

IN THE SUPREME COURT OF THE STATE OF NEVADA

PARVIZ SAFARI, an individual; MANDANA ZAHEDI, an individual; and on behalf of MEDITEX, LLC, a Nevada limited liability company,

Appellants,

vs.

HAMID MODJTAHED, individually and derivatively on behalf of MEDITEX, LLC, a Nevada limited liability company; and MOHAMMAD MOJTAHED, individually and derivatively on behalf of MEDITEX, LLC, a Nevada limited liability company,

Respondents.

Electronically Filed
Dec 31 2019 04:13 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 79926

**DOCKETING
STATEMENT
CIVIL APPEALS**

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 13
County Clark Judge Denton
District Ct. Case No. A-15-729030-B

2. Attorney filing this docketing statement:

Attorney Tom W. Stewart, Esq. and Chad F. Clement, Esq.
Telephone (702) 382-0711
Firm Marquis Aurbach Coffing
Address 10001 Park Run Drive, Las Vegas, NV 89145
Clients Parviz Safari and Mandana Zahedi

If this is a joint statement by multiple appellants, add the names and address of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondent(s):

Attorney Jonathan D. Blum
Telephone (702) 362-7800
Firm Kolesar & Leatham
Address 400 South Rampart Blvd., Suite 400, Las Vegas Nevada 89145
Clients Hamid Modjtahed, Mohammad Mojtahed, individually and derivatively on behalf of Meditex, LLC

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input checked="" type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of Jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify) |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify) |

5. **Does this appeal raise issues concerning any of the following:** No.

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

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

None.

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

Safari, et al v. Modjtahed, et al, A-15-729030-B, Eighth Judicial District Court Case No. A-18-771467-C (the underlying district court proceedings remain ongoing because the district court is considering Respondents' request for punitive damages and a post-trial motion for attorney fees)

Modjtahed, et al v. Zahedi, et al, Eighth Judicial District Court Case No. A-18-771467-C (ongoing)

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

This case centers around various business partners who were shipping vitamins and breathing machines to the Middle East. The business relationship broke down, and appellants Parviz Safari and Mandana Zahedi alleged that respondents Hamid Modjtahed and Mohammad Mojtahed, among others, never paid the full amount owed to him from the vitamin sales, and Appellant brought claims for breach of fiduciary duty, intentional interference with prospective economic advantage, embezzlement, declaratory relief, accounting and unjust enrichment. Respondents brought counterclaims against Safari, Zahedi, counter-defendant Nooshin Zahedi, and counter-defendant UTSafety, LLC, for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, tortious breach of the implied covenant of good faith and fair dealing, unjust enrichment, fraud, breach of fiduciary duty, aiding and abetting breach of fiduciary duty, civil conspiracy, concert of action, constructive fraud, and accounting. The district court granted summary judgment on some claims and resolved the remaining claims following a bench trial in which the district court found in favor of Respondents. The district court entered judgment

against Safari for \$405,475.00, against Mandana for \$111,675.00, and against Nooshin for \$91,700.00.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

- (1) Whether the district court erred in granting summary judgment on Safari's and Zahedi's claims for breach of fiduciary duty, intentional interference with prospective economic advantage, embezzlement, and declaratory relief.
- (2) Whether the district court erred in concluding Safari and Zahedi failed to prove their claims for accounting and unjust enrichment.
- (3) Whether the district court erred in granting summary judgment against Safari and Zahedi on respondents' breach of contract claim.
- (4) Whether the district court erred in finding against Safari and Zahedi on respondents' claims for contractual breach of the implied covenant of good faith and fair dealing, tortious breach of the implied covenant of good faith and fair dealing, unjust enrichment, fraud, breach of fiduciary duty, aiding and abetting breach of fiduciary duty, civil conspiracy, concert of action, constructive fraud, and accounting.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

12. **Other issues.** Does this appeal involve any of the following issues? No.

- ☐ Reversal of well-settled Nevada precedent (identify the case(s))
- ☐ An issue arising under the United States and/or Nevada Constitutions
- ☐ A substantial issue of first impression
- ☐ An issue of public policy
- ☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- ☐ A ballot question

If so, explain:

13. **Assignment to the Supreme Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This case does not fall into one of the categories of presumptive retention by the Supreme Court or assignment to the Court of Appeals; however, because the amount of the judgment (over \$405,000) exceeds the amounts specified in NRAP 17(b)(5), the Supreme Court should retain this appeal.

14. **Trial.** If this action proceeded to trial, how many days did the trial last? 18
Was it a bench or jury trial? Bench

15. **Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. **Date of entry of written judgment or order appealed from**
September 27, 2019.

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served

September 30, 2019.

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59) N/A

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing

☐ NRCP 52(b) Date of filing

☐ NRCP 59 Date of filing

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____.

(c) Date written notice of entry of order resolving tolling motion was served _____.

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed October 24, 2019.

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a) or other

NRAP 4(a).

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The district court's September 27, 2019, findings of fact, conclusions of law, and judgment was a final order resolving all claims in the action.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Parviz Safari, individually (plaintiff/counter-defendant) and on behalf of Meditex, LLC (plaintiff);

Mandana Zahedi, individually (plaintiff/counter-defendant) and on behalf of Meditex, LLC (plaintiff);

Hamid Modjtahed, individually (defendant/counter-claimant), and derivatively on behalf of Meditex LLC (counter-claimant);

Mohammad Mojtahed, individually (defendant/counter-claimant), and derivatively on behalf of Meditex LLC (counter-claimant);

Ali Mojtahed, individually (defendant);

Nooshin Zahedi, individually (counter-defendant)

UTSafety, LLC (counter-defendant)

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

UTSafety, LLC, is not represented in this appeal because it does not have a judgment against it and did not timely file a notice of appeal of the final judgment.

Nooshin Zahedi is not a party to this appeal because she was defaulted in the underlying case and, although she has a judgment against her, did not timely file a notice of appeal of the final judgment.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims or third-party claims, and the date of formal disposition of each claim.

Claims by Parviz Safari and Mandana Zahedi, individually and on behalf of Meditex, LLC:

- breach of fiduciary duty against Hamid Modjtahed and Mohammad Mojtaheh (resolved April 27, 2018 by Findings of Fact, Conclusions of Law, and Order Granting In Part and Denying In Part Defendants-Counter-Claimants' Motion for Partial Summary Judgment Regarding the Claims against Hamid Modjtahed and Mohammad Mojtaheh);
- intentional interference with prospective economic advantage against Hamid Modjtahed, Mohammad Mojtaheh, and Ali Mojtaheh (claims against Hamid and Mohammad resolved April 27, 2018 by Findings of Fact, Conclusions of Law, and Order Granting In Part Defendants-Counter-Claimants' Motion for Partial Summary Judgment Regarding the Claims against Hamid Modjtahed and Mohammad Mojtaheh; claim against Ali resolved April 27, 2018, by Findings of Fact, Conclusions of Law, and Order Granting Defendants/Counter-Claimants' Motion for Partial Summary Judgment Regarding the Claims against Ali Mojtaheh);
- embezzlement against Hamid Modjtahed and Mohammad Mojtaheh (resolved April 27, 2018 by Findings of Fact, Conclusions of Law, and Order Granting In Part and Denying In Part Defendants-Counter-Claimants' Motion for Partial Summary Judgment Regarding the Claims against Hamid Modjtahed and Mohammad Mojtaheh);
- declaratory relief against Hamid Modjtahed, Mohammad Mojtaheh, and Ali Mojtaheh (claims against Hamid and Mohammad resolved April 27, 2018 by Findings of Fact, Conclusions of Law, and Order Granting In Part and Denying In Part Defendants-Counter-Claimants' Motion for Partial Summary Judgment Regarding the Claims against Hamid Modjtahed and Mohammad Mojtaheh; claim against Ali resolved April 27, 2018, by Findings of Fact, Conclusions of Law, and Order Granting Defendants/Counter-Claimants' Motion for Partial Summary Judgment Regarding the Claims against Ali Mojtaheh);

- accounting against Hamid Modjtahed and Mohammad Mojtaheh (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment); and
- unjust enrichment against Hamid Modjtahed and Mohammad Mojtaheh (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment)

Counterclaims by Hamid Modjtahed and Mohammad Mojtaheh, individually and derivatively on behalf of Meditex, LLC:

- breach of contract against Parviz Safari and Mandana Zahedi (claim against Parviz resolved July 18, 2018 by Findings of Fact, Conclusions of Law, and Order Granting In Part and Denying In Part Motion for Partial Summary Judgment On Counter-Claimants' Non-Fraud Claims Against Parviz Safari; claim against Mandana September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);
- contractual breach of the implied covenant of good faith and fair dealing against Parviz Safari and Mandana Zahedi (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);
- tortious breach of the implied covenant of good faith and fair dealing against Parviz Safari and Mandana Zahedi (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);
- unjust enrichment against Parviz Safari and Mandana Zahedi (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);
- fraud against Parviz Safari (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);
- breach of fiduciary duty against Parviz Safari and Mandana Zahedi (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);
- aiding and abetting breach of fiduciary duty against Nooshin Zahedi and UTSafety, LLC (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);
- civil conspiracy against Parviz Safari, Mandana Zahedi, Nooshin Zahedi, and UTSafety, LLC (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);

- concert of action against Parviz Safari and Mandana Zahedi (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment);
- constructive fraud against Parviz Safari and Mandana Zahedi (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment); and
- accounting against Parviz Safari and Mandana Zahedi (resolved September 27, 2019 by Findings of Fact, Conclusions of Law, and Judgment).

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered “No” to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered “No” to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

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

Parviz Safari and Mandana Zahedi

Name of appellant

Chad F. Clement, Esq.
and Tom W. Stewart, Esq.

Name of counsel of record

December 31, 2019

Date

/s/ Tom W. Stewart

Signature of counsel of record

Clark County, Nevada

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 31st day of December, 2019, I served a copy of this completed docketing statement upon all counsel of record:

☒ By eservice pursuant to this Court's Master Service List; or

☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Dated this 31st day of December, 2019.

/s/ Leah Dell

Signature

Exhibit 1


CLERK OF THE COURT

1 **ACOM**
2 **SHUMWAY VAN**
3 **MICHAEL C. VAN, ESQ.**
4 Nevada Bar No. 3876
5 **SAMUEL A. MARSHALL, ESQ.**
6 Nevada Bar No. 13718
7 8985 South Eastern Ave., Suite 100
8 Las Vegas, Nevada 89123
9 Telephone: (702) 478-7770
10 Fax: (702) 478-7779
11 michael@shumwayvan.com
12 samuel@shumwayvan.com
13 *Attorneys for Plaintiff*

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

16 **PARVIZ SAFARI and MANDANA**
17 **ZAHEDI, individually and on behalf of**
18 **MEDITEX, LLC, a Nevada Limited Liability**
19 **Company,**

20 **Plaintiff,**

21 **vs.**

22 **HAMID MODJTAHED, an individual;**
23 **MOHAMMAD MOJTAHED, an individual;**
24 **ALI MOJTAHED, an individual; DOES, I**
25 **through X; and ROE CORPORATIONS I**
26 **through X, inclusive,**

27 **Defendants.**

Case No.: A-15-729030-B
Dept. No.: XIII

(Arbitration Exempt: Action Requesting
Declaratory and Equitable Relief and Amount
in Controversy in Excess of \$50,000.00)

28 **FIRST AMENDED COMPLAINT**

Plaintiff, MEDITEX, LLC, by and through its attorneys of record, the law firm of Shumway Van, hereby complains and avers against Defendants, HAMID MODJTAHED, MOHAMMAD MOJTAHED, and ALI MOJTAHED as follows:

THE PARTIES

1. Plaintiff PARVIZ SAFARI, is an individual residing in Clark County, Nevada, the Chief Executive Officer of Meditex, LLC, and holds a twenty-five percent (25%) membership interest in Meditex, LLC.

1 2. Plaintiff MANDANA ZAHEDI, is an individual residing in Clark County, Nevada,
2 the General Manager of Meditex, LLC, and holds a twenty-five percent (25%) membership interest
3 in Meditex, LLC.

4 3. Plaintiff MEDITEX, LLC, is, and was at all times relevant hereto, a Nevada
5 Limited Liability Company doing business in the County of Clark, State of Nevada.

6 4. At all times relevant hereto, Defendant, HAMID MODJTAHED ("Hamid"), is and
7 was an individual residing in California and had sufficient minimum contacts with Clark County,
8 Nevada, to subject him to the jurisdiction of this Court.

9 5. At all times relevant hereto, Defendant, MOHAMMAD MOJTAHED
10 ("Mohammad" and/or "Mike"), is and was an individual residing in California and had sufficient
11 minimum contacts with Clark County, Nevada, to subject him to the jurisdiction of this Court.

12 6. At all times relevant hereto, Defendant, ALI MOJTAHED, is and was an individual
13 residing in California and had sufficient minimum contacts with Clark County, Nevada, to subject
14 him to the jurisdiction of this Court.

15 7. Defendants DOES I through X, inclusive, whether individual, corporate, associate,
16 or otherwise, are sued by these fictitious names as they are unknown to Plaintiff at this time.
17 Plaintiff is informed and believes, and thereupon alleges, that at all times herein mentioned each
18 of the Defendants sued herein as DOES I through X, inclusive, was the agent, servant, and
19 employee of his, her or its co-Defendants, and in doing the things hereinafter mentioned was acting
20 in the scope of his, her or its authority as such agent, servant, employee, and with permission,
21 consent and/or ratification of his, her or its co-Defendants; and that each said fictitiously named
22 Defendants, whether an individual, corporation, association, or otherwise, is in some way liable or
23 responsible to the Plaintiff on the facts hereinafter alleged, and caused injuries and damages
24 proximately thereby as hereinafter alleged. At such time Defendants' true names become known
25 to Plaintiff, Plaintiff will amend this Complaint to insert said true names and capacities.

26 8. Defendants ROE CORPORATIONS I through X, inclusive, whether individual,
27 corporate, associate, or otherwise, are sued by these fictitious names as they are unknown to
28

1 Plaintiff at this time. Plaintiff is informed and believes, and thereupon alleges, that at all times
2 herein mentioned each of the Defendants sued herein as ROES I through X, inclusive, was the
3 agent, servant, and employee if his, her or its co-Defendants, and in doing the things hereinafter
4 mentioned was acting in the scope of his, her or its authority as such agent, servant, employee, and
5 with permission, consent and/or ratification of his, her or its co-Defendants; and that each said
6 fictitiously named Defendants, whether an individual, corporation, association, or otherwise, is in
7 some way liable or responsible to the Plaintiff on the facts hereinafter alleged, and caused injuries
8 and damages proximately thereby as hereinafter alleged. At such time Defendants' true names
9 become known to Plaintiff, Plaintiff will amend this Complaint to insert said true names and
10 capacities.

11 JURISDICTION AND VENUE

12 9. This Court has jurisdiction over this matter and venue is proper because both Hamid
13 and Mohammad are officers of Meditex, LLC a Nevada Limited Liability Company.¹

14 GENERAL ALLEGATIONS

15 10. Meditex, LLC ("Meditex" and/or the "Company") was established in 2010 by
16 Parviz Safari, his wife Mandana Zahedi, Hamid Modjtahed ("Hamid"), and Hamid's son,
17 Mohammad Mojtaheh ("Mohammad") (Hamid and Mohammad collectively referred to herein as
18 the "Modjtaheds") to distribute medical equipment, supplies, vitamins, supplements, and machines
19 to hospitals and other businesses throughout the world.

20 11. NutraLab Canada Ltd ("NutraLab"), is a Canadian product manufacturer for dietary
21 supplement products and is located in Toronto, Ontario.

22 12. Meditex is the exclusive distributor for NutraLab manufactured products under the
23 brand names "American Vitamin™" and "Vitaphane®".

24 13. Ganjineh Salamat Pasargad ("Iranian Company") is the authorized exclusive agent
25 of Meditex for importing, packaging, distributing, promoting and marketing for NutraLab
26

27 ¹ See Consipio Holding, BV v. Carlsberg, 282 P.3d 751, 128 Nev. (2012).
28

1 manufactured products under the brand names of "American Vitamin™" and "Vitaphane®" in the
2 global market.

3 14. Burgan Al Khaleej Global Trading LLC ("Dubai Company"), a trading company
4 located in Deira, Dubai is the Company's largest customer.

5 15. Yusen Logistics Inc. (the "Shipping Company") is a Canadian export company that
6 facilitated the majority of Meditex's shipments from Canada to Iran.

7 16. Since the Company's inception, Mr. Safari has been its President and CEO.

8 17. For the majority of its existence, the Modjaheds were responsible for collecting and
9 negotiating purchase orders and Mr. Safari was mostly responsible for the administrative functions
10 of the Company as well as approving purchase orders and other transactions negotiated by the
11 Modjtaheds.

12 18. At no time during the Company's existence was Ali Mojtaled ever a member or
13 manager, nor did he ever hold any other capacity within the Company.

14 **FACTS LEADING UP TO THE DISPUTE BETWEEN MEDITEX AND THE**
15 **MODJTAHEDS**

16 19. From November 10, 2013 to September 4, 2014, Meditex facilitated voluminous
17 purchase orders from the Dubai Company amounting to well over One Million Dollars; however,
18 the Company recorded very little profits from those sales and only received approximately
19 \$644,064.77 into its accounts.

20 20. Mr. Safari, President and CEO of the Company, received no share of the
21 Company's profits from November 10, 2013 to September 4, 2014 and instead received just his
22 salary of minimum wage.

23 21. Toward the end of 2014, Mr. Safari was no longer in contact with the Modjtaheds
24 and received no accounting regarding the Company's above-mentioned profits even after he
25 continually requested an explanation regarding the same.

26 ...

27 ...

**FACTS SURROUNDING THE DISPUTE BETWEEN MEDITEX AND THE
MODJTAHEDS**

22. On or about May 29, 2015, after months of business inactivity, Mohammad contacted Mr. Safari requesting that he contact NutraLab for a price quote for the products Meditex had previously purchased from NutraLab in years past for budgeting purposes.

23. After requesting the same, Mr. Safari did not communicate with NutraLab regarding his requested price quote.

24. On August 13, 2015, Mohammad, using the name Mike, sent an email to NutraLab confirming his telephone conversation and requested a price quote for a bulk order of vitamins and supplements to which NutraLab responded that the requested order was so large that NutraLab would require its China location to assist in the fulfillment of the same.

25. On August 18, 2015, after exchanging multiple emails, Mohammad submitted Meditex's purchase order to NutraLab and on August 25, 2015, Mohammad submitted an updated purchase order to NutraLab after being informed that NutraLab would not be able to satisfy his large initial order.

26. On September 4, 2015, Mark Donovan from the Shipping Company sent an email to Ali Mojtaheed, the brother of Mohammad and son of Hamid, regarding shipment rates.

27. Around this time, Mr. Safari became aware of correspondence between the Modjtaheds and NutraLab and he called the Shipping Company and NutraLab to inform the companies that all orders coming from Meditex must originate from, and be approved by, Mr. Safari.

28. On September 8, 2015, Opal Zhang from NutraLab sent an email to Mr. Safari inquiring about Mr. Safari's relationship with "Mike" and whom she should be dealing with directly; thereafter, Mr. Safari again called Ms. Zhang at NutraLab and confirmed that all business would have to be authorized by the President and CEO of Meditex, Mr. Safari, and NutraLab had received no such authorization.

1 29. It was this day, September 8, 2015, that Mr. Safari learned of the transaction
2 between NutraLab and the Modjtaheds and the correspondence between Ali Mojtaled and the
3 Shipping Company.

4 30. On the same day, Mr. Safari promptly contacted both the Shipping Company and
5 Nutralab and again informed them that they were doing business with an unauthorized agent of
6 Meditex, Ali Mojtaled, and that all orders must originate from, and be approved by, Mr. Safari.

7 31. After informing the Shipping Company and NutraLab a second time that they were
8 conducting business with an unauthorized agent, Ali Mojtaled sent an email to Mr. Donovan at
9 the Shipping Company and informed him that wire transfer documents had been sent to NutraLab
10 and further arrangements would have to be discussed between the Shipping Company and
11 NutraLab.

12 32. Finally, on September 8, 2015, Mohammad wired \$74,040.00 to Honson
13 Pharmatech Group, a NutraLab company, for the sales order made by the Modjtaheds under the
14 Company's name and with a Santa Clara, CA address.

15 33. On the following day, another employee of the Shipping Company, Bill Carter, and
16 Mr. Donovan both contacted Ali Mojtaled regarding shipment of the Modjtahed's order.

17 34. Mr. Carter informed Ali Mojtaled that NutraLab would be providing the necessary
18 shipping documents the following day.

19 35. Mr. Carter then contacted Mr. Safari requesting payment for shipment of the
20 Modjtahed's order as the documents provided by NutraLab showed Meditex as the "bill to" party.

21 36. Mr. Safari immediately responded to Mr. Carter's email stating the shipment
22 documents must be issued by Meditex with its EIN number along with a commercial invoice
23 signed and notarized by Mr. Safari in order for any Meditex shipments to be conducted. Mr. Safari
24 stated that the cargo belonged to Meditex and his confirmation would be required to ship and, he,
25 Mr. Carter, would be responsible for any transactions carried out with an unauthorized individual.

26 37. The following day, September 10, 2015, Mr. Carter informed Mr. Safari that
27 Meditex had an unpaid 2014 account balance from the last transaction between the Shipping
28

1 Company and Meditex and that those amounts owed would need to be satisfied before the Shipping
2 Company would make another shipment.

3 38. Mr. Safari immediately responded that he would make payment the following week
4 for the past due amounts and that Meditex had not confirmed any future shipments.

5 39. In response, Mr. Carter sent the sales invoice and shipment documents for the
6 Modjtahed's order, again requested payment, and informed Mr. Safari that the cargo was
7 scheduled to leave for Iran the following Tuesday, September 15, 2015.

8 40. Mr. Safari responded that the documents sent by Mr. Carter had been issued by
9 NutraLab and shipping the Modjtahed's order using said documents would be "absurd" as only
10 Meditex could furnish such documentation.

11 41. Mr. Carter agreed that the provided documents would be insufficient to ship the
12 Modjtahed's order to Iran and stated he only sent the NutraLab documents for Mr. Safari's
13 reference. Mr. Carter then requested the appropriate Meditex documents from Mr. Safari.

14 42. The following day, September, 11, 2015, Mr. Carter confirmed payment of
15 \$26,791.84 for 2014's past due account balance along with the shipping charges for the
16 Modjtahed's order. Mr. Carter again requested the necessary Meditex shipment documentation
17 from Mr. Safari.

18 43. Mr. Safari immediately responded that Meditex did not make the shipment
19 payment; as such, Meditex would not provide the requested shipment documents and he again
20 warned Mr. Carter that he would deal with the legal consequences of shipping the Modjtahed's
21 unauthorized order.

22 44. That same day, the Modjtaheds made a second wire transfer to NutraLab of
23 \$74,023.82 for the final payment of the Modjtahed's order. However, this second payment was
24 made by the Modjtaheds as individuals for the same order number as the September 8, 2015, did
25 not mention Meditex, and contained yet another California address.

1 45. On September 15, 2015, Mr. Carter emailed pictures of the Modjtahed's order,
2 informed them that the cargo would arrive in Iran on September 21, 2015, and provided the
3 required Meditex documents for shipment signed by Ali Mojtahead.

4 46. Mr. Carter further stated in his email that "for all future shipments, please ensure
5 they are communicated by a company (not personal) email address."

6 47. On September 16, 2015, Canadian customs halted the shipment of the Modjtahed's
7 order and informed Mr. Carter that further documentation would be required.

8 48. Shortly thereafter, Hamid and Ali Mojtahead began calling Mr. Safari and other
9 members of his family with threats of violence due to Mr. Safari's failure to assist with the
10 Modjtahed's order. As a result, Mr. Safari's attorney, Samuel A. Marshall, sent a cease and desist
11 letter to Hamid and Ali Mojtahead and Mr. Safari filed for a Protective Order with both the Las
12 Vegas Justice Court and the Henderson Justice Court.

13 49. On December 11, 2015, Meditex contacted the Shipping Company and talked with
14 Mr. Carter regarding the Modjtahed's order. Mr. Carter informed Meditex that the Modjtahed's
15 order had been returned to NutraLab per the verbal instructions of Ali Mojtahead. Mr. Carter also
16 informed Meditex that it was his understanding that Ali Mojtahead owned half of Meditex and
17 carried out all of its day-to-day operations.

18 50. It is the understanding of Meditex, upon information and belief, that NutraLab
19 shipped the Modjtahed's order using a different shipping company under the direction of Ali
20 Mojtahead.

21 51. Because all efforts made by the Plaintiffs to obtain this action from the other
22 Members of Meditex would have been futile considering they are two of the Defendants in this
23 action, Plaintiff's did not meet and confer with the Defendants prior to filing the same.

24 ...

25 ...

26 ...

27 ...

FIRST CAUSE OF ACTION**(Breach of Fiduciary Duty)****(Against Defendants Hamid Modjtahed and Mohammad Mojtahe)**

52. Plaintiff incorporates the allegation in the foregoing paragraphs as though fully set forth herein.

53. As managing members of the Company, the Modjtaheds owe fiduciary duties to the Company, including duties of loyalty and honesty.

54. Despite their fiduciary duties owed to the Company, the Modjtaheds breached their duty of undivided loyalty when they opportunistically exploited and usurped a corporate opportunity that belonged to the Company.

55. Upon information and belief, the Modjtaheds received a purchase order from Meditex's largest customer, the Dubai Company, for American VitaminTM and "Vitaphane®" products and they attempted to carry out the requested order under the Company's name for their own personal benefit and gain.

56. Meditex had an expectancy in the opportunity usurped by Defendants in that the order made by the Dubai Company was made, and attempted to be carried out, in the same manner all orders had been conducted between the Dubai Company and Meditex in the past.

57. Meditex further had a right to the above opportunity in that Defendants used Meditex's bank account, licensed product names, and agency relationship with NutraLab to usurp and exploit the corporate opportunity owed to Meditex.

58. Meditex was in a position to conduct the Dubai Company's requested order and, in all fairness, should have been offered the opportunity to fulfill the same.

59. As a result of the Modjtahed's actions, Meditex has been damaged in an amount in excess of Ten Thousand Dollars (\$10,000.00), the exact amount of which damages shall be proved at the time of the trial of this matter.

60. Defendants have acted to serve their own interests, having reason to know and consciously disregarding the substantial risk that their conduct might significantly injure Meditex and/or Defendants have consciously pursued a course of conduct knowing that it created a

1 substantial risk of significant harm to Meditex, thereby entitling Meditex to an award of punitive
2 damages.

3 61. It has become necessary for Meditex to retain the services of counsel to prosecute
4 these claims, and Meditex is entitled to any and all costs incurred herein including, without
5 limitation, any and all attorney fees.

6 **SECOND CAUSE OF ACTION**

7 **(Intentional Interference with Prospective Economic Advantage)** 8 **(Against Hamid Modjtahed, Mohammad Mojtaheh, and Ali Mojtaheh)**

9 62. Plaintiff incorporates the allegation in the foregoing paragraphs as though fully set
10 forth herein.

11 63. The Modjtaheds and Ali Mojtaheh were aware of existing relationships between
12 Meditex and the Dubai Company. Defendants thereafter, with full knowledge of these
13 relationships, intentionally interfered with that relationship. The actions of the Modjtaheds and Ali
14 Mojtaheh were intentional causing actual damages to Meditex, which damages will be proven at
15 the time of trial but which are expected to be in excess of Ten Thousand Dollars (\$10,000.00).

16 64. As a result of the willful and malicious actions of the Modjtaheds and Ali Mojtaheh,
17 Meditex seeks punitive damages.

18 65. As a result of Defendants' actions, it has become necessary for Meditex to retain
19 the services of counsel to prosecute these claims and Meditex is entitled to any and all costs
20 incurred herein including without limitation any and all attorney fees.

21 **THIRD CAUSE OF ACTION**

22 **Embezzlement** 23 **(Against Defendants Hamid Modjtahed and Mohammad Mojtaheh)**

24 66. Plaintiff incorporates the allegation in the foregoing paragraphs as though fully set
25 forth herein.

26 67. At all times herein mentioned, the Modjtaheds were entrusted with managing and
27 monitoring the funds of Meditex.

70. As a result of Defendants' actions, it has become necessary for Meditex to retain the services of counsel to prosecute these claims and Meditex is entitled to any and all costs incurred herein including without limitation any and all attorney fees.

(Declaratory Relief)
(Against all Defendants)

73. The Act permits any interested person “whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise” to submit to a court of competent jurisdiction the question of whether the statute, ordinance, contract or franchise is valid and to “obtain a declaration of rights, status or other legal relations thereunder.”

74. By the Defendants' actions as enumerated herein, it is apparent that a valid dispute exists between Plaintiff and Defendants and that Defendants are contesting the validity of Meditex's interest in the opportunity offered by the Dubai Company.

80. Pursuant to NRS § 30.040, Meditex is entitled to declaratory relief as to the validity of its right in the opportunity usurped by the Modjtaheds.

75. As a result of Defendants' actions, Plaintiff has been damaged in an amount in excess of Ten Thousand Dollars (\$10,000.00), the exact amount of which damages shall be proved at the time of the trial of this matter.

1 81. It has become necessary for Plaintiff to retain the services of counsel to prosecute
2 these claims and Plaintiff is entitled to any and all costs incurred herein including without
3 limitation any and all attorney fees.

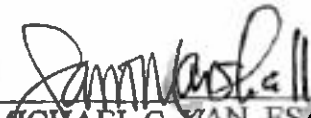
4
5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff, expressly reserving the right to amend this Complaint as
7 necessary, and demands judgment against the Defendants as follows:

- 8 1. For compensatory damages in an amount in excess of \$10,000.00;
9 2. For punitive damages in an amount in excess of \$10,000.00;
10 3. For reasonable attorney fees and costs incurred in prosecuting this matter;
11 4. For prejudgment and post-judgment interest until the judgment is paid in full;
12 5. For declaratory relief as requested herein; and
13 6. For such other and further relief as the court deems just and proper.

14 DATED this 26 day of May, 2016.

15 **SHUMWAY VAN**

16 
17 MICHAEL C. VAN, ESQ.
18 Nevada Bar No. 3876
19 SAMUEL A. MARSHALL, ESQ.
20 Nevada Bar No. 13718
21 8985 South Eastern Blvd., Suite 100
22 Las Vegas, Nevada 89123
23 Attorneys for Plaintiff

VERIFICATION

1
2 PARVIZ SAFARI declares this 06 day of ^{May}~~April~~, 2016, under penalty of perjury under
3 the laws of the State of Nevada, that the undersigned is a Plaintiff in the above-entitled action; that
4 he has read the above and foregoing First Amended Complaint, and knows the contents thereof;
5 that the same is true of his own knowledge, except for any matters therein stated upon information
6 and belief, and as to those matters therein stated upon information and belief, Plaintiff believes
7 them to be true.

8
9 
10 PARVIZ SAFARI
11 05/26/2016

VERIFICATION

MANDANA ZAHEDI declares this 26 day of ^{may}~~April~~, 2016, under penalty of perjury under the laws of the State of Nevada, that the undersigned is a Plaintiff in the above-entitled action; that she has read the above and foregoing First Amended Complaint, and knows the contents thereof; that the same is true of her own knowledge, except for any matters therein stated upon information and belief, and as to those matters therein stated upon information and belief, Plaintiff believes them to be true.


MANDANA ZAHEDI

5/26/2016

COS**SHUMWAY VAN****MICHAEL C. VAN, ESQ.**

Nevada Bar No. 3876

SAMUEL A. MARSHALL, ESQ.

Nevada Bar No. 13718

8985 South Eastern Ave., Suite 100

Las Vegas, Nevada 89123

Telephone: (702) 478-7770

Fax: (702) 478-7779

michael@shumwayvan.com

samuel@shumwayvan.com

*Attorneys for Plaintiff***DISTRICT COURT****CLARK COUNTY, NEVADA**

PARVIZ SAFARI and MANDANA
 ZAHEDI, individually and on behalf of
 MEDITEX, LLC, a Nevada Limited Liability
 Company,

Plaintiff,

vs.

HAMID MODJTAHED, an individual;
 MOHAMMAD MOJTAHED, an individual;
 ALI MOJTAHED, an individual; DOES, I
 through X; and ROE CORPORATIONS I
 through X, inclusive,

Defendants.

Case No.: A-15-729030-B

Dept. No.: XIII

CERTIFICATE OF SERVICE

1 I hereby certify that Plaintiff's **FIRST AMENDED COMPLAINT** was submitted
2 electronically for filing and service with the Eighth Judicial District Court on the 26th day of May,
3 2016 and mailed via USPS mail to the address below on the same day. Electronic service of the
4 foregoing document shall be made in accordance with the E-Service List as follows:¹

5 **KOLESAR & LEATHAM**

6 Jonathan D. Blum, Esq.

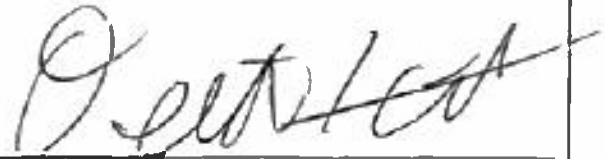
7 Eric D. Walther, Esq.

8 400 S. Rampart Blvd., Suite 400

9 Las Vegas, Nevada 89145

10 jblum@klnevada.com

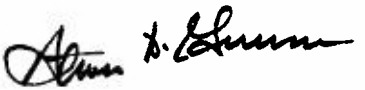
11 ewalther@klnevada.com



12 An employee of Shumway Van

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26
27 ¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to
28 electronic service in accordance with NRCP 5(b)(2)(D).

Exhibit 2


CLERK OF THE COURT

AACC
JONATHAN D. BLUM, ESQ.
Nevada Bar No. 009515
ERIC D. WALTHER, ESQ.
Nevada Bar No. 013611

KOLESAR & LEATHAM
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Telephone: (702) 362-7800
Facsimile: (702) 362-9472
E-Mail: jblum@klnevada.com
ewalther@klnevada.com

Attorneys for Defendants, Counter-Claimants

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

PARVIZ SAFARI and MANDANA ZAHEDI,
individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,

Plaintiffs,

vs.

HAMID MODJTAHED, an individual;
MOHAMMAD MOJTAHED, an individual;
ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

HAMID MODJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

Counter-Claimants,

vs.

PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
limited liability company; DOES I through X;
and ROE CORPORATIONS I through X,
inclusive,

Counter- Defendants.

CASE NO. A-15-729030-C

DEPT NO. VIII

**ANSWER TO FIRST AMENDED
COMPLAINT AND
COUNTERCLAIM**

KOLESAR & LEATHAM

400 S. Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

Tel: (702) 362-7800 / Fax: (702) 362-9472

ANSWER TO FIRST AMENDED COMPLAINT AND COUNTERCLAIM

Defendants HAMID MODJTAHED ("HAMID"), MOHAMMAD MOJTAHED ("MOHAMMAD") and ALI MOJTAHED ("ALI") (HAMID, MOHAMMAD and ALI are collectively referred to as "Defendants"), by and through their counsel, Kolesar & Leatham, for their Answer to the First Amended Complaint ("FAC") filed by Plaintiffs PARVIZ SAFARI ("PARVIZ") and MANDANA ZAHEDI ("MANDANA") individually and on behalf of MEDITEX, LLC (Defendants PARVIZ and MANDANA are collectively referred to as the "Plaintiffs"), respectfully answers as follows:

ANSWER TO FIRST AMENDED COMPLAINT

THE PARTIES

1. In answering Paragraph 1 of the FAC, Defendants are without sufficient knowledge or information to either admit or deny the allegations contained in this paragraph and, on this basis, deny each and every remaining allegation set forth therein.

2. In answering Paragraph 2 of the FAC, Defendants are without sufficient knowledge or information to either admit or deny the allegations contained in this paragraph and, on this basis, deny each and every remaining allegation set forth therein.

3. In answering Paragraph 3 of the FAC, Defendants admit Meditex, LLC is and was at all relevant times hereto, a Nevada limited liability company.

4. In answering Paragraph 4 of the FAC, Defendants admit HAMID is a resident of the State of California but deny the remaining allegations contained therein.

5. In answering Paragraph 5 of the FAC, Defendants admit MOHAMMAD is a resident of California but deny the remaining allegations contained therein.

6. In answering Paragraph 6 of the FAC, Defendants admit ALI is a resident of California but deny the remaining allegations contained therein.

7. In answering Paragraph 7 of the FAC, Defendants are without sufficient knowledge or information to either admit or deny the allegations contained in this paragraph and, on this basis, deny each and every allegation set forth therein.

///

1 8. In answering Paragraph 8 of the FAC, Defendants are without sufficient
2 knowledge or information to either admit or deny the allegations contained in this paragraph and,
3 on this basis, deny each and every allegation set forth therein.

4 **JURISDICTION AND VENUE**

5 9. In answering Paragraph 9 of the FAC, Defendants aver that the allegations set
6 forth in this paragraph are legal conclusions to which no response is necessary. In the event a
7 response is required, Defendants deny the allegation set forth therein.

8 **GENERAL ALLEGATIONS**

9 10. In answering Paragraph 10 of the FAC, Defendants admit the allegation set forth
10 therein.

11 11. In answering Paragraph 11 of the FAC, Defendants admit the allegations set forth
12 therein.

13 12. In answering Paragraph 12 of the FAC, Defendants deny the allegations set forth
14 therein.

15 13. In answering Paragraph 13 of the FAC, Defendants deny the allegations set forth
16 therein.

17 14. In answering Paragraph 14 of the FAC, Defendants admit the allegation set forth
18 therein.

19 15. In answering Paragraph 15 of the FAC, Defendants admit the allegation set forth
20 therein.

21 16. In answering Paragraph 16 of the FAC, Defendants deny the allegations set forth
22 therein.

23 17. In answering Paragraph 17 of the FAC, Defendants admit the allegations
24 contained therein other than the allegation that "Mr. Safari was mostly responsible for approving
25 purchase orders and other transactions," which is denied.

26 18. In answering Paragraph 18 of the FAC, Defendants admit that Ali Mojtahed was
27 never a member or manager of Meditex, but denies the remaining allegations contained therein.

28 ///

**FACTS LEADING UP TO THE DISPUTE BETWEEN MEDITEX AND THE
MODJTAHEDS**

19. In answering Paragraph 19 of the FAC, Defendants deny each and every allegation set forth therein.

20. In answering Paragraph 20 of the FAC, Defendants deny each and every allegation set forth therein.

21. In answering Paragraph 21 of the FAC, Defendants deny each and every allegation set forth therein.

**FACTS SURROUNDING THE DISPUTE BETWEEN MEDITEX AND THE
MODJTAHEDS**

22. In answering Paragraph 22 of the FAC, Defendants deny each and every allegation set forth therein.

23. In answering Paragraph 23 of the FAC, Defendants are without sufficient knowledge or information to either admit or deny the allegations contained in this paragraph and, on this basis, deny each and every allegation set forth therein.

24. In answering Paragraph 24 of the FAC, Defendants are without sufficient knowledge or information to either admit or deny the allegations contained in this paragraph and, on this basis, deny each and every allegation set forth therein.

25. In answering Paragraph 25 of the FAC, Defendants are without sufficient knowledge or information to either admit or deny the allegations contained in this paragraph and, on this basis, deny each and every allegation set forth therein.

26. In answering Paragraph 26 of the FAC, Defendants deny the allegations contained therein.

27. In answering Paragraph 27 of the FAC, Defendants deny the allegations set forth therein.

28. In answering Paragraph 28 of the FAC, Defendants are without sufficient knowledge or information to either admit or deny the allegations contained in this paragraph and, on this basis, deny each and every allegation set forth therein.

1 29. In answering Paragraph 29 of the FAC, Defendants deny each and every
2 allegation set forth therein.

3 30. In answering Paragraph 30 of the FAC, Defendants are without sufficient
4 knowledge or information to either admit or deny the allegations contained in this paragraph and,
5 on this basis, deny each and every allegation set forth therein.

6 31. In answering Paragraph 31 of the FAC, Defendants are without sufficient
7 knowledge or information to either admit or deny the allegations contained in this paragraph and,
8 on this basis, deny each and every allegation set forth therein.

9 32. In answering Paragraph 32 of the FAC, Defendants deny the allegations set forth
10 therein.

11 33. In answering Paragraph 33 of the FAC, Defendants deny the allegations set forth
12 therein.

13 34. In answering Paragraph 34 of the FAC, Defendants are without sufficient
14 knowledge or information to either admit or deny the allegations contained in this paragraph and,
15 on this basis, deny each and every allegation set forth therein.

16 35. In answering Paragraph 35 of the FAC, Defendants deny the allegations set forth
17 therein.

18 36. In answering Paragraph 36 of the FAC, Defendants are without sufficient
19 knowledge or information to either admit or deny the allegations contained in this paragraph and,
20 on this basis, deny each and every allegation set forth therein.

21 37. In answering Paragraph 37 of the FAC, Defendants are without sufficient
22 knowledge or information to either admit or deny the allegations contained in this paragraph and,
23 on this basis, deny each and every allegation set forth therein.

24 38. In answering Paragraph 38 of the FAC, Defendants deny each and every
25 allegation set forth therein.

26 39. In answering Paragraph 39 of the FAC, Defendants are without sufficient
27 knowledge or information to either admit or deny the allegations contained in this paragraph and,
28 on this basis, deny each and every allegation set forth therein.

1 40. In answering Paragraph 40 of the FAC, Defendants are without sufficient
2 knowledge or information to either admit or deny the allegations contained in this paragraph and,
3 on this basis, deny each and every allegation set forth therein.

4 41. In answering Paragraph 41 of the FAC, Defendants deny each and every
5 allegation set forth therein.

6 42. In answering Paragraph 42 of the FAC, Defendants deny each and every
7 allegation set forth therein.

8 43. In answering Paragraph 43 of the FAC, Defendants are without sufficient
9 knowledge or information to either admit or deny the allegations contained in this paragraph and,
10 on this basis, deny each and every allegation set forth therein.

11 44. In answering Paragraph 44 of the FAC, Defendants deny each and every
12 allegation set forth therein.

13 45. In answering Paragraph 45 of the FAC, Defendants deny each and every
14 allegation set forth therein.

15 46. In answering Paragraph 46 of the FAC, Defendants admit the allegations set forth
16 therein.

17 47. In answering Paragraph 47 of the FAC, Defendants admit the allegations set forth
18 therein, but deny the characterization as "Modjtahed's order".

19 48. In answering Paragraph 48 of the FAC, Defendants deny each and every
20 allegation set forth therein.

21 49. In answering Paragraph 49 of the FAC, Defendants deny each and every
22 allegation set forth therein.

23 50. In answering Paragraph 50 of the FAC, Defendants deny each and every
24 allegation set forth therein.

25 51. In answering Paragraph 51 of the FAC, Defendants deny each and every
26 allegation set forth therein.

27 ///

28 ///

FIRST CAUSE OF ACTION

**(Breach of Fiduciary Duty)
(Against Defendants Hamid Modjtahed and Mohammad Mojtahe)**

52. Paragraph 52 of the FAC merely incorporates by reference the allegations set forth in the foregoing paragraphs of the FAC, therefore, Defendants admit or deny said allegations as set forth in its response to each individual paragraph above.

53. In answering Paragraph 53 of the FAC, Defendants aver that the allegations set forth in this paragraph are legal conclusions to which no response is necessary. In the event a response is required, Defendants deny any allegation set forth therein.

54. In answering Paragraph 54 of the FAC, Defendants deny each and every allegation set forth therein.

55. In answering Paragraph 55 of the FAC, Defendants deny each and every allegation set forth therein.

56. In answering Paragraph 56 of the FAC, Defendants deny each and every allegation set forth therein.

57. In answering Paragraph 57 of the FAC, Defendants deny each and every allegation set forth therein.

58. In answering Paragraph 58 of the FAC, Defendants deny each and every allegation set forth therein.

59. In answering Paragraph 59 of the FAC, Defendants deny each and every allegation set forth therein.

60. In answering Paragraph 60 of the FAC, Defendants deny each and every allegation set forth therein.

61. In answering Paragraph 61 of the FAC, Defendants deny each and every allegation set forth therein.

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///

SECOND CAUSE OF ACTION

**(Intentional Interference with Prospective Economic Advantage)
(Against Defendants Hamid Modjtahed, Mohammad Mojtaled and Ali Mojtaled)**

62. Paragraph 62 of the FAC merely incorporates by reference the allegations set forth in the foregoing paragraphs of the FAC, therefore, Defendants admit or deny said allegations as set forth in its response to each individual paragraph above.

63. In answering Paragraph 63 of the FAC, Defendants deny each and every allegation set forth therein.

64. In answering Paragraph 64 of the FAC, Defendants deny each and every allegation set forth therein.

65. In answering Paragraph 65 of the FAC, Defendants deny each and every allegation set forth therein.

THIRD CAUSE OF ACTION

**(Embezzlement)
(Against Defendants Hamid Modjtahed and Mohammad Mojtaled)**

66. Paragraph 66 of the FAC merely incorporates by reference the allegations set forth in the foregoing paragraphs of the FAC, therefore, Defendants admit or deny said allegations as set forth in its response to each individual paragraph above.

67. In answering Paragraph 67 of the FAC, Defendants deny the allegations contained therein.

68. In answering Paragraph 68 of the FAC, Defendants deny each and every allegation set forth therein.

69. In answering Paragraph 69 of the FAC, Defendants deny each and every allegation set forth therein.

70. In answering Paragraph 70 of the FAC, Defendants deny each and every allegation set forth therein.

///

///

FOURTH CAUSE OF ACTION

**(Declaratory Relief)
(Against all Defendants)**

71. Paragraph 71 of the FAC merely incorporates by reference the allegations set forth in the foregoing paragraphs of the FAC, therefore, Defendants admit or deny said allegations as set forth in its response to each individual paragraph above.

72. In answering Paragraph 72 of the FAC, Defendants aver that the allegations set forth in this paragraph are legal conclusions to which no response is necessary. In the event a response is required, Defendants admit the allegation set forth therein.

73. In answering Paragraph 73 of the FAC, Defendants aver that the allegations set forth in this paragraph are legal conclusions to which no response is necessary. In the event a response is required, Defendants admit the allegation set forth therein.

74. In answering Paragraph 74 of the FAC, Defendants deny each and every allegation set forth therein.

75. In answering Paragraph 75 (80) of the FAC, Defendants deny each and every allegation set forth therein (*this Paragraph has been inadvertently numbered as 80 in the FAC*).

76. In answering Paragraph 76 (75) of the FAC, Defendants deny each and every allegation set forth therein (*this Paragraph is numbered 75 in the FAC*).

77. In answering Paragraph 77 (76) of the FAC, Defendants deny each and every allegation set forth therein (*this Paragraph is numbered 76 in the FAC*).

FIFTH CAUSE OF ACTION

**(Accounting)
(Against Defendants Hamid Modjtahed and Mohammad Mojtahead)**

78. Paragraph 78 (77) of the FAC merely incorporates by reference the allegations set forth in the foregoing paragraphs of the FAC, therefore, Defendants admit or deny said allegations as set forth in its response to each individual paragraph above (*this Paragraph is numbered as 77 in the FAC*).

1 79. In answering Paragraph 79 (78) of the FAC, Defendants admit the allegations
2 contained therein with respect to Hamid Modjtahed and Mohammad Mojtaheh (*this Paragraph*
3 *is numbered as 78 in the FAC*).

4 80. In answering Paragraph 80 (79) of the FAC, Defendants deny each and every
5 allegation set forth therein (*this Paragraph is numbered as 79 in the FAC*).

6 81. In answering Paragraph 81(80) of the FAC, Defendants deny each and every
7 allegation set forth therein (*this Paragraph is numbered as 80 in the FAC*).

8 82. In answering Paragraph 82 (81) of the FAC, Defendants deny each and every
9 allegation set forth therein (*this Paragraph is numbered as 81 in the FAC*).

10 **AFFIRMATIVE DEFENSES**

11 **FIRST AFFIRMATIVE DEFENSE**

12 Plaintiffs' FAC fails to state a claim upon which relief can be granted.

13 **SECOND AFFIRMATIVE DEFENSE**

14 At all material times, Defendants acted in good faith and exercised their lawful rights in
15 dealing with Plaintiffs.

16 **THIRD AFFIRMATIVE DEFENSE**

17 Plaintiffs' claims are barred because Plaintiffs breached the agreement between the
18 parties, if any.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 Plaintiffs' claims are barred by Plaintiffs' own failure to deal in good faith and deal fairly
21 with Defendants.

22 **FIFTH AFFIRMATIVE DEFENSE**

23 Plaintiffs have failed to mitigate their damages, if any.

24 **SIXTH AFFIRMATIVE DEFENSE**

25 Plaintiffs' damages, if any, were caused by economic and other conditions that were
26 beyond the control of the Defendants.

27 ///

28 ///

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs have not and will not sustain any injury or damages as a result of Defendants' alleged acts and/or omissions.

EIGHTH AFFIRMATIVE DEFENSE

The damages suffered by Plaintiffs, if any, were caused in whole or in part by the acts of a third party over which Defendants had no control.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs failed to disclose necessary information and Defendants relied on this omission.

TENTH AFFIRMATIVE DEFENSE

OMITTED.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs failed to comply with a pre-existing duty.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs ratified, approved or acquiesced in the actions of Defendants.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs, by their actions, deeds and conduct, have released Defendants from any and all claims that they might otherwise have been able to assert against Defendants.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs are barred from maintaining this action by virtue of their own unclean hands and inequitable conduct.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by Plaintiffs' failure to deal fairly with Defendants.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendants, at all times relevant herein, acted in accordance with reasonable standards, in good faith, with reasonable care and did not contribute to the alleged damages.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' damages, if any, were not proximately or legally caused by any of the actions of Defendants.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred due to the lack of requisite intent by Defendants.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiffs' conduct has forced Defendants to retain the services of an attorney and Defendants are entitled to be compensated for the reasonable attorneys' fees and costs incurred in the defense of this action.

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiffs' FAC is barred by the applicable statute of limitations.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Defendants hereby incorporate by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as though fully set forth herein.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of the Answer, and therefore, Defendants reserve the right to amend its Answer to allege additional affirmative defenses if warranted during the course of discovery or further investigation.

WHEREFORE, Defendants pray for relief as follows:

1. Dismissal of Plaintiff's First Amended Complaint with prejudice;
2. For an award of reasonable attorney's fees and costs incurred by Defendants for having to defend this matter; and
3. For such other relief as the Court deems reasonable and proper.

DATED this 13 day of June, 2016.

KOLESAR & LEATHAM

By

JONATHAN D. BLUM, ESQ.
NEVADA Bar No. 009515
ERIC D. WALTHER, ESQ.
NEVADA Bar No. 013611
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Attorneys for Defendants/Counter-Claimants

COUNTERCLAIM AGAINST PARVIZ SAFARI, an individual; MANDANA ZAHEDI, an individual; NOOSHIN ZAHEDI, an individual; and, UTSAFETY, LLC, a Utah limited liability company;

COMES NOW Defendants/Counterclaimants HAMID MODJTAHED and MOHAMMAD MOJTAHED, individually and derivatively on behalf of MEDITEX, LLC, a Nevada limited liability company, by and through their counsel, Kolesar & Leatham, and hereby respectfully submit the following Counterclaim against Counter-Defendants PARVIZ SAFARI, MANDANA ZAHEDI, NOOSHIN ZAHEDI, and UTSATETY, LLC and states as follows:

PARTIES

1. At all relevant times herein, Defendant/Counter-Claimant HAMID MODJTAHED ("HAMID") is and was a resident of California.

2. At all relevant times herein, Defendant/Counter-Claimant MOHAMMAD MOJTAHED ("MOHAMMAD") is and was a resident of California.

3. Upon information and belief, Counter-Defendant PARVIZ SAFARI aka AIDAN/AIDEN SAFARI aka AIDAN/AIDEN DAVIS SAFARI ("PARVIZ") is a resident of Clark County, Nevada.

4. Upon information and belief, Counter-Defendant MANDANA ZAHEDI ("MANDANA") is a resident of Clark County, Nevada.

5. Upon information and belief, Counter-Defendant NOOSHIN ZAHEDI ("NOOSHIN"), is a resident of Nevada.

6. Upon information and belief, Counter-Defendant UTSAFETY, LLC ("UTSAFETY") is, and was at all times relevant hereto, a Utah limited liability company licensed and doing business in the state of Utah.

7. Defendants DOES I through X, inclusive, whether individual, corporate, Associate or otherwise, are sued by these fictitious names as they are unknown to Defendants/Counter-Claimants at this time. Defendants/Counter-Claimants are informed and believe, and thereupon allege, that at all times herein mentioned each of the Counter-Defendants sued herein as DOES I through X, inclusive, was the agent, servant, and employee of his, her or its co-Counter-Defendants, and in doing the things hereinafter mentioned was acting in the scope

1 of his, her or its authority as such agent, servant, employee, and with permission, consent and/or
2 ratification of his, her or its co-Counter-Defendants; and that each said factiously named
3 Counter-Defendants, whether individual, corporation, association, or otherwise, is in some way
4 liable or responsible to the Counter-Claimants on the facts hereinafter alleged, and caused
5 injuries and damages proximately thereby as hereinafter alleged. At such time Counter-
6 Defendants' true names become known to Counter-Claimants, Counter-Claimants will amend
7 this Counterclaim to insert said true names and capacities.

8 8. Defendants ROE CORPORATIONS I through X, inclusive, whether individual,
9 corporate, associate, or otherwise, are sued by these fictitious names as they are unknown to
10 Defendants/Counter-Claimants at this time. Defendants/Counter-Claimants are informed and
11 believe, and thereupon allege, that at all times herein mentioned each of the Counter-Defendants
12 sued herein as ROE CORPORATIONS I through X, inclusive, was the agent, servant, and
13 employee of his, her or its co-Counter-Defendants, and in doing the things hereinafter mentioned
14 was acting in the scope of his, her or its authority as such agent, servant, employee, and with
15 permission, consent and/or ratification of his, her or its co-Counter-Defendants; and that each
16 said factiously named Counter-Defendants, whether individual, corporation, association, or
17 otherwise, is in some way liable or responsible to the Counter-Claimants on the facts hereinafter
18 alleged, and caused injuries and damages proximately thereby as hereinafter alleged. At such
19 time Counter-Defendants' true names become known to Counter-Claimants, Counter-Claimants
20 will amend this Counterclaim to insert said true names and capacities.

21 **JURISDICTION AND VENUE**

22 9. Jurisdiction is appropriate pursuant to NRS 14.065.

23 10. Venue is appropriate pursuant to NRS 13.040.

24 **GENERAL ALLEGATIONS**

25 11. HAMID, MOHAMMAD, PARVIZ and MANDANA formed MEDITEX, LLC
26 ("Meditex") in August, 2010.

27 12. Meditex was in the sale and export business of various products including food
28 supplements, vitamins, sugar substitutes, and safety equipment.

13. PARVIZ is currently wrongfully holding laptop computers, printers, scanners, and other various pieces of office equipment that belong to Meditex.

14. From 2012 to 2014 PARVIZ and MANDANA took a series of personal loans from Meditex in the amount of \$87,965, which they have failed to repay to the Company.

15. In 2012, PARVIZ and MANDANA took a personal loan from HAMID and MOHAMMAD, in the amount of \$12,000, which they have failed to repay.

16. PARVIZ repeatedly and without authority withdrew money from Meditex's bank account for personal expenses.

17. According to Meditex's 2014 tax return, specifically the Reconciliation of Partners' Capital Accounts Worksheet, the ending capital of PARVIZ was negative \$71,086, while the ending capital of MANDANA was negative \$16,879.

18. PARVIZ and MANDANA have failed to repay Meditex the amounts they owe.

19. In his capacity as a manager of Meditex, PARVIZ was primarily responsible for administrative duties, which he repeatedly failed to do.

20. PARVIZ's responsibilities also included assistance with the coordination of purchasing and shipping of merchandise, which he failed to properly do.

21. PARVIZ contributed no capital to Meditex.

22. PARVIZ had no independent decision-making authority. All decisions were required to be approved by HAMID and MOHAMMAD.

23. MANDANA did not provide any services to Meditex, and contributed no capital to the company.

THE UTSAFETY FRAUD

24. PARVIZ, in the name of Meditex, facilitated a series of transactions with SCBA Sales & Rentals LLC, a Nevada limited liability company "SCBA LLC".

25. SCBA LLC has offices in Nevada and Utah, and is in the business of selling and renting self-contained breathing apparatuses ("SCBA Equipment") for the firefighting industry.

26. Meditex generally sought to purchase used SCBA Equipment from SCBA LLC, and in turn sell that equipment to international customers.

- 1 27. PARVIZ was Meditex's sole contact with SCBA.
- 2 28. SCBA LLC's website can be found at <http://www.scbarentalco.com/> (the "Real
- 3 SCBA URL").
- 4 29. Employees and/or owners of SCBA LLC utilized email addresses ending with
- 5 "@scbarentalco.com", including the email address "sales@scbarentalco.com".
- 6 30. On or about April 21, 2013, the URL "scbasaleco.com" (the "Fake SCBA URL")
- 7 was purchased and registered.
- 8 31. On information and belief, PARVIZ and/or MANDANA purchased and registered
- 9 the Fake SCBA URL, for the purposes of defrauding Meditex, HAMID and MOHAMMAD.
- 10 32. SCBA LLC does not own the Fake SCBA URL.
- 11 33. On or before April 23, 2013, PARVIZ created several emails purportedly from
- 12 SCBA LLC, but utilizing the email address "sales@scbasaleco.com" (the "Fake SCBA Email
- 13 Address").
- 14 34. SCBA LLC does not use the Fake SCBA email address.
- 15 35. One such fraudulent email, dated April 23, 2013, was sent from the Fake SCBA
- 16 Email Address to aidansafari@meditexllc.com, the email address used by PARVIZ.
- 17 36. That email, attached hereto as **Exhibit A**, has a signature block indicating that it
- 18 was sent by Tom Allen, Sales Manager of "SCBA sale and Rental" and "UTSafety, LLC".
- 19 37. The email states, in part, "My CPA had a hard time figuring out the tax, the
- 20 confusion is your company is incorporated in Nevada, after all we decided to do the business
- 21 with our service company in UTAH, UTSafety.... Please make the first payment today...."
- 22 38. In fact, UTSAFETY is not a "service company" for SCBA LLC, and is not
- 23 affiliated with SCBA LLC at all.
- 24 39. Rather, UTSAFETY is owned by NOOSHIN, the sister in law of PARVIZ.
- 25 40. PARVIZ never disclosed to MOHAMMAD or HAMID, nor did MOHAMMAD
- 26 or HAMID know, that UTSAFETY was owned by PARVIZ'S sister in law.
- 27 41. PARVIZ sent other emails to himself, utilizing the Fake SCBA Email Address,
- 28 purportedly from Kim Holman, the President of SCBA LLC.

1 42. PARVIZ also created fraudulent invoices, purportedly from SCBA LLC, that
2 referenced the Fake SCBA email address.

3 43. PARVIZ forwarded the fake SCBA LLC invoices to MOHAMMAD and HAMID
4 and instructed them to pay the fake invoices to UTSAFETY, on behalf of Meditex.

5 44. MOHAMMAD and HAMID were led to believe that the fake invoices had to be
6 paid for the benefit of Meditex and were unaware that the invoices were fraudulent. In reliance
7 on the fake SCBA LLC invoices, MOHAMMAD and HAMID did in fact cause money from
8 Meditex to be paid to UTSAFETY.

9 45. NOOSHIN, as owner of UTSAFETY knew or should have known that PARVIZ
10 was fraudulently directing that payments be made from Meditex to UTSAFETY.

11 46. There were delays with SCBA LLC providing the SCBA Equipment that had
12 supposedly been ordered by PARVIZ.

13 47. PARVIZ gave assurances to HAMID and MOHAMMAD that SCBA LLC had
14 agreed to provide the remaining 100 units of SCBA Equipment plus spare parts.

15 48. According to PARVIZ, the amount owed to SCBA LLC was \$61,100. Per
16 PARVIZ's instruction, Meditex remitted \$17,600 directly to SCBA LLC. Also per PARVIZ's
17 instruction, Meditex remitted \$43,500 to UTSAFETY.

18 49. SCBA LLC never received the \$43,500 which was paid by Meditex to
19 UTSAFETY. Since SCBA LLC was not fully paid, the remaining 100 units and spare parts were
20 never provided to Meditex, which led to problems with Meditex's customer in Dubai.

21 50. PARVIZ never returned the \$61,100.

22 51. PARVIZ sent other fraudulent emails that he drafted from the Fake SCBA Email
23 Address to himself. Those emails state that SCBA LLC was experiencing various problems that
24 were causing delays in delivering the equipment to Meditex.

25 52. The purpose of drafting these fraudulent emails was, in part, an attempt by
26 PARVIZ to cover up for his fraudulent activity.

27 53. Additionally, instead of ordering quality SCBA Equipment from SCBA LLC,
28 PARVIZ ordered inferior, less expensive units in order to save money, and maximize the money

1 that he could steal. As a result, Meditex received complaints about the equipment from its
2 customer, which caused damage to its reputation.

3 54. Further, as a result of PARVIZ's fraudulent actions, Meditex has not shipped the
4 final 100 units ordered by its customer in Dubai, which caused it to miss out on profits it would
5 otherwise have realized.

6 55. In approximately late 2014 or early 2015, utilizing Meditex's funds, PARVIZ
7 paid SCBA LLC \$6,000 towards the remaining 100 units, which did not cover the entire
8 remaining balance owed to SCBA LLC. Instead of paying SCBA the remaining balance owed, a
9 few months ago, PARVIZ informed SCBA LLC that he did not want the remaining units. SCBA
10 LLC issued a refund check to PARVIZ which he kept without authorization. PARVIZ failed to
11 inform MOHAMMAD and HAMID that he cancelled the order, and that he kept the \$6,000
12 refund.

13 56. Based on the fraudulent activity of PARVIZ, MANDANA and NOOSHIN,
14 utilizing the capital of MOHAMMAD and HAMID, Meditex made payments to UTSAFETY of
15 approximately \$219,100. Instead of going to SCBA LLC for the legitimate business purposes of
16 Meditex, PARVIZ, MANDANA and/or NOOSHIN took the money for personal benefit. Only
17 \$133,000 was actually paid to SCBA LLC. At least \$86,100 was embezzled.

18 57. The total amount embezzled by PARVIZ, MANDANA and NOOSHIN is at least
19 \$92,100.

20 **THE YUSEN FRAUD**

21 58. Over the course of time Meditex was conducting business, it was involved in
22 numerous transactions with NUTRALab Canada Ltd. ("NutraLab"), a vitamin/supplement
23 manufacturer located in Toronto, Ontario, Canada.

24 59. In general, Meditex would order vitamins/supplements from NutraLab, and ship
25 them to its customers in the Middle East using a Canadian shipping company, Yusen Logistics
26 (Canada), Inc. ("Yusen").

27 60. MOHAMMAD served as Meditex's medical director, and introduced NutraLab to
28 Meditex as a possible supplier.

1 61. In 2013, PARVIZ communicated with Yusen and NutraLab, on behalf of
2 Meditex, for the purpose of making arrangements for purchase orders and the shipments of
3 orders. Despite Parviz's involvement, all such orders were ultimately negotiated by
4 MOHAMMAD on behalf Meditex.

5 62. On numerous occasions in 2014, PARVIZ stated to HAMID and MOHAMMAD
6 that additional payments for shipping charges were required in order to ship their orders to Iran.
7 Specifically, he claimed that Yusen could not handle the shipments by itself, so he needed to
8 make arrangements with a "Mr. Jamshidi".

9 63. According to PARVIZ, Mr. Jamshidi was related to MANDANA and had
10 connections to Turkish Airlines. PARVIZ claimed that additional payments were required by
11 Turkish Airlines for these shipments.

12 64. PARVIZ requested reimbursements from HAMID and MOHAMMAD for
13 payments he supposedly made to Mr. Jamshidi, which supposedly were in turn made to Turkish
14 Airlines.

15 65. PARVIZ requested that the checks be made payable to him, from Meditex.

16 66. Hamid, on behalf of Meditex, wrote checks to PARVIZ based on his fraudulent
17 representations.

18 67. On at least two occasions, PARVIZ made online transfers from Meditex's account
19 to his personal account, which he claimed were reimbursements for these payments.

20 68. Such transfers, based on PARVIZ's fraudulent requests, exceeded \$21,000.

21 69. Further, in February, 2014, PARVIZ claimed that he needed to travel to Dallas,
22 Texas, for the purpose of meeting with Mr. Jamshidi to arrange the additional payments to
23 Turkish Airlines. He was reimbursed \$520.00 for the trip, though he provided no receipts.

24 70. HAMID and MOHAMMAD later learned that Turkish Airlines did not require
25 these additional payments, and that all shipment logistics were handled by Yusen alone.

26 71. In April, 2014, HAMID and MOHAMMAD traveled to Toronto, Canada to meet
27 with representatives of NutraLab and Yusen.

28 72. PARVIZ insisted that HAMID and MOHAMMAD not have any contact with

1 Yusen, and that he be Meditex's sole contact person on behalf of Meditex. PARVIZ made these
2 demands in order to conceal his fraudulent conduct.

3 **SABATOGE OF MEDITEX'S BUSINESS**

4 73. On January 27, 2015 PARVIZ requested payment from HAMID &
5 MOHAMMAD in the amount of \$3,352.49, supposedly owed to Yusen for shipping services.
6 HAMID sent PARVIZ the requested amount to make the payment. PARVIZ assured HAMID
7 and MOHAMMAD that he paid the amounts due to Yusen via credit card.

8 74. In May 2015, Meditex received an inquiry from its customer, Ganjineh Salamat
9 Pasargard ("Customer") regarding a shipment of an order for bulk vitamins (the "Order").

10 75. The deadline set by the Customer to receive the Order was September 15, 2015.

11 76. HAMID and MOHAMMAD communicated with PARVIZ regarding the Order
12 immediately.

13 77. MOHAMMAD asked PARVIZ to request a quote and estimated time for
14 fulfillment of the Order from NutraLab.

15 78. PARVIZ sent an initial email requesting a quote from NutraLab, but, after that,
16 failed to respond to NutraLab's emails.

17 79. MOHAMMAD repeatedly asked PARVIZ to follow up on the Order with
18 NutraLab, as well as other projects.

19 80. In July 2015, MOHAMMAD, HAMID and ALI met with PARVIZ at Meditex's
20 office in Henderson, Nevada. At that meeting PARVIZ was asked why he was not following up
21 on the Order, as he was supposed to do.

22 81. PARVIZ stated that he was too busy to deal with the Order.

23 82. They agreed that MOHAMMAD would follow up with NutraLab about the Order,
24 with the help of ALI.

25 83. PARVIZ requested that Meditex be shut down, which HAMID and
26 MOHAMMAD disagreed with. PARVIZ made this request repeatedly as he feared HAMID and
27 MOHAMMAD would discover his various frauds.

28 84. MOHAMMAD and ALI followed up with Yusen regarding the shipment of the

1 Order.

2 85. On September 2, 2015 Yusen informed MOHAMMAD and ALI that Meditex still
3 had an outstanding balance of \$3,000, which would have to be paid before any additional
4 shipments could be made. Yusen also informed them that it had been requesting this payment
5 from Meditex since November, 2014.

6 86. HAMID and MOHAMMAD never received Yusen's emails requesting payment
7 since PARVIZ was deleting them to prevent his fraud from being discovered.

8 87. In September 2015 PARVIZ again claimed that he had paid Yusen the past due
9 amounts with his credit card. PARVIZ instructed HAMID and MOHAMMAD not to pay Yusen
10 this amount, insisting that he already paid it. This caused a further delay with the Order as
11 PARVIZ assured HAMID and MOHAMMAD that he would solve the problem.

12 88. In order to prevent HAMID and MOHAMMAD from finding out about his
13 ongoing fraud regarding payments to Turkish Airlines, and based on a motivation to harm
14 Meditex, HAMID and MOHAMMAD, PARVIZ sought to prevent the Order from being
15 completed.

16 89. Had the Order been completed, with MOHAMMAD being in direct
17 communication with Yusen, they would have realized that PARVIZ'S numerous requests for
18 payment for additional shipping charges supposedly paid to Turkish Airlines were, in fact,
19 fraudulent.

20 90. On September 9, 2015, PARVIZ sent an email to Bill Carter, Export Supervisor
21 for Yusen, stating that the Order was not authorized and issuing threats if it was completed.

