

**IN THE SUPREME COURT OF THE  
STATE OF NEVADA**

NUVEDA, LLC,

Petitioner,

vs

EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF  
NEVADA, IN AND FOR THE  
COUNTY OF CLARK, THE  
HONORABLE ELIZABETH  
GONZALEZ, DISTRICT JUDGE,

Respondent,

SHANE TERRY,

Real Party in Interest.

Electronically Filed  
Jun 09 2021 02:04 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court Case No. 82767

Case: A-20-817363-B

Lead Case: A-17-755479-B

Other Consolidated Cases with Lead  
Case:

A-19-791405-C and A-19-796300-B

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**APPENDIX FOR PETITION FOR WRIT OF PROHIBITION OR, IN THE  
ALTERNATIVE, PETITION FOR WRIT OF MANDAMUS (Volume XIV)**

---

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*Counsel for Petitioner<sup>1</sup>*

---

<sup>1</sup> A. William Maupin, of Clark Hill LLP, 3800 Howard Hughes Parkway, Suite 500, Las Vegas, Nevada 89169, serves as co-counsel to Petitioner in this matter.

DATED this 9th day of June, 2021.

LAW OFFICE OF MITCHELL STIPP

A handwritten signature in black ink, appearing to read "Mitchell Stipp", is written over a horizontal line.

MITCHELL STIPP, ESQ.

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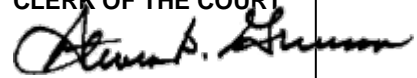
*Counsel for Petitioner*

## INDEX

<b>VOLUME VII</b>		
<b>Motion to Dismiss Shane Terry’s Claims and/or for Summary Judgment</b>		<b>Appendix 0436-0447</b>
<b>Exhibits in Support of Motion</b>		<b>Appendix 0449-0501</b>
<b>VOLUME VIII</b>		
<b>Exhibits in Support of Motion (Continued)</b>		<b>Appendix 0502-0597</b>
<b>VOLUME IX</b>		
<b>Exhibits in Support of Motion (Continued)</b>		<b>Appendix 0598-0688</b>
<b>VOLUME X</b>		
<b>Exhibits in Support of Motion (Continued)</b>		<b>Appendix 0689-0764</b>
<b>VOLUME XI</b>		
<b>Opposition to Motion</b>		<b>Appendix 0766-0851</b>
<b>VOLUME XII</b>		

<b>Opposition to Motion (Continued)</b>		<b>Appendix 0852-0940</b>
<b>VOLUME XIII</b>		
<b>Opposition to Motion (Continued)</b>		<b>Appendix 0941-1033</b>
<b>VOLUME XIV</b>		
<b>Omnibus Reply</b>		<b>Appendix 1035-1046</b>
<b>Order</b>		<b>Appendix 1048-1056</b>
<b>Minutes</b>		<b>Appendix 1058-1059</b>
<b>Supplement to Motion to Stay</b>		<b>Appendix 1061-1064</b>
<b>Jury Demand</b>		<b>Appendix 1066-1067</b>
<b>Opposition to Motion to Stay</b>		<b>Appendix 1069-1124</b>
<b>VOLUME XV</b>		
<b>Opposition to Motion to Stay (Continued)</b>		<b>Appendix 1125-1140</b>





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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF CLARK**

NUVEDA, LLC, a Nevada Limited Liability  
Company; and CWNEVADA LLC, a Nevada  
Limited Liability Company,

Plaintiffs,

v.

4FRONT ADVISORS LLC, foreign limited  
liability company, DOES I through X and ROE  
ENTITIES, II through XX, inclusive,

Defendants.

AND RELATED MATTERS.

Case: A-17-755479-B

Consolidated Cases:  
A-19-791405-C, A-19-796300-B, and A-20-  
817363-B

Dept. No.: 11

**OMNIBUS REPLY TO OPPOSITIONS TO  
MOTION TO DISMISS OR FOR  
SUMMARY JUDGMENT**

**Date of Hearing: August 31, 2020**  
**Time of Hearing: 9:00 a.m.**

Plaintiff NuVeda, LLC, a Nevada limited liability company ("NuVeda"), by and through its  
counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-  
referenced omnibus reply. The reply is in response to the following oppositions: (1) Opposition filed  
by Dotan Melech (the "Receiver") on behalf of CWNevada, LLC, a Nevada limited liability company  
("CWNevada"), Shane Terry, and Phil Ivey on August 10, 2020; (2) Opposition filed by Highland  
Partners NV LLC, MI-CW Holdings NV Fund 2 LLC, MI-CW Holdings LLC, Green Pastures Group,  
LLC ("CWNevada Creditor Group #1") on August 12, 2020; and (3) Green Pastures Fund, LLC Series  
1 (CWNevada, LLC), Jakal Investments, LLC, Jonathan S. Fenn as Trustee of the Jonathan S. Fenn

**NUVEDA'S APPENDIX 1035**

1 Revocable Trust, and Growth Opportunities, LLC (“CWNevada Creditor Group #2”) on August 12,  
2 2020.

3 This reply is based on the papers and pleadings before the court, the memorandum of points  
4 and authorities that follows, the exhibits attached hereto or filed separately and incorporated herein by  
5 this reference, and the argument of counsel at the hearing.

6  
7 DATED this 24th day of August, 2020.

8  
9 **LAW OFFICE OF MITCHELL STIPP**

10  
11 /s/ Mitchell Stipp, Esq.

12 MITCHELL STIPP, ESQ.

13 Nevada Bar No. 7531

14 LAW OFFICE OF MITCHELL STIPP

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16 Las Vegas, Nevada 89144

17 Telephone: 702.602.1242

18 mstipp@stipplaw.com

19 *Attorneys for NuVeda, LLC*

20  
21 **[MEMORANDUM OF POINTS AND AUTHORITIES FOLLOWS]**  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 While there may be disputes between the parties concerning some facts, none of them should  
3 prevent the court from granting the relief requested by NuVeda. Under NRCP 12(d), if matters outside  
4 of the pleadings are presented to and not excluded by the district court, a motion made under 12(b)(5)  
5 shall be treated as a motion for summary judgment and disposed of as provided in Rule 56, and all  
6 parties shall be given reasonable opportunity to present all material made pertinent to such a motion  
7 by Rule 56. Despite argument to the contrary, NuVeda has complied with NRCP 56. NuVeda's  
8 motion relies on the Declaration of Dr. Bady and the filings of the parties in the various cases.

- 9 1. The Joint Venture between CWNevada and NuVeda cannot be enforced due to  
10 impossibility of performance by CWNevada.

11 The nature of CWNevada's declaratory relief is a determination by this court that the  
12 membership interest purchase agreement (together with all amendments and addenda) between  
13 CWNevada and NuVeda are valid and enforceable. See Complaint filed on June 30, 2020 in Case No.  
14 A-20-817363-B, paragraphs 153-158 (pages 21-22) (specifically---items (i)-(v) as part of paragraph  
15 158) ("Joint Venture Agreements"). CWNevada and Messrs. Terry and Ivey oppose NuVeda's motion  
16 for the following reasons: (a) the Receiver can perform under the Joint Venture; (b) Brian Padgett is  
17 not a party to the Joint Venture Agreements; and (c) the Joint Venture Agreements have not been  
18 terminated and remain in full force and effect. See Opposition, filed on August 10, 2020.

19 The Receiver now contends that it is possible for CWNevada to perform under the Joint Venture  
20 Agreements based on the performance of the joint venture approved by the court at CWNevada's Blue  
21 Diamond Dispensary. Opposition, filed on August 10, 2020, pg. 14 (lines 10-15). Whether  
22 CWNevada's joint venture is breaking-even or earning a profit at the Blue Diamond Dispensary is not  
23 evidence of CWNevada's ability to perform under the Joint Venture Agreements. If the court recalls,  
24 the joint venture at Blue Diamond was funded by a receivership certificate in the amount of \$650,000  
25 (receivership certificate no. 23) which provides for priority repayment (including from revenues  
26 generated from the joint venture), the landlord agreed to amend/restructure its lease with CWNevada,  
27 and a management/operating agreement was entered into with H&H Management, LLC. See Motions  
28 filed by Receiver on or about May 5, 2020. No portion of the revenues (which inure to the benefit of



1 the receivership estate) are being reserved to cure CWNevada's defaults under the Joint Venture  
2 Agreements or perform CWNevada's obligations thereunder. These joint venture agreements which  
3 have been approved by the court do not provide for any performance of the Joint Venture Agreements  
4 for the benefit of CWNevada. CWNevada is in receivership. Its assets are being liquidated. There is  
5 no dispute about the inability to perform by CWNevada under the Joint Venture Agreements.

6 CWNevada claims the Joint Venture Agreements can be performed by the Receiver in place of  
7 Brian Padgett. While Mr. Padgett is not a party individually to the Joint Venture Agreements, Mr.  
8 Padgett was the operating manager for CWNV LLC, a dissolved limited liability company ("CWNV"),  
9 and CWNV1 LLC, a dissolved limited liability company ("CWNV1"). As the court is aware, those  
10 entities have been dissolved, and NuVeda is the trustee under Chapter 86 of the Nevada Revised  
11 Statutes, as amended. NuVeda and CWNevada owned interests in CWNV and CWNV1. Both entities  
12 were dissolved in accordance with their operating agreements after CWNevada filed its chapter 11  
13 bankruptcy petition (Section 12.01(a)(iii) of the operating agreements for CWNV and CWNV1  
14 provides for dissolution upon the bankruptcy of a member). NuVeda has all authority set forth in NRS  
15 86.541(2), which provides as follows:

16  
17 The manager or managers in office at the time of dissolution, or the  
18 members, if there are no managers, or the personal representatives,  
19 are thereafter trustees of the dissolved company, with full power to  
20 prosecute and defend suits, actions, proceedings and claims of any  
21 kind or character by or against the company, to enable the company  
22 gradually to settle and close its business, to collect its assets, to  
23 collect and discharge its obligations, to dispose of and convey its  
24 property, to distribute its money and other property among the  
25 members, after paying or adequately providing for the payment of  
26 its liabilities and obligations, and to do every other act to wind up  
27 and liquidate its business and affairs, but not for the purpose of  
28 continuing the business for which the company was established.

25 There is no motion before the court to remove NuVeda as the trustee of CWNV or CWNV1. Even if  
26 the court determined that CWNV and CWNV1 are or should be part of the receivership estate,  
27 CWNevada still cannot perform. NuVeda has not identified any assets owned by CWNV or CWNV1,  
28 which can be distributed to CWNevada to assist with any such performance.

CWNebraska claims there were no breaches of the Joint Venture Agreements as confirmed by a stipulation dated November 2, 2018. Opposition, filed on August 10, 2020, pg. 15 (lines 1-10). CWNebraska further claims that NuVeda did not terminate the Joint Venture Agreements. *Id.* (lines 11-19). NuVeda and its affiliates provided CWNebraska notice of material breach on **January 31, 2019** and terminated the joint venture on **April 15, 2019**. See **Exhibit 1**. NuVeda and its affiliates are not required to perform under the joint venture agreements. See Young Electric Sign Co. v. Fohrman, 86 Nev. 185 (Nev. 1970) (holding that a material breach excuses further performance by the non-breaching party).

CWNebraska and Messrs. Terry and Ivey do not address the express conditions to closing under the Joint Venture Agreements, which have not been satisfied or waived, as described by NuVeda in its motion. Further, CWNebraska and Messrs Terry and Ivey cannot explain how the Receiver for CWNebraska argued that the binding settlement agreement reached by CWNebraska and various creditors in Case No. A-18-777270-B (consolidated) could not be performed by CWNebraska due to impossibility yet CWNebraska is able to perform under the Joint Venture Agreement. Judicial estoppel should prevent CWNebraska from asserting a contrary position on NuVeda's motion. See Mainor v. Nault, 120 Nev. 750 (Nev. 2004).

2. The Complaint filed on April 10, 2019 by creditors of CWNebraska against NuVeda should be dismissed or summary judgment granted because the dispute is moot.

The court has determined that the binding settlement reached by CWNebraska and various creditors in Case No. A-18-777270-B (consolidated) is not enforceable due to impossibility. As the court is aware, this settlement was the basis for the complaint filed by creditors of CWNebraska against NuVeda, CWNebraska and 4Front Advisors, LLC ("4Front") in Case No. A-17-755479-B. These creditors of CWNebraska sought declaratory relief as it relates to rights of the parties arising from loans provided to CWNebraska and disputes regarding the enforceability of the settlement. These same creditors opposed the enforcement of the settlement due to impossibility. Under the same analysis (which was adopted by the court), the Joint Venture Agreements are not enforceable. If the Joint Venture Agreements are not enforceable, then any collateral assignment is not enforceable. These creditors seem to accept this analysis, but they argue that their security interests extend beyond the

1 Joint Venture Agreements. Neither creditor group will actually confirm the existence of any security  
2 interest in the Joint Venture Agreements.

3 CWNevada Creditor Group #1 filed its opposition to NuVeda's request for relief on August 12,  
4 2020. In the opposition, CWNevada Creditor Group #1 admits the following:

5 **NuVeda is not a party to any loan or other type of agreement with any of the members of**  
6 **CWNevada Creditor Group #1 and is not a party to any of the consolidated cases in Case No.**  
7 **A-18-777270-B.**

8 Opposition, filed on August 12, 2020, pg. 2 (lines 21-22) and pg. 4 (lines 21-22). If the settlement  
9 cannot be performed, NuVeda is not a party to any loan or other type of agreement with CWNevada  
10 Creditor Group #1 or a party to Case No. A-18-777270-B (consolidated), why is NuVeda a party to  
11 this complaint? NuVeda was informed that the Joint Venture Agreements served as collateral for one  
12 or more of the loans with CWNevada Creditor Group #1 and #2. Such position was supported by the  
13 declaration of Dr. Bady included in the motion. If the Joint Venture Agreements are not collateral,  
14 then NuVeda's request for relief is more than appropriate under the circumstances.

15 NuVeda seeks dismissal of the complaint against NuVeda or summary judgment on the  
16 declaratory relief requested as it pertains to NuVeda. NuVeda understands CWNevada Creditor  
17 Group #1 and #2 may have claims against CWNevada and/or 4Front. NuVeda understands that this  
18 court's determination that the Joint Venture Agreements are not enforceable due to impossibility does  
19 not affect CWNevada Creditor Group #1 or #2's other claims (whether secured or unsecured). Those  
20 claims will not be moot as a result of the court's determination on the enforceability of the Joint Venture  
21 Agreements. However, these creditors should be litigating their disputes with CWNevada in Case No.  
22 A-18-777270-B (consolidated). The issue of priority of claims is a matter that will be litigated in the  
23 receivership case generally, which is already occurring outside of the complaint-in-intervention. See  
24 e.g. motion for partial summary judgment filed by receiver on August 14, 2020 and joinder filed by  
25 4Front on August 21, 2020 (4Front does not want alleged secured creditors to have priority over its  
26 judgment). Such litigation will occur whether the complaint-in-intervention against NuVeda is  
27 pending or not. Under the logic advanced by CWNevada Creditor Group #1 and #2, creditors would  
28 need a complaint asserted against every creditor to resolve claims and determine priority. This

1 circumstance is not warranted because there is a claim process order in place. See Order filed on  
2 January 2, 2020.

3 CWNevada Creditor Group #2 contends that the complaint is not moot for the same reasons as  
4 CWNevada Creditor Group #1. See Opposition, filed on August 12, 2020, pg. 5 (lines 5-18). Again,  
5 the disputes among creditors of CWNevada regarding amounts and priority of claims will be litigated  
6 in the receivership action (not within the complaint-in-intervention). These creditors have filed proofs  
7 of claims which have been denied in part by the Receiver. See Claims Evaluation Report, filed on  
8 May 4, 2020. Presumably, these claims will be settled or litigated regardless of the existence of the  
9 complaint-in-intervention. There is a forum for such resolution: Case No. A-18-777270-B  
10 (consolidated). Since the Receiver has not finally resolved all disputed claims and has not asked the  
11 court to approve a distribution scheme, the complaint-in-intervention is the very definition of a  
12 complaint which became moot under Nat'l Collegiate Athletic Ass'n v. Univ. of Nev., 97 Nev. 56, 58,  
13 624 P.2d 10, 11 (1981). Until there is resolution of such matters, the dispute among these creditors  
14 (including NuVeda) is abstract. At the moment, there is no dispute with NuVeda and CWNevada  
15 Creditor Group #1 or #2.

16 3. Shane Terry's claims against NuVeda and its affiliates are barred as a matter of Nevada  
17 law and should be dismissed with prejudice.

18 In Mr. Terry's opposition to NuVeda's motion, he concedes the following: "The order of  
19 dismissal was a final judgment that concluded the [a]rbitration as to [Mr.] Terry and cannot be  
20 reopened except by a motion to set aside the judgement under NRCP 60(b)." See Opposition filed  
21 on August 10, 2020, pg. 16, lines 19-20. Mr. Terry seeks as part of his case a determination that he is  
22 the sole and only owner of the claims against and interest in NuVeda. See Complaint filed on June 30,  
23 2020 in Case No. A-20-817363-B, paragraph 158 (specifically---items (ix) as part of paragraph 158).  
24 The claims raised by Mr. Terry in Case No. A-20-817363-B against NuVeda and its affiliates are barred  
25 by Nevada's claims preclusion doctrine. See Five Star Capital Corp. v. Ruby, 124 Nev. 1048, 194 P.3d  
26 709 (2008) (modified by Weddell v. Sharp, 350 P.3d 80 (Nev. 2015)). The stipulation by Mr. Terry's  
27 buyer and the judgment by the arbitrator is a final judgment which is valid, the current action by Mr.  
28 Terry is based on the same claims, and the relevant parties are the same in the current case as they were

1 in the previous lawsuit.

2 In his opposition filed on August 10, 2020, Mr. Terry claims that he is not required to set aside  
3 the judgment by the arbitrator until he obtains recession of his deal with the buyer. See Opposition  
4 filed on August 10, 2020, pg. 17 (lines 4-6). **If true, then Mr. Terry has no right to make any claims**  
5 **against NuVeda and its affiliates which were adjudicated until the judgment is set aside.** Mr. Terry  
6 contends that the basis for his motion will be **NRCP 60(b)(4) (void judgments)** and the decision now  
7 belongs to the arbitrator. Id. NuVeda disagrees. A final judgment is void when a “defect [exists] in  
8 the court’s authority to enter judgment through either lack of personal jurisdiction or jurisdiction over  
9 the subject matter in the suit.” See Gassett v. Snappy Car Rental, 111 Nev. 1416, 1419, 906 P.2d 258,  
10 261 (1995), superseded by rule on other grounds as stated in Fritz Hansen A/S v. Eighth Judicial Dist.  
11 Court, 116 Nev. 650, 656, 6 P.3d 982, 985 (2000). The arbitrator’s judgment dismissing Mr. Terry’s  
12 claims is not void because the arbitrator actually had jurisdiction. If the judgment is not void, a motion  
13 to set aside a final judgment must be filed within the six (6) month timeframe set forth in NRCP 60(c).  
14 Accordingly, as set forth in NuVeda’s motion to dismiss or for summary judgment, the case initiated  
15 by Mr. Terry against NuVeda and its affiliates should be dismissed or summary judgment entered.

