

**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
Aug 31 2021 03:40 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

**REPLY TO OPPOSITION TO EMERGENCY MOTION TO STAY CASE
BY SHANE TERRY IN THE DISTRICT COURT UNDER
NRAP 8(A) AND 27(E)**

LAW OFFICE OF MITCHELL STIPP
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Counsel for Petitioner¹

¹ A. William Maupin serves as co-counsel to Petitioner in this matter.

DATED this 31st day of August, 2021.

LAW OFFICE OF MITCHELL STIPP

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

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Counsel for Petitioner

I. Introduction

Shane Terry filed his opposition to the emergency motion to stay. See Response/Opposition, Dkt. 21-24891. Pages 1-12 of Mr. Terry's response/opposition set forth the same facts and circumstances contained in Mr. Terry's original complaint, in all the motions before the district court, and his answer to the petition for writ. For purposes of this reply, it is not necessary to address all of Mr. Terry's recycled assertions.

The key facts/contentions by Mr. Terry are as follows:

In clandestine fashion, NuVeda, and its subsidiaries, Clark NMSD, Clark Natural and Nye Natural, acting in concert with Bady and Mohajer, transferred the Terry Interest to Bady and Mohajer without Terry's knowledge or consent. Without knowledge that NuVeda, Clark NMSD, Clark Natural, Nye Natural, Bady and Mohajer had improperly transferred the Terry Interest to Bady and Mohajer, Terry entered into the Terry Purchase Agreement whereby Terry agreed to sell the Terry Interest to BCP 7, guaranteed by Padgett, for specified consideration and on specific terms.

Id. at 14. In other words, Mr. Terry claims that (a) **before** he sold his interest/claims to BCP 7 Holding, LLC ("BCP 7"), such interests were actually transferred to Drs. Pejman Bady and Pouya Mohajer (members of NuVeda); and (b) Mr. Terry did not learn of the transfer to Drs. Bady and Mohajer until **after** he sold his interest/claims to BCP 7, and BCP 7 dismissed the claims with prejudice before the American Arbitration Association ("AAA"). NuVeda pointed out in

its motion that Mr. Terry's "new" allegation was the primary claim being arbitrated before the American Arbitration Association ("AAA"): the expulsion of Mr. Terry as a member of NuVeda and the termination of the same interest (which after giving effect to the expulsion resulted in an increase to the membership percentages of Drs. Bady and Mohajer in NuVeda). See Motion, Dkt. 21-23560, pages 8-9 (citing Appendix, Vol. 10, Dkt. 21-16551, 0689-0719); see also Appendix, Vol. 5, Dkt. 21-10782, 0300-0381, 0319 (paragraphs 41-45 of Mr. Terry's Motion to Set Aside before AAA). **In his response/opposition, Mr. Terry completely ignores NuVeda's contention.** See Polk v. State, 126 Nev.180, 183 n.2, 233 P.3d at 359 n.2 ("[A respondent] who fails to include and properly argue a contention in the [respondent's] brief takes the risk that the court will view the contention as forfeited." (internal quotations and citation omitted)).

Mr. Terry alleged in his original complaint in Case No. A-20-817363-B that he was expelled, and his interest was distributed to Drs. Bady and Mohajer. Appendix. Vol. 1, Dkt. 21-10778, 0048-0083, 0055-0056 (paragraphs 59-62). Mr. Terry confirmed these purported facts in his answer to the petition for writ. See Answer, Dkt. 21-21028, pages 12-13 (paragraphs 37-41). Now, Mr. Terry claims he did not learn of the transfer until after he sold his interest/claims to BCP 7 and

BCP 7 dismissed the claims with prejudice before AAA (i.e., after January 2019). See Exhibit 1 to Motion to Stay, Dkt. 21-24891 (paragraph 82 of proposed second amended complaint, pages 10-11 of Exhibit 1 to Motion to Amend Complaint). **As this Court will see below, Mr. Terry's claim of knowledge makes no sense and no difference.**

II. Stay is Proper pending the Court's Decision on the Writ.

Mr. Terry contends that the Nevada Supreme Court must accept as true that Mr. Terry did not discover the “wrongful” or “improper” transfer of his interests until after he sold them and the claims were dismissed before AAA. See Response/Opposition, Dkt. 21-24891 at 12. However, Mr. Terry cites to no authority which supports this contention. He apparently believes this Court is bound by case law which guides the district court on a motion to dismiss under NRCP 12(b)(5). While NuVeda's motions before the district court were motions to dismiss, **they were also motions for summary judgment.** Mr. Terry should be aware that applicable case law also provides that “the [district] court is not required to blindly accept allegations which defy common sense.” See Ashcroft v. Iqbal, 556 U.S. 662, 664 (2009). The fact that Mr. Terry now claims that he did not learn of the transfers (which occurred as a result of his expulsion from NuVeda) until

after he sold the same interests/claims to BCP 7 and BCP 7 dismissed the claims with prejudice before AAA, not only defies common sense, but this claim is demonstrably false (based on Mr. Terry's own statements/admissions). Further, Mr. Terry should be judicially estopped from asserting a contrary position. See Nolm, LLC v. County of Clark, 120 Nev. 736, 100 P.3d 658 (2004).

Mr. Terry's new claims are included in or based on the interests/claims sold to BCP and dismissed before AAA. See Dkt. 21-10778, Appendix Vol. 1, 0002-0033; Appendix 16, Dkt. 21-24160; Dkt. 21-10779, Appendix. Vol. 2, 0156-0157 (Exhibit 7 to Motion, Appendix 0085-0160) and 0158-0160 (Exhibit 8 to Motion, Appendix 0085-0160). Regardless, it does not matter what Mr. Terry knew or when he knew it with respect to his interests/claims. **There is no dispute he sold whatever he owned (which could have been nothing) to BCP 7, and BCP 7 dismissed those claims with prejudice before AAA.** That order has not been set aside and the transaction with BCP 7 and Mr. Padgett has not been rescinded by the district court. As previously pointed out, Mr. Terry has every right to and should pursue his claims against BCP 7 and Mr. Padgett. He should not be permitted to continue to assert claims, which are res judicata.

NuVeda is not seeking a stay (or dismissal/grant of summary judgment) with respect to claims by the receiver for CWNevada, LLC, claims by Phil Ivey, or claims by Mr. Terry against BCP 7 or Mr. Padgett. However, Mr. Terry should not be permitted to pursue any claims (now or ever) based on his interest/claims sold to BCP 7 and dismissed in the arbitration before AAA. Mr. Terry's claims (including his proposed new claims) are res judicata based on claim preclusion. Weddell v. Sharp, 350 P.3d 80, 86 (Nev. 2015) (modifying Five Star Capital Corp. v. Ruby, 194 P.3d 709, 713 (Nev. 2008)).² "The purpose of the claim preclusion doctrine . . . is to obtain finality by preventing a party from filing another suit that is based on the same set of facts that were present in the initial suit." Five Star Capital Corp., 194 P.3d 709, 712 (holding modified by Weddell, 350 P.3d 80 (2015)). In this case, NuVeda and its affiliates/subsidiaries have been litigating with Mr. Terry with the blessing of the district court, and this Court should stay the matter pending its decision on NuVeda's petition for writ.³

² According to Weddell, claim preclusion applies when: (1) there has been a valid, final judgment in a previous action; (2) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first action; and (3) the parties or their privies are the same in the instant lawsuit as they were in the previous lawsuit, *or* the defendant can demonstrate that he or she should have been included as a defendant in the earlier suit and the plaintiff fails to provide a "good reason" for not having done so.

