
18 outside, because we had originally told Mr. Terry to
19 come at 11 o'clock. And I think if he's here, I would
20 not -- I'd ask that we take him out of order for a
21 moment, just so that we don't -- not make him wait
22 until we -- until we, you know, get through
23 Ms. Goldstein's testimony.

24 ARBITRATOR BAKER: That's fine with me.

25 (Break taken.)

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CLAIMANT'S CASE IN CHIEF

ARBITRATOR BAKER: We're back on the record.
We'll note that Mr. Terry has joined us. If you could
please swear in the witness.
Thereupon,

SHANE TERRY,
called as a witness by the Claimant having
been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. FEUERSTEIN:

Q Good morning, Mr. Terry.

A Good morning.

Q I realize that this case has been narrowed,
but I think it will help for additional testimony to
give a little bit of a background, if you will.

Can you start with all your education after
high school?

A Sure. I went to the Military Prep College in
New Mexico. After that, I went to the United States
Air Force Academy where I graduated. And then have
taken a couple of professional military courses since
then. And I've got a few certificates from University
of Pennsylvania at Wharton and MIT.

Q What were your certificates from Wharton and
MIT in?

1 A The Wharton ones were in marketing strategy,
2 finance, corporate finance, and strategy. And MIT was
3 in product development and operations management.

4 Q What did you do after graduation from the Air
5 Force?

6 A Flew F-16s for 14 years in the military; and
7 that led me all the way to 2014, where I separated on
8 my terms, honorably.

9 Q And what did you do in 2014?

10 A Transitioned out of the Air Force to start
11 what eventually became NuVeda.

12 Q How did you get introduced to NuVeda?

13 A I would say relatively long-time friends with
14 Pej, and through that friendship, I met Pouya.

15 And when they were looking at the industry
16 they had already made a little bit of a head start
17 with some other companies prior to joining -- or prior
18 to me joining, and then they asked me to join the team
19 in 2014, and that was the trigger that made me decide
20 to leave the military.

21 Q And what was your understanding of the
22 arrangement when you were going to join the team at
23 NuVeda?

24 A At that point they had retained some
25 consultants. They had already done some work on

1 trying to, you know, figure out what sort of business
2 model they wanted to create, where they wanted to go.
3 It was very early stage, prelicensing; so I want to
4 say this was maybe six months before we had to submit
5 an application to the local jurisdictions in the state
6 to apply for the first licenses.

7 Q What was your role at NuVeda during those six
8 months?

9 A I was initially brought on, I guess, maybe
10 more of a flex roll or operations help. There was
11 another team member at that point that didn't end up
12 working out; and when he departed, I eventually became
13 COO.

14 Q Do you have a recollection as to time frame
15 as to when you became the COO?

16 A I would say probably closer to June of -- May
17 or June of 2014.

18 Q Okay. Prior to getting involved in NuVeda,
19 did you know the claimant, Ms. Goldstein?

20 A We have met locally. I didn't know her all
21 that well, but we were just starting a friendship.

22 Q Did there come a time when you introduced
23 Ms. Goldstein to the other members of NuVeda?

24 A Yes, I do.

25 Q And can you describe sort of the

1 circumstances about how that came about?

2 A Sure. I think the friendship with
3 Ms. Goldstein and myself started maybe six months
4 prior to that introduction. And we were catching up,
5 just socially, and she mentioned that she was going
6 after dispensary licenses, you know, had an investment
7 that -- that she was going to use to start her own
8 company and go after some of the new licenses.

9 And I think that's where we first started
10 making the connections that I was with a group that
11 was also going after dispensaries. She had an
12 interest. She had capital that she wanted to put in.
13 So I thought it kind of made sense to combine the
14 efforts. And, you know, I respected her as an
15 attorney and as a friend and thought it would be a
16 good fit.

17 Q Do you recall approximately when in time you
18 introduced Ms. Goldstein to the other members of
19 NuVeda?

20 A I'd say plus or minus a few months, but April
21 of 2014.

22 Q And was it that first meeting that there was
23 an agreement among the existing members of NuVeda and
24 Ms. Goldstein whereby Ms. Goldstein would become a
25 member of NuVeda?

1 A No. Initially, it was exploratory. So both
2 sides were, yeah, trying to warm up to each other,
3 figure out who could contribute what, what roles
4 needed to be filled on the team. So, of course, there
5 was some warming-up meetings prior to anything really
6 becoming formalized.

7 Q At what point do you recall, if ever, that
8 Ms. Goldstein's role with NuVeda became formalized?

9 A I know she started -- I specifically remember
10 one meeting where her and Pej met at a Starbucks; and
11 I think that's where they started the discussions,
12 there.

13 And then eventually there was a pressure for
14 us to submit an application, that had a deadline, to
15 Clark County. And as the relationships are
16 progressing, as part of that application we had to
17 submit who the team was, what the exact percentages,
18 ownership structure was; and obviously, that's what
19 the local jurisdiction or unincorporated Clark County
20 would be looking at to determine our corporate
21 structure for the application.

22 Q During that time period, did the members of
23 NuVeda enter into an operating agreement?

24 A I do not believe there was an operating
25 agreement required for that specific submission --

1 Q Okay.

2 A -- but I can't recall.

3 Q Was there -- did the members of NuVeda come
4 to an agreement whether, you know -- formal agreement
5 or not, as to the ownership interest in NuVeda?

6 A Yes, that had to be declared to -- you know,
7 with the application. I remember I was writing the
8 application and hers was kind of the blank spot that
9 we needed to fill and solidify so we could submit.

10 Q Do you recall, Mr. Terry, how Ms. Goldstein's
11 percent interest -- well, let me take a step back.

12 Do you recall, sitting here today, what
13 Ms. Goldstein's percent interest in NuVeda is?

14 A Seven percent.

15 Q Okay.

16 A At least at the last time I had anything to
17 do with the company.

18 Q Do you recall whether that seven percent --
19 was there anything special attached to that seven
20 percent?

21 A Nondilutable.

22 Q Okay. Do you recall how Ms. Goldstein's
23 nondilutable seven percent came about?

24 A We -- internally, I think Pej was primarily
25 working with her to figure out what the right interest

1 was for her, what she was going to contribute. And
2 internally, without her around, we discussed potential
3 roles and where we would want to take it.

4 And then eventually, if I recall, Pej gave
5 her three options for her to choose from; and
6 basically she chose one of those options.

7 Q Is it your recollection that Ms. Goldstein
8 demanded to have seven percent nondilutable
9 interest?

10 A No. It was my recollection that it was
11 tiered where at the --

12 MR. DUSHOFF: Objection as to relevance. We
13 all stipulated she has seven percent nondilutable
14 interest. I think we're wasting time going down this
15 down this road.

16 MR. FEUERSTEIN: I'm about to move on, but --

17 ARBITRATOR BAKER: Overruled. Just keep
18 going.

19 BY MR. FEUERSTEIN:

20 Q You want to just -- do you recall where you
21 were in your answer?

22 A Sure. So there were three different tiers,
23 and one of them was seven percent, nondilutable,
24 without any requirement for capital contributions.

25 And then it went up from there, where she

1 could earn more membership interest with certain
2 capital contributions.

3 I think there was two more that -- other two
4 tiers I believe were dilutable, and both of them I
5 believe required some amount of capital contributions.

6 Q Okay. I'm going to fast-forward in time to
7 December of 2015. Do you recall, Mr. Terry, that
8 there was an agreement that the majority members had
9 entered into with a company called CW?

10 A I do.

11 Q Okay.

12 MR. WILEY: Objection. Just for
13 clarification, entered into with which entity?

14 MR. FEUERSTEIN: CW. CWNevada, LLC.

15 MR. WILEY: As opposed to the other CW
16 entity?

17 MR. FEUERSTEIN: Yes.

18 MR. WILEY: Just so we're clear.

19 MR. FEUERSTEIN: Yes.

20 And just so the record is clear for the
21 remainder of today, when I use the term CW, I'll be
22 referring to CWNevada, LLC. If I intend to mean CWNV,
23 I will say CWNV.

24 Q Is that okay with you, Mr. Terry?

25 A That works for me.

1 Q Okay. So you recall that there was an
2 agreement entered into with CW?

3 A Yes, I do.

4 Q Do you recall the name of that agreement?

5 A I believe it was a membership interest
6 purchase agreement.

7 Q And I'd ask you, Mr. Terry, to pull up in
8 front of -- the computer in front of you what's been
9 marked as Joint Exhibit 149.

10 Are you able to see that there?

11 A On the exhibits. And it looks like this is
12 the MIPA, December 6, 2015.

13 Q And in your own words, Mr. Terry, can you
14 describe what the consideration was exchanged between
15 the parties to the MIPA?

16 A I'd have to go down into the details, but I
17 generally remember -- and I think this actually might
18 have been more disclosed in due diligence. It was
19 something around 22 and a half million dollars for a
20 65 percent ownership interest, which I believe was in
21 a new co that they were going to form.

22 Q And that new co was going to be --
23 ultimately, it was CWNV; correct?

24 A That is correct.

25 Q Mr. Terry, do you have a view -- well, if

1 65 percent was being acquired by CW in the new co, who
2 held the other 35 percent?

3 A That would be NuVeda.

4 Q And based on the price that -- or the
5 consideration being provided by CW pursuant to the
6 MIPA, what was your view of the value that NuVeda was
7 retaining?

8 A I thought that -- personally, I thought that
9 it was less value than they should have gotten from
10 it. And I think I had some concerns about CW's
11 ability to follow through on the MIPA and come through
12 with their funding obligations.

13 Q Was there ever a conversation between you and
14 the members of NuVeda as to what the actual value to
15 assign to the 35 percent interest was at that time?

16 A Yes, there was conversations about it.

17 Q Were there conversations with Joe Kennedy
18 about it?

19 A I'm sure he was part of it.

20 Q Okay.

21 A A lot of this happened kind of out of
22 surprise to me, prior -- I don't think we found out
23 about this until court, that it had been executed.

24 Q Do you recall anybody from CW making
25 statements about what the value or the consideration

1 was under the MIPA?

2 A Not until we got to an injunction hearing.

3 Q And that injunction hearing was the
4 injunction hearing before Judge Gonzalez; correct?

5 A Correct.

6 Q And what did you -- what do you recall
7 hearing?

8 A During the injunction hearing, that was the
9 first time that this was produced in evidence, or
10 certainly the first time that I had seen it, so I was
11 not part of any of the discussions with -- between CW
12 and NuVeda leading up to the execution of the MIPA.

13 And during the injection hearing, I know
14 Brian Padgett, who was the, I believe, president/COO
15 of CWNevada, testified onto the value that they would
16 be bringing.

17 Q If you would, Mr. Terry, take a look at
18 exhibit 1 -- Joint Exhibit 164.

19 A Looks like transcripts of, I'm assuming, is
20 that a hearing?

21 Q And I'd ask you, Mr. Terry, to go down to
22 page 89 of that transcript, which is Bates
23 Terry 000865.

24 A Is that the digital 89, or is it printed
25 separate on that page?

1 Q It's the digital 89 and also page 89.
2 A Sorry, could you say the Bates number again.
3 Q Yeah, 865.
4 A 865. Thank you. Okay, I'm there.
5 Q And you see towards the -- on line 818,
6 there's the number approximately \$22 million. Do you
7 see that?
8 A Yes, I do.
9 Q By the way, if you just scrolled up to the
10 beginning, can you state on the record who was
11 actually testifying at this point?
12 A Is that on --
13 Q It's --
14 A Yeah, I recall that says Brian Padgett's
15 testimony; but if you can point me to the page that --
16 Q Yeah, page --
17 A Is it on the very top?
18 Q Page 2.
19 A Okay. Yep, looks like Brian Padgett.
20 Q Brian -- Mr. Padgett is a lawyer; correct?
21 A Correct.
22 Q At the time that the MIPA was entered into,
23 had the State of Nevada promulgated regulations with
24 respect to recreational marijuana?
25 A They had not.

1 Q As somebody who has been in the business of
2 cannabis since 2014, do you have a view -- a
3 layperson's view -- as to whether the promulgation of
4 recreational marijuana increases or decreases or does
5 nothing to the value of a license?

6 A Certainly this was on the tail of the big
7 boom in Colorado, followed shortly by Washington; so I
8 think it was pretty apparent to the industry that
9 recreational market was going to increase the value of
10 licenses.

11 Q And as you sit here today, do you have a
12 layperson's view as to if there's any multiple as to
13 what, or percentage as to what the promulgation of
14 recreation would do to the value of a license?

15 MR. WILEY: Objection, calls for expert
16 testimony.

17 ARBITRATOR BAKER: Overruled.

18 THE WITNESS: I would say some of the
19 statistics that we used internally for our -- our
20 projections -- and this was -- I remember sourcing it
21 from market data -- we were finding that in the
22 medical market two percent of the population were
23 customers; and that ranged anywhere from about 1.5 to
24 2.2 percent.

25 And in a recreational market, we were seeing

1 anywhere from about 11 and a half to 12.8 percent of
2 the population were users. So I guess, therefore, you
3 know, conservatively, it's five times the value of a
4 medical market, just based on number of users.

5 BY MR. FEUERSTEIN:

6 Q Now, Mr. Terry, in connection with the MIPA,
7 did you ever sign any document agreeing to transfer
8 your membership interest over to CWNV?

9 A Not to CWNV, no.

10 Q In connection with -- well, let me take a
11 step back.

12 Prior to this hearing, do you have any
13 firsthand knowledge as to whether the licenses held by
14 the parties to the MIPA have been transferred to CWNV?

15 A I inquired into Department of Taxation last
16 week when I got suspicion that I might actually still
17 be on the license.

18 And I was told that nothing had been
19 transferred to CWNV, that it was still under NuVeda;
20 and I was still listed as an owner with a zero percent
21 interest on the license.

22 Q Was there -- I'm assuming by your answer that
23 nobody -- nobody from CWNV was listed -- well, let me
24 withdraw the question.

25 I'm assuming from your answer that nobody

1 from CW was listed on the license; is that fair to
2 say?

