

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

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Feb 17 2022 10:56 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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.

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

**APPENDIX IN SUPPORT OF PETITION FOR REHEARING
PART II**

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See Dkt. 21-34432.

Exhibit 1: SECOND AMENDED COMPLAINT [APPENDIX 001-047]

Exhibit 2: MOTION TO DISMISS/SUMMARY JUDGMENT [APPENDIX 048-065]

Exhibit 3: EXHIBITS IN SUPPORT OF MOTION TO DISMISS/SUMMARY
JUDGMENT [APPENDIX 066-235]

Exhibit 4: OPPOSITION TO MOTION [APPENDIX 236-301]

Exhibit 5: REPLY [APPENDIX 302-311]

Exhibit 6: MINUTES [APPENDIX 312-314]

Exhibit 7: MINUTE ORDER [APPENDIX 315-316]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of February, 2022, I filed the foregoing **APPENDIX IN SUPPORT OF PETITION FOR REHEARING**, using the court's electronic filing system.

Notice of the filing of the Petition 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 and by mail to the addresses as indicated:

Judge Mark Denton:

Dept13lc@clarkcountycourts.us

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

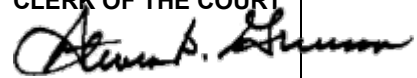
Shane Terry as Real Party-in-Interest:

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By: /S/ MITCHELL STIPP

An employee of Law Office of Mitchell Stipp

EXHIBIT 4-PETITION FOR REHEARING



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**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.: 13

**Hearing Date: December 6, 2021
Hearing Time: 9:00 a.m.**

AND RELATED MATTERS

**OPPOSITION TO MOTION TO DISMISS AND/OR FOR SUMMARY JUDGMENT ON
CLAIMS BY SHANE TERRY EXCEPT AGAINST BCP 7 HOLDINGS, LLC AND
BRIAN PADGETT**

Dotan Y. Melech (“Melech” or the “Receiver”), as the Court Appointed Receiver of
CWNeVada, LLC (“CWNeVada”), Shane Terry (“Terry”) and Phillip D. Ivey (“Ivey”), by and
through their attorneys, the law firm of Mushkin & Coppedge, submit the following Opposition
to NuVeda, LLC’s Motion to Dismiss and/or for Summary Judgment on Claims by Shane Terry
Except Against BCP 7 Holdings, LLC and Brian Padgett (“Opposition”) filed by the NuVeda
Defendants. This Opposition is made based on the following Memorandum of Points and

1 Authorities, the Declaration of Shane Terry attached hereto as Exhibit 1, together with the papers
2 and pleadings on file herein.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I. Statement of the Case**

5 Plaintiffs, Shane Terry (“Terry”), together with Dotan Y. Melech, the Court-appointed
6 receiver (the “Receiver”) for CWNevada, LLC (“CWNevada”) and Phillip D. Ivey (“Ivey”,
7 collectively, Terry, the Receiver, and Ivey are referred to as “Plaintiffs”) filed their initial
8 Complaint on June 30, 2020, as Case No. A-20-817363-B. The initial Complaint included nine
9 (9) claims for relief asserted by Terry, including the following:

- 10 • The First Claim for Relief (by all Plaintiffs) against all Defendants for Declaratory
11 Relief included requested relief specific to Terry that (i) the Terry Purchase Agreement is
12 null and void resulting from a fraud in the inducement and for a complete failure of
13 consideration, (ii) the Terry Interest was never transferred to BCP 7 or any other entity,
14 and (iii) Terry is the sole and only owner of the Terry Interest;
- 15 • The Fourth Claim for Relief (by Terry only) for Rescission of the Terry Purchase
16 Agreement for Fraud in the Inducement and/or Failure of Consideration against
17 Defendants BCP 7 and Padgett only;
- 18 • The Fifth Claim for Relief (by Terry only) in the alternative for Breach of Contract
19 against Defendants BCP 7 and Padgett only;
- 20 • The Sixth Claim for Relief (by Terry only) in the alternative for Breach of the
21 Covenant of Good Faith and Fair Dealing against Defendants BCP 7 and Padgett only;
- 22 • The Ninth Claim for Relief (by all Plaintiffs) for Unjust Enrichment against
23 Defendants NuVeda, Bady, Mohajer and Kennedy, specifically as to Terry, the claim for
24 unjust enrichment relates to the transfer of the Terry Interest to Bady and Mohajer without
25 Terry’s knowledge or consent;
- 26 • The Tenth Claim for Relief (by all Plaintiffs) for an accounting against Defendants
27 NuVeda, Bady, Mohajer and Kennedy;
- 28 • The Eleventh Claim for Relief (by all Plaintiffs) for Violation of NRS 225.084

1 against Defendants NuVeda, Bady, Mohajer and Kennedy;

2 • The Thirteenth Claim for Relief (all Plaintiffs) for Injunctive Relief against all
3 Defendants; and

4 • The Fourteenth Claim for Relief (by all Plaintiffs) for the Appointment of a
5 Receiver against all Defendants.

6 Only the First, Ninth, Tenth, Eleventh, Thirteenth, and Fourteenth claims for relief
7 included claims by Terry against the NuVeda Defendants, and none are solely claims for relief
8 asserted by Terry against NuVeda. After NuVeda filed multiple motions to dismiss, Plaintiffs
9 filed a motion to consolidate several related actions with the Receivership Action. Included
10 among the cases to be consolidated is the complaint in Case No. A-19-796300-B, which is a
11 complaint filed by NuVeda's current counsel, Mitchell Stipp, on behalf of Terry during a time
12 when Mr. Stipp represented Terry. The Complaint filed by Mr. Stipp (the "Stipp Complaint") was
13 filed on June 7, 2019 against Defendants, BCP 7, LLC and Brian Padgett and included claims for
14 breach of contract, unjust enrichment, and breach of the implied covenant of good faith and fair
15 dealing. Notably, the Stipp Complaint neglected to include a claim for rescission of the Terry
16 Purchase Agreement. The district court granted the motion to consolidate following a hearing on
17 July 23, 2020. NuVeda's motion to dismiss concerning the Receiver's and Terry's claims came
18 before the Receivership Court for a hearing on August 31, 2020. The Court denied NuVeda's
19 motion to dismiss with respect to the Receiver's claims.

20 However, with respect to Terry's claims, the Court stayed the motion "for a period of
21 ninety (90) days from the date of the hearing for Mr. Terry to request any relief from the arbitrator,
22 Ms. Nikki Baker, of the American Arbitration Association." Terry submitted a Motion to Set
23 Aside Dismissal on Monday, November 30, 2020 in the matter proceeding before the American
24 Arbitration Association ("AAA"). The AAA responded that the matter was "closed on March 20,
25 2019, and the Association no longer has jurisdiction regarding this matter."

26 On December 9, 2020, NuVeda filed a Motion to Enter Order on Shane Terry's Claims
27 and Related Relief, it's second attempt regarding Mr. Terry's claims for relief. NuVeda
28 specifically requested relief, "as set forth in NuVeda's motion to dismiss or for summary

1 judgment, the case initiated by Mr. Terry against NuVeda and its affiliates should be dismissed
2 or summary judgment entered.” *See* NuVeda’s Motion to Enter Order filed herein. Following a
3 hearing on January 25, 2021, Judge Gonzalez instructed Plaintiffs to provide the Court with a
4 copy of the motion submitted to AAA. After reviewing that motion, Judge Gonzalez entered the
5 following Court Minutes on February 1, 2021:

6 The Court, having reviewed Motion related to Shane Terry’s claims and the related
7 briefing, and being fully informed, DENIES the motion WITHOUT PREJUDICE.
8 The determination by AAA not to act with respect to Terry’s request places this
9 Court in the position of making a determination on the motion attached as Exhibit
10 4 to the supplemental declaration. Based upon the allegations that have been made
11 the Court is considering setting an evidentiary hearing in the rescission issue raised
12 in the motion...

13 After having its motion for an order to enter judgment on Shane Terry’s claims denied,
14 NuVeda filed its Motion to Stay on Order Shortening Time so it could file a writ with the Nevada
15 Supreme Court. Based on the briefing and argument by counsel, in which NuVeda acknowledged
16 the existence of factual issues, Judge Gonzalez “reconsidered [her] prior decision to set an
17 evidentiary hearing on the issue of rescission (because there are factual issues to be resolved at
18 trial.” NuVeda’s writ to the Nevada Supreme Court regarding Terry’s claims followed. That writ
19 petition remains pending.

20 On October 18, 2021, Plaintiffs filed their Second Amended Complaint, which included
21 three additional claims by Terry:

- 22 • The Twentieth Claim for Relief for Conversion by Terry against the NuVeda
23 Defendants,
 - 24 • The Twenty-First Claim for Relief for Unjust Enrichment by Terry against the
25 NuVeda Defendants, and
 - 26 • The Twenty-Second Claim for Relief for Civil Conspiracy by Terry against the
27 NuVeda Defendants and Padgett.
- 28

1 **II. Statement of Facts¹**

2 1. On or about July 9, 2014, Terry entered into an Operating Agreement for NuVeda,
3 LLC (the “NuVeda Operating Agreement”) with Pejman Bady (“Bady”), Pouya Mohajer
4 (“Mohajer”) and Jennifer Goldstein (“Goldstein”) to apply for and operate marijuana dispensaries,
5 cultivation, and processing facilities for medical marijuana pursuant to licenses obtained from
6 certain governmental divisions. Second Amended Complaint (the “Complaint”), ¶ 22; Terry
7 Declaration, ¶ 3; NuVeda Operating Agreement.

8 2. The NuVeda Operating Agreement was also signed by Joseph Kennedy, John
9 Penders and Ryan Winmill. Complaint, ¶ 23; Terry Declaration, ¶ 4.