16 4. Complaint filed against Brian Padgett and BCP 7, LLC should be dismissed.

17 The complaint in Case No. A-19-796300-B is required to be dismissed pursuant to NRCP 4  
18 based on the failure to serve the defendants. Mr. Terry confirms the same in his filings. There is no  
19 opposition made by CWNevada, Messrs Terry or Ivey, or the CWNevada Creditor Group #1 or #2 to  
20 the request for dismissal.

21  
22 DATED this 24th day of August, 2020.

23 **LAW OFFICE OF MITCHELL STIPP**

24 /s/ Mitchell Stipp, Esq.

25 MITCHELL STIPP, ESQ.

26 Nevada Bar No. 7531

27 LAW OFFICE OF MITCHELL STIPP

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Attorneys for NuVeda, LLC

NUVEDA'S APPENDIX 1042

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**DECLARATION OF PEJMAN BADI**

The undersigned, Dr. Pejman Badi, authorized agent for NuVeda, LLC, certifies to the court as follows:

1. I am an authorized agent of Plaintiff in the above referenced case.
2. I submit the above-titled declaration in support of Plaintiff's omnibus reply, which has been filed concurrently herewith. I have personal knowledge of the facts contained therein unless otherwise qualified by information and belief or such knowledge is based on the record in this case, and I am competent to testify thereto, and such facts are true and accurate to the best of my knowledge and belief.
3. The exhibits filed in support of the reply are true, accurate and complete.

Dated this 24th day of August, 2020.

*/s/ Pejman Badi*

---

Dr. Pejman Badi, Authorized Agent for Plaintiff

# EXHIBIT 1



April 15, 2019

**Via United States Certified Mail and Electronic Mail**

**JASON M. WILEY, ESQ.**

CWNevada, LLC  
4145 West Ali Baba Lane  
Suite A  
Las Vegas, Nevada 89119

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

Steven B. Cohen, Esq.  
H. Stan Johnson, Esq.  
Cohen Johnson Parker Edwards  
375 East Warm Springs Road  
Suite 104  
Las Vegas, Nevada 89119

702.910.3329 | OFFICE

Re: Membership Interest Purchase Agreement  
Notice of Termination

702.845.7401 | CELL

Dear CWNevada, LLC and Counsel:

[jwiley@wileypetersenlaw.com](mailto:jwiley@wileypetersenlaw.com)

As previously provided, this law firm represents NuVeda, LLC ("NuVeda"), Clark NMSD, LLC ("Clark NMSD"), and Nye Natural Medicinal Solutions, LLC ("Nye Natural") (collectively, "the NuVeda Parties") in matters set forth in and arising from the Membership Interest Purchase Agreement ("Purchase Agreement") entered into and executed by and between the aforementioned entities and CWNevada, LLC ("CWNevada") on December 6, 2015..

[www.wileypetersenlaw.com](http://www.wileypetersenlaw.com)

On or about January 31, 2019, CWNevada was provided formal Notice of Breach and Request for Turnover ("Notice and Request") of the management of dispensaries located at (a) 1320 South Third Street, Las Vegas, Nevada 89104 (the "Third Street Dispensary"); and (b) 2113 North Las Vegas Boulevard, North Las Vegas, Nevada 89030 (the "North Las Vegas Dispensary") for the reasons set forth in the Notice and Request. The Notice and Request further demanded that CWNevada cure the instances of material breach set forth therein. Not only has CWNevada failed to cure the defaults, CWNevada has undertaken the following actions, each of which constitutes a breach per the terms, conditions, and provisions of the Purchase Agreement:

ADMITTED TO THE STATE BAR OF:

NEVADA  
IOWA

- CWNevada has failed to pay certain business license fees related to the North Las Vegas Dispensary and operated said dispensary with an expired business license.

**NUVEDA'S APPENDIX 1045**



- CWNebraska and its unauthorized personnel entered a restricted area at the Third Street Dispensary and removed quarantined materials thus hampering a Nevada Department of Taxation investigation.
- CWNebraska failed to comply, assist, and provide information to a City of Las Vegas Business License Auditor during an audit conducted by the city's Department of Planning, Business License Division.
- CWNebraska untimely remitted payment for a business license for the Third Street Dispensary.
- CWNebraska failed to remit payment to the Las Vegas Business Licensing Division for an inspection which occurred at the Third Street Dispensary.
- CWNebraska was notified by the Las Vegas Business License Division that an audit of the Third Street Dispensary accounting records evidenced the underreporting of "gross revenues by \$74,304.09 from charging the 3% city licensing fee to [CWNebraska] customers."
- Most egregious, CWNebraska failed to pay the necessary taxes to the Nevada Department of Taxation leading to the closure of the Third Street Dispensary and the North Las Vegas Dispensary.
- The NuVeda Parties are further informed that the Canopi employees are seeking to commence action against CWNebraska for failure to pay employee salaries and benefits.
- CWNebraska has failed to remit monthly rent payments to the dispensaries' property owners in violation of the lease agreements.

Each of the foregoing, and those events detailed in the Notice and Request, constitute CWNebraska's material breach of the Purchase Agreement. Therefore, pursuant to Section 8.1(b) of the Purchase Agreement, notice is hereby provided that the NuVeda Parties formally terminate the Purchase Agreement due to the breach of the covenants and agreements set forth therein, and CWNebraska's failure to cure the breaches within thirty days. The NuVeda Parties no longer have any obligations toward CWNebraska under the Purchase Agreement, and the NuVeda Parties reiterate their request that CWNebraska turnover management of the dispensaries.

If you have any questions or wish to discuss further, please feel free to contact me by email at [jwiley@wileypetersenlaw.com](mailto:jwiley@wileypetersenlaw.com) or via telephone at 702.910.3329.

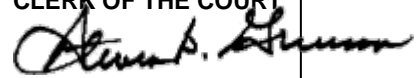
Regards,



Jason M. Wiley, Esq.

JMW:ib





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*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NUVEDA, LLC, a Nevada Limited Liability  
Company; and CWNEVADA LLC, a Nevada  
Limited Liability Company,

Plaintiffs,

v.

4FRONT ADVISORS LLC, foreign limited  
liability company, DOES I through X and  
ROE ENTITIES, II through XX, inclusive,

Defendants.

Case No.: A-17-755479-B

Consolidated With: A-19-791405-C,  
A-19-796300-B, and A-20-817363-B

Dept. No.: 11

AND RELATED MATTERS

**ORDER DENYING MOTION TO DISMISS OR FOR SUMMARY JUDGMENT**

This matter came before the Honorable Elizabeth Gonzalez on August 31, 2020 on NuVeda's Motion to Dismiss or for Summary Judgment (the "Motion") with Mitchell D. Stipp of the Law Office of Mitchell Stipp appearing for NuVeda, LLC; L Joe Coppedge of the law firm Mushkin & Coppedge appearing for the Court Appointed Receiver, Dotan Melech, for CWNevada, LLC, Shane Terry and Phillip Ivey; Christopher R. Miltenberger of the law firm Greenberg Traurig, LLP appearing on behalf of Intervenor, Green Pastures Fund, LLC Series 1 (CWNevada, LLC), Jakal Investments, LLC, Jonathan S. Fenn as Trustee for the Jonathan S.

1 Fenn Revocable Trust, and Growth Opportunities, LLC; and William Urga of the firm Jolley Urga  
2 Woodbury & Holthus appearing on behalf of Intervenor, Highland Partners NV LLC and the  
3 MI-CW related parties; and the Court, having reviewed and considered the record, the points and  
4 authorities on file, and the argument of counsel, this Court ORDERS, JUDGES AND DECREES  
5 AS FOLLOWS:

6 1. Given the Receiver's Declaration that the Receiver on behalf of CWNevada, LLC  
7 can perform the obligations of CWNevada, LLC under the various joint venture agreements with  
8 NuVeda, LLC, there is a genuine issue of material fact regarding the issue of impossibility, which  
9 precludes summary judgment.

10 2. The Motion related to the Intervenor's complaint-in-intervention, is moot (since  
11 resolution was depended on the court's determination that CWNevada, LLC's performance under  
12 the joint venture agreements was impossible).

13 3. With respect to Shane Terry, the Motion is stayed for a period of ninety (90) days  
14 from the date of the hearing for Mr. Terry to request any relief from the arbitrator, Ms. Nikki  
15 Baker, of the American Arbitration Association.

16 DATED this 18th day of September, 2020.

17  
18   
19 DISTRICT COURT JUDGE

20  
21 Respectfully Submitted:  
22 MUSHKIN & COPPEDGE

Approved as to Form and Content:  
LAW OFFICE OF MITCHELL STIPP

23 /s/L. Joe Coppedge  
24 L. JOE COPPEDGE, ESQ.  
25 Nevada Bar No. 4954  
26 6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119

/s/Mitchell D. Stipp  
MITCHELL D. STIPP, ESQ.  
Nevada Bar No. 7531  
1180 N. Town Center Drive, Suite 100  
Las Vegas, Nevada 89144

27 *Attorneys for Dotan Y. Melech, Receiver,*  
28 *Shane Terry, and Phillip D. Ivey*

*Attorneys for NuVeda, LLC*

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Approved as to Form and Content:  
JOLLEY URGAL WOODBURY  
HOLTHUS & ROSE

/s/William R. Urga  
WILLIAM R. URGAL, ESQ.  
Nevada Bar No. 1195  
DAVID J. MALLEY, ESQ.  
Nevada Bar No. 8171  
330 S. Rampart Boulevard, Suite 380  
Las Vegas, NV 89145

Approved as to Form and Content:  
GREENBERG TRAURIG

/s/Christopher R. Miltenberger  
MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
CHRISTOPHER R. MILTENBERGER, ESQ.  
Nevada Bar No. 10153  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, NV 89135

## Karen Foley

---

**From:** Joe Coppedge  
**Sent:** Thursday, September 17, 2020 3:17 PM  
**To:** Karen Foley  
**Subject:** FW: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

L. Joe Coppedge  
Mushkin & Coppedge  
6070 S. Eastern Ave., Suite 270  
Las Vegas, Nevada 89119  
Tel. No. (702) 454-3333  
Dir. No. (702) 386-3942  
Fax No. (702) 454-3333

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---

**From:** William Urga <WURU@juwlaw.com>  
**Sent:** Thursday, September 17, 2020 2:27 PM  
**To:** Joe Coppedge <jcoppedge@mccnvlaw.com>; Mitchell Stipp <mstipp@stipplaw.com>; miltenbergerc@gtlaw.com  
**Subject:** RE: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

Joe, I have no comments regarding the order and you can electronically sign my name.

William R. Urga, Esq.  
Jolley Urga Woodbury & Holthus  
Tivoli Village  
330 S. Rampart Boulevard, Suite 380  
Las Vegas, Nevada 89145  
Telephone: (702) 699-7500  
Facsimile: (702) 699-7555  
E-mail: [wru@juwlaw.com](mailto:wru@juwlaw.com)

**Please consider the environment before printing this email.**

 JOLLEY URGA | attorneys  
WOODBURY & HOLTHUS | at law

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immediately notify us by telephone and delete the e-mail from your computer. You may contact Jolley Urga Woodbury & Holthus at (702) 699-7500 (Las Vegas, NV).

---

**From:** Joe Coppedge <[jcoppedge@mccnvlaw.com](mailto:jcoppedge@mccnvlaw.com)>

**Sent:** Thursday, September 17, 2020 2:20 PM

**To:** Mitchell Stipp <[mstipp@stipplaw.com](mailto:mstipp@stipplaw.com)>; William Urga <[WRU@juwlaw.com](mailto:WRU@juwlaw.com)>; [miltenbergerc@gtlaw.com](mailto:miltenbergerc@gtlaw.com)

**Subject:** 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

Mitch, Bill and Chris,

My apologies for the short delay, but I was out of the office yesterday. We added signature blocks for Bill and Chris, and I believe accepted all of the changes. Since the order is short, everyone might check one last time. If okay, let me know if we can insert your electronic signature.

Joe

L. Joe Coppedge

Mushkin & Coppedge

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## Karen Foley

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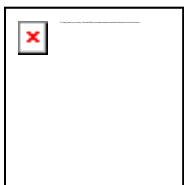
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**From:** Mitchell Stipp <mstipp@stiplaw.com>  
**Sent:** Thursday, September 17, 2020 2:59 PM  
**To:** Joe Coppedge <jcoppedge@mccnvlaw.com>  
**Cc:** WRU@juvlaw.com; miltenbergerc@gtlaw.com  
**Subject:** Re: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

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**Mitchell Stipp**

Law Office of Mitchell Stipp  
(O) 702.602.1242 | (M) 702.378.1907 | mstipp@stiplaw.com

**Address:** 1180 N. Town Center Drive, Suite 100  
Las Vegas, Nevada 89144

**Website:** www.stiplaw.com

On Thu, Sep 17, 2020 at 2:20 PM Joe Coppedge <[jcoppedge@mccnvlaw.com](mailto:jcoppedge@mccnvlaw.com)> wrote:

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---

**From:** miltenbergerc@gtlaw.com <miltenbergerc@gtlaw.com>  
**Sent:** Thursday, September 17, 2020 3:06 PM  
**To:** mstipp@stipplaw.com; Joe Coppedge <jcoppedge@mccnvlaw.com>  
**Cc:** WRU@juwlaw.com  
**Subject:** RE: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

Joe – Good catch by Mitchell. You have my permission to e-sign as well.

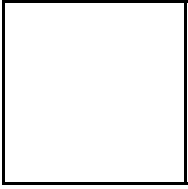
Thanks,

Chris Miltenberger  
Greenberg Traurig, LLP  
702.599.8024

**From:** Mitchell Stipp <mstipp@stipplaw.com>  
**Sent:** Thursday, September 17, 2020 2:59 PM  
**To:** Joe Coppedge <jcoppedge@mccnvlaw.com>  
**Cc:** [WRU@juwlaw.com](mailto:WRU@juwlaw.com); Miltenberger, Chris (Shld-LV-LT) <miltenbergerc@gtlaw.com>  
**Subject:** Re: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

**\*EXTERNAL TO GT\***

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**Mitchell Stipp**

Law Office of Mitchell Stipp

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**Address:** 1180 N. Town Center Drive, Suite 100  
Las Vegas, Nevada 89144

**Website:** [www.stipplaw.com](http://www.stipplaw.com)

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**January 25, 2021**

---

A-17-755479-B	Nuveda LLC, Plaintiff(s)
	vs.
	4Front Advisors LLC, Defendant(s)

---

**January 25, 2021      9:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**PARTIES**

<b>PRESENT:</b>	Briggs, Michelle D.	Attorney for the Nevada Department of Taxation
	Chance, Travis F	Attorney for Intervenors Kirby Gruchow, Kirby C. Gruchow, Jr., and Ace Legal Group
	Holley, Richard F.	Attorney for Receiver
	Humphrey III, Louis E.	Attorney
	Irvine, Brian R.	Attorney for Intervenors TRC Evolution – NV, LLC and Desert Evolution, LLC
	Lenhard, Kirk Banks	Attorney for Intervenors Kirby Gruchow, Kirby C. Gruchow, Jr., and Ace Legal Group
	Malley, David J.	Attorneys for Intervenors Highland Partners NV LLC
	Melech, Dotan Y	Receiver
	Miltenberger, Chris	Attorneys for Intervenors Green Pastures Fund, LLC Series 1 (CW Nevada, LLC) and Jakal Investments, LLC
	Savage, John J.	Attorney for Receiver
	Stipp, Mitchell D.	Attorney for NuVeda, LLC
	Urga, William R.	Attorneys for Intervenors Highland Partners NV LLC

**PRINT DATE:** 01/25/2021

**Page 1 of 2**

**Minutes Date:** January 25, 2021

## JOURNAL ENTRIES

- APPEARANCES CONTINUED: Attttorney Nathanael Rulis for Planet 13; Attorney Joe Coppedge for Shane Terry and Phillip Ivey.

Parties appeared by telephone.

Following arguments by counsel, COURT ORDERED as follows:

MOTION TO CONSOLIDATE CASE A-21-827473-W WITH THE RECEIVERSHIP ACTION ON ORDER SHORTENING TIME: Motion GRANTED as there are overlapping issues with the receivership issues.

PLAINTIFF'S MOTION TO ENTER ORDER ON SHANE TERRY'S CLAIMS AND RELATED RELIEF: Motion CONTINUED to the chambers calendar on January 29, 2021. Before close of business tomorrow, January 26, Mr. Coppedge to FILE a declaration by himself or his staff regarding all materials sent to AAA and materials received back from AAA.

RECEIVER'S MOTION TO APPROVE BIDS FOR CWNEVADA'S ASSETS ON ORDER SHORTENING TIME: Motion GRANTED; the payment by winning bidders is TO BE MADE by January 29, 2021. Court noted it is not in the business of managing cannabis facilities. Court reminded the parties that it will be cash only and no contingencies. COURT FURTHER ORDERED, back-up bidders TO BE NOTIFIED if payments are not made on time. The issues on payments of professionals or payments of creditors need to be on a separate motion.

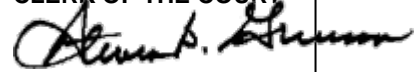
1-29-21 CHAMBERS PLAINTIFF'S MOTION TO ENTER ORDER ON SHANE TERRY'S CLAIMS AND RELATED RELIEF

2-1-21 9:00 AM PLAINTIFF'S RENEWED MOTION FOR ORDER TO SHOW CAUSE ON ORDER SHORTENING TIME

2-19-21 CHAMBERS NEVADA WELLNESS CENTER, LLC'S MOTION TO SPECIALLY APPEAR AND TO LIFT STAY TO ALLOW DEPOSITION OF DOTAN Y. MELECH REGARDING VALUE OF RECREATIONAL MARIJUANA DISPENSARY LICENSE

CLERK'S NOTE: A-17-755479-B as the lower case number will be the LEAD case. / dr





MITCHELL D. STIPP, ESQ.  
Nevada Bar No. 7531  
**LAW OFFICE OF MITCHELL STIPP**  
1180 N. Town Center Drive, Suite 100  
Las Vegas, Nevada 89144  
Telephone: 702.602.1242  
mstipp@stippplaw.com  
*Attorneys for NuVeda, LLC*

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF CLARK**

NUVEDA, LLC, a Nevada Limited Liability  
Company; and CWNEVADA LLC, a Nevada  
Limited Liability Company,

Plaintiffs,

v.

4FRONT ADVISORS LLC, foreign limited  
liability company, DOES I through X and ROE  
ENTITIES, II through XX, inclusive,

Defendants.

AND RELATED MATTERS.

