IN THE SUPREME COURT OF THE

STATE OF NEVADA

CLARK NMSD, LLC,

Appellant,

vs

JENNIFER GOLDSTEIN,

Respondent.

Supreme Court Case No. 84623

District Court Case No. A-15-728510-B

Volume II

APPENDIX OF EXHIBITS IN SUPPORT OF APPELLANT'S EMERGENCY MOTION FOR STAY OR INJUNCTION

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EXHIBIT 4 CONTINUED

the Code.

St. Paul's Self Storage factors are these; the debtor has only one asset. This particular case, it doesn't have any at all other than its contested unliquidated litigation claim against CWNevada and its receivership estate.

Second, that the debtor has an ongoing business to reorganize; as I indicated previously, it doesn't. There are any unsecured creditors. There are a total of four of them here.

Fourth, the debtor has any cash flow or sources of income to sustain a plan of reorganization or to make adequate protection payments. It doesn't, and its monthly operating reports in addition to its schedules and statements confirmed that fact.

And last but not least, the case is essentially a two-party dispute. It is, and a receivership proceeding in this particular circumstance would be sufficient assistance to the creditors to allow the matter to move forward outside of the bankruptcy realm.

The other factors that are relevant in the amalgam, as I discussed previously, viewing the record as a whole, this is essentially a two-party dispute between debtor and Goldstein. To be clear and for avoidance of doubt, this is just one of various factors in the amalgam considered by the Court, and its bad faith analysis under the United States

Trustee's motion to dismiss is not outcome determinative, but petitions in bankruptcy arising out of a two-party dispute do not per se constitute a bad faith filing by a debtor. restaurant. In re Stolrow's Inc., 84 B.R. 167, 171 (B.A.P. 9th Cir. 1988). Courts that find bad faith based on two-party disputes do so when it is apparent -- it is an apparent two-party dispute that can be resolved outside of the bankruptcy court's jurisdiction. Oasis at Wild Horse Ranch v. Shoals (In re Oasis at Wild Horse Ranch, LLC,) 2011 WL 4502102 at *10 (Bankr. D. Ariz. Aug. 26, 2011), citing North Central Development Company v. Landmark Capital Company (In re Landmark Capital Company) 27 B.R. 273, 279 (Bankr. D. Ariz. 1983).

Here again, the Court notes that the dispute between debtor and Goldstein, the primary creditor in connection with this case, could readily be resolved through state court receivership proceedings. Other reorganization considerations, of course, mindful that the 9th Circuit has held that perhaps the most compelling grounds for denying the motion to dismiss grounded on bad faith is a determination that a reorganization plan qualifies for confirmation. It's because the debtor showing that a plan of reorganization is ready for confirmation essentially refutes the contention that the case is filed or prosecuted in bad faith. The bankruptcy court in that case properly considered the viability of the debtors proposed plan as weighing heavily against dismissal. Marshall v. Marshall

(In re Marshall,) 721 F.3d 1032, 1047-1049 (9th Cir. 2013). But here, the Court is mindful that the debtor has filed and amended the Subchapter V plan of reorganization, ECF Numbers 89 and 146, but it has not generated any money at all from operations during the pendency of the case and has no scheduled assets or business operations from which it could fund a plan, and the Court tends to agree with the United States Trustee, that cause for dismissal may also exist under Section 1112(b)(4)(A), as the administrative expenses being incurred here constitute a continuing loss to or diminution with -- of the estate with no offsetting income.

The Court is in agreement with the United States Trustee as well, using a federal court and federal law to perpetuate and protect violations of another federal law, here the Controlled Substances Act, can never be in good faith. In a seminal case in this area, the bankruptcy court stated that the federal court cannot be asked to enforce the protections of the Bankruptcy Code in aid of a debtor whose activities constitute a continuing federal crime. In re Arenas, 514 B.R. 887, 998 (Bankr. D. Colo. 2014), quoting In re Rent-Rite Super Kegs W. Ltd., 484 B.R. 805 (Bankr. D. Colo. 2012). The 10th Circuit Bankruptcy Appellate Panel affirmed even though it found that the debtors were sincere and credible, because the good faith is objective, not subjective, and it is objectively unreasonable for them to seek, in that case, Chapter 13 relief.

(In re Arenas), 535 B.R. 845, 852-853 (B.A.P. 10th Cir. 2015).

The Court agrees that it is not asking too much of debtors to obey federal laws, including criminal laws, as a condition of obtaining relief under the Bankruptcy Code. In re Johnson, 532 B.R. 53, 59 (Bankr. W.D. Mich. 2015).

The Court notes the arguments with respect to the citation by the United States Trustee, the Section 1112(b)(4)(B), as constituting cause in addition to bad faith for dismissal under Section 1112. Here, the Court is in agreement with the United States Trustee that a conspiracy to violate federal laws is something that's clear violation of the fiduciary duties imposed on a debtor-in-possession. But the fact of the matter is that there is a friction between the Controlled Substances Act and Nevada law. I will not find, and I don't, that there's gross mismanagement of the estate's assets in the context of this case. But that doesn't mean that I find that this case was filed in good faith. I find to the contrary.

The Court, having considered all the factors, the amalgam of factors that I've walked through here, finds that while the debtor has filed an amended Subchapter V plan of organization, it hasn't generated any money at all from operations during the pendency of the case. It has no scheduled assets or business operations from which it could fund a plan that the continuing administrative expenses without

any available assets or income to offset those expenses is indeed a continuing loss or diminution of the estate. And that ultimately, the issue before the Court is whether the debtor is attempting to unreasonably deter and harass the debtor's creditors or is attempting to effectuate a speedy, efficient reorganization on a feasible basis. That's the Grego case, 2015 WL 3451559 at *5, citing Marsch, 36 F.3d 828, and Arnold, 806 F.2d 939.

Having carefully considered the amalgam of relevant facts and factors identified by the authority cited above, and with no single fact or factor controlling my calculus, the Court concludes that Goldstein has met -- or excuse me. The United States Trustee has met the burden of proving by a preponderance of the evidence that by filing this case the debtor was and is attempting to unreasonably deter and harass its creditors, to impede the exercise of state court rights and remedies, and importantly, the debtor has no assets or income to support a feasible plan.

The Court is mindful here, too, that there are issues with respect to the debtor's unclean hands and in connection with the filing of this particular bankruptcy case, the Court, as I did previously, is mindful that it needs to conduct the balancing of factors in determining whether the appropriate balance leads to the conclusion that the debtor's wrongful activity is such that the doctrine of unclean hands applies as

an additional support to bolster the existence of bad faith.

The Court is mindful here that the bankruptcy court is required to weigh the party's respective wrongdoing; here, the wrongdoing that is cited by the United States Trustee, and it's evident from the record here, is the violation of the Controlled Substances Act by the debtor. The -- there is no wrongful conduct that is suggested with respect to either the United States Trustee or any creditor or party in interest. There is nothing harmful about taking action to determine whether or not a bankruptcy case ought to proceed, but there is harm as a result of violation of criminal laws in the United States and specifically the Controlled Substances Act, as was true in the North Bay Wellness Group Inc. v. Beyries case, 789 F.3d 956. The -- at 960. (9th Cir., 2015). This Court has weighed the harms in connection with the question of unclean hands. In doing so, the Court is satisfied that the debtor's wrongdoing outweighed any wrongdoing by any creditor or party and interest, certainly, the United States Trustee. In this particular circumstance, the United States Trustee is doing nothing other than enforcing -- well, carrying out its role as a watchdog of the bankruptcy process.