3 A I was -- I was told that it was the original
4 ownership structure, so myself, Jennifer, Joe Kennedy,
5 Pej, Pouya. NuVeda was still the parent company that
6 owned it.

7 I was told that I had zero percent interest
8 and they were not willing to disclose what the other
9 ownership interest were or the other members.

10 Q You ought to have in front of you, Mr. Terry,
11 a white binder that has on the cover, says "Expert
12 Reports." Do you have that?

13 A I do.

14 Q I'd like you, if you would, Mr. Terry, to
15 turn to tab 7. It should say on the cover, "Report on
16 the fair market value of NuVeda, LLC." Underneath it,
17 it says, "As of August 8, 2017, and retrospective
18 comment on report of November 28, 2016." Do you see
19 that?

20 A Yes, sir. Yes, I do; and yes, it does.

21 Q I'd like you to turn to page 5 of that
22 report.

23 And on page 5, if you read the -- I think
24 it's the second paragraph -- unfortunately, it's not
25 indented, but it begins "Table 1 shows the transaction

1 values of the three types of licenses. The average
2 values of the licenses are (rounded) \$200,000 for
3 cultivation and production, (rounded) 3 and a half
4 million dollars for dispensary." Do you see that?

5 A Yes, I do.

6 Q And then you see there's a number of
7 transactions that have nothing more than just the
8 license type and date. Do you see that?

9 A Yes, I do.

10 Q Based on the information that's provided in
11 table 1, do any of those transactions look familiar to
12 you?

13 A I couldn't specifically call out one that I
14 would be able to say, Yes, I know what that
15 transaction is about.

16 Q If I -- looking up from July '17 back in
17 time, do those prices reflect what you understood to
18 be the market price in Las Vegas for those types of
19 licenses?

20 MR. WILEY: Objection, lacks foundation.

21 ARBITRATOR BAKER: Sustained.

22 BY MR. FEUERSTEIN:

23 Q Mr. Terry, in -- between 2014 and two
24 thousand -- and the present, you've been involved in
25 the cannabis market; correct?

1 A Yes.

2 Q You work in particular or majority of your
3 time in Nevada; is that correct?

4 A Yes.

5 Q Has there been a focus in region within the
6 state of Nevada that you've worked?

7 A Southern Nevada.

8 Q Have you been familiar and kept abreast of
9 transactions in the marketplace either between
10 exchange of licenses or companies?

11 A Yes.

12 Q Would you believe that that's part of your
13 daily or routine business operation, that you follow
14 the market?

15 A I sit on the board of GB Sciences, which is a
16 publicly traded cannabis company. We have made
17 acquisitions and attempts at acquisitions ourselves.
18 I have personally purchased licenses. Since then, I
19 have consulted for other companies that have bought
20 and sold licenses, so yes.

21 Q With that, I'll restate my question.

22 Mr. Terry, do any of the transactions from
23 July '17 back in time, so February '16 to July '17,
24 appear to be transactions that occurred in the City of
25 Las Vegas?

1 MR. DUSHOFF: Objection, lacks foundation.
2 Whether he's now with a company that purchased or has
3 purchased, it doesn't say he did it back in '17 or
4 '16. You know, he may have done it in '18. They're
5 asking specific -- we need to know the specific time
6 when he's either done purchase or sales in order to
7 lay any proper foundation regarding something to this
8 effect.

9 ARBITRATOR BAKER: Overruled.

10 MR. FEUERSTEIN: Can you read the next
11 question, please. Can you read my question again,
12 please.

13 (Record read as follows:

14 "QUESTION: Mr. Terry, do any of the
15 transactions from July '17 back in time, so
16 February '16 to July '17, appear to be
17 transactions that occurred in the City of
18 Las Vegas?")

19 THE WITNESS: No, they -- no, I would -- my
20 opinion would be no.

21 BY MR. FEUERSTEIN:

22 Q And why is that?

23 A They seem -- \$50,000 for a license seems
24 extremely low, as does \$500,000 for a dispensary.
25 That was -- that was during the time frame that I was

1 actively searching for my license, and I believe I
2 purchased it in July of '16, my licenses, so I was
3 pretty familiar with it --

4 Q All right.

5 A -- at that time.

6 Q Do you have a view, Mr. Terry, whether prices
7 reflected -- well, you know, I'll take a step back.

8 Mr. Terry, you're familiar with the phrase or
9 the term "vertically integrated"?

10 A Yes.

11 Q What does that -- what does that mean to you
12 in the term -- in the context of cannabis
13 businesses?

14 A In this market it would be a company that
15 owns a dispensary, a cultivation, and a production
16 license.

17 Q And you have a view, Mr. Terry, of whether
18 selling a vertically integrated business has any
19 effect on the price versus, you know, selling
20 individual licenses or businesses?

21 A There should be -- there should be more value
22 attributed to a vertically integrated operation than
23 individual entities.

24 Q And during the course of your time -- well,
25 Mr. Terry, for the entirety of your career at NuVeda,

1 were you always the COO?

2 A No, I eventually became CEO.

3 Q In the course of your roles at NuVeda, were
4 you ever involved in the attempts or actual raising of
5 money?

6 A Yes.

7 Q Do you have a recollection, sitting here
8 today, of the valuations at which you were raising
9 money for NuVeda in or around, let's say, September of
10 2015 to ultimately your termination?

11 A We had -- we were looking at raising, on an
12 average, anywhere from 35- to 50 million.

13 MR. FEUERSTEIN: I have no further questions.

14 CROSS-EXAMINATION

15 BY MR. WILEY:

16 Q My name is Jason Wiley. Just to remind you
17 that I represent NuVeda, LLC, in this litigation. I
18 do have a couple of questions related to your
19 testimony that you've been providing. Let's start
20 with that first question, last.

21 When you were raising capital or attempting
22 to raise capital at a valuation of 35- to \$50 million,
23 were you ever successful at that value rate?

24 A We were not.

25 Q And you previously testified, and I think

1 this was your testimony, that you had not seen the
2 membership interest purchase agreement until a hearing
3 in the District Court?

4 A It was either in the disclosures or the
5 hearing itself, but I was not part of the -- I did not
6 know that there was anything formalized until that
7 hearing; correct.

8 Q Do you recall sending an e-mail to Jin Ho in
9 December of 2015, requesting that he pick this thing
10 apart with respect to the MIPA?

11 A I don't know if it was in respect to the
12 actual MIPA or terms that were being floated, I don't
13 remember -- I'd certainly remember having
14 conversations with Jin, yes.

15 Q At this point you were adverse to Dr. Bady
16 and Dr. Mohajer?

17 A We did not agree on the direction that we
18 were going with the company; correct.

19 Q In fact, you wished that the company would go
20 a different way with -- would enter into an agreement
21 for financing with Forefront?

22 A I had looked at the -- between those two
23 deals, yes, and I thought the Forefront was where I
24 was trying to push the company to go.

25 Q And that Forefront deal was contingent upon

1 Dr. Bady and Dr. Mohajer being removed from the
2 company; right?

3 MR. FEUERSTEIN: Objection, relevance.

4 ARBITRATOR BAKER: Overruled.

5 THE WITNESS: No, it wasn't.

6 BY MR. WILEY:

7 Q Were there ever discussions of -- about the
8 removal of Dr. Bady and Dr. Mohajer from the company
9 with any individuals from Forefront?

10 A To the extent that we were concerned that if
11 things were uncovered that were bad acts, that that
12 would jeopardize the license. So the -- the
13 conversations were around, you know, is the -- is the
14 license going to be jeopardized; and if so, will we
15 have to remove people.

16 But I think what you're referencing
17 specifically, the e-mail between Jin and I, where he
18 responded, does not specifically name Dr. Bady or
19 Dr. Mohajer as being the ones to be removed.

20 Q And these purported bad acts, is there -- did
21 you ever identify any bad acts on behalf of Mr. Bady
22 or Dr. Mohajer in that December 2015 time frame?

23 A Identify, as in like have concerns of or
24 start investigating?

25 Q Or petition the court for relief, based upon

1 these purported bad acts?

2 A Sure. Yes.

3 Q And was there ever a determination as to
4 whether or not Dr. Bady and Dr. Mohajer did, in fact,
5 undertake any bad acts that required any remedies?

6 A It was my understanding that this is still
7 what the arbitration is about, so I'm not sure that
8 that was taken to final conclusion yet.

9 Q Do you recall Judge Gonzalez's determination
10 as to whether or not Dr. Bady and Dr. Mohajer should
11 be expelled from the company in January of 2016?

12 A From my recollection, she said to maintain
13 the status quo.

14 Q Let's go back to that expert report that you
15 have in front of you.

16 MR. DUSHOFF: Arbitrator --

17 ARBITRATOR BAKER: Yes?

18 MR. DUSHOFF: -- if I may, since Dr. Bady and
19 Dr. Mohajer are a little bit still in the case before
20 waiting till tomorrow, would I also have an
21 opportunity to cross-examine, since -- I know I code
22 in there, but if they're still hanging out, would I
23 still have an opportunity to do as such?

24 ARBITRATOR BAKER: Do you have any
25 objections?

1 MR. FEUERSTEIN: I think you have -- I think
2 that's -- that's -- I mean, your analysis is
3 consistent with what I think is the right thing. I
4 mean, as long as we're not rehashing old ground.

5 MR. DUSHOFF: No, no, I won't rehash old
6 ground.

7 ARBITRATOR BAKER: Then, yes.

8 MR. DUSHOFF: Okay. Thank you.

9 BY MR. WILEY:

10 Q Mr. Terry, do you recognize any of these
11 transactions that are set forth in table 1 on page 5
12 of the expert report?

13 A I would not be able to say that this specific
14 transaction was related to a specific company, so
15 there's no other information other than the type of
16 license and amount, but there's no identifying
17 information.

18 Q So it's potentially possible that some of
19 these transactions occurred in Clark County?

20 MR. FEUERSTEIN: Objection. Anything is
21 possible.

22 ARBITRATOR BAKER: Overruled.

23 THE WITNESS: Anything is possible.

24 BY MR. WILEY:

25 Q Are you familiar with a company called Terra

1 Tech?

2 A Yes, I am.

3 Q Are you familiar with any sales in the last
4 six months that Terra Tech has entered into?

5 A Vaguely. Other than what I've seen in the
6 news.

7 Q Do you have any information as to the value
8 of the potential sale that occurred with Terra Tech?

9 A I would need a refresher on it.

10 ARBITRATOR BAKER: Is this marked as an
11 exhibit?

12 MR. WILEY: It's just to refresh his
13 recollection. Mr. Terry requested it.

14 THE WITNESS: Do you mind if I read through
15 it?

16 BY MR. WILEY:

17 Q Yeah, sure. Take your time to look that
18 over.

19 (Witness reviewing document.)

20 A I think I get the gist of it. And I am
21 familiar with that dispensary specifically.

22 Q This document purports that a Terra Tech
23 completed a sale of a -- one of their dispensaries;
24 correct?

25 A Correct.

1 Q And what is the value of the dispensary?

2 A It looks like 6.25 million. Doesn't say if
3 it was cash, but total consideration.

4 Q And also sets forth in that first paragraph
5 there that the sale completed and it involved
6 100 percent of the assets of the cannabis dispensary
7 located on Western Avenue?

8 A Correct.

9 Q And that's in Clark County; correct?

10 A I do not recall if that's technically
11 unincorporated Clark County or City of Las Vegas, but
12 it is within Clark County.

13 MR. FEUERSTEIN: Mr. Wiley, you'll have to
14 give me a geography lesson afterwards.

15 MR. WILEY: I'm not sure if I can give you a
16 geography lesson --

17 ARBITRATOR BAKER: Me, either.

18 MR. WILEY: -- if it entails the City and the
19 County or unincorporated.

20 THE WITNESS: Different jurisdictions have
21 different license allocations, tax structures,
22 whatnot.

23 BY MR. WILEY:

24 Q And the consideration paid, 6.25 million,
25 that's customary and an amount that is deemed to be

1 customary here in Clark County for an acquisition?

2 A As in an average price?

3 Q Correct.

4 A I would say no.

5 Q Why is that?

6 A Specifically, I'm familiar with this
7 dispensary. It must have been one of the worst
8 performing ones, just based on location. There's a
9 lot of competition on that specific road. And I know
10 that they weren't getting a lot of business. And
11 overall, even that being said, you know, 6.25 seems
12 lower than what I have historically seen them being
13 sold for.

14 Q But 6.25 was the price, nonetheless?

15 A For this one, yes, for a distressed asset.

16 MR. WILEY: I have no further questions.

17 ARBITRATOR BAKER: Mr. Dushoff.

18 MR. DUSHOFF: Thank you.

19 CROSS-EXAMINATION

20 BY MR. DUSHOFF:

21 Q I'm going to go back on the -- your last --
22 what you just talked about, Mr. Terry. You said this
23 was a distressed property; correct?

24 MR. FEUERSTEIN: Objection.

25 ///

1 BY MR. DUSHOFF:

2 Q You said the Western -- you said the
3 Western --

4 MR. FEUERSTEIN: Distressed asset.

5 BY MR. DUSHOFF:

6 Q Distressed asset, okay, is that Western
7 Avenue property; correct?

8 A Correct.

9 Q All right. So were you privy to the
10 financials of Terra Tech at that location?

11 A They're publicly reported, so, I mean,
12 technically, yes. But did I look at it?

13 Q Yeah.

14 A No.

15 Q So you have no familiarity, as you sit here
16 right now, as to what the financial condition, what
17 the financials where when this was sold to Exhale, in,
18 what was it, October of 2018; correct?

19 A No, that's not correct.

20 Q You just testified that you did not have the
21 financial; is that correct?

22 A Correct. That is correct.

23 Q Now, I want to talk to you about -- I want
24 you -- do you still have this page open -- you still
25 do -- on the exhibit?

1 A Page 5.

2 Q I think it's tab -- yeah, tab 7, page 5?

3 A Yes, sir.

4 Q All right. Now, you stated -- and
5 Mr. Feuerstein directed you -- that these numbers seem
6 low for cultivation for production dispensary;
7 correct?