Case: A-17-755479-B

Consolidated Cases:  
A-19-791405-C, A-19-796300-B, and A-20-  
817363-B

Dept. No.: 11

**SUPPLEMENT TO MOTION FOR STAY  
ON ORDER SHORTENING TIME**

**Date of Hearing: February 22, 2021**  
**Time of Hearing: 9:00 a.m.**

NuVeda, LLC, a Nevada limited liability company ("NuVeda"), by and through counsel of  
record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced  
supplement to the motion on order shortening time.

This filing is based on the papers and pleadings before the court, the memorandum of points  
and authorities that follows, and the exhibits attached hereto or filed separately and incorporated herein  
by this reference.

///

///

///

NUVEDA'S APPENDIX 1061



1 DATED this 15th day of February, 2021.

2  
3 **LAW OFFICE OF MITCHELL STIPP**

4  
5 /s/ Mitchell Stipp, Esq.

6 MITCHELL STIPP, ESQ.

7 Nevada Bar No. 7531

8 LAW OFFICE OF MITCHELL STIPP

9 1180 N. Town Center Drive, Suite 100

10 Las Vegas, Nevada 89144

11 Telephone: 702.602.1242

12 mstipp@stipplaw.com

13 *Attorneys for NuVeda, LLC*

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**1. BCP 7 Holdings, LLC needs to be in the case and served with sufficient time to answer/respond and participate in any evidentiary hearing.**

In its motion to stay, NuVeda raised the issue that BCP 7 Holdings, LLC, a Nevada limited liability company (“BCP 7 Holdings”), has not been properly sued by Shane Terry. The cases filed by Mr. Terry assert causes of action against BCP 7, LLC, a Nevada limited liability company (“BCP 7”). See Complaint filed on June 30, 2020 (Case No. A-20-817363-B).<sup>1</sup> If the court intends to schedule an evidentiary hearing on the issue of rescission, BCP 7 Holdings should be a party to the case and properly served. See NRCP 4.

The time required to amend the complaint and re-serve the parties who also have the right to answer or otherwise respond make expedited discovery and an evidentiary hearing problematic.<sup>2</sup> Mr. Terry needed 210 days to serve Mr. Padgett (and BCP 7). Such additional time should provide NuVeda the time it needs to have the court’s decision on the renewed motion to dismiss/summary judgment on Shane Terry’s claims considered by the Nevada Supreme Court via a writ petition. In other words, a

<sup>1</sup> Case No. A-19-796300-B remains subject to mandatory dismissal under NRCP 4(e) for failure to serve Mr. Padgett and BCP 7 during the 120 days after the case was initiated. To date, despite multiple requests to dismiss it, this case remains pending.

<sup>2</sup> NuVeda requested a jury trial in the consolidated cases.

1 stay can be imposed without impacting the rights of the parties. It is expected that Mr. Terry will need  
2 to move the court for leave to amend his complaint to add BCP 7 Holdings and serve the amended  
3 complaint (including by alternative means if granted). NuVeda expects this process to take at least 210  
4 days (excluding the time period for Mr. Terry to file a motion seeking leave).

5  
6 **2. 5-Year Rule would require the dismissal of Shane Terry's claims with prejudice even**  
7 **if the rescission could occur and the order dismissing the claims by BCP 7 Holdings,**  
8 **LLC could be set aside.**

9 Mr. Terry argued that it was up to the American Arbitration Association in Case A-15-728510-  
10 B to provide him relief on the order dismissing his claims against NuVeda. The court agreed and  
11 provided Mr. Terry 90 days to get relief. Mr. Terry sought relief one day after the deadline on an *ex*  
12 *parte* basis (no notice to NuVeda or BCP 7 Holdings), and AAA denied the request because there was  
13 no longer jurisdiction.<sup>3</sup> This court now believes it has jurisdiction to decide the matter. AAA was not  
14 refusing to consider the relief. AAA recognized that the order was final because the time period for  
15 setting it aside had expired.

16 The issue of rescission is separate and distinct from the issue of setting aside the order  
17 dismissing Mr. Terry's claims against NuVeda. Rescission will require a jury trial. If it is assumed  
18 that Mr. Terry can prevail at trial (i.e., the timing of his rescission was reasonable), then he would be  
19 required to pay back the consideration he received from CWNevada through BCP 7 Holdings and Mr.  
20 Padgett (\$757,757.00).<sup>4</sup> See Bergstrom v. Estate of Devoe, 109 Nev. 575 (Nev.1993). After Mr.  
21 Terry returns these funds to CWNevada, Mr. Coppedge has explained that his client can move to set  
22 aside the order dismissing his claims against NuVeda under NRCP 60(b)(4) (void judgments).

23 If the order of dismissal can be set aside under NRCP 60(b)(4), Mr. Terry's claims against  
24 NuVeda are still subject to binding arbitration before the American Arbitration Association in Case  
25 A-15-728510-B (not litigation in Case A-20-817363-B).<sup>5</sup> If rescission occurs and order set aside,

26 <sup>3</sup> The lack of jurisdiction means the decision is final. The court does not have jurisdiction to set aside the order dismissing  
27 Mr. Terry's claims with prejudice.

28 <sup>4</sup> Mr. Terry milked Mr. Padgett for over 12 months and did not seek rescission until June 30, 2020 when Mr. Coppedge  
filed his new complaint.

<sup>5</sup> NuVeda recognizes that Department 11 separately presides over both cases. In any event, after rescission of the deal with  
BCP 7 Holdings and Mr. Padgett (which was not litigated in Case A-20-817363-B as consolidated with the receivership  
action), Mr. Terry must seek to set aside the order as part of Case A-15-728510-B (not in Case A-20-817363-B).

1 however, the case then would be subject to dismissal with prejudice under NRCP 41(e)(2)(B) (5-Year  
2 Rule). See Morgan v. Las Vegas Sands, Inc., 118 Nev. 315 (Nev. 2002) (arbitration does not toll the  
3 5-year rule—dismissal is mandatory). It has been more than five (5) years since Mr. Terry initiated  
4 Case No. A-15-728510-B. Unfortunately, Mr. Terry does not get to file a new case to restart the time.  
5 Mr. Terry will also be subject to the decisions already made by AAA (including only allowing claims  
6 against NuVeda).

7  
8 DATED this 15th day of February, 2021.

9 **LAW OFFICE OF MITCHELL STIPP**

10  
11 /s/ Mitchell Stipp, Esq.

12 MITCHELL STIPP, ESQ.

13 Nevada Bar No. 7531

14 LAW OFFICE OF MITCHELL STIPP

15 1180 N. Town Center Drive, Suite 100

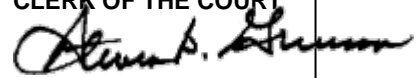
16 Las Vegas, Nevada 89144

17 Telephone: 702.602.1242

18 mstipp@stipplaw.com

19 *Attorneys for NuVeda, LLC*





MITCHELL D. STIPP, ESQ.  
Nevada Bar No. 7531  
**LAW OFFICE OF MITCHELL STIPP**  
1180 N. Town Center Drive, Suite 100  
Las Vegas, Nevada 89144  
Telephone: 702.602.1242  
mstipp@stipplaw.com  
*Attorneys for NuVeda, LLC*

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF CLARK**

NUVEDA, LLC, a Nevada Limited Liability  
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Plaintiffs,

v.

4FRONT ADVISORS LLC, foreign limited  
liability company, DOES I through X and ROE  
ENTITIES, II through XX, inclusive,

Defendants.

AND RELATED MATTERS.

Case: A-17-755479-B

Consolidated Cases:  
A-19-791405-C, A-19-796300-B, and A-20-  
817363-B

Dept. No.: 11

**JURY DEMAND**

NuVeda, LLC, a Nevada limited liability company, by and through counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced demand to have all issues in Cases A-19-791405-C, A-19-796300-B, and A-20-817363-B determined by a jury in accordance with NRCP 39(a)(1).

///

///

///

///

///

**NUVEDA'S APPENDIX 1066**

1 DATED this 15th day of February, 2021.

2  
3 **LAW OFFICE OF MITCHELL STIPP**

4  
5 /s/ Mitchell Stipp, Esq.

6 MITCHELL STIPP, ESQ.

7 Nevada Bar No. 7531

8 LAW OFFICE OF MITCHELL STIPP

9 1180 N. Town Center Drive, Suite 100

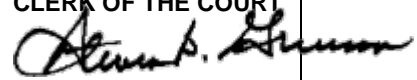
10 Las Vegas, Nevada 89144

11 Telephone: 702.602.1242

12 mstipp@stipplaw.com

13 *Attorneys for NuVeda, LLC*





Michael R. Mushkin, Esq.  
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L. Joe Coppedge, Esq.  
Nevada Bar No. 4954  
MUSHKIN & COPPEDGE  
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michael@mushlaw.com  
jcoppedge@mccnvlaw.com

*Attorneys for Plaintiffs,  
Dotan Y. Melech, Receiver,  
Shane Terry, and Phillip D. Ivey*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NUVEDA, LLC, a Nevada Limited Liability  
Company; and CWNEVADA LLC, a Nevada  
Limited Liability Company,

Plaintiffs,

v.

4FRONT ADVISORS LLC, foreign limited  
liability company, DOES I through X and  
ROE ENTITIES, II through XX, inclusive,

Defendants.

Case No.: A-17-755479-B

Consolidated With: A-19-791405-C,  
A-19-796300-B; A-20-817363-B and  
A-21-827473-W

Dept. No.: XI

**Hearing Date:** February 22, 2021

**Hearing Time:** 9:00 am

AND RELATED MATTERS

**OPPOSITION TO MOTION FOR STAY ON ORDER SHORTENING TIME**

Dotan Y. Melech, as the Court Appointed Receiver of CWNevada, LLC, Shane Terry and Phillip D. Ivey, by and through their attorneys, the law firm of Mushkin & Coppedge, submit the following Opposition to NuVeda, LLC's Motion for Stay on Order Shortening Time ("Opposition"). This Opposition is made based on the following Memorandum of Points and Authorities, together with the papers and pleadings on file herein.



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Shane Terry (“Terry”), together with Dotan Y. Melech, the Court-appointed receiver (the “Receiver”) for CWNevada, LLC (“CWNevada”) and Phillip D. Ivey (“Ivey”, collectively, the Receiver, Terry and Ivey are referred to as “Plaintiffs”) retained the undersigned counsel and firm to pursue claims each possesses against NuVeda, LLC (“NuVeda”), its subsidiaries, licensees, members and/or related entities and Brian C. Padgett (“Padgett”).

- The First Claim for Relief (all Plaintiffs) against all Defendants for Declaratory Relief that (i) the Terry Purchase Agreement is null and void resulting from a fraud in the inducement and for a complete failure of consideration, (ii) the Terry Interest was never transferred to BCP 7 or any other entity, (iii) Plaintiff Terry is the sole and only owner of the Terry Interest;
- The Fourth Claim for Relief (Terry only) for Rescission of the Terry Purchase Agreement for Fraud in the Inducement and/or Failure of Consideration against Defendants BCP 7 and Padgett only;
- The Fifth Claim for Relief (Terry only) in the alternative for Breach of Contract against Defendants BCP 7 and Padgett only;
- The Sixth Claim for Relief (Terry only) in the alternative for Breach of the Covenant of Good Faith and Fair Dealing against Defendants BCP 7 and Padgett only;
- The Ninth Claim for Relief (all Plaintiffs) for Unjust Enrichment against Defendants NuVeda, Bady, Mohajer and Kennedy;
- The Tenth Claim for Relief (all Plaintiffs) for an accounting against Defendants NuVeda, Bady, Mohajer and Kennedy;
- The Eleventh Claim for Relief (all Plaintiffs) for Violation of NRS 225.084 against Defendants NuVeda, Bady, Mohajer and Kennedy;

- The Thirteenth Claim for Relief (all Plaintiffs) for Injunctive Relief against all Defendants; and
- The Fourteenth Claim for Relief (all Plaintiffs) for the Appointment of a Receiver against all Defendants.

After NuVeda filed multiple motions to dismiss, Plaintiffs filed a motion to consolidate several related actions with the Receivership Action. This Court granted the motion to consolidate following a hearing on August 18, 2020. NuVeda's motion to dismiss concerning the Receiver's and Terry's claims came before the Receivership Court for a hearing on August 31, 2020. With respect to Terry's claims, the Court stayed the motion "for a period of ninety (90) days from the date of the hearing for Mr. Terry to request any relief from the arbitrator, Ms. Nikki Baker, of the American Arbitration Association." See Order Denying Motion to Dismiss or for Summary Judgment, attached hereto as Exhibit 2. Terry submitted a Motion to Set Aside Dismissal on Monday, November 30, 2020 in the matter proceeding before the American Arbitration Association ("AAA"). However, AAA responded that the matter was "closed on March 20, 2019 and the Association no longer has jurisdiction regarding this matter." See electronic mail correspondence with AAA, Ex. 8.

NuVeda filed a Motion to Enter Order on Shane Terry's Claims and Related Relief on December 9, 2020. In NuVeda's Reply to Opposition to Motion to Enter Order on Shane Terry's Claims and Related Relief, NuVeda clarified the relief it was requesting as follows, "[t]he original motion filed on July 29, 2020 was clear about the relief requested: NuVeda sought dismissal and/or summary judgment on all claims asserted by Mr. Terry in the complaint against NuVeda and its affiliates... NuVeda has not asked the court to dismiss or grant summary judgment on claims asserted by Mr. Terry against Padgett or BCP7." See NuVeda's Reply Brief filed herein on January 4, 2021 at pp. 2-3. Notwithstanding the fact that it is not part of NuVeda's requested relief, NuVeda seems intent on continually arguing the merits of Terry's rescission claim against Padgett and BCP7.

## **II. Statement of Facts**

1. On or about July 9, 2014, Terry entered into an Operating Agreement for NuVeda,

1 LLC (the “NuVeda Operating Agreement”) with Pejman Bady (“Bady”), Pouya Mohajer  
2 (“Mohajer”) and Jennifer Goldstein (“Goldstein”) to apply for and operate marijuana  
3 dispensaries, cultivation and processing facilities for medical marijuana pursuant to licenses  
4 obtained from certain governmental divisions. Terry Declaration, ¶ 3; NuVeda Operating  
5 Agreement, Exhibit 3.

6 2. The NuVeda Operating Agreement was also signed by Joseph Kennedy, John  
7 Penders and Ryan Winmill. Terry Declaration, ¶ 4.

8 3. Since NuVeda’s formation, Terry has been a manager, voting member and at  
9 times, NuVeda’s Chief Executive Officer and Chief Operations Officer. Terry Declaration, ¶ 7.

10 4. Initially, Terry owned 21.5% of NuVeda and its subsidiaries, Clark NMSD, Clark  
11 Natural, and Nye Natural. Terry’s ownership interest was later increased to 22.88%. Terry  
12 Declaration, ¶ 8.

### 13 **The District Court Action**

14 5. Bady, Mohajer and Kennedy, individually and at times through NuVeda or other  
15 entities, have engaged in additional fraudulent acts of self-dealing and other acts of misconduct  
16 that constituted a breach of their legal duties. Terry Declaration, ¶ 12.

17 6. Over concerns that any attempted and unauthorized transfer of interest could  
18 jeopardize NuVeda’s licenses, on December 3, 2015, Goldstein and Terry filed a complaint, as  
19 individuals and on behalf of NuVeda in the District Court for Clark County, Nevada against Bady  
20 and Mohajer as Case Number A-15-728510-B (the “District Court Action”) and  
21 contemporaneously filed a Motion for a Preliminary Injunction requesting that the Court enjoin  
22 any transfer of NuVeda’s membership interests. Terry Declaration, ¶ 42.

23 7. The District Court Action sought, among other things, the issuance of a  
24 preliminary and permanent injunction maintaining the status quo pending a final resolution of the  
25 parties’ disputes in an arbitral proceeding. Terry Declaration, ¶ 43.

26 8. Although the District Court did not issue a preliminary injunction in the District  
27 Court Action, on January 13, 2016, the Court ordered (the “January 13, 2016 Order”), among  
28 other things, “IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pending the

1 completion of the contemplated arbitration, the parties are to take no further action to expulse  
2 each other on the factual bases presented to the Court during the evidentiary hearing.” Terry  
3 Declaration, ¶ 44.

4 9. Goldstein and Terry commenced a private arbitration proceeding with the  
5 American Arbitration Association against NuVeda, Bady and Mohajer captioned as *Terry, et al.*  
6 *v. NuVeda LLC, et al.*, AAA Case No. 01-15-005-8574 (the “Arbitration”). Terry Declaration, ¶  
7 45.

8 **Purchase and Sale Agreement for Terry’s Ownership Interest in NuVeda and**  
9 **NuVeda-Managed Licenses**

10 10. During the pendency of the District Court Action and Arbitration, on or about  
11 April 30, 2018, Terry entered into a “Purchase and Sale Agreement for Terry’s Ownership Interest  
12 in NuVeda and NuVeda-Managed Licenses” (the “Terry Purchase Agreement”) with BCP 7 as  
13 the Buyer. Terry Declaration, ¶ 50; Terry Purchase Agreement, Ex. 4.

14 11. Padgett personally guaranteed all payments and other performance obligations due  
15 under the Terry Purchase Agreement. Terry Declaration, ¶ 51.

16 12. The Terry Purchase Agreement provides, among other things, that Terry agreed to  
17 sell the Terry Interest and BCP 7 agreed to purchase the Terry Interest for specified consideration  
18 and on specific terms. Terry Declaration, ¶ 52.

19 13. The total purchase price for BCP 7 to acquire the Terry Interest was \$1.75 million  
20 (the “Purchase Price”), which was “substantially reduced” from fair market value. Terry  
21 Declaration, ¶ 53.

22 14. Terry was induced to sign the Purchase Agreement in reliance upon Padgett’s  
23 representations that the Purchase Price would be paid. Terry Declaration, ¶ 54.

24 15. The Purchase Price was payable as follows: (i) an initial payment of \$500,000.00  
25 in good and payable U.S. funds to be paid to Terry on or before June 15, 2018 (the “Initial  
26 Payment”), and (ii) monthly payments of the \$1.25 million balance due on or before June 15,  
27 2028 with payments due monthly until paid in full (the “Monthly Payments”). Terry Declaration,  
28 ¶ 55

1           16.     The Monthly Payments were to commence May 1, 2018, and the first payment  
2 was to have been made no later than May 2, 2018. Terry Declaration, ¶ 57.

3           17.     The Terry Purchase Agreement further provided that there shall be acceleration of  
4 the outstanding balance and any unpaid accrued interest thereon upon (1) the sale or transfer of  
5 the Terry Interest to a vehicle not owned by BCP 7, or any beneficial rights thereunder, from BCP  
6 7 to a third party (other than CWNV, LLC); or (2) a default of a payment obligations, which shall  
7 result from any failure to timely pay the Initial Down Payment or any Monthly Payments on the  
8 Balance following notice of failure to Padgett and no cure within 10 business days thereof. Terry  
9 Declaration, ¶ 58.

10          18.     Upon execution of the Terry Purchase Agreement and upon receipt of the first  
11 Monthly Payment, Terry agreed, among other things, to assign any and all claims and right in the  
12 Arbitration and District Court Action to BCP 7. Terry Declaration, ¶ 59.