³ Attached as **Exhibits 1 and 2** are NuVeda's opposition to the motion to amend and exhibits in support thereof filed with the district court.

DATED this 31st day of August, 2021.

LAW OFFICE OF MITCHELL STIPP

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

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CERTIFICATE OF COMPLIANCE AND VERIFICATION

1. The reply has been prepared in a proportionally spaced typeface using Microsoft Word, Version 16.11.1, in 14 point, Times New Roman.
2. The reply does not exceed 15 pages.
3. I hereby certify that I have read the reply, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that the reply complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 21. I understand that I may be subject to sanctions in the event that the reply is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31st day of August, 2021, I filed the foregoing,
**REPLY TO OPPOSITION TO EMERGENCY MOTION TO STAY CASE
BY SHANE TERRY IN THE DISTRICT COURT UNDER NRAP 8(A) AND
27(E)**, using the court's electronic filing system.

Notice of the filing was made upon acceptance by the Nevada Supreme Court
using the District Court's electronic filing system to the following e-service
participants in District Court Case No. A-17-755479-B (Consolidated Case) and by
mail to the addresses as indicated:

Judge Elizabeth Gonzalez:

Dept11lc@clarkcountycourts.us

Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89155

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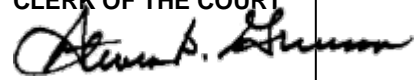
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By: 

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EXHIBIT 1



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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

**OPPOSITION TO MOTION TO FILE SECOND
AMENDED COMPLAINT**

Date of Hearing: September 13, 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 opposition.

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.

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///

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1 DATED this 20th day of August, 2021.

2
3 **LAW OFFICE OF MITCHELL STIPP**

4
5 /s/ Mitchell Stipp, Esq.

6 MITCHELL STIPP, ESQ.

7 Nevada Bar No. 7531

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13 *Attorneys for NuVeda, LLC*

1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **A. Old/New Claims by Shane Terry are Res Judicata**

4
5 Shane Terry filed a lawsuit against NuVeda **in 2015** (Case No. A-15-728510-B). Mr. Terry sought to
6 stop the potential joint venture between CWNevada, LLC (“CWNevada”) and NuVeda. However, the district
7 court denied Mr. Terry’s request for a preliminary injunction. The Nevada Supreme Court also upheld the
8 district court’s decision on Mr. Terry’s appeal. See Dkt. No. 17-35048, Case No. 69648.

9
10 At the request of the parties, Case No. A-15-728510-B was referred to the American Arbitration
11 Association (“AAA”) for binding arbitration (AAA Case No. 01-15-0005-8574). During the arbitration before
12 AAA, Mr. Terry sold his interest in and claims against NuVeda and its affiliates/subsidiaries to BCP 7 Holding,
13 LLC, a Nevada limited liability company (“BCP 7”), which NuVeda understands is the manager of CWNevada
14 and affiliated with Brian Padgett. See Exhibit 1. BCP 7 voluntarily and unconditionally dismissed all of Mr.
15 Terry’s claims with prejudice in the case before AAA. See Exhibit 2. Ultimately, BCP 7 defaulted on its
16 obligations to Mr. Terry, and Mr. Terry sued BCP 7 and Mr. Padgett (but did **not** seek rescission). See
17 Complaint, Case No. A-19-796300-B.

18
19 Mr. Terry entered into a “litigation partnership” with the receiver appointed over CWNevada, and this
20 arrangement was approved by Judge Gonzalez in Case No. A-17-755479-B (“Receivership Action”). Rather
21 than litigate the matter in Case No. A-15-728510-B or pursue claims in Case No. A-19-796300-B, Mr. Terry
22 filed a new complaint (Case No. A-20-817363-B). The new case was consolidated by Judge Gonzalez at the
23 request of Mr. Terry (and his litigation partners) in the Receivership Action. In the new action, Mr. Terry
24 asserted claims against NuVeda (and its affiliates/subsidiaries). As part of Case No. A-20-817363-B, Mr. Terry
25 seeks to rescind the transaction with BCP 7 and Mr. Padgett. Mr. Terry’s separate case against BCP 7 and Mr.
26 Padgett (Case No. A-19-796300-B) was also consolidated into the Receivership Action by Judge Gonzales and
27 remains pending.
28

1 The allegations in the complaint filed in Case No. A-20-817363-B mirror the allegations by Mr. Terry
2 in the arbitration (AAA Case No. 01-15-0005-8574). After Mr. Terry entered into a binding agreement to sell
3 his interest in and claims against NuVeda (and its affiliates/subsidiaries), Mr. Terry through his counsel-of-
4 record (Erika Pike Turner, Esq.) filed a motion in the arbitration to substitute BCP 7 in place of Mr. Terry as
5 the real party in interest with all rights to Mr. Terry's interest and claims. Mr. Terry's motion before AAA
6 specifically argued the following:
7

8
9 Here, there should be no impediment to the requested substitution of Buyer for
10 Mr. Terry, as Buyer now has the sole right to prosecute claims pendent to
11 Mr. Terry's rights and interests relative to NuVeda and make decisions
12 relative thereto, pursuant to Buyer/Mr. Terry's voluntary agreement wherein
13 Mr. Terry agreed to assign all rights and interests relative to NuVeda, LLC to
14 Buyer, including the pendent claims. Further, Respondents have repeatedly
argued that Mr. Terry has no rights under the Operating Agreement that
survive his termination on March 10, 2016; thus, Respondents should be
judicially estopped from making a contrary argument now.

15 See Exhibit 3 (emphasis added). The AAA permitted BCP 7 to substitute into the arbitration for Mr. Terry. In
16 accordance with the motion filed by Mr. Terry and the request by BCP 7 to dismiss the claims with prejudice,
17 AAA ordered these claims finally to be dismissed on October 9, 2018.
18

19 The decision by the arbitrator in Case No. A-15-728510-B is not subject to being set aside under NRCP
20 60(b)(4), which Mr. Terry contends is the basis. Regardless, the district court provided Mr. Terry 90 days to
21 obtain relief from AAA and denied his request to file the first amended complaint. See Orders filed on
22 September 18, 2020 and November 24, 2020.¹ After the 90-day stay elapsed, and NuVeda did not receive
23 notice of any request for relief before AAA filed by Mr. Terry, NuVeda filed an *ex parte* motion for the district
24 court to enter an order granting the request for dismissal and/or summary judgment. The district court denied
25 the request to hear the matter on shortened time and requested further briefing. As a result, NuVeda filed
26
27
28

¹ The first amended complaint has not been filed.

1 another motion. Mr. Terry opposed, and the district court denied NuVeda's motion (but ordered that an
2 evidentiary hearing (no jury trial) should held on the issue of contract rescission). See Order filed on June 11,
3 2021.