22 91. PARVIZ provided none of the capital used to pay for the Order, all of which was
23 funded by HAMID and MOHAMMAD, on behalf of Meditex.

24 92. HAMID then spoke to Mark Donovan at Yusen, who stated that payment of the
25 past-due amounts did not occur, and that Yusen is not even able to accept credit card payments
26 from the United States.

27 93. In order to overcome Yusen's refusal to ship the Order, on September 14, 2014
28 Meditex was forced to pay Yusen \$3,000 a second time, due to PARVIZ's fraud.

1 94. On information and belief, PARVIZ contacted Canadian Customs to have
2 shipment of the Order halted. Canadian Customs did in fact halt the Order, which was never
3 delivered to the Customer. After it was released by Canadian Customs, the Order was returned
4 to NutraLab.

5 95. PARVIZ's actions caused damage to Meditex in that Meditex failed to deliver the
6 Order to its Customer by the deadline, and the Order was ultimately returned to NUTRALab.
7 Based on PARVIZ'S actions, Meditex lost the profit it would have made on the Order, and
8 sustained significant reputational harm.

9 **PARVIZ SEEKS TO AVOID BEING CAUGHT**

10 96. In early 2015, PARVIZ requested numerous times that Meditex be shut down.
11 PARVIZ made these requests because he didn't want his numerous fraudulent acts to be
12 discovered by HAMID and MOHAMMAD.

13 97. Despite numerous requests by HAMID and MOHAMMAD for PARVIZ to
14 submit the annual filings and fees to the Nevada Secretary of State necessary to keep the
15 company in good standing, PARVIZ failed to do so, despite receiving money specifically for this
16 purpose.

17 98. PARVIZ allowed Meditex to lapse into default status.

18 **OTHER FRAUD**

19 99. In spring of 2015, Meditex decided to become a member of the Las Vegas Metro
20 Chamber of Commerce (the "Chamber").

21 100. PARVIZ was tasked with signing Meditex up for membership with the Chamber.

22 101. PARVIZ created a fraudulent invoice, purportedly issued by the Chamber,
23 showing the cost for a one year membership of \$3,500. PARVIZ sent the fraudulent invoice to
24 HAMID and/or MOHAMMAD, and requested payment.

25 102. On April 1, 2015, PARVIZ, who had access to Meditex's bank account, made an
26 online transfer from Meditex's bank account, to the joint checking account of PARVIZ and
27 MANDANA, purportedly to reimburse himself for payment to the Chamber.

28 103. In reality, PARVIZ only paid the Chamber \$300, for one month of membership,

1 and kept the remaining balance for himself.

2 104. PARVIZ, with no authority from Meditex, cancelled the membership with the
3 Chamber.

4 105. The Chamber returned the \$300 to PARVIZ.

5 106. PARVIZ and MANDANA never returned the \$3,500 to Meditex, and never told
6 HAMID or MOHAMMAD that he cancelled Meditex's membership with the Chamber.

7 107. In 2011, MOHAMMAD provided \$3,500 to PARVIZ for purposes of opening a
8 bank account for another business venture. PARVIZ requested that the funds be wired to the
9 account of BATOOL ZAMANIAN, MANDANA'S mother. PARVIZ failed to use these funds
10 for their intended purpose and failed to return these funds to MOHAMMAD.

11 **DERIVATIVE ALLEGATIONS**

12 108. It is not clear, at the present time, whether HAMID and MOHAMMAD,
13 collectively, own a majority interest in Meditex.

14 109. In the event that it is determined that HAMID and MOHAMMAD currently,
15 collectively own less than a majority of Meditex, they would not have the authority to bring
16 claims directly in the name of Meditex. As such, claims are being asserted derivatively on behalf
17 of Meditex.

18 110. HAMID and MOHAMMAD did not make an effort to secure the initiation of this
19 action by the other members/ managers of Meditex, as such efforts would have been futile. The
20 claims asserted herein are either directly against those members/managers, or are related to the
21 malfeasance by those members/managers.

22 **DERIVATIVE CLAIMS ASSERTED ON BEHALF OF MEDITEX, LLC**

23 **FIRST CLAIM FOR RELIEF**

24 **(Breach of Contract Against PARVIZ and MANDANA)**

25 111. Counter-Claimants refer to and incorporate herein by reference each of the
26 foregoing paragraphs as though fully set forth herein.

27 112. PARVIZ, MANDANA and Meditex entered into several valid and existing
28 contracts, including loan agreements wherein Meditex was the lender and PARVIZ and

MANDANA were the borrowers.

113. Meditex fully performed its obligations thereunder, including remittance of \$87,965.

114. PARVIZ and MANDANA breached the contracts by failing to repay the amounts borrowed from Meditex.

115. Meditex sustained damages in excess of \$10,000 as a result of PARVIZ and MANDANA'S breaches.

116. Meditex has been forced to retain an attorney in order to prosecute this action and is entitled to recovery of attorneys' fees and costs incurred herein.

SECOND CLAIM FOR RELIEF

(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing Against PARVIZ and MANDANA)

117. Counter-Claimants refer to and incorporate herein by reference each of the foregoing paragraphs as though fully set forth herein.

118. PARVIZ and MANDANA entered into several valid and existing contracts with Meditex.

119. PARVIZ and MANDANA owed a duty of good faith to Meditex.

120. PARVIZ and MANDANA breached that duty by performing in a manner that was unfaithful to the purpose of the contracts.

121. Meditex's justified expectations were thus denied.

122. Meditex sustained damages in excess of \$10,000 as a result of PARVIZ and MANDANA'S breaches.

123. Meditex has been forced to retain an attorney in order to prosecute this action and is entitled to recovery of attorneys' fees and costs incurred herein.

THIRD CLAIM FOR RELIEF

(Tortious Breach of Implied Covenant of Good Faith and Fair Dealing Against PARVIZ and MANDANA)

124. Counter-Claimants refer to and incorporate herein by reference each of the

1 foregoing paragraphs as though fully set forth herein.

2 125. PARVIZ and MANDANA entered into several valid and existing contracts with
3 Meditex.

4 126. PARVIZ and MANDANA owed a duty of good faith to Meditex arising from the
5 contracts.

6 127. A special element of reliance or fiduciary duty existed between Meditex and
7 PARVIZ as well as Meditex and MANDANA wherein PARVIZ and MANDANA were in an
8 entrusted position.

9 128. PARVIZ and MANDANA breached that duty of good faith by engaging in
10 misconduct.

11 129. Meditex's suffered damages in excess of \$10,000 as a result of the breach.

12 130. Meditex is entitled to exemplary and punitive damages due to PARVIZ and
13 MANDANA's oppression, fraud and/or malice.

14 131. Meditex has been forced to retain an attorney in order to prosecute this action and
15 is entitled to recovery of attorneys' fees and costs incurred herein.

16 **FOURTH CLAIM FOR RELIEF**

17 **(Unjust Enrichment/Quantum Meruit against PARVIZ and MANDANA)**

18 132. Counter-Claimants refer to and incorporate herein by reference each of the
19 foregoing paragraphs as though fully set forth herein.

20 133. Meditex conferred a benefit upon PARVIZ and MANDANA in the form of
21 money and property.

22 134. PARVIZ and MANDANA have unjustly retained the money and property of
23 Meditex against fundamental principles of justice, equity and good conscience.

24 135. It would be unjust for PARVIZ and MANDANA to retain Meditex's money and
25 property.

26 136. Meditex has suffered damages in excess of \$10,000 as a result of PARVIZ and
27 MANDANA's unjust enrichment.

28 137. Meditex is entitled to exemplary and punitive damages due to PARVIZ and

1 MANDANA's oppression, fraud and/or malice.

2 138. Meditex has been forced to retain an attorney in order to prosecute this action and
3 is entitled to recovery of attorneys' fees and costs incurred herein.

4 **FIFTH CLAIM FOR RELIEF**

5 **(Fraud Against PARVIZ)**

6 139. Counter-Claimants refer to and incorporate herein by reference each of the
7 foregoing paragraphs as though fully set forth herein.

8 140. PARVIZ made false representations to MOHAMMAD, HAMID and Meditex.

9 141. PARVIZ knew or believed the representations were false or had an insufficient
10 basis for making the representations.

11 142. PARVIZ intended to induce MOHAMMAD, HAMID and Meditex to act or
12 refrain from acting in reliance upon the misrepresentations.

13 143. MOHAMMAD, HAMID and Meditex justifiably relied on the misrepresentations.

14 144. Meditex incurred damages in excess of \$10,000 as a result of such reliance.

15 145. Meditex is entitled to exemplary and punitive damages due to PARVIZ and
16 MANDANA's oppression, fraud and/or malice.

17 146. Meditex has been forced to retain an attorney in order to prosecute this action and
18 is entitled to recovery of attorneys' fees and costs incurred herein.

19 **SIXTH CLAIM FOR RELIEF**

20 **(Breach of Fiduciary Duty Against PARVIZ and MANDANA)**

21 147. Counter-Claimants refer to and incorporate herein by reference each of the
22 foregoing paragraphs as though fully set forth herein.

23 148. PARVIZ and MANDANA owed fiduciary duties to Meditex, including but not
24 limited to the duties of care, loyalty and good faith.

25 149. PARVIZ and MANDANA breached those duties.

26 150. The breach of duty actually and proximately caused damages to Meditex in excess
27 of \$10,000.

28 151. Meditex is entitled to exemplary and punitive damages due to PARVIZ and

1 MANDANA's oppression, fraud and/or malice.

2 152. Meditex has been forced to retain an attorney in order to prosecute this action and
3 is entitled to recovery of attorneys' fees and costs incurred herein.

4 **SEVENTH CLAIM FOR RELIEF**

5 **(Aiding and Abetting Breach of Fiduciary Duty Against UTSAFETY and NOOSHIN)**

6 153. Counter-Claimants refer to and incorporate herein by reference each of the
7 foregoing paragraphs as though fully set forth herein.

8 154. PARVIZ and MANDANA owed fiduciary duties to Meditex, including but not
9 limited to the duties of care, loyalty and good faith.

10 155. PARVIZ and MANDANA breached their fiduciary duties to Meditex.

11 156. UTSAFETY and NOOSHIN knowingly participated in the breach.

12 157. The breach of duty actually and proximately caused damages to Meditex in excess
13 of \$10,000.

14 158. Meditex is entitled to exemplary and punitive damages due to UTSAFETY and
15 NOOSHIN's oppression, fraud and/or malice.

16 159. Meditex has been forced to retain an attorney in order to prosecute this action and
17 is entitled to recovery of attorneys' fees and costs incurred herein.

18 **EIGHTH CLAIM FOR RELIEF**

19 **(Civil Conspiracy Against PARVIZ, MANDANA, UTSAFETY and NOOSHIN)**

20 160. Counter-Claimants refer to and incorporate herein by reference each of the
21 foregoing paragraphs as though fully set forth herein.

22 161. PARVIZ, MANDANA, UTSAFETY and NOOSHIN, by acting in concert,
23 intended to accomplish an unlawful objective for the purpose of harming Meditex.

24 162. Meditex sustained damages in excess of \$10,000 resulting from their acts.

25 163. Meditex is entitled to exemplary and punitive damages due to their oppression,
26 fraud and/or malice.

27 164. Meditex has been forced to retain an attorney in order to prosecute this action and
28 is entitled to recovery of attorneys' fees and costs incurred herein.

NINTH CLAIM FOR RELIEF

(Concert of Action Against PARVIZ, MANDANA, UTSAFETY and NOOSHIN)

165. Counter-Claimants refer to and incorporate herein by reference each of the foregoing paragraphs as though fully set forth herein.

166. PARVIZ, MANDANA, UTSAFETY and NOOSHIN acted together to commit a tort while acting in concert or pursuant to a common design.

167. Meditex sustained damages in excess of \$10,000 resulting from their acts.

168. Meditex is entitled to exemplary and punitive damages due to their oppression, fraud and/or malice.

169. Meditex has been forced to retain an attorney in order to prosecute this action and is entitled to recovery of attorneys' fees and costs incurred herein.

TENTH CLAIM FOR RELIEF

(Constructive Fraud Against PARVIZ and MANDANA)

170. Counter-Claimants refer to and incorporate herein by reference each of the foregoing paragraphs as though fully set forth herein.

171. PARVIZ and MANDANA owed a legal and equitable duty to Meditex arising from a fiduciary relationship.

172. PARVIZ and MANDANA breached that duty by misrepresenting and concealing a material fact.

173. Meditex sustained damages in excess of \$10,000 resulting from their acts.

174. Meditex is entitled to exemplary and punitive damages due to their oppression, fraud and/or malice.

175. Meditex has been forced to retain an attorney in order to prosecute this action and is entitled to recovery of attorneys' fees and costs incurred herein.

ELEVENTH CLAIM FOR RELIEF

(Accounting Against PARVIZ and MANDANA)

176. Counter-Claimants refer to and incorporate herein by reference each of the foregoing paragraphs as though fully set forth herein.

177. PARVIZ and MANDANA had access to Meditex's bank account.

178. PARVIZ and MANDANA abused the trust of Meditex and stole and/or embezzled funds from Meditex.

179. PARVIZ and MANDANA should be ordered to provide a full accounting of all funds provided to them from Meditex and its members, as well as taken from Meditex.

180. Meditex sustained damages in excess of \$10,000 resulting from their acts.

181. Meditex has been forced to retain an attorney in order to prosecute this action and is entitled to recovery of attorneys' fees and costs incurred herein.

**INDIVIDUAL CLAIMS ASSERTED BY HAMID MODJTAHED AND MOHAMMAD
MOJTAHED**

TWELFTH CLAIM FOR RELIEF

(Breach of Contract Against PARVIZ and MANDANA)

182. Counter-Claimants refer to and incorporate herein by reference each of the foregoing paragraphs as though fully set forth herein.

183. PARVIZ and MANDANA and HAMID and MOHAMMAD entered into several valid and existing contracts, including loan agreements wherein HAMID and MOHAMMAD were the lenders and PARVIZ and MANDANA were the borrowers.

184. HAMID and MOHAMMAD fully performed their obligations thereunder, including remittance of \$12,000.

185. PARVIZ and MANDANA breached the contracts by failing to repay the amounts borrowed from HAMID and MOHAMMAD.

186. HAMID and MOHAMMAD sustained damages in excess of \$10,000 as a result of PARVIZ and MANDANA'S breaches.

187. HAMID and MOHAMMAD have been forced to retain an attorney in order to prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

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THIRTEENTH CLAIM FOR RELIEF

(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing Against PARVIZ and MANDANA)

188. Counter-Claimants refer to and incorporate herein by reference each of the foregoing paragraphs as though fully set forth herein.

189. PARVIZ and MANDANA entered into a valid and existing contract with HAMID and MOHAMMAD.

190. PARVIZ and MANDANA owed a duty of good faith to HAMID and MOHAMMAD.

191. PARVIZ and MANDANA breached that duty by performing in a manner that was unfaithful to the purpose of the contract.

192. HAMID and MOHAMMAD's justified expectations were thus denied.

193. HAMID and MOHAMMAD sustained damages in excess of \$10,000 as a result of PARVIZ and MANDANA'S breaches.

194. HAMID and MOHAMMAD have been forced to retain an attorney in order to prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

FOURTEENTH CLAIM FOR RELIEF

(Tortious Breach of Implied Covenant of Good Faith and Fair Dealing Against PARVIZ and MANDANA)

195. Counter-Claimants refer to and incorporate herein by reference each of the foregoing paragraphs as though fully set forth herein.

196. PARVIZ and MANDANA entered into several valid and existing contracts with HAMID and MOHAMMAD.

197. PARVIZ and MANDANA owed a duty of good faith to HAMID and MOHAMMAD arising from the contracts.

198. A special element of reliance or fiduciary duty existed between HAMID, MOHAMMAD, PARVIZ and MANDANA wherein PARVIZ and MANDANA were in an entrusted position.

1 199. PARVIZ and MANDANA breached that duty of good faith by engaging in
2 misconduct.

3 200. HAMID and MOHAMMAD suffered damages in excess of \$10,000 as a result of
4 the breach.

5 201. HAMID and MOHAMMAD are entitled to exemplary and punitive damages due
6 to PARVIZ and MANDANA's oppression, fraud and/or malice.

7 202. HAMID and MOHAMMAD have been forced to retain an attorney in order to
8 prosecute this action and is entitled to recovery of attorneys' fees and costs incurred herein.

9 **FIFTEENTH CLAIM FOR RELIEF**

10 **(Unjust Enrichment/ Quantum Meruit against PARVIZ and MANDANA)**

11 203. Counter-Claimants refer to and incorporate herein by reference each of the
12 foregoing paragraphs as though fully set forth herein.

13 204. Counter-Claimants conferred a benefit upon PARVIZ and MANDANA in the
14 form of money.

15 205. PARVIZ and MANDANA have unjustly retained the money of HAMID and
16 MOHAMMAD against fundamental principles of justice, equity and good conscience.

17 206. It would be unjust for PARVIZ and MANDANA to retain HAMID and
18 MOHAMMAD's money and property.

19 207. HAMID and MOHAMMAD have suffered damages in excess of \$10,000 as a
20 result of PARVIZ and MANDANA's unjust enrichment.

21 208. HAMID and MOHAMMAD are entitled to exemplary and punitive damages due
22 to PARVIZ and MANDANA's oppression, fraud and/or malice.

23 209. HAMID and MOHAMMAD have been forced to retain an attorney in order to
24 prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

25 **SIXTEENTH CLAIM FOR RELIEF**

26 **(Fraud Against PARVIZ)**

27 210. Counter-Claimants refer to and incorporate herein by reference each of the
28 foregoing paragraphs as though fully set forth herein.

1 211. PARVIZ made false representations to MOHAMMAD and HAMID.

2 212. PARVIZ knew or believed the representations were false or had an insufficient
3 basis for making the representations.

4 213. PARVIZ intended to induce MOHAMMAD and HAMID to act or refrain from
5 acting in reliance upon the misrepresentations.

6 214. MOHAMMAD and HAMID justifiably relied on the misrepresentations.

7 215. MOHAMMAD and HAMID incurred damages in excess of \$10,000 as a result of
8 such reliance.

9 216. MOHAMMAD and HAMID are entitled to exemplary and punitive damages due
10 to PARVIZ and MANDANA's oppression, fraud and/or malice.

11 217. MOHAMMAD and HAMID have been forced to retain an attorney in order to
12 prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

13 **SEVENTEENTH CLAIM FOR RELIEF**

14 **(Breach of Fiduciary Duty Against PARVIZ and MANDANA)**

15 218. Counter-Claimants refer to and incorporate herein by reference each of the
16 foregoing paragraphs as though fully set forth herein.

17 219. PARVIZ and MANDANA owed fiduciary duties to MOHAMMAD and HAMID,
18 including but not limited to the duties of care, loyalty and good faith.

19 220. PARVIZ and MANDANA breached those duties.

20 221. The breach of duty proximately caused damages to MOHAMMAD and HAMID
21 in excess of \$10,000.

22 222. MOHAMMAD and HAMID are entitled to exemplary and punitive damages due
23 to PARVIZ and MANDANA's oppression, fraud and/or malice.

24 223. MOHAMMAD and HAMID have been forced to retain an attorney in order to
25 prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

26 **EIGHTEENTH CLAIM FOR RELIEF**

27 **(Aiding and Abetting Breach of Fiduciary Duty Against UTSAFETY and NOOSHIN)**

28 224. Counter-Claimants refer to and incorporate herein by reference each of the

1 foregoing paragraphs as though fully set forth herein.

2 225. PARVIZ and MANDANA owed fiduciary duties to MOHAMMAD and HAMID,
3 including but not limited to the duties of care, loyalty and good faith.

4 226. PARVIZ and MANDANA breached their fiduciary duties to MOHAMMAD and
5 HAMID.

6 227. UTSAFETY and NOOSHIN knowingly participated in the breach.

7 228. The breach of duty proximately caused damages to MOHAMMAD and HAMID
8 in excess of \$10,000.

9 229. MOHAMMAD and HAMID are entitled to exemplary and punitive damages due
10 to UTSAFETY and NOOSHIN's oppression, fraud and/or malice.

11 230. MOHAMMAD and HAMID have been forced to retain an attorney in order to
12 prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

13 **NINETEENTH CLAIM FOR RELIEF**

14 **(Civil Conspiracy Against PARVIZ, MANDANA, UTSAFETY and NOOSHIN)**

15 231. Counter-Claimants refer to and incorporate herein by reference each of the
16 foregoing paragraphs as though fully set forth herein.

17 232. PARVIZ, MANDANA, UTSAFETY and NOOSHIN, by acting in concert,
18 intended to accomplish an unlawful objective for the purpose of harming MOHAMMAD and
19 HAMID.

20 233. MOHAMMAD and HAMID sustained damages in excess of \$10,000 resulting
21 from their acts.

22 234. MOHAMMAD and HAMID are entitled to exemplary and punitive damages due
23 to their oppression, fraud and/or malice.

24 235. MOHAMMAD and HAMID have been forced to retain an attorney in order to
25 prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

26 **TWENTIETH CLAIM FOR RELIEF**

27 **(Concert of Action Against PARVIZ, MANDANA, UTSAFETY and NOOSHIN)**

28 236. Counter-Claimants refer to and incorporate herein by reference each of the

1 foregoing paragraphs as though fully set forth herein.

2 237. PARVIZ, MANDANA, UTSAFETY and NOOSHIN acted together to commit a
3 tort while acting in concert or pursuant to a common design.

4 238. MOHAMMAD and HAMID sustained damages in excess of \$10,000 resulting
5 from their acts.

6 239. MOHAMMAD and HAMID are entitled to exemplary and punitive damages due
7 to their oppression, fraud and/or malice.

8 240. MOHAMMAD and HAMID have been forced to retain an attorney in order to
9 prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

10 **TWENTY-FIRST CLAIM FOR RELIEF**

11 **(Constructive Fraud Against PARVIZ and MANDANA)**

12 241. Counter-Claimants refer to and incorporate herein by reference each of the
13 foregoing paragraphs as though fully set forth herein.

14 242. PARVIZ and MANDANA owed a legal and equitable duty to MOHAMMAD and
15 HAMID arising from a fiduciary relationship.

16 243. PARVIZ and MANDANA breached that duty by misrepresenting and concealing
17 a material fact.

18 244. MOHAMMAD and HAMID sustained damages in excess of \$10,000 resulting
19 from their acts.

20 245. MOHAMMAD and HAMID are entitled to exemplary and punitive damages due
21 to their oppression, fraud and/or malice.

22 246. MOHAMMAD and HAMID have been forced to retain an attorney in order to
23 prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

24 **TWENTY-SECOND CLAIM FOR RELIEF**

25 **(Accounting Against PARVIZ and MANDANA)**

26 247. Counter-Claimants refer to and incorporate herein by reference each of the
27 foregoing paragraphs as though fully set forth herein.

28 248. PARVIZ and MANDANA had access to Meditex's bank account.

249. PARVIZ and MANDANA abused the trust of Meditex and its members/
managers, and stole and/or embezzled funds from Meditex and its members/ managers.

250. PARVIZ and MANDANA should be ordered to provide a full accounting of all
funds provided to them from Meditex and its members, as well as taken from Meditex and its
members.

251. PARVIZ and MANDANA sustained damages in excess of \$10,000 resulting from
their acts.

252. PARVIZ and MANDANA have been forced to retain an attorney in order to
prosecute this action and are entitled to recovery of attorneys' fees and costs incurred herein.

PRAYER FOR RELIEF

WHEREFORE, Defendants/Counter-Claimants pray for judgment against Counter-
Defendants PARVIZ SAFARI, MANDANA ZAHEDI, NOOSHIN ZAHEDI, and UTSATETY,
LLC, jointly and severally, as follows:

1. For an award of compensatory damages in an amount in excess of \$10,000.00;
2. For an award of reasonable attorneys' fees and costs incurred by
Defendants/Counter-Claimants for having to defend and prosecute this matter; and
3. For an award of exemplary and punitive damages.
4. For an accounting.
5. For pre and post-judgment interest.
6. For such other relief as the Court deems reasonable and proper.

DATED this 13 day of June, 2016.

KOLESAR & LEATHAM

By

JONATHAN D. BLUM, ESQ.

Nevada Bar No. 009515

ERIC D. WALTHER, ESQ.

Nevada Bar No. 13611

400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Defendants/Counter-Claimants

VERIFICATION

HAMID MODJTAHED declares this 13th day of June, 2016, under penalty of perjury under the laws of the State of Nevada, that the undersigned is a Defendant/Counter-Claimant in the above-entitled action; that he has read the above and foregoing Answer to First Amended Complaint and Counterclaim, and knows the contents thereof; that the same is true of his own knowledge, except for any matters therein stated upon information and belief, and as to those matters therein stated upon information and belief, Defendant/Counter-Claimant believes them to be true.



HAMID MODJTAHED

VERIFICATION

MOHAMMAD MOJTAHED declares this 13th day of June, 2016, under penalty of perjury under the laws of the State of Nevada, that the undersigned is a Defendant/Counter-Claimant in the above-entitled action; that he has read the above and foregoing Answer to First Amended Complaint and Counterclaim, and knows the contents thereof; that the same is true of his own knowledge, except for any matters therein stated upon information and belief, and as to those matters therein stated upon information and belief, Defendant/Counter-Claimant believes them to be true.



MOHAMMAD MOJTAHED

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 13th day of June, 2016, I caused to be served a true and correct copy of foregoing **ANSWER TO FIRST AMENDED COMPLAINT AND COUNTERCLAIM** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.


An Employee of KOLESAR & LEATHAM

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

EXHIBIT A

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

From: sales@scbasaleco.com <sales@scbasaleco.com>

Date: Tue, Apr 23, 2013 at 11:24 AM

Subject: SCBA

To: aidansafari@meditexllc.com

Aidan,

My CPA had a hard time figuring out the tax, the confusion is your company is incorporated in Nevada, after all we decided to do the business with our service company in UTAH, UTSafety. LLC so please inform that the prices are FOB (lindon, Utah).

I'll help you to get max. discount for packaging and shipping of equipments and be sure it covers your request for more discount.

Please make the first payment today, I am out of country and you can email me if you have any problem.

Thank you

Tom Allen

Sales Manager

SCBA sale and Rental

UTSafety, LLC

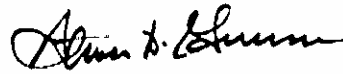
3870 E Flamingo rd STE A2-322

Las Vegas, NV 89121

Phone: [702-750 9421](tel:702-750-9421)

sales@scbasaleco.com

Exhibit 3



CLERK OF THE COURT

ANS

SHUMWAY VAN
MICHAEL C. VAN, ESQ.
Nevada Bar No. 3876
SAMUEL A. MARSHALL, ESQ.
Nevada Bar No. 13718
8985 South Eastern Ave., Suite 100
Las Vegas, Nevada 89123
Telephone: (702) 478-7770
Fax: (702) 478-7779
michael@shumwayvan.com
samuel@shumwayvan.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

PARVIZ SAFARI and MANDANA ZAHEDI,
individually and on behalf of **MEDITEX, LLC,** a
Nevada Limited Liability Company,

Case No.: A-15-729030-C
Dept. No.: VIII

Plaintiffs,

vs.

HAMID MOJTAHED, an individual;
MOHAMMAD MOJTAHED, an individual;
ALI MOJTAHED, an individual; **DOES, I**
through **X;** and **ROE CORPORATIONS I**
through **X,** inclusive,

Defendants.

ANSWER TO COUNTERCLAIM

HAMID MOJTAHED, individually and
derivatively on behalf of **MEDITEX, LLC,** a
Nevada limited liability company;
MOHAMMED MOJTAHED, individually and
derivatively on behalf of **MEDITEX, LLC,** a
Nevada limited liability company,

Counter-Claimants,

vs.

PARVIZ SAFARI, an individual; **MANDANA**
ZAHEDI, an individual; **NOOSHIN ZAHEDI,**
an individual; **UTSAFETY, LLC,** a Utah limited
liability company; **DOES I** through **X;** and **ROE**
CORPORATIONS I through **X,** inclusive,

Counter-Defendants.

Plaintiffs and Counter-Defendants **PARVIZ SAFARI** ("Parviz") and **MANDANA**
ZAHEDI ("Mandana"), along with Counter-Defendant **NOOSHIN ZAHEDI,** individually and on

1 behalf of UTSAFETY, LLC ("Counter-Defendants"), by and through their attorney of record, the
2 law firm of Shumway Van, hereby answer Counter-Claimants, HAMID MOJTAHED ("Hamid")
3 and MOHAMMAD MOJTAHED ("Mohammad"), individually and derivatively on behalf of
4 MEDITEX, ("Counter-Claimants") as follows:

5 **ANSWER TO COUNTER-CLAIM**

6 **THE PARTIES**

7 1. Answering paragraphs 1 and 2 of the Complaint, COUNTER-DEFENDANTS state
8 that they are without sufficient knowledge or information to form an opinion as to the truth or
9 veracity of the allegations therein and therefore deny the same in their entirety.

10 2. Answering paragraphs 3-6 of the Complaint, COUNTER-DEFENDANTS admit
11 the allegations contained therein.

12 3. Answering paragraphs 7 and 8 of the Complaint, COUNTER-DEFENDANTS
13 respond that there are no allegations requiring a response contained therein.

14 **JURISDICTION AND VENUE**

15 4. Answering paragraphs 9 and 10 of the Complaint, COUNTER-DEFENDANTS
16 admit that jurisdiction and venue are proper.

17 **GENERAL ALLEGATIONS**

18 5. Answering paragraphs 11 and 12 of the Complaint, COUNTER-DEFENDANTS
19 admit the allegations contained therein.

20 6. Answering paragraphs 13-16 of the Complaint, COUNTER-DEFENDANTS deny
21 the allegations contained therein.

22 7. Answering paragraph 17 of the Complaint, COUNTER-DEFENDANTS answer
23 that the document speaks for itself.

24 8. Answering paragraphs 18-23 of the Complaint, COUNTER-DEFENDANTS deny
25 the allegations contained therein.

26 ...

27 ...

THE UTSAFETY FRAUD

9. Answering paragraphs 24, 25, and 26 of the Complaint, COUNTER-DEFENDANTS admit the allegations contained therein.

10. Answering paragraph 27 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

11. Answering paragraph 28 of the Complaint, COUNTER-DEFENDANTS admit the allegations contained therein.

12. Answering paragraph 29 of the Complaint, COUNTER-DEFENDANTS state that they are without sufficient knowledge or information to form an opinion as to the truth or veracity of the allegations therein and therefore deny the same in their entirety.

13. Answering paragraphs 30-57 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

THE YUSEN FRAUD

14. Answering paragraphs 58-60 of the Complaint, COUNTER-DEFENDANTS admit the allegations contained therein.

15. Answering paragraphs 61-72 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

SABOTAGE OF MEDITEX'S BUSINESS

16. Answering paragraphs 73-95 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

PARVIZ SEEKS TO AVOID BEING CAUGHT

17. Answering paragraphs 96, 97, and 98 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

OTHER FRAUD

18. Answering paragraphs 99-107 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

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1 **DERIVATIVE ALLEGATIONS**

2 19. Answering paragraph 108 of the Complaint, COUNTER-DEFENDANTS state
3 that they are without sufficient knowledge or information to form an opinion as to the truth or
4 veracity of the allegations therein and therefore deny the same in their entirety.

5 20. Answering paragraphs 109 and 110 of the Complaint, COUNTER-DEFENDANTS
6 respond that there are no allegations requiring a response contained therein.

7 **DERIVATIVE CLAIMS ASSERTED ON BEHALF OF MEDITEX, LLC**

8 **FIRST CLAIM FOR RELIEF**

9 **(Breach of Contract Against PARVIZ and MANDANA)**

10 21. In answering the allegations set forth in paragraph 111 of the Complaint,
11 COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 110
12 as set forth herein.

13 22. Answering paragraphs 112-116 of the Complaint, COUNTER-DEFENDANTS
14 deny the allegations contained therein.

15 **SECOND CLAIM FOR RELIEF**

16 **(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing Against
17 PARVIZ and MANDANA)**

18 23. In answering the allegations set forth in paragraph 117 of the Complaint,
19 COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 116
20 as set forth herein.

21 24. Answering paragraphs 118-121 of the Complaint, COUNTER-DEFENDANTS
22 respond that these claims call for a legal conclusion to which no response is required.

23 25. Answering paragraphs 122 and 123 of the Complaint, COUNTER-DEFENDANTS
24 deny the allegations contained therein.
25
26
27
28

SHUMWAY • VAN

8985 South Eastern Avenue, Suite 100

Las Vegas, Nevada 89123

Telephone: (702) 478-7770 Facsimile: (702) 478-7779

34. Answering paragraphs 140-146 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

SIXTH CLAIM FOR RELIEF

(Breach of Fiduciary Duty Against PARVIZ and MANDANA)

35. In answering the allegations set forth in paragraph 147 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 146 as set forth herein.

36. Answering paragraphs 148, 149, and 150 of the Complaint, COUNTER-DEFENDANTS respond that these claims call for a legal conclusion to which no response is required.

37. Answering paragraphs 151 and 152 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

SEVENTH CLAIM FOR RELIEF

(Aiding and Abetting Breach of Fiduciary Duty Against UTSAFETY and NOOSHIN)

38. In answering the allegations set forth in paragraph 153 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 152 as set forth herein.

39. Answering paragraphs 154-157 of the Complaint, COUNTER-DEFENDANTS respond that these claims call for a legal conclusion to which no response is required.

40. Answering paragraphs 158 and 159 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

EIGHTH CLAIM FOR RELIEF

(Civil Conspiracy Against PARVIZ, MANDANA, UTSAFETY, and NOOSHIN)

41. In answering the allegations set forth in paragraph 160 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 159 as set forth herein.

42. Answering paragraphs 161-164 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

NINTH CLAIM FOR RELIEF

(Concert of Action Against PARVIZ, MANDANA, UTSAFETY, and NOOSHIN)

43. In answering the allegations set forth in paragraph 165 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 164 as set forth herein.

44. Answering paragraphs 166-169 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

TENTH CLAIM FOR RELIEF

(Constructive Fraud Against PARVIZ and MANDANA)

45. In answering the allegations set forth in paragraph 170 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 169 as set forth herein.

46. Answering paragraphs 171 and 172 of the Complaint, COUNTER-DEFENDANTS respond that the claims call for a legal conclusion to which no response is required.