8 A Correct.

9 Q Now, isn't it fair to say that purchase or a
10 license -- or cultivation license, production license,
11 depends on many variables; correct?

12 A Yes.

13 Q On the price?

14 Jurisdiction; correct?

15 A Yes.

16 Q All right. So something in the city of
17 Las Vegas will cost a lot more than something in
18 Elko?

19 A That's arguable. Theoretically, yes; but I
20 guess Elko, being one of two licenses, I think --

21 Q Right.

22 A -- in the entire county might generate more
23 foot traffic than competing for market share in the
24 city of Las Vegas.

25 Q And, you know, that's a fair argument. But,

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1 okay, how about Nye County?

2 A In what sense? Compared to --

3 Q Compared to --

4 A -- Las Vegas?

5 Q Yeah, compared to Las Vegas?

6 A For a dispensary license?

7 Q Yes.

8 A I'd have to do a market-share analysis, but I
9 would say in general I would assume that the city of
10 Las Vegas license would be more valuable than a Nye
11 County dispensary license, yes.

12 Q So instead of for me going specifics, you
13 would agree with me that the fluctuation in price and
14 value would depend on jurisdiction?

15 A I would agree with that for the most part.

16 Q And also you would agree with me on the size
17 of the dispensary or the cultivation, the size of the
18 dispensary would also determine -- be a determination
19 in value; correct?

20 A For a cultivation, I would absolutely agree.
21 For a dispensary, not necessarily.

22 Q Okay. Why not necessarily?

23 A Well, there are some dispensaries that are
24 extremely large. And I think a good dispensary metric
25 would be revenue per square foot, not just the simple

1 size. Where, conversely, with a cultivation, the
2 larger facility, the more you can produce out of it,
3 so the more revenue should be generated.

4 Q So for cultivation, size comes into play in
5 the value that you would pay for something?

6 A That's correct.

7 Q So, also -- and we talked about jurisdiction.
8 We're also talking about lo- -- I want to talk about
9 location. You talked a little bit about that.

10 Location on the Strip would be much more
11 valuable than a location somewhere else, potentially?

12 A Assuming you weren't losing market share --

13 Q Right.

14 A -- to any of your competitors, yes.

15 Q Okay. So location counts in value of shares,
16 in value of the license; correct?

17 A For dispensaries, yes.

18 Q All right. So when you look at dispensaries
19 in here on page 5, there's no showing what the
20 location was or jurisdiction that these are in;
21 correct?

22 A Correct.

23 Q Also -- and, also, again, location or
24 jurisdiction; correct?

25 A Correct.

1 Q Also, it doesn't talk about -- let's talk
2 about another thing: Operational. So it's also
3 important as an aspect of value is whether the -- it's
4 an ongoing concern; correct? If the company is
5 just -- if there's nothing there, it's worth less than
6 if there's already an ongoing concern and a business
7 is already going. Is that accurate, although it was
8 poorly phrased.

9 MR. FEUERSTEIN: I'm sorry. Can you restate
10 the question?

11 MR. DUSHOFF: Sure.

12 Q Isn't it a factor, also, whether the company
13 that gets the value is -- whether it's operational?

14 A And I want to be particular about this one.
15 So there's two type of licenses: One is provisional;
16 and one is, let's call it, perfected or operational.

17 Q Sure.

18 A So for a provisional license, you're --
19 technically, all those licenses needed to be up and
20 running 18 months after they were issued; so anything
21 after that, there's an associated risk.

22 Any operational license, once it's achieved
23 its final certification, obviously there's no risk of
24 revocation by the State.

25 I think at our stage of the industry, most

1 licenses are valued on future potential and not the
2 current operating status, simply because we're in a
3 growth stage. That's what I --

4 Q Right. But whether -- okay. So whether
5 these -- but if these were in provisional stage, as
6 you talked about, they would be worth less than, of
7 course -- because there's a greater risk -- than it
8 would be if they were already licensed with the State
9 and they perfected the license; correct?

10 A There is a time period where that was a
11 concern, until the State released a statement saying
12 as long as significant progress was being made. And
13 then that ended up being a gray area that I think
14 people --

15 Q And when was that?

16 A The significant progress, I want to say that
17 would have been probably about 15 or 16 months after
18 licenses were issued on De- -- either November or
19 December of 2014.

20 Q And when you talk about significant progress,
21 what are you talking about?

22 A Good question. And when the State released
23 that, I think that's the question that everybody in
24 the industry had.

25 Because it was loosely defined, people, I

1 think, in large part, determined that because it was
2 not specific, the State actually didn't have any
3 grounds to take action on it.

4 Q So you're saying whether a company is
5 actually operational has really no effect on the value
6 of the license?

7 A So certainly an operational company has made
8 more progress than others. And if I was looking at
9 the value of that license, of one that I was trying to
10 acquire, I would take a look at previous history,
11 past -- you know, past performance. And I think I
12 would place most of the value on -- with the right
13 management team, with the right operation -- what is
14 the potential of that license.

15 Q So if a company is making a lot of money and
16 they're doing very well at a certain spot and they
17 want to sell it, that has -- that, in and of itself,
18 has value; correct --

19 MR. FEUERSTEIN: Objection.

20 MR. DUSHOFF: -- operational, doing well at
21 that spot?

22 ARBITRATOR BAKER: Overruled.

23 THE WITNESS: I think that's evident from
24 previous sale -- or past sales.

25 ///

1 BY MR. DUSHOFF:

2 Q Right. And if it's not doing so well, of
3 course the value would go down and the price you would
4 pay would be determinative of how well that business
5 is doing; correct?

6 A In an apples-to-apples comparison, yes.

7 Q You talked about that you did not agree with
8 CW, with the MIPA; is that correct?

9 A I did not agree with it in comparison to
10 other potential deals that were on the table;
11 correct.

12 Q And you were aware that Judge Gonzalez, after
13 her -- after the preliminary injunction ruling,
14 okayed, allowed the CW, the MIPA, to continue?

15 A Correct.

16 Q You also testified that there was five
17 times -- that you believed there were five times --
18 you know, from medical to rec, that it increased
19 five-fold, the interest multiplier?

20 A I would say if you were to use the number of
21 2.2 percent medical and 10.5 percent or 11 percent in
22 rec, then -- or whatever -- 11 -- so four or five
23 times.

24 Q Where did you get that information from?

25 A Historical data that was released from

1 Colorado and Washington.

2 Q What's the specific historical data? When?
3 Where? What? Why?

4 A Specifically, both Washington and Colorado
5 Department of Taxations; in Washington, the liquor
6 board reports sales; and then their analyst reports.
7 Specifically, in Washington, there's a company called
8 Rand, which did a BOTEK analysis; and they brought in
9 an analyst firm to take a look at all the different
10 market conditions and where that was going.

11 Q You didn't produce any of that here today,
12 did you?

13 A Did I?

14 Q Yes.

15 A No.

16 Q So all that we know from you is that you read
17 something you believed in, from your determination of
18 this, that rec is five times what medical is; correct?

19 A From those numbers; correct.

20 And, again, do the math on it, but four to
21 five times.

22 Q But that's not based on any documents that we
23 have before us; this is just based on what you're
24 telling us?

25 A No, there's a lot of documents on the

1 computer. So I'm not sure if it is in there. It's --
2 we did use those numbers in our projections, pitch
3 decks, references, and past financials pro formas that
4 we created as a company, so I would imagine that
5 they're in here somewhere.

6 Q If they're -- okay. I'm going to put it to
7 you that if they're not in here, then really all we're
8 doing is relying on what you're telling us?

9 A You can go on their State website.

10 Q I didn't ask you about me going on the State
11 website. I asked you in front of us right now, really
12 we're just relying on what you're telling us the data
13 shows?

14 A Sure, of course.

15 Q And you talked about raising 35 million to
16 50 million, what you were hoping to raise for
17 NuVeda?

18 A That's correct.

19 MR. FEUERSTEIN: Objection. No, it misstates
20 the testimony.

21 ARBITRATOR BAKER: Overruled.

22 THE WITNESS: No, it's not.

23 BY MR. DUSHOFF:

24 Q What did you -- what do you testify to on
25 that?

1 A Those were the valuat- -- those average
2 valuations that we were raising on, not necessarily
3 the amount we were trying to raise.

4 Q Let me ask you, how much did you raise,
5 personally?

6 A Personally, as in me myself as an
7 individual or --

8 Q As getting an investor to come into NuVeda.
9 Isn't it true you didn't raise one dime from an
10 investor into NuVeda?

11 A No, I think we -- I'd have to total it up,
12 but it was over a million dollars.

13 Q From whom?

14 A Dr. Daniel Mosenbarre.

15 Q Mosenbarre never had a percent in NuVeda;
16 correct?

17 A Disclosed or undisclosed?

18 Q I didn't ask you that. I just asked, did he
19 ever have an -- did he ever have an interest in
20 NuVeda, according to the State, according to anybody
21 in there -- depicted in any documents?

22 A According to anybody?

23 Q No --

24 A I think according to him.

25 Q -- according to -- according to the State,

1 was he ever listed --

2 A No, he was not.

3 Q -- as an owner?

4 A No, he was not.

5 Q And it's also true, you -- who's Dan
6 Caravette, C-a-r-a-v-e-t-t-e?

7 A He was an associate -- I wouldn't say an
8 associate -- a contact brought to the table by a
9 friend of a previous independent contractor named
10 Wells Littlefield.

11 Q And did you buy licenses from Dan Caravette,
12 or an organization you were working with buy licenses
13 from Dan Caravette?

14 A Yes, I did.

15 Q Was it you or a company you're with?

16 A It was a company that I was a 100 percent
17 owner of.

18 Q And what is that company?

19 A At the time the company that bought those
20 licenses was TapRoot Holdings NV, LLC.

21 Q When were those bought?

22 A I believe that would have been around June of
23 2016 -- June, July.

24 Q What type of licenses?

25 A A cultivation and a production, both

1 provisional at the time.

2 Q And isn't it true you spent -- you paid
3 \$200,000 for those licenses?

4 A Each.

5 Q Each.

6 A And there were other considerations involved
7 in the deal for value.

8 MR. DUSHOFF: I have nothing further.

9 MR. WILEY: Hang on. Before we pass the
10 witness, I just -- can we move to admit the Terra
11 Tech, since he did --

12 MR. FEUERSTEIN: No objection.

13 MR. WILEY: -- utilize it?

14 ARBITRATOR BAKER: Okay.

15 (Joint Exhibit 257 was entered into
16 evidence.)

17 MR. FEUERSTEIN: Okay. I have some -- a
18 little bit of rebuttal.

19 ARBITRATOR BAKER: Go ahead.

20 REDIRECT EXAMINATION

21 BY MR. FEUERSTEIN:

22 Q Let's pick up on the last point with this
23 guy, Dan Caravette. Can you describe the
24 circumstances around the acquisition of those
25 licenses?

1 A I kept in touch with Dan Caravette since we
2 met him through NuVeda. He -- I was actively looking
3 for licenses. He represented to me that he owned
4 licenses, and so I negotiated a deal with him where
5 I'd pay \$200,000 cash, per license. There was an
6 ongoing supply agreement, a contract manufacturing
7 agreement, that I utilized to be able to get that
8 value down from the licenses that he wanted.

9 As that progressed into further due
10 diligence, I realized he actually didn't own the
11 licenses, but he had rights to sell the licenses on
12 behalf of the owner.

13 And eventually we found out that -- from what
14 I have been told that he misrepresented the actual
15 purchase price to the ownership group and pocketed a
16 lot of money on -- from me; but I got the licenses, so
17 I guess I didn't care.

18 Q At some point I'm -- TapRoot's an existing
19 business today?

20 A It is.

21 Q At some point TapRoot had to be capitalized,
22 I assume?

23 A Correct.

24 Q How soon after you acquired these provisional
25 licenses did you capitalize the company?

1 MR. WILEY: Objection, this is outside the
2 scope of cross.

3 MR. FEUERSTEIN: I think it was opened by
4 Mr. Dushoff.

5 ARBITRATOR BAKER: I'm going to allow it.
6 Overruled.

7 THE WITNESS: Within the due-diligence
8 period, that I had to close on the licenses.

9 BY MR. FEUERSTEIN:

10 Q And how long was that?

11 A Thirty days.

12 Q And at what valuation did you raise in that
13 initial raise?

14 A It was 1.5 million premoney valuation, so
15 3 million post.

16 Q And that was out of pro- -- those are still
17 provisional by the time you closed?

18 A Correct.

19 Q And by the time the investors put their money
20 in?

21 A Correct.

22 Q I want to go back to a question raised by
23 Mr. Dushoff, which -- around -- is it Mr. or
24 Dr. Bahri, B-a-h-r-i?

25 A Doctor.

1 Q And there was a question about whether
2 Dr. Bahri had an interest in NuVeda or whether he
3 didn't.

4 Do you recall that Dr. Bahri once claimed
5 that he had an interest?

6 A I do.

7 Q Do you recall whether there was any
8 discussion as to -- well, let me withdraw the
9 question.

10 Did anybody from NuVeda, to your knowledge,
11 offer Dr. Bahri an interest in NuVeda?

12 A Dr. Bady did.

13 Q Do you recall what the valuation Dr. Bady
14 placed on NuVeda at around the time that he made that
15 offer to Dr. Bahri, to your understanding?

16 A I don't recall exactly. I believe, from what
17 I do remember -- and I don't remember exactly at what
18 stage -- but it was something along the lines of a
19 one percent -- one percent membership interest for
20 either 500- or a million dollars. And, again, kind
21 of -- I don't recall exactly at what stage that was.
22 It might have fluctuated a little bit.

23 Q Okay.

24 A I'm sorry, to be clear, that was 500,000 or a
25 million dollars.

1 (Court reporter requests clarification.)