13          19.     BCP 7 made a partial payment toward the Initial Payment in the sum of  
14 \$250,000.00 on or about August 1, 2018. Terry Declaration, ¶ 60.

15          20.     In addition to the partial Initial Payment, BCP 7 made partial interest and extension  
16 payments. Terry Declaration, ¶ 61.

17          21.     However, BCP 7 failed to pay the Initial Payment or Monthly Payments in full.  
18 Terry Declaration, ¶ 62.

19          22.     As a result of BCP 7's failure to pay the Initial Payment or any of the Monthly  
20 Payments in full, Terry provided notice of and right to cure this failure to BCP 7 and Padgett.  
21 Terry Declaration, ¶ 63.

22          23.     BCP 7 and Padgett failed to cure the outstanding balance owed following notice  
23 of such failure and a right to cure within 10 business days. Terry Declaration, ¶ 64.

24          24.     As a result of BCP 7's and Padgett's failure to pay the Initial Payment and Monthly  
25 Payments in full, including the first Monthly Payment, there has not been a valid transfer of the  
26 Terry Interest to BCP 7. Terry Declaration, ¶ 65.

27          25.     Notwithstanding the fact that the Terry Interest was never properly transferred to  
28 BCP 7, in an email dated June 5, 2018 from Padgett to the Arbitrator in the Arbitration, Padgett

1 purported to dismiss “all claims of myself, CWNevada, BCP Holdings 7, LLC and Shane Terry  
2 (all right, title, and interest against Bady, Mohajer, and NuVeda and its subsidiaries (Clark  
3 NMSD, Clark Natural Medicinal Solutions, and Nye Natural Medicinal Solutions) with  
4 prejudice.” Terry Declaration, ¶ 66; Electronic mail from Padgett to Nikki Baker, Ex. 5.

5       26. Ms. Baker then proceeded to dismiss the arbitration as to BCP Holding 7, LLC.  
6 See electronic mail dated October 9, 2018, Ex. 6. AAA then confirmed that BCP 7, LLC was  
7 dismissed as a party. See letter from AAA dated October 9, 2018, Ex. 7.

8       27. Not only did CWNevada never make or assert any claims related to the Arbitration,  
9 but the Padgett email also clearly evidences a conspiracy between Padgett, NuVeda, Bady and  
10 Mohajer to defraud Terry by having BCP 7 purportedly purchase the Terry Interest, and then  
11 immediately attempt to dismiss the claims in the Arbitration without BCP 7 and Padgett paying  
12 the agreed consideration. Terry Declaration, ¶ 67.

### 13 **III. Argument**

#### 14 **A. An evidentiary hearing does not appear to be necessary at this stage.**

15 In its recent reply brief, NuVeda clarified the relief it requested in the original motion filed  
16 on July 29, 2020 -- NuVeda only sought dismissal and/or summary judgment on all claims  
17 asserted by Mr. Terry in the complaint against NuVeda and its affiliates. NuVeda has not asked  
18 this court to dismiss or grant summary judgment on claims asserted by Mr. Terry against Padgett  
19 and/ or BCP7. Terry’s claim for rescission claim is only against BCP 7 and Padgett. In its request  
20 for a stay of an evidentiary hearing, NuVeda further admits that issue of rescission against BCP  
21 7 and Padgett is an issue of fact. It appears from NuVeda’s own admission that the issue of  
22 rescission should proceed during the normal course of this case. Terry has more than established  
23 genuine issues of material fact concerning the rescission of the Terry Purchase Agreement, setting  
24 aside the dismissal in the Arbitration and his entitlement to the Terry Interest. Based on these  
25 issues of fact, it does not appear that an evidentiary hearing, at least at this time, is appropriate.  
26 Accordingly, no stay should be entered.

#### 27 **B. The NuVeda Operating Agreement**

28 Notwithstanding the fact that NuVeda’s original motion did not seek dismissal and/or

1 summary judgment on the rescission claim against BCP 7 and Padgett, NuVeda continues in its  
2 defense of these claims on behalf of BCP 7 and Padgett. In so doing, it claims to be perplexed  
3 how this Court can even consider this matter. The authority comes from the NuVeda Operating  
4 Agreement, which provides in part:

5 **11.3 Arbitration** Arbitration proceedings shall be conducted under the  
6 Rules of Commercial Arbitration of the AAA (the “Rules”).

7 To the extent any provisions of the Rules conflict with any provision of this  
8 Section, the provisions of this section shall control.

9 The arbitrator shall have all powers of law and equity, which it can lawfully  
10 assume, necessary to resolve the issues in dispute including, without  
11 limiting the generality of the foregoing, making awards of compensatory  
12 damages, issuing both prohibitory and mandatory orders in the nature of  
13 injunctions and compelling the production of documents and witnesses for  
14 presentation at the arbitration hearings on the merits of the case...The  
15 statutory, case law and common law of the State of Nevada shall govern in  
16 interpreting their respective rights, obligations and liabilities arising out of  
17 or related to the transactions provided for or contemplated by this  
18 Agreement, including without limitation, the validity, construction and  
19 performance of all or any portion of this Agreement, and the applicable  
20 remedy for any liability established thereunder, and the amount or method  
21 of computation of damages which may be awarded, but such governing law  
22 shall not include the law pertaining to conflicts or choice of laws of Nevada;  
23 provided however, that should the parties refer a dispute arising out of or in  
24 connection with an ancillary agreement or an agreement between some or  
25 all of the Members which specifically references this Article, then the  
26 statutory, case law and common law of the State whose law governs such  
27 agreement (except the law pertaining to conflicts or choice of law) shall  
28 govern in interpreting the respective rights, obligations and liabilities of the  
parties arising out of or related to the transactions provided for or  
contemplated by such agreement, including without limitation, the validity,  
construction and performance of all or any portion of such agreement, and  
the applicable remedy for any liability established thereunder, and the  
amount or method of computation of damages which may be awarded.

24 **Any action or proceeding subsequent to any award rendered by the**  
25 **arbitrator in the Member Dispute, including but not limited to, any**  
26 **action to confirm, vacate, modify, challenge or enforce the arbitrator’s**  
27 **decision or award shall be filed in a court of competent jurisdiction in**  
28 **the same county where the arbitration of the Member dispute was**  
**conducted, and Nevada law shall apply in any such subsequent action**  
**or proceeding.** (emphasis added).

1 See NuVeda Operating Agreement, Ex. 3, pp. 18-20.

2 As set forth above, AAA no longer has jurisdiction over the Arbitration and that matter  
3 has been closed. Moreover, the NuVeda Operating Agreement specifically provides that any post  
4 Arbitration proceedings be filed with this Court. Thus, this Court is the proper place to bring  
5 Terry's claim for rescission, setting aside the dismissal and eventually, for declaratory relief  
6 regarding the Terry Interest.

7 **C. The Terry Purchase Agreement should be rescinded for fraud in the**  
8 **inducement and failure of consideration.**

9 Substitute service upon Mr. Padgett and BCP7 has been completed, but neither Mr.  
10 Padgett nor BCP 7 have responded to the complaint. To the extent that NuVeda continues to  
11 defend claims asserted only against Mr. Padgett, the Court is respectfully reminded that  
12 "[r]escission is an equitable remedy which totally abrogates a contract, and which seeks to place  
13 the parties in the position they occupied prior to executing the contract." *Bergstrom v. Estate of*  
14 *DeVoe*, 109 Nev. 575, 577, 854 P.2d 860, 861 (1993). A party to a contract may seek rescission  
15 of that contract based upon fraud in the inducement or a failure of consideration. *Awada v. Shuffle*  
16 *Master, Inc.* 123 Nev. 613, 621, 173 P.2d 707, 713 (2007); *Sprouse v. Wentz*, 105 Nev. 597, 601,  
17 781 P.2d 1136, \_\_\_\_ (1989). To establish fraud in the inducement of a contract, a party must prove  
18 that the other party made a false representation that was material to the transaction. *Awada*, 123  
19 Nev. at 621. To establish a failure of consideration, a party must demonstrate he failed to receive  
20 his bargained for consideration. *Sprouse*, 105 Nev. at 601.

21 When a contract has been partially performed, and one of the parties defaults, the other  
22 has a choice of remedies. He may rescind or affirm the contract, *but he cannot do both*. If he  
23 rescinds, he must return whatever of value he received under it and he may recover back whatever  
24 he has paid. He cannot at the same time affirm the contract by retaining its benefits and rescind it  
25 by repudiating its burdens. *Bergstrom*, 109 Nev. at 577, citing 5 Arthur Linton Corbin, CORBIN  
26 on Contracts § 1114 (1964) (emphasis in original). "Further, there can be no partial rescission; a  
27 contract is either valid or void *in toto*." *Bergstrom*, 109 Nev. at 577. quoting, *Holden v. Dubois*,  
28 665 P.2d 1175 (Okla. 1983). "Because a rescinded contract is void ab initio, following a lawful



1 rescission the ‘injured’ party is precluded from recovering damages for breach just as though the  
2 contract had never been entered into by the parties.” *Bergstrom, 109 Nev. at 577-78*. Upon  
3 rescission, the parties should be returned as closely as possible to their respective positions prior  
4 to entering into the contract. *Bergstrom, 109 Nev. at 578*.

5 The facts are not in dispute that Padgett induced Terry to sign the Terry Purchase  
6 Agreement and after submitting the dismissal in the Arbitration, Padgett failed to pay the agreed  
7 consideration. In these circumstances, where Terry was fraudulently induced to sign the Terry  
8 Purchase Agreement and where he did not receive his bargained for consideration, rescission is  
9 proper. At the very least, there is a legitimate issue of fact that prevents dismissal and/or summary  
10 judgment regarding these claims.

11 **D. The Dismissal entered in the Arbitration should be set aside and Terry**  
12 **allowed to proceed with his claims for relief.**

13 It follows that if the Terry Purchase Agreement is void, then the dismissal entered in the  
14 Arbitration, based solely on the electronic mail proffered by Mr. Padgett, is equally void. Upon  
15 rescission, the dismissal should be set aside, the Terry Interest should be returned to Mr. Terry  
16 and he should be allowed to proceed with his claims in this action. Because the Arbitration is  
17 closed and AAA no longer has jurisdiction, it is appropriate that once Mr. Padgett and BCP 7  
18 appear, that this Court hear the issue of setting aside the dismissal.

19 NRCP 60(b) provides in part:

20 (b) *Grounds for Relief from a Final Judgment, Order, or Proceeding.* On  
21 motion and just terms, the court may relieve a party or its legal  
22 representative from a final judgment, order, or proceeding for the  
23 following reasons:

23 (1) mistake, inadvertence, surprise, or excusable neglect;  
24 (2) newly discovered evidence that, with reasonable diligence, could  
25 not have been discovered in time to move for a new trial under Rule  
26 59(b);

26 (3) fraud (whether previously called intrinsic or extrinsic),  
27 misrepresentation, or misconduct by an opposing party;

27 (4) the judgment is void;

28 (5) the judgment has been satisfied, released, or discharged; it is  
based on an earlier judgment that has been reversed or vacated; or  
applying it prospectively is no longer equitable; or

1 (6) any other reason that justifies relief.

2 Rule 60(b)(4) allows a court to set aside a judgment, in this case the AAA dismissal, when  
3 it is void. *LN Mgmt. LLC Services 440 Sarment v. Wells Fargo Bank, N.A.*, 2018 Nev. App.  
4 Unpub. LEXIS 768 (Nev. App. 2018). This rule, which is a remedial in nature, is to be construed  
5 liberally to relieve the harshness of rigid form by applying the flexibility of discretion. *La-Tex*  
6 *Partnership v. Deters*, 111 Nev. 471, 893 P.2d 361 (1995). Importantly, as it concerns NuVeda's  
7 motion, the six (6) months timing requirement under NRCP 60(c)(1) does not apply to void  
8 judgments. Therefore, under the circumstances of this case, where the dismissal in the Arbitration  
9 was submitted as a result of a void agreement, such dismissal must be set aside, and Terry allowed  
10 to proceed with his claims in this action.

11 NuVeda seeks a further delay by asserting that **BCP Holdings 7, LLC**<sup>1</sup> should be joined  
12 as a necessary party to this case. Again, it is unknown why NuVeda consistently appears to be  
13 defending claims and making arguments on behalf of Mr. Padgett or BCP 7. If NuVeda intends  
14 to defend Mr. Padgett and/or BCP 7, perhaps it should formally appear on their behalf. In the  
15 meantime, at least at this point, **BCP Holding 7, LLC** does not appear to be a necessary party.  
16 Plaintiffs acknowledge that discovery may change this position.

17 As set forth above, on or about April 30, 2018, Mr. Terry entered into the "Terry Purchase  
18 Agreement" with **BCP 7, LLC**<sup>2</sup> as the Buyer. The Terry Purchase Agreement was personally  
19 guaranteed by Mr. Padgett. Following the entry of the Terry Purchase Agreement, in an email  
20 dated June 5, 2018 from Mr. Padgett to arbitrator Nikki Baker, Mr. Padgett purported to dismiss  
21 "all claims of myself, CWNevada, **BCP Holdings 7, LLC** and Shane Terry (all right, title, and  
22 interest against Bady, Mohajer, and NuVeda and its subsidiaries (Clark NMSD, Clark Natural  
23 Medicinal Solutions, and Nye Natural Medicinal Solutions) with prejudice." Ms. Baker submitted  
24 an e-mail dated October 9, 2018 that "**BCP Holding 7, LLC** is DISMISSED from this  
25 arbitration." AAA then wrote only "that **BCP 7, LLC** has been dismissed as a party" in the  
26 Arbitration.

27  
28 <sup>1</sup> The correct name of the entity is BCP Holding 7, LLC as reflected in the records of the Nevada Secretary of State.

<sup>2</sup> BCP 7, LLC is not listed as a limited liability company in the records of the Nevada Secretary of State.

1 Plaintiffs acknowledge the inconsistent references to BCP entities. However, the named  
2 entity that entered the Terry Purchase Agreement is **BCP 7, LLC**, which despite reference in the  
3 Terry Purchase Agreement to being a Nevada limited liability company, it does not appear to be  
4 an actual Nevada limited liability company. Should it be revealed during discovery that somehow  
5 **BCP Holding 7, LLC** is the proper party to the Terry Purchase Agreement, Plaintiffs will seek  
6 to substitute at that time.

7 NuVeda also makes a passing argument that it has been more than five (5) years since Mr.  
8 Terry filed Case No. A-15-728510-B. The instant matter, filed on June 30, 2020 is not that case.  
9 NRCP 41(e)(2)(B) requires dismissal “if a plaintiff fails to bring the action to trial within 5 years  
10 after the action was filed.” We already know that the Arbitration is closed, and AAA no longer  
11 has jurisdiction. Thus, any subsequent proceedings are properly before this Court. NuVeda, while  
12 defending the claims asserted against BCP 7 and Mr. Padgett, concedes that the issue of rescission  
13 must be determined by the trier of fact. Clearly, the five (5) year rule has not run on this case.

#### 14 **IV. Conclusion**

15 The instant motion seeks a stay of an evidentiary hearing that has yet to be scheduled and  
16 references a writ that has yet to be filed. NuVeda, in its continuing defense of the claims asserted  
17 against BCP 7 and Mr. Padgett, appears to concede that the issue of rescission is a question of  
18 fact, and that an evidentiary hearing, at least at this early stage, is unnecessary. Given these  
19 concessions, no stay is appropriate. To the extent NuVeda’s motion contains unrelated relief, it  
20 should also be denied.

21 DATED this 18<sup>th</sup> day of February, 2021.

22 MUSHKIN & COPPEDGE

23  
24 /s/L. Joe Coppedge  
25 MICHAEL R. MUSHKIN, ESQ.  
26 Nevada State Bar No. 2421  
27 L. JOE COPPEDGE, ESQ.  
28 Nevada Bar No. 4954  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **Opposition to Motion for Stay on Order Shortening Time** was submitted electronically for filing and/or service with the Eighth Judicial District Court on this 18<sup>th</sup> day of February, 2021. Electronic service of the foregoing document shall be upon all parties listed on the Odyssey eFileNV service contact list.

/s/Karen L. Foley  
An Employee of  
MUSHKIN & COPPEDGE

# EXHIBIT “1”

NUVEDA'S APPENDIX 1082

1 Michael R. Mushkin, Esq.  
Nevada Bar No. 2421  
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Nevada Bar No. 4954  
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8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 NUVEDA, LLC, a Nevada Limited Liability  
11 Company; and CWNEVADA LLC, a Nevada  
Limited Liability Company,

12 Plaintiffs,

13 v.  
14

15 4FRONT ADVISORS LLC, foreign limited  
liability company, DOES I through X and  
16 ROE ENTITIES, II through XX, inclusive,

17 Defendants.  
18

Case No.: A-17-755479-B

Consolidated With: A-19-791405-C,  
A-19-796300-B, and A-20-817363-B

Dept. No.: 11

19 **DECLARATION OF SHANE M. TERRY IN SUPPORT OF OPPOSITION TO**  
20 **MOTION TO ENTER ORDER ON SHANE TERRY'S CLAIMS**  
**AND RELATED RELIEF**

21 SHANE M. TERRY, under penalty of perjury, states as follows:

22 1. I have personal knowledge of the facts stated herein, except for those facts stated  
23 to be based upon information and belief. If called to do so, I would truthfully and competently  
24 testify to the facts stated herein, except those facts stated to be based upon information and belief.

25 2. I make this Declaration in support of the Opposition to Motion to Enter Order on  
26 Shane Terry's Claims and Related Relief (the "Opposition").

27 3. On or about July 9, 2014, I entered into an Operating Agreement for NuVeda, LLC  
28 (the "NuVeda Operating Agreement") with Pejman Bady ("Bady"), Pouya Mohajer ("Mohajer")

1 and Jennifer Goldstein (“Goldstein”) to apply for and operate marijuana dispensaries, cultivation  
2 and processing facilities for medical marijuana pursuant to licenses obtained from certain  
3 governmental divisions. A true and correct copy of the NuVeda Operating Agreement is attached  
4 to the Opposition as Exhibit 3.

5 4. The NuVeda Operating Agreement was also signed by Joseph Kennedy, John  
6 Penders and Ryan Winmill.

7 5. Since July 2014, I understand and believe that NuVeda has been governed by the  
8 NuVeda Operating Agreement.

9 6. The NuVeda Operating Agreement is governed by, construed and interpreted in  
10 accordance with Nevada law.

11 7. Since NuVeda’s formation, I have been a manager, voting member and at times,  
12 NuVeda’s Chief Executive Officer and Chief Operations Officer.

13 8. Initially, I owned 21.5% of NuVeda and its subsidiaries, Clark NMSD, Clark  
14 Natural, and Nye Natural. My ownership interest was later increased to 22.88%.

15 9. During the month of December 2015, NuVeda’s annual license renewal paperwork  
16 was due to the State of Nevada.

17 10. During this time, I was NuVeda’s designated and registered point of contact with  
18 the State of Nevada for all regulatory correspondence.