The fact of the matter is, the United States Trustee's efforts in that regard do not harm the public, but violations of the Controlled Substances Act do. So when I'm looking, again to be clear and for avoidance of any doubt, when

I'm looking at the considerations of other relevant facts in the amalgam, the fact that this is a case where it was filed with unclean hands, when the proper balancing is conducted, when it violates the Controlled Substances Act, and when you look at the entire record as a whole, there is bad faith in the filing of this particular bankruptcy case, and as established by the United States Trustee through its papers here.

Because I find that cause does exist in the context of Section 1112(b) in the form of bad faith, substantiated for the reasons that I've stated on the record and including without limitation debtor's unclean hands in filing this case, the remaining question is what to do, and that's the question of what's the appropriate relief under Section 1112(b). I find in this particular circumstance that having determined that cause exists, Section 1112(b) generally requires the Court to take action. Before taking action, it's necessary for the Court to determine whether the debtor has carried the burden of proving that one or more of the exceptions to the convert or dismiss mandate exists. As the Bankruptcy Appellate Panel for the 9th Circuit explained, if the bankruptcy court finds that cause exists to grant relief under Section 1112(b), it must then first decide whether dismissal, conversion or the appointment of a trustee or an examiner is in the best interest of creditors and the estate; and second, identify whether there are unusual circumstances that establish that dismissal or

conversion is not in the best interest of creditors in the estate. That's the Warren case, 2015 WL 3407244 at *4, citing Shulkin Hutton Inc. PS v. Treiger (In re Owens), 552 F.3d 958, 961 (9th Cir. 2009).

Courts must also ascertain the impact on the creditors and on the estate of each of the options. Rolex Corporation v. Associated Materials Inc. (In re Superior Siding Window, Inc.), 14 F.3d 240, 243 (4th Cir. 1994). This component of the analysis requires consideration of the best interests of all of the creditors, not just the largest and most vocal creditor. Sullivan, 522 B.R. 612 and 13. Owens 552 F.3d 961. Courts must consider the Code's fundamental policy of achieving equality among creditors, and that is not accomplished by merely tallying the votes of the unsecured creditors and yielding to the majority interest. Sullivan 522 B.R. 613, citing Superior Siding and Window, 14 F.3d 243.

So, looking at the potential exceptions to the convert or dismiss mandate to determine whether or not -- what the appropriate remedy should be, I'll start with the Chapter 11 trustee option under Section 1112(b)(1). In this case, there's no substantive business that requires reorganization or oversight. Debtor's schedule show no substantive assets, and its MORs, monthly operating reports and statement of financial affairs show no income for years prior to filing. The judgement claim held by Goldstein comprises the bulk of all

secured claims. Debtor has not sought to use cash collateral, so preservation of and accounting for cash collateral is not an issue, and has not been raised as a concern by any creditors or parties of interest in this case. In the absence of a meaningful business to reorganize, there is little reason to incur administrative expenses in the form of Chapter 11 trustee fees, trustee attorney's fees and quarterly fees, all of which would have to be paid before distributions would reach the bulk of the claims scheduled by the debtor and those that have been filed in this case.

Given the size of the outstanding claims, the absence of available income to offset administrative expenses, there's little hope that a Chapter 11 trustee could propose a feasible Chapter 11 plan of reorganization in any event.

On the record before it, the Court concludes the appointment of a Chapter 11 trustee is not in the best interests of creditors or the estate.

Next up is the examiner option. Section 1112(b)(1), appointment of an examiner is warranted where an investigation of the debtor is appropriate, including an investigation of any allegations of fraud, dishonesty, incompetence, misconduct, mismanagement or irregularity in the management of the affairs of the debtor. 11 U.S.C. 1104(c). As noted previously, this case does not involve a substantive business that requires reorganization, oversight or review. An examiner is not vested

with the power to take control over estate assets, but only to investigate and provide a report of his or her findings to the Court. Given the limited income available for the estate, in fact, the nonexistent income available for the estate, and the size of the non-judgment claims that are held in connection with this case, little purpose would be served by hiring an expensive professional to confirm what the Court and parties in this case already know about the debtor's financial condition and the reasons why the debtor resorted to bankruptcy court when it did.

When the Court record is considered as a whole here, appointment of an examiner is neither in the best interest of creditors or the estate.

Unusual circumstances. Again, the Code does not define the phrase unusual circumstances in the context of motions predicated on Section 1112(b). See In re Draiman, 450 B.R. 777, 826 (Bankr. N.D. Ill. 2011). Courts have concluded that the term contemplates conditions that are not common in most Chapter 11 cases. Draiman, 450 B.R. 826. In re LG Motors Inc., 422 B.R. 110 (Bankr. N.D. Ill. 2009). In re Miell, M-I-E-L-L, 419 B.R. 357, 367 (Bankr. N.D. Iowa 2009). In re Pittsfield Weaving Co., 393 B.R. 271, 274 (Bankr. D.N.H. 2008). In re 1031 Tax Group, Llc., 374 B.R. 78, 93 (Bankr. S.D.N.Y. 2007). Where the Court noted that although a finding of unusual circumstances is within the Court's discretion, the

word unusual contemplates facts that are not common to Chapter 11 cases generally. Moreover, the unusual circumstances must establish that dismissal or conversion is not in the best interest of creditors and the estate. In re LG Motors, Inc., 422 B.R. 110, 117 (Bankr. N.D. Ill. 2009). In re Van Eck, 425 B.R. 54, 63 (Bankr. D. Conn. 2010). In re Triumph Christian Ctr., Inc., 493 B.R. 479, 496 (Bankr. S.D. Tex. 2013).

Bankruptcy courts have significant discretion in making the determination as to whether unusual circumstances exist that should prevent conversion or dismissal. In re 1031 Tax Group, Llc., 374 B.R. 93 (Bankr. S.D.N.Y. 2007), the unusual circumstances analysis is necessarily factually intensive.

The Court again here makes the same finding as I did in the Goldstein dismissal motion. There are not unusual circumstances present here that would satisfy Section 1112(b)(2). Bankruptcy filings by cannabis businesses are no longer unusual in connection with this case. That's evident from a review of the CWNevada decision Judge Nakagawa penned that I referenced previously. The filing of the bankruptcy to forestall collection efforts through the appointment of a receiver following the entry of the six figure state court judgment against the debtor is not at all unusual. In fact, it's often a trigger for the filing of a bankruptcy case and in this Court's view, certainly not enough to constitute unusual

circumstances in the context of Section 1112(b).

The fact of the matter is that if there's anything unusual about this case at all, it's that there's no assets and there's no income from the debtor whatsoever, and that is -- those are not circumstances that would indicate that conversion or dismissal is not in the best interest of creditors in the estate. In fact, it's the exact opposite.

Last but not least, even if unusual circumstances were present, and I find that they are not, debtor has failed to prove the other elements that would be required to trigger the exception under Section 1112(b)(2). In assuming for analytical purposes only, that the unusual circumstances that exist in this case, and again, I find to the contrary, that's not the end of the Section 1112(b)(2) inquiry. In order for the Section 1112(b)(2) exception to the convert or dismiss mandate to apply, debtor would also be required to prove by a preponderance of the evidence that there is a reasonable likelihood of plan confirmation within a reasonable time; that the cause shown for conversion or dismissal was reasonably justified, and the cause for conversion or dismissal could be cured within a reasonable time, 11 U.S.C. Section 1112(b)(2)(A) and (B).