4
5 In light of the decision by the district court, NuVeda filed a motion to stay the proceedings in order to
6 file a writ petition under Helfstein v. Eighth Judicial Dist. Court of State, 362 P.3d 91 (Nev. 2015) (granting writ
7 petition and instructing Judge Gonzalez to vacate her previous order regarding a NRCP 60(b) motion). The
8 court denied the stay but vacated its decision to conduct an evidentiary hearing (because there were genuine
9 issues of material fact on contract rescission which should be determined by the trier of fact). See Order filed
10 on June 14, 2021. The claims by Mr. Terry remain pending and subject to a jury trial. However, the Nevada
11 Supreme Court has agreed to hear NuVeda's writ petition. See Nevada Supreme Court Case No. 82767.
12 Briefing is now complete. However, given the motion to amend the complaint filed by Mr. Terry on August
13 12, 2021, NuVeda filed an emergency motion to stay the district court proceedings by Mr. Terry pending a
14 decision on the writ. See Dkt. 21-23560 (Nevada Supreme Court Case No. 82767).

15
16 NuVeda contends the claims asserted by Mr. Terry in Case No. A-19-796300-B are owned by BCP 7. The
17 transaction has not been rescinded. Therefore, Mr. Terry does not have standing to prosecute them or assert
18 additional claims based on the claims and interest sold to BCP 7. Even if the transaction with BCP 7 could be
19 rescinded, NuVeda still contends such claims are res judicata (barred by claim preclusion) because the order by
20 AAA dismissing the same cannot be set aside (even if there is rescission of Mr. Terry's transaction with BCP
21 7). See NRCP 60(b); see also Weddell v. Sharp, 350 P.3d 80, 86 (Nev. 2015) (modifying Five Star Capital
22 Corp. v. Ruby, 194 P.3d 709, 713 (Nev. 2008)).² "The purpose of the claim preclusion doctrine . . . is to obtain
23

24
25
26 ² According to Weddell, claim preclusion applies when: (1) there has been a valid, final judgment in a previous
27 action; (2) the subsequent action is based on the same claims or any part of them that were or could have been
28 brought in the first action; and (3) the parties or their privies are the same in the instant lawsuit as they were in
the previous lawsuit, *or* the defendant can demonstrate that he or she should have been included as a defendant
in the earlier suit and the plaintiff fails to provide a "good reason" for not having done so.

1 finality by preventing a party from filing another suit that is based on the same set of facts that were present in
2 the initial suit." Five Star Capital Corp., 194 P.3d 709, 712 (holding modified by Weddell, 350 P.3d 80 (2015)).

3 In NuVeda's initial motion to dismiss and/or for summary judgment, NuVeda specifically argued as follows:

4 The claims raised by Mr. Terry in Case No. A-20-817363-B against NuVeda and its
5 affiliates are barred by Nevada's claims preclusion doctrine. See Five Star Capital
6 Corp. v. Ruby, 124 Nev. 1048, 194 P.3d 709 (2008) (modified by Weddell v. Sharp,
7 350 P.3d 80 (Nev. 2015)). The stipulation by Mr. Terry's buyer and the judgment by
the arbitrator is a final judgment which is valid, the current action by Mr. Terry is based
on the same claims, and the relevant parties are the same in the current case as they
were in the previous lawsuit.

8
9 As the district court is aware, for a judgment to be void under NRCP 60(b)(4), there must be a defect in
10 the court's authority to enter judgment through either lack of personal jurisdiction or jurisdiction over subject
11 matter in the suit. See Gassett v. Snappy Car Rental, 111 Nev. 1416, 1419, 906 P.2d 258, 261 (1995), superseded
12 by rule on other grounds as stated in Fritz Hansen A/S v. Eighth Judicial Dist. Court, 116 Nev. 650, 6 P.3d
13 982 (2000)). Mr. Terry has never alleged that AAA lacked personal or subject matter jurisdiction.
14 Jurisdiction over Mr. Terry and his interest/claims was properly before AAA at his request for arbitration under
15 the operating agreement for NuVeda. While NuVeda acknowledges that the six-month deadline in NRCP
16 60(b) does not apply specifically to NRCP 60(b)(4), AAA's orders are not void. It should be clear that Mr.
17 Terry truly desires to set aside AAA's orders based on fraud under NRCP 60(b)(3) (which is subject to the six-
18 month deadline and has expired). A review of the complaint on file confirms Mr. Terry believes that he was
19 fraudulently induced into consummating the transaction with BCP 7. If Mr. Terry can prevail at trial on contract
20 rescission (which seems unlikely but not impossible), then he would be required to pay back the consideration
21 he received through BCP 7. See Bergstrom v. Estate of Devoe, 109 Nev. 575 (Nev.1993).

22
23 Mr. Terry has failed to explain the basis of litigating causes of action against NuVeda (and its
24 affiliates/subsidiaries) when trial on contract rescission has not been completed. If the orders of dismissal by
25 AAA can be set aside, Mr. Terry's claims against NuVeda are still subject to binding arbitration before AAA in
26 Case A-15-728510-B (not in Case A-20-817363-B). If rescission occurs and AAA orders are also set aside,
27 however, the case is still subject to dismissal with prejudice under NRCP 41(e)(2)(B) (5-Year Rule). See NRCP
28 41(e)(6); Morgan v. Las Vegas Sands, Inc., 118 Nev. 315 (Nev. 2002) (arbitration does not toll the 5-year rule—

dismissal is mandatory). The effect of the 5-year rule was briefed previously before the district court. However, Mr. Terry contends the time under NRCP 41(e) actually begins from the filing of the new complaint in Case No. A-20-817363-B (which Judge Gonzalez seems to accept). There is no authority for Mr. Terry's position.

Under NRCP 15(a), leave to amend, even if timely sought, need not be granted if the proposed amendment would be "futile." Allum v. Valley Bank of Nev., 109 Nev. 280, 287, 849 P.2d 297, 302 (1993); see also Halcrow Inc. v. Eighth Judicial Dist. Court, 129 Nev. —, —, 302 P.3d 1148, 1152 (2013). A proposed amendment may be deemed futile if the plaintiff seeks to amend the complaint in order to plead an impermissible claim, such as one which would not survive a motion to dismiss under NRCP 12(b)(5) or a "last-second amendment[] alleging meritless claims in an attempt to save a case from summary judgment." Soebbing v. Carpet Barn, Inc., 109 Nev. 78, 84, 847 P.2d 731, 736 (1993). NuVeda expects that the Nevada Supreme Court will order the clerk of the court to dismiss claims asserted by Mr. Terry against NuVeda and its affiliates/subsidiaries and/or grant summary judgment. Allowing Mr. Terry to assert new claims based on the interest sold to BCP 7 and claims previously dismissed is the text book example of futility.