47. Answering paragraphs 173, 174, and 175 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

ELEVENTH CLAIM FOR RELIEF

(Accounting Against PARVIZ and MANDANA)

48. In answering the allegations set forth in paragraph 176 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 175 as set forth herein.

49. Answering paragraphs 177-181 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

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**INDIVIDUAL CLAIMS ASSERTED BY HAMID MODJTAHED AND MOHAMMED
MOJTAHED**

TWELFTH CLAIM FOR RELIEF
(Breach of Contract Against PARVIZ and MANDANA)

50. In answering the allegations set forth in paragraph 182 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 181 as set forth herein.

51. Answering paragraphs 183, 184, and 185 of the Complaint, COUNTER-DEFENDANTS respond that the claims call for a legal conclusion to which no response is required.

52. Answering paragraphs 186 and 187 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

THIRTEENTH CLAIM FOR RELIEF
**(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing Against
PARVIZ and MANDANA)**

53. In answering the allegations set forth in paragraph 188 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 187 as set forth herein.

54. Answering paragraphs 189-192 of the Complaint, COUNTER-DEFENDANTS respond that the claims call for a legal conclusion to which no response is required.

55. Answering paragraphs 193 and 194 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

FOURTEENTH CLAIM FOR RELIEF
**(Tortious Breach of Implied Covenant of Good Faith and Fair Dealing Against PARVIZ
and MANDANA)**

56. In answering the allegations set forth in paragraph 195 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 194 as set forth herein.

...

1 57. Answering paragraphs 196-199 of the Complaint, COUNTER-DEFENDANTS
2 respond that the claims call for a legal conclusion to which no response is required.

3 58. Answering paragraphs 200, 201, and 202 of the Complaint, COUNTER-
4 DEFENDANTS deny the allegations contained therein.

5 **FIFTEENTH CLAIM FOR RELIEF**
6 **(Unjust Enrichment/Quantum Meruit against PARVIZ and MANDANA)**

7 59. In answering the allegations set forth in paragraph 203 of the Complaint,
8 COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 202
9 as set forth herein.

10 60. Answering paragraphs 204 and 205 of the Complaint, COUNTER-DEFENDANTS
11 deny the allegations contained therein.

12 61. Answering paragraph 206 of the Complaint, COUNTER-DEFENDANTS deny the
13 allegations contained therein in that Counter-Defendants did not retain Hamid and Mohammed's
14 money and property.

15 62. Answering paragraphs 207, 208, and 209 of the Complaint, COUNTER-
16 DEFENDANTS deny the allegations contained therein.

17 **SIXTEENTH CLAIM FOR RELIEF**
18 **(Fraud Against PARVIZ)**

19 63. In answering the allegations set forth in paragraph 210 of the Complaint,
20 COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 209
21 as set forth herein.

22 64. Answering paragraphs 211-217 of the Complaint, COUNTER-DEFENDANTS
23 deny the allegations contained therein.

24 ...

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SEVENTEENTH CLAIM FOR RELIEF**(Breach of Fiduciary Duty Against PARVIZ and MANDANA)**

65. In answering the allegations set forth in paragraph 218 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 217 as set forth herein.

66. Answering paragraphs 219, 220, and 221 of the Complaint, COUNTER-DEFENDANTS respond that the claims ask for a legal conclusion.

67. Answering paragraphs 222 and 223 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

EIGHTEENTH CLAIM FOR RELIEF**(Aiding and Abetting Breach of Fiduciary Duty Against UTSAFETY and NOOSHIN)**

68. In answering the allegations set forth in paragraph 224 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 223 as set forth herein.

69. Answering paragraphs 225-228 of the Complaint, COUNTER-DEFENDANTS respond that the claims call for a legal conclusion to which no response is required.

70. Answering paragraphs 229 and 230 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

NINETEENTH CLAIM FOR RELIEF**(Civil Conspiracy Against PARVIZ, MANDANA, UTSAFETY, and NOOSHIN)**

71. In answering the allegations set forth in paragraph 231 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 230 as set forth herein.

72. Answering paragraphs 232-235 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

TWENTIETH CLAIM FOR RELIEF
(Concert of Action Against PARVIZ, MANDANA, UTSAFETY, and NOOSHIN)

73. In answering the allegations set forth in paragraph 236 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 235 as set forth herein.

74. Answering paragraphs 237-240 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

TWENTY-FIRST CLAIM FOR RELIEF
(Constructive Fraud Against PARVIZ and MANDANA)

75. In answering the allegations set forth in paragraph 241 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 240 as set forth herein.

76. Answering paragraphs 242 and 243 of the Complaint, COUNTER-DEFENDANTS respond that the claims call for a legal conclusion to which no response is required.

77. Answering paragraphs 244, 245, and 246 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

TWENTY-SECOND CLAIM FOR RELIEF
(Accounting Against PARVIZ and MANDANA)

78. In answering the allegations set forth in paragraph 247 of the Complaint, COUNTER-DEFENDANTS repeat the responses previously made to paragraphs 1 through 246 as set forth herein.

79. Answering paragraphs 248-252 of the Complaint, COUNTER-DEFENDANTS deny the allegations contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Counter-Claimants' Counterclaim fails to state a claim upon which relief can be granted.

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SECOND AFFIRMATIVE DEFENSE

At all material times, Counter-Defendants acted in good faith and exercised their lawful rights in dealing with Counter-Claimants.

THIRD AFFIRMATIVE DEFENSE

Counter-Claimants' claims are barred because Counter-Claimants breached the agreement between the parties, if any.

FOURTH AFFIRMATIVE DEFENSE

Counter-Claimants' claims are barred by their own failure to deal in good faith and deal fairly with Counter-Defendants.

FIFTH AFFIRMATIVE DEFENSE

Counter-Claimants have failed to mitigate their damages, if any.

SIXTH AFFIRMATIVE DEFENSE

Counter-Claimants' damages, if any, were caused by economic and other conditions that were beyond the control of the Counter-Defendants.

SEVENTH AFFIRMATIVE DEFENSE

Counter-Claimants have not and will not sustain any injury or damages as a result of Counter-Defendants' alleged acts and/or omissions.

EIGHTH AFFIRMATIVE DEFENSE

The damages suffered by Counter-Claimants, if any, were caused in whole or in part by the acts of a third party over which Counter-Defendants had no control.

NINTH AFFIRMATIVE DEFENSE

Counter-Claimants failed to disclose necessary information and Counter-Defendants relied on this omission.

TENTH AFFIRMATIVE DEFENSE

Counter-Defendants deny each and every allegation of Counter-Claimants' Counter-Claim that is not specifically admitted to or otherwise plead to herein.

...

ELEVENTH AFFIRMATIVE DEFENSE

Counter-Defendants hereby incorporate by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Counter-Defendants reserve the right to seek leave of the Court to amend their Answer to the Counter-Claim to specifically assert the same. Such defenses are herein incorporated by reference for the specific purpose of not waiving the same.

TWELFTH AFFIRMATIVE DEFENSE

Counter-Claimants failed to comply with a pre-existing duty.

THIRTEENTH AFFIRMATIVE DEFENSE

Counter-Claimants ratified, approved, or acquiesced in the actions of Counter-Defendants.

FOURTEENTH AFFIRMATIVE DEFENSE

Counter-Claimants, by their own actions, deeds and conduct, have released Counter-Defendants from any and all claims that they might otherwise have been able to assert against Counter-Defendants.

FIFTEENTH AFFIRMATIVE DEFENSE

Counter-Claimants are barred from maintaining this action by virtue of their own unclean hands and inequitable conduct.

SIXTEENTH AFFIRMATIVE DEFENSE

Counter-Claimants' claims are barred by Counter-Claimants' failure to deal fairly with Counter-Defendants.

SEVENTEENTH AFFIRMATIVE DEFENSE

Counter-Defendants, at all times relevant herein, acted in accordance with reasonable standards, in good faith, with reasonable care and did not contribute to the alleged damages.

EIGHTEENTH AFFIRMATIVE DEFENSE

Counter-Claimants' damages, if any, were not proximately or legally caused by any of the actions of Counter-Defendants.

NINETEENTH AFFIRMATIVE DEFENSE

Counter-Claimants' claims are barred due to the lack of requisite intent by Counter-Defendants.

TWENTIETH AFFIRMATIVE DEFENSE

Counter-Claimants' conduct has forced Counter-Defendants to retain the services of an attorney and Counter-Defendants are entitled to be compensated for the reasonable attorney's fees and costs incurred in the defense of this action.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Counter-Claimants' claims are barred by the applicable statute of limitations.

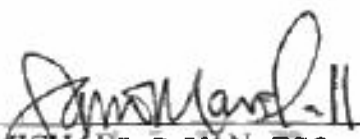
PRAYER FOR RELIEF

WHEREFORE, COUNTER-DEFENDANTS pray for the following:

1. That COUNTER-CLAIMANTS take nothing by way of their Counterclaim;
2. That COUNTER-CLAIMANTS' Counterclaim be dismissed in its entirety;
3. That COUNTER-DEFENDANTS be awarded their reasonable attorney fees and the costs of suit incurred in defending this action; and
4. For such other relief as this Court may deem just and proper.

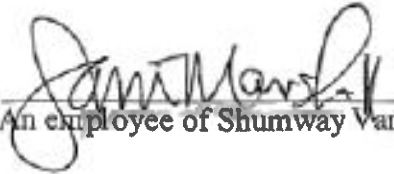
DATED this 5th day of July, 2016.

SHUMWAY VAN


MICHAEL C. VAN, ESQ.
Nevada Bar No. 3876
SAMUEL A. MARSHALL, ESQ.
Nevada Bar No. 13718
8985 South Eastern Blvd., Suite 100
Las Vegas, Nevada 89123
Attorneys for Plaintiff/Counter-Defendant

CERTIFICATE OF E-SERVICE

I hereby certify that on this 5th day of June, 2016, I electronically served a true and correct copy of the foregoing **ANSWER TO COUNTERCLAIM** to all parties listed on the master service list pursuant to Administrative Order 14-2.


An employee of Shumway Van

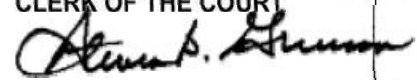
SHUMWAY • VAN

8985 South Eastern Avenue, Suite 100

Las Vegas, Nevada 89123

Telephone: (702) 478-7770 Facsimile: (702) 478-7779

Exhibit 4



NEOJ

JONATHAN D. BLUM, ESQ.

Nevada Bar No. 009515

ERIC D. WALTHER, ESQ.

Nevada Bar No. 13611

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E-Mail: jblum@klnevada.com

ewalther@klnevada.com

Attorneys for Defendants, Counter-Claimants

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

PARVIZ SAFARI and MANDANA ZAHEDI,
individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,

Plaintiff,

vs.

HAMID MODJTAHED, an individual;
MOHAMMAD MOJTAHED, an individual;
ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

HAMID MODJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

Counter-Claimants,

vs.

PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
limited liability company; DOES I through X;
and ROE CORPORATIONS I through X,
inclusive,

Counter-Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW,
AND ORDER GRANTING
DEFENDANTS/COUNTER-
CLAIMANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
REGARDING THE CLAIMS
AGAINST ALI MOJTAHED**

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KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
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DATED this 27 day of April, 2018.

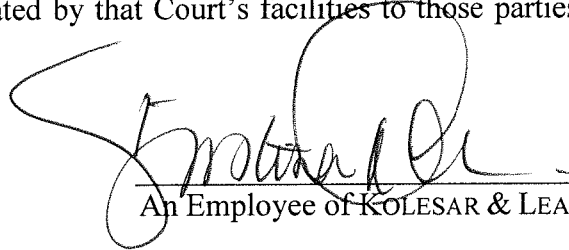
By

Attorneys for Defendants, Counter-Claimants

CERTIFICATE OF SERVICE

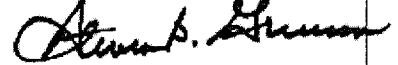
I hereby certify that I am an employee of Kolesar & Leatham, and that on the 2nd day of April, 2018, I caused to be served a true and correct copy of foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING DEFENDANTS/COUNTER-CLAIMANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING THE CLAIMS AGAINST ALI MOJTAHED** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.


An Employee of KOLESAR & LEATHAM

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

EXHIBIT 1



1 **OGSJ**

JONATHAN D. BLUM, ESQ.

2 Nevada Bar No. 009515

ERIC D. WALTHER, ESQ.

3 Nevada Bar No. 13611

KOLESAR & LEATHAM

4 400 South Rampart Boulevard, Suite 400

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5 Telephone: (702) 362-7800

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6 E-Mail: jblum@klnevada.com

ewalther@klnevada.com

7 Attorneys for Defendants/Counter-Claimants

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

11 PARVIZ SAFARI and MANDANA ZAHEDI,
12 individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,

13 Plaintiff,

14 vs.

15 HAMID MODJTAHED, an individual;
16 MOHAMMAD MOJTAHED, an individual;
17 ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

18 Defendants.

19 HAMID MODJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
20 MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
21 Nevada limited liability company,

22 Counter-Claimants,

23 vs.

24 PARVIZ SAFARI, an individual; MANDANA
25 ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
26 limited liability company; DOES I through X;
and ROE CORPORATIONS I through X,
27 inclusive,

28 Counter-Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING DEFENDANTS/
COUNTER-CLAIMANTS' MOTION
FOR PARTIAL SUMMARY
JUDGMENT REGARDING THE
CLAIMS AGAINST ALI
MOJTAHED**

Hearing: March 29, 2018

Time: 9:00 a.m.

KOLESAR & LEATHAM,
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

RECEIVED

APR 12, 2018

DISTRICT COURT DEPT# 13

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING
DEFENDANTS/COUNTER-CLAIMANTS' MOTION FOR PARTIAL SUMMARY
JUDGMENT REGARDING THE CLAIMS AGAINST ALI MOJTAHED**

On March 29, 2018 a hearing was held on Defendants/ Counter-Claimants' (hereafter collectively "Defendants") Motion for Partial Summary Judgment Regarding the Claims against Ali Mojtaled ("Ali"). Jonathan D. Blum, Esq. and Eric D. Walther, Esq. of Kolesar & Leatham appeared on behalf of Defendants; Keen L. Ellsworth, Esq. of Ellsworth & Bennion appeared on behalf Plaintiffs/ Counter-Defendants (hereafter collectively "Plaintiffs").

The Court, having considered the papers and pleadings on file, the oral and written arguments of counsel, and being fully advised in the premises and good cause appearing therefore, hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. This case involves a Nevada company called Meditex, LLC ("Meditex" or the "Company"), which was in the business of purchasing dietary supplements and safety equipment and then selling those products to customers overseas for profit. Plaintiffs Parviz Safari ("Safari") and Mandana Zahedi ("Zahedi") are combined 50% members of Meditex and Defendants Hamid Modjtahed ("Hamid") and Mohammad Mojtaled ("Mohammad") are combined 50% members of Meditex. Defendant Ali is the son of Hamid and the brother of Mohammad, but is not a member or manager of Meditex.

2. On or about August 19, 2015, Hamid and Mohammad placed an order for dietary supplements with one of Meditex's normal Canadian suppliers for resale to one of Meditex's normal customers in the Middle East (the "Order"). The Canadian supplier's purchase invoice indicates that the Order was placed on behalf of Meditex. Ali assisted in following up on the Order. Ultimately, however, and through no fault of the Defendants, the Order was stopped at Canadian customs, returned to the Canadian supplier, and canceled. As a result, no one, including the Defendants, received any money from the Order.

3. In their first amended complaint, Plaintiffs allege that Defendants were not "authorized" to place the Order on behalf of Meditex. Instead, Plaintiffs allege that all Meditex orders had to be approved by Safari. However, discovery is now closed and Plaintiffs have

1 failed to produce any evidence suggesting that Hamid and Mohammad—who are managers and
2 50% members of the Company—were not authorized to place orders on behalf of Meditex.
3 Moreover, Plaintiffs have failed to produce any evidence suggesting that Hamid and
4 Mohammad, as members of the Company, were somehow prohibited from having their
5 son/brother assist with following up on the Order.

6 4. Plaintiffs further allege that Defendants intended to personally retain the proceeds
7 from the Order. However, Plaintiffs—who conducted no depositions, presented no bank
8 statements, and retained no experts—have failed to produce any evidence suggesting that the
9 Defendants intended to personally retain the proceeds from the Order.

10 5. Finally, regardless of the Defendants’ intent, it is undisputed that Plaintiffs did not
11 suffer any damages related to the Order because—through no fault of the Defendants—the Order
12 was stopped at Canadian customs, returned to the Canadian supplier, and canceled. As a result,
13 the Defendants did not receive any money from the Order that belongs to the Plaintiffs.

14 6. If any finding of fact is properly a conclusion of law, it shall be treated as if
15 appropriately identified and designated.

16 Conclusions of Law

17 7. Summary judgment is appropriate when, “after review of the record viewed in a
18 light most favorable to the non-moving party, there remain no genuine issues of material fact,
19 and the moving party is entitled to judgment as a matter of law.” *Evans v. Samuels*, 119 Nev.
20 378, 75 P.3d 361, 363 (2003); *see also Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026,
21 1031 (2005). “A genuine issue of material fact is one where the evidence is such that a
22 reasonable jury could return a verdict for the non-moving party.” *Pegasus v. Reno Newspapers,*
23 *Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (citation and quotation omitted).

24 8. If any conclusion of law is properly a finding of fact, it shall be treated as if
25 appropriately identified and designated.

26 **A. Intentional Interference with Prospective Economic Advantage.**

27 9. A claim for Intentional Interference with Prospective Economic Advantage
28 (“IIPEA”) requires that the Plaintiff to prove the following five elements: (1) A prospective

1 contractual relationship exists or existed between plaintiff and a third party; (2) Defendant knew
2 of this prospective relationship; (3) Defendant intended to harm plaintiff by preventing the
3 relationship; (4) Defendant had no privilege or justification; and (5) Defendant's conduct
4 resulted in actual harm to plaintiff. *Las Vegas-Tonopah-Reno Stage Line, Inc. v. Gray Line*
5 *Tours of S. Nevada*, 106 Nev. 283, 287, 792 P.2d 386, 388 (1990).

6 10. Based on the undisputed evidence, Ali is entitled to summary judgment on
7 Plaintiffs' IIPEA claim. Discovery is now closed and Plaintiffs have failed to produce any
8 evidence suggesting that Ali intended to cause harm to Plaintiffs or prevented a relationship
9 between Meditex and a third party by assisting with an order placed on behalf of Meditex with
10 one of Meditex's normal suppliers, at the direction of Hamid and Mohammad—who are
11 managers and 50% owners of the Company. Moreover, regardless of Ali's intent, it is
12 undisputed that Plaintiffs' sustained no actual harm related to the Order because the Order was
13 stopped at Canadian customs, returned to the Canadian supplier, and canceled. As a result,
14 Plaintiffs' IIPEA claim fails as a matter of law.

15 **B. Declaratory Relief.**

16 11. Declaratory relief is available when: "(1) a justiciable controversy exists between
17 persons with adverse interests, (2) the party seeking declaratory relief has a legally protectable
18 interest in the controversy, and (3) the issue is ripe for judicial determination." *Cty. of Clark, ex*
19 *rel. Univ. Med. Ctr. v. Upchurch*, 114 Nev. 749, 752, 961 P.2d 754, 756 (1998). Moreover,
20 pursuant to NRS 30.040, this Court is authorized to issue declarations regarding parties' rights
21 and obligations under contracts.

22 12. Plaintiffs' declaratory relief claim fails as a matter of law because Plaintiffs fail to
23 articulate what "contract" the claim refers to, what rights the Plaintiffs seek to have declared, or
24 why the Plaintiffs are entitled to such a declaration.

25 ///

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28

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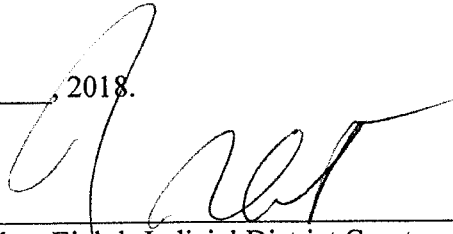
Order

Based on the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that Defendants' Motion for Partial Summary Judgment
Regarding the Claims against Ali Mojtaba is GRANTED in its entirety.

IT IS SO ORDERED.

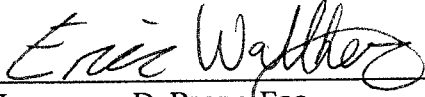
DATED this 23rd day of April, 2018.



Judge, Eighth Judicial District Court
In and for Clark County, Nevada

Respectfully submitted by:

KOLESAR & LEATHAM

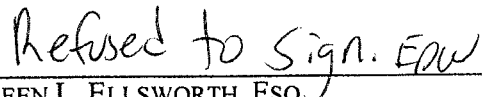
By: 

JONATHAN D. BLUM, ESQ.
Nevada Bar No. 009515
ERIC D. WALTHER, ESQ.
Nevada Bar No. 13611
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

*Attorneys for Defendants/Counter-
Claimants*

Approved as to form and content:

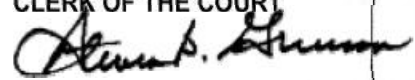
ELLSWORTH & BENNION, CHTD.

By: 

KEEN L. ELLSWORTH, ESQ.
Nevada Bar No. 004981
777 North Rainbow Boulevard, Suite 270
Las Vegas, NV 89107

*Attorneys for Plaintiffs/ Counter-
Defendants*

Exhibit 5



NEOJ

JONATHAN D. BLUM, ESQ.

Nevada Bar No. 009515

ERIC D. WALTHER, ESQ.

Nevada Bar No. 13611

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ewalther@klnevada.com

Attorneys for Defendants, Counter-Claimants

DISTRICT COURT

CLARK COUNTY, NEVADA

PARVIZ SAFARI and MANDANA ZAHEDI,
individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,

Plaintiff,

vs.

HAMID MODJTAHED, an individual;
MOHAMMAD MOJTAHED, an individual;
ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW,
AND ORDER GRANTING IN PART
AND DENYING IN PART
DEFENDANTS-COUNTER-
CLAIMANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
REGARDING THE CLAIMS
AGAINST HAMID MODJTAHED
AND MOHAMMAD MOJTAHED**

HAMID MODJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

Counter-Claimants,

vs.

PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
limited liability company; DOES I through X;
and ROE CORPORATIONS I through X,
inclusive,

Counter-Defendants.

KOLESAR & LEATHAM
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KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

DATED this 27 day of April, 2018.

By

400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Page 2 of 3

CERTIFICATE OF SERVICE

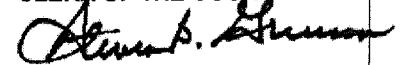
I hereby certify that I am an employee of Kolesar & Leatham, and that on the 29th day of April, 2018, I caused to be served a true and correct copy of foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS-COUNTER-CLAIMANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING THE CLAIMS AGAINST HAMID MODJTAHED AND MOHAMMAD MOJTAHED** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.


An Employee of KOLESAR & LEATHAM

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

EXHIBIT 1



1 **OGSJ**

2 JONATHAN D. BLUM, ESQ.

3 Nevada Bar No. 009515

4 ERIC D. WALTHER, ESQ.

5 Nevada Bar No. 13611

6 **KOLESAR & LEATHAM**

7 400 South Rampart Boulevard, Suite 400

8 Las Vegas, Nevada 89145

9 Telephone: (702) 362-7800

10 Facsimile: (702) 362-9472

11 E-Mail: jblum@klnevada.com

12 ewalther@klnevada.com

13 Attorneys for Defendants/Counter-Claimants

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 * * *

17 PARVIZ SAFARI and MANDANA ZAHEDI,
18 individually and on behalf of MEDITEX, LLC,
19 a Nevada limited liability company,

20 Plaintiff,

21 vs.

22 HAMID MODJTAHED, an individual;
23 MOHAMMAD MOJTAHED, an individual;
24 ALI MOJTAHED, an individual; DOES I
25 through X; and ROE CORPORATIONS I
26 through X, inclusive,

27 Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS-
COUNTER-CLAIMANTS' MOTION
FOR PARTIAL SUMMARY
JUDGMENT REGARDING THE
CLAIMS AGAINST HAMID
MODJTAHED AND MOHAMMAD
MOJTAHED**

Hearing: March 29, 2018

Time: 9:00 a.m.

28 HAMID MODJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

Counter-Claimants,

vs.

PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
limited liability company; DOES I through X;
and ROE CORPORATIONS I through X.

KOLESAR & LEATHAM,
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Las Vegas, Nevada 89145
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APR 12 2018

CLERK OF DISTRICT COURT DEPT# 13

1 inclusive,

2 Counter-Defendants.

3
4 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART**
5 **AND DENYING IN PART DEFENDANTS-COUNTER-CLAIMANTS' MOTION FOR**
6 **PARTIAL SUMMARY JUDGMENT REGARDING THE CLAIMS AGAINST HAMID**
7 **MODJTAHED AND MOHAMMAD MOJTAHED**

8 On March 29, 2018 a hearing was held on Defendants/ Counter-Claimants' (hereafter
9 collectively "Defendants") Motion for Partial Summary Judgment Regarding the Claims against
10 Hamid Modjtahed ("Hamid") and Mohammad Mojtaahed ("Mohammad"). Jonathan D. Blum,
11 Esq. and Eric D. Walther, Esq. of Kolesar & Leatham appeared on behalf of Defendants; Keen
12 L. Ellsworth, Esq. of Ellsworth & Bennion appeared on behalf Plaintiffs/ Counter-Defendants
13 (hereafter "Plaintiffs").

14 The Court, having considered the papers and pleadings on file, the oral and written
15 arguments of counsel, and being fully advised in the premises and good cause appearing
16 therefore, hereby makes the following Findings of Fact and Conclusions of Law:

17 **FINDINGS OF FACT**

18 1. This case involves a Nevada company called Meditex, LLC ("Meditex" or the
19 "Company"), which was in the business of purchasing dietary supplements and safety equipment
20 and then selling those products to customers overseas for profit. Plaintiffs Parviz Safari
21 ("Safari") and Mandana Zahedi ("Zahedi") are combined 50% members of Meditex and
22 Defendants Hamid and Mohammad are combined 50% members of Meditex.

23 **A. The Contested Supplement Order.**

24 2. On or about August 19, 2015, Hamid and Mohammad, with the help of their
25 son/brother Ali Mojtaahed ("Ali"), placed an order for dietary supplements with one of Meditex's
26 normal Canadian suppliers for resale to one of Meditex's normal customers in the Middle East
27 (the "Order"). The Canadian supplier's purchase invoice indicates that the Order was placed on
28 behalf of Meditex. Ultimately, however, and through no fault of the Defendants, the Order was
stopped at Canadian customs, returned to the Canadian supplier, and canceled. As a result, no
one, including the Defendants, received any money from the Order.

1 3. In their first amended complaint, Plaintiffs allege that Defendants were not
2 “authorized” to place the Order on behalf of Meditex. Instead, Plaintiffs allege that all Meditex
3 orders had to be approved by Safari. However, discovery is now closed and Plaintiffs have
4 failed to produce any evidence suggesting that Hamid and Mohammad—who are managers and
5 50% members of the Company—were not authorized to place orders on behalf of Meditex.

6 4. Plaintiffs further allege that Defendants intended to personally retain the proceeds
7 from the Order. However, Plaintiffs—who conducted no depositions, presented no bank
8 statements, and retained no experts—have failed to produce any evidence suggesting that Hamid
9 or Mohammad intended to personally retain the proceeds from the Order.

10 5. Finally, regardless of the Defendants’ intent, it is undisputed that Plaintiffs did not
11 suffer any damages related to the Order because—through no fault of the Defendants—the Order
12 was stopped at Canadian customs, returned to the Canadian supplier, and canceled. As a result,
13 the Defendants did not receive any money from the Order that may belong to the Plaintiffs.

14 **B. Plaintiffs’ “Skimming” Allegations.**

15 6. Plaintiffs allege that the Defendants skimmed \$573,739.75 from several Meditex
16 orders. Plaintiffs’ only support for this allegation are a few random Meditex invoices, some of
17 which were previously undisclosed and were not bates stamped, and Meditex’s tax returns.

18 7. The Court finds, however, that this evidence, standing alone, does not create a
19 genuine issue of material fact related to Plaintiff’s “skimming” allegations. Indeed, Plaintiffs—
20 who conducted no depositions, presented no bank statements, and retained no experts—failed to
21 produce any evidence showing what Meditex’s customers actually paid on the particular invoices
22 attached to Plaintiffs’ Opposition or that the Defendants improperly retained any money related
23 to those invoices.

24 8. If any finding of fact is properly a conclusion of law, it shall be treated as if
25 appropriately identified and designated.

26 **Conclusions of Law**

27 9. Summary judgment is appropriate when, “after review of the record viewed in a
28 light most favorable to the non-moving party, there remain no genuine issues of material fact,

1 and the moving party is entitled to judgment as a matter of law.” *Evans v. Samuels*, 119 Nev.
2 378, 75 P.3d 361, 363 (2003); *see also Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026,
3 1031 (2005). “A genuine issue of material fact is one where the evidence is such that a
4 reasonable jury could return a verdict for the non-moving party.” *Pegasus v. Reno Newspapers,*
5 *Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (citation and quotation omitted).

6 10. If any conclusion of law is properly a finding of fact, it shall be treated as if
7 appropriately identified and designated.

8 **A. Breach of Fiduciary Duty**

9 11. Under Nevada law, a company’s director can breach his fiduciary duty if he
10 “exploit[s] an opportunity that belongs to the corporation.” *Rasmussen v. Lopez*, 127 Nev. 1169,
11 373 P.3d 953 (2011) (internal quotations omitted). However, the plaintiff must prove that the
12 director’s breach “involved intentional misconduct, fraud or a knowing violation of law.” See
13 NRS 86.451; *In re Amerco Derivative Litig.*, 127 Nev. 196, 224, 252 P.3d 681, 701 (2011)
14 (internal quotations omitted). Moreover, the plaintiff must prove that the company sustained
15 actual damages as a result of the director’s intentional conduct. *Id.* at 225, 252 P.3d at 702.

16 12. Based on the undisputed evidence, Hamid and Mohammad are entitled to
17 summary judgment on Plaintiffs’ claim for breach of fiduciary duty. With regard to the Order,
18 discovery is now closed and Plaintiffs have failed to produce any evidence suggesting: (1) that
19 Hamid and Mohammad—as managers and 50% owners of the Company—were not authorized to
20 place the Order; or (2) that Hamid or Mohammad intended to personally retain the proceeds from
21 the Order. Moreover, regardless of Defendants’ intent, it is undisputed that Plaintiffs’ sustained
22 no damages related to the Order because the Order was stopped at Canadian customs, returned to
23 the Canadian supplier, and canceled. As a result, Plaintiffs’ breach of fiduciary duty claim, as it
24 relates to the Order, fails as a matter of law.

25 13. With regard to the Plaintiffs’ “skimming” allegations, Plaintiffs—who conducted
26 no depositions, presented no bank statements, and retained no experts—have failed to produce
27 any evidence suggesting that Hamid or Mohammad improperly retained any money from any
28

1 Meditex orders. As a result, Plaintiffs' breach of fiduciary duty claim, as it relates to Plaintiffs'
2 "skimming allegations," fails as a matter of law.

3 **B. Intentional Interference with Prospective Economic Advantage.**

4 14. A claim for Intentional Interference with Prospective Economic Advantage
5 ("IIPEA") requires that the Plaintiff to prove the following five elements: (1) A prospective
6 contractual relationship exists or existed between plaintiff and a third party; (2) Defendant knew
7 of this prospective relationship; (3) Defendant intended to harm plaintiff by preventing the
8 relationship; (4) Defendant had no privilege or justification; and (5) Defendant's conduct
9 resulted in actual harm to plaintiff. *Las Vegas-Tonopah-Reno Stage Line, Inc. v. Gray Line*
10 *Tours of S. Nevada*, 106 Nev. 283, 287, 792 P.2d 386, 388 (1990).

11 15. Based on the undisputed evidence, Hamid and Mohammad are entitled to
12 summary judgment on Plaintiffs' IIPEA claim. With regard to the Order, discovery is now
13 closed and Plaintiffs have failed to produce any evidence suggesting that Hamid and
14 Mohammad—who are managers and 50% owners of the Company—intended to cause harm to
15 Plaintiffs or prevent a relationship between Meditex and a third party by placing an order on
16 behalf of Meditex with one of Meditex's normal suppliers. Moreover, regardless of Defendants'
17 intent, it is undisputed that Plaintiffs' sustained no actual harm related to the Order because the
18 Order was stopped at Canadian customs, returned to the Canadian supplier, and canceled. As a
19 result, Plaintiffs' IIPEA claim, as it relates to the Order, fails as a matter of law.

20 16. To the extent Plaintiffs contend that their "skimming" allegations support their
21 IIPEA claim, Plaintiffs—who conducted no depositions, presented no bank statements, and
22 retained no experts—have failed to produce any evidence suggesting that Hamid or Mohammad
23 improperly retained any money from any Meditex orders. Thus, Plaintiffs' cannot establish that
24 Hamid or Mohammad either intended to cause harm or prevented a contractual relationship
25 between Meditex and a third party, or that Plaintiffs sustained actual harm. As a result,
26 Plaintiffs' IIPEA claim, as it relates to Plaintiffs' "skimming allegations," fails as a matter of
27 law.

28 ///

C. Embezzlement/Conversion.

17. In their opposition, Plaintiffs clarify that Plaintiffs' claim for "embezzlement" is actually a claim for "conversion."

18. In Nevada, conversion is "a distinct act of dominion wrongfully exerted over another's personal property in denial of, or inconsistent with his title or rights therein or in derogation, exclusion, or defiance of such title or rights." *M.C. Multi-Family Dev., L.L.C. v. Crestdale Assocs., Ltd.*, 124 Nev. 901, 910, 193 P.3d 536, 542 (2008).

19. Based on the undisputed evidence, Hamid and Mohammad are entitled to summary judgment on Plaintiffs' conversion claim. With regard to the Order, it is undisputed that Hamid and Mohammad did not exert dominion over the Plaintiffs' property because the Order was stopped at Canadian customs, returned to the Canadian supplier, and canceled. As a result, Plaintiffs' conversion claim, as it relates to the Order, fails as a matter of law.