2 THE WITNESS: 500,000 or a million dollars,
3 in case I might have said 500 million.

4 BY MR. FEUERSTEIN:

5 Q Okay. Mr. Wiley introduced to you a
6 document.

7 I'm sorry, did we put a number on this or we
8 just ...

9 MR. WILEY: Oh, I believe the last number we
10 had was 256, so why don't we call the Terra Tech
11 document Joint 257.

12 MR. FEUERSTEIN: Good by me.

13 MR. WILEY: Okay.

14 BY MR. FEUERSTEIN:

15 Q So Mr. Wiley presented you with what's been
16 marked as Joint 257, which is the Terra Tech article,
17 which talks about a sale in October of -- in or around
18 October of 2018 --

19 A Uh-huh.

20 Q -- fair to say?

21 Any other transactions you're aware of,
22 Mr. Terry, in or around this time, 60 days plus or
23 minus from the Terra Tech transaction?

24 A Sounds about the same time where one of my
25 companies put an LOI in for an acquisition of a

1 vertical integrated company.

2 Q OKay. Are you familiar with a company called
3 Essence?

4 A I am. Okay. So, sorry. I'm get- -- I'm
5 about one year off, so, yes.

6 Q You're familiar with a company called
7 Essence.

8 Do you recall whether in or around the same
9 time that Terra Tech sold this dispensary, did Essence
10 enter into a transaction?

11 A They did. It was pretty close to this
12 time.

13 Q And do you recall what Essence was -- for
14 instance, was Essence buying or selling an asset?

15 A Essence combined with Cannabiotix and that
16 was -- Essence was selling interest in three -- or the
17 acquisition of its three dispensaries, along with its
18 cultivation, which was a cultivation in production.
19 And Cannabiotix was a part of this, which was largely
20 recognized as a brand; but they also had a cultivation
21 production as well.

22 Q And what was the consideration that the buyer
23 was providing to Essence for those cultivation -- the
24 cultivation license, the production license, and the
25 three dispensary licenses?

1 A I recall from what was in the press,
2 280 million.

3 Q The last set of questions. Mr. Wiley and
4 Mr. Dushoff asked you -- both asked you questions
5 about your ability to raise money at NuVeda.

6 In your recollection, was the valuation the
7 problem standing in your way to raise money at NuVeda?

8 A I do not think so.

9 Q What do you think it was?

10 A Management team and concerns over management
11 actions.

12 Q And who in particular on the management
13 team?

14 A With Dr. Bady.

15 MR. FEUERSTEIN: I have no further questions.

16 ARBITRATOR BAKER: Thank you, Mr. Terry.

17 I have down Joint Exhibit 149 and 164, moving
18 those to admit as well as Joint exhibits?

19 MR. WILEY: I think we -- anything that's
20 going --

21 ARBITRATOR BAKER: Anything that's on
22 there is going to be --

23 MR. WILEY: -- has been admitted.

24 ARBITRATOR BAKER: Okay.

25 MR. FEUERSTEIN: Yes.

1 MR. WILEY: Stipulated to.

2 MR. FEUERSTEIN: Thank you, Mr. Terry.
3 That's it.

4 THE WITNESS: Thank you.

5 ARBITRATOR BAKER: Okay. It's a -- I think
6 we can go off the record.

7 (Break taken.)

8 Thereupon,

9 JENNIFER M. GOLDSTEIN,
10 called as a witness by the Claimant having
11 been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. FEUERSTEIN:

14 Q Good afternoon, Ms. Goldstein.

15 A Good afternoon.

16 Q As we did with Mr. Terry, I'd like you to
17 give Arbitrator Baker just a brief background of your
18 education post high school.

19 A I graduated from UCLA, went to Tulane for law
20 school. I think that's the extent of my formal
21 education.

22 Q And when did you graduate Tulane?

23 A 1995.

24 Q Can you briefly tell the Arbitrator what you
25 did from 1995 'til, let's say, 2014?

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1 A I moved back to the Bay Area, took and passed
2 the California Bar. Worked for a law firm called
3 Wilson Elser Moskowitz Edelman & Dicker. Moved then
4 to Gordon & Rees. Moved then to Gray Cary Ware &
5 Freidenrich; which was then, I think, right when I got
6 there, shortened to just Gray Cary, and then merged
7 into DLA Piper.

8 Q And what did you do in your capacity as a
9 lawyer at those firms?

10 A Employment litigation.

11 Q We heard Mr. Terry testify a little bit about
12 his introduction to you. Can you sort of elaborate a
13 little bit on how you met, not just Mr. Terry, but
14 also the members of NuVeda?

15 A Mr. Terry and I camped next to each other,
16 became friends; as he described, met. And I had sort
17 of vaguely mentioned I was interested in pursuing
18 opportunities within the soon-to-be-created
19 medical-marijuana industry in the state of Nevada.
20 Thinking also about potentially going back -- I had
21 recently moved to Nevada and was thinking also about
22 investing potentially in California as well.

23 Q What did -- what do you recall about the
24 first meeting you had with Drs. Bady and Mohajer about
25 NuVeda?

1 A My very first meeting, other than my brief
2 conversation with Shane, was with Dr. Bady at the --
3 the Starbucks.

4 Q And what was discussed?

5 A It was just sort of a get to know one
6 another. We talked about the industry, trying to help
7 people, sort of forward thinking, patient care.

8 Dr. Bady mentioned that -- something to the
9 effect that the Obama Administration had asked him to
10 come and to help them to revamp it was either Medicare
11 or Medicaid. And that he had foregone that
12 opportunity to move to India.

13 We talked about spirituality. He recommended
14 some books for me to further my spirituality. We
15 decided, I think, that our goals aligned and perhaps
16 our skills and resources aligned and it was worth
17 discussing further.

18 Q And what do you recall about the
19 circumstances under which you received your
20 seven percent nondilutable interest?

21 A As I recall, I was offered two options. I
22 heard Shane testify that there were three; in his
23 recollection, that could be right.

24 In my recollection, there were two options,
25 one of which was seven percent nondilutable, no

1 capital contributions required of me.

2 And the second was for significantly more of
3 an ownership interest, but I would have to contribute
4 on par, in my recollection, with Shane and Pouya, who
5 were at that juncture equal in their capital
6 contributions to the company.

7 Q Do you recall ever making a demand that you
8 have to have nondilutable shares?

9 A No.

10 Q Ms. Goldstein, you also have a recollection,
11 I'm assuming, of the membership interest purchase
12 agreement that was marked and entered into evidence as
13 Exhibit 149?

14 A I do. Are you asking me to bring it up?

15 Q You can look at it if you'd like.

16 A I'm sorry, you said it was 149?

17 Q 149, yes.

18 A Okay.

19 Q And do you have a recollection sitting here
20 today as to what the consideration was in exchange for
21 Clark and Nye contributing the 65 percent interest?

22 A Without reviewing it in more detail, my
23 recollection was that it was about \$22 million from
24 CW.

25 Q I'll ask the same question I asked Mr. Terry:

1 Do you have any recollection sitting here today
2 whether you were ever asked to sign any document
3 consenting to your membership interest in Clark and
4 Nye being transferred to CW?

5 A I hesitate only because I don't recall
6 whether or not during the course of the instant
7 litigation we were ever posed with a request or
8 directive to sign anything and balked or whether it
9 just never happened, but not that I recall.

10 Q Do you know, sitting here today, whether the
11 licenses have in fact been -- whether the membership
12 interests have been transferred from NuVeda or its
13 subsidiaries to CWNV?

14 A Only based on Mr. Dushoff's representations
15 to me during my deposition in this office about a
16 month ago, and what Shane testified to earlier today.

17 Q Did there ever come a time, Ms. Goldstein,
18 when there was a discussion about exchanging your
19 nondilutable shares into dilutable shares?

20 A Yes.

21 Q What do you recall about that discussion?

22 A There were a number of discussions, the most
23 salient of which was a conversation that Pej and I had
24 at the Denny's in Nye County, where he presented to me
25 a formula where he would value my shares based on a

1 60 percent dilution with the intake of money.
2 Effectively what it did is it assumed that the
3 investment would require a 60 percent dilution of the
4 shares.

5 So what he offered me then was to increase my
6 nondilutable shares by that 60 percent such that once
7 the dilution happened, I would be back down to seven
8 percent dilutable shares; but that first tranche of
9 dilution with the 60 percent investment would have
10 already happened, thus I would have dilutable shares,
11 but after everybody else had diluted down by that
12 60 percent.

13 Q In essence, Dr. Bady was bumping your value
14 up and then taking away the dilutions?

15 A Correct.

16 Q And so what does that mean to you?

17 A That my nondilutable shares would have more
18 value as dilutable shares.

19 Q There came a time, Ms. Goldstein, where the
20 disinterested members -- I'll use air quotes around
21 disinterested members -- voted to expel you from the
22 do. Company you recall that?

23 A I do.

24 Q Do you recall ever having the discussion at
25 that time -- well, let me take a step back.

1 Do you recall when, approximately, that vote
2 took place?

3 A August 8, 2017.

4 Q Do you remember the time? Withdraw the
5 question.

6 Do you recall having a conversation at any
7 point during that meeting or thereafter about what the
8 fair market value of your interest should be?

9 A No.

10 Q Do you recall ever being presented with the
11 written agreement as to what the fair market value
12 should be between and among the members -- only the
13 members now?

14 A I'm sorry, I want to --

15 Q Let me withdraw -- let me withdraw the
16 question.

17 Did any member of NuVeda write you an e-mail
18 or send you a letter proposing -- I'm trying to get to
19 the point where we're not just talking about
20 conversation.

21 Was there any written proposal from any of
22 members from NuVeda?

23 A Not that I recall.

24 Q Was there ever a discussion among -- with you
25 involved -- among the members of NuVeda, talking about

1 hiring an appraiser to find the fair market value of
2 your shares in NuVeda?

3 A No.

4 Q Do you recall ever seeing an e-mail, letter,
5 piece of paper, document, that discussed among the
6 other members who to hire with respect to an appraiser
7 to value your shares in NuVeda?

8 A No.

9 Q Do you recall ever receiving anything from
10 respondents or their lawyers with respect to a value
11 for your shares in the company?

12 A I do.

13 Q And what do you recall?

14 A I recall receiving an e-mail with an
15 appraisal attached, between three weeks and a month
16 after they purported to expel me, that contained a
17 purported appraisal.

18 Q Okay.

19 A From Mr. Dushoff.

20 Q What do -- what was your reaction to that,
21 receiving that document?

22 A I mean, frankly, it was in keeping with what
23 had transpired up to that point with regard to dealing
24 with my partners in good faith. I did not think it
25 was in good faith or in any way accurate assessment of

1 the value of the company. I think it defied all of
2 our prior efforts to raise money based on various
3 valuations; but, you know, in each case, many, many
4 times higher than that stated in the appraisal.

5 I recall the appraisal being brief and with
6 no substantive support for the result.

7 I wrote back to Mr. Butell, who either at
8 that point or at some point became general counsel to
9 the company, and asked for the documents underlying
10 the appraisal, because at that point they hadn't been
11 given to me as a member of the company.

12 And, as I recall, there was no
13 response from -- well, I'm sorry, I take that back.
14 He did respond saying something to the effect of, I'll
15 get those to you shortly.

16 And, in my recollection, that was the last I
17 heard with regard to the appraisal or the purchase of
18 the shares.

19 Q You've also claimed that there are expenses
20 that you have that are reimbursable by the company; is
21 that correct?

22 A Correct.

23 Q Do you recall, sitting here today,
24 approximately what those expenses are?

25 A What they are?

1 Q Or how much, I'm sorry?

2 A I recall the big expenses. I think they're
3 between 50- and \$60,000.

4 Q Do you recall whether the proposed offer from
5 NuVeda contemplated returning your expenses?

6 A Not to my understanding.

7 Q Ms. Goldstein, in response to one of my
8 questions a moment ago, you mentioned the valuations
9 that you were going out to raise capital on.

10 Do you recall, sitting here today, whether an
11 individual named Dr. Bahri made a claim with respect
12 to having an interest -- an equity interest -- in
13 NuVeda?

14 A I do.

15 Q Do you recall whether -- well, were you
16 involved in making that offer to Dr. Bahri?

17 A I was not.

18 Q Do you recall who made the offer to
19 Dr. Bahri?

20 A In my understanding, it was Pej Bady.

21 Q And do you recall whether there was a
22 valuation attached to the company in that offer?

23 A In my recollection, Dr. Bady told us that the
24 valuation that he prescribed for Dr. Bahri's
25 investment was \$25 million.

1 Q Sitting here today, Ms. Goldstein, almost
2 18 months after you first made the request for the
3 underlying information for the, quote/unquote,
4 "appraisal," have you still to this date seen the
5 backup information supporting that number?

6 A I have not.

7 MR. FEUERSTEIN: No further questions.

8 ARBITRATOR BAKER: Mr. Wiley?

9 MR. WILEY: Why don't we go ahead and break
10 according to the plan, then we'll come back. 1:30?

11 ARBITRATOR BAKER: That's fine with me.
12 We'll be in recess until 1:30.

13 (Recess taken.)

14 ARBITRATOR BAKER: Back on the record.

15 Ms. Goldstein, do you understand you're still
16 under oath?

17 THE WITNESS: I do.

18 ARBITRATOR BAKER: Please proceed, Mr. Wiley.

19 MR. WILEY: Sure.

20 CROSS-EXAMINATION

21 BY MR. WILEY:

22 Q Ms. Goldstein, do you recall in November 2015
23 the attempts that you and the other minority members
24 of NuVeda attempted to expel Dr. Bady and Dr. Mohajer
25 from NuVeda?

1 A I don't recall specifically the time frame,
2 but I do recall the efforts, yes.

3 Q And do you recall whether or not that issue
4 was litigated in a preliminary injunction before
5 Judge Gonzalez?

6 A I recall the preliminary injunction hearing,
7 yes.

8 Q And do you further recall that the parties
9 participated in an evidentiary hearing before the
10 judge?

11 A Yes.

12 Q At close of the hearing, Judge Gonzalez
13 issued an order; isn't that correct?

14 A Correct.

15 Q Have you reviewed that order?

16 A I have.

17 Q Let's go ahead and look at Joint Exhibit 165.
18 And I know we're dealing with the Texas Instruments
19 over there so --

20 MR. WILEY: TRS-80.

21 THE WITNESS: Okay.

22 BY MR. WILEY:

23 Q Have you had a chance to adequately review
24 the document?

25 A Yes.

1 Q Is it your understanding that the judge's
2 order denied the parties' attempts to cross-expel each
3 other?

4 A Correct.

5 Q And also, in looking specifically at
6 paragraph 14, the judge's order, and it provides, and
7 I quote, "The terms of an operating agreement should
8 be given their plain meaning." Did I read that
9 correctly?