10 3. Since NuVeda’s formation, Terry has been a manager, voting member and at
11 times, NuVeda’s Chief Executive Officer and Chief Operations Officer. Complaint, ¶24; Terry
12 Declaration, ¶ 7.

13 4. Initially, Terry owned 21.5% of NuVeda and its subsidiaries, Clark NMSD, LLC
14 (“Clark NMSD”), a Nevada limited liability company, Clark natural Medicinal Solutions, LLC
15 (“Clark Natural”), a Nevada limited liability company, and Nye Natural Medicinal Solutions,
16 LLC (“Nye Natural”), a Nevada limited liability company (the “Terry Interest”). The Terry
17 Interest was later increased to 22.88%. Complaint, ¶ 27; Terry Declaration, ¶ 8.

18 5. During the month of December 2015, NuVeda’s annual license renewal paperwork
19 was due to the State of Nevada. Complaint, ¶ 40; Terry Declaration, ¶ 9.

20 6. During this time, Terry was NuVeda’s designated and registered point of contact
21 with the State of Nevada for all regulatory correspondence. Complaint, ¶ 41; Terry Declaration,
22 ¶ 10.

23 7. However, NuVeda removed Terry as NuVeda’s State of Nevada designated point
24

25 ¹ NRCP 56(c)(4) requires that affidavits or declarations in support of a motion for summary
26 judgment “be made on personal knowledge, set out facts that would be admissible in evidence,
27 and show that the affiant or declarant is competent to testify on the matters stated.” The
28 Declarations of Pejman Bady, Pouya Mohajer and Joseph Kennedy fail to comply with the
requirements of NRCP 56(c)(4), fail to set forth specific facts that would be admissible in
evidence, and as to the amount that Terry allegedly collected from Padgett, are based on non-
admissible hearsay information and belief. Accordingly, the declarations should be stricken and
not considered by this Court.

1 of contact and refused to provide Terry with access to any records. Terry Declaration, ¶ 11.

2 **Acts of Self-Dealing and other Misconduct**

3 8. Bady, Mohajer and Kennedy, individually and at times through NuVeda or other
4 entities, engaged in fraudulent acts of self-dealing and other acts of misconduct. Complaint, ¶ 48;
5 Terry Declaration, ¶ 12.

6 9. For instance, Terry and other members of NuVeda learned that Bady
7 misrepresented the source of funds he originally contributed to NuVeda in exchange for equity.
8 Complaint, ¶ 49; Terry Declaration, ¶ 13.

9 10. While Bady averred that his funding came from the sale of a business, upon
10 information and belief, Bady, in concert with Mohajer, in fact funded his contributions from
11 money he acquired from his friend, Majid Golpa (“Golpa”). Complaint, ¶ 51; Terry Declaration,
12 ¶ 15.

13 11. Upon information and belief, Bady and Mohajer then promised that in exchange
14 for the funds, Golpa would receive a 5.5% membership interest in NuVeda, a pledge that was
15 prohibited by Nevada law. Complaint, ¶ 52; Terry Declaration, ¶ 16.

16 12. Mohsen Bahri (“Bahri”) and Bady also negotiated the terms of a \$500,000
17 promissory note. Complaint, ¶ 53; Terry Declaration, ¶ 17.

18 13. Bady then made an undisclosed deal with Bahri to provide Bady with a \$500,000
19 investment in which Bahri would receive a 4% interest in NuVeda. Complaint, ¶ 53; Terry
20 Declaration, ¶ 18.

21 14. Following discovery of the true nature of Bady and Mohajer’s wrongful side deals
22 with third parties, a dispute arose between Terry and Goldstein on the one hand and Bady and
23 Mohajer on the other hand regarding Defendants’ clandestine and wrongful side deals, pursuant
24 to which Bady and Mohajer attempted to allocate ownership interests to their friends, and the true
25 source of Bady’s capital contribution, Golpa and Bahri. Complaint, ¶ 54; Terry Declaration, ¶ 20.

26 15. Bady and Mohajer were not authorized to pledge to Golpa or Bahri a 5.5% or 4%
27 interest in NuVeda, yet Bady demanded that the members, including Terry and Goldstein, agree
28 to ratify his apparent promises to provide such interest to Golpa and Bahri. Complaint, ¶ 56; Terry

1 Declaration, ¶ 21.

2 16. Upon information and belief, the transfer of the interests, as proposed by Bady,
3 jeopardized NuVeda's licenses. Complaint, ¶ 57; Terry Declaration, ¶ 22.

4 17. On or about November 1, 2015, a monthly payment was due to Bahri on the
5 \$500,000 promissory note. Complaint, ¶ 58; Terry Declaration, ¶ 23.

6 18. Bady, a long-time personal friend with Bahri, instructed Terry to not pay the
7 monthly payment and stated he "would take care of it." Complaint, ¶ 59; Terry Declaration, ¶ 24.

8 19. On November 11, 2015, Bahri sent demand for the November 1, 2015 payment.
9 Complaint, ¶ 60; Terry Declaration, ¶ 25.

10 20. Bady admitted he did not make the monthly payment, but that he and Bahri had
11 agreed to extend the monthly payment to November 15, 2015. Complaint, ¶ 60; Terry Declaration,
12 ¶ 26.

13 21. Bady's non-payment of the Bahri loan and subsequent negotiations were done
14 without Terry's knowledge and jeopardized NuVeda's operations. Complaint, ¶ 61; Terry
15 Declaration, ¶ 27.

16 22. Bahri subsequently presented a lawsuit against Terry and Goldstein, individually,
17 falsely alleging that they were liable for his investment through Bady. Complaint, ¶ 62; Terry
18 Declaration, ¶ 28.

19 23. Bady and Bahri then acted in concert to allege that Goldstein and Terry were liable
20 for the \$500,000 promissory note, as neither NuVeda nor Bady, who single-handedly
21 communicated with Bahri and who negotiated all terms of the clandestine deal with his friend
22 Bahri, were named as defendants. Complaint, ¶ 63; Terry Declaration, ¶ 29.

23 24. Bady and Bahri acted in concert to paralyze Terry and Goldstein from obtaining
24 the necessary funding by threatening to file frivolous and factually unfounded lawsuits against
25 Terry and Goldstein for Bady's strategic gain. Complaint, ¶ 64; Terry Declaration, ¶ 30.

26 25. Additionally, when Kennedy (an IRS enrolled agent) was preparing NuVeda's K-
27 1s, Bady asked Terry to allocate his tax losses to Bady to offset Bady's income from an unrelated
28 medical business. Complaint, ¶65; Terry Declaration, ¶ 31.

1 26. Terry refused and explained to Bady that loss-shifting was wrongful and
2 potentially constituted fraud, but Bady ignored Terry's concern and collaborated with Mohajer to
3 shift Mohajer's losses to him instead. Complaint, ¶ 66; Terry Declaration, ¶ 32.

4 27. Bady and Mohajer then had nominal-member Kennedy amend the K-1s to reflect
5 the loss-shifting to Bady in violation of the terms of the NuVeda Operating Agreement without
6 notifying any other NuVeda members. Complaint, ¶ 67; Terry Declaration, ¶ 33.

7 28. Goldstein and Terry made demands for the original K-1s and other financial
8 documents for NuVeda, but Bady and Kennedy denied the records request in violation of Terry's
9 right to review the business records of NuVeda pursuant to Section 7.2 of the NuVeda Operating
10 Agreement. Complaint, ¶ 68; Terry Declaration, ¶ 34.

11 29. It was also discovered that Bady engaged in self-dealing on multiple occasions.
12 An entity known as 2 Prime, LLC ("2 Prime") entered into a financing agreement with NuVeda.
13 Complaint, ¶ 69; Terry Declaration, ¶ 35-36.

14 30. Bady exclusively negotiated the agreement with favorable terms to 2 Prime.
15 Thereafter, it was discovered after the fact that Bady had an undisclosed 50% interest in 2 Prime,
16 which was also co-owned by Golpa. Complaint, ¶ 70; Terry Declaration, ¶ 37-38.

17 31. On or about November 20, 2015, under the guidance of NuVeda's corporate
18 counsel, who was hired directly by Bady, Bady's and Mohajer's NuVeda interests were
19 terminated pursuant to Section 6.2 of the Operating Agreement. Complaint, ¶ 71; Terry
20 Declaration, ¶ 39.

21 32. However, Bady and Mohajer disregarded the expulsion and claimed they remained
22 voting members, managers, and officers with authority to act on behalf of NuVeda. Complaint, ¶
23 72; Terry Declaration, ¶ 40.

24 33. Between November 20th, 2015, and December 3, 2015, Bady and Mohajer, acting
25 as purported representatives of NuVeda, attempted to sell NuVeda's interests in its highly
26 valuable and privileged licenses to multiple parties, including Padgett's company, CWNevada.
27 Complaint, ¶ 73; Terry Declaration, ¶ 41.

28

1 **The District Court Action**

2 34. Over concerns that any attempted and unauthorized transfer of interest could
3 jeopardize NuVeda’s licenses, on December 3, 2015, Goldstein and Terry filed a complaint, as
4 individuals and on behalf of NuVeda in the District Court for Clark County, Nevada against Bady
5 and Mohajer as Case Number A-15-728510-B (the “District Court Action”) and
6 contemporaneously filed a Motion for a Preliminary Injunction requesting that the Court enjoin
7 any transfer of NuVeda’s membership interests. Complaint, ¶ 74; Terry Declaration, ¶ 42.

8 35. The District Court Action sought, among other things, the issuance of a
9 preliminary and permanent injunction maintaining the status quo pending a final resolution of the
10 parties’ disputes in an arbitral proceeding. Complaint, ¶ 75; Terry Declaration, ¶ 43. NuVeda
11 acknowledges that the District Court Action was an attempt “to stop the potential joint venture
12 between [CWNebraska] and NuVeda” and that the District Court Action “was referred to [AAA]
13 for binding arbitration.” Writ, p. 6.