But again, there is no cure for bad faith in the filing of a bankruptcy case. That's a bell that can't be unrung. There's no cure for unclean hands in the filing of a

bankruptcy case as a factor that establishes bad faith in the context of Section 1112(b), nor is there a reasonable likelihood of plan confirmation within a reasonable time given the debtor's limited income, in fact, nonexistent income, nonexistent assets, and the sizable judgment debt obligations that are certainly established by the record herein.

So, to summarize, debtor has failed to demonstrate by a preponderance of the evidence that unusual circumstances exist such that conversion or dismissal in this case would not be in the best interest of creditors in the estate. Even if that burden had been met, and again, I hold to the contrary, debtor hasn't carried the burden of proving the rest of the elements needed to treat the Section 1112(b) exception to the convert or dismiss mandate imposed by Section 1112(b)(1). As a result, the Section 1112(b)(2) exception to the convert or dismiss mandate simply doesn't apply on the facts of this case. Appointment of a Chapter 11 trustee or an examiner would not be in the best interest of creditors or the estate.

The Court agrees with the United States Trustee's analysis in Section 111 in that regard, and the remaining question is whether and to what extent -- whether conversion or dismissal is the appropriate remedy. The United States Trustee posits that the case should be dismissed as opposed to conversion. The United States Trustee argues that conversion would be an inappropriate remedy because the debtor is a

corporate entity, won't receive a Chapter 7 discharge. If a Chapter 7 -- if the case were converted, a Chapter 7 trustee would have to pursue any potential avoidance actions. It would put the trustee in the jeopardy of violating federal law in the form of the Controlled Substances Act. As the Court stated in Arenas, regarding the Chapter 7 case administering the Chapter 7 -- debtor's Chapter 7 estate would require the trustee to either violate federal law by possessing and selling the marijuana assets or abandon them. If you did the former, he's at risk of prosecution. If you did the latter, the creditors would receive nothing while the debtors would retain all of their assets. Arenas 535 B.R. 854.

I agree with the bank -- with the United States Trustee in that regard, but I believe that an analysis is necessary in order to determine that dismissal is the appropriate remedy. And I don't find that simply because the trustee's put -- if the case were converted, the trustee would be put in an untenable situation. I look at more facts than just that.

On the record before me, I conclude that when the totality of the debtor's financial circumstances are carefully considered, with no single fact or factor controlling my calculus, dismissal is the appropriate remedy, and these are the reasons.

The Bankruptcy Appellate Panel for the 9th Circuit

has plainly stated that regardless of the party's arguments, the bankruptcy court has an independent obligation under Section 1112 to consider what would happen to all creditors on dismissal, and in light of its analysis, whether dismissal or conversion would be in the best interest of creditors. Grego, 2015 WL 3451559 at *8, quoting Sullivan 522 B.R. 612, 613. The courts having addressed the question of whether dismissal or conversion is in the best interests of the estate, have looked to a variety of factors in their analysis. I call it the Rand factors, in connection with my analysis on the Goldstein motion to dismiss. I'll walk through them again here. The holding will be the same.

Whether some creditors receive preferential payments and whether equality of distribution would be better served by conversion rather than dismissal. It wouldn't.

Second, whether there would be a loss of rights granted in the case if it were dismissed rather than converted. No plan has been proposed or confirmed. The Court has not issued any substantive rulings as the cash collateral, adequate protection, or of any other sort. In summary, no substantive rights have been confirmed by the Court at this stage of the case that would be lost if the case was dismissed rather than converted.

Third, whether the debtor would simply file a further case upon dismissal if this case were dismissed; the Court

finds, based on the history of the debtor, the reason for the filing of this case and the timing of it, that refiling for further delay following dismissal is certainly possible, but that's true in connection with every case. That factor is either neutral in the calculus or weighs only slightly in favor of conversion over dismissal.

The fourth factor is the ability of the trustee in a Chapter 7 case to reach assets for the benefit of creditors. As the United States Trustee argued, conversion would put a Chapter 7 trustee in the unenviable position of having to liquidate the assets of the business that not only was created for purposes of cannabis related business operations, but is continuing to pursue claims in the CWNevada receivership estate that may derive directly from those -- that do derive directly from those business operations. See Burton v. Maney (In re Burton), 610 F.3d 633 (B.A.P. 9th Cir. 2020). The Burton case said, "Against this backdrop, the Bankruptcy Court dismissed the Burtons' Chapter 13 case pursuant Section 105(a) and 1307(c)." "Finding that their ownership interest in Agricann constituted cause for dismissal because the continuation of the case would likely require the trustee or the Court to become involved in administering the proceeds of the Agricann litigation, which the Court implicitly found would be tainted as proceeds of an illegal business. The Bankruptcy Court did not err in this finding, nor did it abuse its discretion in

dismissing the case on those grounds.

"Moreover, the Court sufficiently articulated the legal and factual basis for its ruling. It was undisputed that the Burtons own an interest in Agricann, an entity that was engaged in a business that is illegal under federal law, and that interest became property of the estate when they filed their Chapter 13 petition. Whether Agricann is currently actively engaged in growing or selling marijuana is irrelevant, given that Agricann is a plaintiff in litigation seeking to recover damages consisting at least in part of profits lost as a result of breaches of contracts related to the growing and selling of marijuana. As such, any proceeds received from the litigation would represent profits from a business that is illegal under federal law."

Same situation here. The debtor's only scheduled asset that has a dollar value assigned to it is a claim against the CWNevada receivership estate, and that is a business and a failed joint venture that was expressly designed to carry out marijuana related business operations. It failed. But the fact of the matter is the debtor's continuing to pursue an attempt to recover money from that very claim and from that very business relationship, and if the trustee took over that claim in connection with the administration of the case, it would run into exactly the problem that was the concern of the Burton court.

Next is whether conversion or dismissal of the estate would maximize the estate's value as an economic enterprise. There isn't any value really to the economic enterprise one way or the other. Debtor doesn't have any income, debtor doesn't have any scheduled assets, aside from a potential litigation claim. Maximizing the estate's value as an economic enterprise, there really isn't anything to maximize. If the case is dismissed, there are no assets. If the case is converted, there are no assets. This factor is neutral in the Court's calculus.

Next is whether any remaining issues are better resolved outside the bankruptcy forum. The Court believes that what substantive issues remain here can be best resolved through state court receivership proceedings.

Next is whether the estate consists of a single asset. It doesn't. This factor is simply not relevant to the choice of remedy under Section 1112(b) in this case, or it's neutral in that calculus.

Next is whether the debtor is engaged in misconduct and whether creditors are in need of a Chapter 7 case to protect their interests. A state court receiver could provide similar protections and without putting a federal bankruptcy trustee in jeopardy for administering assets in violation of the C.S.A. That favors dismissal over conversion.

Next is whether a plan has been confirmed or whether

any property remains in the estate to be administered. No plan has been confirmed, nor is it likely ever to be confirmed in connection with this case. That's a factor that warrants dismissal rather than conversion.

And last is whether the appointment of a trustee is desirable to supervise the estate and address possible environmental and safety concerns. No environmental safety concerns are borne out by the record here, and the extent they exist, the receiver can handle them equally well as a Chapter 7 trustee.

So the Court concludes on the record before it, having looked at all the facts of this case, with no single fact or factor controlling my calculus, but looking at the facts through the lens of the A.N.C. -- excuse me. Not the A.N.C. properties factors, but through the Rand factors.