19 11. After I submitted the renewal application representing NuVeda’s then current  
20 ownership structure, Bady falsely submitted documentation to the State of Nevada that removed  
21 me as NuVeda’s State of Nevada designated point of contact and refused to provide me with  
22 access to any records.

### 23 **Acts of Self-Dealing and other Misconduct**

24 12. Bady, Mohajer and Kennedy, individually and at times through NuVeda or other  
25 entities, engaged in fraudulent acts of self-dealing and other acts of misconduct that constituted a  
26 breach of their legal duties.

27 13. For example, I and other members of NuVeda learned that Bady misrepresented  
28 the source of funds he originally contributed to NuVeda in exchange for equity.

1           14. Nevada law and the state regulatory agencies required in depth financial  
2 disclosures.

3           15. While Bady averred that his funding came from the sale of a business, upon  
4 information and belief, Bady, in concert with Mohajer, in fact funded his contributions from  
5 money he acquired from his friend, Majid Golpa (“Golpa”).

6           16. Upon information and belief, Bady and Mohajer then promised that in exchange  
7 for the funds, Golpa would receive a 5.5% membership interest in NuVeda, a pledge that was  
8 prohibited by Nevada law.

9           17. Mohsen Bahri (“Bahri”) and Bady also negotiated the terms of a \$500,000  
10 promissory note.

11           18. Bady then made an undisclosed deal with Bahri to provide Bady with a \$500,000  
12 investment in which Bahri would receive a 4% interest in NuVeda.

13           19. This was contrary to NuVeda’s understanding of Bady’s financial contribution.

14           20. Following discovery of the true nature of Bady and Mohajer’s wrongful side deals  
15 with third parties, a dispute arose between Goldstein and I on the one hand and Bady and Mohajer  
16 on the other hand regarding their clandestine and wrongful side deals, pursuant to which Bady  
17 and Mohajer attempted to allocate ownership interests to their friends, and the true source of  
18 Bady’s capital contribution, Golpa and Bahri.

19           21. Bady and Mohajer were not authorized to pledge to Golpa or Bahri a 5.5% or 4%  
20 interest in NuVeda, yet Bady demanded that the members, including Goldstein and I, agree to  
21 ratify his apparent promises to provide such interest to Golpa and Bahri.

22           22. Upon information and belief, the transfer of the interests, as proposed by Bady,  
23 would jeopardize NuVeda’s licenses.

24           23. On or about November 1, 2015, a monthly payment was due to Bahri on the  
25 \$500,000 promissory note.

26           24. Bady, a long-time personal friend with Bahri, instructed me to not pay the monthly  
27 payment and stated he “would take care of it.”

28           25. On November 11, 2015, Bahri sent demand for the November 1, 2015 payment.



1           26.     Bady admitted he did not make the monthly payment, but that he and Bahri had  
2 agreed to extend the monthly payment to November 15, 2015.

3           27.     Bady's non-payment of the Bahri loan and subsequent negotiations were done  
4 without my knowledge and jeopardized NuVeda's operations.

5           28.     Bahri subsequently presented a lawsuit against Goldstein and I, individually,  
6 falsely alleging that we were liable for his investment through Bady.

7           29.     Bady and Bahri then acted in concert to allege that Goldstein and I were liable for  
8 the \$500,000 promissory note, as neither NuVeda nor Bady, who single-handedly communicated  
9 with Bahri and who negotiated all terms of the clandestine deal with his friend Bahri, were named  
10 as defendants.

11          30.     Bady and Bahri acted in concert to paralyze Goldstein and I from obtaining the  
12 necessary funding by threatening to file frivolous and factually unfounded lawsuits against  
13 Goldstein and I for Bady's strategic gain.

14          31.     Additionally, when Kennedy (an IRS enrolled agent) was preparing NuVeda's K-  
15 1s, Bady asked me to allocate his tax losses to Bady to offset Bady's income from an unrelated  
16 medical business.

17          32.     I refused and explained to Bady that loss-shifting was wrongful and potentially  
18 constituted fraud, but Bady ignored my concern and collaborated with Mohajer to shift Mohajer's  
19 losses to him instead.

20          33.     Bady and Mohajer then had nominal-member Kennedy amend the K-1s to reflect  
21 the loss-shifting to Bady in violation of the terms of the NuVeda Operating Agreement without  
22 notifying any other NuVeda members.

23          34.     Goldstein and I made demands for the original K-1s and other financial documents  
24 for NuVeda, but Bady and Kennedy denied the records request in violation of my right to review  
25 the business records of NuVeda pursuant to Section 7.2 of the NuVeda Operating Agreement.

26          35.     I also discovered that Bady engaged in rampant self-dealing on multiple occasions.

27          36.     An entity known as 2 Prime, LLC ("2 Prime") entered into a financing agreement  
28 with NuVeda.

1           37.     Bady exclusively negotiated the financing agreement with favorable terms to 2  
2 Prime.

3           38.     Thereafter, it was discovered after the fact that Bady had an undisclosed 50%  
4 interest in 2 Prime, which was also co-owned by Golpa.

5           39.     On or about November 20, 2015 under the guidance of NuVeda's corporate  
6 counsel, who was hired directly by Bady, Bady's and Mohajer's NuVeda interests were  
7 terminated pursuant to Section 6.2 of the Operating Agreement.

8           40.     However, Bady and Mohajer disregarded the expulsion and claimed they remained  
9 voting members, managers, and officers with authority to act on behalf of NuVeda.

10          41.     Between November 20th, 2015 and December 3, 2015, Bady and Mohajer, acting  
11 as purported representatives of NuVeda, attempted to sell NuVeda's interests in its highly  
12 valuable and privileged licenses to multiple parties, including CWNevada.

13 **The District Court Action**

14          42.     Over concerns that any attempted and unauthorized transfer of interest could  
15 jeopardize NuVeda's licenses, on December 3, 2015, Goldstein and I filed a complaint, as  
16 individuals and on behalf of NuVeda in the District Court for Clark County, Nevada against Bady  
17 and Mohajer as Case Number A-15-728510-B (the "District Court Action") and  
18 contemporaneously filed a Motion for a Preliminary Injunction requesting that the Court enjoin  
19 any transfer of NuVeda's membership interests.

20          43.     The District Court Action sought, among other things, the issuance of a  
21 preliminary and permanent injunction maintaining the status quo pending a final resolution of the  
22 parties' disputes in an arbitration.

23          44.     Although the District Court did not issue a preliminary injunction in the District  
24 Court Action, on January 13, 2016, the Court ordered (the "January 13, 2016 Order"), among  
25 other things, "IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pending the  
26 completion of the contemplated arbitration, the parties are to take no further action to expulse  
27 each other on the factual bases presented to the Court during the evidentiary hearing."

28          45.     Goldstein and I commenced a private arbitration proceeding with the American

1 Arbitration Association against NuVeda, Bady and Mohajer captioned as *Terry, et al. v. NuVeda*  
2 *LLC, et al.*, AAA Case No. 01-15-005-8574 (the “Arbitration”).

3 46. Notwithstanding the express language of the January 13, 2016 Order, in a March  
4 10, 2016 meeting I attended, Bady called for a vote to expel me from NuVeda.

5 47. Bady, Mohajer and Kennedy voted in favor of the motion to expel me in violation  
6 of the January 13, 2016 Order.

7 48. The purported expulsion was further documented in a meeting on or about  
8 September 19, 2017, where the NuVeda Meeting Minutes indicate my interest in NuVeda was  
9 distributed to Bady and Mohajer in yet another act of blatant self-dealing.

10 49. NuVeda, Bady and Mohajer transferred my individual license interest in NuVeda  
11 directly to Bady and Mohajer without my consent.

12 **Purchase and Sale Agreement for Terry’s Ownership Interest in NuVeda and NuVeda-**  
13 **Managed Licenses**

14 50. During the pendency of the District Court Action and Arbitration, on or about  
15 April 30, 2018, I entered into a “Purchase and Sale Agreement for Terry’s Ownership Interest in  
16 NuVeda and NuVeda-Managed Licenses” (the “Terry Purchase Agreement”) with BCP7 as the  
17 Buyer. A true and correct copy of the Terry Purchase Agreement to the Opposition as Exhibit 4.

18 51. Padgett personally guaranteed all payments and other performance obligations due  
19 under the Terry Purchase Agreement.

20 52. The Terry Purchase Agreement provides, among other things, that I agreed to sell  
21 the Terry Interest and BCP 7 agreed to purchase the Terry Interest for specified consideration and  
22 on specific terms.

23 53. The total purchase price for BCP 7 to acquire the Terry Interest was \$1.75 million  
24 (the “Purchase Price”), which was “substantially reduced” from fair market value.

25 54. I was induced to sign the Terry Purchase Agreement in reliance upon Padgett’s  
26 representations that the Purchase Price would be paid.

27 55. The Purchase Price was payable as follows: (i) an initial payment of \$500,000.00  
28 in good and payable U.S. funds to be paid to Terry on or before June 15, 2018 (the “Initial

1 Payment”), and (ii) monthly payments of the \$1.25 million balance due on or before June 15,  
2 2028 with payments due monthly until paid in full (the “Monthly Payments”).

3 56. The Monthly Payments were to be made on or before the first day of the month in  
4 an amount not less than the interest accrued on the outstanding balance at an interest rate of 18%.

5 57. The Monthly Payments were to commence May 1, 2018, and the first payment  
6 was to have been made no later than May 2, 2018.

7 58. The Terry Purchase Agreement further provided that there shall be acceleration of  
8 the outstanding balance and any unpaid accrued interest thereon upon (1) the sale or transfer of  
9 the Terry Interest to a vehicle not owned by BCP 7, or any beneficial rights thereunder, from BCP  
10 7 to a third party (other than CWNV, LLC); or (2) a default of a payment obligations, which shall  
11 result from any failure to timely pay the Initial Down Payment or any Monthly Payments on the  
12 Balance following notice of failure to Padgett and no cure within 10 business days thereof.

13 59. Upon execution of the Terry Purchase Agreement and upon receipt of the first  
14 Monthly Payment, I agreed, among other things, to assign any and all claims and right in the  
15 Arbitration and District Court Action to BCP 7.

16 60. BCP 7 made a partial payment toward the Initial Payment in the sum of  
17 \$250,000.00 on or about August 1, 2018.

18 61. In addition to the partial Initial Payment, BCP 7 made partial interest and extension  
19 payments.

20 62. However, BCP 7 failed to pay the Initial Payment or Monthly Payments in full.

21 63. As a result of BCP 7’s failure to pay the Initial Payment or any of the Monthly  
22 Payments in full, I provided notice of and right to cure this failure to BCP 7 and Padgett.

23 64. BCP 7 and Padgett failed to cure the outstanding balance owed following notice  
24 of such failure and a right to cure within 10 business days.

25 65. As a result of BCP 7’s and Padgett’s failure to pay the Initial Payment and Monthly  
26 Payments in full, including the first Monthly Payment, there has not been a valid transfer of the  
27 Terry Interest to BCP 7.

28 66. Notwithstanding the fact that the Terry Interest was never properly transferred to

1 BCP 7, in an email dated June 5, 2018 from Padgett to the Arbitrator in the Arbitration, Padgett  
2 purported to dismiss “all claims of myself, CWNevada, BCP Holdings 7, LLC and Shane Terry  
3 (all right, title, and interest against Bady, Mohajer, and NuVeda and its subsidiaries (Clark  
4 NMSD, Clark Natural Medicinal Solutions, and Nye Natural Medicinal Solutions) with  
5 prejudice.” See electronic mail from Padgett to Nikki Baker, Exhibit 5 to the Opposition.

6 67. Not only did CWNevada never make or assert any claims related to the Arbitration,  
7 the Padgett email clearly evidences a conspiracy between Padgett, NuVeda, Bady and Mohajer  
8 to defraud me by having BCP 7 purportedly purchase the Terry Interest, and then immediately  
9 attempt to dismiss the claims in the Arbitration without BCP 7 and Padgett paying the agreed  
10 consideration.

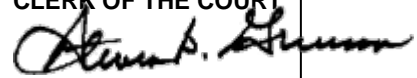
11 I declare under penalty of perjury under that the foregoing is true and correct.

12 DATED this 21<sup>st</sup> day of December, 2020

13  
14 /s/Shane M. Terry  
15 SHANE M. TERRY  
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# EXHIBIT “2”

NUVEDA'S APPENDIX 1091



Michael R. Mushkin, Esq.  
Nevada Bar No. 2421  
L. Joe Coppedge  
Nevada Bar No. 4954  
MUSHKIN & COPPEDGE  
6070 S. Eastern Avenue, Suite 270  
Las Vegas, Nevada 89128  
Telephone: (702) 454-3333  
Fax: (702) 386-4979  
michael@mushlaw.com  
jcoppedge@mccnvlaw.com  
*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NUVEDA, LLC, a Nevada Limited Liability  
Company; and CWNEVADA LLC, a Nevada  
Limited Liability Company,

Plaintiffs,

v.

4FRONT ADVISORS LLC, foreign limited  
liability company, DOES I through X and  
ROE ENTITIES, II through XX, inclusive,

Defendants.

Case No.: A-17-755479-B

Consolidated With: A-19-791405-C,  
A-19-796300-B, and A-20-817363-B

Dept. No.: 11

AND RELATED MATTERS

**ORDER DENYING MOTION TO DISMISS OR FOR SUMMARY JUDGMENT**

This matter came before the Honorable Elizabeth Gonzalez on August 31, 2020 on NuVeda's Motion to Dismiss or for Summary Judgment (the "Motion") with Mitchell D. Stipp of the Law Office of Mitchell Stipp appearing for NuVeda, LLC; L Joe Coppedge of the law firm Mushkin & Coppedge appearing for the Court Appointed Receiver, Dotan Melech, for CWNevada, LLC, Shane Terry and Phillip Ivey; Christopher R. Miltenberger of the law firm Greenberg Traurig, LLP appearing on behalf of Intervenor, Green Pastures Fund, LLC Series 1 (CWNevada, LLC), Jakal Investments, LLC, Jonathan S. Fenn as Trustee for the Jonathan S.

1 Fenn Revocable Trust, and Growth Opportunities, LLC; and William Urga of the firm Jolley Urga  
2 Woodbury & Holthus appearing on behalf of Intervenor, Highland Partners NV LLC and the  
3 MI-CW related parties; and the Court, having reviewed and considered the record, the points and  
4 authorities on file, and the argument of counsel, this Court ORDERS, JUDGES AND DECREES  
5 AS FOLLOWS:

6 1. Given the Receiver's Declaration that the Receiver on behalf of CWNevada, LLC  
7 can perform the obligations of CWNevada, LLC under the various joint venture agreements with  
8 NuVeda, LLC, there is a genuine issue of material fact regarding the issue of impossibility, which  
9 precludes summary judgment.

10 2. The Motion related to the Intervenor's complaint-in-intervention, is moot (since  
11 resolution was depended on the court's determination that CWNevada, LLC's performance under  
12 the joint venture agreements was impossible).

13 3. With respect to Shane Terry, the Motion is stayed for a period of ninety (90) days  
14 from the date of the hearing for Mr. Terry to request any relief from the arbitrator, Ms. Nikki  
15 Baker, of the American Arbitration Association.

16 DATED this 18th day of September, 2020.

17  
18   
19 DISTRICT COURT JUDGE

20  
21 Respectfully Submitted:  
22 MUSHKIN & COPPEDGE

Approved as to Form and Content:  
LAW OFFICE OF MITCHELL STIPP

23 /s/L. Joe Coppedge  
24 L. JOE COPPEDGE, ESQ.  
25 Nevada Bar No. 4954  
26 6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119

/s/Mitchell D. Stipp  
MITCHELL D. STIPP, ESQ.  
Nevada Bar No. 7531  
1180 N. Town Center Drive, Suite 100  
Las Vegas, Nevada 89144

27 *Attorneys for Dotan Y. Melech, Receiver,*  
28 *Shane Terry, and Phillip D. Ivey*

*Attorneys for NuVeda, LLC*



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Approved as to Form and Content:  
JOLLEY URGAL WOODBURY  
HOLTHUS & ROSE

/s/William R. Urga  
WILLIAM R. URGAL, ESQ.  
Nevada Bar No. 1195  
DAVID J. MALLEY, ESQ.  
Nevada Bar No. 8171  
330 S. Rampart Boulevard, Suite 380  
Las Vegas, NV 89145

Approved as to Form and Content:  
GREENBERG TRAURIG

/s/Christopher R. Miltenberger  
MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
CHRISTOPHER R. MILTENBERGER, ESQ.  
Nevada Bar No. 10153  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, NV 89135

## Karen Foley

---

**From:** Joe Coppedge  
**Sent:** Thursday, September 17, 2020 3:17 PM  
**To:** Karen Foley  
**Subject:** FW: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

L. Joe Coppedge  
Mushkin & Coppedge  
6070 S. Eastern Ave., Suite 270  
Las Vegas, Nevada 89119  
Tel. No. (702) 454-3333  
Dir. No. (702) 386-3942  
Fax No. (702) 454-3333

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**From:** William Urga <WURU@juwlaw.com>  
**Sent:** Thursday, September 17, 2020 2:27 PM  
**To:** Joe Coppedge <jcoppedge@mccnvlaw.com>; Mitchell Stipp <mstipp@stipplaw.com>; miltenbergerc@gtlaw.com  
**Subject:** RE: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

Joe, I have no comments regarding the order and you can electronically sign my name.

William R. Urga, Esq.  
Jolley Urga Woodbury & Holthus  
Tivoli Village  
330 S. Rampart Boulevard, Suite 380  
Las Vegas, Nevada 89145  
Telephone: (702) 699-7500  
Facsimile: (702) 699-7555  
E-mail: [wru@juwlaw.com](mailto:wru@juwlaw.com)

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immediately notify us by telephone and delete the e-mail from your computer. You may contact Jolley Urga Woodbury & Holthus at (702) 699-7500 (Las Vegas, NV).

---

**From:** Joe Coppedge <[jcoppedge@mccnvlaw.com](mailto:jcoppedge@mccnvlaw.com)>

**Sent:** Thursday, September 17, 2020 2:20 PM

**To:** Mitchell Stipp <[mstipp@stipplaw.com](mailto:mstipp@stipplaw.com)>; William Urga <[WRU@juwlaw.com](mailto:WRU@juwlaw.com)>; [miltenbergerc@gtlaw.com](mailto:miltenbergerc@gtlaw.com)

**Subject:** 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

Mitch, Bill and Chris,

My apologies for the short delay, but I was out of the office yesterday. We added signature blocks for Bill and Chris, and I believe accepted all of the changes. Since the order is short, everyone might check one last time. If okay, let me know if we can insert your electronic signature.

Joe

L. Joe Coppedge

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## Karen Foley

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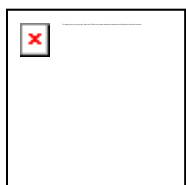
**From:** Joe Coppedge  
**Sent:** Thursday, September 17, 2020 3:18 PM  
**To:** Karen Foley  
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**From:** Mitchell Stipp <mstipp@stiplaw.com>  
**Sent:** Thursday, September 17, 2020 2:59 PM  
**To:** Joe Coppedge <jcoppedge@mccnvlaw.com>  
**Cc:** WRU@juwlaw.com; miltenbergerc@gtlaw.com  
**Subject:** Re: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

You need to update the footer. Otherwise, you may include my e-signature.