14 36. Although the district court did not issue a preliminary injunction in the District
15 Court Action, on January 13, 2016, the Court ordered (the “January 13, 2016 Order”), among
16 other things, “IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pending the
17 completion of the contemplated arbitration, the parties are to take no further action to expulse
18 each other on the factual bases presented to the Court during the evidentiary hearing.” Complaint,
19 ¶ 76, Terry Declaration, ¶ 44.

20 37. Goldstein and Terry commenced a private arbitration proceeding with the
21 American Arbitration Association against NuVeda, Bady and Mohajer captioned as *Terry, et al.*
22 *v. NuVeda LLC, et al.*, AAA Case No. 01-15-005-8574 (the “Arbitration”). Complaint, ¶ 77; Terry
23 Declaration, ¶ 45.

24 38. Notwithstanding the express language of the January 13, 2016 Order, in a March
25 10, 2016 meeting attended by Terry, Bady called for a vote to expel Terry from NuVeda.
26 Complaint, ¶ 78; Terry Declaration, ¶ 46.

27 39. Bady, Mohajer and Kennedy voted in favor of the motion to expel Terry in
28 violation of the January 13, 2016 Order. Complaint, ¶ 79; Terry Declaration, ¶ 47.

1 40. The purported expulsion was further documented in a meeting on or about
2 September 19, 2017, where the NuVeda Meeting Minutes indicate the Terry Interest was
3 distributed to Bady and Mohajer in yet another act of blatant self-dealing. Complaint, ¶ 80; Terry
4 Declaration, ¶ 48.

5 41. NuVeda, Bady and Mohajer transferred the Terry Interest in NuVeda directly to
6 Bady and Mohajer without Terry’s consent. Complaint, ¶ 81-82; Terry Declaration, ¶ 49. Terry
7 learned of the transfer of the Terry Interest in NuVeda to Bady and Mohajer after January 2019.
8 Terry Declaration, ¶ 49.

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

11 42. During the pendency of the District Court Action and Arbitration, on or about April
12 30, 2018, Terry entered into a “Purchase and Sale Agreement for Terry’s Ownership Interest in
13 NuVeda and NuVeda-Managed Licenses” (the “Terry Purchase Agreement”) with BCP 7 as the
14 Buyer and Padgett as guarantor. Terry Declaration, ¶¶ 50, 51; Complaint, ¶¶ 103-104; Terry
15 Purchase Agreement, Ex. 4.

16 43. 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. Complaint, ¶ 105; Terry Declaration, ¶ 52.

19 44. 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. Complaint, ¶
21 106; Terry Declaration, ¶ 53.

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

24 46. 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 2018 with payments due monthly until paid in full (the “Monthly Payments”). Complaint, ¶ 107;
28 Terry Declaration, ¶ 55.

1 47. The Monthly Payments were to be made on or before the first day of the month in
2 an amount not less than the interest accrued on the outstanding balance at an interest rate of 18%.
3 Complaint, ¶ 108; Terry Declaration, ¶ 56.

4 48. The Monthly Payments were to commence May 1, 2018, and the first payment was
5 to have been made no later than May 2, 2018. Complaint, ¶ 109; Terry Declaration, ¶ 57.

6 49. The Terry Purchase Agreement further provided that there shall be acceleration of
7 the outstanding balance and any unpaid accrued interest thereon upon (1) the sale or transfer of
8 the Terry Interest to a vehicle not owned by BCP 7, or any beneficial rights thereunder, from BCP
9 7 to a third party (other than CWNV, LLC); or (2) a default of a payment obligations, which shall
10 result from any failure to timely pay the Initial Down Payment or any Monthly Payments on the
11 Balance following notice of failure to Padgett and no cure within 10 business days thereof.
12 Complaint, ¶ 110; Terry Declaration, ¶ 58.

13 50. Upon execution of the Terry Purchase Agreement and upon receipt of the first
14 Monthly Payment, Terry agreed, among other things, to assign any and all claims and right in the
15 Arbitration and District Court Action to BCP 7. Complaint, ¶ 111; Terry Declaration, ¶ 59.

16 51. BCP 7 made a partial payment toward the Initial Payment in the sum of
17 \$250,000.00 on or about August 1, 2018. Complaint, ¶ 112; Terry Declaration, ¶ 60.

18 52. In addition to the partial Initial Payment, BCP 7 made partial interest and extension
19 payments. Complaint, ¶ 113; Terry Declaration, ¶ 61. Terry disputes that he received the sum of
20 \$757,757.00 from BCP 7 and/or Padgett as represented by NuVeda.

21 53. However, BCP 7 failed to pay the Initial Payment or Monthly Payments in full.
22 Complaint, ¶ 114; Terry Declaration, ¶ 62.

23 54. As a result of BCP 7's failure to pay the Initial Payment or any of the Monthly
24 Payments in full, Terry provided notice of and right to cure this failure to BCP 7 and Padgett.
25 Complaint, ¶ 115; Terry Declaration, ¶ 63.

26 55. BCP 7 and Padgett failed to cure the outstanding balance owed following notice
27 of such failure and a right to cure within 10 business days. Complaint, ¶ 116; Terry Declaration,
28 ¶ 64.

56. As a result of BCP 7's and Padgett's failure to pay the Initial Payment and Monthly Payments in full, including the first Monthly Payment, there has not been a valid transfer of the Terry Interest to BCP 7. Complaint, ¶ 117; Terry Declaration, ¶ 65.

57. Notwithstanding the fact that the Terry Interest was never properly transferred to BCP 7, in an email dated June 5, 2018 from Padgett to the Arbitrator in the Arbitration, Padgett purported to 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.” Complaint, ¶ 118; Terry Declaration, ¶ 66; Electronic mail from Padgett to Nikki Baker, Ex. 5.

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

59. Not only did CWNevada never make or assert any claims related to the Arbitration, the Padgett email clearly evidences a conspiracy between Padgett, NuVeda, Bady and Mohajer to defraud Terry by having BCP 7 purportedly purchase the Terry Interest, and then immediately attempt to dismiss the claims in the Arbitration without BCP 7 and Padgett paying the agreed consideration. Complaint, ¶ 119; Terry Declaration, ¶ 67.

III. Argument

A. Legal Standard

1. Standard of Review

The NuVeda Defendants seek dismissal and/or summary judgment of all of Terry’s claims against the NuVeda Defendants. To the extent NuVeda seeks dismissal for “failure to state a claim upon which relief can be granted”, the motion must be denied. This Nevada Supreme Court has long held:

The standard of review for a dismissal under subsection b(5) is rigorous, as the court must construe the pleadings liberally and draw every fair inference in favor of the non-moving party.

A complaint will not be dismissed for failure to state a claim unless it

1 appears beyond a doubt that the plaintiff could prove no set of facts which,
2 if accepted by the trier of fact would entitle him or her to relief.

3 *Simpson v. Mars Inc.*, 113 Nev. 188, 929 P.2d 966 (1997).

4 In addition, in *Hynds Plumbing & Heating Co. v. Clark County Sch. Dist.*, 94 Nev. 776,
5 587 P.2d 1331 (1978), this Court held, “[w]hen tested by a subdivision (b)(5) motion to dismiss
6 for failure to state a claim upon which relief can be granted, the allegations of the complaint must
7 be accepted as true.” Further, the Nevada Supreme Court clearly stated, “[t]he appropriate
8 standard for a motion to dismiss based on a failure to state a claim is ‘beyond a doubt’ and not
9 ‘beyond a reasonable doubt.’” *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n.6,
10 181 P.3d 670, 672 n.6 (2008).

11 In the alternative, although NuVeda has never presented a concise statement of undisputed
12 facts properly supported by admissible evidence, NuVeda seeks summary judgment on all of
13 Terry’s claims for relief against the NuVeda Defendants. Should this Court treat the NuVeda
14 Defendants’ motion as one for summary judgment, before granting a motion for summary
15 judgment, NRCP 56 requires there be no genuine issue of material fact. *Wood v. Safeway, Inc.*,
16 121 Nev. 724, 732, 121 P.3d 1026, 1031 (2005).

17 While the pleadings and other proof must be construed in a light most
18 favorable to the nonmoving party, that party bears the burden to “do more
19 than simply show that there is some metaphysical doubt” as to the operative
20 facts in order to avoid summary judgment being entered in the moving
21 party’s favor. The nonmoving party “must, by affidavit or otherwise, set
forth specific facts demonstrating the existence of a genuine issue for trial
or have summary judgment entered against him.” *Id.*

22 NuVeda has admitted multiple times that there are issues of fact which prevent summary
23 judgment on the issue of contract rescission. Moreover, NuVeda has repeatedly acknowledged
24 that a party must rescind a contract within a reasonable time, and what constitutes a reasonable
25 time depends upon the facts of a particular case to be determined by the trier of fact. Terry has
26 more than established issues of material fact concerning all of his claims for relief. As such, the
27 motion to dismiss and/or for summary judgment must be denied.
28

1 **2. The NuVeda Operating Agreement**

2 The NuVeda Defendants argue that somehow the dismissal of the AAA case precludes
3 proceedings before this Court. The express terms of the NuVeda Operating Agreement provide
4 otherwise. The NuVeda Operating Agreement 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 . . .
8 To the extent any provisions of the Rules conflict with any provision of
9 this Section, the provisions of this section shall control.

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

1 **arbitrator in the Member Dispute, including but not limited to, any**
2 **action to confirm, vacate, modify, challenge or enforce the**
3 **arbitrator's decision or award shall be filed in a court of competent**
4 **jurisdiction in the same county were the arbitration of the Member**
5 **dispute was conducted, and Nevada law shall apply in any such**
6 **subsequent action or proceeding.** (emphasis added).