The Court is satisfied that this case should be dismissed for cause in the form of bad faith, bolstered by the debtor's unclean hands in the filing of this bankruptcy case and the other factors that I've discussed on the record here today, and dismissal for cause is warranted under Section 1112(b)(1).

Any arguments that the parties have raised that haven't been expressly addressed in the Court's analysis of the United States Trustee's dismissal motion on the record today have been considered by the Court, as well as the authorities

that have been cited by both sides. To the extent that those arguments haven't been expressly addressed, it's because the Court found them to be unavailing and the Court rejects each and all of them.

So the order for today is for the reasons stated on the record today, the United States Trustee's dismissal motion is also granted, and this case is dismissed under 11 U.S.C. Section 1112(b)(1). The ruling as announced on the record here today will constitute the Court's findings of fact and conclusions of law under Federal Rule of Civil Procedure 52, applicable in this contested matter under Bankruptcy Rule 9014 and 7052 and the Court will prepare an appropriate order.

And with that, Ms. Mendoza, have I managed to overlook anything on my 2:30 calendar this afternoon?

THE CLERK: No, Your Honor.

THE COURT: All right, those are the orders. In connection with each of these two motions to dismiss, they are granted; an order will issue granting each of those motions, and it will be documented in the ordinary course. With that, we've reached the end of a long week. Stay safe, stay healthy, Counsel. Have a good weekend.

THE CLERK: Thank you, Your Honor.

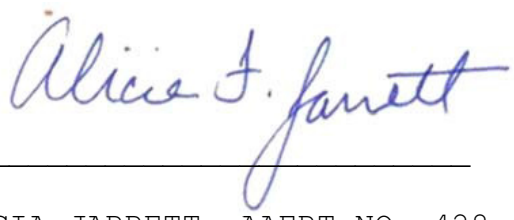
MR. COPPEDGE: You too, Judge, thank you.

MR. MCDONALD: Thank you, Your Honor.

(Proceedings concluded at 5:30 p.m.)

C E R T I F I C A T I O N

I, Alicia Jarrett, court-approved transcriber, hereby certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.



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ALICIA JARRETT, AAERT NO. 428 DATE: October 24, 2022

ACCESS TRANSCRIPTS, LLC

EXHIBIT 4

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DISTRICT COURT

CLARK COUNTY, NEVADA

NUVEDA, LLC, a Nevada limited liability company, SHANE M. TERRY, a Nevada resident; and JENNIFER M. GOLDSTEIN, a Nevada resident, Plaintiffs, vs. PEJMAN BADY; POUYA MOHAJER; DOE Individuals I-X and ROE Entities I-X, inclusive, Defendants.	Case No.: A-15-728510-B Dept. No.: 31

NOTICE OF DISMISSAL OF BANKRUPTCY CASE AND REQUEST TO SET HEARING ON MOTION TO APPOINT RECEIVER

Plaintiff / Judgment Creditor Jennifer M. Goldstein ("Goldstein"), by and through her attorneys of record, Dickinson Wright, PLLC, hereby respectfully submits this Notice of Dismissal of the Chapter 11 Bankruptcy case initiated by Defendant / Judgment Debtor NuVeda, LLC ("NuVeda") and Request to Set Hearing on Goldstein's Motion to Appoint Receiver over NuVeda and its subsidiaries.

This Court will recall that Goldstein filed her Motion to Appoint Receiver over NuVeda, along with the Appendix of Exhibits in support of the Motion to Appoint Receiver, on March 7,

2022. (*See* Dkt. Nos. 179-181). The Motion to Appoint Receiver was set for hearing on April 12, 2022 at 8:30 a.m. (Dkt. No. 182). NuVeda filed an Opposition to the Motion to Appoint Receiver on March 21, 2022 (Dkt. No. 190), and Goldstein filed a Reply in support of the Motion to Appoint Receiver on April 5, 2022. (Dkt. No. 202). As such, the Motion to Appoint Receiver is fully-briefed.

On April 11, 2022, the day before the Motion to Appoint Receiver was set to be heard, NuVeda filed for Chapter 11 Bankruptcy in the United States Bankruptcy Court, District of Nevada, Case No. 22-11249-abl (the "NuVeda Bankruptcy Case"), and filed a Notice of Suggestion of Bankruptcy in this case on the same day. (Dkt. No. 206). Due to the automatic stay imposed by the filing of the NuVeda Bankruptcy Case pursuant to 11 U.S.C. § 362, this Court did not hold the April 12, 2022 hearing on Goldstein's Motion to Appoint Receiver.

On October 19, 2022, the United States Bankruptcy Court, District of Nevada entered an Order Granting Goldstein's Motion to Dismiss the NuVeda Bankruptcy Case. (**Exhibit 1**, Declaration of Brian Irvine; **Exhibit 2**, Order Granting Motion to Dismiss NuVeda Bankruptcy Case; **Exhibit 3**, Transcript of October 14, 2022 Oral Ruling by United States District Court, District of Nevada on Goldstein Motion to Dismiss NuVeda Bankruptcy Case at 66:3 – 67:2). Accordingly, the NuVeda Bankruptcy Case has been dismissed, and the automatic stay imposed by 11 U.S.C. § 362 preventing Goldstein's collection activities in this case has been lifted.

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Accordingly, Goldstein respectfully requests that this Court set a hearing on Goldstein's Motion to Appoint Receiver on the next date available.

Dated this 31st day of October 2022.

DICKINSON WRIGHT PLLC

/s/ Brian R. Irvine

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CERTIFICATE OF SERVICE

The undersigned, an employee of Dickinson Wright PLLC, hereby certifies that on October 31, 2022, I caused a copy of the foregoing **NOTICE OF DISMISSAL OF BANKRUPTCY CASE AND REQUEST TO SET HEARING ON MOTION TO APPOINT RECEIVER** and any referenced Exhibits to be transmitted by electronic service, in accordance with Administrative Order 14.2, to all interested parties through the Court's Odyssey E-File & Serve system.

/s/ Angela M. Shoults
An Employee of Dickinson Wright PLLC

EXHIBIT TABLE

Exhibit	Description	Pages[1]
1	Declaration of Brian R. Irvine in Support of Notice of Dismissal of Bankruptcy Case and Request to Set Hearing on Motion to Appoint Receiver	1
2	Order Granting Motion to Dismiss the NuVeda Bankruptcy Case	2
3	Transcript of October 14, 2022 Oral Ruling by United States District Court, District of Nevada on Goldstein Motion to Dismiss NuVeda Bankruptcy Case at 66:3 – 67:2	5

[1] Exhibit Page counts are exclusive of exhibit slip sheets.

EXHIBIT 5

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DISTRICT COURT

CLARK COUNTY, NEVADA

NUVEDA, LLC, a Nevada limited liability company, SHANE M. TERRY, a Nevada resident; and JENNIFER M. GOLDSTEIN, a Nevada resident, Plaintiffs, Vs. PEJMAN BADY; POUYA MOHAJER; DOE Individuals I-X and ROE Entities I-X, inclusive, Defendants.	Case No.: A-15-728510-B Dept. No.: 31 **(Hearing Requested)**

PLAINTIFF JENNIFER M. GOLDSTEIN'S MOTION TO APPOINT RECEIVER

Plaintiff / Judgment Creditor Jennifer M. Goldstein ("Goldstein"), by and through her counsel of record, BRIAN R. IRVINE and BROOKS T. WESTERGARD of the law firm of DICKINSON WRIGHT PLLC, hereby respectfully submits her Motion to Appoint a Receiver over NuVeda, LLC and its subsidiaries and affiliates.