B. New Claims against New Parties

1. UL-NuVeda Holdings, LLC/NuVeda, LLC (DE)

Mr. Terry, Phillip Ivey, and the receiver for CWNevada ("Receiver") are aware that the transaction was terminated by Urbn Leaf. See **Exhibit 4**. An action was commenced in the Delaware Chancery Court on August 14, 2020, as Case No. 2020-0675, for the recovery of Urbn Leaf's payment to satisfy the judgment in favor of 4Front Advisors, LLC. Joe Coppedge, as counsel for Mr. Terry, Mr. Ivey, and the Receiver, has been aware of the case since at least August 20, 2020. See **Exhibit 5** (Email from Mr. Joppedge, dated August 20, 2020). To avoid contrary rulings in the Receivership Action, the Delaware Chancery Court has stayed the case pending resolution of Case No. A-19-796300-B as part of the Receivership Action. See **Exhibit 6**. Further, Mr. Terry, Mr. Ivey, and the Receiver set forth factual allegations in their proposed first amended complaint (paragraphs 155-162), which confirm their knowledge of the action in Delaware. See Exhibit 1 to Motion, filed

1 on August 6, 2021 (Redline comparing Proposed Second Amended Complaint to the Proposed First Amended
2 Complaint). Despite notice of the complaint and assertion of factual allegations related to the same, Mr. Terry,
3 Mr. Ivey and the Receiver did not seek to add UL-NuVeda Holdings, LLC/NuVeda, LLC (DE) as parties. Mr.
4 Terry, Mr. Ivey, and the Receiver have not articulated any basis for suing them now as successor entities.
5 Accordingly, UL-NuVeda Holdings, LLC/NuVeda, LLC (DE) are not necessary parties to the resolution of the
6 claims by Mr. Terry, Mr. Ivey or the Receiver (especially in light of the stay in Delaware).

7
8 NRCP 15(a) recites that when a party seeks leave to amend a pleading after the initial responsive
9 pleadings have been served, “leave shall be freely given when justice so requires.” The Nevada Supreme Court
10 has held that “in the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory
11 motive on the part of the movant—the leave sought should be freely given.” Stephens v. S. Nev. Music Co.,⁸⁹
12 Nev. 104, 105–06, 507 P.2d 138, 139 (1973). Thus, NRCP 15(a) contemplates the liberal amendment of
13 pleadings, which in colloquial terms means that most such motions ought to be granted unless a strong reason
14 exists not to do so, such as prejudice to the opponent or lack of good faith by the moving party. Stephens,⁸⁹
15 Nev. at 105, 507 P.2d at 139.

16
17 Here, it would be prejudicial to add UL-NuVeda Holdings, LLC/NuVeda, LLC (DE) as new parties
18 when the litigation in Delaware is stayed and the case is required to be litigated there. Further, it is bad faith
19 for Mr. Terry, Mr. Ivey, and the Receiver to assert successor liability when they were aware that Urbn Leaf
20 terminated the deal and does not claim to be a successor to NuVeda or its affiliates/subsidiaries. Finally, Mr.
21 Terry, Mr. Ivey and the Receiver offer no explanation for waiting until now to seek leave to amend their
22 complaint. The decision by Mr. Terry, Mr. Ivey, and the Receiver amounts to undue delay.
23

24
25 2. New CWNV LLC/CWNV1 LLC
26

27 CWNV, LLC, a dissolved limited liability company (“CWNV”), and CWNV1, LLC, a dissolved
28 Nevada limited liability company (“CWNV1”), were dismissed from NuVeda’s case at the request of Mr. Terry,

1 Mr. Ivey, and the Receiver. See Order filed on September 23, 2020. CWNV and CWNV1 were previously
2 dissolved as a result of the bankruptcy of CWNebraska prior to the appointment of the Receiver over CWNebraska.
3 Mr. Terry, Mr. Ivey, and the Receiver also sought a receivership over and injunction applicable to CWNV and
4 CWNV1. Fortunately, that motion was denied. See Order filed on September 25, 2020. However, upon
5 subsequent motion by Mr. Terry, Mr. Ivey, and the Receiver, the court granted the Receiver permission to revive
6 these dissolved entities. See Order filed on November 24, 2020. When the receiver failed to revive them,
7 NuVeda revived them and merged them into new formed limited liability companies, CWNV LLC, a Nevada
8 limited liability company (“New CWNV”) and CWNV1 LLC, a Nevada limited liability company (“New
9 CWNV1”). As a result of the mergers, CWNV and CWNV1 are permanently dissolved.

10
11 At the request of Mr. Terry, Mr. Ivey, and the Receiver, the court issued an order to show cause and
12 scheduled an evidentiary hearing on contempt that relates solely to the merger of the entities. The court had no
13 objection to NuVeda’s revival. Given the lack of violation of any order of the court, NuVeda asked Judge
14 Gonzales to recuse herself from presiding over the evidentiary hearing, which is required under NRS 22.030(3).
15 When Judge Gonzales refused, NuVeda filed a writ petition before the Nevada Supreme Court (Case No. 82649).
16 At the request of NuVeda, the Nevada Supreme Court stayed the contempt proceeding. See Notice of Stay,
17 dated April 2, 2021 in Nevada Supreme Court Case No. 82649. The matter has been fully briefed and is awaiting
18 a decision by the Nevada Supreme Court.

19
20 Any assets or liabilities of CWNV belong to New CWNV, and any assets or liabilities of CWNV1
21 belong to New CWNV1, as a result of the mergers. See NRS 92A.250. Accordingly, there are no causes of
22 action against any person or entity by CWNV and CWNV1, and the Receiver cannot assert causes of action on
23 behalf of them, which do not exist. With respect to new claims against New CWNV or New CWNV1 (as
24 successor entities), NuVeda does not believe there is any basis to oppose the request for leave to amend under
25 NRCP 15 (even though the new claims lack factual and legal support). CWNebraska does not have any interest
26 in New CWNV or New CWNV1. NuVeda will address those claims upon completion of discovery via
27 dispositive motion practice.
28

1 **C. Conclusion**

2 NuVeda respectfully requests that the motion to amend be denied except with respect to claims against
3 New CWNV and New CWNV1 asserted solely by the Receiver on behalf of CWNevada. Mr. Terry does not
4 have standing to assert any new claims against NuVeda and its affiliates/subsidiaries. Mr. Ivey has claims
5 against Clark Natural Medicinal Solutions, LLC and Nye Natural Medicinal Solutions, LLC based on a
6 purported three percent (3%) interest. Those claims do not permit him to assert any claims against New CWNV
7 or New CWNV1.

8
9 DATED this 20th day of August, 2021.

10 **LAW OFFICE OF MITCHELL STIPP**

11
12 /s/ Mitchell Stipp, Esq.

13 MITCHELL STIPP, ESQ.

14 Nevada Bar No. 7531

15 LAW OFFICE OF MITCHELL STIPP

16 1180 N. Town Center Drive, Suite 100

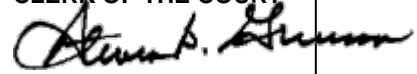
17 Las Vegas, Nevada 89144

18 Telephone: 702.602.1242

19 mstipp@stipplaw.com

20 Attorneys for NuVeda, LLC

EXHIBIT 2



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

**EXHIBITS IN SUPPORT OF OPPOSITION TO
MOTION TO FILE SECOND AMENDED
COMPLAINT**

Date of Hearing: September 13, 2021

Time of Hearing: 9:00 a.m.

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 exhibits.

///

///

///

///

///

///

///

DATED this 21st day of August, 2021.