7 See NuVeda Operating Agreement, pp. 18-19.

8 As set forth above, AAA no longer has jurisdiction over the Arbitration and that matter
9 was closed on March 20, 2019. The NuVeda Operating Agreement specifically provides that any
10 post Arbitration proceedings be filed with this Court. Thus, the district court, as Judge Gonzalez
11 acknowledged in her Court Minutes, is the proper place to bring Terry's claim for rescission and
12 ultimately, any related claims, such as that for declaratory relief regarding entitlement to the Terry
13 Interest.

14 **B. The Terry Purchase Agreement should be rescinded for fraud in the**
15 **inducement and failure of consideration.**

16 Although Terry's claim for rescission is only against BCP 7 and Padgett, NuVeda
17 inexplicably raises issues regarding the Terry Interest and his ability to pursue certain claims for
18 relief. "Rescission is an equitable remedy which totally abrogates a contract, and which seeks to
19 place the parties in the position they occupied prior to executing the contract." *Bergstrom v. Estate*
20 *of DeVoe*, 109 Nev. 575, 577, 854 P.2d 860, 861 (1993). A party to a contract may seek rescission
21 of that contract based upon fraud in the inducement or a failure of consideration. *Awada v. Shuffle*
22 *Master, Inc.* 123 Nev. 613, 621, 173 P.2d 707, 713 (2007); *Sprouse v. Wentz*, 105 Nev. 597, 601,
23 781 P.2d 1136, ___ (1989). To establish fraud in the inducement of a contract, a party must prove
24 that the other party made a false representation that was material to the transaction. *Awada*, 123
25 Nev. at 621. To establish a failure of consideration, a party must demonstrate he failed to receive
26 his bargained for consideration. *Sprouse*, 105 Nev. at 601.

27 When a contract has been partially performed, and one of the parties defaults, the other
28 has a choice of remedies. He may rescind or affirm the contract, *but he cannot do both*. If he
 rescinds, he must return whatever of value he received under it and he may recover back whatever
 he has paid. He cannot at the same time affirm the contract by retaining its benefits and rescind it

1 by repudiating its burdens. *Bergstrom*, 109 Nev. at 577, citing 5 Arthur Linton Corbin, CORBIN
2 on Contracts § 1114 (1964) (emphasis in original). “Further, there can be no partial rescission; a
3 contract is either valid or void *in toto*.’ *Bergstrom*, 109 Nev. at 577. quoting, *Holden v. Dubois*,
4 665 P.2d 1175 (Okla. 1983). “Because a rescinded contract is void ab initio, following a lawful
5 rescission the ‘injured’ party is precluded from recovering damages for breach just as though the
6 contract had never been entered into by the parties.” *Bergstrom*, 109 Nev. at 577-78. Upon
7 rescission, the parties should be returned as closely as possible to their respective positions prior
8 to entering into the contract. *Bergstrom*, 109 Nev. at 578. Therefore, it is clear that should the
9 Terry Purchase Agreement be rescinded, Terry should be returned to the same position he held
10 before entering that contract.

11 Here, the facts are not in dispute that Padgett fraudulently induced Terry to sign the Terry
12 Purchase Agreement and after submitting the dismissal in the Arbitration, Padgett failed to pay
13 the agreed consideration. In these circumstances, where Terry was fraudulently induced to sign
14 the Terry Purchase Agreement and where he did not receive his bargained for consideration,
15 rescission is proper if that is the remedy Terry chooses. It follows that if Terry is successful on
16 this claim for rescission, then he will also be successful on his claim for declaratory relief finding
17 he is the rightful owner of the Terry Interest.

18 **C. Terry’s Claims for Relief in the action below are distinctly different from**
19 **those in the Arbitration.**

20 NuVeda has repeatedly acknowledged that the District Court Action and related
21 Arbitration was an attempt “to stop the potential joint venture between [CWNebraska] and
22 NuVeda.” See Writ Petition filed with the Supreme Court, p. 6. “[F]or claim preclusion to apply
23 the following factors must be met: (1) the same parties or their privies are involved in both cases,
24 (2) a valid final judgment has been entered, and (3) the subsequent action is based on the same
25 claims or any part of them that were or could have been brought in the first case.” *Five Star*
26 *Capital Corp. v. Ruby*, 124 Nev. 1048, 1056-1057, 194 P.3d 709, ____ (2008). First, there was no
27 judgment in the Arbitration regarding Terry Interest. The Arbitration was dismissed by Padgett.
28 Further, Terry’s claims in this action generally involve his efforts to rightfully regain his interest

1 in NuVeda and its subsidiaries after entering the Terry Purchase Agreement. In the alternative,
2 Terry's claims in this action include damage claims related to non-payment under the Terry
3 Purchase Agreement. None of Terry's claims involve an effort to stop the joint venture between
4 CWNevada and NuVeda. In fact, Terry's claim for rescission, and the related claim for
5 declaratory relief could not have been a part of the District Court Action or Arbitration as those
6 claims did not even exist at that time. Moreover, it was only necessary to seek to set aside the
7 dismissal in the Arbitration because the district court initially directed Terry back to AAA to
8 request relief from the arbitrator. Because the Arbitration is closed and AAA no longer has
9 jurisdiction, it is appropriate that the district court hear all issues related to Terry's claims for
10 relief.

11 Regardless, for what is now the fourth time, NuVeda seeks to have Terry's claims for
12 relief in the action dismissed against the NuVeda Defendants only. Certain dates are relevant to
13 the analysis. Although AAA dismissed BCP 7 as a party on October 9, 2018, the AAA matter was
14 not closed until March 20, 2019. Again, during a time when he represented Terry, Mr. Stipp filed
15 the Stipp Complaint less than three (3) months later on June 7, 2019 but did not include a claim
16 for rescission of the Terry Purchase Agreement or seek to set aside the dismissal in the Arbitration.
17 Now, NuVeda seeks to use that neglect against Terry.

18 As set forth above, a rescinded contract is void ab initio. It logically follows that if the
19 Terry Purchase Agreement is void, then the dismissal entered in the Arbitration, based solely on
20 the electronic mail proffered by Mr. Padgett, is equally void. Upon rescission, the Terry Interest
21 should be returned to Terry. While Terry does not believe it is necessary to set aside a dismissal
22 in the Arbitration that is unrelated to his current claims for relief, to the extent it is, the analysis
23 is properly under NRCP 60(b)(4).

24 NRCP 60(b) provides in part:

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

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

59(b);
(3) fraud (whether previously called intrinsic or extrinsic),
misrepresentation, or misconduct by an opposing party;
(4) the judgment is void;
(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
(6) any other reason that justifies relief.

Rule 60(b)(4) allows a court to set aside a judgment, in this case the AAA dismissal, when it is void. *LN Mgmt. LLC Services 440 Sarment v. Wells Fargo Bank, N.A.*, 2018 Nev. App. Unpub. LEXIS 768 (Nev. App. 2018). This rule, which is a remedial in nature, is to be construed liberally to relieve the harshness of rigid form by applying the flexibility of discretion. *La-Tex Partnership v. Deters*, 111 Nev. 471, 893 P.2d 361 (1995).

Importantly, as it concerns NuVeda's Writ, the six (6) months timing requirement under NRCP 60(c)(1) does not apply to void judgments. In *Teriano v. Nev. State Bank (In re Harrison Living Trust)*, 121 Nev. 217, 112 P.3d 1058 (2005), this Court recognized that judgments, once found to be void, should generally be set aside. This Court further recognized that NRCP 60(b) specifically provides that motions to challenge orders as void must be made within a reasonable time. Whether a motion to a Rule 60(b)(4) motion is brought within a reasonable time is a matter addressed to the trial court's sound discretion. *Id.* At 1062. Therefore, under the circumstances of this case, where the dismissal in the Arbitration was submitted as a result of a void agreement, such dismissal should be set aside if necessary.

D. NuVeda's previous motions to dismiss and/or for summary judgment were denied as to the Terry Claims in the original complaint.

With the exception of the new claims for relief, NuVeda's previous motions to dismiss and/or for summary judgment addressed the First (for Declaratory Judgment), Ninth (Unjust Enrichment), Tenth (Accounting), Eleventh (Violation of NRS 225.084), Thirteenth (Injunctive Relief), and Fourteenth (Appointment of Receiver) claims for relief asserted by Terry, and were denied by Judge Gonzalez. As a result of that denial, NuVeda filed a writ petition with the Nevada Supreme Court that remains pending. Notwithstanding the fact that NuVeda's previous motions

1 were denied, and there is a writ petition pending, the NuVeda Defendants apparently seek another
2 bite at the apple. This motion fails too.

3 Article XI of the NuVeda Operating Agreement concerns dispute resolution among
4 NuVeda's members and provides in part:

5 **11.1 Disputes Among Members.** The Members agree that in the event
6 of any dispute or disagreement solely between or among any of them
7 arising out of, relating to or in connection with this Agreement or the
8 Company or its organization, formation, business or management
9 ("Member Dispute"), the Members shall use their best efforts to resolve
10 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.

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

16 See NuVeda Operating Agreement, p. 18.

17 The First Claim for Relief includes a claim for relief by Terry against all Defendants for
18 Declaratory Relief that (i) the Terry Purchase Agreement is null and void resulting from a fraud
19 in the inducement and for a complete failure of consideration, (ii) the Terry Interest was never
20 transferred to BCP 7 or any other entity, (iii) Plaintiff Terry is the sole and only owner of the
21 Terry Interest. In addition to being against the NuVeda Defendants, it is also against Padgett and
22 BCP 7. As a result, it is not solely among the Members of NuVeda and by its express terms, the
23 dispute resolution clause in the NuVeda Operating Agreement requiring mediation and/or
24 arbitration does not apply to this claim for relief. Thus, Terry's claims, specifically including his
25 claim for declaratory relief, are properly before the district court.