This Motion is made pursuant to NRS 32.010 and is supported by the following Memorandum of Points and Authorities, the Declaration of Brian Irvine, attached hereto as **Exhibit 1,** the pleadings and papers on file herein and anything else this Court may wish to consider.

DATED this 7th day of March, 2022.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Goldstein is the judgment creditor, and NuVeda the judgment debtor, on a judgment in the amount of $2,426,163.80 entered against Nevada on November 15, 2019 (the "Judgment"). NuVeda has not even attempted to satisfy the Judgment, notwithstanding Goldstein's numerous attempts at collection efforts. Indeed, every one of Goldstein's attempt at collection has been met with nothing but dilatory tactics, and frivolous attempts before this Court to avoid payment. And, NuVeda is a company that certainly has the ability to satisfy Goldstein's judgment. NuVeda obtained six valuable cannabis licenses from the State of Nevada and is currently conducting cultivation and dispensary operations under at least three of those licenses

at several locations. Presumably, those operations are generating cash revenue, and the operating licenses are worth millions of dollars. However, instead of honoring its obligation to pay Goldstein's judgment, NuVeda has chosen to hinder, delay and obfuscate in response to all of Goldstein's collection efforts, and has never offered to satisfy any portion of the judgment and has made no payment to Goldstein. Now, Goldstein is faced with no viable traditional collection remedies and is left with no choice but to apply for the appointment of a receiver to aid in collection. For all the reasons explained herein, the instant Application should be granted.

II. FACTS AND PROCEDURAL HISTORY

A. Background on NuVeda and the Underlying Dispute

In July 2014, seven individuals executed an Operating Agreement for NuVeda to engage in the "research, design, creation, management, licensing, advertising and consulting regarding the legal medical marijuana industry, as such matters shall be lawfully allowed under applicable state laws." (Dkt. 113, Mot. to Vac. at 3; Exhibit 1 ("Operating Agreement"); Exhibit 20 ("Interim Award")). The NuVeda members consisted of: (1) Pejman Bady ("Bady"); (2) Pouya Mohajer ("Mohajer"); (3) Shane Terry ("Terry"); (4) Ryan Winmill ("Winmill"); (5) Joseph Kennedy ("Kennedy"); (6) John Penders ("Penders"); and (7) Goldstein. (*Id*. at Exhibit 1, Operating Agreement at 22). The members of NuVeda formed several wholly-owned subsidiary companies and, through the subsidiaries, applied for and received six (6) licenses to cultivate, process and dispense marijuana. (*Id*. at 4; Exhibit 20, Interim Award at 2).

Subsequent disputes between the NuVeda members led to the initiation of the subject arbitration and litigation in this Court. (Dkt. 113, Mot. to Vac. at 4; Exhibit 20 Interim Award at 2). During the pendency of the arbitration, on August 8, 2017, the requisite number of voting members voted to expel Goldstein from NuVeda pursuant to Section 6.2 of the Operating

Agreement. (*Id*. at 6; Exhibit 20, Interim Award at 3). Pursuant to Section 6.2 of the Operating Agreement, Goldstein's expulsion entitled her 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 expulsion…" (*Id*. at Exhibit 20, Interim Award at 3; Exhibit 1, Operating Agreement at Sec. 6.2). In the event that the fair market value could not be agreed upon, "the Voting Members shall hire an appraiser to determine fair market value." (*Id*.)

B. <u>The Valuation of Goldstein's interest in NuVeda, the arbitration and Arbitration Award</u>

After Goldstein's expulsion, Michael R. Webster of the Webster Business Group was retained to provide an appraisal on behalf of NuVeda. (Dkt. 113, Mot. to Vac. at 6-7; Exhibit 20, Interim Award at 4). The Arbitrator found that Mr. Kennedy, on behalf of NuVeda, asked Mr. Webster "to establish the value of NuVeda LLC in accordance with procedure in the removal of its Manager Jennifer Goldstein who's total compensation is seven percent (7%)." (*Id*. at Exhibit 20, Interim Award at 4) (internal quotation marks omitted). The Arbitrator further found that Mr. Kennedy prepared a document for Mr. Webster titled "Assets and Liabilities as of 8-8-2017" (the "Aug. 8 Document"), which Mr. Kennedy testified that he prepared "by looking at NuVeda's (actual) balance sheets and profit & loss statements." (*Id*.)

Finally, the Arbitrator found:

> Mr. Kennedy provided to Mr. Webster the Aug. 8 Document. The information contained in the Aug. 8 Document was then copied into a letter dated August 19, 2017, which purported to be a Certified Business Appraisal of NuVeda (the "Webster Appraisal"). Although Mr. Webster claims to have spent a total of four (4) hours working on the Webster Appraisal, he testified that he spent "[m]aybe 10 minutes" simply adding up the assets Mr. Kennedy provided in the Aug. 8 Document, and subtracting from the total amount of the assets the liabilities that were also provided by Mr. Kennedy in the Aug. 8 Document. Mr. Webster did not undertake any effort to verify any of the information provided by Mr. Kennedy in the Aug. 8 Document. Nor did Mr.

> Webster inquire about whether NuVeda was generating any revenue. Nevertheless, after performing this elementary calculation, Mr. Webster concluded in the Webster Appraisal that the fair market value of NuVeda on August 8, 2017, was $1,695,227.00.

(*Id*.) (citations and footnote omitted).

During the course of arbitration, Goldstein submitted a Supplemental Valuation and Expert Report. (Dkt. 113, Mot. to Vac. at 9; Exhibit 17 ("Parker Report"). On December 27, 2018, NuVeda filed a Motion to Strike the Parker Report. (*Id*. at Exhibit 18 ("Mot. to Strike"). NuVeda also submitted an expert report rebutting the Parker Report that was not disclosed by the December 29, 2018 deadline for rebuttal expert reports, (Dkt. 113 at Exhibit 19, ("Ord. on Mot. to Strike")), and Goldstein argued that NuVeda's untimely rebuttal report should not be permitted.

On January 9, 2019, the Arbitrator distributed an email summarizing her ruling on both NuVeda's Motion to Strike and Goldstein's argument to preclude NuVeda's rebuttal report, each of which were addressed during a telephonic hearing. (Dkt. 113 at Exhibit 19, Ord. on Mot. to Strike). The Arbitrator concluded that "Respondent NuVeda's Motion to Strike Supplemental Valuation & Expert Report of Donald Parker dated December 14, 2018 is **DENIED**." Moreover, the Arbitrator ruled that "the opinions offered in Respondents' rebuttal to this report will not be stricken on the basis that the report was not disclosed on or by the December 29 deadline." (*Id*.) Thus, the Arbitrator exercised her discretion to allow **all** of the expert reports submitted by all parties and to consider all expert testimony at the arbitration hearing.

On January 10, 2019, the parties agreed to narrow the issues for the final hearing, and further agreed "that the only issue that remain[ed] [was] the valuation of Ms. Goldstein's shares of August 8, 2017 and whether Ms. Goldstein [was] entitled to her attorneys' fees because she was never offered the actual fair market value of her shares of that date." (Dkt. 113

at Exhibit 20, Interim Award at 5). In that regard, Goldstein argued "that the Webster Appraisal did not accurately reflect the fair market value of NuVeda and inappropriately relied solely on the Aug. 8 Document, without verifying the accuracy of the information contained in the Aug 8 Document." (*Id*.)