20. With regard to the Plaintiffs' "skimming" allegations, Plaintiffs—who conducted no depositions, presented no bank statements, and retained no experts—have failed to produce any evidence suggesting that Hamid or Mohammad improperly retained any money from any Meditex orders. As a result, Plaintiffs' conversion claim, as it relates to Plaintiffs' "skimming allegations," fails as a matter of law.

D. Declaratory Relief.

21. Declaratory relief is available when: "(1) a justiciable controversy exists between persons with adverse interests, (2) the party seeking declaratory relief has a legally protectable interest in the controversy, and (3) the issue is ripe for judicial determination." *Cty. of Clark, ex rel. Univ. Med. Ctr. v. Upchurch*, 114 Nev. 749, 752, 961 P.2d 754, 756 (1998). Moreover, pursuant to NRS 30.040, this Court is authorized to issue declarations regarding parties' rights and obligations under contracts.

22. Plaintiffs' declaratory relief claim fails as a matter of law because Plaintiffs fail to articulate what "contract" the claim refers to, what rights the Plaintiffs seek to have declared, or why the Plaintiffs are entitled to such a declaration.

///

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E. Accounting.

23. The Court concludes that genuine issues of material fact exist regarding whether the Plaintiffs are entitled to an accounting. As such, summary judgment is inappropriate on Plaintiffs' accounting claim.

Order

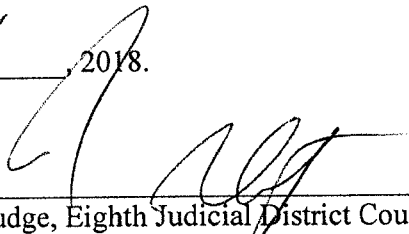
Based on the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that Defendants' Motion for Partial Summary Judgment Regarding the Claims against Hamid and Mohammad is GRANTED with regard to Plaintiffs' claims for: (1) breach of fiduciary duty, (2) Intentional Interference with Prospective Economic Advantage, (3) embezzlement/conversion, and (4) declaratory relief.

IT IS FURTHER ORDERED that Defendants' Motion for Partial Summary Judgment Regarding the Claims against Hamid and Mohammad is DENIED with regards to Plaintiffs' accounting claim.

IT IS SO ORDERED.

DATED this 23rd day of April, 2018.



Judge, Eighth Judicial District Court
In and for Clark County, Nevada

Respectfully submitted by:

Approved as to form and content:

KOLESAR & LEATHAM

ELLSWORTH & BENNION, CHTD.

By: 

By: 

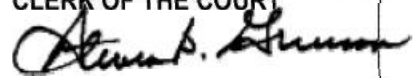
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*Attorneys for Defendants/Counter-
Claimants*

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Defendants*

Exhibit 6



1 **NEOJ**

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7 *Attorneys for Defendants, Counter-Claimants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

11 PARVIZ SAFARI and MANDANA ZAHEDI,
12 individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,

13 Plaintiff,

14 vs.

15 HAMID MODJTAHED, an individual;
16 MOHAMMAD MOJTAHED, an individual;
17 ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

18 Defendants.

19 HAMID MODJTAHED, individually and
20 derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
21 MOHAMMAD MOJTAHED, individually and
22 derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

23 Counter-Claimants,

24 vs.

25 PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
26 limited liability company; DOES I through X;
27 and ROE CORPORATIONS I through X,
inclusive,

28 Counter-Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW,
AND ORDER GRANTING IN PART
AND DENYING IN PART
DEFENDANTS/COUNTER-
CLAIMANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
ON COUNTER-CLAIMANTS'
CLAIMS AGAINST PARVIZ
SAFARI**

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DATED this 9 day of May, 2018.

By

Las Vegas, Nevada 89145

Page 2 of 3

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 9th day of May, 2018, I caused to be served a true and correct copy of foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS/COUNTER-CLAIMANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNTER-CLAIMANTS' CLAIMS AGAINST PARVIZ SAFARI** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.


An Employee of KOLESAR & LEATHAM

EXHIBIT 1

ORIGINAL

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Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

1 **OGSJ**

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8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

11 PARVIZ SAFARI and MANDANA ZAHEDI,
12 individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,

13 Plaintiff,

14 vs.

15 HAMID MODJTAHED, an individual;
16 MOHAMMAD MOJTAHED, an individual;
17 ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

18 Defendants.

19 HAMID MODJTAHED, individually and
20 derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
21 MOHAMMAD MOJTAHED, individually and
22 derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

23 Counter-Claimants,

24 vs.

25 PARVIZ SAFARI, an individual; MANDANA
26 ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
27 limited liability company; DOES I through X;
and ROE CORPORATIONS I through X,
inclusive,

28 Counter-Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS/
COUNTER-CLAIMANTS' MOTION
FOR PARTIAL SUMMARY
JUDGMENT ON COUNTER-
CLAIMANTS' CLAIMS AGAINST
PARVIZ SAFARI**

Hearing: March 29, 2018
Time: 9:00 a.m.

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APR 26 2018

DISTRICT COURT DEPT# 13

1 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART**
2 **AND DENYING IN PART DEFENDANTS/ COUNTER-CLAIMANTS' MOTION FOR**
3 **PARTIAL SUMMARY JUDGMENT ON COUNTER-CLAIMANTS' CLAIMS AGAINST**
4 **PARVIZ SAFARI**

5 On March 29, 2018 a hearing was held on Defendants/ Counter-Claimants' (hereafter
6 collectively "Defendants") Motion for Partial Summary Judgment on the Counter-Claimants'
7 Claims against Parviz Safari ("Safari"). Jonathan D. Blum, Esq. and Eric D. Walther, Esq. of
8 Kolesar & Leatham appeared on behalf of Defendants; Keen L. Ellsworth, Esq. of Ellsworth &
9 Bennion appeared on behalf of Plaintiffs/ Counter-Defendants (hereafter "Plaintiffs").

10 The Court issued its Decision on April 11, 2018, and in accordance with that and, having
11 considered the papers and pleadings on file, the oral and written arguments of counsel, and being
12 fully advised in the premises and good cause appearing therefore, hereby makes the following
13 Findings of Fact and Conclusions of Law:

14 **FINDINGS OF FACT AS TO WHICH THERE IS NO**
15 **GENUINE DISPUTE**

16 1. This case involves a Nevada company called Meditex, LLC ("Meditex" or the
17 "Company"), which was in the business of purchasing dietary supplements and safety equipment
18 and then selling those products to customers overseas for profit. Plaintiffs Parviz Safari
19 ("Safari") and Mandana Zahedi ("Zahedi") are combined 50% members of Meditex and
20 Defendants Hamid Modjtahed ("Hamid") and Mohammad Modjtahed ("Mohammad") are
21 combined 50% members of Meditex.

22 **A. SCBA and UTSafety**

23 2. SCBA Sales & Rentals, LLC ("SCBA Sales") was one of Meditex's main
24 suppliers, providing it with refurbished self-contained breathing apparatus units ("SCBA Units")
25 for industrial safety applications. Meditex would in turn export the refurbished SCBA Units to
26 its clients in the Middle East, for a profit. SCBA Sales was a small company, owned and
27 operated by Kimburly Holman ("Mr. Holman"). Mr. Holman's only contact at Meditex was
28 Safari.

1 3. On April 17, 2013, Safari registered a Utah limited liability company called
2 UTSafety, LLC ("UTSafety, LLC") in the name of his sister-in-law Nooshin Zahedi
3 ("Nooshin").

4 4. On April 21, 2013, Safari and Zahedi registered an internet domain in order to
5 "impersonate" SCBA Sales' actual domain. SCBA Sales' actual domains were
6 "scbarentalco.com" and "scbasalesco.com." Safari and Zahedi, on the other hand, registered the
7 almost identical (one letter different) domain "scbasaleco.com" ("Fake Domain"). Hamid and
8 Mohammad were unaware that Safari and Zahedi registered the Fake Domain.

9 5. On April 23, 2013, Safari sent an email from his newly registered Fake Domain
10 (sales@scbasaleco.com) to his Meditex email (aidansafari@meditexllc.com). In this email—
11 which was "signed" by SCBA Sales and made to look as if it were coming from SCBA Sales—
12 Safari wrote that SCBA Sales was affiliated with UTSafety, LLC and that business with Meditex
13 must go through UTSafety for tax purposes.

14 6. Safari shared this email with Hamid and Mohammad and represented to them
15 that: (1) UTSafety was affiliated with SCBA Sales; and (2) SCBA Sales required that all
16 payments go through UTSafety for tax purposes. At his deposition, however, Mr. Holman
17 confirmed that this email did not actually come from SCBA Sales, UTSafety was not affiliated
18 with SCBA Sales in any way, and there was absolutely no reason for Meditex's payments to go
19 through UTSafety. In fact, Safari represented to Mr. Holman the complete opposite, that: (1)
20 UTSafety was affiliated with Meditex; and, (2) Meditex required all payments to go through
21 UTSafety for tax purposes. Defendants were completely unaware that Safari and Nooshin
22 owned and operated UTSafety.

23 7. Over the course of several months, when Meditex requested to purchase SCBA
24 Units from SCBA Sales, Mr. Holman would generate legitimate invoices and email them to
25 Safari at Safari's private gmail address. Safari would then alter SCBA Sales' real invoices to
26 reflect greatly increased prices and other charges that were not legitimate, such as spare parts and
27 shipping costs ("Fake Invoices"). Safari would then send the Fake Invoices from his Fake
28 Domain (to appear as if they were coming from SCBA Sales) to his Meditex email address.

1 Safari would then forward the fake emails/invoices to Hamid and Mohammad and request that
2 the inflated invoices be paid to UTSafety, his shell company. Defendants were completely
3 unaware that Safari was presenting them with altered SCBA Sales' invoices.

4 8. In reliance on Safari's Fake Domain/Fake Invoices, Hamid, and at times Safari
5 himself, would wire funds from Meditex's bank account to UTSafety's bank account. Safari
6 (with the knowledge and participation of his wife Zahedi, and sister in law/ the "owner" of
7 UTSafety Nooshin) would then pay SCBA Sales the greatly reduced (actual) invoice amount,
8 and personally retain the difference. Defendants were completely unaware that Safari was
9 personally retaining this money.

10 9. Moreover, despite getting significantly more money from Meditex than the actual
11 invoice totals, on several occasions, Safari failed to pay SCBA Sales the full (actual) amounts
12 due. Not only was Safari stealing money from Meditex, Hamid, and Mohammad, he was also
13 damaging Meditex's relationship with its main vendor (SCBA Sales) by not fully paying them,
14 which resulted in further damage to Meditex's relationships with its customers because it was not
15 able to fulfil and deliver orders without paying its vendor.

16 10. As a direct result of Safari's Fake Domain and Fake Invoices, a total of \$233,700
17 was wired from Meditex to UTSafety. UTSafety, in turn, only wired a total of \$148,000 to
18 SCBA Sales, \$6,000 of which was refunded to UTSafety. Accordingly, Safari personally and
19 improperly retained a total of \$91,700 from Meditex. Said another way, as a direct result of
20 Safari's actions, Meditex, Hamid, and Mohammad suffered damages of \$91,700.

21 **B. Las Vegas Metro Chamber of Commerce.**

22 11. In March of 2015, Safari was tasked with securing a membership for Meditex
23 with the Las Vegas Metro Chamber of Commerce (the "Chamber"). Safari registered for an
24 annual membership with the Chamber on behalf of Meditex which was to cost \$3,500. Safari
25 then authorized the initial \$665.00 payment for the first two months on his credit card. Safari
26 later contested this payment and received a full refund of the \$665.00 he actually paid.

27 12. Safari then created a fake invoice that was made to look like it was issued by the
28 Chamber for the full \$3,500 ("Fake Chamber Invoice") and presented the Fake Chamber Invoice

1 to Hamid and Mohammad for payment. Defendants were completely unaware that the Fake
2 Chamber Invoice did not actually come from the Chamber. In reliance on the Fake Chamber
3 Invoice, on March 28, 2015, Hamid wrote Safari a check for \$3,500, with the memo line
4 reflecting "Chamber of Commerce Invoice M74832," the same invoice number that appeared on
5 Safari's Fake Chamber Invoice.

6 13. Safari did not use any of the \$3,500 he obtained from Hamid to pay the
7 Chamber. Instead, Safari personally retained the full \$3,500 himself. As a direct result of
8 Safari's actions, Meditex, Hamid, and Mohammad suffered damages of \$3,500.

9 **C. Meditex's Operating Agreement.**

10 14. On or about April 7, 2011, Safari, Zahedi, Hamid, and Mohammad executed the
11 Operating Agreement of Meditex LLC ("Operating Agreement"). The Court finds that the
12 Operating Agreement is a valid and enforceable contract. *See May v. Anderson*, 121 Nev. 668,
13 672, 119 P.3d 1254, 1257 (2005) (holding that an enforceable contract requires "an offer and
14 acceptance, meeting of the minds, and consideration.").

15 15. Section 6.3 of the Operating Agreement states that members cannot receive
16 distributions of Company money without an "affirmative vote ... of the LLC Members" and the
17 adoption of a "resolution ... stat[ing] the amounts and dates of distribution to each member...."

18 16. Through the UTSafety and Chamber schemes described above, Safari personally
19 retained a total of \$95,200 that belonged to Meditex without a member vote or resolution as
20 required by Section 6.3 of the Operating Agreement.

21 **D. Plaintiffs' "illegal sales" allegations.**

22 17. In opposing Defendants' motions for summary judgment, Plaintiffs allege, for the
23 first time in this case, that Defendants "illegally" sold safety equipment to Iran. Plaintiffs argue
24 that these "illegal sales" serve as a defense to Defendants' counter-claims. The Court, however,
25 finds that Plaintiffs' "illegal sales" allegations are meritless for at least two reasons.

26 18. First, Plaintiffs never asserted "illegality" as an affirmative defense as required by
27 NRCP 8(c). Accordingly, Plaintiffs are barred from making an "illegality" argument now. *See*

28

1 *Clark Cty. Sch. Dist. v. Richardson Const., Inc.*, 123 Nev. 382, 395, 168 P.3d 87, 96 (2007)
2 (“Under NRCP 8(c), a defense that is not set forth affirmatively in a pleading is waived.”).

3 19. Second, there is no factual support for Plaintiffs’ “illegal sales” allegations.
4 Indeed, Plaintiffs have only presented the Court with two emails, one of which is not bates
5 stamped and was not previously produced during discovery, and neither of which discusses Iran,
6 sales to Iran, or moving equipment to Iran in anyway. A review of these emails reveals that they
7 do not support the Plaintiffs’ allegations.

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

10 Conclusions of Law

11 21. Summary judgment is appropriate when, “after review of the record viewed in a
12 light most favorable to the non-moving party, there remain no genuine issues of material fact,
13 and the moving party is entitled to judgment as a matter of law.” *Evans v. Samuels*, 119 Nev.
14 378, 75 P.3d 361, 363 (2003); *see also Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026,
15 1031 (2005). “A genuine issue of material fact is one where the evidence is such that a
16 reasonable jury could return a verdict for the non-moving party.” *Pegasus v. Reno Newspapers,*
17 *Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (citation and quotation omitted).

18 22. Although Defendants’ motion mentions other causes of action, such as breach of
19 contract and breach of fiduciary duty, the Court concludes that Defendants’ motion focuses only
20 on Defendants’ fraud cause of action.

21 23. “The elements of a cause of action for common law fraud under Nevada law are:
22 (1) the defendant made a false representation; (2) the defendant knew or believed the
23 representation was false or the defendant had an insufficient basis for making the representation;
24 (3) the defendant intended to induce the plaintiff to act or refrain from acting in reliance upon the
25 misrepresentation; (4) the plaintiff justifiably relied on the misrepresentation; and (5) damage to
26 the plaintiff resulted from such reliance.” *Daou v. Abelson*, 2014 WL 938508, at *4 (D. Nev.
27 Mar. 10, 2014) (citing *Bulbman, Inc. v. Nevada Bell*, 825 P.2d 588, 592 (Nev.1992)). Fraud
28 must be proven by clear and convincing evidence.

4 25. However, the Court concludes that there are no genuine issues pertaining to the
5 facts underlying Defendants' claims. Accordingly, the Court concludes that the facts set forth in
6 paragraphs 1-19 above are hereby established pursuant to NRCP 56(d) with regard to Safari.

26. In support of this conclusion, the Court notes that Defendants presented the Court with significant evidence supporting their factual allegations, including deposition transcripts, emails, invoices (both real and fake), bank records, and an expert report. Plaintiffs, on the other hand, presented the Court with no evidentiary support for their arguments. Indeed, Plaintiffs conducted no depositions, presented the Court with no bank records, and retained no expert or rebuttal expert. As a result, Plaintiffs have failed to convince the Court that genuine issues exist regarding the facts underlying this case as outlined in this Motion.

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

Order

17 Based on the foregoing Findings of Fact and Conclusions of Law,

18 IT IS HEREBY ORDERED that Defendants' Motion for Partial Summary Judgment on
19 the Counter-Claimants' Claims against Parviz Safari is DENIED, in part, with regard to
20 Defendants' fraud claim.

IT IS FURTHER ORDERED that Defendants' Motion for Partial Summary Judgment on the Counter-Claimants' Claims against Parviz Safari is GRANTED, in part, and the facts set forth in paragraphs 1-19 above are hereby established pursuant to NRCP 56(d) with regard to Safari.

25 |||

26 |||

27 || 111

28 |||

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1 IT IS FURTHER ORDERED that this ruling is without prejudice to further motion
2 practice by Defendants, and Defendants are hereby authorized to file additional motions,
3 including motions for summary judgment, regarding Defendants' non-fraud claims.

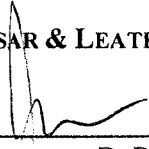
4 IT IS SO ORDERED.

5 DATED this 7th day of May, 2018.

6
7 Judge, Eighth Judicial District Court
In and for Clark County, Nevada

8
9 Respectfully submitted by:

10 **KOLESAR & LEATHAM**

11 By: 
12 JONATHAN D. BLUM, ESQ.
Nevada Bar No. 009515
13 ERIC D. WALTHER, ESQ.
Nevada Bar No. 13611
14 400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

15 *Attorneys for Defendants/Counter-*
16 *Claimants*

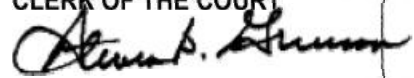
Approved as to form and content:

ELLSWORTH & BENNION, CHTD.

17 By: Refused to Sign
18 KEEN L. ELLSWORTH, ESQ.
Nevada Bar No. 004981
19 777 North Rainbow Boulevard, Suite 270
Las Vegas, NV 89107

Attorneys for Plaintiffs/ Counter-
Defendants

Exhibit 7



1 **NEOJ**

JONATHAN D. BLUM, ESQ.

2 Nevada Bar No. 009515

ERIC D. WALTHER, ESQ.

3 Nevada Bar No. 13611

KOLESAR & LEATHAM

4 400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

5 Telephone: (702) 362-7800

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6 E-Mail: jblum@klnevada.com

ewalther@klnevada.com

7 *Attorneys for Defendants, Counter-Claimants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

11 PARVIZ SAFARI and MANDANA ZAHEDI,
individually and on behalf of MEDITEX, LLC,
12 a Nevada limited liability company,

13 Plaintiff,

14 vs.

15 HAMID MODJTAHED, an individual;
MOHAMMAD MOJTAHED, an individual;
16 ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
17 through X, inclusive,

18 Defendants.

19 HAMID MODJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
20 Nevada limited liability company;
MOHAMMAD MOJTAHED, individually and
21 derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

22 Counter-Claimants,

23 vs.

24 PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
25 an individual; UTSAFETY, LLC, a Utah
limited liability company; DOES I through X;
26 and ROE CORPORATIONS I through X,
27 inclusive,

28 Counter-Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW,
AND ORDER GRANTING IN PART
AND DENYING PART MOTION
FOR PARTIAL SUMMARY
JUDGMENT ON COUNTER-
CLAIMANTS' NON-FRAUD
CLAIMS AGAINST PARVIZ
SAFARI**

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**NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING IN PART AND DENYING PART MOTION FOR PARTIAL
SUMMARY JUDGMENT ON COUNTER-CLAIMANTS' NON-FRAUD CLAIMS
AGAINST PARVIZ SAFARI**

Please take notice that a Findings of Fact, Conclusions of Law, and Order Granting in Part and Denying Part Motion for Partial Summary Judgment on Counter-Claimants' Non-Fraud Claims Against Parviz Safari was entered with the above Court on the 18th day of July, 2018, a copy of which is attached hereto as **Exhibit 1**.

DATED this 18 day of July, 2018.

KOLESAR & LEATHAM

By

JONATHAN D. BLUM, ESQ.

Nevada Bar No. 009515

ERIC D. WALTHER, ESQ.

Nevada Bar No. 13611

400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

Attorneys for Defendants, Counter-Claimants

CERTIFICATE OF SERVICE

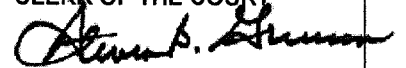
I hereby certify that I am an employee of Kolesar & Leatham, and that on the 18th day of July, 2018, I caused to be served a true and correct copy of foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART AND DENYING PART MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNTER-CLAIMANTS' NON-FRAUD CLAIMS AGAINST PARVIZ SAFARI** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.


An Employee of KOLESAR & LEATHAM

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

EXHIBIT 1



ORIGINAL

OGSJ

JONATHAN D. BLUM, ESQ.

Nevada Bar No. 009515

ERIC D. WALTHER, ESQ.

Nevada Bar No. 13611

KOLESAR & LEATHAM

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ewalther@klnvada.com

Attorneys for Defendants/Counter-Claimants

DISTRICT COURT

CLARK COUNTY, NEVADA

PARVIZ SAFARI and MANDANA ZAHEDI,
individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,

Plaintiff,

vs.

HAMID MODJTAHED, an individual;
MOHAMMAD MOJTAHED, an individual;
ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

HAMID MODJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

Counter-Claimants,

vs.

PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
limited liability company; DOES I through X;
and ROE CORPORATIONS I through X,
inclusive,

Counter-Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
PARTIAL SUMMARY JUDGMENT
ON COUNTER-CLAIMANTS' NON-
FRAUD CLAIMS AGAINST PARVIZ
SAFARI**

Hearing: June 21, 2018

Time: 9:00 a.m.

KOLESAR & LEATHAM,
400 South Rampart Boulevard, Suite 400
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Tel: (702) 362-7800 / Fax: (702) 362-9472

RECEIVED

JUL 09 2018

DISTRICT COURT DEPT# 13

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART
AND DENYING IN PART MOTION FOR PARTIAL SUMMARY JUDGMENT ON
COUNTER-CLAIMANTS' NON-FRAUD CLAIMS AGAINST PARVIZ SAFARI**

On June 21, 2018 a hearing was held on Defendants/ Counter-Claimants' (hereafter collectively "Defendants") Motion for Partial Summary Judgment on Counter-Claimants' Non-Fraud Claims Against Parviz Safari ("Safari"). Jonathan D. Blum, Esq. and Eric D. Walther, Esq. of Kolesar & Leatham appeared on behalf of Defendants; Andrew S. Flahive, Esq. of Flahive & Associates, Ltd. appeared on behalf of Plaintiffs/ Counter-Defendants (hereafter "Plaintiffs").

The Court, having considered the papers and pleadings on file, the oral and written arguments of counsel hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT AS TO WHICH THERE IS NO GENUINE DISPUTE

1. On May 8, 2018, this Court issued its Findings of Fact, Conclusions of Law, and Order Granting in Part and Denying in Part Defendants/ Counter-Claimants' Motion for Partial Summary Judgment on Counterclaimants' Claims Against Parviz Safari ("May 8, 2018 Order"). This Court's May 8, 2018 Order determined that there are no genuine issues related to the facts outlined in paragraphs 2-21 below. As a result, this Court's May 8, 2018 Order held that the facts outlined in paragraphs 2-21 below have been established pursuant to NRCP 56(d).

2. This case involves a Nevada company called Meditex, LLC ("Meditex" or the "Company"), which was in the business of purchasing dietary supplements and safety equipment and then selling those products to customers overseas for profit. Plaintiffs Parviz Safari ("Safari") and Mandana Zahedi ("Zahedi") are combined 50% members of Meditex and Defendants Hamid Modjtahed ("Hamid") and Mohammad Mojtaheh ("Mohammad") are combined 50% members of Meditex.

A. SCBA and UTSafety.

3. SCBA Sales & Rentals, LLC ("SCBA Sales") was one of Meditex's main suppliers, providing it with refurbished self-contained breathing apparatus units ("SCBA Units") for industrial safety applications. Meditex would in turn export the refurbished SCBA Units to its clients in the Middle East, for a profit. SCBA Sales was a small company, owned and

1 operated by Kimburly Holman ("Mr. Holman"). Mr. Holman's only contact at Meditex was
2 Safari.

3 4. On April 17, 2013, Safari registered a Utah limited liability company called
4 UTSafety, LLC ("UTSafety, LLC") in the name of his sister-in-law Nooshin Zahedi
5 ("Nooshin").

6 5. On April 21, 2013, Safari and Zahedi registered an internet domain in order to
7 "impersonate" SCBA Sales' actual domain. SCBA Sales' actual domains were
8 "scbarentalco.com" and "scbasalesco.com." Safari and Zahedi, on the other hand, registered the
9 almost identical (one letter different) domain "scbasaleco.com" ("Fake Domain"). Hamid and
10 Mohammad were unaware that Safari and Zahedi registered the Fake Domain.

11 6. On April 23, 2013, Safari sent an email from his newly registered Fake Domain
12 (sales@scbasaleco.com) to his Meditex email (aidansafari@meditexllc.com). In this email—
13 which was "signed" by SCBA Sales and made to look as if it were coming from SCBA Sales—
14 Safari wrote that SCBA Sales was affiliated with UTSafety, LLC and that business with Meditex
15 must go through UTSafety for tax purposes.

16 7. Safari shared this email with Hamid and Mohammad and represented to them
17 that: (1) UTSafety was affiliated with SCBA Sales; and (2) SCBA Sales required that all
18 payments go through UTSafety for tax purposes. At his deposition, however, Mr. Holman
19 confirmed that this email did not actually come from SCBA Sales, UTSafety was not affiliated
20 with SCBA Sales in any way, and there was absolutely no reason for Meditex's payments to go
21 through UTSafety. In fact, Safari represented to Mr. Holman the complete opposite, that: (1)
22 UTSafety was affiliated with Meditex; and, (2) Meditex required all payments to go through
23 UTSafety for tax purposes. Defendants were completely unaware that Safari and Nooshin
24 owned and operated UTSafety.

25 8. Over the course of several months, when Meditex requested to purchase SCBA
26 Units from SCBA Sales, Mr. Holman would generate legitimate invoices and email them to
27 Safari at Safari's private gmail address. Safari would then alter SCBA Sales' real invoices to
28 reflect greatly increased prices and other charges that were not legitimate, such as spare parts and

1 shipping costs ("Fake Invoices"). Safari would then send the Fake Invoices from his Fake
2 Domain (to appear as if they were coming from SCBA Sales) to his Meditex email address.
3 Safari would then forward the fake emails/invoices to Hamid and Mohammad and request that
4 the inflated invoices be paid to UTSafety, his shell company. Defendants were completely
5 unaware that Safari was presenting them with altered SCBA Sales' invoices.

6 9. In reliance on Safari's Fake Domain/Fake Invoices, Hamid, and at times Safari
7 himself, would wire funds from Meditex's bank account to UTSafety's bank account. Safari
8 (with the knowledge and participation of his wife Zahedi, and sister in law/ the "owner" of
9 UTSafety Nooshin) would then pay SCBA Sales the greatly reduced (actual) invoice amount,
10 and personally retain the difference. Defendants were completely unaware that Safari was
11 personally retaining this money.

12 10. Moreover, despite getting significantly more money from Meditex than the actual
13 invoice totals, on several occasions, Safari failed to pay SCBA Sales the full (actual) amounts
14 due. Not only was Safari ^{~ taking} ~~stealing~~ money from Meditex, Hamid, and Mohammad, he was also
15 damaging Meditex's relationship with its main vendor (SCBA Sales) by not fully paying them,
16 which resulted in further damage to Meditex's relationships with its customers because it was not
17 able to fulfil and deliver orders without paying its vendor.

18 11. As a direct result of Safari's Fake Domain and Fake Invoices, a total of \$233,700
19 was wired from Meditex to UTSafety. UTSafety, in turn, only wired a total of \$148,000 to
20 SCBA Sales, \$6,000 of which was refunded to UTSafety. Accordingly, Safari personally and
21 improperly retained a total of \$91,700 from Meditex. Said another way, as a direct result of
22 Safari's actions, Meditex, Hamid, and Mohammad suffered damages of \$91,700.

23 **B. Las Vegas Metro Chamber of Commerce.**

24 12. In March of 2015, Safari was tasked with securing a membership for Meditex
25 with the Las Vegas Metro Chamber of Commerce (the "Chamber"). Safari registered for an
26 annual membership with the Chamber on behalf of Meditex which was to cost \$3,500. Safari
27 then authorized the initial \$665.00 payment for the first two months on his credit card. Safari
28 later contested this payment and received a full refund of the \$665.00 he actually paid.

13. Safari then created a fake invoice that was made to look like it was issued by the Chamber for the full \$3,500 ("Fake Chamber Invoice") and presented the Fake Chamber Invoice to Hamid and Mohammad for payment. Defendants were completely unaware that the Fake Chamber Invoice did not actually come from the Chamber. In reliance on the Fake Chamber Invoice, on March 28, 2015, Hamid wrote Safari a check for \$3,500, with the memo line reflecting "Chamber of Commerce Invoice M74832," the same invoice number that appeared on Safari's Fake Chamber Invoice.

14. Safari did not use any of the \$3,500 he obtained from Hamid to pay the Chamber. Instead, Safari personally retained the full \$3,500 himself. As a direct result of Safari's actions, Meditex, Hamid, and Mohammad suffered damages of \$3,500.

C. Meditex's Operating Agreement.

15. On or about April 7, 2011, Safari, Zahedi, Hamid, and Mohammad executed the Operating Agreement of Meditex LLC ("Operating Agreement"). The Court finds that the Operating Agreement is a valid and enforceable contract. *See May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005) (holding that an enforceable contract requires "an offer and acceptance, meeting of the minds, and consideration.").

16. Section 6.3 of the Operating Agreement states that members cannot receive distributions of Company money without an "affirmative vote ... of the LLC Members" and the adoption of a "resolution ... stat[ing] the amounts and dates of distribution to each member...."

17. Through the UTSafety and Chamber schemes described above, Safari personally retained a total of \$95,200 that belonged to Meditex without a member vote or resolution as required by Section 6.3 of the Operating Agreement.

D. Plaintiffs' "illegal sales" allegations.

18. In opposing Defendants' motions for summary judgment, Plaintiffs allege, for the first time in this case, that Defendants "illegally" sold safety equipment to Iran. Plaintiffs argue that these "illegal sales" serve as a defense to Defendants' counter-claims. The Court, however, finds that Plaintiffs' "illegal sales" allegations are meritless for at least two reasons.

20. Second, there is no factual support for Plaintiffs' "illegal sales" allegations. Indeed, Plaintiffs have only presented the Court with two emails, one of which is not bates stamped and was not previously produced during discovery, and neither of which discusses Iran, sales to Iran, or moving equipment to Iran in anyway. A review of these emails reveals that they do not support the Plaintiffs' allegations.

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

Conclusions of Law

22. Summary judgment is appropriate when, “after review of the record viewed in a light most favorable to the non-moving party, there remain no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law.” *Evans v. Samuels*, 119 Nev. 378, 75 P.3d 361, 363 (2003); *see also Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026, 1031 (2005). “A genuine issue of material fact is one where the evidence is such that a reasonable jury could return a verdict for the non-moving party.” *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (citation and quotation omitted).

20 23. “[T]he elements of a breach of contract claim in Nevada are (1) the existence of a
21 valid contract, (2) a breach by the defendant, and (3) damage as a result of the breach.”
22 *Contreras v. Am. Family Mut. Ins. Co.*, 135 F. Supp. 3d 1208, 1227 (D. Nev. 2015) (citing
23 *Richardson v. Jones*, 1 Nev. 405, 409 (1865)).

24 24. A company's operating agreement constitutes a "contract" for the purposes of a
25 breach of contract claim. *See M.C. Multi-Family Dev., L.L.C. v. Crestdale Assocs., Ltd.*, 124
26 Nev. 901, 913, 193 P.3d 536, 544 (Nev. 2008).

27 25. Based on the established facts outlined above, Defendants are entitled to summary
28 judgment on their breach of contract claim against Safari. First, it has been established that the

1 parties were subject to a valid and enforceable contract—the Operating Agreement. Second, it
2 has been established that Section 6.3 of the Operating Agreement mandates that members cannot
3 receive distributions of Company money without an “affirmative vote ... of the LLC Members”
4 and the adoption of a “resolution ... stat[ing] the amounts and dates of distribution to each
5 member...” Third, it has been established that Safari breached Section 6.3 of the Operating
6 Agreement by personally retaining \$95,200 in Company money related to the SCBA and
7 Chamber of Commerce schemes without a member vote or resolution. Finally, it has been
8 established that Defendants suffered damages of at least \$95,200 as a direct result of Safari’s
9 breach.

10 26. At the time of trial, Defendants may present evidence of any additional damages
11 that were suffered as a result of Safari’s breach of the Operating Agreement.

12 27. The Court concludes that there are genuine issues of material fact regarding
13 Safari’s state of mind. As such, the Court finds that summary judgment is inappropriate at this
14 time on Defendants’ claims for breach of the implied covenant of good faith and fair dealing and
15 tortious breach of the implied covenant of good faith and fair dealing.

16 28. Finally, the Court concludes that NRCP 56(f) relief would be inappropriate at this
17 time because the discovery deadline closed more than 6 months ago and Plaintiffs cannot explain
18 why they could not conduct the requested depositions during the actual discovery period. *See*
19 *Francis v. Wynn Las Vegas, LLC*, 127 Nev. 657, 669, 262 P.3d 705, 714 (2011) (holding that
20 NRCP 56(f) relief is inappropriate “if the movant has previously failed diligently to pursue
21 discovery.....”)