26 Further, the Ninth Claim for Relief for Unjust Enrichment, the dismissal of which was
27 previously denied, is further clarified by the new Twenty-First claim for relief as outlined below.
28 As set forth above, and not to belabor the point regarding rescission, but should this Court order

1 rescission, and should this Court enter a declaratory judgment regarding the Terry Interest, Terry
2 is certainly entitled to an accounting of the sale of the Defendants' cannabis licenses from his
3 partners. Further, to the extent the NuVeda Defendants provided false information in state filings
4 in transferring the Terry Interest directly to Bady and Mohajer without Terry's consent, such
5 conduct is expressly actionable under NRS 225.084.

6 **E. The NuVeda Defendants' motion to dismiss Terry's new claims for relief**
7 **should be denied.**

8 The Second Amended Complaint joins CWNV LLC and CWNV1 LLC, the entities
9 improperly formed by NuVeda and Bady to block the revival of CWNV, LLC and CWNV1, LLC
10 expressly authorized by Judge Gonzalez, along with NuVeda, LLC's successors, NuVeda LLC
11 and UL NuVeda Holdings LLC. As outlined above, it also includes three new claims for relief
12 on behalf of Terry for conversion, unjust enrichment, and civil conspiracy. The new claims
13 asserted by Terry are damage claims against NuVeda, its subsidiaries, Clark NMSD, Clark
14 Natural, Nye Natural, their members, including Bady and Mohajer and their successors, including
15 UL NuVeda, NuVeda Delaware, New CWNV and New CWNV1 as well as Padgett. The claims
16 are not dependent upon setting aside the AAA dismissal and a return of the Terry Interest to Terry
17 in order to pursue such claims. In fact, they are alternative claims should Terry pursue damages
18 instead of rescission to get the Terry Interest back.

19 The damage claims asserted in the Twentieth, Twenty-
20 First and Twenty-Second claims for relief relate primarily to actions by the NuVeda Defendants
21 to cause non-payment under the Terry Purchase Agreement. The claims are focused on actions
22 by NuVeda and its cohorts regarding the wrongful transfer of the Terry Interest to Bady and
23 Mohajer. For purposes of the pending motion, the facts are accepted as true that Terry did not
24 discover the wrongful transfer of the Terry Interest until after the dismissal of the Arbitration.

25 To the extent that Defendants' wrongful conversion of the Terry Interest caused BCP 7
26 and Padgett not to pay for the Terry Interest, then Terry has a valid claim for damages for that
27 conversion. In Nevada, conversion is defined as "a distinct act of dominion wrongfully exerted
28 over personal property in denial of, or inconsistent with, title or rights therein or in derogation,

1 exclusion or defiance of such rights. *Dynamic Transit Co. v. Trans Pac. Ventures*, 128 Nev. 755,
2 761, 291 P.3d 114, 118 (Nev. 2012), citing *Edward Indus. V. DTE/BTE, Inc.* 112 Nev. 1025,
3 1031, 923 P.2d 569, 573 (1996). It's certainly foreseeable that the wrongful taking of property
4 might cause a buyer of that property not to pay the seller as agreed.

5 Similarly, NuVeda, Clark NMSD, Clark Natural, Nye Natural, and their members,
6 including Bady and Mohajer and their successors, including UL NuVeda, NuVeda Delaware,
7 New CWNV and New CWNV1 have benefitted jointly and separately from the wrongful transfer
8 of the Terry Interest to Bady and Mohajer, which caused Padgett not to pay Terry for the Terry
9 Interest. In *Asphalt Prods. Corp. v. All Star Ready Mix*, 111 Nev. 799, 802, 898 P.2d 699, 701
10 (1995) the district court properly held that the defendant therein, by using a tractor for ten weeks
11 without making a payment, was unjustly enriched. Unjust enrichment is "the unjust retention . . .
12 of money or property of another against the fundamental principles of justice or equity and good
13 conscience. "Id., citing, *Topaz Mutual Co. v. Marsh*, 108 Nev. 845, 856, 839 P.2d 606, 613
14 (1992) (quoting *Nevada Industrial Dev. v. Benedetti*, 103 Nev. 360, 363 n.2, 741 P.2d 802, 804
15 n.2 (1987)). Even if Terry's claim to the Terry Interest was terminated by the Arbitration, the
16 NuVeda Defendants cannot take that interest without fair compensation. Defendants took and
17 retained Terry's property without his knowledge or consent. That then caused BCP 7 and Padgett
18 not to pay Terry. Therefore, Terry has a damage claim against the Defendants for their unjust
19 enrichment, which does not require a return of the Terry Interest to him.

20 Finally, and perhaps most telling is the Twenty-Second Claim for Relief for Civil
21 Conspiracy against Defendants NuVeda, UL NuVeda, NuVeda Delaware, Clark NMSD, Nye
22 Natural, Clark Natural, Bady, Mohajer and their business partner, Padgett. An action for civil
23 conspiracy accrues when a plaintiff discovers or should have discovered all of the necessary facts
24 constituting a conspiracy claim. *Siragusa v. Brown*, 114 Nev. 1384, 1393, 971 P.2d 801, ____
25 (1998). Here, the claim for civil conspiracy did not accrue until Terry discovered the wrongful
26 transfer of the Terry Interest to Bady and Mohajer.

27 An actionable civil conspiracy is a combination of two or more persons who, by some
28 concerted action, intend to accomplish some unlawful objective for the purpose of harming

1 another which result in damage. *Collins v. Union Fed. S&L Ass'n*, 99 Nev. 284, 303, 662 P.2d
2 610, 622 (1983). The alleged facts are set forth in the Second Amended Complaint and clearly
3 evidence a conspiracy between the NuVeda Defendants and Padgett. The claim is one for
4 damages resulting from the Defendants' wrongful conduct, including punitive damages, and does
5 not require that the Terry Interest be returned to Terry in order to pursue the proposed claim.

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

13 Then, in an email dated June 5, 2018, from Padgett to the arbitrator in the Arbitration,
14 prior to Padgett paying any sums under the Terry Purchase Agreement, Padgett purported to
15 dismiss "all claims of myself, CWNevada, BCP Holdings 7, LLC and Shane Terry (all right, title,
16 and interest against Bady, Mohajer, and NuVeda and its subsidiaries (Clark NMSD, Clark Natural
17 Medicinal Solutions, and Nye Natural Medicinal Solutions) with prejudice." The Padgett email
18 clearly evidences a conspiracy between he and his business partners, NuVeda, Clark NMSD,
19 Clark Natural, Nye Natural, Bady and Mohajer to defraud Terry by having BCP 7 purportedly
20 purchase the Terry Interest, which had already been transferred to Bady and Mohajer without
21 Terry's knowledge or consent, and then immediately attempt to dismiss the claims in the
22 Arbitration without BCP 7 and Padgett paying the agreed consideration.

23 ///

1 **IV. Conclusion**

2 Based on the foregoing, Plaintiff Shane Terry respectfully requests that Defendants'
3 Motion be denied.

4 DATED this 17th day of November 2021

5 MUSHKIN & COPPEDGE

6 /s/L. Joe Coppedge

7 MICHAEL R. MUSHKIN, ESQ.

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

13
14
15
16 **CERTIFICATE OF SERVICE**

17
18 I hereby certify that the foregoing **Opposition to Motion to Dismiss and/or for**
19 **Summary Judgment on Claims by Shane Terry Except Against BCP 7 Holdings, LLC and**
20 **Brian Padgett** was submitted electronically for filing and/or service with the Eighth Judicial
21 District Court on this 17th day of November, 2021. Electronic service of the foregoing document
22 shall be upon all parties listed on the Odyssey eFileNV service contact list.

23
24 /s/Kimberly C. Yoder

25 An Employee of

26 MUSHKIN & COPPEDGE
27
28

EXHIBIT “1”

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11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

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

15 Plaintiffs,

16 v.

17 4FRONT ADVISORS LLC, foreign limited
18 liability company, DOES I through X and
19 ROE ENTITIES, II through XX, inclusive,

20 Defendants.

21 **AND RELATED MATTERS**

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.: XIII

22 **DECLARATION OF SHANE M. TERRY IN SUPPORT OF OPPOSITION TO**
23 **MOTION TO DISMISS AND/OR FOR SUMMARY JUDGMENT ON CLAIMS BY**
24 **SHANE TERRY EXCEPT AGAINST BCP 7 HOLDINGS, LLC AND BRIAN PADGETT**

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

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

1 2. I make this Declaration in support of the Opposition to Motion to Dismiss and/or
2 for Summary Judgment on Claims by Shane Terry Except Against BCP 7 Holdings, LLC and
3 Brian Padgett (the “Opposition”).

4 3. On or about July 9, 2014, I entered into an Operating Agreement for NuVeda, LLC
5 (the “NuVeda Operating Agreement”) with Pejman Bady (“Bady”), Pouya Mohajer (“Mohajer”)
6 and Jennifer Goldstein (“Goldstein”) to apply for and operate marijuana dispensaries, cultivation
7 and processing facilities for medical marijuana pursuant to licenses obtained from certain
8 governmental divisions. A true and correct copy of the NuVeda Operating Agreement is attached
9 to the Opposition as Exhibit 2.

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

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

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

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

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

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

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

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

1 **Acts of Self-Dealing and other Misconduct**

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

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

7 14. Nevada law and the state regulatory agencies require in depth financial
8 disclosures.

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

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

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

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

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

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

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

28 22. Upon information and belief, the transfer of the interests, as proposed by Bady,

1 would jeopardize NuVeda's licenses.

2 23. On or about November 1, 2015, a monthly payment was due to Bahri on the
3 \$500,000 promissory note.

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

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

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

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

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

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

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

20 31. Additionally, when Kennedy (an IRS enrolled agent) was preparing NuVeda's K-
21 1s, Bady asked me to allocate his tax losses to Bady to offset Bady's income from an unrelated
22 medical business.

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

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

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

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

5 36. An entity known as 2 Prime, LLC (“2 Prime”) entered into a financing agreement
6 with NuVeda.