10 A Yes.

11 (Court reporter requests clarification.)

12 MR. FEUERSTEIN: "Should be given their plain
13 meaning."

14 BY MR. WILEY:

15 Q And to me, "plain meaning" refers to the
16 literal interpretation of the language provided.
17 Would you agree with that assessment?

18 A My understanding of "plain meaning" would be
19 that of having a common-usage definition, so the usual
20 standard understanding of a term or phrase.

21 Q And then you would further agree with me that
22 Judge Gonzalez' opinion is that the provisions of the
23 operating agreement, including the NuVeda operating
24 agreement, should be given their plain meaning in
25 interpretation of the provisions that are set forth

1 therein?

2 A Correct.

3 Q All right. Let's go ahead and turn to the
4 events that are before us today. And again, I want to
5 clarify and make sure that we're clear for the record,
6 you are not challenging the validity of the NuVeda
7 members' expulsion of your interest in the company;
8 correct?

9 A Restate that for me, please.

10 Q Okay. So you're not looking for a
11 reinstatement, as a remedy, into the company?

12 A Correct.

13 Q Instead, the challenge is whether or not the
14 provisions of the operating agreement dealing with
15 expulsion were properly followed?

16 A Correct.

17 Q Let's go ahead and turn to Exhibit 8, the
18 operating agreement. Specifically, you can go ahead
19 to turn to section 6.2.

20 A Okay.

21 Q All right. Would you agree that section 6.2,
22 entitled, "An expulsion or death of a member," that
23 provides the procedures for expulsion of a member's
24 interest in NuVeda?

25 A Correct.

1 Q There's no other section in the operating
2 agreement or addendum or amendment which governs the
3 expulsion procedures?

4 A I don't know.

5 Q Do you recall testifying last month in your
6 deposition that you were the primary author of the
7 operating agreement?

8 A I do.

9 Q Do you know as the primary author of the
10 operating agreement whether or not there is any other
11 sections in the operating agreement that deal with
12 expulsion?

13 A I don't know.

14 Q You don't know?

15 A Correct.

16 Q Have you reviewed the operating agreement
17 recently?

18 A Not recently, not in its entirety.

19 Q Do you know whether or not you prepared any
20 addendums or amendments to the operating agreement?

21 A I have not.

22 Q But if there were to be -- well, strike that.
23 Let's go back.

24 Do you know whether or not anybody else
25 provided or prepared any addendums or amendments to

1 the operating agreement?

2 A I was presented with addendums or amendments
3 to the operating agreement I believe in 2016.

4 Q Do you know whether or not those addendums or
5 amendments dealt with the expulsion procedures?

6 A I don't recall.

7 Q So the second paragraph of section 6.2 that
8 begins with "Upon the expulsion," you would agree with
9 me that that paragraph provides that "An expelled
10 member is entitled to receive fair market interest in
11 his or her membership interest in the event of an
12 expulsion"; correct?

13 MR. FEUERSTEIN: I think you misspoke, Jason.
14 I think you meant "fair market value."

15 MR. WILEY: I'm sorry. "Fair market value."

16 THE WITNESS: So as I read it, it says, "The
17 fair market value of that member's ownership
18 interest."

19 BY MR. WILEY:

20 Q And in the event that the voting members --
21 and that's a defined term we'll get to in a second --
22 and the expelled member cannot agree on a price for
23 the expelled member's interest in the company, this
24 paragraph provides for the determination of the value
25 of the interest; right?

1 A It does.

2 Q And specifically it states, "In the absence
3 of a formal agreement as to the fair market value, the
4 voting members shall hire an appraiser to determine
5 the fair market value." Did I read that correctly?

6 A Tell me where you're reading, please.

7 Q It is in the second paragraph, about five
8 lines down -- six lines down, maybe?

9 A I see it.

10 Q It begins with "In the absence of an informal
11 (sic) agreement as to the fair market value, the
12 voting members shall hire an appraiser to determine
13 the fair market value." Did I read that correctly?

14 A Almost.

15 Q Where did I ...

16 A You added that article -- but okay.

17 Q The gist of it was correct?

18 A Correct.

19 MR. FEUERSTEIN: You got the spirit down.

20 BY MR. WILEY:

21 Q So that term "voting member" as defined, you
22 set forth in your arbitration brief that even after
23 notification of your expulsion, you were still
24 classified as a voting member. Is that your
25 position?

1 A I'm sorry, restate that for me.

2 Q Your arbitration brief argues -- and, again,
3 this is for the first time -- that after notification
4 of your expulsion, that you were still classified as a
5 voting member; is that correct?

6 A You're asking if an arbitration brief reads,
7 and I haven't -- I haven't reviewed the final copy, so
8 I don't know what the arbitration brief reads.

9 Q Okay. As you sit here today and testifying
10 in your capacity as you, the individual claimant who
11 is prosecuting claims against the company, do you know
12 whether or not you are still alleging that you are a,
13 quote/unquote, "voting member" pursuant to the terms
14 and condition of the operating agreement?

15 A I believe when you and my counsel reached an
16 agreement whereby I was waiving my right to seek
17 reinstatement, at that juncture I became a nonvoting
18 member.

19 Q So any argument where you allege that you, as
20 a voting member, should have been consulted regarding
21 the appraisal, would be in error?

22 A No.

23 Q So this is what I'm trying to pin down. I'm
24 trying to figure out exactly where it's coming from,
25 because this is the first time we've seen this

1 argument.

2 Your previous testimony was that you do not
3 believe that you were a voting member once the
4 agreement between counsel was made, wherein we're just
5 trying to figure out the determination of your value,
6 not whether or not the expulsion was wrongful?

7 A Correct.

8 Q So is it your testimony or is it your
9 position today that you should have had a part in the
10 retention of an appraiser back in August of 2016?

11 A Yes.

12 Q Excuse me, 2017?

13 A Yes.

14 Q And you're relying upon what provision in
15 asserting that allegation?

16 A So if you scroll up under 6.2, the plain
17 language of the paragraph states the mandatory number
18 of votes one must have in order to expel or expulse a
19 member. In that case, they use what's called
20 disinterested voting interest. Thus, we would assume
21 that everybody who is not being expelled, whose
22 memberships are not at risk, would be the
23 disinterested voting interest. If you move --

24 Q I agree with that.

25 A Okay. So if you move down in that paragraph,

1 what you don't see is the word "disinterested." What
2 you -- so what we then do, it becomes more inclusive.
3 Giving the plain meaning to each of the words in that
4 same section, we differentiate between the
5 disinterested voting members and voting member.

6 And so I think patently the distinction
7 between the disinterested member, which would be not
8 me, when they're voting on my shares --

9 Q Okay.

10 A -- and the voting members, which would be
11 everybody, is a plain reading of 6.2.

12 Q But wouldn't you agree with me that once you
13 were expelled from the company, you were no longer a
14 voting member, either, because you weren't a member at
15 all?

16 A Well, I think you and I have different
17 understandings as to when I was expelled. My belief
18 is that my expulsion was done in bad faith, without
19 good cause. The respondents failed to adhere to the
20 plain meaning of 6.2. They failed to make the
21 payments required by 6.2. They failed to obtain the
22 appraisal on a good-faith basis from an independent
23 party as required by 6.2. And thus, I don't think any
24 of the circumstances giving rise to my expulsion
25 would, in fact, satisfy the requirements of 6.2.

1 Q Yeah.

2 A So you're -- go ahead.

3 Q So again, I think we're kind of going back in
4 time as to different causes of action that were
5 alleged prior to the agreement between the parties.
6 So once you were expelled from the company, my
7 question is, you were no longer a voting member;
8 correct?

9 A Once I was properly expelled from the
10 company, I would no longer be a voting member;
11 correct.

12 Q And there's nowhere in section 6.2 of the
13 operating agreement which provides that an expelled
14 individual is still a member of the company until
15 payment of his or her interest is tendered, is
16 there?

17 A It would be my understanding that unless and
18 until the terms of the operating agreement regarding
19 an expulsion had been fully and finally satisfied,
20 that one could not say that that member had been
21 expelled.

22 Q But, again, that wasn't my question.

23 There's nowhere in the section 6.2 of the
24 operating agreement which provides that an expelled
25 individual is still a member of the company until

1 payment is tendered; correct?

2 A But I believe you're assuming facts not in
3 evidence; because what I'm saying is that unless one
4 has been fully and fin- -- and actually expelled, then
5 one would remain a voting member.

6 So I don't think the company could just --
7 I'll rephrase.

8 I don't think any company could just
9 ceremoniously expulse someone, not abide by the rest
10 of the terms of the operating agreement, not pay the
11 person, and then assume that that person had no rights
12 in the company. So --

13 Q But you would agree with me that there is a
14 time provision within that provision within which
15 payment was to be tendered; correct?

16 A Point it to me, please.

17 Q Okay. So in that same second paragraph --

18 A Okay.

19 Q -- about nine lines down --

20 A Right.

21 Q -- "The voting members may elect by written
22 notice that is provided to the expelled or deceased
23 member's successor in interest, estate, or beneficiary
24 or beneficiaries, within 30 days after the member's
25 expulsion or death, to purchase the former member's

1 ownership interest." Did I read that correctly?

2 A Yes.

3 Q So let's assume for purposes of my question
4 right now --

5 A Right.

6 Q -- that expulsion was proper, you would agree
7 with me that the company had a period within which to
8 tender the payment; correct?

9 A I believe there is a period during which the
10 company had to tender the payment, but I don't believe
11 that it's based on the portion of the sentence that
12 you said.

13 I think that -- my understanding of that
14 language relates to the notice, and that they would
15 have that period of time in which to elect in writing
16 how they wanted to proceed with their payment.

17 Q Okay.

18 A And thereafter, that would determine when in
19 fact the payment would be due.

20 Q So I agree with that assessment. I agree
21 that the notice has to be provided within 30 days, as
22 to how they were going to proceed; correct?

23 A Correct.

24 Q So you would agree with me that in a perfect
25 world if the expulsion was proper, in the pendency of

1 that 30 days the expelled party would no longer be a
2 member of the company?

3 A I don't.

4 Q Well, doesn't it say former member?

5 A Okay.

6 Q Okay.

7 A But I think you're only making my argument
8 that if the company purports to expulse a member and
9 then does nothing further to satisfy the company's
10 obligations under the terms of the operating
11 agreement, one can't thus just proceed and say, Oh,
12 it's a former member, a current member, now a voting
13 member, et cetera.

14 The mechanisms in place for triggering the
15 expulsion were not followed by the respondents. And
16 as such, in my understanding, unless and until I
17 decided that -- that I wouldn't contest the expulsion,
18 I was still a member of the company. And that's what
19 I testified to at my deposition, I still believed
20 myself to be a member of the company until my counsel
21 entered into the agreement with you.

22 Q All right. And again, breaking down the
23 provision of the agreement, okay, sets forth that in
24 the event an expulsion occurs, the voting interests --
25 excuse me -- the voting members are entitled to obtain

1 an appraiser for determination of the fair market
2 value of the company; correct?

3 A I'm sorry, say it for me again.

4 Q Okay. 6.2 --

5 A Yes.

6 Q -- provides for the vehicle in which to
7 proceed in the event of an expulsion; correct?

8 A Correct.

9 Q And in the event an expulsion occurs, 6.2
10 provides that the voting members of the company are
11 entitled to retain an appraiser; correct?

12 A Correct.

13 Q And that's for the determination of the
14 expelled party's -- the fair market value of their
15 interest; correct?

16 A Correct.

17 Q And the agreement further states that notice
18 is to be provided to the former member as of -- or
19 after expulsion occurs, as to how the company is going
20 to proceed with notice of the fair market value;
21 correct?

22 A Correct.

23 Q It's your understanding that NuVeda retained
24 Mr. Webster to provide an appraisal?

25 A Yes.

1 Q And they provided Mr. Webster's appraisal to
2 you, setting forth the company's fair market value;
3 correct?

4 A They provided the Webster appraisal to me,
5 yes.

6 Q And as you testified in your deposition,
7 Mr. Butell contacted you by e-mail with the Webster
8 appraisal attached; isn't that correct?

9 A I did receive it via e-mail from Mr. Butell;
10 correct.

11 MR. WILEY: Okay. Let's go ahead -- what is
12 that, 258?

13 MR. FEUERSTEIN: Yep.

14 MR. WILEY: 258.

15 (Joint Exhibit 258 was marked for
16 identification.)

17 BY MR. WILEY:

18 Q Ms. Goldstein, do you recognize this
19 document?

20 A I do.

21 Q Are any of these the e-mails you received
22 between you and Mr. Butell?

23 A They are.

24 Q And you were provided with the Webster
25 appraisal at that time?

1 A In one of these e-mails, yes.

2 Q Let's go ahead and turn to the Webster
3 Business Group appraisal.

4 A Okay.

5 Q Previously you testified you believe this
6 appraisal was not done in good faith; correct?

7 A Correct.

8 Q Not prepared in good faith, I should say.
9 Let's look at the assets. Cash in hand,
10 \$35,000. Do you have any reason to dispute that that
11 was the amount of cash that NuVeda had at the time the
12 appraisal was prepared?

13 A I have no basis to make an opinion either
14 way.

15 Q Second asset is 35 percent of CWNV, LLC. Is
16 it your understanding that at the time the appraisal
17 was conducted that NuVeda possessed a 35 percent
18 interest in CWNV, LLC?

19 A I don't know.

20 Q Had you reviewed the MIPA by and between the
21 parties?

22 A I have.

23 Q Is it your understanding that the MIPA
24 provided for the creation of CWNV, LLC?

25 A Yes.

1 Q And that CWNevada was to retain its
2 65 percent interest in the company?

3 A Yes.

4 Q And that NuVeda would have a 35 percent
5 interest in the company?

6 A Yes.

7 Q And you would agree with me that a 35 percent
8 valuation in the amounts set forth at 3.5 million
9 would provide for a \$10 million overall value of
10 CWNV?