As explained, the Arbitrator determined, for several, independent reasons, that NuVeda did not meet its express obligations under NuVeda's Operating Agreement to have an appraiser determine fair market value based on the deficiencies in the Webster Report. (Dkt. 113 at Exhibit 20, Interim Award at 6-8). More specifically, the Arbitrator found that the Webster Report did not appraise the "fair market value" of Goldstein's interest in NuVeda, as required in Section 6.2 of the Operating Agreement, because the Webster Report established only a "book value" or "liquidation evaluation" of Goldstein's interest rather than fair market value. (*Id*. at 6-7)

Then, the Arbitrator adopted the definition of "fair market value" provided by both Parker and NuVeda's expert, Dr. Clauretie, "as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts." (*Id*. at 6). She then determined that the fair market value of NuVeda was $27,243,520.00, (*Id*. at 10), and that the fair market value of Goldstein's Ownership interest in NuVeda as of August 8, 2017, was $2,051,215.38, and that NuVeda owes Goldstein that amount. (*Id*. at 11). On March 19, 2019, the Arbitrator issued the Final Award, which incorporated the findings set forth in the Interim Award. (Mot. to Vac., Exhibit 21 "Final Award"). The Final Award awards Goldstein $2,051,215.38 for her ownership interest in NuVeda, plus prejudgment interest and attorneys' fees and costs. (*Id*.)

C. <u>NuVeda Seeks to Vacate the Final Award</u>

On June 17, 2019, NuVeda filed a Motion to Vacate the Final Award in this Court. NuVeda's arguments were twofold. First, NuVeda argued that the Arbitrator exceeded her powers and manifested a disregard for the law when she allowed Goldstein to disclose an expert witness and report, which was filed beyond the deadline set forth in the scheduling orders entered by the arbitrator. Second, NuVeda argued that the arbitrator manifested a disregard for the law in interpreting the Operating Agreement and determining that NuVeda had not complied with the terms of the Operating Agreement because NuVeda's appraiser calculated Goldstein's ownership interest based on NuVeda's book value, rather than its fair market value.

In response, Goldstein argued that NuVeda misconstrued the standard upon which courts review arbitration decisions, and similarly relied on Nevada and Federal rules of procedure that did not govern the arbitration proceedings. (Dkt. 123). Indeed, the arbitration Scheduling Orders expressly provided that the AAA Commercial Arbitration Rules for Large, Complex Cases would govern the arbitration proceedings. (*Id*.). Goldstein further argued that the Arbitrator did not manifestly disregard the law in modifying its own Scheduling Order or interpreting the terms of the Operating Agreement. (*Id*.).

On September 6, 2019, the Court entered its Order denying NuVeda's Motion to Vacate, and confirmed the Arbitrator's Final Award. (Dkt. 126). Following confirmation of the Final Award, Goldstein filed a Motion for Attorneys' Fees and Costs (Dkt. 129), which the Court granted, in part. On November 15, 2019, the Court entered its Order and Judgment, wherein the Court ordered that Goldstein was entitled to a judgment in an amount to include: (1) $2,426,163.80, which was the amount of the Final Award; (2) plus $112,68.53 in post-judgment interest accrued between the date of the Final Award and the date of entry of the Minute Order Granting Goldstein 's Motion for Entry of Judgment; (3) plus $26,944.08 in attorneys' fees and costs awarded by the Court pursuant to Goldstein's Motion for Attorneys'

Fees and Costs. (Dkt. 139). The Court therefore entered Judgment for Goldstein and against NuVeda in the amount of $2,565,276.41 (the "Judgment"). (*Id*.). Post-judgment interest continues to accrue on the Judgment, which now totals approximately $3 million. (Exhibit 1 at ¶ 3).

D. NuVeda Thwarts Goldstein's Collection Efforts

On December 26, 2019 Goldstein filed her Motion for Charging Order Against Judgment Debtor's Membership Interests in its subsidiaries CWNV, LLC ("CWNV"); Clark NMSD, LLC ("Clark NMSD"); and Nye Natural Medicinal Solutions, LLC ("Nye Natural"), pursuant to NRS 86.401. (Dkt. 141, Motion for Charging Order). Therein, Goldstein explained that NuVeda is a 35% member of CWNV, and a 100% owner of both Clark NMSD and Nye Natural. (*Id*.). Thereafter, the parties stipulated that the Court would issue a charging order against the membership interests of NuVeda in CWNV, Clark NMSD, and Nye Natural. (Dkt. 144, Stip. and Ord. Entering Charging Ord.)

On December 26, 2019, Goldstein filed a Motion for Supplementary Proceeding (Dkt. 142, "MSP") wherein she moved the Court for an order pursuant to NRS 21.270 requiring NuVeda through its designated Person Most Knowledgeable, to appear before a master appointed by this Court for examination supplementary to execution upon the ground that a judgment had been in favor of Goldstein and against NuVeda which remained unsatisfied. (*See generally*, MSP.) NuVeda opposed the MSP, arguing that Goldstein's sole collection remedy was the charging order to which NuVeda had stipulated, and that Goldstein was not entitled to obtain documents or conduct a judgment debtor's examination to aid her collection efforts. (Dkt. 147). This Court granted Goldstein's MSP over NuVeda's opposition by its Order dated March 12, 2020, wherein it ordered:

- That the Person Most Knowledgeable for NuVeda appear on the 31st day of March, 2020, at 10:00 a.m. at Dickinson Wright PLLC . . . to then and there answer upon oath

concerning the property of NuVeda and for such other proceedings as may there occur consistent with proceedings supplementary to execution.

- That not later than March 23, 2020, NuVeda produce to Plaintiffs' counsel, at the law offices of Dickinson Wright PLLC . . . the following books and records identified in **Exhibit A** attached to the Order;
- That the failure by NuVeda to produce all responsive documents and or appear at the above ordered examination may subject NuVeda to contempt of court; and
- That NuVeda, or anyone acting on its behalf, are forbidden from making any transfer of NuVeda's property, including funds in any bank or deposit account of any kind, that is not exempt from execution and from interfering therewith until ordered.

(Dkt. 149, Ord. Granting MSP at 2).

NuVeda failed to comply with this Court's Order Granting MSP. It refused to produce documents and failed to provide dates for a judgment debtor's exam for several months. Accordingly, on January 27, 2021, Goldstein filed a Motion requesting that this Court enter an Order to show cause why NuVeda, LLC should not be sanctioned for failing to comply with this Court's March 12, 2020 Order for Supplementary Proceedings. (Dkt. 154, Motion for Order to Show Cause). NuVeda opposed the Motion for Order to Show Cause and filed a purported Countermotion to Stay Collection Proceedings, arguing that "Goldstein's judgment is subject to an indemnification agreement with CWNevada" and that "[u]ntil the disputes between NuVeda and CWNevada are resolved, postjudgment collection activity should be stayed." (Dkt. 156, Opposition to Motion for an Order to Show Cause and Countermotion for Related Relief). In addition, following the filing of Goldstein's Motion for Order to Show Cause, NuVeda finally served "responses and objections" to the document requests contained in this Court's Order Granting MSP. However, NuVeda simply served boiler-plate objections and produced no documents. (Dkt. 157, Supplement to Motion for Order to Show Cause at Exhibit 1). In fact, NuVeda indicated that there were no documents "which are available for production and responsive" to Requests Nos. 1-22, which include requests for NuVeda's tax

returns, A/P records, records reflecting assets and liabilities, income statements, financial statements, balance sheets, bank records, A/R records from July of 2014 to present. (*Id*. at 7 and at Exhibit 1). And, with regard to Requests Nos. 22-25, NuVeda indicated that it "will make available responsive documents and records for inspection or copying subject to a confidentiality order." (*Id*. at 8 and at Exhibit 1). This Court then granted Goldstein's Motion for Order to Show Cause and ordered NuVeda to produce: (1) the documents responsive to the requests in the Order Granting MSP; and (2) its witness for a Judgment Debtor's examination[1].