LAW OFFICE OF MITCHELL STIPP

/s/ Mitchell Stipp, Esq.

MITCHELL 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

EXHIBIT 1: TRANSACTIONAL DOCUMENTS FOR SALE OF INTEREST AND CLAIMS

EXHIBIT 2: REQUEST TO DISMISS CLAIMS WITH PREJUDICE AND DISMISSALS

EXHIBIT 3: MOTION TO SUBSTITUTE PARTIES

EXHIBIT 4: NOTICE OF TERMINATION BY URBN LEAF

EXHIBIT 5: EMAIL FROM JOE COPPEDGE CONTAINING URBN LEAF DELAWARE COMPLAINT

EXHIBIT 6: STAY OF DELAWARE CASE

EXHIBIT 1

Purchase and Sale Agreement for Shane Terry's Ownership Interest in NuVeda and NuVeda-Managed Licenses

Clark NMSD, LLC ("Clark") is an active Nevada domestic Limited- Liability Company with resident agent Sandy Kindler, 2171 River Plate Drive, Pahrump, Nevada 89048 and is the owner of two Dispensary license(s) issued by the State of Nevada Department of Health and Human Services, Nevada Division of Public and Behavioral Health and the Department of Taxation (along with other government entities and subdivisions, "Nevada") with resident agent Sandy Kindler, 2171 River Plate Drive, Pahrump, Nevada 89048 ("Kindler"). NuVeda, LLC ("NuVeda") is the sole manager of Clark. The Clark Dispensary licenses are identified specifically by the following State of Nevada Establishment numbers: 2502 5985 3578 6823 7824 and 9409 0342 9554 6702 0377.

Clark Natural Medicinal Solutions, LLC ("Clark Natural") is an active Nevada domestic Limited- Liability Company with resident agent Kindler. Clark Natural is the owner one Cultivation license and one Production license issued by the Nevada. NuVeda is the sole manager of Clark Natural. The Clark Natural Cultivation license is identified specifically by the following State of Nevada Establishment number: 6499 5797 7556 7012 2923. The Clark Natural Production license is identified specifically by the following State of Nevada Establishment number: 5447 7437 9374 7929 7460.

Nye Natural Medical Solutions LLC ("Nye") is an active Nevada domestic Limited-Liability Company with resident agent Kindler. Nye is the owner of a Cultivation license and Production license issued by Nevada. NuVeda is the sole manager of Nye. The Nye Cultivation license is identified specifically by the following State of Nevada Establishment number: 4073 3091 6294 5475 1109. The Nye Production license is identified specifically by the following State of Nevada Establishment number: 9160 4693 9161 6650 7699.

Shane Terry ("Seller") is registered with Nevada as the owner of a twenty-one percent (21%) owner in NuVeda, Clark, Clark Natural and Nye (the "Interest"). Seller desires to sell the Interest, as-is, to Brian C. Padgett ("Padgett") or his designee, with no warranties or representations.

BCP 7, LLC ("Buyer") is an active Nevada domestic Limited Liability Company with resident agent Brian C. Padgett, 611 S. 6th Street, Las Vegas, Nevada 89101 whose manager is the owner of Dispensary, Cultivation and Production license(s) in Nevada.

Seller hereby agrees to sell the Interest to Buyer and Buyer agrees to purchase the Interest for the following consideration and on the following terms:

1 of 5
45

ST
Substantially reduced

Purchase Price: Buyer shall acquire Seller's Interest for a total purchase price of \$1.75 million (the "Purchase Price"). The Purchase Price is payable as follows:

Initial Payment: \$500,000.00 in good and payable U.S. funds shall be paid to Seller on or before June 15, 2018.

Monthly Payments: \$1.25 million (the "Balance") is due on or before June 15, 2028 with payments due monthly until paid in full. Monthly Payments shall be made on or before the first day of the month in an amount not less than the interest accrued on the outstanding balance at an interest rate of 18%. Monthly Payments shall commence May 1, 2018; however, the first payment shall be paid no later than May 3, 2018.

Prepayment: There shall be no prepayment penalty charged to Buyer if he elects to pay off the Balance, together with any accrued interest thereon, after the first year of Monthly Payments.

Acceleration: There shall be acceleration of the outstanding Balance and any unpaid interest accrued thereon upon 1) sale or transfer of the Interest to a vehicle not owned by Buyer, or any beneficial rights thereunder, from Buyer to a third party (other than CWNV, LLC); or 2) a default of a payment obligations, which shall result from any failure to timely pay the Initial Down Payment or any Monthly Payments on the Balance following notice of failure emailed to Padgett and no cure within 10 business days thereof.

Until otherwise directed in writing to Padgett, delivery of the funds shall be delivered to Shane Terry, c/o Erika Pike Turner, Garman Turner Gordon LLP, 650 White Drive, Suite 100, Las Vegas, Nevada.

Litigation, Releases and Cooperation:

Buyer acknowledges that there are adverse claims to the Interest, which are the subject of litigation pending in American Arbitration Association Case No. 01-15-0005-8574 (the "NuVeda Arbitration") and District Court Case No. A-15-728510-B (the "District Court Case").

Upon execution of this Agreement and receipt of the first Monthly Payment:
1) Seller shall take any and all action necessary to affirmatively release any Temporary Restraining Order or Preliminary Injunction preventing transfer of the Interest to Buyer or CWNV, LLC and Seller shall take affirmative action to support CW Nevada, LLC's withdrawal of the pending evidentiary hearing in the District Court Case, and 2) Seller shall assign any and all claims and rights in the NuVeda

2.45
ST

Arbitration and District Court Case to Buyer.

Other than the obligations outlined herein, Buyer and Seller agree to full mutual releases for any claims, rights or demands on behalf of themselves and their affiliates and further agree to cooperate with one another to effectuate the parties' intention to have Buyer step in the shoes of Seller for all purposes relating to the Interest and be free and clear of adverse claims related thereto. Inclusive, Buyer agrees to secure the full release of Terry from the claims asserted against him in the 4Front litigation pending at American Arbitration Association Case No. 01-17-0002-9611. Further, upon execution of this Purchase Agreement, Seller agrees that he shall not pursue any allegations or claims he has made that CW Nevada, LLC has breached the terms of its Membership Interest Purchase Agreement made with NuVeda. Seller shall also cooperate with CW Nevada, LLC in its defense of such claims at the sole cost and expense of Buyer.

Transfer: Following execution of this Agreement and receipt of the first Monthly Payment, Seller agrees to sign any and all documents provided to him by Buyer that are necessary to support the transfer of the Interest to Buyer. Until Seller receives the Initial Payment, these signed documents shall be held by attorney Amanda Connor. Upon Seller receiving the Initial Payment, the documents shall be released to Buyer. Thereafter, Seller shall sign any and all further documents as needed to process the transfer of the Interest to Buyer.

Other than Seller executing documents provided by Buyer and providing reasonable cooperation related thereto, Buyer is solely responsible for obtaining approvals of the transfer of Interest to Buyer. Further, Buyer is solely responsible for consequences to NuVeda, CWNV, LLC or others claiming rights in the Interest, and Buyer agrees to indemnify Seller and hold him harmless for any related adverse action.