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

24 ///

25 ///

26 ///

27 ///

28 ///

KOLESAR & LEATHAM,
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

Order

Based on the foregoing Findings of Fact and Conclusions of Law,

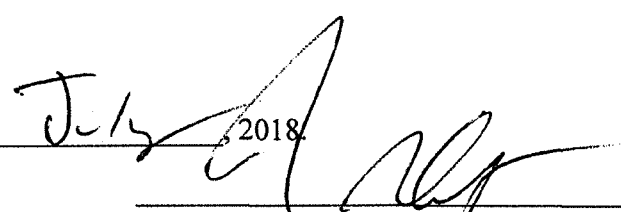
IT IS HEREBY ORDERED that Defendants' Motion for Partial Summary Judgment on the Counter-Claimants' Non-Fraud Claims against Parviz Safari is GRANTED, in part, with regard to Defendants' breach of contract claim in the amount of \$95,200. At the time of trial, Defendants may present evidence related to any additional breach of contract damages.

IT IS FURTHER ORDERED that Defendants' Motion for Partial Summary Judgment on the Counter-Claimants' Claims against Parviz Safari is DENIED, in part, with regard to Defendants' claims for (1) breach of the implied covenant of good faith and fair dealing, and (2) tortious breach of the implied covenant of good faith and fair dealing.

IT IS FURTHER ORDERED that Plaintiffs' request to reopen discovery pursuant to NRCP 56(f) is DENIED.

IT IS SO ORDERED.

DATED this 16th day of July, 2018.



Judge, Eighth Judicial District Court
In and for Clark County, Nevada

Respectfully submitted by:

KOLESAR & LEATHAM

By: 

JONATHAN D. BLUM, ESQ.
Nevada Bar No. 009515
ERIC D. WALTHER, ESQ.
Nevada Bar No. 13611
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Defendants/Counter-Claimants

Approved as to form and content:

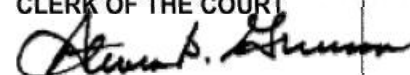
FLAHIVE & ASSOCIATES, LTD.

By: Refused to sign.

ANDREW S. FLAHIVE, ESQ.
Nevada Bar No. 009556
330 E. Warm Springs, Suite A-18
Las Vegas, NV 89119

Attorneys for Plaintiffs/ Counter-Defendants

Exhibit 8



1 **DFLT**

JONATHAN D. BLUM, ESQ.

2 Nevada Bar No. 9515

SCOTT D. FLEMING, ESQ.

3 Nevada Bar No. 5638

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6 E-Mail: jblum@klnevada.com

sfleming@klnevada.com

7 *Attorneys for Defendants/Counter-Claimants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

11 PARVIZ SAFARI and MANDANA ZAHEDI,
12 individually and on behalf of MEDITEX, LLC,
13 a Nevada limited liability company,
Plaintiff,

14 vs.

15 HAMID MODJTAHED, an individual;
16 MOHAMMAD MOJTAHED, an individual;
17 ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

18 Defendants.

19 HAMID MODJTAHED, individually and
20 derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
21 MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
22 Nevada limited liability company,

23 Counter-Claimants,

24 vs.

25 PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
26 an individual; UTSAFETY, LLC, a Utah
limited liability company; DOES I through X;
27 and ROE CORPORATIONS I through X,
inclusive,

28 Counter-Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**DEFAULT AGAINST COUNTER-
DEFENDANT, NOOSHIN ZAHEDI**

DEFAULT AGAINST COUNTER-DEFENDANT, NOOSHIN ZAHEDI

Counter-Defendant NOOSHIN ZAHEDI, an individual, failed to appear at the Civil Non-Jury Trial in the above-entitled action; as such, the default of NOOSHIN ZAHEDI is hereby entered.

DISTRICT COURT JUDGE

By: 
The Honorable Mark R. Denton

June 14, 2019
DATE

Submitted by:

KOLESAR & LEATHAM

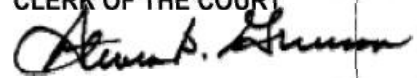
By 

JONATHAN D. BLUM, ESQ.
Nevada Bar No. 009515
SCOTT D. FLEMING, ESQ.
Nevada Bar No. 005638
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Defendants/Counter-Claimants

DATED this 14 day of June, 2019.

Exhibit 9



1 **NEO**

JONATHAN D. BLUM, ESQ.

2 Nevada Bar No. 009515

SCOTT D. FLEMING, ESQ.

3 Nevada Bar No. 005638

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4 400 South Rampart Boulevard, Suite 400

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7 *Attorneys for Defendants, Counter-Claimants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

11 PARVIZ SAFARI and MANDANA ZAHEDI,
12 individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,

13 Plaintiff,

14 vs.

15 HAMID MODJTAHED, an individual;
16 MOHAMMAD MOJTAHED, an individual;
17 ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

18 Defendants.

CASE NO. A-15-729030-B

DEPT NO. XIII

**NOTICE OF ENTRY OF FINDINGS
OF FACT CONCLUSIONS OF LAW
AND JUDGMENT**

19 HAMID MODJTAHED, individually and
20 derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
21 MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
22 Nevada limited liability company,

23 Counter-Claimants,

24 vs.

25 PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
26 limited liability company; DOES I through X;
and ROE CORPORATIONS I through X,
27 inclusive,

28 Counter-Defendants.

KOLESAR & LEATHAM

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Las Vegas, Nevada 89145

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**NOTICE OF ENTRY OF FINDINGS OF FACT CONCLUSIONS OF LAW AND
JUDGMENT**

Please take notice that a Findings of Fact Conclusions of Law and Judgment was entered
with the above Court on the 27th day of September, 2019, a copy of which is attached hereto as

Exhibit 1.

DATED this 30th day of September, 2019.

KOLESAR & LEATHAM

By

JONATHAN D. BLUM, ESQ.

Nevada Bar No. 009515

SCOTT D. FLEMING, ESQ.

Nevada Bar No. 005638

400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

Attorneys for Defendants, Counter-Claimants

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 30th day of September, 2019, I caused to be served a true and correct copy of foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT CONCLUSIONS OF LAW AND JUDGMENT** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.

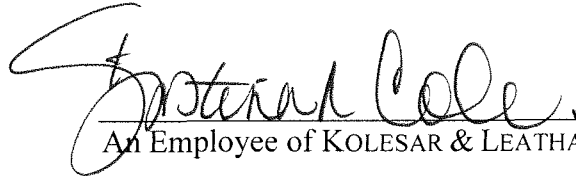

An Employee of KOLESAR & LEATHAM

EXHIBIT 1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * *

PARVIZ SAFARI and MANDANA ZAHEDI,
individually and on behalf of MEDITEX, LLC,
a Nevada limited liability company,
Plaintiff,

CASE NO. A-15-729030-B

DEPT NO. XIII

vs.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
JUDGMENT**

HAMID MODJTAHED, an individual;
MOHAMMAD MOJTAHED, an individual;
ALI MOJTAHED, an individual; DOES I
through X; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

HAMID MODJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company;
MOHAMMAD MOJTAHED, individually and
derivatively on behalf of MEDITEX, LLC, a
Nevada limited liability company,

Counter-Claimants,

vs.

PARVIZ SAFARI, an individual; MANDANA
ZAHEDI, an individual; NOOSHIN ZAHEDI,
an individual; UTSAFETY, LLC, a Utah
limited liability company; DOES I through X;
and ROE CORPORATIONS I through X,
inclusive,

Counter-Defendants.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

This matter came before the Court for Trial on multiple dates, beginning on May 21, 2019 and having been completed on August 7, 2019. Andrew Scott Flahive, Esq. of Flahive & Associates, Ltd. appeared on behalf of the Plaintiffs/Counter-Defendants, and Jonathan D. Blum, Esq. of Kolesar & Leatham appeared on behalf of the Defendants/Counter-Claimants and

The Court, having considered the papers and pleadings on file, the testimony of witnesses and other evidence adduced, and the oral and written arguments of counsel, hereby makes its Findings of Fact and Conclusions of Law and enters Judgment as follows:

FINDINGS OF FACT

Re Plaintiffs' Claims

1. In 2013 and 2014 Meditex, LLC, a Nevada limited liability company comprised of Parviz Safari, Mandana Zahedi, Hamid Mojtahed, and Mohammed Mojtahed, each having twenty-five percent (25%) membership, made a series of sales of nutritional supplements to its customer in Iran, Ganjineh Salamat Pasargard (“GSP”).

2. GSP paid Meditex for the supplements via four (4) wire transfers in 2013 and seven (7) wire transfers in 2014. Outgoing wires from GSP: *Exhibit J151: GSP0068 - 0070; Exhibit J152: GSP0071-0076*; Incoming wires into Meditex's account: *Exhibit 639: MEDITEX00711; Exhibit 639: MEDITEX00719; Exhibit 640: MEDITEX00757; Exhibit 640: MEDITEX00777; Exhibit 640: MEDITEX00798; Exhibit 640: MEDITEX00815; Exhibit 640: MEDITEX00841; Exhibit 641: MEDITEX00851.*

3. Meditex received approximately \$911,000.00 from those wire transfers. *Id.* and Exhibit 851: GSP005.

4. The payments Meditex received from GSP correspond to the GSP purchase orders which also correspond to the proforma invoices issued by Parviz Safari (aka Aiden Davis, Aidan Davis) (“Mr. Safari”). *Id.* and *Exhibit J147:GSP0058-60; Exhibit J148:GSP0062-63; Exhibit J12: MEDITEX001679-1680, MEDITEX001681- MEDITEX001682; Exhibit J152: GSP0071, GSP0073, GSP0074.*

5. Meditex did not charge GSP, or expect to be paid, more than \$911,000.00 for the supplements ordered by GSP.

6. GSP did not agree to pay Meditex more than \$911,000.00 for the supplements it ordered.

7. The only amounts GSP agreed to pay Meditex were the three purchase orders issued by GSP. *Exhibit J147:GSP0058-60.*

1 8. The first order was placed by GSP in August, 2013, several months before the
2 first shipment in January, 2014. *Exhibit J146: GSP0008 and J147:GSP0057.*

3 9. GSP did not agree to pay an amount higher than reflected in the purchase
4 orders.

5 10. Meditex placed orders with its supplement vendor, Nutralab, in accordance
6 with the GSP purchase orders and Meditex's corresponding proforma invoices. *Exhibit J41:*
7 *MEDITEX002443; Exhibit J42: MEDITEX002453 and Exhibit J42 MEDITEX002457.*

8 11. The types and quantities of supplements Meditex should order from its vendor
9 Nutralab to fill GSP's orders were derived from the GSP purchase orders.

10 12. Meditex made payments to its supplement vendor, Nutralab, after receiving
11 down payments from GSP, in accordance with the purchase orders and corresponding
12 proforma invoices. *Exhibit 640: MEDITEX00777, MEDITEX00779, MEDITEX00798,*
13 *MEDITEX00800.*

14 13. GSP did not pay more than \$911,000.00 for the supplements it ordered.

15 14. No more than the \$911,000.00 was received into Meditex's bank account for
16 the supplement orders.

17 15. Mr. Safari admitted at trial that he had no evidence that Meditex, Hamid or
18 Mohammad received more than the \$911,000.00 received into Meditex's bank account. *Trial*
19 *Transcript, May 23, 2019, page 43, lines 4-13 ("I don't know where is this money. Who kept*
20 *this money."); Trial Transcript June 21, 2019, page 82, line 10 to page 84, line 12. ("Q Okay.*
21 *So you have no evidence of that; correct? A I can't give any evidence from Iran.").*

22 16. The only evidence offered by Mr. Safari in support of his claim is a series of
23 invoices he produced, which he claims accompanied the shipments, which reflect amounts
24 two to three times more than GSP's purchase orders and the other invoices produced in this
25 case. However, these do not appear to be "to be paid" invoices, based on the following:

26 a. GSP's payments began in 2013, months before the first shipment in
27 January, 2014, and months before the first of these invoices was issued. *Exhibit 5:*
28

1 ASD00377 (invoice dated January 9, 2014); Exhibit 639: MEDITEX00711 (first
2 payment received August 30, 2013).

3 b. The charges do not correspond with any of the other documents
4 regarding price, including those drafted and sent by Mr. Safari; Exhibit J12:
5 MEDITEX001679-1680; Exhibit J12: MEDITEX001694-1695; Exhibit J147:
6 GSP0060; Exhibit J148: GSP0062; J12: MEDITEX001681-1682; Exhibit J147:
7 GSP0059; Exhibit J148: GSP0063.

8 c. The proffered invoices reflect that the charges were 100% paid or
9 prepaid, indicating that Meditex was not awaiting further payments. Exhibit 5:
10 ASD000377; Exhibit 6: ASD000382; Exhibit 8: ASD000393; Exhibit 10: ASD000400;
11 Exhibit 11: ASD000404.

12 d. The proffered invoices are not supported by any confirmation or order
13 from GSP in those amounts.

14 e. Mr. Safari testified that the proffered invoices were not sent by any
15 means one would expect when conducting international trade, such as fax or email,
16 prior to the shipments, and were only sent with the cargo itself, by enclosing them in a
17 pouch with the shipments themselves. Testimony of Mr. Safari. June 21, page 59: 7-
18 17 and Page 145 Line 14-21. According to Plaintiff's witness, James McEwan, the
19 prices and terms would be exchanged in advance of the shipment, and the key
20 commercial documents would not only be sent accompanying the cargo itself.
21 Testimony of James McEwan.

22 f. Mr. Safari presented no evidence that he ever raised the issue of lack of
23 payment or insufficient payments by GSP with his partners, with GSP directly, or with
24 anyone else, from 2013 through the filing of the Complaint.

25 g. Mr. Safari's emails and communications to his partners, and to
26 Meditex's CPA, as well as his handwritten, contemporaneous notes are consistent and
27 confirm the prices (in dollars) charged by Meditex, and his awareness thereof, which
28 are significantly less than the amounts he claimed at trial were charged by Meditex.

1 *Exhibit J11: MEDITEX001674; Exhibit J12: MEDITEX001676-1682; Exhibit J12:*
2 *MEDITEX001689-1695; Exhibit J53: MEDITEX003031-3032; Exhibit J54:*
3 *MEDITEX003211-003213, testimony of Meditex's CPA, Eric Lorenz.*

4 h. Mr. Safari did not object, and continued to authorize shipments to GSP
5 throughout 2014, for ten (10) months after the date of GSP's claimed lack of full
6 payment, which he claims occurred on the first shipment in January, 2014.

7 i. Mr. Safari sat down with Meditex's accountants on March 3, 2014 to
8 discuss the supplement purchase and sales prices. The documents he presented to the
9 accountant confirm the prices, in US dollars, reflected on the emails, proforma
10 invoices, and purchase orders, which are not consistent with the inflated prices on the
11 commercial invoices. *Exhibit J53: MEDITEX003031-3033; Testimony of Mr. Safari,*
12 *June 21, page 72, line 12 to page 73, line 3; testimony of Eric Lorenz.*

13 j. Mr. Safari confirmed with Meditex's accountants in April, 2015 that, as
14 of December, 31, 2014, Meditex did not expect any further payments from GSP.
15 *Exhibit J54: MEDITEX003211 – 003213; testimony of Eric Lorenz.*

16 k. The profit margins of approximately 300 percent are not consistent
17 with other documents exchanged between the partners, including those drafted by
18 Mr. Safari, discussing expected profits. *Exhibit J11: MEDITEX001674; Exhibit J74:*
19 *MEDITEX003420-003421.*

20 17. Documents accompanying shipments, such as Airway Bills, can reflect higher
21 amounts than the amounts actually charged or expected to be paid. *Testimony of Plaintiffs'*
22 *witness, James McEwan.*

23 18. Documents accompanying shipments can be used for insurance and customs
24 purposes. *Testimony of James McEwan, Testimony of Mr. Safari, June 21, 2019, page 25,*
25 *lines 16-18.*

26 19. In international transactions, the buyer often needs documentation for
27 insurance purposes reflecting retail, not wholesale, prices. *Testimony of James McEwan.*
28

1 20. In international transactions, the amounts to be charged and paid are negotiated
2 before shipments occur, and the purchase order is typically the document used to reflect this
3 amount. *Testimony of Plaintiffs' witness, James McEwan.*

4 21. Even if the proffered invoices reflect amounts charged by Meditex, at most
5 they suggest that GSP owed or owes Meditex money, but the invoices alone do not support
6 the contention that Hamid or Mohammad received additional money from GSP, for which no
7 evidence was presented.

8 22. Plaintiffs alleged that Meditex received money in the course of conducting
9 business which was never distributed to Plaintiffs. However, Plaintiffs presented no evidence
10 that Hamid or Mohammad improperly received any money, whether by distribution or
11 otherwise, from Meditex.

12 23. Meditex's tax returns reflect that the company was profitable during 2012 and
13 2013. However, Plaintiffs presented no evidence that Defendants improperly received any
14 such profit, or that Defendants received any distributions of profit whatsoever.

15 **Counterclaimants' Counterclaims**

16 **General**

17 24. Hamid Modjtahed ("Hamid"), Mohammad Mojtaheh ("Mohammad") (Hamid
18 and Mohammad are referred to as "Defendants" or "Counterclaimants"), Parviz Safari aka
19 Aidan Davis ("Mr. Safari") and Mandana Zahedi ("Mandana") (collectively, the "Parties")
20 formed Meditex, LLC, a Nevada limited liability company, ("Meditex") in August, 2010.

21 25. Nooshin Zahedi ("Nooshin") is the sister of Mandana and the sister in law of
22 Mr. Safari (Mr. Safari, Mandana and Nooshin are referred to as "Counterdefendants").

23 26. Nooshin had no ownership interest, or role whatsoever, in Meditex. *Exhibit*
24 *688. Testimony of Nooshin Zahedi, via December 1, 2017 deposition read at trial, page 31,*
25 *line 25 – page 32:5.*

26 27. The Parties signed an operating agreement for Meditex, LLC dated April 7,
27 2011. *Exhibit 688.*

1 28. Section 6.3 of the Operating Agreement states, in part, "Distributions to the
2 Members shall only be made pursuant to an affirmative vote in interest of the LLC Members.
3 The resolution attesting to the affirmative vote in interest of the LLC Members shall state the
4 amounts and dates of distribution to each member...." *Exhibit 688: MEDITEX 002327.*

5 29. The Parties agreed that each of them were to be 25 percent member/ managers
6 of Meditex. *Exhibit 688: MEDITEX 002323, 002325.*

7 30. Meditex purchased goods in North America, and sold them for a profit
8 overseas.

9 31. The goods Meditex sold included medical equipment, industrial safety
10 equipment, and nutritional supplements.

11 32. Mr. Safari was the tax matters member pursuant to Meditex's Operating
12 Agreement. *Exhibit 688: MEDITEX002325.*

13 33. Mr. Safari retained Ovist & Howard, CPAs to prepare their tax returns on
14 behalf of Meditex for 2011, 2012, 2013 and 2014. *Exhibit 718: MEDITEX002854.*

15 34. Mr. Safari served as Meditex's sole representative with regard to all
16 communications with Ovist & Howard. Mr. Safari was the only member/ manager of
17 Meditex to have contact with Ovist & Howard, and answered all tax-related questions posed
18 by Ovist & Howard. *Testimony of Eric Lorenz.*

19 35. Mr. Safari was the only member/ manager to review and sign Meditex's tax
20 returns. *Exhibit 734: MEDITEX003308; Exhibit 735: MEDITEX003309; Exhibit 736:*
21 *MEDITEX003310; Exhibit 731: MEDITEX003303.*

22 36. The Meditex tax returns contain numerous errors, all of which were based on
23 documents, or explanations of documents, provided by Mr. Safari to Ovist and Howard. Such
24 errors include:

25 a. Not giving Hamid credit for contributions he made to Meditex. *Exhibit*
26 *J-52: MEDITEX002864, MEDITEX002866; Exhibit 805: MEDITEX005407.*

1 b. Not giving Mohammad credit for contributions he made to Meditex.
2 *Exhibit 802: MEDITEX005357; Exhibit 803: MEDITEX005379; Exhibit 804:*
3 *MEDITEX005381.*

4 c. Overstating or falsifying costs and expenses to Meditex. *Exhibit J52:*
5 *MEDITEX002982; Exhibit J52: MEDITEX002986-2988; Exhibit 637:*
6 *MEDITEX00471, MEDITEX00505, MEDITEX00511; MEDITEX00550; Exhibit 639:*
7 *MEDITEX00674-00675; Exhibit 639: MEDITEX00684-00685; Exhibit 639:*
8 *MEDITEX00756.*

9 37. Mandana was unemployed during the years Meditex was operating, from
10 2010-2015.

11 38. Mr. Safari had no other employment, and was reliant on his income from
12 Meditex from 2011-2015.

13 39. Meditex was solely funded by contributions from Hamid and Mohammad.

14 40. Mr. Safari and Mandana contributed no capital to Meditex.

15 41. Despite the numerous errors in the Meditex tax returns, which understated
16 Mr. Safari's distributions to himself, overstated expenses actually incurred by Meditex, and
17 understated the contributions of Hamid and Mohammad, the Members' Capital Accounts still
18 reflected large positive balances for Hamid and Mohammad, and negative balances for
19 Mr. Safari and Mandana. *Exhibit 716: MEDITEX002692; Exhibit 687: MEDITEX002239;*
20 *Exhibit 715: MEDITEX002642.*

21 **Mr. Safari's Withdrawals from Meditex's Bank Accounts**

22 42. The Operating Agreement required an affirmative vote by the LLC members
23 for any distribution to members. *Exhibit 688: MEDITEX002327.*

24 43. Mr. Safari opened Chase Bank account '4797 on behalf of Meditex, but only
25 listed himself and Mandana as signers; Hamid and Mohamad had no access to that account.
26 *Exhibit 669: MEDITEX002082-2084.*

27 44. In 2011, through dozens of ATM and branch withdrawals, Mr. Safari withdrew
28 \$11,845.00 from Meditex's Chase Bank account ending in '4797. *Exhibit 669:*

1 *MEDITEX002045, 2047, 2049, 2051 – 2052, 2056, 2058, 2063, 2067, 2069, 2072, 2074,*
2 *Demonstrative Exhibit B1, and the expert testimony of Kevin Kirkendall.*

3 45. From June, 2011 through January, 2015, through dozens of transactions,
4 Mr. Safari spent \$2,595.00 using his Meditex debit card. *Exhibit 637: MEDITEX000465;*
5 *476, 488, 503, 508, 515, 521, 526, 539; Exhibit 638: MEDITEX000552, 553, 562, 573, 583,*
6 *592, 604, 612, 620, 630, 637; Exhibit 639: MEDITEX000649, 677, 697, 705, 711, 737, 749;*
7 *Exhibit 640: MEDITEX000768, 778, 799; Exhibit 641: MEDITEX000867; Exhibit 669:*
8 *MEDITEX002056, 2058, 2063, 2072, 2074; Exhibit 670: MEDITEX002047; Exhibit 671:*
9 *MEDITEX002067, 2069, Demonstrative Exhibit B3, and the expert testimony of Kevin*
10 *Kirkendall.*

11 46. From January, 2011 through March, 2014, through dozens of ATM, branch
12 withdrawals, and self-written checks, Mr. Safari withdrew \$243,567.00 from Meditex's Chase
13 Bank account ending in '1429. *Exhibit 637: MEDITEX00453, 457, 465, 474, 476, 484, 488,*
14 *498 – 500, 505, 511-512, 516, 519 – 521, 526, 535-537, 539, 550; Exhibit 638:*
15 *MEDITEX000553, 558 – 560, 562, 571, 573, 583, 591, 593, 604, 607-608, 612, 615 – 618,*
16 *620, 625 – 628, 630, 633 – 635, 637 – 638, 643 – 647; Exhibit 639: MEDITEX000650, 674 –*
17 *675, 684 – 687, 702 – 703, 725, 735, 744, 746 – 747, 756; Exhibit 640: MEDITEX000764 –*
18 *769, 773 – 774, 776, 793 – 794, 796, 799, 804, 822, 825, 832 – 833, 849; Exhibit 641:*
19 *MEDITEX000852, 863, 879, 883, Demonstrative Exhibit B3, and the expert testimony of*
20 *Kevin Kirkendall.*

21 47. Of these withdrawals of \$258,008.00 in company funds, only \$33,215.00 was
22 reimbursement for legitimate Meditex business expenses, the largest portion of which was
23 office rent. *Demonstrative Exhibit A, Expert testimony of Kevin Kirkendall.*

24 48. Mr. Safari produced no evidence showing that \$224,793.00 he withdrew from
25 Meditex's bank accounts, outlined above, was used for legitimate business purposes related to
26 Meditex.

27 49. When asked, Mr. Safari could not explain what the money he withdrew was
28 spent on. *Testimony of Mr. Safari, June 25, 2019, page 77, lines 12-22.*

1 50. Mr. Safari produced no evidence showing that the \$224,793.00 he withdrew
2 from Meditex's bank accounts was approved by Hamid or Mohammad, or that a vote
3 approving distributions in that amount was held.

4 51. Mr. Safari produced no evidence that he sent Hamid backup documentation
5 that would support his contention that these withdrawals were for legitimate Meditex business
6 purposes.

7 52. Mr. Safari's testimony that he did so was not credible and was not supported
8 by corroborating evidence.

9 53. Specifically, Mr. Safari's and Mandana's personal bank records do not reflect
10 hundreds of thousands of dollars of legitimate business expenses incurred on behalf of
11 Meditex.

12 54. Mr. Safari had complete check writing and wiring authority on both of
13 Meditex's bank accounts, and regularly wrote checks and wired money from those accounts.
14 *Exhibit 637: MEDITEX00447; Exhibit 669: MEDITEX002082-2084.*

15 55. There is no logical reason why Mr. Safari would repeatedly pay Meditex
16 expenses from his personal bank account, and then reimburse himself from Meditex's
17 account, and Mr. Safari offered no explanation for why he would do so.

18 56. Rather, the evidence shows that Mr. Safari was repeatedly taking money from
19 Meditex's bank accounts that were not reimbursements for expenses he had incurred.

20 57. Additionally, Mr. Safari's personal bank records, as well as those of Mandana,
21 reflect chronically low balances, and repeated negative balances and overdrafts, which do not
22 reflect the balances necessary to advance large amounts of money on behalf of Meditex.
23 *Exhibit 950: MEDITEX004743-4817; Exhibit 965: MEDITEX005302-5351.*

24 58. At the time of his withdrawals from Meditex's bank accounts, and at various
25 times thereafter, Mr. Safari told Hamid that his withdrawals were for legitimate Meditex
26 business purposes.

27 59. Hamid believed Mr. Safari and relied upon these representations.

28 60. Mr. Safari's representations to Hamid were false.

1 61. Hamid requested that Mr. Safari provide backup documentation for his
2 withdrawals. *Exhibit J67: MEDITEX003334-003337.*

3 62. At the time of his withdrawals, and at various times thereafter, Mr. Safari told
4 Hamid that he had provided, or would provide, backup documentation showing that his
5 withdrawals were for legitimate Meditex business purposes to Meditex's accountants at Ovist
6 & Howard.

7 63. Hamid relied upon these representations by Mr. Safari.

8 64. These representations by Mr. Safari to Hamid were false.

9 65. Mr. Safari provided no backup documentation to Ovist & Howard that show
10 that the \$224,793.00 he withdrew from Meditex's bank accounts were for legitimate Meditex
11 business purposes.

12 66. In 2011, the only year in which Mr. Safari provided explanations for some of
13 his withdrawals to Meditex's accountant at Ovist & Howard via annotated bank statements,
14 though backup/supporting documentation was not provided, many of the explanations for his
15 withdrawals directly conflict with the explanations written on the check memos by Mr. Safari
16 himself, which calls into question the justification for Mr. Safari's self-written checks.
17 *Exhibit 637: MEDITEX00471; Exhibit J52: MEDITEX002868; Exhibit 637:*
18 *MEDITEX00510; Exhibit J52: MEDITEX002872.*

19 67. Mr. Safari provided no explanations for his withdrawals/ self-written checks to
20 Meditex's accountant at Ovist & Howard for years 2010, 2012, 2013 or 2014.

21 68. Mr. Safari produced no evidence showing that the \$224,793.00 he withdrew
22 from Meditex's bank accounts was repaid.

23 69. In March, 2013, Mr. Safari, Hamid and Mohammad held a board meeting for
24 Meditex.

25 70. On March 14, 2013, Mr. Safari, Hamid and Mohammad signed a board
26 meeting agreement (the "2013 Board Agreement"). *Exhibit 610: MEDITEX00279.*

27 71. As of March, 2013, Hamid and Mohammad did not approve of Mr. Safari's
28 pattern of using the Meditex's bank accounts for non-business activities, nor Mr. Safari's

1 pattern of (claiming) that he paid expenses personally, and then reimbursing himself from
2 Meditex's bank account.

3 72. The 2013 Board Agreement states, in part, "The company account to be used
4 only for its business activities" and "The managers should do their best that all payments
5 which are possible to pay by company accounts." *Exhibit 610: MEDITEX00279.*

6 73. In April, 2014, Mr. Safari, Hamid and Mohammad held a board meeting for
7 Meditex.

8 74. On April 14, 2014, Mr. Safari, Hamid and Mohammad signed a board meeting
9 agreement (the "2014 Board Agreement"). *Exhibit 611: MEDITEX00280-281.*

10 75. As of April, 2014, Hamid and Mohammad did not approve of Mr. Safari's
11 pattern of using the Meditex's bank accounts for personal purchases or personal loans.

12 76. The 2014 Board Agreement states, in part, "The company account which is at
13 Chase Bank have to be used only for its business activity and any other personal withdrawal
14 such as loans or personal purchases will not be allowed at all." *Exhibit 611:*
15 *MEDITEX00280-281.*

16 77. Hamid and Mohammad were unaware that the \$224,793.00 he withdrew from
17 Meditex's bank accounts was not for legitimate Meditex business purposes until they obtained
18 the accounting records from Ovist & Howard during discovery, as well as the bank records
19 for account '4797.

20 **"Short Term Loan" Checks**

21 78. From April, 2013 through February, 2014, Mr. Safari wrote ten (10) checks to
22 himself from Meditex's bank account with some variation of "short term loan" on the check
23 memo. *Exhibit 639: MEDITEX00686; MEDITEX00687, MEDITEX00702, MEDITEX00725,*
24 *MEDITEX00735, MEDITEX00744, MEDITEX00746, MEDITEX00747, MEDITEX00765,*
25 *Exhibit 640: MEDITEX00774.*

26 79. The ten "short term loan" checks total \$17,372.00.

1 80. Mr. Safari produced no evidence showing that, prior to writing the ten checks
2 to himself, he told Hamid or Mohammad that he was doing so, or requested their approval to
3 do so.

4 81. Mr. Safari testified at trial that he considered a “short term loan” to be one
5 year, but that he never had an agreement with his partners. *Testimony of Mr. Safari, June 25,*
6 *2019, page 38, lines 17 - 20.*

7 82. Mr. Safari produced no evidence showing that the \$17,372.00 he withdrew as
8 “short term loans” from Meditex’s bank accounts were approved by Hamid or Mohammad, or
9 that a vote approving distributions in that amount was held by the members.

10 83. After Mr. Safari wrote these checks to himself, Mr. Safari told Hamid that they
11 were indeed short term loans, and that he would repay them in the coming months.

12 84. When asked about repaying the loans by Hamid, Mr. Safari repeatedly
13 promised to repay them.

14 85. Hamid relied upon these representations.

15 86. Mr. Safari produced no evidence showing that the \$17,372.00 he withdrew as
16 “short term loans” from Meditex’s bank accounts were ever repaid.

17 87. These representations to Hamid were false.

18 88. Mr. Safari produced no evidence that Hamid “forgave” these loans, or in any
19 way indicated that Mr. Safari was not expected to repay them.

20 89. Mr. Safari never repaid the \$17,372.00 he took from Meditex.

21 **The UTSafety, LLC & SCBA Sales & Rentals, LLC Scheme**

22 90. Paragraphs 3 -11 of the Court’s Findings Of Fact, Conclusions Of Law, And
23 Order Granting In Part And Denying In Part Motion For Partial Summary Judgment On
24 Counter-Claimants' Non-fraud Claims Against Parviz Safari, dated July 18, 2018, address
25 some of the issues related to UTSafety, LLC and SCBA Sales & Rentals, LLC, and are hereby
26 reaffirmed, and restated here as follows:

27 a. SCBA Sales & Rentals, LLC (“SCBA Sales”) was one of Meditex’s
28 main suppliers, providing it with refurbished self-contained breathing apparatus units

1 (“SCBA Units”) for industrial safety applications. Meditex would in turn export the
2 refurbished SCBA Units to its clients in the Middle East, for a profit. SCBA Sales
3 was a small company, owned and operated by Kimburly Holman (“Mr. Holman”).
4 Mr. Holman’s only contact at Meditex was Safari.

5 b. On April 17, 2013, Safari registered a Utah limited liability company
6 called UTSafety, LLC (“UTSafety, LLC”) in the name of his sister-in-law Nooshin
7 Zahedi (“Nooshin”).

8 c. On April 21, 2013, Safari and Zahedi registered an internet domain in
9 order to “impersonate” SCBA Sales’ actual domain. SCBA Sales’ actual domains
10 were “scbarentalco.com” and “scbasalesco.com.” Safari and Zahedi, on the other
11 hand, registered the almost identical (one letter different) domain “scbasaleco.com”
12 (“Fake Domain”). Hamid and Mohammad were unaware that Safari and Zahedi
13 registered the Fake Domain.

14 d. On April 23, 2013, Safari sent an email from his newly registered Fake
15 Domain (sales@scbasaleco.com) to his Meditex email (aidansafari@meditexllc.com).
16 In this email—which was “signed” by SCBA Sales and made to look as if it were
17 coming from SCBA Sales—Safari wrote that SCBA Sales was affiliated with
18 UTSafety, LLC and that business with Meditex must go through UTSafety for tax
19 purposes. *Exhibit 603: MEDITEX00135-136.*

20 e. Safari shared this email with Hamid and Mohammad and represented to
21 them that: (1) UTSafety was affiliated with SCBA Sales; and (2) SCBA Sales required
22 that all payments go through UTSafety for tax purposes. At his deposition, however,
23 Mr. Holman confirmed that this email did not actually come from SCBA Sales,
24 UTSafety was not affiliated with SCBA Sales in any way, and there was absolutely no
25 reason for Meditex’s payments to go through UTSafety. In fact, Safari represented to
26 Mr. Holman the complete opposite, that: (1) UTSafety was affiliated with Meditex;
27 and, (2) Meditex required all payments to go through UTSafety for tax purposes.
28

1 Counterclaimants were completely unaware that Safari and Nooshin owned and
2 operated UTSafety.

3 f. Over the course of several months, when Meditex requested to
4 purchase SCBA Units from SCBA Sales, Mr. Holman would generate legitimate
5 invoices and email them to Safari at Safari's private gmail address. Safari would then
6 alter SCBA Sales' real invoices to reflect greatly increased prices and other charges
7 that were not legitimate, such as spare parts and shipping costs ("Fake Invoices").
8 Safari would then send the Fake Invoices from his Fake Domain (to appear as if they
9 were coming from SCBA Sales) to his Meditex email address. Safari would then
10 forward the fake emails/invoices to Hamid and Mohammad and request that the
11 inflated invoices be paid to UTSafety, his shell company. Counterclaimants were
12 completely unaware that Safari was presenting them with altered SCBA Sales'
13 invoices.