11 A If you're asking me to confirm the math, then
12 yes. If you're asking me to confirm anything further,
13 I wouldn't.

14 Q I'm just asking you to confirm the math.

15 A Okay.

16 Q And then the assets of Clark Natural
17 Medicinal Solutions, LLC, \$350,000; is that correct?

18 A That's what it reads.

19 Q Do you know what assets Clark Natural
20 Medicinal Solutions possessed as of August 19, 2017?

21 A I had no licenses.

22 Q And what kind of license?

23 A Clark Natural Medicinal Solutions I believe
24 had a dispensary -- I'm sorry, a production and a
25 cultivation license.

1 Q A production and cultivation license is
2 valued at \$350,000; correct?

3 A Well, all I'm reading here is the asset is
4 list as the Clark Natural Medicinal Solutions and an
5 amount.

6 So with regard to what constitutes the assets
7 of Clark Natural Medicinal Solutions and/or the
8 calculation of the value, I -- as you see, I requested
9 the documents that would underlie either and both of
10 those and received none.

11 Q Understood. And all I'm asking you to do is
12 to confirm the math again.

13 So Clark Natural Medicinal Solutions, the
14 sole assets that they possess as of August 19, 2017,
15 was two licenses: One cultivation and one production?

16 A I don't know the --

17 MR. FEUERSTEIN: Objection. I think you're
18 misleading the witness in the evidence in the case. I
19 mean, I think you're misleading the witness.

20 MR. WILEY: She testified --

21 MR. FEUERSTEIN: I'll rebut it, but -- okay.

22 MR. WILEY: Okay.

23 Q You testified that Clark Natural Medicinal
24 Solutions possessed a cultivation and a production
25 license; correct?

1 A Correct.

2 Q Do you know whether or not any assets were
3 owned by Clark Natural Medicinal Solutions?

4 A I don't know.

5 Q And this appraisal affixes an amount of
6 \$350,000 to Clark Natural Medicinal Solutions;
7 correct?

8 A Correct.

9 Q And NuVeda was a 100 percent owner of Clark
10 Natural Medicinal Solutions?

11 A Not according to our legal documentation,
12 which showed that we were all individual members with
13 separate ownership interests in each of the
14 entities.

15 Q Okay. But the operation of NuVeda and
16 documentation that was provided to certain individuals
17 and entities show that NuVeda was the 100 percent
18 owner of Clark Natural Medicinal Solutions?

19 MR. FEUERSTEIN: Object to the form, with
20 respect to time, when it was done.

21 ARBITRATOR BAKER: Sustained.

22 BY MR. WILEY:

23 Q Okay. So the amount affixed to Clark Natural
24 Medicinal Solutions in this appraisal is \$350,000?

25 A Correct.

1 Q And you previously testified that Clark owned
2 a cultivation license and a production license;
3 correct?

4 A Correct.

5 Q You heard Mr. Terry's testimony regarding his
6 acquisition of a cultivation and a production
7 license?

8 A I did.

9 Q And the amount that he paid for the
10 cultivation and production license in July -- June or
11 July of 2016 -- excuse me, 2017 -- was
12 approximately -- was \$20,000 each; correct? \$200,000
13 each?

14 A Correct.

15 Q With respect to the dispensary license, you
16 heard Mr. Terry's testimony regarding the sale of the
17 dispensary license and assets by Terra Tech; right?

18 A I did.

19 Q And the amount affixed to that was about
20 \$6.7 million?

21 A I -- I don't recall.

22 Q Okay. Approximately 6.25?

23 A I don't recall.

24 Q And that was for a dispensary at Terra
25 Tech's --

1 A In my understanding, yes.

2 Q So again, based upon those amounts, the
3 comparable sales, you would admit that Webster
4 Business Group appraisal and the amounts affixed to
5 that were in the same ballpark as outside sales and
6 valuations of other licenses?

7 MR. FEUERSTEIN: Objection.

8 THE WITNESS: I would not.

9 MR. FEUERSTEIN: I think he's asked -- he's
10 asking for some sort of opinion as to what this is
11 based on doing the arithmetic problem that has nothing
12 to do with value. And the experts are going to come
13 in and testify to that.

14 ARBITRATOR BAKER: Overruled.

15 BY MR. WILEY:

16 Q Turn to the liabilities.

17 A Yep.

18 Q Do you have any reason to dispute the amount
19 of the liabilities that are set forth in the
20 appraisal?

21 A Again, I requested the underlying information
22 and it was not provided.

23 Q And as you sit here today, in your testimony
24 that you're providing today, you have no reason to
25 dispute the amounts of the liabilities that are set

1 forth in the appraisal?

2 A Well, as we sit here today, my understanding
3 is the judgment to 2113 investors was since withdrawn,
4 or he decided that he wouldn't -- would not exercise
5 it. Attorneys' fees for litigation, I understand that
6 the respondents were very busy in the Forefront
7 litigation and have been paying you guys for this
8 litigation. I understand that the Forefront
9 litigation resulted in an adverse judgment of almost
10 \$4 million.

11 The debt to prove 2 Prime would be something
12 that I would dispute because, as I testified to
13 previously, Pej is an owner of 2 Prime; and thus,
14 servicing that debt over any of the other debts would
15 be self-dealing and thus inappropriate, especially to
16 include in the liability sheet when trying to come up
17 with the fair market value.

18 Debt to the Windmill Group, I have no
19 understanding as to how that number was obtained.
20 Liability is not stated here. I see "Shane Terry
21 litigation, future attorneys' fees and award to
22 Terry." Notably, I'm absent from that.

23 But, yeah, I mean, I think it's -- it's
24 certainly not how I would proceed to be a fair market
25 value assessment of a medical-marijuana company with

1 six licenses in Southern Nevada.

2 Q But you have no information or knowledge, as
3 we sit here today, disputing any of the liabilities
4 set forth in this appraisal?

5 A Other than what I just testified to?

6 Q Other than the 2 Prime; is that correct?

7 A Correct.

8 Q Did you ever execute a litigation consulting
9 and expert services agreement with Gryphon Valuation
10 Consultants?

11 A I believe so. I -- I've certainly executed a
12 contract with the company.

13 Q Do you know whether or not it was a
14 litigation consulting and expert services agreement?

15 A I don't know.

16 Q Have you had an opportunity to review
17 Mr. Parker's expert reports compared in conjunction
18 with this litigation?

19 A I've -- I've not read them.

20 Q But you would agree with me that Mr. Parker
21 was initially retained by Shane Terry; correct?

22 A Correct.

23 Q And do you know whether or not -- or strike
24 that.

25 Mr. Parker prepared an expert report for

1 Mr. Terry in May of 2016. Do you have any knowledge
2 as to that?

3 A I recall that he was Shane's expert in this
4 matter and I don't recall the timing.

5 Q But at that time, May of 2016, you still
6 possessed an ownership interest in NuVeda; correct?

7 A Correct.

8 Q Do you recall Mr. Parker preparing a
9 supplemental report in February of 2018?

10 A I don't recall.

11 Q Have you reviewed the February 2018
12 supplement or any portions thereof?

13 A Not that I know of.

14 Q In February 2018 you had been expelled from
15 NuVeda at this time?

16 A Excuse me?

17 Q In February of 2018 you had been expelled --
18 or purportedly expelled from NuVeda?

19 A Purportedly expelled; correct.

20 Q And February of 2018 you hadn't obtained an
21 expert witness of your own; right?

22 A I don't recall.

23 Q You don't recall whether or not you ever
24 retained an expert -- or excuse me -- disclosed an
25 expert witness?

1 A No. I don't remember when it was.

2 Q You certainly never disclosed Mr. Parker as
3 an expert witness in a disclosure, did you?

4 A I don't recall when I did.

5 Q Would you agree with me that the first time
6 that you indicated that Mr. Parker was going to serve
7 as an expert witness for you was in this second
8 supplement that he provided in December of 2018?

9 A I promise that I still don't recall.

10 Q And you haven't had a chance to review any of
11 Mr. Parker's methodologies?

12 A I've not, other than to speak with my
13 counsel.

14 Q Are you aware that Mr. Parker bases his
15 opinion, in large part, on CWNV projections?

16 A No.

17 Q Are you aware whether or not Mr. Parker uses
18 the same methodology in determining yours and
19 Mr. Terry's purported value of the respected interests
20 in the company, even though the expulsions occurred
21 17 months apart?

22 A I don't.

23 Q At the time of Mr. Terry's expulsion in March
24 2016, do you know whether or not the NuVeda
25 dispensaries were open?

1 A I don't know.

2 Q Do you know whether or not the NuVeda
3 dispensaries were open at the time you were
4 purportedly expelled?

5 A I believe so.

6 Q And in that that -- it's your testimony that
7 they were open, which you say you believe so, you
8 would agree with me that NuVeda had tangible revenues
9 and profits at that time, in August of 2017?

10 A Yeah, I don't know that to be the case.

11 Q Did you ever provide any sales information to
12 Mr. Parker to assist with the preparation of his
13 reports?

14 A I did not.

15 Q It's your testimony that your percentage
16 interest in NuVeda was always equal to seven
17 percent?

18 A Say that to me again, please.

19 Q Is it your testimony that your percentage
20 interest in NuVeda was always equal to seven
21 percent?

22 A Yes.

23 Q Previously you testified that there was a
24 \$22 million consideration as part of the MIPA; is that
25 correct?

1 A Yeah.

2 Q What provision in the MIPA are you relying
3 upon?

4 A If my recollection serves, in the preliminary
5 injunction hearing before Judge Gonzalez, Brian
6 Padgett testified -- and I wasn't present because I
7 had to leave to go to my job -- and subsequently read
8 his transcript. As I recall, he testified during his
9 testimony that the value that CW was bringing to this
10 deal was not less than \$22.

11 Q That was never set forth anywhere in the
12 actual MIPA written document, though; correct?

13 A I don't recall; but as I testified to, I
14 believe that that's what Padgett testified to in order
15 to overcome the preliminary injunction.

16 Q And isn't it true that Mr. Padgett's
17 valuation of the 22 million wasn't simply all cash,
18 but there was also other considerations?

19 A I don't recall that.

20 MR. WILEY: I have nothing further.

21 ARBITRATOR BAKER: Mr. Dushoff?

22 MR. DUSHOFF: Thank you. And, actually,
23 we'll be brief on this one. I just think we need to
24 clear up something.

25 CROSS-EXAMINATION

1 BY MR. DUSHOFF:

2 Q I wonder, do you have the operating agreement
3 in front of you?

4 A I do.

5 Q On August 8th, the members of NuVeda voted to
6 expel you; is that correct?

7 A That's correct.

8 Q And it's also fair to say in here that after
9 a party is expelled, then that's when they try and get
10 the fair market value of a membership's interest;
11 correct?

12 A I think you and I are heading down the same
13 direction that --

14 Q No, I'm just asking -- I'm just -- I'm asking
15 you a question.

16 After a party is expelled, that's when they
17 hire -- the voting members hire an appraiser in order
18 to determine the value of the expelled member; is that
19 correct?

20 A I believe that once a member has -- their
21 interest have been voted for expulsion, the company
22 still has an obligation to abide by the remainder of
23 that paragraph and pay fair market value for those
24 shares in order for the -- for the member to be
25 expelled.

1 Q I'm going to -- I'm going to ask you to
2 please answer my question, and it's a simple question.

3 A Okay.

4 Q All right. Only after -- under 6.2, only
5 after a member is expelled from the corporation under
6 6.2, that that's when it goes into effect to determine
7 the fair market value of that member's shares? I'm
8 not asking anything else but that specific question.

9 A I disagree.

10 Q So let's read this. It says, "Upon the
11 expulsion or death of a member, the member's successor
12 in interest, estate, or beneficiary -- or
13 beneficiaries as the case may be -- shall be entitled
14 to receive from the company in exchange for all the
15 member's ownership interest, the fair market value of
16 that membership's interest." Okay. Then it says
17 "adjusted" and so forth.

18 It says, "upon the expulsion or death."
19 Well, you didn't die, so it's upon the expulsion;
20 correct?

21 A Okay.

22 Q Okay. So upon the expulsion, then all the
23 rest of the par- -- all that stuff about the fair
24 market value happens; correct? That's all I'm asking.

25 A I'm reading what you're reading, but I think

1 you need to read them in pari materia, which would
2 lead you to say that they have to actually continue to
3 go by the step-by-step directions --

4 Q I'm --

5 A -- to ex- --

6 Q Right.

7 A -- to expulse a member.

8 Q I'm not -- I'm not asking --

9 A You keep talking over me --

10 Q I'm not asking you about that.

11 A -- but I'm just telling you my answer.

12 MR. FEUERSTEIN: I'm sorry, Mr. Dushoff, let
13 her finish her answer, please.

14 THE WITNESS: So my answer to your question
15 is, I don't believe that a member can be expelled from
16 the company without the company having adhered to the
17 terms of the agreement.

18 BY MR. DUSHOFF:

19 Q Okay.

20 A And I think the agreement is clear in stating
21 that there needs to be a good-faith appraisal and
22 value paid.

23 Q Okay, good. Okay. Let's go there. All
24 right. And that's where I want to go. That's a
25 question we keep circling around to, and we get to the

1 same point.

2 The only way they can determine fair market
3 value is after somebody either dies or gets expelled.
4 That's the plain meaning of this agreement that you
5 drafted; correct?

6 Your question -- what you brought up is that
7 you don't think they did a correct fair market value;
8 therefore, they breached it; correct?

9 MR. FEUERSTEIN: Objection. It's compound;
10 two questions.

11 BY MR. DUSHOFF:

12 Q Okay. So let me ask you this question: You
13 believe that NuVeda breached the agreement because
14 they didn't give you proper fair market value;
15 correct, in a breach of good faith and fair dealing?