**Mitchell Stipp**

Law Office of Mitchell Stipp  
(O) 702.602.1242 | (M) 702.378.1907 | mstipp@stiplaw.com

**Address:** 1180 N. Town Center Drive, Suite 100  
Las Vegas, Nevada 89144

**Website:** www.stiplaw.com

On Thu, Sep 17, 2020 at 2:20 PM Joe Coppedge <[jcoppedge@mccnvlaw.com](mailto:jcoppedge@mccnvlaw.com)> wrote:

Mitch, Bill and Chris,

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Joe

L. Joe Coppedge

Mushkin & Coppedge

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---

**From:** miltenbergerc@gtlaw.com <miltenbergerc@gtlaw.com>  
**Sent:** Thursday, September 17, 2020 3:06 PM  
**To:** mstipp@stiplaw.com; Joe Coppedge <jcoppedge@mccnvlaw.com>  
**Cc:** WRU@juwlaw.com  
**Subject:** RE: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

Joe – Good catch by Mitchell. You have my permission to e-sign as well.

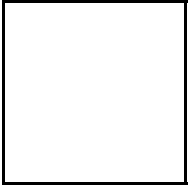
Thanks,

Chris Miltenberger  
Greenberg Traurig, LLP  
702.599.8024

**From:** Mitchell Stipp <mstipp@stiplaw.com>  
**Sent:** Thursday, September 17, 2020 2:59 PM  
**To:** Joe Coppedge <jcoppedge@mccnvlaw.com>  
**Cc:** [WRU@juwlaw.com](mailto:WRU@juwlaw.com); Miltenberger, Chris (Shld-LV-LT) <miltenbergerc@gtlaw.com>  
**Subject:** Re: 200917Draft Order Denying NuVeda's Motion to Dismiss or For Summary Judgment

**\*EXTERNAL TO GT\***

You need to update the footer. Otherwise, you may include my e-signature.



**Mitchell Stipp**

Law Office of Mitchell Stipp

(O) 702.602.1242 | (M) 702.378.1907 | mstipp@stipplaw.com

**Address:** 1180 N. Town Center Drive, Suite 100  
Las Vegas, Nevada 89144

**Website:** [www.stipplaw.com](http://www.stipplaw.com)

On Thu, Sep 17, 2020 at 2:20 PM Joe Coppedge <[jcoppedge@mccnvlaw.com](mailto:jcoppedge@mccnvlaw.com)> wrote:

Mitch, Bill and Chris,

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# EXHIBIT “3”

NUVEDA'S APPENDIX 1101



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# NuVeda, LLC

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## Operating Agreement

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July 9, 2014

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## **Operating Agreement For NuVeda, LLC**

### **A Nevada Limited Liability Company**

This Operating Agreement (the "Agreement") is made effective as of July 9, 2014 (the "Effective Date"), by and among and those persons identified in Exhibit A (collectively, the "Members").

In consideration of the mutual covenants and conditions herein, the Members agree as follows:

## **ARTICLE I**

### **ORGANIZATION**

**1.1 Formation and Qualification.** The Members have formed NuVeda, LLC ("NUVEDA"), a limited liability company (the "Company") under the Nevada Limited Liability Company Act (currently Chapter 86 of the Nevada Restated Statutes) (the "Act") by filing Articles of Organization with the Nevada Secretary of State.

**1.2 Governing Law.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Nevada, including the Nevada Limited Liability Company Act, (the "Act") as amended from time to time, without regard to Nevada's conflicts of laws principles. The rights and liabilities of the Members shall be determined pursuant to the Act and this Agreement. To the extent that any provision of this Agreement is inconsistent with any provision of the Act, this Agreement shall govern to the extent permitted by the Act.

**1.3 Name.** The name of the Company shall be "NUVEDA, LLC." The business of the Company may be conducted under that name or, on compliance with applicable laws, any other name that the Voting Members deem appropriate or advisable. The Voting Members on behalf of the Company shall file any certificates, articles, fictitious business name statements and the like, and any amendments and supplements thereto, as the voting Members consider appropriate or advisable.

**1.4 Term.** The term of the Company commenced on the filing of the Articles of Organization and shall be perpetual unless dissolved as provided in this Agreement.

**1.5 Office and Agent.** The principal office of the Company shall be at such place or places of business within or without the State of Nevada as the Voting Members may determine. The Company shall continuously maintain a registered agent in the State of Nevada as required by the Act. The registered agent shall be as stated in the Certificate or as otherwise determined by the Voting Members.

**1.6 Purpose of Company.** The purpose of the Company is to engage in all lawful activities, including, but not limited to the following activities:

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

## ARTICLE II

### MEMBERSHIP INTERESTS, VOTING AND MANAGEMENT

**Section 2.1 Initial Members.** The initial Members of the Company are the Members who are identified in Exhibit A.

**Section 2.2 Classification of Membership Interests.** The Company shall issue Class A Voting Capital ("Voting Capital"), to the Voting Members (the "Voting Members"). The Voting Members shall have the right to vote upon all matters upon which Members have the right to vote under the Act or under this Agreement, in proportion to their respective Percentage Voting Interest ("Percentage Voting Interest") in the Company. The Percentage Voting Interest of a Voting Member shall be the percentage that is derived when the Member's Voting Capital account is divided by the total of all of the Voting Capital accounts. The Company may decide to issue Class B Nonvoting Capital (the "Nonvoting Capital") to Members who have no voting rights, but have an Ownership Interest, as defined below.

**Section 2.3 Ownership Interests.** A Member's Ownership Interest ("Ownership Interest") shall be the equity holding a Member has in the Company, which shall determine the Member's rights to profits and other payouts and, where applicable, debts and obligations to or on behalf of the Company. The "Percentage Ownership Interest" of a Voting Member shall be the percentage that is derived when the Member's Ownership Interest is divided by the total of all of the Ownership Interests of all Members. The Members shall have the initial Ownership and Voting Interests in the Company that are identified in Exhibit A, immediately following the making of the capital contributions set forth therein if any.

**Section 2.4 Management by Voting Members.** The Voting Members shall manage the Company and shall have the right to vote, in their capacity as Managers, upon all matters upon which Managers have the right to vote under the Act or under this Agreement, in proportion to their respective Percentage Voting Interests in the Company. Voting Members need not identify whether they are acting in their capacity as Members or Managers when they act.

The Nonvoting Members shall have no right to vote or otherwise participate in the management of the Company. No Nonvoting Member shall, without the prior written consent of all of the Voting Members, take any action on behalf of, or in the name of, the Company, or enter into any contract, agreement, commitment or obligation binding upon the Company, or perform any act in any way relating to the Company or the Company's assets.

**Section 2.5 Voting.** Except as otherwise provided or permitted by this Agreement, Voting Members shall in all cases, in their capacity as Members or Managers of the Company, act collectively, and, unless otherwise specified or permitted by this Agreement, upon the majority vote of the Voting Members which members establish a quorum as defined in section 4.6 of this Agreement. Except as otherwise provided or permitted by this Agreement, no Voting Member acting individually, in his capacity as a Member or Manager of the Company, shall have any power or authority to sign for, bind or act on behalf of the Company in any way, to pledge the Company's credit, or to render the Company liable for any purpose.

Unless the context requires otherwise, in this Agreement, the terms "Member" or "Members," without the qualifiers "Voting" or "Nonvoting," refer to the Voting and Nonvoting Members collectively; and the terms "Manager" or "Managers" refers to the Voting Members.

**Section 2.6 Liability of Members.** All debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities

of the Company, and no Member shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member.

**Section 2.7 New Members.** The Voting Members may issue additional Voting Capital, or reallocate the Ownership Interests among the Members, and thereby admit a new Member or Members, as the case may be, to the Company, only if such new Member (i) is approved unanimously by the Voting Members; (ii) delivers to the Company his or her required capital contribution, if any; (iii) agrees in writing to be bound by the terms of this Agreement by becoming a party hereto; and (iv) delivers such additional documentation as the Voting Members shall reasonably require to so admit such new Member to the Company.

Upon the admission of a new Member or Members, as the case may be, to the Company, the capital accounts of Members, and the calculations that are based on the capital accounts, shall be adjusted appropriately.

**Section 2.8 Vesting Schedule.** The Voting and Ownership Interests of Joseph Kennedy shall become fully vested upon his provision of credit of three million dollars (\$3,000,000.00) or more on terms satisfactory to the Company. Once such terms are agreed to, Kennedy shall immediately and automatically vest in his entire Voting and Ownership Interests as set forth in Exhibit A. The Voting and Ownership Interests of Penders and Winmill are stated as a total possible, and are each subject to vesting upon the successful conclusion of each full calendar from the date hereof year as follows: Penders and Winmill shall each immediately vest in one-quarter of a percent (.25%) upon execution of this Operating Agreement. Subject to Penders and Winmill's continued provision of services in a manner satisfactory to the reasonable professional standards of a majority of the Voting Members, each shall vest in Voting and Ownership Interests at the rate of point one eight seven five of a percent (.1875%) at the conclusion of the first full calendar year, and an additional point four three seven five of a percent (.4375%) per annum for the following three (3) years. Such vesting shall be subject to the terms of the Vesting and Acceleration Agreement. Prior to them becoming vested, all Winmill and Penders unvested Voting and Ownership Interests percentages shall be allocated evenly between Pouya Mohajer and Shane Terry, assuming their continued Membership with the Company, otherwise allocated among all Voting Members in proportion to each Member's Voting and Ownership Interest percentage, to ensure a total of 100% of the Voting and Ownership Interests are allocated at all times ("Allocated Unvested Shares"). As Penders and Winmill vest in the Allocated Unvested Shares, they shall immediately and automatically be reallocated to Penders and Winmill.

With regard to any Ownership Interests granted by the Company after the execution of this Operating Agreement, such Ownership Interests shall be reallocated from existing Members as follows: all such interests shall be subtracted from the Ownership Interest of Pej Bady until such time Bady's Ownership Interest has been reduced to thirty-eight percent (38%). In the event any further or more Ownership Interests are granted by the Company, such Ownership Interests shall be sourced by taking a proportional share of the dilutable Ownership Interests of the Members. All Members whose Ownership Interests are dilutable shall have their Ownership Interest percentages reduced in proportion to their Ownership Interests relative to all other dilutable Members' Ownership Interests. Ownership Interests designated as nondilutable will not decrease.

With regard to any Voting Interests granted by the Company after the execution of this Operating Agreement, such Voting Interests shall be reallocated from existing Members as follows: all such interests shall be subtracted in equal parts from the Voting Interests of Pouya Mohajer and Shane

Terry until such time Mohajer and Terry's respective Ownership Interests have been reduced to nineteen percent (19%). In the event any further or more Voting Interests are granted by the Company, such Voting Interests shall be sourced by taking a proportional share of the dilutable Voting Interests of the Members. All Members whose Voting Interests are dilutable shall have their Voting Interest percentages reduced in proportion to their Ownership Interests relative to all other dilutable Members' Voting Interests. Voting Interests designated as nondilutable will not decrease.

**Section 2.9 Anti-Dilution.** Certain of the Members' Ownership Interests will be denoted as being non-dilutable. In the event the Company issues additional Ownership Interests, or reallocates Ownership Interests among the Members (either, a "Dilutive Transaction"), the Non-dilutable Ownership Interests shall remain constant as a percentage of the total outstanding Ownership Interests before and after the Dilutive Transaction.

### ARTICLE III CAPITAL ACCOUNTS

**3.1 Capital Accounts.** A separate capital account shall be maintained for each Member's ownership interest in Class A Voting Capital (the "Voting Capital Account") and Class B Nonvoting Capital (the "Nonvoting Capital Account").

The capital account of each Member shall be increased by (i) the amount of any cash and the fair market value of any property contributed to the Company by such Member (net of any liability secured by such contributed property that the Company is considered to assume or take subject to), (ii) the amount of income or profits allocated to such Member.

The capital account or accounts of each Member shall be reduced by (i) the amount of any cash and the fair market value of any property distributed to the Member by the Company (net of liabilities secured by such distributed property that the Member is considered to assume or take subject to on account of his ownership interest), (ii) the amount of expenses or loss allocated to the Member. If any property other than cash is distributed to a Member, the Capital Accounts of the Members shall be adjusted as if the property had instead been sold by the Company for a price equal to its fair market value and the proceeds distributed.

Guaranteed Payments ("Guaranteed Payments") for salary, wages, fees, payments on loans, approved invoices, rents, etc., may be made to the Members. Guaranteed Payments shall not be deemed to be distributions to the Members on account of their Ownership Interests, and shall not be charged to the Members' capital accounts.

No Member shall be obligated to restore any negative balance in his Capital Account. No Member shall be compensated for any positive balance in his Capital Account except as otherwise expressly provided herein. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2) and shall be interpreted and applied in a manner consistent with such Regulations. The Members agree that the initial Capital Accounts of the Members on the date hereof are as set forth in Exhibit A, or shall be made as such within 30 days of the Effective Date.

**3.2 Additional Contributions.** If, at any time or times hereafter, the Voting Members



shall determine that additional capital is required by the Company, the Voting Members shall determine the amount of such additional capital and the anticipated time such additional capital will be required and whether such additional capital shall be provided by the Members by way of additional Capital Contributions or by way of loans from Members. No Member shall be obligated, at any time, to guarantee or otherwise assume or become liable for any obligations of the Company or to make any additional Capital Contributions advances or loans to the Company, unless such obligations are specifically accepted and agreed to by such Member.

The capital accounts of the Members, and the calculations that are based on the capital accounts, shall be adjusted appropriately to reflect any transfer of an interest in the Company, distributions, or additional capital contributions.

**3.3 Withdrawal and Return of Capital.** No Member may withdraw any portion of the capital of the Company, and no Member shall be entitled to the return of any contribution to the capital except upon majority vote of the Voting Members. The return of Capital Contributions shall have priority over any distributions to the members and shall be made within the sole discretion of a majority of the Voting Members.

**3.4 Interest on Capital Contributions.** Interest on all Capital Contributions made by the Voting Members shall accrue at a rate of 8% from the date of the contribution until fully paid. This shall apply to all contributions made by the Voting Members regardless of the timing of the Capital Contribution. Specifically it is understood that significant sums have been paid or will be paid by the Voting Members in order to effectuate the goals and purposes of the Company. All said contributions shall be repaid in full with interest, as provided for herein, in accordance with the provisions of Section 3.3.

## ARTICLE IV

### MANNER OF ACTING

**4.1 Officers and Agents of the Company.** The Voting Members may authorize any Member or Members of the Company, or other individuals or entities, whether or not a Member, to take action on behalf of the Company, as the Voting Members deem appropriate. Any Member may lend money to and receive loans from the Company, act as an employee, independent contractor, lessee, lessor, or surety of the company, and transact any business with the Company that could be carried out by someone who is not a Member; and the Company may receive from or pay to any Member remuneration, in the form of wages, salary, fees, rent, interest, or any form that the Voting Members deem appropriate.

The Voting Members may appoint officers of the Company who, to the extent provided by the Voting Members, may have and may exercise all the powers and authority of the Members or Managers in the conduct of the business and affairs of the Company. The officers of the Company may consist of a President, a Treasurer, a Secretary, or other officers or agents as may be elected or appointed by the Voting Members. The Voting Members may provide rules for the appointment, removal, supervision and compensation of such officers, the scope of their authority, and any other matters relevant to the positions. The officers shall act in the name of the Company and shall supervise its operation, within the scope of their authority, under the direction and management of the Voting Members.

Any action taken by a duly authorized officer, pursuant to authority granted by the Voting Members in accordance with this Agreement, shall constitute the act of and serve to bind the

Company, and each Member hereby agrees neither to dispute such action nor the obligation of the Company created thereby.

**4.2 Authority to Bind the Company.** Notwithstanding the foregoing, no Member without a majority vote consisting of 60% of the Voting Members' interest in the Company, shall have the authority to engage in the following transactions:

- (a) Borrowing money in the Company's name;
- (b) Transferring, settling or releasing any claim of the Company, except upon payment in full;
- (c) Mortgaging any of the Company's property, or pledging any property of the Company as security for any loan;
- (d) Selling or leasing any of the Company's property other than in the ordinary course of business;
- (e) Knowingly causing anything to be done whereby any of the Company's property may be subjected to seizure, attachment or forfeiture or the Company's ownership or possession of any such property may be put at risk;
- (f) The sale, exchange or other disposition of all, or substantially all, of the Company's assets occurring as part of a single transaction or plan, or in multiple transactions over a six month period, except in the orderly liquidation and winding up of the business of the Company upon its duly authorized dissolution;
- (g) The merger of the Company with another partnership, corporation, limited liability company or other entity; and
- (h) Agreeing to or executing any check, draft or other evidence of indebtedness of the Company, obligating the Company to pay in the aggregate an amount greater than One Thousand Dollars (\$1,000.00). Notwithstanding the foregoing, the Chief Executive Officer can agree to or execute any check, draft or other evidence of indebtedness of the Company, obligating the Company to pay in the aggregate an amount more than Ten Thousand Dollars (\$10,000.00).

**4.3 Meetings of Voting Members.** No regular, annual, special or other meetings of Voting Members are required to be held. Any action that may be taken at a meeting of Voting Members may be taken without a meeting by written consent in accordance with the Act. Meetings of the Voting Members, for any purpose or purposes, may be called at any time by a majority of the Voting Members, or by the President of the Company, if any. The Voting Members may designate any place as the place of meeting for any meeting of the Voting Members. If no designation is made, the place of meeting shall be the principal place of business of the Company.

**4.4 Notice of Meetings.** In the event that a meeting of the Voting Members is called,

written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than five nor more than sixty business days before the date of the meeting unless otherwise provided, either personally or by mail, by or at the direction of the Members calling the meeting, to each Voting Member. Notice of a meeting need not be given to any Voting Member who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such Voting Member.

**4.5 Record Date.** For the purpose of determining Voting Members entitled to notice of or to vote at any meeting of Voting Members or any adjournment thereof, the date on which notice of the meeting is provided shall be the record date for such determination of the Voting Members. When a determination of Voting Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

**4.6 Quorum.** Members holding at least 66% of the Voting Capital in the Company represented in person, by telephonic participation, or by proxy, shall constitute a quorum at any meeting of Voting Members. In the absence of a quorum at any such meeting, a majority of the Voting Members so represented may adjourn the meeting from time to time for a period not to exceed sixty days without further notice. However, if the adjournment is for more than sixty days, or if after the adjournment a new record date is fixed for another meeting, a notice of the adjourned meeting shall be given to each Voting Member. The Voting Members present at a duly organized meeting may continue to transact business only as previously provided on the agenda until adjournment, notwithstanding the withdrawal during such meeting of that number of Voting Members whose absence would cause less than a quorum.