If Interest relating to Clark is transferred to CWNV, LLC as a result of pending applications prior to the Initial Payment to Seller, this does not affect Buyer's obligation to make the Initial Payment or otherwise perform under this Agreement.

Guaranty: Padgett agrees to personally guaranty all payment and other performance obligations due to Seller herein.

The Parties hereto acknowledge their intent and agreement to use all reasonable means to resolve any dispute over interpretation or enforcement of the parties' duties and obligations as articulated in this Purchase and Sale Agreement. In the event any material dispute cannot be resolved informally the parties shall litigate the issue(s) in the business court of Clark County, State of Nevada in the Eighth Judicial District. Nevada Law governs any dispute, and attorneys' fees and costs 3.45

6 119

shall be awarded to the prevailing party.

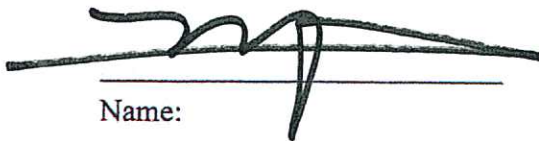
The Parties acknowledge that there is no other agreement and no other term incorporated into this Purchase and Sale Agreement other than what is expressed herein.

Dated this 30th day April, 2018

BUYER:

BCP 7, LLC

By its Manager:




Name:

GUARANTOR:



Brian C. Padgett

SELLER:



Shane Terry

**ADDENDUM #1 TO Purchase and Sale Agreement for Shane Terry's
Ownership Interest in NuVeda and NuVeda-Managed Licenses**

1. All capitalized terms are as defined in the above-referenced Agreement. No terms of the Agreement are amended, save and except that: Buyer and Guarantor stipulate to Seller's allocation of the Purchase Price to \$1,350,000 for the purchase of the Interest and \$400,000 for the value of the releases provided by Buyer and Guarantor.

Purchase price is substantially reduced

YJP

Dated this 30th day April, 2018

BUYER:

BCP 7, LLC

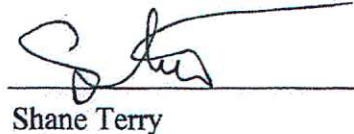
By its Manager:


Name:

GUARANTOR:


Brian C. Padgett

SELLER:


Shane Terry

5 of 6
Q

Assignment of Interests

Pursuant to the terms of that certain agreement between Shane Terry and BCP 7, LLC dated April 30, 2018, Mr. Terry hereby assigns all claims alleged in AAA Case No. 01-15-0005-8574 (the "Case") to BCP 7, LLC with Brian Padgett as its resident agent. The effective date of such assignment is May 2, 2018.

As set forth in the arbitration demand on file in the Case, Shane Terry was purportedly expelled as a member of NuVeda, LLC under Section 6.2 of the NuVeda, LLC Operating Agreement on March 10, 2016. Section 6.2 of the NuVeda, LLC Operating Agreement expressly contemplates a member's successor-in-interest being entitled to receive from NuVeda, LLC in exchange for all of the member's former interest the value of that terminated interest. In addition, Mr. Terry has alleged claims for damages against NuVeda, LLC, Pej Bady and Pouya Mohajer for breach of the Operating Agreement, including Sect. 6.2, as well as breach of the implied covenant of good faith and fair dealing, breach of fiduciary duty and intentional and/or negligent misrepresentations. These claims are being assigned as-is with no warranties as whether they are legally assignable or otherwise viable as a matter of fact or law.

Assignor

Shane Terry

Digitally signed by Shane Terry
DN: cn=Shane Terry, o=ou,
email=shane@taproot-
holdings.com, c=US
Date: 2018.05.10 19:01:55 -0700

Assignee

Shane Terry

BCP 7, LLC

By:

5/2/18

May 17, 2018

Erika Turner, Esq.
Garman Turner Gordon
650 White Dr #100,
Las Vegas, NV 89119

Via Electronic Mail eturner@gtg.legal

RE: ***Purchase and Sale Agreement for Shane Terry's Ownership Interest in NuVeda and NuVeda-Managed Licenses ("PSA")***

Dear Ms. Turner,

This confirms that the PSA as entered into and between Shane Terry and BCP 7, LLC on or about April 30, 2018, was intended to be entered into on behalf of BCP Holding 7, LLC (instead of simply "BCP 7, LLC"). It was an inadvertent error to the PSA and I apologize for any confusion. The PSA and Assignment pursuant thereto are hereby ratified on behalf of BCP Holding 7, LLC.

Please contact me with any questions or any further clarification you may need.

Respectfully,

/s/ Brian C. Padgett
BCP Holding 7, LLC

EXHIBIT 2

From: Brian Padgett brian@briancpadgett.com
Subject: Terry/NuVeda case number 01-15-0005-8574
Date: June 5, 2018 at 7:41 PM

To: nbaker@petersonbaker.com

Cc: pejman bady pbady@me.com, Pouya Mohajer pouyamohajer@gmail.com, Joseph Kennedy joe90275@gmail.com, Matthew T. Dushoff mdushoff@klnevada.com, Jason Wiley jwiley@wileypetersenlaw.com, Amy Sugden amy@briancpadgett.com

BP

Dear Arbitrator Baker:

I hereby dismiss all claims of myself, CWNevada, BCP Holdings 7, LLC and Shane Terry (all right, title and interest) against Bady, Mohajer, and NuVeda and its subsidiaries (Clark NMSD, Clark Natural Medicinal Solutions, and Nye Natural Medicinal Solutions) with prejudice.

Please initiate necessary proceedings to dismiss my claims.

Ms. Sugden shall oversee the process and may sign on my behalf any necessary paperwork.

Brian C. Padgett

Law Offices of Brian C. Padgett
611 South 6th Street
Las Vegas, Nevada 89101
(702) 304-0123
www.briancpadgett.com



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Subject: RE: BCP 7

**Nikki Baker** <nbaker@petersonbaker.com>

Tue, Oct 9, 2018, 9:59 AM

to Jason Wiley, David Feuerstein, Matthew T. Dushoff, AAA Lance Tanaka, Amy Sugden, Kristina R. Cole, Scott D.

You are viewing an attached message. Law Office of Mitchell Stipp Mail
can't verify the authenticity of attached messages.

Counsel:

Based on the below email string and my orders regarding Ms. Goldstein's request for discovery, BCP Holding 7, LLC is hereby DISMISSED from this arbitration.

Mr. Tanaka, BCP Holding 7, LLC may be removed from the caption.

Additionally, based on the below emails, I will extend the time for the parties to provide to me proposed new deadlines related to a new arbitration hearing date to **5:00 p.m. PST on Monday, October 15**. Absent exceptional circumstances, which do not include ongoing settlement discussions, this deadline will not be extended again.

Thank you,

Nikki

Nikki Baker, Esq.