16 A Among other things; correct, yes.

17 Q No, but -- no, that's the only thing that's
18 left. I know you have other things in your complaint,
19 but you're saying because they did not provide you
20 good faith value in the fair market value through
21 Webster's, that they breached the section -- breached
22 the good faith and fair dealing; correct?

23 A My hesitation is that you -- you will say
24 that your question is simple, and your question isn't
25 simple to me. Your question is sort of a multi-part

1 recitation of what you believe the facts to be, with a
2 "correct" at the end.

3 What I respectfully ask you is to ask me when
4 do I think somebody was -- could be expelled. Because
5 what I believe is a vote happened and we are no longer
6 contesting the validity of that vote. But unless and
7 until the expelled member gets the compensation due to
8 the expelled member -- please don't put your hand up
9 to stop me, because I'm just --

10 Q I'm not stop- --

11 A -- going to finish my thought --

12 Q No. Whoa. Hold on, Ms. Goldstein, all
13 right. I'm not putting my hand up to stop you. All
14 right.

15 ARBITRATOR BAKER: Let her finish.

16 Ms. Goldstein.

17 MR. FEUERSTEIN: Do you remember where you
18 were, Jen?

19 THE WITNESS: I don't believe one can be
20 expelled, just on a vote, without payment. That's
21 what I believe.

22 BY MR. DUSHOFF:

23 Q Okay. Right. And payment, and discussing
24 the fair market value or having to determine the fair
25 market value, is after somebody is expelled. I'm not

1 talking about whether it's right or wrong or the
2 incorrect number, I'm just talking in order: One,
3 two. You don't determine fair market value and then
4 you expel them under this section. You expel them,
5 then determine the fair market value. That's all I'm
6 asking.

7 A So I would recharacterize it a bit and I
8 would say there's a vote at the first step; that's the
9 vote for expulsion.

10 Q Good. Okay.

11 A Then there's a come together, let's try to
12 come up with a fair dollar amount. Then there's an
13 appraisal. And then there's payment.

14 And I agree with you, there was a vote. And
15 we're no longer contesting the validity of the vote.

16 What didn't happen was everything thereafter.
17 So what you're saying is an expulsion, I think was a
18 vote.

19 Q Right, they voted to expel you?

20 A Correct.

21 Q And the fact that you just stated, you're not
22 challenging whether they had good cause at that time
23 to expel you, that -- that ship has sailed in this
24 matter; correct?

25 A Yes, sir.

1 Q So in order of dates, your challenge is after
2 the expulsion they did not give you the proper payment
3 or fair market value of your shares in NuVeda?

4 A Correct. And in addition, they didn't try to
5 engage me in the informal resolution of it, yes.

6 Q Okay.

7 A Correct.

8 Q And that happened after they -- after they
9 voted to expel you?

10 A Correct.

11 Q That -- that's all I was trying to get out of
12 that.

13 MR. DUSHOFF: One moment.

14 I'm good. Thank you.

15 ARBITRATOR BAKER: Mr. Feuerstein?

16 MR. FEUERSTEIN: I have some rebuttal for the
17 witness.

18 ARBITRATOR BAKER: Okay.

19 REDIRECT EXAMINATION

20 BY MR. FEUERSTEIN:

21 Q Ms. Goldstein, both Mr. Wiley and Mr. Dushoff
22 spent some time with you about section 6.2. And I am
23 awfully concerned about beating and then kicking the
24 dead horse, but I think we should walk through a
25 little bit of it with you.

1 As you noted a moment ago in 6.2, what it
2 says is after the "upon" language that Mr. Dushoff was
3 focusing on, was that "fair market value may be
4 determined * informally by a unanimous, good-faith
5 agreement of all the voting members." Did I read that
6 correctly?

7 A You did.

8 Q In that sense, does it make sense to you that
9 the expelled member, or the member who was voted to be
10 expelled, is not included in the definition of voting
11 members?

12 A No, that would not make sense.

13 Q Can you explain why that would not make
14 sense?

15 A Because the idea would be to bring both the
16 voted-upon member and the voting members together to
17 try to work out this informal agreement.

18 Q Okay. In the very next sentence, do you see
19 the term "voting members"?

20 A I do.

21 Q Is there anything that suggests that that
22 term has been changed in the definition from the
23 sentence that precedes it to the sentence that it's
24 used therein?

25 A No, sir.

1 Q And you're not suggesting that they had to
2 have unanimity; right? It doesn't say "all voting
3 members" in that sentence; does it?

4 A No.

5 Q It just says that you should be involved in
6 the process of hiring --

7 MR. DUSHOFF: Objection, misstates. It
8 doesn't say "you." It says "voting members."

9 MR. FEUERSTEIN: All right. It says that --

10 Q But "voting members," it's your under- --
11 it's your contention in this arbitration that you were
12 still a voting member at that time?

13 A Yes.

14 Q Okay. Now, Mr. Dushoff -- Mr. Wiley went
15 through a little math exercise with you.

16 So if it's okay with the Arbitrator, I'm
17 going to pass you my phone with the calculator -- with
18 the calculator on it. Is that okay?

19 ARBITRATOR BAKER: That's fine.

20 BY MR. FEUERSTEIN:

21 Q Okay. Now, it's been --

22 MR. WILEY: Do the answers pop up?

23 MR. FEUERSTEIN: It doesn't. She gets the
24 right numbers. Watch, it's so cool.

25 Q It's our -- it's your contention,

1 Ms. Goldstein, that the consideration that was paid
2 pursuant to the MIPA was \$22 million; correct?

3 A No, sir, that's not my testimony.

4 Q Well, the con- -- I'm sorry, the
5 consideration that Mr. Pej had testified to --

6 A Yes.

7 Q -- was \$22 million?

8 A Yes.

9 Q Okay. And if that was indeed true testimony,
10 can you tell me, sitting here today, how one would go
11 about calculating what the value of the 35 percent
12 interest would be?

13 A Ask me the question again, I'm sorry.

14 Q Well, let me --

15 A I wasn't a science major, so you need to go
16 slowly.

17 Q Let me walk you through it.

18 A Please.

19 Q If 65 percent --

20 A Yes.

21 Q -- if one pays 22 million for 65 percent, how
22 does one calculate what a hundred percent --

23 A So you're asking me for new co, for CWNV,
24 effectively?

25 Q That's right.

1 A So what I would do is I would effectively say
2 66 percent and 33 percent is 99, which is pretty
3 darned close to a hundred; and I would make it in
4 thirds.

5 Q Okay.

6 A I would say that each third is therefore
7 worth a million dollars. They had 22 million, because
8 they had two-thirds. We had one-third, we'd have
9 11 million.

10 Q Okay. I was a psychobiology major, so I
11 would do some science.

12 A I went to Yale.

13 Q So let's talk about how we would do it
14 arithmetically.

15 A Okay.

16 Q If it's \$22 million --

17 A Yes.

18 -- it's 65 percent. The one way to figure
19 out a hundred percent is to take \$22 million -- and if
20 you could put that number in --

21 A Got it.

22 Q -- and divide it by .65, or 65 percent. And
23 what's that number?

24 A 33,846,153.8.

25 Q Okay. And if I multiplied that by

1 35 percent, because that's what we're saying that
2 NuVeda retained, what's that number?

3 A 11,846,153.8.

4 Q Okay. Now, from January 1, 2016, when
5 Mr. Padgett -- or January 2016, when Mr. Padgett
6 testified to your expulsion, what facts changed in the
7 world with respect to the cannabis market in Nevada?

8 A Probably most significantly, Nevada passed
9 what's called adult use, or adult recreational use, of
10 marijuana.

11 Q And you were in the room when Mr. Terry
12 testified that the increase, in his view, was a
13 five-fold increase?

14 A Correct.

15 Q Okay. And if you multiply the number you
16 have done right there just by five, what's the number
17 you get?

18 A 59,230,769.2.

19 Q Okay. Now, other things happened in between
20 January of 2016 and August of 2017; correct?

21 A Yes.

22 Q Now, for example, the dispensaries that were
23 operating under CWNV became oper- -- were operational;
24 correct?

25 A Correct.

1 Q In addition, you've learned through this
2 litigation, I believe, that there was an agreement
3 with respect to the other Clark licenses; is that
4 true?

5 A By other Clark, you mean the Apex licenses?

6 Q The ones that were not -- yes --

7 A Yes.

8 Q -- the ones that were not put forward in the
9 MIPA?

10 A That's correct, yes.

11 Q Do you recall, sitting here today, what
12 that -- what that agreement roughly was?

13 A I don't. I know that Joe Kennedy and I had
14 coffee a couple weeks ago, and I know over the course
15 of coffee he told me --

16 MR. WILEY: Hold on. Objection. I'm going
17 to object to any testimony that is elicited from that
18 discussion. My understanding is that discussion had
19 to do with settlement purposes.

20 MR. FEUERSTEIN: All right. Well, we don't
21 have to use it.

22 Let me put in front of the witness a document
23 which should have been on the joint exhibit list. And
24 I can't imagine it's objectionable because it was
25 produced by respondents. It's a document

1 Bates-labeled RESP 54429 to 54432.

2 ARBITRATOR BAKER: Let's see if they have any
3 objection.

4 MR. FEUERSTEIN: Oh, I'm sorry.

5 MR. WILEY: No objection.

6 MR. FEUERSTEIN: So let's mark this as
7 JX 259 --

8 ARBITRATOR BAKER: 58.

9 MR. FEUERSTEIN: -- or 59 -- 58 was the
10 e-mail, I believe.

11 (Joint Exhibit 259 was marked for
12 identification.)

13 BY MR. FEUERSTEIN:

14 Q Take a moment, Ms. Goldstein, to read this
15 document. Let me know if it refreshes your
16 recollections as to any agreement with respect to the
17 other two Clark licenses.

18 (Witness reviewing document.)

19 Q Had a chance to review that document?

20 A I have.

21 Q Just by way of background, Ms. Goldstein,
22 when you were a member in August of -- I'm sorry --
23 April of 2016, you were still a member of NuVeda;
24 correct?

25 A Correct.

1 Q You recall ever having any discussions about
2 this agreement?

3 A No.

4 Q You see that this agreement contemplates a,
5 quote/unquote, "loan" of \$6 million?

6 A Yes.

7 Q That's in paragraph 1?

8 And do you have a recollection, sitting here
9 today, of what was -- given that \$6 million loan, what
10 Apex or Land/OPS was receiving for that loan?

11 A I'm sorry, ask me that question again.

12 Q Yeah. What was -- what was the consideration
13 for that? What was Land -- the entity that's
14 abbreviated Land/Ops, what are they receiving for that
15 loan of \$6 million?

16 A My understanding, but -- is not actually from
17 this document. But my understanding is that they were
18 going to receive the licenses that were previously
19 held by Clark Natural Medicinal Solutions.

20 Q Okay. Does it refresh your recollection,
21 Ms. Goldstein, that the Apex entities would have
22 60 percent of an ongoing enterprise?

23 A Yes.

24 Q And does it refresh your recollection that
25 NuVeda was retaining a 40 percent interest in an

1 ongoing enterprise?

2 A Yes.

3 Q And back to our math equation. \$6 million --
4 \$6 million --

5 A Oh, I'm sorry. I was just getting out --

6 Q It's okay. You don't need it -- you
7 shouldn't need it for this one.

8 If \$6 million was getting or buying someone
9 60 percent of an enterprise, what's the other
10 40 percent valued at?

11 A Four million.

12 Q Do you recall Mr. Terry when he was
13 testifying today -- I think Mr. Dushoff or Mr. Wiley
14 asked you the question as to what Mr. Terry testified
15 as to the purchase of the licenses. Do you recall
16 that?

17 A I do.

18 Q And do you recall what he said, that within
19 30 days what he -- he financed those or brought any
20 investment money in --

21 A Correct.

22 Q -- for those licenses.

23 A Yes.

24 Q Do you recall that?

25 A Yes.

1 Q And what was the number he gave?

2 A Three million.

3 (Court reporter requests clarification.)

4 MR. FEUERSTEIN: I think she said three
5 million.

6 Q Now, Mr. Wiley, in his math problem with you
7 used the number 6.25 million, the sale of Terra Tech;
8 that happened in October of 2018, to sort of back his
9 way into the number of 3.5 million, on page 1 of the
10 Webster report. Do you recall that?

11 A I do.

12 Q If Mr. Wiley, instead of using Terra Tech,
13 used Essence, what would 35 percent of Essence be,
14 plus or minus?

15 A A hundred million.

16 MR. FEUERSTEIN: I have no further questions.

17 ARBITRATOR BAKER: I have a couple
18 questions.

19 CROSS-EXAMINATION

20 BY ARBITRATOR BAKER:

21 Q Is it your position in this case that
22 section 6.2, the one we've been going over at length,
23 is clear and unambiguous?

24 A Yes.

25 Q There was a bunch of questions about the

1 first few sentences in that paragraph. I'm interested
2 in the -- I think it's one, two, three -- or the fifth
3 line down, that starts on the left side saying, "The
4 voting members." Do you see that? Sort of about, not
5 halfway down the paragraph, but --

6 A Is it initial cap "Voting"? Is it --

7 MR. FEUERSTEIN: Yes.

8 THE WITNESS: -- "The"?

9 BY ARBITRATOR BAKER:

10 Q "The" -- yeah, "The voting members may
11 elect." Do you see that, comma --

12 A Oh, is it "notice"? Yeah, yeah.

13 Q I'm sorry.

14 A Yes.

15 Q The second paragraph.

16 A Correct.

17 Q Thank you. Is it your position that voting
18 members, under this paragraph, includes you after the
19 expulsion?

20 A After the vote, yes.

21 Q How do you reconcile that theory with "the
22 voting members may elect by written notice that is
23 provided to the expelled or deceased member's
24 successor in interest, the estate or beneficiary or
25 beneficiaries within 30 days after the member's

1 expulsion or death to purchase the former member's
2 ownership interest"?

3 A Because --

4 Q In other words, if you're one of the voting
5 members, how could you purchase your own, I guess,
6 stock or your own interest after expulsion?

7 A The same way I would differentiate between
8 how we refer to former member. I mean, we distinguish
9 between disinterested voting interest -- voting
10 members and former member.