**4.7 Voting.** If a quorum is present, a majority vote of the Voting Members so represented shall be the act of the Members or Managers, unless the vote of a lesser or greater proportion or number is otherwise required by the Act, by the Certificate or by this Agreement.

## ARTICLE V

### ALLOCATIONS AND DISTRIBUTIONS

**5.1 Allocations of Profits and Losses.** Subject to applicable law and any limitations elsewhere in this Agreement, Profits and Losses, after deducting Guaranteed Payments, shall be allocated among the Members in proportion to their Percentage Ownership Interests. Any special allocations necessary to comply with the requirements set forth in Internal Revenue Code Section 704 and the corresponding Regulations, including, without limitation, the qualified income offset and minimum gain chargeback provisions contained therein, shall be made if the Voting Members deem these actions to be appropriate.

**5.2 Distributions.** Subject to applicable law and any limitations elsewhere in this Agreement below, the Voting Members shall determine the amount and timing of all distributions of cash, or other assets, by the Company. Except as otherwise provided in this Agreement, all distributions shall be made as follows:

Distributions:

- Eighty percent (80%) of each distribution will be allocated among all of the Members, as follows (the "Distribution Interests"):



Pejman Bady	38%
Pouya Mohajer	25.25%
Shane Terry	25.25%
Jennifer Goldstein	7%
Joseph Kennedy	1*%
John Penders	1.75%
Ryan Winmill	1.75%

and

- Twenty percent (20%) of each distribution shall be allocated to satisfy any contractual obligations owed by the Company to consultants, vendors, advisors or others with whom the Company has an appropriate written agreement providing for such distributions ("Distributions Partners"); in the event less than 20% of the Distribution has been allocated to Distributions Partners, the unallocated percentage shall be allocated to the Members in proportion to their Percentage Distribution Interests.

Except as otherwise provided in this Agreement, the decision as to whether to make distributions shall be within the sole discretion of the Voting Members.

With regard to any Distribution Interests granted by the Company after the execution of this Operating Agreement, such Distribution Interests shall be reallocated from existing Members as follows: all such interests shall be subtracted in equal parts from the Distribution Interests of Pouya Mohajer and Shane Terry until such time Mohajer and Terry's respective Distribution Interests have been reduced to nineteen percent (19%). In the event any further or more Voting Interests are granted by the Company, such Voting Interests shall be sourced by taking a proportional share of the dilutable Voting Interests of the Members. All Members whose Voting Interests are dilutable shall have their Voting Interest percentages reduced in proportion to their Distribution Interests relative to all other dilutable Members' Voting Interests. Distribution Interests designated as nondilutable will not decrease.

All such distributions shall be made only to the Members who, according to the books and records of the Company, are the holders of record on the actual date of distribution. The Voting Members may base a determination that a distribution of cash may be made on a balance sheet, profit and loss statement, cash flow statement of the Company or other relevant information. Neither the Company nor the Members shall incur any liability for making distributions.

**Vesting Schedule.** The Distribution Interests of Joseph Kennedy shall become fully vested upon his provision of credit of three million dollars (\$3,000,000.00) or more on terms satisfactory to the Company. Once such terms are agreed to, Kennedy shall immediately and automatically vest in his entire Distribution Interests as set forth in Exhibit A.

**5.3 Form of Distribution.** No Member has the right to demand and receive any distribution from the Company in any form other than money. No Member may be compelled to

accept from the Company a distribution of any asset in kind in lieu of a proportionate distribution of money being made to other Members except on the dissolution and winding up of the Company.

**5.4 Non-Compete Agreement.** The Members agree that they will not at any time within one (1) year from the earlier of (1) the termination of the Member's Voting Interests for any reason or (2) the termination of this Agreement: directly or indirectly engage in or prepare to engage in, or to have any ownership interest in any business, venture or entity that engages in, or is preparing to engage in, business or activities that directly compete with the services provided by the Company, unless the Member is already engaged in such business or venture at the time this Agreement is entered into, unless such matter is agreed upon in writing by a majority of the disinterested Voting Members. Subject to the foregoing, the departing Member shall only be precluded from competing in any county in which any of the following have occurred: (1) the Company has an in process or pending application; (2) the Company has received licenses to operate any medical marijuana facility; and (3) the Company sells or delivers marijuana and marijuana products (each, a "Competing County"). For purposes of this provision, any county in which the Company's only sale or delivery was related exclusively to Auntie Dolores products shall not be deemed a Competing County unless another provision hereof applies. The other Members may override this provision is by an agreement in writing executed by a majority of the disinterested Voting Members.

## ARTICLE VI

### TRANSFER AND ASSIGNMENT OF INTERESTS

**6.1 Resignation of Membership and Return of Capital.** For a period of two (2) years after the Articles of Organization for the Company are filed ("the filing"), no Member may voluntarily resign his membership in the Company, and no Member shall be entitled to any return of capital from the company, except upon the written consent of all of the other Voting Members. During the third year after the filing, a Member may voluntarily resign his membership, but such Member shall be entitled to receive from the Company only the book value of his Ownership Interest, adjusted for profits and losses to the date of resignation, unless otherwise agreed by written consent of all of the other Voting Members. Subsequent to the third year after filing, a Member may voluntarily resign his membership and shall be entitled to receive from the Company the fair market value of his Ownership Interest, adjusted for profits and losses to the date of resignation. Fair market value may be determined informally by unanimous agreement of all of the Voting Members, including the resigning Member. In the absence of an informal agreement as to fair market value, the Voting Members shall hire an appraiser to determine fair market value. The cost of any appraisal shall be deducted from the fair market value to which the resigning Member is entitled. The other Voting Members may elect, by written notice that is provided to the resigning Member within thirty (30) days after the resignation date, for the Company to purchase the resigning Member's Interest (whether the interest is being purchased at book value or fair market value) in four (4) equal annual installments, with the first installment

being due sixty (60) days after the Member's resignation.

**6.2 Expulsion or Death of a Member.** A Member's interest in the Company may be terminated or expelled only upon agreement of the Disinterested Voting Members by a vote of 60% or more of Disinterested Voting Interests. Expulsion may only be made by a majority vote of 60% or more of the Disinterested Voting Interests that the expelled member was not acting in the best interest of the Company or was otherwise acting in a manner that was contrary to the purpose of the Company. For purposes of this provision, the "Disinterested Voting Members" shall be those Members who's membership in the Company is not then being voted upon, and "Disinterested Voting Interests" shall be the total percentage of the Ownership Interests held by the Disinterested Voting Members. By means of example only, if the Members sought to expel Member A, who owned a 20% Voting Interest, the Disinterested Voting Members would be all Members other than Member A, and the vote would require 60% of the 80% Disinterested Voting Interests to carry. In order to terminate a Member's interest a meeting of the Voting Members must be held in accordance with the provisions of Section 4.3.

Upon the expulsion or death of a Member, the Member's successor-in-interest, estate or beneficiary or beneficiaries, as the case may be, shall be entitled to receive from the Company, in exchange for all of the former Member's Ownership Interest, the fair market value of that Member's Ownership Interest, adjusted for profits and losses to the date of the expulsion or death. Fair market value may be determined informally by a unanimous good-faith agreement of all of the Voting Members. In the absence of an informal agreement as to fair market value, the Voting Members shall hire an appraiser to determine fair market value. The cost of any appraisal shall be deducted from the fair market value to which the former Member or the former Member's successor-in-interest, estate or beneficiary or beneficiaries is or are entitled. The Voting Members may elect, by written notice that is provided to the expelled or deceased Member's successor-in-interest, estate or beneficiary or beneficiaries, within thirty (30) days after the Member's expulsion or death, to purchase the former Member's Ownership Interest over a one-year (1 year) period, in four (4) equal installments, with the first installment being due sixty (60) days after the Member's expulsion or date of death. Unless otherwise agreed unanimously by the Voting Members, prior to the completion of such purchase, the former Member's successor-in-interest, estate or beneficiary or beneficiaries, shall have no right to become a Member or to participate in the management of the business and affairs of the Company as a Member or Manager, and shall only have the rights of an Assignee and be entitled only to receive the share of profits and the return of capital to which the former Member would otherwise have been entitled. The Company, or the other Voting Members, in its or their discretion, may purchase insurance on the lives of any of the Members, with the company or the purchasing Member named as the beneficiary, as the purchaser may decide, and use all or any of the proceeds from such insurance as a source of proceeds from which the deceased Member's Membership Ownership Interest may be purchased by the Company.

**6.3 Restrictions on Transfer.** Except (i) as otherwise provided in this Article or (ii) upon the unanimous consent of all of the other Voting Members, no Member shall sell, hypothecate, pledge, assign or otherwise transfer, with or without consideration, any part or all of his Ownership Interest in the Company to any other person or entity (a "Transferee"), without first offering (the "Offer") that portion of his or her Ownership Interest in the Company subject to the contemplated transfer (the "Offered Interest") first to the Company, and secondly, to the other Voting Members, at the purchase price (hereinafter referred to as the "Transfer Purchase Price") and in the manner as prescribed in the Offer.

The Offering Member shall make the Offer first to the Company by written notice (hereinafter referred to as the "Offering Notice"). Within twenty (20) days (the "Company Offer Period") after receipt by the Company of the Offering Notice, the Company shall notify the Offering Member in writing (the "Company Notice"), whether or not the Company shall accept the Offer and shall purchase all but not less than all of the Offered Interest. If the Company accepts the Offer to purchase the Offered Interest, the Company Notice shall fix a closing date not more than twenty-five (25) days (the "Company Closing Date") after the expiration of the Company Offer Period.

In the event the Company decides not to accept the Offer, the Offering Member or the Company, at his or her or its election, shall, by written notice (the "Remaining Member Notice") given within that period (the "Member Offer Period") terminating ten (10) days after the expiration of the Company Offer Period, make the Offer of the Offered Interest to the other Voting Members, each of whom shall then have a period of twenty-five (25) days (the "Member Acceptance Period") after the expiration of the Member Offer Period within which to notify in writing the Offering Member whether or not he or she intends to purchase all but not less than all of the Offered Interest. If two (2) or more Voting Members of the Company desire to accept the Offer to purchase the Offered Interest, then, in the absence of an agreement between them, such Voting Members shall have the right to purchase the Offered Interest in proportion to their respective Percentage Voting Interests. If the other Voting Members intend to accept the Offer and to purchase the Offered Interest, the written notice required to be given by them shall fix a closing date not more than sixty (60) days after the expiration of the Member Acceptance Period (hereinafter referred to as the "Member Closing Date").

The aggregate dollar amount of the Transfer Purchase Price shall be payable in cash on the Company Closing Date or on the Member Closing Date, as the case may be, unless the Company or the purchasing Voting Members shall elect by written notice that is delivered to the Offering Member, prior to or on the Company Closing Date or the Member Closing Date, as the case may be, to purchase such Offered Interest in four (4) equal annual installments, with the first installment being due on the Closing Date.

If the Company or the other Voting Members fail to accept the Offer or, if the Offer is accepted by the Company or the other Voting Members and the Company or the other Voting Members fail to purchase all of the Offered Interest at the Transfer Purchase Price within the time and in the manner specified, then the Offering Member shall be free, for a period (hereinafter referred to as the "Free Transfer Period") of sixty (60) days from the occurrence of such failure, to transfer the Offered Interest to a Transferee; provided, however, that if all of the other Voting Members other than the Offering Member do not approve of the proposed transfer by unanimous written consent, the Transferee of the Offered Interest shall have no right to become a Member or to participate in the management of the business and affairs of the Company as a Member or Manager, and shall only have the rights of an Assignee and be entitled to receive the share of profits and the return of capital to which the Offering Member would otherwise have been entitled. A Transferee shall be admitted as a Member of the Company, and as a result of which he or she shall become a substituted Member, with the rights that are consistent with the Membership Interest that was transferred, only if such new Member (i) is approved unanimously by the Voting Members; (ii) delivers to the Company his required capital contribution; (iii) agrees in writing to be bound by the terms of this Agreement by becoming a party hereto.

If the Offering Member shall not transfer the Offered Interest within the Free Transfer Period, his or her right to transfer the Offered Interest free of the foregoing restrictions shall thereupon cease



and terminate.

**6.4 Involuntary Transfer of a Membership Interest.** A creditor's charging order or lien on a Member's Membership Interest, bankruptcy of a Member resulting in an encumbrance or transfer of the Member's Membership Interest, or other involuntary transfer of Member's Membership Interest, shall constitute a material breach of this Agreement by such Member. The creditor, transferee or other claimant, shall only have the rights of an Assignee, and shall have no right to become a Member, or to participate in the management of the business and affairs of the Company as a Member or Manager under any circumstances, and shall be entitled only to receive the share of profits and losses, and the return of capital, to which the Member would otherwise have been entitled. The Voting Members, including a Voting Member whose interest is the subject of the charging order, lien, bankruptcy, or involuntary transfer, may unanimously elect, by written notice that is provided to the creditor, transferee or other claimant, at any time, to purchase all or any part of Membership Interest that was the subject of the creditor's charging order, lien, bankruptcy, or other involuntary transfer, at a price that is equal to one-half (1/2) of the book value of such interest, adjusted for profits and losses to the date of purchase. The Members agree that such valuation is a good-faith attempt at fixing the value of the interest, after taking into account that the interest does not include all of the rights of a Member or Manager, and after deducting damages that are due to the material breach of this Agreement.

## ARTICLE VII

### ACCOUNTING, RECORDS AND REPORTING

**7.1 Books and Records.** The Company shall maintain complete and accurate accounts in proper books of all transactions of or on behalf of the Company and shall enter or cause to be entered therein a full and accurate account of all transactions on behalf of the Company. The Company's books and accounting records shall be kept in accordance with such accounting principles (which shall be consistently applied throughout each accounting period) as the Voting Members may determine to be convenient and advisable. The Company shall maintain at its principal office all of the following:

A current list of the full name and last known business or residence address of each Member in the Company set forth in alphabetical order, together with, for each Member, the Class A Voting Capital account and Class B Nonvoting Capital account, including entries to these accounts for contributions and distributions; the Ownership Interest, Percentage Ownership and Voting Interests; a copy of the Certificate and any and all amendments thereto together with executed copies of any powers of attorney pursuant to which the Certificate or any amendments thereto have been executed; copies of the Company's federal, state and local income tax or information returns and reports, if any, for the six most recent taxable years; a copy of this Agreement and any and all amendments hereto together with executed copies of any powers of attorney pursuant to which this Agreement or any amendments thereto have been executed; copies of the financial statements of the Company, if any, for the six most recent Fiscal Years; the Company's books and records as they relate to the internal affairs of the Company for at least the current and past four Fiscal Years; true and full information regarding the status of the business and financial condition of the Company; and true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each Member and which each Member has agreed to contribute in the future, and the date on

the Act; the majority approval of the Voting Members; or any other event causing a dissolution of a Limited Liability Company under the laws of the State of Nevada.

**8.2 Winding Up.** On the occurrence of an event specified in Section 8.1, the Company shall continue solely for the purpose of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors. The Voting Members shall be responsible for overseeing the winding up and liquidation of Company, shall take full account of the assets and liabilities of Company, shall cause such assets to be sold or distributed, and shall cause the proceeds therefrom, to the extent sufficient therefor, to be applied and distributed as provided in Section 9.4. The Voting Members shall give written notice of the commencement of winding up by mail to all known creditors and claimants whose addresses appear on the records of the Company. The Members shall be entitled to reasonable compensation for such services.

**8.3 Distributions in Kind.** All noncash contributions to the Capital Accounts shall be returned to the Member who made such contribution upon dissolution of the Company, to the extent such noncash assets exist and may be legally returned to the contributing Member. Any remaining noncash assets distributed to the Members shall first be valued at their fair market value to determine the profit or loss that would have resulted if such assets were sold for such value. Such profit or loss shall then be allocated pursuant to this Agreement, and the Members' Capital Accounts shall be adjusted to reflect such allocations. The amount distributed and charged against the Capital Account of each Member receiving an interest in a distributed asset shall be the fair market value of such interest (net of any liability secured by such asset that such Member assumes or takes subject to). The fair market value of such asset shall be determined by the Voting Members, or if any Voting Member objects, by an independent appraiser (and any such appraiser must be recognized as an expert in valuing the type of asset involved) selected by a Majority of the Voting Members.

**8.4 Order of Payment of Liabilities on Dissolution.** After a determination that all known debts and liabilities of the Company in the process of winding up, including, without limitation, debts and liabilities to Members who are creditors of the Company, have been paid or adequately provided for, the remaining assets shall be distributed to the Members in proportion to their Ownership Interests.

**8.5 Adequacy of Payment.** The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, shall have been adequately provided for if payment thereof shall have been assumed or guaranteed in good faith by one or more financially responsible Persons or by the United States government or any agency thereof, and the provision, including the financial responsibility of the Person, was determined in good faith and with reasonable care by the Members to be adequate at the time of any distribution of the assets pursuant to this Section. This Section shall not prescribe the exclusive means of making adequate provision for debts and liabilities.

**8.6 Compliance with Regulations.** All payments to the Members on the winding up and dissolution of Company shall be strictly in accordance with the positive capital account balance limitation and other requirements of Regulations Section 1.704-1(b)(2)(ii)(d), as the voting Members deem appropriate.

**8.7 Limitations on Payments Made in Dissolution.** Except as otherwise specifically provided in this Agreement, each Member shall only be entitled to look solely to the assets of the Company for the return of such Member's positive Capital Account balance and shall have no recourse for such Member's Capital Contribution or share of profits (on dissolution or otherwise)

against any other Member.

**8.8 Certificate of Cancellation.** The Voting Members conducting the winding up of the affairs of the Company shall cause to be filed in the office of, and on a form prescribed by the Nevada Secretary of State, a certificate of cancellation of the Certificate on the completion of the winding up of the affairs of the Company.

## ARTICLE IX

### EXCULPATION AND INDEMNIFICATION, REPS AND WARRANTIES

**9.1 Exculpation of Members.** Subject to the limitations of section 9.3, no Member shall be liable to the Company or to the other Members for damages or otherwise with respect to any actions taken or not taken, as long as such act or omission was made in good faith and reasonably believed by such Member to be in or not opposed to the best interests of the Company, except to the extent any related loss results from fraud, gross negligence or willful or wanton misconduct on the part of such Member or the material breach of any obligation under this Agreement or of the fiduciary duties owed to the Company or the other Members by such Member.

**9.2 Indemnification by Company.** Subject to the limitations of section 9.3, below, the Company shall indemnify, hold harmless and defend the Members, in their capacity as Members, Managers, or Officers, from and against any loss, expense, damage or injury suffered or sustained by them by reason of any acts or omissions arising out of their activities on behalf of the Company or in furtherance of the interests of the Company, including but not limited to any judgment, award, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim, if the acts or omissions were not performed or omitted fraudulently or as a result of gross negligence or willful misconduct by the indemnified party. Reasonable expenses incurred by the indemnified party in connection with any such proceeding relating to the foregoing matters may be paid or reimbursed by the Company in advance of the final disposition of such proceeding upon receipt by the Company of (i) written affirmation by the Person requesting indemnification of its good-faith belief that it has met the standard of conduct necessary for indemnification by the Company and (ii) a written undertaking by or on behalf of such Person to repay such amount if it shall ultimately be determined by a court of competent jurisdiction that such Person has not met such standard of conduct, which undertaking shall be an unlimited general obligation of the indemnified party but need not be secured.