Peterson Baker, PLLC

702.786.1001

From: Jason Wiley <jwiley@wileypetersenlaw.com>

Sent: Tuesday, October 09, 2018 8:52 AM

To: 'David Feuerstein' <david@dfmklaw.com>; Nikki Baker <nbaker@petersonbaker.com>; 'Matthew T. Dushoff' <mdushoff@knevada.com>; 'AAA Lance Tanaka' <LanceTanaka@adr.org>

Cc: "Amy Sugden" <amy@briancpadgett.com>; 'Kristina R. Cole' <kcole@knevada.com>; 'Scott D. Fleming' <sfleming@knevada.com>

Subject: RE: BCP 7

Arbitrator Baker:

I can confirm Mr. Feuerstein's comments regarding the parties' negotiations and ongoing efforts to schedule arbitration dates and other deadlines.

JMW

Jason M. Wiley, Esq.

Partner



1050 Indigo Drive

Suite 130

Las Vegas, Nevada 89145

Office 702.910.3329|Direct 702.909.5487|Mobile 702.845.7401

jwiley@wileypetersenlaw.com

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From: David Feuerstein <david@dfmklaw.com>

Sent: Monday, October 8, 2018 2:39 PM

To: Nikki Baker <nbaker@petersonbaker.com>; Jason Wiley <jwiley@wileypetersenlaw.com>; 'Matthew T. Dushoff' <mdushoff@knevada.com>; 'AAA Lance Tanaka' <LanceTanaka@adr.org>



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ARBITRATION
ASSOCIATION®

INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION®

Lance Tanaka
Vice President
1400 16th Street, Suite 400
Denver, CO 80202
Telephone: (303)831-0824
Fax: (646)640-1840

October 9, 2018

Matthew T. Dushoff, Esq.
Kolesar & Leatham, Chtd.
400 South Rampart Boulevard, Suite 400
Las Vegas, NV 89145-5725
Via Email to: mdushoff@klnevada.com

David Feuerstein
Feuerstein Kulick LLP
205 East 42nd Street, 20th Floor
New York, NY 10017
Via Email to: david@dfmklaw.com

Jason M. Wiley
Wiley Petersen
1050 Indigo Drive, Suite 130
Las Vegas, NV 89145
Via Email to: jwiley@wileypetersenlaw.com

Case Number: 01-15-0005-8574

Pouya Mohajer and Pejman Bady;
-vs-
Jennifer Goldstein
-vs-
Nuveda, LLC

Dear Parties:

This will confirm that BCP 7, LLC has been dismissed as a party in this matter, in accordance with the Arbitrator's Ruling of October 9, 2018. Counsel for BCP 7, LLC is copied on this letter however they have been removed from the case and will no longer receive correspondence concerning this matter.

Sincerely,

/s/

Lance K Tanaka
Vice President
Direct Dial: (303)831-0824
Email: LanceTanaka@adr.org
Fax: (646)640-1840

cc: Amy Sudgen
Kristina Cole
Brian C. Padgett
Anne M. Landis
Scott Fleming, Esq.
Nikki Baker, Esq.

It/bs

EXHIBIT 3

Subject: RE: Terry et al. v. NuVeda et al.- Arbitration Case No. A-15-728510-B



Erika Turner <eturner@gtg.legal>

Fri, May 4, 2018, 10:58 AM

to Nikki Baker, AAA Lance Tanaka, Anna Diallo, Julia Melnar, Matthew Dushoff, Kristina R. Cole, Scott D. Fleming,

You are viewing an attached message. Law Office of Mitchell Stipp Mail
can't verify the authenticity of attached messages.

Arbitrator Baker,

On behalf of Shane Terry:

1. Motion to Substitute.

Please be advised that Mr. Terry has sold all of his rights and interests relative to NuVeda, LLC to third party BCP 7, LLC, resident agent Brian C. Padgett, 611 S. 6th Street, Las Vegas, NV, 89101 ("Buyer"). Inclusive in those rights and interests sold to the Buyer is an assignment of those claims alleged herein. The written agreement reflecting Mr. Terry's agreement with Buyer will be sent to you under separate cover for *in camera* review.

Under NRCP 25(c), in case of any transfer of interest, the person to whom the interest is transferred may be properly substituted in the action. Substitution of parties here is appropriate so that Mr. Terry's claims may be prosecuted in the name of the new real party in interest- Buyer. See NRCP 17(a) (providing that every action SHALL be prosecuted in the name of the real party in interest). The "real party in interest" is the person who has a right to enforce the claim and who has a significant interest in the litigation. See *Arguello v. Sunset Station, Inc.*, 252 P.3d 206, 208 (Nev. 2011); *Painter v. Anderson*, 620 P.2d 1254, 1255-56 (Nev. 1980). Generally, the assignee of a contractual right is the real party in interest as opposed to the assignor. *Easton Bus. Opportunities, Inc. v. Town Exec. Suites-E Marketplace, LLC*, 230 P.3d 827, 831-32 (Nev. 2010); *First Interstate Bank of Cal. V. HCT, Inc.*, 828 P.2d 405, 408 (Nev. 1992).

Here, there should be no impediment to the requested substitution of Buyer for Mr. Terry, as Buyer now has the sole right to prosecute claims pendent to Mr. Terry's rights and interests relative to NuVeda and make decisions relative thereto, pursuant to Buyer/Mr. Terry's voluntary agreement wherein Mr. Terry agreed to assign all rights and interests relative to NuVeda, LLC to Buyer, including the pendent claims. Further, Respondents have repeatedly argued that Mr. Terry has no rights under the Operating Agreement that survive his termination on March 10, 2016; thus, Respondents should be judicially estopped from making a contrary argument now.

2. Motion to Withdraw.

Upon substitution of Buyer as real-party-in-interest, I move to withdraw as counsel in this matter for all purposes. Buyer's counsel, Amy Sudgen, Esq., is cc'd on this email.

Thank you,

Erika

Erika Pike Turner

Partner

GARMAN | TURNER | GORDON

P 725 777 3000 | D 725 244 4573

E eturner@gtg.legal

EXHIBIT 4



1295 W. Morena Blvd.
San Diego, CA 92110
www.urbnleaf.com
(619) 431-2852

March 6, 2020

Via Certified U.S. Mail, Return Receipt Requested

Pejman Bady, M.D.
2700 Las Vegas Blvd. S. #2709
Las Vegas, NV 89109

Pouya Mohajer, M.D.
2700 Las Vegas Blvd. S. #3311
Las Vegas, NV 89109

Joseph Kennedy
11166 Villa Bellagio Dr.
Las Vegas, NV 89141

Re: Invocation of Section 30 of Membership Interest Purchase Agreement of UL NuVeda Holdings LLC

Dear Dr. Bady, Dr. Mohajer, and Mr. Kennedy:

By this correspondence, UL Holdings NV LLC, a Nevada limited liability company ("ULNV") hereby invokes section 30 of that certain Membership Interest Purchase Agreement, dated July 5, 2019, (the "MIPA") by and among ULNV, Pejman Bady, Pouya Mohajer, and Joseph Kennedy. Capitalized terms used herein shall have the meaning ascribed to them by the MIPA.