On June 11, 2021, Goldstein, in further efforts to collect on her judgment, caused writs of execution to be issued for several locations that are part of NuVeda's business operations, Execution directed at NuVeda and various third-parties who are in possession of property subject to execution. (*See* Dkt. Nos. 160, 161, 164 and 165). NuVeda filed a Motion to Quash Writs of Execution, again arguing that "Goldstein's judgment is subject to an indemnification agreement with CWNevada, LLC." (Dkt. 162, Motion to Quash Writs of Execution). NuVeda also argued that it "does not own or have rights to any property at the addresses" where the writs of execution were directed. (*Id*.). This Court denied the Motion to Quash Writs of Execution because: (1) "NuVeda lacks standing to assert exemptions on behalf of third parties"; (2) NuVeda "failed to identify what property subject to the Writs of Execution is exempt, as required to NRS Chapter 21"; and (3) "the Court is not persuaded by NuVeda's argument that Goldstein's exclusive remedy is in the form of a charging order pursuant to NRS 86.401" because "Goldstein is not seeking to satisfy the judgment out of any member's interest in NuVeda." (Dkt. 168, Findings of Fact, Conclusions of Law and Order Denying Motion to Quash Writs of Execution at 3-4). However, the Writs of Execution were not fruitful and only resulted in $638.00 being seized by the constable. (**Exhibit 2**, Return of Writs of Execution;

[1] The Court also entered a protective order at NuVeda's request, which delayed the judgment debtor's examination until NuVeda's witness was physically able to be deposed, and also prohibited Goldstein from sharing any documents designated as confidential by NuVeda with any other party. (*See* Dkt. 159, Transcript of Proceedings at 14).

see also Dkt. 169 at Ex. 2). And, NuVeda has paid nothing to Goldstein toward satisfaction of the Judgment. (*See* Exhibit 1 at ¶ 4).

NuVeda then filed an Application seeking to prohibit Goldstein from engaging in any collection activity based on alleged abuse of the court process by Goldstein. (Dkt. 169). This Court denied that Application. (*See* October 5, 2021 Minute Order, on file herein).

On August 6, 2021, NuVeda finally produced documents in response to the requests contained in the Order Granting MSP. (**Exhibit 3**, First Supplemental Responses and Objections to Requests for the Production of Documents ("Supplemental Response")). However, the Supplemental Response was useless to Goldstein's collection efforts. It indicated that there were no documents "which are available for production and responsive" to Requests 1-22 and 26, which sought, among other documents:

- NuVeda's state and federal tax returns;
- Documents detailing amounts payable to NuVeda;
- Documents reflecting NuVeda's liabilities and assets;
- NuVeda's income statements, financial statements and balance sheets;
- Records of NuVeda's bank accounts, savings and loan accounts, credit union or other depository accounts;
- Accounts receivable ledgers detailing debts owed to NuVeda;
- Documents reflecting NuVeda's accounts payable;
- Title certificates, bills of sale, registrations and records related to motor vehicles, trailers, boats or aircraft in which NuVeda held an interest;
- Insurance policies held by NuVeda;
- Property assessment notices issued to NuVeda;
- Lists of NuVeda's safety deposit boxes;
- Documents reflecting any asset transfer by NuVeda;

- Documents detailing NuVeda' any equipment, tools, machinery, furniture or fixtures in which NuVeda held an interest;
- Financing statements and security agreements related to any assets in which NuVeda held an interest;
- Titles, deeds and contracts of sale of real or personal property in which NuVeda held an interest;
- Documents reflecting income received by NuVeda;
- Documents reflecting any interest NuVeda held in any real property;
- Liens and mortgages against any property of NuVeda;
- Documents reflecting NuVeda's interest in stocks, mutual funds, bonds, commodities, etc.; and
- Judgments and arbitration awards issued in favor or against NuVeda.

(Order Granting MSP; Exhibit 3).

The Supplemental Response included approximately 785 pages of documents, but the documents provided by NuVeda were not responsive to the document requests included in the Order Granting MSP and do not provide any meaningful information that Goldstein could use to collect on her judgment. Specifically, NuVeda produced operating agreements, contracts, a few letters and emails from 2014-2015 and a deposition transcript and lengthy exhibits from another lawsuit involving NuVeda. (*See* Exhibit 3). Thus, according to NuVeda, NuVeda has no income, has no financial records, has not filed state or federal tax returns, owns no real property and has no insurance policies. And, despite the fact that NuVeda owns several cannabis licenses, it produced no documents detailing its assets.

As of the filing of the instant Motion, no part of the Judgment has been satisfied, and NuVeda has made no efforts whatsoever to satisfy the judgment. Instead, NuVeda has fought

Goldstein's collection efforts at every turn, and it will be unlikely, if not impossible, for Goldstein to collect on her judgment without the appointment of a receiver.

III. DISCUSSION

A. Goldstein is Entitled to the Appointment of a Receiver

A judgment creditor is not obligated to do anything to collect its judgment against the judgment debtor. To the contrary, "a judgment debtor is under a legal obligation to satisfy the judgment against him." *See U.S. v. Neidor*, 522 F.2d 916, 919 n.5 (9th Cir. 1975). Thus, a judgment debtor has the affirmative obligation to pay the judgment entered against it - and that obligation exists without demand, execution, garnishment, or any other action by the judgment creditor.

"Since very early days, courts of equity have appointed receivers at the request of judgment creditors when execution has been returned unsatisfied." *Pittsburgh Equitable Meter Co. v. Paul C. Loeber & Co*., 160 F.2d 721, 728 (7th Cir. 1947). In short, it is hornbook law that a "receivership may be an appropriate remedy for a judgment creditor." 12 Alan C. Wright & Arthur R. Miller, Federal Practice and Procedure §2983 (3d ed.). "The appointment of a receiver is an action within the trial court's sound discretion and will not be disturbed absent a clear abuse." *Nishon's, Inc. v. Kendigian*, 91 Nev. 504, 505, 538 P.2d 580, 581 (1975).