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

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

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

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

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

19 **The District Court Action**

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

26 43. The District Court Action sought, among other things, the issuance of a
27 preliminary and permanent injunction maintaining the status quo pending a final resolution of the
28 parties’ disputes in an arbitration.

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

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

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

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

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

16 49. NuVeda, Bady and Mohajer transferred my individual interest in NuVeda directly
17 to Bady and Mohajer without my consent. I did not learn of the transfer of my individual license
18 interest in NuVeda to Bady and Mohajer until in or after January 2019.

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

21 50. During the pendency of the District Court Action and Arbitration, on or about
22 April 30, 2018, I entered into a “Purchase and Sale Agreement for Terry’s Ownership Interest in
23 NuVeda and NuVeda-Managed Licenses” (the “Terry Purchase Agreement”) with BCP7 as the
24 Buyer. A true and correct copy of the Terry Purchase Agreement is attached to the Opposition as
25 Exhibit 3.

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

28 52. The Terry Purchase Agreement provides, among other things, that I agreed to sell

1 the Terry Interest and BCP 7 agreed to purchase the Terry Interest for specified consideration and
2 on specific terms.

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

5 54. I was induced to sign the Terry Purchase Agreement in reliance upon Padgett's
6 representations that the Purchase Price would be paid.

7 55. The Purchase Price was payable as follows: (i) an initial payment of \$500,000.00
8 in good and payable U.S. funds to be paid to Terry on or before June 15, 2018 (the "Initial
9 Payment"), and (ii) monthly payments of the \$1.25 million balance due on or before June 15,
10 2018 with payments due monthly until paid in full (the "Monthly Payments").

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

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

15 58. The Terry Purchase Agreement further provided that there shall be acceleration of
16 the outstanding balance and any unpaid accrued interest thereon upon (1) the sale or transfer of
17 the Terry Interest to a vehicle not owned by BCP 7, or any beneficial rights thereunder, from BCP
18 7 to a third party (other than CWNV, LLC); or (2) a default of a payment obligations, which shall
19 result from any failure to timely pay the Initial Down Payment or any Monthly Payments on the
20 Balance following notice of failure to Padgett and no cure within 10 business days thereof.

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

24 60. BCP 7 made a partial payment toward the Initial Payment in the sum of
25 \$250,000.00 on or about August 1, 2018.

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

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

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

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

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

66. Notwithstanding the fact that the Terry Interest was never properly transferred to BCP 7, in an email dated June 5, 2018 from Padgett to the Arbitrator in the Arbitration, Padgett purported to 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.” See electronic mail from Padgett to Nikki Baker, Exhibit 4 to the Opposition.

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

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

DATED this 17th day of November, 2021

/s/Shane M. Terry
SHANE M. TERRY

EXHIBIT “2”

NuVeda, LLC

Operating Agreement

July 9, 2014

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.

Peyman Bady
 DocuSigned by:
 Member: PEYMAN BADY

Pouya Mohajer
 DocuSigned by:
 Member: POUYA MOHAJER

Shane Terry
 DocuSigned by:
 Member: SHANE TERRY

[Signature]
 DocuSigned by:
 Member: RYAN WINMILL

Jennifer Goldstein
 DocuSigned by:
 Member: JENNIFER GOLDSTEIN

Joseph Kennedy
 DocuSigned by:
 Member: JOSEPH KENNEDY

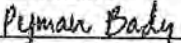
Member: JOHN PENDERS

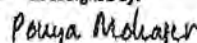
NUVEDA, LLC
LISTING OF MEMBERS

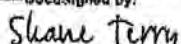
NAME:	ADDRESS:	PERCENTAGE INTERESTS VOTING/OWNERSHIP INTERESTS/DISTRIBUTION:
Pejman Bady	PO Box 6255 Pahrump, NV 89041	46.5%/46.5%/38%
Pouya Mohajer	2700 Las Vegas Blvd. #2709 Las Vegas, NV 89109	21%/21%/25.25%
Shane Terry	4575 Dean Martin Drive #1401 Las Vegas, NV 89103	21%/21%/25.25%
Jennifer Goldstein	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%

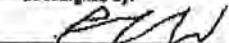
*Nondilutable interests once vested. As if this writing, the Ownership, Voting and Distribution Shares of Goldstein, Kennedy, Winmill and Penders are designated as Nondilutable

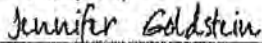
Member Listing as of this _____ day of _____, 2014

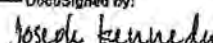
DocuSigned by:

 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
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

EXHIBIT “3”

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:

1.45
45 MR

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

245
b

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

shall be awarded to the prevailing party.

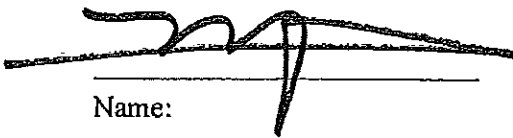
The Parties acknowledge that there is no other agreement and no other term incorporated into this Purchase and Sale Agreement other than what is expressed herein.

Dated this 20th day April, 2018

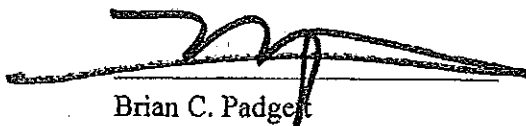
BUYER:

BCP 7, LLC

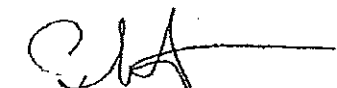
By its Manager:


Name:

GUARANTOR:


Brian C. Padgett

SELLER:


Shane Terry

4.85

**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

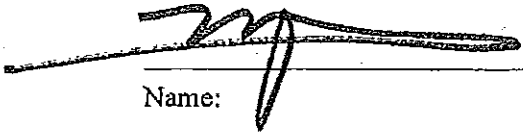
YJP

Dated this 30th day April, 2018.

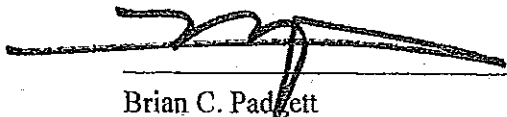
BUYER:

BCP 7, LLC

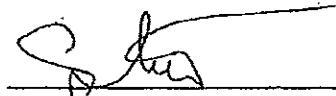
By its Manager:


Name:

GUARANTOR:


Brian C. Padgett

SELLER:


Shane Terry

5 of 6
9

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

Assignee

BCP 7, LLC

By: _____

5/2/18

EXHIBIT “4”

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

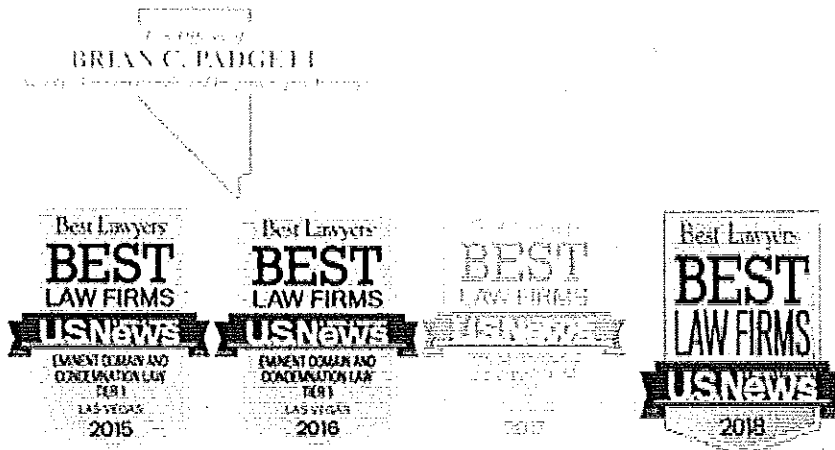
Dear Arbitrator Baker:

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.

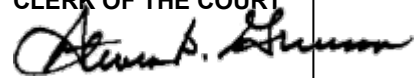
Ms. Sugden shall oversee the process and may sign on my behalf any necessary paperwork.

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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EXHIBIT 5-PETITION FOR REHEARING



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, Clark NMSD, LLC,

Nye Natural Medicinal Solutions, LLC, Clark Natural Medicinal Solutions, LLC, Dr. Pejman Bady,

Dr. Pouya Mohajer, and Joseph Kennedy¹

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.: 13

**REPLY TO SHANE TERRY'S OPPOSITION
TO MOTION TO DISMISS AND/OR FOR
SUMMARY JUDGMENT ON CLAIMS BY MR.
TERRY EXCEPT AGAINST BCP 7
HOLDINGS, LLC AND BRIAN PADGETT**

Hearing Date: December 6, 2021

Hearing Time: 9:00 am

NuVeda, LLC, a Nevada limited liability company ("NuVeda"), Clark NMSD, LLC, a Nevada limited liability company ("Clark NMSD"), Nye Natural Medicinal Solutions, LLC, a Nevada limited liability company ("Nye Natural"), Clark Natural Medicinal Solutions, LLC, a Nevada limited liability company ("Clark Natural"), Dr. Pejman Bady ("Bady"), Dr. Pouya Mohajer ("Mohajer"), and Joseph Kennedy ("Kennedy"),² by

¹ William Maupin has been engaged by NuVeda, LLC to assist with matters concerning Shane Terry. Currently, Mr. Maupin serves as co-counsel in NuVeda's petition for a writ before the Nevada Supreme Court in Case No. 82767.

² NuVeda, Clark NMSD, Nye Natural, Clark Natural, Bady, Mohajer, and Kennedy shall be referred to herein collectively as "Defendants."

1 and through counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-
2 referenced reply to the opposition filed by Shane Terry ("Mr. Terry") to the motion to dismiss and/or for
3 summary judgment. The claims subject to the motion before the court are all claims and requests for relief by
4 Mr. Terry against all defendants except BCP 7 Holdings, LLC ("BCP 7") and Brian Padgett ("Mr. Padgett").