**9.3 Intellectual Property Indemnification.** Notwithstanding the foregoing, each Member will indemnify, defend and hold harmless the other Member and any of its Affiliates, customers, officers, directors, employees, agents, assigns, and successors for any loss, damage, expense, costs (including, but not limited to, fees for attorneys and other professionals) or liability arising out of or in connection with a claim for intellectual property infringement or misappropriation of any patent, copyright, trade secret or other intellectual property right of a third party.

The indemnity obligations under this section are conditioned upon the Party seeking indemnification (the "Indemnified Party") (a) giving the other Party (the "Indemnifying Party") prompt Notice of such claim; (b) cooperating with the Indemnifying Party, at the Indemnifying Party's expense in the defense of such claim; and (c) giving the Indemnifying Party the right to



control the defense and settlement of any such claim, except that the Indemnifying Party shall not enter into any settlement or consent to judgment that affects the Indemnified Party's rights or interests without the Indemnified Party's prior written approval.

**9.4 Insurance.** The Company shall have the power to purchase and maintain insurance on behalf of any Person who is or was a Member or an agent of the Company against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person's status as a Member or an agent of the Company, whether or not the Company would have the power to indemnify such Person against such liability under Section 10.1 or under applicable law.

## ARTICLE X

### INTELLECTUAL PROPERTY

**10.1 Definition of Intellectual Property.** "Intellectual Property" means all intellectual property rights in the United States or any foreign jurisdiction throughout the world (whether registered or not) including, without limitation, all of the following: (i) all patents and utility models and applications therefore, and all reissues, divisions, re-examinations, renewals, extensions, provisional's, continuations and continuations-in-part thereof, and equivalent or similar rights in inventions and discoveries, including without limitation, invention disclosures; (ii) all trade secrets and other rights in Technology, data, know-how and confidential or proprietary information; (iii) mask works, mask work registrations and applications therefore, and all other rights corresponding thereto throughout the world; (iv) all copyrights, copyrights registrations and applications therefore and all other rights corresponding thereto; (v) all industrial designs and any registrations and applications therefore; (vi) all rights in all trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications therefore; and (vii) any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world.

**10.2 Ownership of Intellectual Property.** The Parties acknowledge that any and all Intellectual Property created, used or embodied in or in connection with the Project, including without limitation any modifications or improvements made by the Parties based upon ideas, suggestions or proposals communicated between the Parties, are and shall remain the sole and exclusive property of the originating Party, and the other Party shall not during or at any time after the term of this Agreement in any way question or dispute the ownership of any such exclusive ownership rights.

**10.3 Definition of Marks.** "Mark(s)" means the trademarks, service marks, trademark and service mark applications, trade dress, trade names, logos, insignia, symbols, designs or other marks identifying a Party or its products.

**10.4 No Rights in Marks.** Nothing in this Agreement should be construed to grant either Party any rights in the Marks of the other Party. The Parties acknowledge, however, that each Party may use the name of the other Party and the name of their Products in advertising and marketing the Products or the Parties, themselves. The Products will be affixed with appropriate copyright and trademark notices sufficient to give Notice as to the rights of the Parties in their respective products.

**10.5 Confidentiality.** If, during the term, a Party receives or has access to Confidential Information belonging to the other Party, the Parties will be bound to keep all such information confidential. Confidential Information may only be used for purposes related to this Agreement and the Party receiving the confidential information must keep it confidential using the same degree of care that it exercises with respect to its own information of like importance, but in no event less than reasonable care.



## ARTICLE XI

### DISPUTE RESOLUTION

**11.1 Disputes Among Members.** The Members agree that in the event of any dispute or disagreement solely between or among any of them arising out of, relating to or in connection with this Agreement or the Company or its organization, formation, business or management ("Member Dispute"), the Members shall use their best efforts to resolve any dispute arising out of or in connection with this Agreement by good-faith negotiation and mutual agreement. The Members shall meet at a mutually convenient time and place to attempt to resolve any such dispute.

However, in the event that the Members are unable to resolve any Member Dispute, such parties shall first attempt to settle such dispute through a non-binding mediation proceeding. In the event any party to such mediation proceeding is not satisfied with the results thereof, then any unresolved disputes shall be finally settled in accordance with an arbitration proceeding. In no event shall the results of any mediation proceeding be admissible in any arbitration or judicial proceeding.

**11.2 Mediation.** Mediation proceedings shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA") in effect on the date the notice of mediation was served, other than as specifically modified herein, and shall be non-binding on the parties thereto.

Any Member may commence a mediation proceeding by serving written notice thereof to the other Members, by mail or otherwise, designating the issue(s) to be mediated and the specific provisions of this Agreement under which such issue(s) and dispute arose. The initiating party shall simultaneously file two copies of the notice with the AAA, along with a copy of this Agreement. A Member may withdraw from the Member Dispute by signing an agreement to be bound by the results of the mediation, to the extent the mediation results are accepted by the other Members as provided herein. A Member who withdraws shall have no further right to participate in the Member Dispute.

The Members shall select one neutral third party AAA mediator (the "Mediator") with expertise in the area that is in dispute. If a Mediator has not been selected within five (5) business days thereafter, then a Mediator shall be selected by the AAA in accordance with the Commercial Mediation Rules of the AAA.

The Mediator shall schedule sessions, as necessary, for the presentation by all Members of their respective positions, which, at the option of the Mediator, may be heard by the Mediator jointly or in private, without any other members present. The mediation proceeding shall be held in the city that is the company's principal place of business or such other place as agreed by the Mediator and all of the Members. The Members may submit to the Mediator, no later than ten (10) business days prior to the first scheduled session, a brief memorandum in support of their position.

The Mediator shall make written recommendations for settlement in respect of the dispute, including apportionment of the mediator's fee, within ten (10) business days of the last scheduled session. If any Member involved is not satisfied with the recommendation for settlement, he or she may commence an arbitration proceeding.

**11.3 Arbitration.** Arbitration proceedings shall be conducted under the Rules of Commercial Arbitration of the AAA (the "Rules"). A Member may withdraw from the Member

Dispute by signing an agreement to be bound by the results of the arbitration. A Member who withdraws shall have no further right to participate in the Member Dispute.

The arbitration panel shall consist of one arbitrator. The Members shall select one neutral third party AAA arbitrator (the "Arbitrator") with expertise in the area that is in dispute. If an Arbitrator has not been selected within five (5) business days thereafter, then an Arbitrator shall be selected by the AAA in accordance with the Commercial Arbitration Rules of the AAA. The arbitration proceeding shall be held in the city that is the company's principal place of business or such other place as agreed by the Arbitrator and all of the Members. Any arbitrator who is selected shall disclose promptly to the AAA and to both parties any financial or personal interest the arbitrator may have in the result of the arbitration and/or any other prior or current relationship, or expected or discussed future relationship, with the Members or their representatives. The arbitrator shall promptly conduct proceedings to resolve the dispute in question pursuant to the then existing Rules. To the extent any provisions of the Rules conflict with any provision of this Section, the provisions of this Section shall control.

In any final award and/or order, the arbitrator shall apportion all the costs (other than attorney's fees which shall be borne by the party incurring such fees) incurred in conducting the arbitration in accordance with what the arbitrator deems just and equitable under the circumstances.

Discovery shall not be permitted in such arbitration except as allowed by the rules of arbitration, or as otherwise agreed to by all the parties of the Member Dispute. Notwithstanding, the Members agree to make available to one another and to the arbitrator, for inspection and photocopying, all documents, books and records, if determined by the arbitration panel to be relevant to the dispute, and by making available to one another and to the arbitration panel personnel directly or indirectly under their control, for testimony during hearings if determined by the arbitration panel to be relevant to the dispute. The Members agree, unless undue hardship exists, to conduct arbitration hearings to the greatest extent possible on consecutive business days and to strictly observe time periods established by the Rules or by the arbitrator for the submission of evidence and of briefs. Unless otherwise agreed to by the Members, a stenographic record of the arbitration proceedings shall be made and a transcript thereof shall be ordered for each Member, with each party paying an equal portion of the total cost of such recording and transcription.

The arbitrator shall have all powers of law and equity, which it can lawfully assume, necessary to resolve the issues in dispute including, without limiting the generality of the foregoing, making awards of compensatory damages, issuing both prohibitory and mandatory orders in the nature of injunctions and compelling the production of documents and witnesses for presentation at the arbitration hearings on the merits of the case. The arbitration panel shall neither have nor exercise any power to act as amicable compositeur or ex aequo et bono; or to award special, indirect, consequential or punitive damages. The decision of the arbitration panel shall be in written form and state the reasons upon which it is based. The statutory, case law and common law of the State of Nevada shall govern in interpreting their respective rights, obligations and liabilities arising out of or related to the transactions provided for or contemplated by this Agreement, including without limitation, the validity, construction and performance of all or any portion of this Agreement, and the applicable remedy for any liability established thereunder, and the amount or method of computation of damages which may be awarded, but such governing law shall not include the law pertaining to conflicts or choice of laws of Nevada; provided however, that should the parties refer a dispute arising out of or in connection with an ancillary agreement or an agreement between some or all of the Members which specifically references this Article, then

the statutory, case law and common law of the State whose law governs such agreement (except the law pertaining to conflicts or choice of law) shall govern in interpreting the respective rights, obligations and liabilities of the parties arising out of or related to the transactions provided for or contemplated by such agreement, including, without limitation, the validity, construction and performance of all or any portion of such agreement, and the applicable remedy for any liability established thereunder, and the amount or method of computation of damages which may be awarded.

Any action or proceeding subsequent to any Award rendered by the arbitrator in the Member Dispute, including, but not limited to, any action to confirm, vacate, modify, challenge or enforce the arbitrator's decision or award shall be filed in a court of competent jurisdiction in the same county where the arbitration of the Member Dispute was conducted, and Nevada law shall apply in any such subsequent action or proceeding.

## **ARTICLE XII**

### **MISCELLANEOUS**

**12.1 Notices.** Except as otherwise expressly provided herein, any notice, consent, authorization or other communication to be given hereunder shall be in writing and shall be deemed duly given and received when delivered personally, when transmitted by facsimile if receipt is acknowledged by the addressee, one business day after being deposited for next-day delivery with a nationally recognized overnight delivery service, or three business days after being mailed by first class mail, charges and postage prepaid, properly addressed to the party to receive such notice at the address set forth in the Company's records.

**12.2 Severability.** If any provision of this Agreement, or the application of such provision to any Person or circumstance, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those to which it is held to be invalid or unenforceable, shall not be affected thereby.

**12.3 Binding Effect.** Subject to Article VII, this Agreement shall bind and inure to the benefit of the parties and their respective Successors.

**12.4 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**12.5 Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes all prior or contemporaneous written or oral negotiations, correspondence, understandings and agreements between or among the parties, regarding the subject matter hereof.

**12.6 Further Assurances.** Each Member shall provide such further information with respect to the Member as the Company may reasonably request, and shall execute such other and further certificates, instruments and other documents, as may be necessary and proper to implement, complete and perfect the transactions contemplated by this Agreement.

**12.7 Headings; Gender; Number; References.** The headings of the Sections hereof are solely for convenience of reference and are not part of this Agreement. As used herein, each gender includes each other gender, the singular includes the plural and vice versa, as the context

may require. All references to Sections and subsections are intended to refer to Sections and subsections of this Agreement, except as otherwise indicated.

**12.8 Parties in Interest.** Except as expressly provided in the Act, nothing in this Agreement shall confer any rights or remedies under or by reason of this Agreement on any Persons other than the Members and their respective Successors nor shall anything in this Agreement relieve or discharge the obligation or liability of any third Person to any party to this Agreement, nor shall any provision give any third Person any right of subrogation or action over or against any party to this Agreement.

**12.9 Amendments.** All amendments to this Agreement shall be in writing and signed by all of the Members to the agreement at the time of the amendment.

**12.10 Attorneys' Fees.** In any dispute between or among the Company and one or more of the Members, including, but not limited to, any Member Dispute, the prevailing party or parties in such dispute shall be entitled to recover from the non-prevailing party or parties all reasonable fees, costs and expenses including, without limitation, attorneys' fees, costs and expenses, all of which shall be deemed to have accrued on the commencement of such action, proceeding or arbitration. Attorneys' fees shall include, without limitation, fees incurred in any post-award or post-judgment motions or proceedings, contempt proceedings, garnishment, levy, and debtor and third party examinations, discovery, and bankruptcy litigation, and prevailing party shall mean the party that is determined in the arbitration, action or proceeding to have prevailed or who prevails by dismissal, default or otherwise.

**12.11 Remedies Cumulative.** Subject to Article XI, remedies under this Agreement are cumulative and shall not exclude any other remedies to which any Member may be lawfully entitled.

**12.12 Jurisdiction and Venue/Equitable Remedies.** The Company and each Member hereby expressly agrees that if, under any circumstances, any dispute or controversy arising out of or relating to or in any way connected with this Agreement shall, notwithstanding Article XI, be the subject of any court action at law or in equity, such action shall be filed exclusively in the courts of the State of Nevada or of the United States of America with jurisdiction over any county of Nevada as selected by the Member that is the plaintiff in the action, or that initiates the proceeding or arbitration. Each Member agrees not to commence any action, suit or other proceeding arising from, relating to, or in connection with this Agreement except in such a court and each Member irrevocably and unconditionally consents and submits to the personal and exclusive jurisdiction of such courts for the purposes of litigating any such action, and hereby grants jurisdiction to such courts and to any appellate courts having jurisdiction over appeals from such courts or review of such proceedings. Because the breach of the provisions of this Section would cause irreparable harm and significant injury to the Company and the other Members, which would be difficult to ascertain and which may not be compensable by damages alone, each Member agrees that the Company and the other Members will have the right to enforce the provisions of this Section by injunction, specific performance or other equitable relief in addition to any and all other remedies available to such party or parties without showing or proving any actual damage to such parties. Members will be entitled to recover all reasonable costs and expenses, including but not limited to all reasonable attorneys' fees, expert and consultants' fees, incurred in connection with the enforcement of this Section.

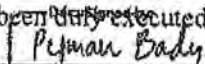
**12.13 Authority.** This Agreement constitutes a legal, valid and binding agreement of the Member, enforceable against the Member in accordance with its terms. The Member is

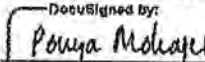


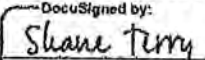
empowered and duly authorized to enter into this Agreement (including the power of attorney herein) under every applicable governing document, partnership agreement, trust instrument, pension plan, charter, certificate of incorporation, bylaw provision or the like. The Person, if any, signing this Agreement on behalf of the Member is empowered and duly authorized to do so by the governing document or trust instrument, pension plan, charter, certificate of incorporation, bylaw provision, board of directors or stockholder resolution or the like.

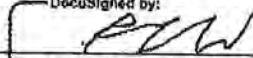
**12.14 Indemnification by Members in Breach.** Each Member hereby agrees to indemnify and defend the Company, the other Members and each of their respective employees, agents, partners, members, shareholders, officers and directors and hold them harmless from and against any and all claims, liabilities, damages, costs and expenses (including, without limitation, court costs and attorneys' fees and expenses) suffered or incurred on account of or arising out of any breach of this Agreement by that Member.

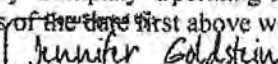
IN WITNESS WHEREOF, this Limited Liability Company Operating Agreement has been duly executed by or on behalf of the parties hereto as of the date first above written.

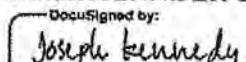
  
DocuSigned by:  
Member: PEJMAN BADY

  
DocuSigned by:  
Member: POUYA MOHAJER

  
DocuSigned by:  
Member: SHANE TERRY

  
DocuSigned by:  
Member: RYAN WINMILL

  
DocuSigned by:  
Member: JENNIFER GOLDSTEIN

  
DocuSigned by:  
Member: JOSEPH KENNEDY

Member: JOHN PENDERS

**NUVEDA, LLC**  
**LISTING OF MEMBERS**

NAME:	ADDRESS:	PERCENTAGE INTERESTS VOTING/OWNERSHIP INTERESTS/DISTRIBUTION:
Pejman Bady	PO Box 6255 Pahrump, NV 89041	46.5%/46.5%/38%
Pouya Mohajer	2700 Las Vegas Blvd. #2709 Las Vegas, NV 89109	21%/21%/25.25%
Shane Terry	4575 Dean Martin Drive #1401 Las Vegas, NV 89103	21%/21%/25.25%
Jennifer Goldstein	200 Hoover Street #1113 Las Vegas, NV 89101	7%*/7%*/7%*
Joe Kennedy	11115 Kilkerran Ct. Las Vegas, NV 89141	1%*/1%*/1%*
John Penders	29 Marshall Terrace Wayland, MA 01778	1.75%*/1.75%*/1.75%
Ryan Winmill	412 Princess Street Alexandria VA 222314	1.75%*/1.75%*/1.75%

\*Nondilutable interests once vested. As if this writing, the Ownership, Voting and Distribution Shares of Goldstein, Kennedy, Winmill and Penders are designated as Nondilutable

Member Listing as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014

DocuSigned by:  
Pejman Bady  
Member: PEJMAN BADY

DocuSigned by:  
Pouya Mohajer  
Member: POUYA MOHAJER

DocuSigned by:  
Shane Terry  
Member: SHANE TERRY

DocuSigned by:  
RW  
Member: RYAN WINMILL

DocuSigned by:  
Jennifer Goldstein  
Member: JENNIFER GOLDSTEIN

DocuSigned by:  
Joseph Kennedy  
Member: JOSEPH KENNEDY

Member: JOHN PENDERS

**NUVEDA, LLC  
CAPITAL CONTRIBUTIONS**

Pursuant to ARTICLE III, the Members' initial contribution to the Company capital is stated to be one million dollars (\$1,000,000.00). The description and each individual portion of this initial contribution is as follows, which amounts shall be allocated to the Capital Accounts for each Member:

Description

	Value
Member: PEJ BADY	\$440,000.00
Member: POUYA MOHAJER	\$440,000.00
Member: SHANE TERRY	\$120,000.00

SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

DocuSigned by:  
Pejman Bady  
Member: PEJMAN BADCY

DocuSigned by:  
Pouya Mohajer  
Member: POUYA MOHAJER

DocuSigned by:  
Shane Terry  
Member: SHANE TERRY

DocuSigned by:  
Robb Winmill  
Member: ROBB WINMILL

DocuSigned by:  
Jennifer Goldstein  
Member: JENNIFER GOLDSTEIN

DocuSigned by:  
Joseph Kennedy  
Member: JOSEPH KENNEDY

Member: JOHN PENDERS