14 g. In reliance on Safari's Fake Domain/Fake Invoices, Hamid, and at
15 times Safari himself, would wire funds from Meditex's bank account to UTSafety's
16 bank account. Safari (with the knowledge and participation of his wife Zahedi, and
17 sister in law/ the "owner" of UTSafety Nooshin) would then pay SCBA Sales the
18 greatly reduced (actual) invoice amount, and personally retain the difference.
19 Counterclaimants were completely unaware that Safari was personally retaining this
20 money.

21 h. Moreover, despite getting significantly more money from Meditex than
22 the actual invoice totals, on several occasions, Safari failed to pay SCBA Sales the full
23 (actual) amounts due. Not only was Safari taking money from Meditex, Hamid, and
24 Mohammad, he was also damaging Meditex's relationship with its main vendor
25 (SCBA Sales) by not fully paying them, which resulted in further damage to
26 Meditex's relationships with its customers because it was not able to fulfill and deliver
27 orders without paying its vendor.
28

1 i. As a direct result of Safari's Fake Domain and Fake Invoices, a total of
2 \$233,700.00 was wired from Meditex to UTSafety. UTSafety, in turn, only wired a
3 total of \$148,000.00 to SCBA Sales, \$6,000.00 of which was refunded to UTSafety.
4 Accordingly, Safari personally and improperly retained a total of \$91,700.00 from
5 Meditex. Said another way, as a direct result of Safari's actions, Meditex, Hamid, and
6 Mohammad suffered damages of \$91,700.00.

7 91. At the direction of Mr. Safari, Nooshin established UTSafety, LLC on
8 April 17, 2013. *Exhibit 871: ASD00338-340.*

9 92. Nooshin is listed as the sole member and manager of UTSafety, LLC. *Id.*

10 93. On April 18 2013, Nooshin opened a bank account for UTSafety, LLC at
11 Wells Fargo. *Exhibit 674: MEDITEX002089-2093.*

12 94. Nooshin then added Mr. Safari and Mandana as signers to the account. *Exhibit*
13 *674: MEDITEX002094.*

14 95. Three days later Mr. Safari and Mandana purchased the Fake Domain. *Exhibit*
15 *664: MEDITEX001964-2015.*

16 96. Mr. Safari paid an additional fee to keep his name as the owner of the Fake
17 Domain private. *Exhibit 664: MEDITEX001998.*

18 97. Mr. Safari stated in verified written discovery responses that he was unsure
19 whether he ever informed Hamid or Mohammad that he was the owner of the Fake Domain.
20 *Exhibit 924, Request No. 3.*

21 98. Hamid and Mohammad did not learn that Mr. Safari was the owner of the Fake
22 Domain until they subpoenaed Network Solutions, LLC, the domain registration company
23 that Mr. Safari used to purchase the Fake Domain. *Exhibit 663: MEDITEX001962; Exhibit*
24 *664: MEDITEX001964 – 1965; 1968.*

25 99. Mr. Safari sent dozens of emails from the Fake Domain, and falsely signed
26 them as if they were sent by SCBA Sales (the "Fake Emails"). *Exhibit 603: MEDITEX00135-*
27 *136; Exhibit 603: MEDITEX00139; Exhibit 606: MEDITEX00199; Exhibit 605:*

1 *MEDITEX00157; Exhibit 605: MEDITEX00165; Exhibit 606: MEDITEX00196-198; Exhibit*
2 *606: MEDITEX00201; Exhibit 612: MEDITEX00289; Exhibit 618: MEDITEX00304.*

3 100. Mr. Safari sent the Fake Emails from the Fake Domain to his Meditex email
4 address (aidansafari@meditexllc.com).

5 101. Mr. Safari forwarded some of the Fake Emails to Hamid (*Exhibit 606:*
6 *MEDITEX00199*), and knew that Hamid and Mohammad were able to see emails sent to his
7 Meditex email address.

8 102. Mr. Safari exclusively utilized his gmail account for his real communications
9 with Kim Holman and SCBA Sales, knowing that Hamid and Mohammad would not be able
10 to see those communications, or the real invoices attached thereto. *Exhibit 658:*
11 *MEDITEX001801-1802.*

12 103. The first Fake Email sent by Mr. Safari to himself, dated April 23, 2013,
13 falsely claims that UTSafety is the service company of SCBA Sales, and that business will be
14 conducted through UTSafety for tax purposes. *Exhibit 603: MEDITEX00135-136.*

15 104. Mr. Safari represented to Hamid that paying UTSafety, LLC, instead of SCBA
16 Sales directly, would save money on sales tax, and stated in his written discovery responses
17 that this was the reason for the use of UTSafety, LLC. *Exhibit 603: MEDITEX00135-137;*
18 *Exhibit 930, Interrogatory No. 32; Exhibit 933, Interrogatory No. 15.*

19 105. There was no actual tax benefit to Meditex for using an intermediary company,
20 since the products were being shipped directly overseas, and Mr. Safari knew this months
21 before he formed UTSafety, LLC. *Exhibit J16: MEDITEX001774.*

22 106. Some of the Fake Emails attached fake invoices reflecting charges higher than
23 those actually charged by SCBA Sales. *Exhibit 603: MEDITEX00139; Exhibit 604:*
24 *MEDITEX00140; Exhibit 603: MEDITEX00137.*

25 107. One of the Fake Emails attached fake wire transfer information, directing
26 payments to be sent to UTSafety's bank account. *Exhibit 603: MEDITEX00138.*

27 108. Some of the Fake Emails requested payments that were not actually being
28 charged by SCBA Sales. *Exhibit 612: MEDITEX00289; Exhibit 618: MEDITEX00304.*

1 109. Some of the Fake Emails also falsely reflected payments made by Meditex to
2 UTSafety that were not actually received by SCBA Sales. *Exhibit 617: MEDITEX00302.*

3 110. Mr. Safari sent these Fake Emails and fake invoices in order to fool Hamid.

4 111. Mr. Safari sent these Fake Emails and fake invoices to induce Hamid to send
5 money to UT Safety, over and above what was being charged by SCBA Sales.

6 112. Based on the fake "signatures" and signature blocks of SCBA Sales (Kim
7 Holman) on the Fake Emails, and the fact that the Fake Emails were sent from an email
8 domain one letter different than the genuine SCBA Sales' domain, Hamid believed that the
9 Fake Emails and fake invoices were legitimate, and relied upon them.

10 113. Based on the Fake Emails, Hamid believed that all money sent to UTSafety,
11 LLC would be received by SCBA Sales, which the Fake Emails claimed was its "service
12 company".

13 114. Based on the Fake Emails and Fake Invoices, Hamid sent, or authorized the
14 sending, an additional \$91,700.00 from Meditex's account to UTSafety, than was charged by,
15 or received by, SCBA Sales.

16 115. The additional \$91,700.00 received into UTSafety's Wells Fargo bank
17 accounts was then withdrawn from, spent from or transferred from those accounts by Mr.
18 Safari, Mandana, and Nooshin, who were the only three signers on the account.

19 116. The only funds coming into UTSafety's accounts came from the transfers from
20 Meditex. *Exhibit 724: MEDITEX003236, MEDITEX003240, MEDITEX003246,*
21 *MEDITEX003249-3250, MEDITEX003254-3255, MEDITEX003258-3259,*
22 *MEDITEX003262-3263, Exhibit 681: MEDITEX002158-2161; Exhibit 639:*
23 *MEDITEX00678; Exhibit 604: MEDITEX00141-00156; Exhibit J-1: MEDITEX00330-00331;*
24 *Exhibit 639: MEDITEX00698, MEDITEX00705, MEDITEX00712, MEDITEX00721,*
25 *MEDITEX00729; Exhibit 640: MEDITEX00842.*

26 117. Mr. Safari, Mandana and Nooshin, spent Meditex's money that had been wired
27 to UTSafety's bank accounts at Wells Fargo on a variety of personal expenses, including
28 restaurants, beauty supply stores, State Farm insurance, and Kia Motors (Mandana's vehicle),

1 medical services, gas stations, student loans (Nooshin) and others, as well as withdrawing
2 large amounts of cash from the accounts. *Exhibit 724: MEDITEX003235-3236; Exhibit 653:*
3 *MEDITEX001704-1704; Exhibit 654: MEDITEX001733-1737; Exhibit 654:*
4 *MEDITEX001742-1747.*

5 118. Mr. Safari produced no evidence that Hamid and Mohammad were aware that
6 UTSafety, LLC was formed, owned and controlled by Mr. Safari and Nooshin.

7 119. Mr. Safari formed UTSafety, LLC in order to improperly obtain money from
8 Hamid and Mohammad.

9 120. Hamid and Mohammad did not learn that UTSafety, LLC was not affiliated
10 with SCBA Sales & Rentals until early 2016 when Mr. Holman responded to their questions.

11 121. Mr. Safari produced no evidence that Hamid and Mohammad were aware that
12 UTSafety, LLC's bank accounts were controlled by Mr. Safari, Mandana and Nooshin.

13 122. Hamid and Mohammad did not learn that Mr. Safari, Mandana and Nooshin
14 were the owners of UTSafety, LLC's bank accounts until they subpoenaed records from
15 Wells Fargo during discovery.

16 123. Mr. Safari produced no evidence that Hamid and Mohammad approved of
17 Mr. Safari, Mandana and Nooshin receiving \$91,700.00 utilizing UTSafety, nor did they offer
18 any reasoning as to why Hamid and Mohammad would have agreed to that.

19 124. Had Hamid and Mohammad known that Mr. Safari, Mandana and Nooshin
20 were receiving and spending the money they intended to send to SCBA Sales & Rentals, LLC
21 to pay for Meditex's order of SCBA units, they would have ceased sending money to UT
22 Safety, LLC.

23 125. Mr. Safari requested that Mr. Holman of SCBA Sales & Rentals, LLC certify
24 that the air cylinders for the SCBA units would be useable for longer than their actual shell
25 life. Mr. Holman refused. *Testimony of Kim Holman, deposition dated May 17, 2017, read at*
26 *trial, page 164, line 4 – page 172, line 12.*

27 126. Mr. Safari then created a fake Certificate and Safety Approval, and forged the
28 signature of Kim Holman on the certificate, and on the accompanying fake email, stating that

1 the shelf life of the units was until the end of 2018, when in fact they would expire in 2016
2 and 2017. *Id. and Exhibit J25-2021-2022.*

3 127. Nooshin accepted payments from UTSafety, LLC as “wages” even though she
4 did no work and performed no services for UTSafety. *Exhibit 675: MEDITEX002112-
5 002114, Exhibit 817: MEDITEX005822-5825.*

6 128. Mr. Holman of SCBA Sales & Rentals, LLC delivered \$10,000.00 worth of
7 spare parts to Mr. Safari that were never sent to Meditex’s customer, nor returned to Meditex.
8 *Testimony of Kimburly Holman, May 17, 2017 deposition read at trial, Page 135, line 13 –
9 page 135, line 25.*

10 **The Chamber of Commerce Scheme**

11 129. Paragraphs 12-14 of the Court’s Findings Of Fact, Conclusions Of Law, And
12 Order Granting In Part And Denying In Part Motion For Partial Summary Judgment On
13 Counter-Claimants' Non-fraud Claims Against Parviz Safari, dated July 18, 2018, address
14 some of the issues related to the Chamber of Commerce issue, and are hereby reaffirmed, and
15 restated here as follows:

16 a. In March of 2015, Safari was tasked with securing a membership for
17 Meditex with the Las Vegas Metro Chamber of Commerce (the “Chamber”). Safari
18 registered for an annual membership with the Chamber on behalf of Meditex which
19 was to cost \$3,500.00. Safari then authorized the initial \$665.00 payment for the first
20 two months on his credit card. Safari later contested this payment and received a full
21 refund of the \$665.00 he actually paid.

22 b. Safari then created a fake invoice that was made to look like it was
23 issued by the Chamber for the full \$3,500.00 (“Fake Chamber Invoice”) and presented
24 the Fake Chamber Invoice to Hamid and Mohammad for payment. Defendants were
25 completely unaware that the Fake Chamber Invoice did not actually come from the
26 Chamber. In reliance on the Fake Chamber Invoice, on March 28, 2015, Hamid wrote
27 Safari a check for \$3,500.00, with the memo line reflecting “Chamber of Commerce
28

1 Invoice M74832," the same invoice number that appeared on Safari's Fake Chamber
2 Invoice.

3 c. Safari did not use any of the \$3,500.00 he obtained from Hamid to pay
4 the Chamber. Instead, Safari personally retained the full \$3,500.00 himself. As a
5 direct result of Safari's actions, Meditex, Hamid, and Mohammad suffered damages of
6 \$3,500.00.

7 130. Mr. Safari created the Fake Invoice, made to look like a genuine Chamber
8 invoice, in the amount of \$3,500.00 and emailed it to Hamid. *Exhibit J84: MEDITEX003454.*

9 131. The Fake Invoice is a fraudulent document, not created by the Chamber of
10 Commerce. *Testimony of David Kellerman, Chief Operating Officer of the Las Vegas*
11 *Metropolitan Chamber of Commerce.*

12 132. In verified written discovery responses, Mr. Safari denied that he created the
13 Fake Invoice, but he admitted it at trial, claiming that Hamid requested that he do so, which is
14 not credible. *Exhibit 933, page 15, Request No. 24; Trial Transcript June 25, 2019, page*
15 *170, lines 15-20, page 171, lines 14-19.*

16 133. Mr. Safari produced no evidence that Hamid requested that he create the Fake
17 Chamber of Commerce Invoice, nor did he provide an explanation as to why Hamid would
18 want a fake invoice reflecting payments that were not made, or why Hamid would reimburse
19 him for payments that were not made if he knew the invoice was fake.

20 134. Mr. Safari produced no evidence that Hamid knew that the Fake Chamber of
21 Commerce Invoice was fake, and actually created by Mr. Safari.

22 135. Hamid relied upon the Fake Invoice, which appeared to have been paid by
23 Mr. Safari, and paid Mr. Safari \$3,500.00, what he thought was a legitimate reimbursement,
24 based on the Fake Invoice. *Exhibit 641: MEDITEX00879.*

25 **The Turkish Airlines Scheme**

26 136. Meditex sold vitamin supplements to a customer GSP.

27 137. The vitamins were manufactured in Canada by Nutralab.

1 138. Yusen Logistics Canada facilitated the shipments to GSP, as Meditex's freight
2 forwarder, which were sent via air freight.

3 139. Mr. Safari sent a series of seven (7) emails to Hamid, requesting
4 reimbursements for payments to a "Turkish Airlines Agent", in connection with the shipments
5 to GSP. *Exhibit J30: MEDITEX002397; Exhibit J24: MEDITEX002020; Exhibit J30:*
6 *MEDITEX002398; Exhibit J30: MEDITEX002402; Exhibit J80: MEDITEX003442.*

7 140. Mr. Safari stated to Hamid and Mohammad that additional payments needed to
8 be made to an agent for Turkish Airlines to facilitate each of these shipments.

9 141. These representations were false, since, as Yusen's Person Most
10 Knowledgeable James McEwan testified, Yusen alone facilitated the shipments through
11 Turkish Airlines as Meditex's freight forwarding company, and no other payments or
12 arrangements by Mr. Safari or by Meditex were necessary or occurred.

13 142. Mr. Safari produced no evidence that he paid anyone from Turkish Airways, or
14 that such payments were needed.

15 143. Hamid relied upon these false requests, and promptly sent Mr. Safari checks in
16 the amounts requested, immediately upon receiving Mr. Safari's requests. *Exhibit 640:*
17 *MEDITEX00804, MEDITEX00822, MEDITEX00825, MEDITEX00832, MEDITEX00833,*
18 *MEDITEX00849.*

19 144. The seven payments received by Mr. Safari total \$17,982.00.

20 145. Mr. Safari testified at trial that the payments he received were not
21 reimbursements for expenses he incurred, but were "bonuses" awarded by Hamid as a reward
22 for doing a good job. This testimony was not credible, and does not make sense given Mr.
23 Safari's seven emailed requests for reimbursement for costs, as well as the memos on the
24 reimbursement checks referencing payments to a Turkish Airlines agent and a charge per
25 kilogram.

26 146. The first of the checks, which Mr. Safari wrote to himself from Meditex's bank
27 account on March 14, 2014, specifically states, "to send TRAA", indicating that the money he
28 was taking from Meditex would be sent to someone, and references the weight of the

1 shipment (2,620 kg) and the charge per kilogram, (0.6), as opposed to any type of "bonus".
2 *Exhibit 640: MEDITEX00794.*

3 147. No bonuses were awarded by Meditex to anyone, and the payments were
4 reported as expenses on Meditex's 2014 tax return. *Testimony of Eric Lorenz.*

5 **Diversions of Customers' Payments and Hamid's Contributions**

6 148. On September 20, 2010, Hamid wired \$500.00 to Mr. Safari's personal bank
7 account so that he could open an account for Meditex. *Exhibit 786: MEDITEX004827.*

8 149. Mr. Safari kept and spent \$400.00 in his personal account and transferred only
9 \$100.00 to Meditex's account '4797, and immediately withdrew and spent \$90.00 of that.
10 *Exhibit 669: MEDITEX002028.*

11 150. On June 21, 2011, Mr. Safari emailed Mohammad providing Meditex's new
12 account information, and requesting \$1,500.00 to fund the newly opened account. *Exhibit*
13 *726: MEDITEX003277.*

14 151. On June 21, 2011, Hamid used Chase's "Quickpay" to send money to the
15 email address Safari represented was associated with Meditex's new account, which was in
16 fact linked to Mr. Safari's personal bank account. *Exhibit 777: MEDITEX004221.*

17 152. Mr. Safari failed to transfer the \$1,500.00 into Meditex's bank account.
18 *Exhibit 637: MEDITEX00453.*

19 153. Mr. Safari confirmed that a \$40,000.00 down payment from Meditex's
20 customer Naskco was received in late 2010 related to an order for air compressors. *Exhibit*
21 *J29: MEDITEX002355.*

22 154. Mr. Safari told Hamid that the \$40,000.00 was received into Meditex's first
23 bank account, '4797, to which Hamid did not have access.

24 155. A review of the bank statements for account '4797, Meditex's only bank
25 account until June, 2011, do not show any payments received in that amount.

26 156. On December 9, 2010, Mr. Safari and Mandana each received wires in the
27 amount of \$19,975.00 into their personal bank accounts. *Exhibit 972: MEDITEX026166-*
28 *026167; Exhibit 973: MEDITEX026170-026171.*

1 157. Mr. Safari and Mandana offered no explanation for these transfers when
2 questioned at trial. *Trial Transcript, June 25, 2019, page 193, line 4 – page 195, line 5.*

3 **Hamid's Personal Loans to Mr. Safari**

4 158. In December, 2012, Mr. Safari requested a personal loan from Hamid for
5 urgent medical expenses for his daughter. *Testimony of Hamid.*

6 159. On December 20, 2012, Mr. Safari emailed Hamid and provided his personal
7 bank information, so that Hamid could make deposits directly into his account ending in
8 '9608. *Exhibit 690: MEDITEX02336.*

9 160. On December 21, 2012, Hamid deposited \$7,000.00 in cash into Mr. Safari's
10 personal account ending in '9608. *Exhibit 690: MEDITEX02337, MEDITEX02339.*

11 161. On December 22, 2012, Hamid deposited another \$5,000.00 in cash into
12 Mr. Safari's personal account ending in '9608, which posted on December 24, 2012. *Exhibit*
13 *690: MEDITEX02337, MEDITEX02338.*

14 162. At around the same time, Hamid loaned Mr. Safari an additional \$3,500.00 in
15 cash.

16 163. At the time of the loans, Mr. Safari promised to repay Hamid the \$15,500.00
17 he borrowed within a few weeks. *Testimony of Hamid.*

18 164. Mr. Safari failed to repay the loans.

19 165. During the April, 2014 Board Meeting, which was recorded and translated in
20 part, Mr. Safari thanked Hamid profusely for the \$15,500.00 in loans, and again promised to
21 repay Hamid within three to four days, which he said was being wired from Iran. *Exhibit J66:*
22 *MEDITEX03327.*

23 166. Mr. Safari never repaid Hamid the \$15,500.00 he borrowed in 2012.

24 **Future Economic Damages**

25 167. Through a series of schemes outlined above, Mr. Safari improperly obtained
26 hundreds of thousands of dollars from Meditex's bank accounts.

27 168. Mr. Safari began these improper withdrawals and reimbursements in 2010 and
28 continued through 2015, the last year Meditex operated.

1 169. As a result, despite a pattern of increasing annual gross receipts, Meditex was
2 chronically short of operating cash, and Hamid and Mohammad did not receive any of the
3 profits that Meditex should have realized. *Exhibit 715: MEDITEX002653.*

4 170. Had Mr. Safari not improperly taken \$224,793.00 from Meditex's bank
5 accounts, Meditex may have been a profitable company, and able to continue operations, but
6 the concept behind the origination and organization of Meditex was that it would depend upon
7 a relationship that failed, and Plaintiffs have not shown that they would have been in a
8 position to continue the business even if that money had not been improperly taken.

9 171. Had Mr. Safari not improperly taken an additional \$113,182.00 using the
10 UTSafety scheme, Chamber of Commerce Scheme, and Turkish Airlines Scheme, Meditex
11 may have been a profitable company, and able to continue operations, but the concept behind
12 the origination and organization of Meditex was that it would depend upon a relationship that
13 failed, and Plaintiffs have not shown that they would have been in a position to continue the
14 business even if that money had not been improperly taken.

15 172. As a result of Mr. Safari's schemes, Hamid and Mohammad did not receive
16 repayment of the investments and contributions they made to Meditex.

17 173. Meditex's customer in Turkey, MASPA, ordered 500 SCBA units from
18 Meditex.

19 174. However, due to Mr. Safari's UTSafety, LLC & SCBA Sales & Rentals, LLC
20 scheme, Mr. Safari failed to pay SCBA Sales for the final 100 units, and they were never
21 shipped to the customer.

22 175. Meditex's actual purchase price was \$360.00 per unit, or \$180,000.00 for 500
23 units. *Exhibit J16: MEDITEX001803-1804.*

24 176. Meditex's sales price to its customer was \$525.00 per unit, for an anticipated
25 net profit of \$165.00 per unit. *Exhibit 719: MEDITEX003033.*

26 177. Based on an estimated sales volume of 1,200 units per year, which is based on
27 a market analysis, annual gross revenue for SCBA sales would have been \$630,000.00 if
28 Meditex remained in business and continued business. *Expert testimony of Kevin Kirkendall.*

178. Costs of goods sold for that volume is estimated at \$432,000.00 per year, yielding a purported gross margin of \$198,000.00 annually. *Expert testimony of Kevin Kirkendall.*

179. Additional expenses including shipping documentation (\$2,400.00) and marketing (\$4,600.00) were deducted, yielding purported annual lost profits of \$191,000.00.

Expert testimony of Kevin Kirkendall.

180. For the period of 2014 through June, 2017, when the expert analysis was performed by Mr. Kirkendall, the lost profits would purport to total \$712,513.00. A discount rate of 31.38 percent and a cap rate of 28.38 percent was applied. *Expert testimony of Kevin Kirkendall.*

181. For the period of June, 2017 through December, 2022, the lost profits purportedly total \$609,084.00. *Expert testimony of Kevin Kirkendall.*

182. For the terminal period, the lost profits total \$203,798.00. *Expert testimony of Kevin Kirkendall.*

183. Addressing only future lost sales of SCBA equipment, and adding up the three time periods cited above, they purport to show a loss to Meditex of \$1,525,394.00. *Expert testimony of Kevin Kirkendall*. However, that figure flows from a continuation in business that, as stated above in Findings 170 and 171, has not been demonstrated to have continued viability.

Any of the foregoing findings of fact that are more properly characterized as conclusions of law, or conclusions of law that are more properly characterized as findings of fact, shall be so characterized.

CONCLUSIONS OF LAW

Plaintiffs' Claims

1. The Court's Findings Of Fact, Conclusions Of Law, And Order Granting In Part And Denying In Part Defendants-Counter-Claimants' Motion For Partial Summary Judgment Regarding The Claims Against Hamid Modjtahed And Mohammad Mojtahe

1 dated April 24, 2018, are hereby reaffirmed and will not be modified pursuant to NRCP 54(b).
2 Such findings address some of the issues again raised at trial, and are hereby reaffirmed.

3 2. The Court's Findings Of Fact, Conclusions Of Law, And Order Granting
4 Defendants/ Counter-Claimants' Motion For Partial Summary Judgment Regarding The
5 Claims Against Ali Mojtaled dated April 24, 2018, are hereby reaffirmed and will not be
6 modified pursuant to NRCP 54(b).

7 **Accounting**

8 3. To the extent an accounting is a stand-alone cause of action, as opposed to a
9 remedy, Plaintiffs have failed to meet their burden with regard to their claim for accounting.

10 4. A cause of action for an accounting requires a showing that a relationship
11 exists between the plaintiff and defendant that requires an accounting, and that some balance
12 is due the plaintiff that can only be ascertained by an accounting. *Brea v. McGlashan*, 3
13 Cal.App.2d 454, 460, 39 P.2d 877 (1934).

14 5. Plaintiffs presented no evidence that Defendants received or obtained any
15 funds improperly for which they must account.

16 6. Mr. Safari's trial testimony that he does not allege anyone took any money and
17 doesn't know where the supposedly missing money is, precludes a finding that Hamid or
18 Mohammad received or obtained funds for which they must account.

19 7. Plaintiffs presented no evidence that they are entitled to receive any funds from
20 Defendants whatsoever.

21 8. Plaintiffs' claim for accounting fails.

22 **Unjust Enrichment**

23 9. A claim for unjust enrichment requires a proof of the unjust retention of money
24 or property of another against the fundamental principles of justice or equity and good
25 conscience. *Asphalt Prod. Corp. v. All Star Ready Mix, Inc.*, 111 Nev. 799, 802, 898 P.2d
26 699, 701 (1995).

27 10. Plaintiffs have failed to meet their burden that Defendants were unjustly
28 enriched.

1 11. Plaintiffs have failed to meet their burden that Defendants unjustly retained
2 any money or property, nor that any such retention was against the fundamental principles of
3 justice or equity and good conscience.

4 12. Plaintiffs' claim for unjust enrichment fails.

5 **Counterclaimants' Counterclaims**

6 13. The Court's Findings Of Fact, Conclusions Of Law, And Order Granting In
7 Part And Denying In Part Defendants/ Counter-Claimants' Motion For Partial Summary
8 Judgment On Counterclaimants' Claims Against Parviz Safari dated May 8, 2018, are hereby
9 reaffirmed.

10 14. The Court's Findings Of Fact, Conclusions Of Law, And Order Granting In
11 Part And Denying In Part Motion For Partial Summary Judgment On Counter-Claimants'
12 Non-fraud Claims Against Parviz Safari dated July 18, 2018, are hereby reaffirmed, including
13 the following:

14 a. A company's operating agreement constitutes a "contract" for the
15 purposes of a breach of contract claim. *See M.C. Multi-Family Dev., L.L.C. v.*
16 *Crestdale Assocs., Ltd.*, 124 Nev. 901, 913, 193 P.3d 536, 544 (Nev. 2008).

17 b. Based on the established facts outlined above, Defendants are entitled
18 to summary judgment on their breach of contract claim against Safari. First, it has
19 been established that the parties were subject to a valid and enforceable contract—the
20 Operating Agreement. Second, it has been established that Section 6.3 of the
21 Operating Agreement mandates that members cannot receive distributions of
22 Company money without an "affirmative vote ... of the LLC Members" and the
23 adoption of a "resolution ... stat[ing] the amounts and dates of distribution to each
24 member...." Third, it has been established that Safari breached Section 6.3 of the
25 Operating Agreement by personally retaining \$95,200.00 in Company money related
26 to the SCBA and Chamber of Commerce schemes without a member vote or
27 resolution. Finally, it has been established that Defendants suffered damages of at
28 least \$95,200.00 as a direct result of Safari's breach.

1 **First Claim: Breach of Contract (Against Mr. Safari And Mandana)**

2 15. A claim for breach of contract requires the following elements: (1) the
3 formation of a valid contract; (2) performance or excuse of performance by the plaintiff; (3)
4 material breach by the defendant; and (4) damages. *Walker v. State Farm Mut. Auto. Ins. Co.*,
5 259 F. Supp. 3d 1139, 1145 (D. Nev. 2017) (citing *Bernard v. Rockhill Dev. Co.*, 103 Nev.
6 132, 734 P.2d 1238, 1240 (1987)).

7 16. Meditex's Operating Agreement was a valid and enforceable written contract.

8 17. Hamid, Mohammad, Mr. Safari and Mandana were all parties to the Operating
9 Agreement.

10 18. Hamid and Mohammad performed under the contract.

11 19. Mr. Safari's withdrawal of \$224,793.00 from Meditex's bank accounts was a
12 material breach of Section 6.3 of the Operating Agreement.

13 20. The \$224,793.00 Mr. Safari withdrew from Meditex's bank accounts were
14 defalcations.

15 21. The ten "short term loan" checks Mr. Safari wrote to himself in the amount of
16 \$17,372.00, which are included in the \$224,793.00 total were material breaches of Section 6.3
17 of the Operating Agreement.

18 22. As stated above, and as stated in the Court's July 18, 2018 Conclusions of
19 Law, Mr. Safari breached Section 6.3 of the Operating Agreement by personally retaining
20 \$95,200.00 in Company money related to the SCBA and Chamber of Commerce schemes
21 without a member vote or resolution.

22 23. Mandana breached Section 6.3 of the Operating Agreement by receiving
23 \$91,700.00 from Meditex's accounts into the UTSafety, LLC bank accounts, on which she
24 was an owner, related to the SCBA scheme.

25 24. The seven payments requested and received by Mr. Safari for the Turkish
26 Airlines scheme totaling \$17,982.00 were material breaches of Section 6.3 of the Operating
27 Agreement.
28

1 25. Hamid and Mr. Safari entered a binding, oral agreement whereby Hamid
2 agreed to loan to Mr. Safari, and Mr. Safari agreed to repay to Hamid, \$15,500.00.

3 26. Hamid performed by loaning Mr. Safari \$15,500.00,

4 27. Mr. Safari breached that agreement by failing to repay Hamid any of the
5 \$15,500.00 he borrowed.

6 28. Mr. Safari and Mandana each breached Section 6.3 of the Operating
7 Agreement by each personally retaining \$19,975.00 which was supposed to go into Meditex's
8 bank account as a down payment for an order placed by Naskco.

9 29. Mr. Safari breached Section 6.3 of the Operating Agreement by personally
10 retaining \$2,000.00 sent by Hamid and Mohammad to fund Meditex's bank accounts.

11 30. Hamid and Mohammad were damaged in the total amount of \$395,475.00 as a
12 result of these breaches of contract.

13 **Second Claim: Contractual Breach of the Implied Covenant of Good Faith and**
14 **Fair Dealing (Against Safari and Mandana)**

15 31. Every contract imposes a duty of good faith and fair dealing upon the
16 contracting parties. *Hilton Hotels Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 232-33
17 808 P.2d 919, 922-23 (1991).

18 32. The four elements of a claim for Contractual Breach of the Implied Covenant
19 of Good Faith and Fair Dealing ("Contractual GFFD") are: (1) Plaintiff and defendant were
20 parties to a contract; (2) Defendant owed a duty of good faith to the plaintiff (3) Defendant
21 breached that duty by performing in a manner that was unfaithful to the purpose of the
22 contract; and (4) Plaintiff's justified expectations were denied. *Hilton Hotels Corp. v. Butch*
23 *Lewis Prods., Inc.*, 107 Nev. 226, 232-33 808 P.2d 919, 922-23 (1991).

24 33. Meditex's Operating Agreement was a valid and enforceable written contract.

25 34. Hamid, Mohammad, Mr. Safari and Mandana were all parties to the Operating
26 Agreement.

27 35. Mr. Safari and Mandana owed a duty of good faith to Hamid and Mohammad.

1 36. Mr. Safari breached the Operating Agreement by performing in a manner that
2 was unfaithful to the purpose of the contract, specifically by:

- 3 a. Withdrawing \$224,793.00 from Meditex's bank accounts not for
4 legitimate business purposes.
5 b. Engaging in the UT Safety/ SCBA Scheme by which he obtained
6 \$91,700.00.
7 c. Engaging in the Chamber of Commerce Scheme by which he obtained
8 \$3,500.00.
9 d. Engaging in the Turkish Airlines Scheme by which he obtained
10 \$17,982.00.
11 e. Diverting funds sent by Hamid and Mohammad by which he obtained
12 \$2,000.00.
13 f. Diverting funds sent by Meditex's vendor by which he obtained
14 \$19,975.00.

15 37. Mandana breached the Operating Agreement by performing in a manner that
16 was unfaithful to the purpose of the contract, specifically by:

- 17 a. Engaging in the UT Safety/ SCBA Scheme by which she obtained
18 \$91,700.00.
19 b. Diverting funds sent by Meditex's vendor by which she obtained
20 \$19,975.00.

21 38. Hamid and Mohammad's justified expectations with respect to the Operating
22 Agreement were denied.

23 39. Hamid and Mohammad were damaged in the total amount of \$359,950.00 with
24 respect to Mr. Safari and \$111,675.00 with respect to Mandana as a result of these breaches of
25 the implied covenant of good faith and fair dealing.
26
27
28

1 **Third Claim: Tortious Breach of the Implied Covenant of Good Faith and Fair**
2 **Dealing (Against Safari and Mandana)**

3 40. There are five elements to a claim for Tortious Breach of the Implied Covenant
4 of Good Faith and Fair Dealing (“Tortious GFFD”): (1) Plaintiff and defendant were parties
5 to a contract; (2) Defendant owed a duty of good faith to the plaintiff arising from the
6 contract; (3) A special element of reliance or fiduciary duty existed between plaintiff and
7 defendant where the defendant was in a superior or entrusted position; (4) Defendant
8 breached the duty of good faith by engaging in misconduct; and (5) Plaintiff suffered damages
9 as a result. *Great American Ins. Co. v. General Builders*, 113, Nev. 346, 934 P. 2d 257 (1997).