5 This filing is based on the papers and pleadings before the court, the memorandum of points and
6 authorities that follows, and the exhibits attached hereto or filed separately and incorporated herein by this
7 reference, which are true, accurate and complete.

8
9 DATED this 29th day of November, 2021.

10
11 **LAW OFFICE OF MITCHELL STIPP**

12
13 /s/ Mitchell Stipp, Esq.

14 MITCHELL STIPP, ESQ.

15 Nevada Bar No. 7531

16 LAW OFFICE OF MITCHELL STIPP

17 1180 N. Town Center Drive, Suite 100

18 Las Vegas, Nevada 89144

19 Telephone: 702.602.1242

20 mstipp@stiplaw.com

21 *Attorneys for NuVeda, LLC, Clark NMSD, LLC,*

22 *Nye Natural Medicinal Solutions, LLC, Clark Natural Medicinal Solutions, LLC, Dr. Pejman Bady,*

23 *Dr. Pouya Mohajer, and Joseph Kennedy*

24
25
26 **DECLARATION OF DR. PEJMAN BADY, DR. POUYA MOHAJER, AND JOSEPH KENNEDY**

27 The undersigned, Dr. Pejman Bady, Dr. Pouya Mohajer, and Joseph Kennedy, individually and as
28 authorized agents of NuVeda, Clark NMSD, Clark Natural, and Nye Natural, certify to the court as follows:

1. The factual statements set forth in the reply below are true, accurate and complete to the best of
my knowledge and belief.

2. Mr. Terry sold all of his interests/claims in, to, and/or against Defendants (and any of their
respective cannabis licenses) to BCP 7 on or about April 30, 2018. At the time of the sale, Mr. Terry's interest
in NuVeda was extinguished based on his expulsion from NuVeda on or about March, 2016, pursuant to the

terms and conditions of the Operating Agreement for NuVeda , which was in effect at the time.

3. Mr. Terry's claims were dismissed with prejudice by the American Arbitration Association in AAA Case No. 01-15-0005-8574 on or about October 9, 2018.

4. On June 30, 2020, Mr. Terry sued the Defendants asserting claims based on the same or similar claims and allegations made by Mr. Terry in the arbitration (or which could have been asserted by Mr. Terry in the arbitration).

5. We are informed and belief that Mr. Terry collected \$757,757.00 from BCP 7, Mr. Padgett and their affiliates between April 18, 2019 and June 7, 2019.

6. We submit the above-titled declaration in support of the motion to dismiss and/or for summary judgment which was filed on November 3, 2021.

7. The exhibits filed in support of the motion are true, accurate and complete.

Dated this 29th day of November, 2021.

/s/ Pejman Bady

Dr. Pejman Bady

/s/ Pouya Mohajer

Dr. Pouya Mohajer

/s/ Joseph Kennedy

Joseph Kennedy

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 **I. The Declaration of Bady, Mohajer, and Kennedy satisfy the requirements of NRCP 56.**

4
5 Mr. Terry contends in his opposition that the declaration of Bady, Mohajer, and Kennedy does not satisfy
6 the requirements of NRCP 56(c)(4). Mr. Terry contends that the declaration fails to set forth specific facts that
7 would be admissible evidence. NRCP 56(c)(4) provides as follows: “An affidavit or declaration used to support
8 or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence,
9 and show that the affiant or declarant is competent to testify on the matters stated.” Bady, Mohajer, and
10 Kennedy are the managers of NuVeda, which was a party to the lawsuit filed by Mr. Terry in 2015 (Case No.
11 A-15-728510-B) and the proceedings before the American Arbitration Association (“AAA”) (AAA Case No.
12 01-15-0005-8574). Bady, Mohajer, and Kennedy have personal knowledge of the transaction pursuant to which
13 Mr. Terry sold his interest in and claims against NuVeda and its affiliates/subsidiaries to BCP 7. After Mr.
14 Terry entered into the transaction (which is a binding agreement with BCP 7 and Mr. Padgett), Mr. Terry through
15 his counsel-of-record (Erika Pike Turner, Esq.) filed a motion in the arbitration to substitute BCP 7 in place of
16 Mr. Terry as the real party in interest with all rights to Mr. Terry’s interest and claims. The AAA permitted
17 BCP 7 to substitute into the arbitration for Mr. Terry. Before doing so, NuVeda through counsel, Mathew
18 Dushoff, raised a number of issues with the transaction, which were addressed by Mr. Terry’s attorney (Ms.
19 Turner). After substituting into the case in place of Mr. Terry, on June 5, 2018, BCP 7 voluntarily and
20 unconditionally dismissed all of Mr. Terry’s claims with prejudice. In accordance with the request by BCP 7 to
21 dismiss the claims with prejudice, AAA ordered these claims finally to be dismissed on **October 9, 2018**
22 (approximately four (4) months later). The foregoing undisputed facts are within the personal knowledge of
23 Bady, Mohajer, and Kennedy as managers of NuVeda. Mr. Terry’s issue appears to be with the understanding
24 by Bady, Mohajer and Kennedy of the amounts paid by BCP 7/Mr. Padgett to Mr. Terry, which is based on the
25 emails attached to the complaint filed in Case No. A-19-796300-B. **See Exhibit E** to the Motion (Exhibit 2 to
26 Exhibit E) (Defendant’s Exhibits, Pages 85-96). Noteworthy, Mr. Terry still has not stated in the opposition or
27 his declaration exactly how much money he received from BCP 7/Mr. Padgett.
28

APPENDIX 306

1 In his opposition, Mr. Terry intentionally conflates two (2) separate issues in order to confuse the court:
2 (a) rescinding the transaction with BCP 7/Mr. Padgett (contract rescission); and (b) setting aside the dismissal
3 with prejudice in the arbitration (relief under NRCP 60). There are genuine issues of material fact which will
4 prevent summary judgment in favor of Mr. Terry on the issue of rescission. "A party must rescind a contract
5 within a reasonable time, but what constitutes a reasonable time depends upon the facts of a particular case and
6 must be determined by the trier of fact." Mackintosh v. California Federal Savings & Loan Ass'n, 113 Nev. 393,
7 403 (Nev. 1997) (citing Wall v. Foster Petroleum Corp., 791 P.2d 1148, 1151 (Colo.Ct.App. 1989) (emphasis
8 added). The effective date of the assignment of interests and claims is May 2, 2018. Between May 2, 2018
9 and May 15, 2019, Mr. Terry collected \$757,757.00 before he filed his complaint to rescind the transaction on
10 June 30, 2020 based on fraud in the inducement—more than two (2) years after the transaction was consummated
11 and one (1) year after there was an uncured default. NuVeda contends rescission on these facts is not
12 reasonable. However, contract rescission has nothing to do with setting aside the stipulation by BCP 7
13 dismissing with prejudice all claims in the arbitration.
14

15
16 With respect to setting aside the dismissal with prejudice before AAA, there are no genuine issues of
17 material fact. Mr. Terry contends that the rescission of the contract with BCP7/Mr. Padgett automatically makes
18 the dismissal void. That is false. As this court is keenly aware, "[f]or a judgment to be void, there must be a
19 defect in the court's authority to enter judgment through either lack of personal jurisdiction or jurisdiction over
20 subject matter in the suit." Gassett v. Snappy Car Rental, 111 Nev. 1416, 1419, 906 P.2d 258, 261 (1995),
21 superseded by rule on other grounds, NRCP 12(b), as stated in Fritz Hansen A/S v. Eighth Judicial Dist. Court,
22 116 Nev. 650, 654-56, 6 P.3d 982, 984-85 (2000); see Landreth v. Malik, 127 Nev. 175, 179, 251 P.3d 163, 166
23 (2011) ("[I]f the district court lacks subject matter jurisdiction, the judgment is rendered void."). Here, there is
24 no dispute AAA had jurisdiction to dismiss Mr. Terry's claims at the request of BCP 7, which owned them, after
25 Mr. Terry filed a motion to substitute BCP 7 in place and stead of Mr. Terry. While Mr. Terry can pursue
26 rescission of the transaction with BCP 7/Mr. Padgett based on fraud in the inducement, he does so at his own
27 detriment.
28

1
2 **II. The Operating Agreement of NuVeda does not create Standing for Mr. Terry to pursue**
3 **claims which were dismissed.**
4

5 The claims by Mr. Terry should be dismissed or summary judgment granted. The claims asserted by
6 Mr. Terry in Case No. A-20-817363-B were owned by BCP 7 (before they were dismissed). The transaction
7 has not been rescinded. Therefore, Mr. Terry does not have standing to prosecute them or assert additional
8 claims based on the claims and interests sold to BCP 7. Even if the transaction with BCP 7 could be rescinded
9 after a trial on merits, all such claims are res judicata (barred by claim preclusion). The binding arbitration is
10 closed, and AAA no longer has jurisdiction. Weddell v. Sharp, 350 P.3d 80, 86 (Nev. 2015) (modifying Five
11 Star Capital Corp. v. Ruby, 194 P.3d 709, 713 (Nev. 2008)). In response, Mr. Terry argues that provisions of
12 the operating agreement of NuVeda, which purportedly existed at the time of the dismissal now provide this
13 court the power and authority to decide whether the stipulation entered by AAA should be set aside. While
14 BCP 7 as the real party in interest could move to set aside the dismissal, or Mr. Terry could move this court after
15 rescission of the contract with BCP7/Mr. Padgett, the provisions of NuVeda's operating agreement do not
16 change result. Assuming NRCP 60(b) does not apply, a party only has ninety (90) days after the award to move
17 to vacate the arbitrator's decision. See NRS 38.241(1)(a) and (2). In either case, Mr. Terry is out-of-time.
18

19
20 **III. The claims by Mr. Terry do not need to be the same exact claims asserted in the**
21 **Arbitration.**

22 Mr. Terry's contention that the arbitration concerned solely his attempt to stop the joint venture between
23 CWNevada the NuVeda is a complete distortion of the facts. In Case No. A-15-728510-B, Judge Gonzalez
24 determined after an evidentiary hearing that Mr. Terry did not have the right to stop the joint venture and that
25 decision was upheld by the Nevada Supreme Court on appeal by Mr. Terry. See Order filed on October 13,
26 2017, in Case No, 69649 (Dkt. 17-35048); see also Mr. Terry's Arbitration Demands included in Exhibit A-2
27 and Exhibit A-3 to the Motion. Despite making this argument, Mr. Terry does admit the following:
28

1 Terry's claims in this action generally involve his efforts to rightfully regard his
2 interest in NuVeda and its subsidiaries after entering the Terry Purchase
3 Agreement. In the alternative, Terry's claims in this action include damage claims
4 related to non-payment under the Terry Purchase Agreement.