11 Q Okay. Now, is it -- and if you'll go ahead
12 and read the rest of that sentence. It starts with
13 "The voting members may elect" and then ends with
14 "expulsion or date of death." If you could just read
15 that entire sentence, I have a question.

16 (Witness reviewing document.)

17 A Okay.

18 Q Is it your position that that sentence means
19 that the voting members may elect -- and I'm skipping
20 through -- to purchase the interest, you know, over a
21 one-year period of four equal installments, in the
22 amount of the fair market value determined by the
23 appraiser?

24 A Right. I agree that in that sentence it
25 would be ambiguous.

1 Q Okay.

2 ARBITRATOR BAKER: Does anyone have any
3 follow-up questions?

4 MR. WILEY: None from NuVeda.

5 MR. FEUERSTEIN: No.

6 MR. DUSHOFF: Can we take a five-minute for
7 your expert now?

8 MR. FEUERSTEIN: Yeah, that's fine.

9 ARBITRATOR BAKER: Of course.

10 MR. DUSHOFF: Five minutes?

11 ARBITRATOR BAKER: Let's take a five-minute
12 break.

13 (Break taken.)

14 Thereupon,

15 DAVID PARKER,

16 called as a witness by the Claimant, having
17 been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. FEUERSTEIN:

20 Q Good afternoon, Mr. Parker.

21 A Good afternoon.

22 Q As I've done with the witnesses so far today,
23 can you give a brief description of your education
24 post-high school?

25 A Yes. Graduated with a bachelor's in business

1 management and a minor in computer science from the
2 University of Southern Florida, where up until a
3 couple of weeks ago had 125 games in a row, thank you
4 very much.

5 Q Weak conference. Weak conference.

6 ARBITRATOR BAKER: Yeah. Didn't you have a
7 former OU player? Isn't he your coach?

8 THE WITNESS: No.

9 ARBITRATOR BAKER: Oh, okay.

10 THE WITNESS: After that, I went to work as a
11 computer programmer and ended up working for a firm
12 that just happened to be a money-management firm, so
13 that's how I got into finances. And we're talking
14 about when I was 19, so this is right -- right out of
15 high school and second year of college.

16 I'm a chartered financial analyst, or CFA.
17 I'm also a certified valuation analyst. I picked up
18 those particular accreditations in, I think, 2000 and
19 2002, respectively.

20 I spent over 20 years in the investment
21 banking industry as a portfolio manager and an equity
22 analyst.

23 In 2003, I opened up Gryphon Valuation
24 Consultants here in Las Vegas. I actually started
25 doing business valuations in 2001-2002 arena, so we're

1 in our 15th year now.

2 I don't know what else you want me to say.
3 We've performed literally hundreds of business
4 valuations that I personally have been involved in..

5 There's kind of three legs to the stool of
6 our practice: One is traditional business valuation;
7 the other is estate and gift-tax valuations; and then
8 the third leg is litigation consultant concerning
9 business valuation and economic damages.

10 BY MR. FEUERSTEIN:

11 Q How much of your -- how much of your business
12 is litigation consulting?

13 A 20, 25 percent.

14 Q In the context of litigation consulting, is
15 it strictly business valuation?

16 A Business valuation and economic damages,
17 usually associated with some form of business
18 valuation.

19 Q In the course of your work at Gryphon, can
20 you estimate how many companies you personally have
21 provided a business valuation of?

22 A Literally be hundreds. And they're not just
23 here in Las Vegas either. We give value to companies
24 globally.

25 Q In the context of your litigation consulting,

1 how often do you work for the plaintiff?

2 A I think it's probably pretty evenly split
3 between the plaintiff and defendant. I have no
4 preference.

5 Q How often have you worked with me?

6 A This is the first and only time. Not that I
7 wouldn't want to work with you again.

8 Q I'm not offended.

9 In the course of your work at Gryphon
10 Consulting, how many times have you been asked to
11 evaluate a nascent company, newly formed company?

12 A It comes up quite a bit. Not just in
13 business consulting -- excuse me -- not just in the
14 litigation sense, but also in estate and gift-tax
15 sense.

16 Q Can you explain what you mean by when it
17 comes up in the estate and gift-tax sense?

18 A Yes. There's a technique called a
19 estate-freezing technique. If people are starting up
20 a company, they often want to tuck that company away
21 out of their estate before it actually starts
22 receiving revenues and is up and running, so as to
23 have it at the minimal value as a gift. It's a
24 gifting technique. And we actually see that quite a
25 bit.

1 Q Can you say how many sort of newly formed
2 companies you valued in the course of your work at
3 Gryphon, roughly?

4 A It's going to be a wild guess, between 50 and
5 60.

6 Q And the techniques that you used for -- can
7 you tell me what sort of techniques you've used for
8 valuing those 50 or 60 newly formed companies?

9 A It's largely dependent upon the type of
10 company. If you're talking about a company which its
11 intention is to be a going concern, we use projected
12 financials and forecasted financials.

13 We pair those up with various industry
14 reports that we obtain through our subscription
15 services, and we talk a lot with the owners of those
16 companies.

17 Q In the course of you testifying as an
18 expert -- well, let me fix that. How many times have
19 you testified as an expert witness?

20 A Roughly 40, 42, maybe 43.

21 Q In the course -- and, by the way, I want to
22 say in testifying, that means giving oral testimony
23 either in a deposition or in court. Is that -- is
24 that what your number reflects?

25 A That was my understanding.

1 Q Is that how many reports you've drafted as an
2 expert in litigation consulting?

3 A Probably drafted more reports than I've
4 testified to.

5 Q In the course of your working as a litigation
6 consultant or expert, have you ever been excluded
7 based on the reliability of your conclusions or
8 opinions?

9 A No.

10 Q Have you ever been excluded for any reason?

11 A No.

12 Q In the course of forming your opinions with
13 respect to NuVeda --

14 MR. DUSHOFF: May I? Is this the point that
15 I may voir dire, if he's going to start talking about
16 NuVeda?

17 ARBITRATOR BAKER: What are you going to voir
18 dire on?

19 MR. DUSHOFF: Oh, the issue I'm going to say
20 is that his first, very primary original one that he
21 did for Shane, specifically states that this is not an
22 expert report. Specific language is, if you look on
23 page 2 of his first one, which would be RESP 57617, it
24 says, "This report is not intended to serve as a basis
25 for expert testimony in a court of law or other

1 government agencies without further analysis and any
2 resulting documentation. Such services require a
3 separate litigation consulting and expert service
4 agreement, and Gryphon is under no obligation to enter
5 into such an agreement."

6 So any reliance on the first -- on the
7 original, it's not an expert -- it's not an expert
8 opinion, should not be used in an expert opinion. Any
9 reliance upon that should not be -- should be excluded
10 in here.

11 Now, under Goldstein's, if you look under
12 No. 11, here, specifically on page 6, and if you look
13 under -- it will say, "Historical implied fair market
14 value." You see that graph?

15 ARBITRATOR BAKER: Yes.

16 MR. DUSHOFF: Above it, it says the interest,
17 7 percent, applying to 28 percent discount, for lack
18 of control and lack of marketability, which is
19 footnote 5, see appendix K of the orig- -- BV is the
20 original report.

21 The original report is not an expert report,
22 cannot be used as an expert report, can't be relied
23 upon as an expert report.

24 And since the discount value that he has in
25 his -- in Ms. Goldstein's report relies solely -- not

1 on any of her supplement reports -- it relies solely
2 upon a report that is not an expert report, I did --
3 it has to be that it needs to be excluded, by not my
4 language, but by the language that Mr. Parker puts in
5 his agreement.

6 And there is no testimony whatsoever --
7 the -- we know that Terry did not sign an expert
8 service agreement -- a litigation consulting and
9 expert service agreement -- for the first one, because
10 it would be in here; and it wasn't signed.

11 So, therefore, if this first one's out,
12 anything relying on the first one by -- just pull out
13 the house of cards -- all of them else -- they all
14 fail; but especially Ms. Goldstein's, who doesn't rely
15 on any of the other four -- any of the other four
16 expert reports by Mr. Parker, but specifically only
17 relies upon Exhibit K in the first -- in the original
18 opinion.

19 As a matter of fact, she specifically
20 states -- or Mr. Parker specifically states that he's
21 incorporating the May 25, 2016, which is the original,
22 into his Goldstein report; therefore, since the
23 first -- since the original report is not an expert
24 report, any reliance on it can't be used as expert;
25 therefore, the whole thing needs to be thrown out.

1 ARBITRATOR BAKER: Do you have any objections
2 to his qualifications?

3 MR. DUSHOFF: No, I don't have any objection
4 to his qualifications.

5 ARBITRATOR BAKER: Okay. Then I'm going to
6 allow this to proceed. You have the opportunity to
7 certainly cross-examine him on his statements.

8 But any objections pursuant to the
9 preliminary hearing and scheduling order No. 6, any
10 objections to expert testimony or evidence shall be
11 raised no later than January 4, 2009.

12 I think your point now should have been
13 raised in a motion in limine and we could have
14 addressed it. So I'm going to allow the testimony to
15 proceed. You certainly have the opportunity to
16 cross-examine him and challenge him on the points that
17 you have raised.

18 Mr. Feuerstein.

19 BY MR. FEUERSTEIN:

20 Q So I'd like to, if you would, Mr. Parker, I
21 just want you to open the binder that's in front of
22 you. And I'd like you to, just for the record,
23 identify what is tab 1.

24 A That one would appear to be my business
25 valuation report with respect to NuVeda.

1 Q Okay. What is tab 5?

2 A Tab 5 would appear to be my expert rebuttal
3 report.

4 Q Tab 8 -- I'm sorry -- yes, tab 8?

5 A Tab 8 would appear to be my supplemental
6 business valuation and expert report, dated
7 February 23, 2018.

8 Q And tab 9?

9 A Would appear to be my expert rebuttal and
10 retrospective summary report as of March 16, 2018.

11 Q And last, but not least, tab 11?

12 A That would appear to be my supplemental
13 valuation and expert report as of December 14, 2018.

14 Q You haven't written any more or other reports
15 other than the five that you just named; correct?

16 A Those are the only ones that I recall.

17 Q Okay. Oh, that just reminds me. Thank you.
18 In the course of all your business valuations, have
19 you had any other opportunity to do a valuation on a
20 cannabis business?

21 A Yes.

22 Q How many times have you done a valuation on a
23 cannabis business?

24 A This would be the third or fourth business
25 that we've done one for.

1 Q And without giving me the specific entity
2 names, can you at least give a description as to the
3 businesses that you provided valuations for?

4 A Yes. One was a vertically integrated
5 cannabis business, meaning that they had both
6 cultivation, production, and retail. In fact, two of
7 them were vertically integrated, as such. One, I
8 believe, was just retail, that was not in respect to
9 litigation; it was a partnership dispute that they
10 resolved internally.

11 Q And in the two instances when you did
12 appraisals -- or valuations, rather -- of vertically
13 integrated entities, did -- what sort of methodology
14 did you apply?

15 A We applied the income approach.

16 Q And when you're talking about the income
17 approach, that's the same -- that's an approach that
18 you used in one of your five reports?

19 A That's correct.

20 Q Do you recall which report you used the
21 income approach?

22 A It was the original report.

23 Q Can you explain for the Arbitrator what the
24 income approach is?

25 A Sure. Sure. I'd be happy to. In fact, I'll

1 just give a quick thumbnail sketch.

2 There's three basic approaches to any
3 business valuation, whether it's the asset approach,
4 better known as book value, something like that.

5 There's the market approach, where you
6 compare your subject company with other companies in
7 the marketplace -- either the public marketplace or in
8 cases where private transactions have occurred, and so
9 you can match up particular value metrics, such as a
10 price to earnings or a price to sales, something like
11 that.

12 Then there's the income approach by where in
13 this particular case we used what's called a
14 discounted cash-flow approach. So we took certain
15 projections from management, thoroughly vetted those
16 with the owner of the company, one of the owners of
17 the company, felt comfortable enough to use those, and
18 developed our what we call discounted cash flow. And
19 we project out five years what the cash flow is going
20 to look like.

21 We boiled it down to net income at the end of
22 each one of those years, and then discounted each one
23 of those years back to present value. So in a sense,
24 the present value of a future stream of income is
25 representative of today's market value for the

1 company.

2 Q Is there a particular rationale, Mr. Parker,
3 for picking one methodology over the other?

4 A It comes down to appropriateness. It also
5 comes down to available data, available information.

6 Q Now, you said, I think, in your testimony
7 that in the March 10, 2016, report, which is tab 1,
8 you used the income approach?

9 A That is correct.

10 Q And why did you use the income approach with
11 respect to your initial report dated March 10, 2016?

12 A Yeah. Well, in all cases, we look at all
13 three approaches to it.

14 I decided on the income approach because we
15 had projections or forecasts from management or from
16 the owners of the company that they had actually used
17 in order to raise money for this particular business.

18 I sat down with Mr. Terry and, once again, we
19 thoroughly vetted those so that I felt comfortable
20 with them as opposed to just accepting them at face
21 value. We made some adjustments here and there.

22 But because that information was available, I
23 felt comfortable using that approach.

24 At that time, back in March of 2016, there
25 just was not enough market information available on

1 cannabis companies. There were publicly traded
2 cannabis companies, but they were very thinly traded
3 and there was very little analytical data available
4 for them.

5 Q And you mentioned the third approach, prior,
6 in your description, it was the asset approach or book
7 value. Did you use that approach at all in your
8 initial report?

9 A I did not.

10 Q Why not?

11 A It didn't, in my professional judgment, lend
12 itself to an appropriate valuation of the company. I
13 think we -- I think we calculated -- I forget if it's
14 in the report or not -- but I think at that point in
15 time there had been about \$5 million invested in the
16 company.

17 It had no other debt that I was aware of. So
18 that would have been on an asset-approach basis what
19 you would have valued it as on a book-value basis.
20 That was just not, in my professional judgment,
21 reflective of the fair market value of the company at
22 that point in time.

23 Q And why do you say that?

24 A Well, the company's intention was not to
25 liquidate and sell its assets. It was not -- its