10 41. Mr. Safari owed fiduciary duties, including the duties of care and loyalty, to
11 the other members of Meditex, including to Hamid and Mohammad. *Shoen v. SAC Holding*
12 *Corp.*, 122 Nev. 621, 632, 137 P.3d 1171, 1178 (2006); *Double J, LLC v Cfiange IT*
13 *Investors, LLC*, No. 08-A-562446-B, 2013 WL 7943359, at *2 (Nev. Dist. Ct. July 02, 2013)
14 (“As the Senior Managers of Games, LLC, [Defendants] owed Plaintiffs and other members
15 of Investors, LLC a fiduciary duty to perform their duties in good faith.”); *JPMorgan Chase*
16 *Bank, N.A. v. KB Home*, 632 F. Supp. 2d 1013, 1026 (D. Nev. 2009); *Auriga Capital Corp. v.*
17 *Gatz Properties*, 40 A.3d 839, 850–51 (Del. Ch. 2012) (“It seems obvious that, under
18 traditional principles of equity, a manager of an LLC would qualify as a fiduciary of that LLC
19 and its members.”).

20 42. Mandana owed fiduciary duties, including the duties of care and loyalty, to the
21 other members of Meditex, including to Hamid and Mohammad. *Id.*

22 43. Meditex’s Operating Agreement was a valid and enforceable written contract.

23 44. Hamid, Mohammad, Mr. Safari and Mandana were all parties to the Operating
24 Agreement.

25 45. Mr. Safari and Mandana owed a duty of good faith to Hamid and Mohammad.

26 46. Mr. Safari breached the Operating Agreement by engaging in misconduct,
27 specifically by:
28

- 1 a. Withdrawing \$224,793.00 from Meditex's bank accounts not for
2 legitimate business purposes.
- 3 b. Engaging in the UT Safety/ SCBA Scheme by which he obtained
4 \$91,700.00
- 5 c. Engaging in the Chamber of Commerce Scheme by which he obtained
6 \$3,500.00.
- 7 d. Engaging in the Turkish Airlines Scheme by which he obtained
8 \$17,982.00.
- 9 e. Diverting funds sent by Hamid and Mohammad by which he obtained
10 \$2,000.00.
- 11 f. Diverting funds sent by Meditex's vendor by which he obtained
12 \$19,975.00.

13 47. Mandana breached the Operating Agreement by engaging in misconduct,
14 specifically by:

- 15 a. Engaging in the UT Safety/ SCBA Scheme by which she obtained
16 \$91,700.00.
- 17 b. Diverting funds sent by Meditex's vendor by which she obtained
18 \$19,975.00.

19 48. Hamid and Mohammad suffered damages as a result in the total amount of
20 \$359,950.00 with respect to Mr. Safari and \$111,675.00 with respect to Mandana as a result
21 of these tortious breaches of the implied covenant of good faith and fair dealing.

22 49. Punitive damages may be awarded in connection with a claim for tortious
23 breach of the implied covenant of good faith and fair dealing. *Hilton Hotels v. Butch Lewis*
24 *Productions*, 109 Nev. 1043, 1046–47, 862 P.2d 1207, 1209 (1993).

25 50. NRS 42.001 defines the following terms: 1. "Conscious disregard" means the
26 knowledge of the probable harmful consequences of a wrongful act and a willful and
27 deliberate failure to act to avoid those consequences. 2. "Fraud" means an intentional
28 misrepresentation, deception or concealment of a material fact known to the person with the

1 intent to deprive another person of his or her rights or property or to otherwise injure another
2 person. 3. "Malice, express or implied" means conduct which is intended to injure a person or
3 despicable conduct which is engaged in with a conscious disregard of the rights or safety of
4 others. 4. "Oppression" means despicable conduct that subjects a person to cruel and unjust
5 hardship with conscious disregard of the rights of the person.

6 51. In breaching their duties of good faith as described above, Mr. Safari and
7 Mandana acted with oppression, fraud or malice, express or implied pursuant to *NRS 42.001*
8 *and 42.005(1)*. Hamid and Mohammad are thus entitled to an award of punitive damages to
9 be assessed against Mr. Safari and Mandana.

10 52. Specifically, these breaches by Mr. Safari and Mandana were undertaken with
11 malice as they were despicable conduct engaged in for their personal enrichment and were
12 engaged in with a conscious disregard of the rights of their partners, Hamid and Mohammad.

13 53. Mr. Safari committed fraud when he made numerous intentional
14 misrepresentations, deceptions and concealments of material facts which were known to him
15 with the intent to deprive Hamid and Mohammad of their property or otherwise injure them
16 by obtaining their money.

17 54. A subsequent proceeding, pursuant to *NRS 42.005(3)*, shall be conducted to
18 determine the amount of punitive damages to be assessed.

19 **Fourth Claim: Unjust Enrichment/Quantum Meruit (Against Safari and**
20 **Mandana)**

21 55. Defendants' recovery on their First Claim for breach of contract rules out their
22 Counterclaim for unjust enrichment/*quantum meruit*.

23 **Fifth Claim: Fraud/ Fraudulent Misrepresentation (Against Safari)**

24 56. A claim for fraud/ fraudulent misrepresentation requires proof of the following
25 elements by a clear and convincing standard: (1) A false representation made by the
26 defendant; (2) defendant's knowledge or belief that its representation was false or that
27 defendant has an insufficient basis of information for making the representation; (3) defendant
28 intended to induce plaintiff to act or refrain from acting upon the misrepresentation; and (4)

1 damage to the plaintiff as a result of relying on the misrepresentation. *Barmettler v. Reno Air,*
2 *Inc.*, 114 Nev. 441, 446–47, 956 P.2d 1382, 1386 (1998).

3 57. Counterclaimants may assert claims for breach of contract and fraud
4 surrounding the contract's execution and performance. ("It is not uncommon to see a plaintiff
5 assert a contractual claim and also a cause of action asserting fraud based on the facts
6 surrounding the contract's execution and performance.... The measure of damages on claims
7 of fraud and contract are often the same." *Topaz Mutual Co. v. Marsh*, 108 Nev. 845, 839
8 P.2d 606 (1992)).

9 58. Several of Mr. Safari's and Mandana's breaches of the operating agreement
10 also constitute fraud.

11 59. Specifically, Mr. Safari made false representations, Mr. Safari knew that the
12 representations were false, and Mr. Safari intended to induce Hamid and/or Mohammad from
13 acting or refraining from acting upon the misrepresentations, with regard to the following:

14 a. Mr. Safari drafted and then sent his partners numerous fake emails
15 from a domain he secretly purchased to impersonate Meditex's vendor's domain
16 (SCBA Sales & Rentals, LLC), which was one letter different, and signed those emails
17 as if they were sent by SCBA Sales & Rentals, LLC.

18 b. Mr. Safari drafted and then sent his partners fake, marked up invoices,
19 which he created to look like Meditex's vendor's invoices.

20 c. Mr. Safari, along with his wife Mandana Zahedi, and sister in law
21 Nooshin Zahedi, formed a shell company, UTSafety, LLC, to act as an intermediary
22 between Meditex and its vendor, SCBA Sales & Rentals. Mr. Safari represented to
23 Hamid and Mohammad that that UTSafety was actually affiliated with SCBA Sales
24 and Rentals, and using them would provide a tax benefit to Meditex, in order to
25 explain why payments should be sent to UTSafety, LLC, instead of SCBA Sales &
26 Rentals directly.

27 d. Mr. Safari, along with his wife Mandana Zahedi, and sister in law
28 Nooshin Zahedi, opened bank accounts for their shell company UTSafety, LLC.

1 Mr. Safari directed Hamid to pay UTSafety, LLC, instead of Meditex's vendor, SCBA
2 Sales & Rentals, and led Hamid to believe that sending payments to UTSafety, LLC
3 was the same as sending them to SCBA Sales & Rentals, when in fact only a portion
4 of those payments were being forwarded on by Mr. Safari to SCBA Sales & Rentals.

5 e. Mr. Safari drafted and then sent his partners fake payment instructions,
6 which he made to look like they came from Meditex's vendor, so that Hamid and
7 Mohammad would send money to the shell company, UTSafety, LLC, instead of the
8 real vendor.

9 f. Mr. Safari instructed his partners, Hamid and Mohammad, to pay the
10 fake, marked up invoices, and instructed them to send the payments to his shell
11 company, UTSafety, LLC.

12 g. Mr. Safari created and then sent Hamid a counterfeit invoice made to
13 look like it was created by Las Vegas Metropolitan Chamber of Commerce, and made
14 to look like he paid \$3,500.00 on behalf of Meditex for membership, but in fact he
15 hadn't.

16 h. Mr. Safari then requested reimbursement for this fake expense

17 i. Mr. Safari improperly withdrew \$224,793.00 from Meditex's accounts
18 while repeatedly telling Hamid and Mohammad the withdrawals were for legitimate
19 business expenses, when they were not, and claiming that supporting documentation
20 would be provided, or was already provided to Meditex's accountant, Eric Lorenz,
21 when it was not.

22 j. Mr. Safari sent seven requests for reimbursement totaling \$17,982.00
23 for expenses he did not incur with regard to Turkish Airlines, and then received and
24 accepted those reimbursements from Hamid, knowing that they were false.

25 k. Mr. Safari told Hamid that the \$40,000.00 down payment from
26 Meditex's customer Naskco had been received into Meditex bank account '4797,
27 when in fact that down payment had been diverted to the personal accounts of
28 Mr. Safari and Mandana.

1 l. Mr. Safari told Hamid and Mohammad that the \$2,000.00 they had sent
2 him to deposit into Meditex's newly opened bank accounts would be deposited, when
3 in fact he never did so.

4 m. Mr. Safari created a fake Certificate and Safety Approval, and forged
5 the signature of Kim Holman on the certificate, and on the accompanying fake email.

6 60. Hamid and Mohammad relied on the misrepresentations, as follows:

7 a. Hamid and Mohammad relied on the counterfeit emails, counterfeit
8 invoices and fake payment instructions provided by Mr. Safari, and sent money to
9 Mr. Safari's shell company, in amounts way larger than actually charged by the
10 vendor, in reliance thereon.

11 b. Hamid relied on the fake Chamber of Commerce invoice, and paid
12 Mr. Safari \$3,500.00 in reliance thereon.

13 c. Hamid relied on Mr. Safari's representations that he had incurred
14 expenses with regard to shipments by Turkish Airlines by signing/ approving seven
15 checks payable to Mr. Safari in the total amount of \$17,982.00.

16 d. Hamid relied on Mr. Safari representation that SCBA Sales and
17 Rentals, LLC had certified the SCBA cylinders for use through the end of 2018 as
18 stated in the fake Certificate and Safety Approval document by approving the sending
19 of the SCBA units to Meditex's customer.

20 61. Hamid and Mohammad were damaged as a result of relying on Mr. Safari's
21 misrepresentations as follows:

22 a. \$91,700.00 related to the misrepresentations surrounding the UT
23 Safety/ SCBA Scheme;

24 b. \$224,793.00 related to the misrepresentations surrounding Mr. Safari's
25 improper withdrawals from Meditex's bank accounts;

26 c. \$3,500.00 related to the misrepresentations surrounding the Chamber of
27 Commerce Scheme;
28

1 d. \$17,982.00 related to the misrepresentations surrounding the Turkish
2 Airlines Scheme;

3 e. \$2,000.00 related to the misrepresentations surrounding Mr. Safari's
4 diversion of funds sent by Hamid and Mohammad to Mr. Safari and intended for
5 Meditex; and,

6 f. \$19,975.00 related to the misrepresentations surrounding Mr. Safari's
7 diversion of funds sent by Meditex's customer.

8 62. The damages for the fraud/ fraudulent misrepresentation claim against
9 Mr. Safari total \$359,950.00.

10 63. Counterclaimants have proven each of these elements by clear and convincing
11 evidence.

12 64. In conducting the schemes described above to obtain money from Hamid and
13 Mohammad, Mr. Safari acted with oppression, fraud or malice, express or implied pursuant to
14 *Nev. Rev. Stat. 42.005(1)*. Hamid and Mohammad are thus entitled to an award of punitive
15 damages to be assessed against Mr. Safari.

16 65. Specifically, these acts of deception by Mr. Safari were undertaken with malice
17 as they were despicable conduct engaged in for his personal enrichment and were engaged in
18 with a conscious disregard of the rights of his partners, Hamid and Mohammad

19 66. Mr. Safari committed fraud when he made numerous intentional
20 misrepresentations, deceptions and concealments of material facts which were known to him
21 with the intent to deprive Hamid and Mohammad of their property or otherwise injure them
22 by obtaining their money.

23 67. A subsequent proceeding, pursuant to *NRS 42.005(3)*, shall be conducted to
24 determine the amount of punitive damages to be assessed.

25 **Sixth Claim: Breach of Fiduciary Duty (Against Safari and Mandana)**

26 68. A claim for breach of fiduciary duty consists of three elements: (1) Defendant
27 owed a fiduciary duty to the plaintiff; (2) Defendant breached that duty; and (3) plaintiff
28

1 sustained damages as a proximate cause of that breach. *Stalk v. Mushkin*, 125 Nev. 21, 28,
2 199 P.3d 838, 843 (2009).

3 69. Mr. Safari owed fiduciary duties, including the duties of care and loyalty, to
4 the other members of Meditex, including to Hamid and Mohammad. *Shoen v. SAC Holding*
5 *Corp.*, 122 Nev. 621, 632, 137 P.3d 1171, 1178 (2006); *Double J, LLC v Cfiange IT*
6 *Investors, LLC*, No. 08-A-562446-B, 2013 WL 7943359, at *2 (Nev. Dist. Ct. July 02, 2013)
7 (“As the Senior Managers of Games, LLC, [Defendants] owed Plaintiffs and other members
8 of Investors, LLC a fiduciary duty to perform their duties in good faith.”); *JPMorgan Chase*
9 *Bank, N.A. v. KB Home*, 632 F. Supp. 2d 1013, 1026 (D. Nev. 2009); *Auriga Capital Corp. v.*
10 *Gatz Properties*, 40 A.3d 839, 850–51 (Del. Ch. 2012) (“It seems obvious that, under
11 traditional principles of equity, a manager of an LLC would qualify as a fiduciary of that LLC
12 and its members.”).

13 70. “The fiduciary duty among partners is generally one of full and frank
14 disclosure of all relevant information for just, equitable and open dealings at full value and
15 consideration. Each partner has a right to know all that the others know, and each is required
16 to make full disclosure of all material facts within his knowledge in anything relating to the
17 partnership affairs. The requirement of full disclosure among partners in partnership business
18 cannot be escaped.... Each partner must ... not deceive another partner by concealment of
19 material facts. 59(A) Am.Jur.2d Partnership § 425 (1987).” *Clark v. Lubritz*, 113 Nev. at
20 1095–96, 944 P.2d at 865 (1997).

21 71. Mr. Safari breached his fiduciary duties to Hamid and Mohammad by:

22 a. Drafting and sending his partners numerous fake emails from a domain
23 he secretly purchased to impersonate Meditex’s vendor’s domain (SCBA Sales &
24 Rentals, LLC), which was one letter different, and signing those emails as if they were
25 sent by SCBA Sales & Rentals, LLC;

26 b. Drafting and then sending his partners fake, marked up invoices, which
27 he created to look like Meditex’s vendor’s invoices;
28

1 c. Forming a shell company, UTSafety, LLC, to act as an intermediary
2 between Meditex and its vendor, SCBA Sales & Rentals;

3 d. Directing his partners pay his shell company, UTSafety, LLC, instead
4 of its vendor, SCBA Sales & Rentals directly;

5 e. Drafting and sending his partners fake payment instructions, which he
6 made to look like they came from Meditex's vendor, so that Hamid and Mohamad
7 would send money to the shell company, UTSafety, LLC, instead of the real vendor;

8 f. Sending payments from Meditex's bank account, and instructing
9 Hamid to pay the fake, marked up invoices, and sending, and instructing Hamid to
10 send the payments to his shell company, UTSafety, LLC;

11 g. Drafting and sending Hamid a counterfeit invoice made to look like it
12 was created by Las Vegas Metropolitan Chamber of Commerce, and seeking and
13 receiving payment thereon;

14 h. Withdrawing \$224,793.00 from Meditex's accounts while repeatedly
15 telling Hamid and Mohammad the withdrawals were for legitimate business expenses,
16 when they were not, and claiming that supporting documentation would be provided,
17 or was already provided to Meditex's accountant, Eric Lorenz, when it was not;

18 i. Seeking payments as reimbursements for expenses he did not incur
19 with regard to Turkish Airlines, and then receiving and accepting those payments from
20 Hamid in the amount of \$17,982.00;

21 j. Telling Hamid that a \$40,000.00 down payment from Meditex's
22 customer Naskco had been received into Meditex bank account '4797, when in fact
23 that down payment had been diverted to the personal accounts of Mr. Safari and
24 Mandana;

25 k. Telling Hamid and Mohammad that the \$2,000.00 they had sent him to
26 deposit into Meditex's newly opened bank accounts would be deposited, when in fact
27 he never did so;
28

1 1. Creating a fake Certificate and Safety Approval, and forging the
2 signature of Kim Holman on the certificate and on the accompanying fake email,
3 indicating that the products provided to their customer had a long shelf life than they
4 actually had.

5 72. Mandana breached her fiduciary duties to Hamid and Mohammad by:

6 a. Establishing a bank account for a shell company, UTSafety, LLC, to
7 act as an intermediary between Meditex and its vendor, SCBA Sales & Rentals;

8 b. Accepting and spending money from UTSafety, LLC that came from
9 Meditex; and

10 c. Accepting, and not forwarding to Meditex, a \$19,975.00 down payment
11 from Meditex's customer Naskco.

12 73. Punitive damages may be awarded in an action for breach of fiduciary duty.
13 (*Clark v. Lubritz*, 113 Nev. 1089, 1098, 944 P.2d 861, 866–67 (1997) (“[W]e conclude that
14 the breach of fiduciary duty arising from the partnership agreement is a separate tort upon
15 which punitive damages may be based.”))

16 74. In breaching his fiduciary duties as described above, Mr. Safari acted with
17 oppression, fraud or malice, express or implied pursuant to *Nev. Rev. Stat. 42.005(1)*. Hamid
18 and Mohammad are thus entitled to an award of punitive damages to be assessed against
19 Mr. Safari.

20 75. Specifically, these acts of deception by Mr. Safari were undertaken with malice
21 as they were despicable conduct engaged in for his personal enrichment and were engaged in
22 with a conscious disregard of the rights of his partners, Hamid and Mohammad.

23 76. Mr. Safari committed fraud when he made numerous intentional
24 misrepresentations, deceptions and concealments of material facts which were known to him
25 with the intent to deprive Hamid and Mohammad of their property or otherwise injure them
26 by obtaining their money.

27 77. A subsequent proceeding, pursuant to *NRS 42.005(3)*, shall be conducted to
28 determine the amount of punitive damages to be assessed.

1 78. The damages for the breach of fiduciary duties claim against Mr. Safari total
2 \$379,975.00.

3 79. The damages for the breach of fiduciary duties claim against Mandana total
4 \$111,675.00.

5 **Seventh Claim: Aiding and Abetting Breach of Fiduciary Duty (Against Nooshin**
6 **Zahedi)**

7 80. The claim of aiding and abetting requires the following four elements: (1) a
8 fiduciary relationship exists, (2) the fiduciary breached the fiduciary relationship, (3) the third
9 party knowingly participated in the breach, and (4) the breach of the fiduciary relationship
10 resulted in damages. *In re Amerco Derivative Litig.*, 127 Nev. 196, 225, 252 P.3d 681, 702
11 (2011).

12 81. Mr. Safari owed fiduciary duties, including the duties of care and loyalty, to
13 the other members of Meditex, including to Hamid and Mohammad. *Shoen v. SAC Holding*
14 *Corp.*, 122 Nev. 621, 632, 137 P.3d 1171, 1178 (2006); *Double J, LLC v Cfiance IT*
15 *Investors, LLC*, No. 08-A-562446-B, 2013 WL 7943359, at *2 (Nev. Dist. Ct. July 02, 2013)
16 (“As the Senior Managers of Games, LLC, [Defendants] owed Plaintiffs and other members
17 of Investors, LLC a fiduciary duty to perform their duties in good faith.”); *JPMorgan Chase*
18 *Bank, N.A. v. KB Home*, 632 F. Supp. 2d 1013, 1026 (D. Nev. 2009); *Auriga Capital Corp. v.*
19 *Gatz Properties*, 40 A.3d 839, 850–51 (Del. Ch. 2012) (“It seems obvious that, under
20 traditional principles of equity, a manager of an LLC would qualify as a fiduciary of that LLC
21 and its members.”).

22 82. Mr. Safari and Mandana breached their fiduciary duties to Hamid and
23 Mohammad, as noted and listed above with regard to the Sixth Claim.

24 83. Nooshin knowingly participated in the breaches with respect to the UTSafety/
25 SCBA Scheme by:

- 26 a. Forming UTSafety, LLC;
- 27 b. Serving as UTSafety’s sole member and manager;
- 28 c. Establishing bank accounts for UTSafety, LLC;

1 d. Adding Mr. Safari and Mandana as signers on UTSafety's bank
2 accounts; and

3 e. Accepting money from UTSafety, LLC without working for or
4 providing any services to UTSafety, LLC.

5 84. The breaches of fiduciary duties resulted in \$91,700.00 in damages to Hamid
6 and Mohammad.

7 85. Punitive damages may be awarded in an action for aiding and abetting the
8 breach of fiduciary duty.

9 86. In aiding and abetting Mr. Safari and Mandana's fiduciary duties, Nooshin
10 acted with oppression, fraud or malice, express or implied pursuant to *Nev. Rev. Stat.*
11 *42.005(1)*. Hamid and Mohammad are thus entitled to an award of punitive damages to be
12 assessed against Nooshin.

13 87. Nooshin acted with oppression, fraud or malice, express or implied, pursuant
14 to *NRS 42.005(1)*.

15 88. A subsequent proceeding, pursuant to *NRS 42.005(3)*, shall be conducted to
16 determine the amount of punitive damages to be assessed.

17 **Eighth Claim: Civil Conspiracy (Against Safari, Mandana, and Nooshin)**

18 89. A claim for civil conspiracy requires two elements: [1] Actionable civil
19 conspiracy arises where two or more persons undertake some concerted action with the intent
20 "to accomplish an unlawful objective for the purpose of harming another," and [2] damage
21 results. *Consol. Generator-Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1311, 971
22 P.2d 1251, 1256 (1998).

23 90. A plaintiff must provide evidence of an explicit or tacit agreement between the
24 alleged conspirators. *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813,
25 335 P.3d 190, 198 (2014).

26 91. Mr. Safari, Nooshin and Mandana undertook the UTSafety/ SCBA Scheme
27 with the intent to accomplish an unlawful object for the purpose of harming another.
28 Specifically, they:

1 a. Forming a shell company, UTSafety, LLC, to act as an intermediary
2 between Meditex and its vendor, SCBA Sales & Rentals;

3 b. Forming UTSafety, LLC in the name of Nooshin, with Nooshin as the
4 sole member and manager, though she had no involvement with Meditex;

5 c. Establishing bank accounts for UTSafety, LLC, on which Nooshin,
6 Mandana and Mr. Safari, and only them, had full access;

7 d. Accepting large amounts of wire transfers from Meditex into
8 UTSafety's accounts; and

9 e. Withdrawing, spending, and transferring to personal account large
10 amounts of money, specifically \$91,700.00, which was sent by Hamid and Meditex to
11 UTSafety, LLC for the purpose of paying Meditex's vendor, SCBA Sales & Rentals.

12 92. Since Hamid and Mohammad were the sole funders/ contributors to Meditex,
13 these concerted actions were with the purpose of harming Hamid and Mohammad.

14 93. Damages to Hamid and Mohammad in the amount of \$91,700.00 resulted from
15 these concerted actions.

16 94. By forming UTSafety, LLC, signing its governing documents, and signing the
17 bank formation documents, as well as spending and withdrawing money from UTSafety's
18 bank accounts, there is ample evidence of an explicit agreement between Mr. Safari, Nooshin
19 and Mandana.

20 **Ninth Claim: Concert of Action (Against Safari and Mandana) – Abandoned by**
21 **Counterclaimants**

22 **Tenth Claim: Constructive Fraud (Against Safari and Mandana)**

23 95. "Constructive fraud is the breach of some legal or equitable duty which,
24 irrespective of moral guilt, the law declares fraudulent because of its tendency to deceive
25 others or to violate confidence." *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 114 Nev. 823, 841,
26 963 P.2d 465, 477 (1998), citing *Long v. Towne*, 98 Nev. 11, 13, 639 P.2d 528, 529-30
27 (1982).
28

1 96. “Constructive fraud may arise when there has been ‘a breach of duty arising
2 out of a fiduciary or confidential relationship.’” *Id.*

3 97. The elements for Constructive Fraud are: (1) The defendant owed a legal or
4 equitable duty to the plaintiff arising from a fiduciary or confidential relationship; (2) the
5 defendant breached that duty by misrepresenting or concealing a material fact; and (3) the
6 plaintiff sustained damages due to the defendant’s breach. *Id.*

7 98. Mr. Safari and Mandana owed fiduciary duties to the other members of
8 Meditex, including Hamid and Mohammad.

9 99. Mr. Safari breached those duties by misrepresenting or concealing material
10 facts, including:

11 a. Drafting and sending his partners numerous fake emails from a domain
12 he secretly purchased to impersonate Meditex’s vendor’s domain (SCBA Sales &
13 Rentals, LLC), which was one letter different, and signing those emails as if they were
14 sent by SCBA Sales & Rentals, LLC;

15 b. Drafting and then sending his partners fake, marked up invoices, which
16 he created to look like Meditex’s vendor’s invoices;

17 c. Forming a shell company, UTSafety, LLC, to act as an intermediary
18 between Meditex and its vendor, SCBA Sales & Rentals;

19 d. Not informing his partners that UTSafety, LLC was owned/ controlled
20 by Mr. Safari and Nooshin;

21 e. Not informing his partners that Mr. Safari, Mandana and Nooshin
22 owned and controlled UTSafety, LLC bank accounts;

23 f. Directing his partners pay his shell company, UTSafety, LLC, instead
24 of its vendor, SCBA Sales & Rentals directly;

25 g. Drafting and sending his partners fake payment instructions, which he
26 made to look like they came from Meditex’s vendor, so that Hamid and Mohamad
27 would send money to the shell company, UTSafety, LLC, instead of the real vendor;
28

1 h. Sending payments from Meditex's bank account, and instructing
2 Hamid to pay the fake, marked up invoices, and sending, and instructing Hamid to
3 send the payments to his shell company, UTSafety, LLC;

4 i. Drafting and sending Hamid a counterfeit invoice made to look like it
5 was created by Las Vegas Metropolitan Chamber of Commerce, and seeking and
6 receiving payment thereon;

7 j. Withdrawing \$224,793.00 from Meditex's accounts while repeatedly
8 telling Hamid and Mohammad the withdrawals were for legitimate business expenses,
9 when they were not, and claiming that supporting documentation would be provided,
10 or was already provided to Meditex's accountant, Eric Lorenz, when it was not;

11 k. Seeking payments as reimbursements for expenses he did not incur
12 with regard to Turkish Airlines, and then receiving and accepting those payments from
13 Hamid in the amount of \$17,982.00;

14 l. Telling Hamid that a \$40,000.00 down payment from Meditex's
15 customer Naskco had been received into Meditex bank account '4797, when in fact
16 that down payment had been diverted to the personal accounts of Mr. Safari and
17 Mandana;

18 m. Telling Hamid and Mohammad that the \$2,000.00 they had sent him to
19 deposit into Meditex's newly opened bank accounts would be deposited, when in fact
20 he never did so; and

21 n. Creating a fake Certificate and Safety Approval, and forging the
22 signature of Kim Holman on the certificate and on the accompanying fake email,
23 indicating that the products provided to their customer had a longer shelf life than they
24 actually had.

25 100. Mandana breached those duties by misrepresenting or concealing material
26 facts, including:

27 a. Establishing a bank account for a shell company, UTSafety, LLC, to
28 act as an intermediary between Meditex and its vendor, SCBA Sales & Rentals;

- 1 b. Not informing her partners that Mr. Safari, Mandana and Nooshin
2 owned and controlled UTSafety, LLC bank accounts;
3 c. Accepting and spending money from UTSafety, LLC that came from
4 Meditex; and
5 d. Accepting, and not forwarding to Meditex, a \$19,975.00 down payment
6 from Meditex's customer Naskco.

7 101. Hamid and Mohammad sustained damages due to the defendant's breaches as
8 follows:

- 9 a. \$379,975.00 as a result of Mr. Safari's breaches; and
10 b. \$111,675.00 as a result of Mandana's breaches.

11 **Eleventh Claim: Accounting**

12 102. A cause of action for an accounting requires a showing that a relationship
13 exists between the plaintiff and defendant that requires an accounting, and that some balance
14 is due the plaintiff that can only be ascertained by an accounting. *Brea v. McGlashan*, 3
15 Cal.App.2d 454, 460, 39 P.2d 877 (1934).

16 103. A fiduciary relationship existed between the members of Meditex, including
17 Hamid, Mohammad, Mr. Safari and Mandana.

18 104. Based on the evidence presented at trial, Mr. Safari was to account for the
19 following amounts:

- 20 a. \$224,793.00 withdrawn from Meditex's bank accounts;
21 b. \$91,700.00 obtained utilizing UTSafety, LLC;
22 c. \$3,500.00 he obtained utilizing the fake Chamber of Commerce
23 Invoice;
24 d. \$17,982.00 he obtained utilizing the Turkish Airlines Scheme;
25 e. \$19,975.00 he obtained from Meditex's customer; and,
26 f. \$2,000.00 he obtained from Hamid and Mohammad that was supposed
27 to be deposited into Meditex's bank accounts.
28

1 105. Mr. Safari failed to account for those amounts, and thus owes a total of
2 \$359,950.00 based on an accounting.

3 106. Based on the evidence presented at trial, Mandana was to account for the
4 following amounts:

- 5 a. \$91,700.00 obtained utilizing UTSafety, LLC; and,
6 b. \$19,975.00 she obtained from Meditex's customer.

7 107. Mandana failed to account for those amounts, and thus owes a total of
8 \$111,675.00 based on an accounting.

9 **Breakdown of Damages**

10 108. Damages Assessed Against Mr. Safari.

- 11 a. \$224,793.00 for improper and unapproved distributions;
12 b. \$91,700.00 for the UTSafety/ SCBA Scheme;
13 c. \$3,500.00 for the Chamber of Commerce Scheme;
14 d. \$17,982.00 for the Turkish Airlines Scheme;
15 e. \$42,000.00 for diverted customer payments and contributions;
16 f. \$10,000.00 for spare parts; and
17 g. \$15,500.00 for unrepaid personal loans from Hamid.

18 TOTAL \$405,475.00

19 109. Damages Assessed Against Mandana:

- 20 a. \$91,700.00 for the UTSafety/ SCBA Scheme; and
21 b. \$19,975.00 for diverted customer payments and contributions.

22 TOTAL \$111,675.00

23 110. Damages Assessed Against Nooshin:

- 24 a. \$91,700.00 for the UTSafety/ SCBA Scheme.

25 Any of the foregoing conclusions of law that are more properly characterized as
26 findings of fact, shall be so characterized.

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JUDGMENT

This action came on for trial before the Court, Honorable Mark R. Denton, District Court Judge, presiding, and the issues having been duly tried, and the Court having made its foregoing Findings of Fact and Conclusions of Law,

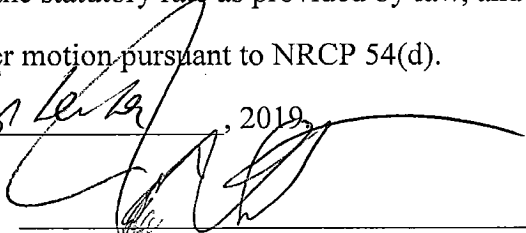
NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiffs take nothing on their claims against Defendants, and that Plaintiffs' claims be, and hereby are, dismissed on the merits; and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Counterclaimants Hamid Mojtaheed and Mohammad Mojtaheed recover from the Counterdefendant Parviz Safari a.k.a. Aidan Davis the sum of \$405,475.00, with interest thereon at the statutory rate as provided by law, and their costs incurred; that attorneys' fees may be sought per motion pursuant to NRCP 54(d); and that a subsequent proceeding, pursuant to *NRS 42.005(3)*, shall be conducted to determine the amount of punitive damages to be assessed; and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Counterclaimants Hamid Modjtahed and Mohammad Mojtaheed recover from the Counterdefendant Mandana Zahedi the sum of \$111,675.00, with interest thereon at the statutory rate as provided by law, and their costs incurred. Attorneys' fees may be sought per motion pursuant to NRCP 54(d) and that a subsequent proceeding, pursuant to *NRS 42.005(3)*, shall be conducted to determine the amount of punitive damages to be assessed.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Default having been entered against counter-defendant Nooshin Zahedi on June 14, 2019, Counterclaimants Hamid Modjtahed and Mohammad Mojtaheed recover from the Counterdefendant Nooshin Zahedi the sum of \$91,700.00 with interest thereon at the statutory rate as provided by law, and their costs incurred. Attorneys' fees may be sought per motion pursuant to NRCP 54(d).

DATED this 27th day of September, 2019.



Judge, Eighth Judicial District Court
In and for Clark County, Nevada

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CERTIFICATE

I hereby certify that on or about the date filed, and as a courtesy not comprising formal written notice of entry, this document was e-served or a copy of this document was placed in the attorney's folder in the Clerk's Office or mailed to:

FLAHIVE & ASSOCIATES, LTD.
Attn: Andrew Scott Flahive, Esq.

KOLESAR & LEATHAM
Attn: Jonathan D. Blum, Esq.



LORRAINE TASHIRO
Judicial Executive Assistant
Dept. No. XIII