Section 30 of the MIPA, entitled "Regulatory Impossibility," provides, in pertinent part:

"If any Government Authority does not approve of, or otherwise prohibits, prevents or enjoins, the execution and delivery of this Agreement or any of the other Transaction Agreements or consummation of the transactions contemplated hereby or thereby or imposes any conditions upon such approval that would dilute, in any material respect, the benefits to ULNV of the transactions contemplated by the Transaction Agreements, then (i) this Agreement and the other Transaction Agreements shall terminate, . . . and the transactions contemplated hereby and thereby shall be unwound, including, but not limited to, the return by the Issuer to ULNV of \$5,000,000 in respect of the consideration for the ULNV Purchased Securities, (ii) the transactions contemplated by the Roll-Up Agreement shall not be consummated, and (iii) the parties agree in good faith to obtain a reasonable valuation of any monetary and non-monetary contributions, including, but not limited to build-outs and capital improvements, made by ULNV in addition to the consideration for the ULNV Purchased Securities and the amount of such valuation shall be paid by Issuer and Company Parties to ULNV."

On August 7, 2019, the Las Vegas City Council denied Clark NMSD LLC's application for a special use permit to relocate its Las Vegas marijuana establishment doing business as "Canopi" from 1324 S. 3rd St. to the Bonanza Gift Shop at the corner of South Las Vegas Boulevard and West Sahara Avenue. This relocation was and always has been a material term of the



1295 W. Morena Blvd.
San Diego, CA 92110
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(619) 431-2852

Agreement and the loss of the opportunity is highly dilutive to ULNV's benefits under the MIPA and the Transaction Agreements.

In addition, on October 17, 2019, the Nevada Department of Taxation issued a moratorium on the processing of transfers of ownership interests of marijuana establishments, stating, in relevant part, "the Department will not process any existing or new applications for . . . regulatory activities while this extended review is in place . . ." The Department has not processed any changes of ownership since October 2019 and does not appear to be inclined to do so for the foreseeable future. This moratorium makes the transactions contemplated by the MIPA a regulatory impossibility, eviscerating the vast majority of the beneficial value contemplated to accrue to ULNV under the MIPA and the Transaction Agreements.

Therefore, given that two Government Authorities have rendered the transactions contemplated by the Agreement impossible, ULNV hereby invokes section 30 of the MIPA and demands (1) repayment of the \$5,000,000 in respect of the consideration for the ULNV Purchased Securities; (2) cancellation of the Roll-Up Agreement; and (3) obtaining a good-faith valuation of and repayment of ULNV's monetary and non-monetary contributions, including management fees, build-out costs, capital improvement costs, and all other costs.

We look forward to a successful resolution and unwinding of this transaction. Please contact Jeffrey F. Barr of Armstrong Teasdale LLP at 702-415-2939 x2939 to discuss arrangements for finalizing the unwinding of the transaction.

Very Truly Yours,

Nathan A. Shaman
General Counsel, UL Holdings Inc.
Managing Member of UL Holdings NV LLC

cc: Jeffrey F. Barr, Esq.

Law Office of Mitchell Stipp
1180 N. Town Center Drive, Suite 100
Las Vegas, NV 89144
Attn: Mitchell Stipp, Esq.
mstipp@stippilaw.com

EXHIBIT 5

Mitchell Stipp <mstipp@stipplaw.com>

Re: Delaware Complaint

1 message

Mitchell Stipp <mstipp@stipplaw.com>

Thu, Aug 20, 2020 at 7:42 PM

To: Joe Coppedge <jcoppedge@mccnvlaw.com>

Thanks, Joe.

It appears consistent with my statements to you and the court that the deal with Urbn Leaf was terminated. Does this impact your litigation position? I do not think so.

Let me know if you would like to discuss. Like all complaints, the facts are not quite consistent with reality. The fact is UL ran into financial difficulty and pulled out.

On Thu, Aug 20, 2020 at 3:27 PM Joe Coppedge <jcoppedge@mccnvlaw.com> wrote:

Mitch,

I don't know if you've seen this yet, but I thought you should be aware of the complaint filed in the Delaware Court of Chancery last week.

Joe

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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immediately reply to the sender that you have received the message in error. Then delete it. Thank you.



Mitchell Stipp

Law Office of Mitchell Stipp

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EXHIBIT 6

[Click to Print](#)**Transaction 66534973****Case number:** 2020-0675-MTZ

Filed and served at 4/21/2021 2:28 PM EDT

STAYED - 4/21/2021 - UL Holdings NV LLC v. UL Nuveda Holdings LLC; Nuveda LLC; Clark NMSD

Case name: LLC; NYE Natural medicinal Solutions LLC; Pejman Bady, M.D.; Pouya Mohayer; and Joseph Kennedy**Court:** DE Court of Chancery Civil Action**Judge:** Zurn, Morgan☐ **Document List (1) Total Statutory Fees: \$0.00****Main Document, ID: 87496206****Document type:** Minute Order**Clerk review status/action:** Accepted**Security:** Submitted conventionally**Date reviewed:** 4/21/2021**Statutory fee:** \$0.00

Document title: This matter is stayed pending resolution of the three actions pending in Nevada. Counsel shall submit a detailed recitation of those actions and keep the Court informed of any meaningful developments. Any requests for interim injunctive relief, or to lift the stay, must be made by formal motion. See 4-21-21 transcript.

☐ **Parties and Recipients**☐ **Sending Parties (1)**

▲ Party	Party Type	Attorney	Attorney Type	Firm
N/A	N/A	Zurn, Morgan	Primary Judge	DE Court of Chancery Civil Action

☐ **Recipients (9)**

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BADY, PEJMAN M.D.	Defendant	Michael C Heyden Jr	Gordon Rees Scully Mansukhani LLP	4/21/2021 2:28 PM EDT	E-Service	Service	
MOHAJER , POUYA	Defendant	Michael C Heyden Jr	Gordon Rees Scully Mansukhani LLP	4/21/2021 2:28 PM EDT	E-Service	Service	
CLARK NMSD LLC	Defendant	Michael C Heyden Jr	Gordon Rees Scully Mansukhani LLP	4/21/2021 2:28 PM EDT	E-Service	Service	
KENNEDY, JOSEPH	Defendant	Michael C Heyden Jr	Gordon Rees Scully Mansukhani LLP	4/21/2021 2:28 PM EDT	E-Service	Service	
NYE NATURAL MEDICINAL :	Defendant	Michael C Heyden Jr	Gordon Rees Scully Mansukhani LLP	4/21/2021 2:28 PM EDT	E-Service	Service	
UL HOLDINGS NV LLC,	Plaintiff	Kurt M Heyman	Heyman Enerio Gattuso & Hirzel LLP	4/21/2021 2:28 PM EDT	E-Service	Service	
UL HOLDINGS NV LLC,	Plaintiff	Jamie L Brown	Heyman Enerio Gattuso & Hirzel LLP	4/21/2021 2:28 PM EDT	E-Service	Service	
UL HOLDINGS NV LLC,	Plaintiff	Gillian L Andrews Esq	Heyman Enerio Gattuso & Hirzel LLP	4/21/2021 2:28 PM EDT	E-Service	Service	
UL NUVEDA HOLDINGS LLC	Defendant	Michael C Heyden Jr	Gordon Rees Scully Mansukhani LLP	4/21/2021 2:28 PM EDT	E-Service	Service	

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Submitted by: Michelle Simione, DE Court of Chancery Civil Action

Authorizer: Morgan Zurn, DE Court of Chancery Civil Action