5 See Opposition, filed on November 17, 2021, page 16 (line 28) through page 17 (lines 1-3). Mr. Terry appears
6 to confuse the difference between issue and claim preclusion. Generally, the doctrine of res judicata precludes
7 parties or those in privity with them from relitigating a cause of action or an issue which has been finally
8 determined by a court of competent jurisdiction." Univ. of Nev. v. Tarkanian, 110 Nev. 581, 598, 879 P.2d 1180,
9 1191 (1994), holding modified on other grounds by Exec. Mgmt., Ltd. v. Ticor Title Ins. Co., 114 Nev. 823, 963
10 P.2d 465 (1998). "The doctrine is intended to prevent multiple litigation causing vexation and expense to the
11 parties and wasted judicial resources by precluding parties from relitigating issues they could have raised in a
12 prior action concerning the same controversy." Id. While issue preclusion is implicated when the parties to an
13 earlier suit are involved in a subsequent litigation on a different claim, claim preclusion applies when "[a] valid
14 and final judgment on a claim precludes a second action on that claim or any part of it." Id. at 598-99, 879 P.2d
15 at 1191, In Five Star Capital Corp. v. Ruby, we adopted a three-part test for claim preclusion: "(1) the parties or
16 their privies are the same, (2) the final judgment is valid, and ***(3) the subsequent action is based on the same***
17 ***claims or any part of them that were or could have been brought in the first case.***" 124 Nev. 1048, 1054, 194
18 P.3d 709, 713 (2008) (emphasis added) (footnotes omitted), holding modified by Weddell v. Sharp, 131 Nev.
19 233, 350 P.3d 80 (2015).

20 **IV. The decisions by Judge Gonzalez on NuVeda's motions to dismiss/summary judgment**
21 **were made without prejudice.**

22
23 The matters before the court are ripe for decision. Discovery is ending. The deadline for filing
24 dispositive motions is fast approaching. In his opposition, Mr. Terry has not asked for relief under NRCP 56(d).
25 Since filing his complaint and amending the same, Mr. Terry has done nothing to demonstrate why this matter
26 should not be finally decided. Each filing by Mr. Terry is recycled with the same facts and analysis. "The
27 premise of a 'summary judgment' motion is that there is nothing for a jury or judge to decide at trial, and
28 therefore the court should enter judgment as a matter of law without a trial." Wood v. Safeway, Inc., 121 Nev.
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724, 729, 121 P.3d 1026, 1029 (2005). What remains for a jury to decide with respect to Mr. Terry's claims? Mr. Terry contends NRCP 60(b)(4) permits the court to set aside the dismissal in arbitration because it is void. That is a question of law, which can be decided by the court. Further, NRCP 60(b)(3) relief must be made within six (6) months, and if the Uniform Arbitration Act of 2000 applies, Mr. Terry only has ninety (90) days (rather than six (6) months). See NRS 38.241(1)(a) and (2). There is no dispute that the maximum time period to set aside the dismissal for fraud has expired (i.e., there is no genuine issue of material fact).

V. Mr. Terry's new claims are subject to dismissal/summary judgment.

Mr. Terry's new claims of conversion, unjust enrichment and civil conspiracy are based on the same set of facts as the prior claims. Mr. Terry filed a seconded amended complaint on October 18, 2021.³ Mr. Terry asserts duplicate claims for unjust enrichment based on his interest/claims sold to BCP 7. See Second Amended Complaint, pages 28-29 (paragraph 230) and 41-42 (paragraph 324). Mr. Terry asserts a claim for conversion of his interest sold to BCP 7. Id. at 40-41 (paragraph 317). Finally, Mr. Terry asserts a claim for civil conspiracy based on the transfer of Mr. Terry's interest/claims purportedly before he sold the same to BCP 7. Id. at 42-43. These claims are based on the interests/claims sold to BCP 7 and dismissed. The fact that Mr. Terry now claims he did not learn of the transfer of his interests until after January 2019 (paragraph 82 of the Second Amended Complaint) is inconsistent with the facts as alleged by Mr. Terry in the arbitration and does not prevent the claim from being dismissed. Mr. Terry sold whatever he had to BCP 7 and expressly permitted BCP 7 to substitute into the case and do whatever BCP 7 wanted as the real party in interest.

VI. Mr. Terry does not address the applicability of the 5-year Rule.

Mr. Terry does not address the motion's contention that the 5-year rule also requires dismissal. The failure of the opposing party to address grounds upon which the motion should be granted may be construed as an admission by Mr. Terry that the contention is meritorious and a consent to granting the same. EDCR 2.20(b);

³ In response to NuVeda's opposition to the motion to amend, this court indicated that it would address the substantive issues in a motion to dismiss/summary judgment because the standard for amending is low under NRCP 15.

1 see also State, Dep't of Mtr. Vehicles v. Moss, 106 Nev. 866, 868 n.2 (Nev. 1990). If contract rescission occurs
2 and the dismissal with prejudice is also set aside, the case is still subject to dismissal with prejudice under NRC
3 41(e)(2)(B) (5-Year Rule). See NRC 41(e)(6); Morgan v. Las Vegas Sands, Inc., 118 Nev. 315 (Nev. 2002)
4 (arbitration does not toll the 5-year rule—dismissal is mandatory). Mr. Terry does not get the right to restart
5 the clock by filing a new case. Accordingly, the claims by Mr. Terry should be dismissed or summary judgment
6 granted.

7 8 **VII. CONCLUSION**

9 For the reasons set forth above, Defendants respectfully request that the court dismiss and/or grant summary
10 judgment on all claims and requests for relief by Mr. Terry against all defendants except BCP 7 and Brian Mr.
11 Padgett.

12
13 DATED this 29th day of November, 2021.

14 **LAW OFFICE OF MITCHELL STIPP**

15
16 /s/ Mitchell Stipp, Esq.

17 MITCHELL STIPP, ESQ.

18 Nevada Bar No. 7531

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26 *Dr. Pouya Mohajer, and Joseph Kennedy*

EXHIBIT 6-PETITION FOR REHEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

December 06, 2021

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

December 06, 2021 9:00 AM All Pending Motions

HEARD BY: Denton, Mark R.

COURTROOM: RJC Courtroom 03D

COURT CLERK: Madalyn Kearney

RECORDER: Jennifer Gerold

PARTIES

PRESENT: Stipp, Mitchell D. Attorney for Defendants NuVeda
LLC, Clark NMSD LLC, Clark
Natural Medical Solutions LLC,
Pouya Mahjer, and Joseph
Kennedy

JOURNAL ENTRIES

STATUS CHECK: TRIAL SETTING...MOTION TO DISMISS AND/OR FOR SUMMARY
JUDGMENT ON CLAIMS BY SHANE TERRY EXCEPT AGAINST BCP HOLDINGS, LLC AND
BRIAN PADGETT

Linvel Coppedge, Esq. present for CWNevada LLC, Phillip Ivey, Shane Terry, and Dotan Melach.
Counsel present via BlueJeans.

As to the Status Check, Mr. Stipp advised Mr. Coppedge filed a Motion to Extend Discovery
Deadlines for 60 days, the Court approved that request, and there has been no update since. Mr.
Stipp added they are still conducting discovery and are in the process of filing dispositive motions.
Court noted the trial stack that the case is currently set on is Non-Jury. COURT ORDERED, trial dates
VACATED and to be RESET on the April 12, 2022 stack. Following arguments by Mr. Stipp and Mr.
Coppedge, COURT FURTHER ORDERED, Motion to Dismiss and/or for Summary Judgment on
Claims by Shane Terry Except Against BCP 7 Holdings, LLC and Brian Padgett UNDER
ADVISEMENT.

PRINT DATE: 12/08/2021

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Minutes Date: December 06, 2021

EXHIBIT 7-PETITION FOR REHEARING

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A-17-755479-B

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Business Court Matters

COURT MINUTES

December 21, 2021

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

December 21, 2021 7:00 AM Minute Order

HEARD BY: Denton, Mark R.

COURTROOM: Chambers

COURT CLERK: Madalyn Kearney

JOURNAL ENTRIES

HAVING further reviewed and considered the parties filings and argument of counsel pertaining to Plaintiff NuVeda, LLC s Motion to Dismiss and/or for Summary Judgment on Claims by Shane Terry Except Against BCP7 Holdings, LLC and Brian Padgett, heard and taken under advisement on December 6, 2021, and being fully advised in the premises, and being persuaded by the Opposition thereto, the Court DENIES the dismissal aspect of such Motion and also DENIES the summary judgment aspect of the same without prejudice to renewal as to the latter after the Nevada Supreme Court has ruled upon Plaintiff s pending writ petition. Counsel for the opposing parties is directed to submit a proposed order consistent herewith and with supportive briefing/argument following submission of the same to opposing counsel for signification of approval/disapproval.

IT IS SO ORDERED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 12/21/21

PRINT DATE: 12/21/2021

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Minutes Date: December 21, 2021

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