1. A Receiver Should be Appointed Pursuant to NRS 32.010(3) and NRS 32.010(4), and NRS 32.010(6)

"A receiver may be appointed … [a]fter judgment, to carry the judgment into effect." NRS 32.010(3). A receiver may also "[a]fter judgment … in proceedings in aid of execution, when an execution has been returned unsatisfied … or when the judgment debtor refuses to apply the judgment debtor's property in satisfaction of the judgment." NRS 32.010(4). A receiver may also be appointed "[i]n all other cases where receivers have heretofore been appointed by the usages of the courts of equity." NRS 32.010(6). "Pursuant to this section, a receiver may be appointed to collect a simple money judgment, provided that other remedies

are inadequate." *Decision Support Sys. v. Prima Micro, Inc.*, No. B165506, 2004 WL 64966, at *2 (Cal. Ct. App. Jan. 15, 2004).[2]

Under NRS $ 32.010(3), a receiver may be appointed in an action "[a]fter judgment, to carry the judgment into effect." *FDIC for AmTrust Bank v. Lewis*, No. 2-10-CV-00439-JCM-VCF, 2017 WL 6618683, at *1 (D. Nev. Oct. 24, 2017); *see also Summers v Nutraceutical Development Corp.*, No. 4508327, 2009 WL 8394965 (Nev. Dist. Ct. Dec. 21, 2009) (appointing a receiver to dispose of property when a judgment debtor refuses to apply his property in satisfaction of the judgment). "[T]he appointment of a receiver to enforce a money judgment is reserved for 'exceptional' circumstances where the judgment creditor's conduct makes a receiver necessary—and hence 'proper.'" *Medipro Med. Staffing LLC v. Certified Nursing Registry, Inc*., 60 Cal. App. 5th 622, 628, 274 Cal. Rptr. 3d 797, 801 (2021) (collecting cases). "This occurs when the judgment debtor has frustrated the judgment creditor's collection efforts through obfuscation or through otherwise contumacious conduct that has rendered feckless the panoply of less intrusive mechanisms for enforcing a money judgment." *Id*.

Here, Goldstein has attempted to collect on her judgment through several less intrusive mechanisms. Specifically, Goldstein has (1) applied for, and obtained, charging orders against NuVeda's interest in several other entities, (2) applied for, and obtained, approval for supplementary proceedings to enforce the Judgment, and (3) applied for, and obtained, writs of execution on NuVeda's assets. However, ***all*** of Goldstein's collection efforts have been fruitless, and have been frustrated by NuVeda at every turn. Goldstein is flatly out of options, and a receiver should therefore be appointed pursuant to NRS 32.010(3) and NRS 32.010(4). *See e.g., Summers v Nutraceutical Development Corp.*, No. 4508327, 2009 WL 8394965 (Nev.

[2] Cal. Code Civ. P. Section 564(b)(3) provides: "A receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases: . . . After judgment, to carry the judgment into effect."

Dist. Ct. Dec. 21, 2009) (appointing a receiver to dispose of property when a judgment debtor refuses to apply his property in satisfaction of the judgment); *see also Hutchings v. Drommerhausen,* No. B213719, 2010 WL 522776, at *4 (Cal. Ct. App. Feb. 16, 2010) (upholding appointment of receiver "to carry the judgment into effect" where the lower court "had before it a lengthy history of [appellant's] conduct in to resisting the collection of the judgments against him.").

NuVeda's conduct is egregious. It has refused to produce basic judgment debtor documents detailing its assets, which are substantial. NuVeda operates, through its wholly-owned subsidiaries Clark NMSD, LLC, Clark Natural Medicinal Solutions, LLC and Nye Natural Medicinal Solutions, LLC, two cannabis dispensaries and a cannabis cultivation and production facility in Clark County and a cultivation and production facility in Nye County. It is axiomatic that each of these facilities has both cannabis inventory and non-cannabis assets, yet NuVeda provided no information about any assets, including its membership interests in other companies. Also, each of these facilities generates cash, which would presumably flow to NuVeda as the sole member of the operating companies, yet NuVeda claims to have no income. Obviously, if income is, as presumed, flowing to NuVeda, then NuVeda is violating the charging order issued by this Court if it is making any distributions of those funds.

However, there is no way for Goldstein to obtain this information, as NuVeda has not even produced any financial records or tax returns. NuVeda's claim that it has no income and that financial documents and tax returns are "not available for production" (*see* Exhibit 3) is either unbelievable, or NuVeda is not running a competent business. NuVeda's business is a cash business, and if there is no income to NuVeda, then NuVeda's assets are in danger of being lost or materially injured, which forms another basis for this Court to appoint a receiver. NRS 32.010(1); *see also Medical Device Alliance, Inc. v. Ahr*, 716 Nev. 851, 862,8 P.3d 135, 142 (2000) (stating that a district court "may appoint a temporary receiver in a number of

instances, including, but not limited to, situations where corporate directors are guilty of fraud or gross mismanagement or where the assets of the corporation are in danger of waste."); *FCC, LLC v Equipment Management Technology*, No. 04628 045, 2010 WL 99227 49, at *1 (Nev. Dist. Ct. Oct. 26, 2010) (finding that a receiver is appropriate and necessary to conserve, preserve, and protect personal property securing defaulted obligations pursuant to a contract).

A further obstacle to Goldstein's collection efforts is illustrated by the fact that NuVeda has agreed to sham confessed judgments in favor of its members in an apparent effort to obtain priority over other creditors of NuVeda. Specifically, on March 27, 2019, NuVeda executed a Confession of Judgment in the amount of $1,462,300 in favor of 2113 Investors, LLC. (**Exhibit 4**, "2113 Confession"). 2113 Investors, LLC is a Nevada limited liability company that is owned by Joseph Kennedy, one of NuVeda's principals. (**Exhibit 5**, Nevada Secretary of State information for 2113 Investors, LLC; **Exhibit 6**, Nevada Secretary of State information for NuVeda). On April 2, 2019, NuVeda executed a Confession of Judgment in the amount of $1,114,257.12 in favor of all three of NuVeda's principals, Pejman Bady, Pouya Mohajer and Joseph Kennedy. (**Exhibit 7**, "Bady, Mohajer and Kennedy Confession"; see also Exhibit 6). These confessed judgments to NuVeda's insiders, which were not disclosed by NuVeda in response to the document requests contained in the Order Granting MSP, are suspect and certainly warrant investigation, which a receiver will be uniquely situated to conduct as a neutral officer of the Court with fiduciary duties to creditors and NuVeda's members.

In addition, the Court's statutory authority to appoint a receiver is broadened by the catchall provision in NRS $ 32.010(6). It provides that a receiver may be appointed in all other cases where receivers have heretofore been appointed by the courts of equity. NRS 32.010(6). In *In re Ledstrom*, a federal district court affirmed a bankruptcy court's decision to appoint a receiver where there was evidence that a "largely cash business," a strip club, was engaged in

"[business] practices which could allow the diversion of cash." *In re Ledstrom*, No. 2:15-CV-01145-APG, 2017 WL 1239144, at *11 (D. Nev. Jan. 27, 2017). Here, Nevada marijuana businesses, by their nature, are cash businesses. Given the complete lack of information about the businesses run by NuVeda that NuVeda has provided to Goldstein, a receivership is the only mechanism available to Goldstein that will allow her to collect on the judgment.

Here, NuVeda, through wholly-owned subsidiaries, operates several marijuana dispensaries and cultivation/production facilities. (Dkt. 113 at 4 and Exhibit 20, Interim Award at 2; *see also* Dkt. 169 at 3-5). If a receiver is appointed over NuVeda and those subsidiaries, then the receiver will be able to obtain the financial records that NuVeda has refused to produce in this case and assess the company's operations. If available, the receiver could use the cash flow from those businesses to satisfy Goldstein's judgment, or can sell one or more of those assets to pay the judgment.

Based upon NuVeda's refusal to satisfy the Judgment, and attempts to frustrate Goldstein's collection efforts, appointment of a receiver is appropriate under the circumstances.

2. The Proposed Receiver is Qualified and Appropriately Situated

Goldstein has contacted Kevin Singer about potentially serving as receiver over NuVeda and its subsidiaries and affiliates. Mr. Singer is the founder and President of Receivership Specialists, which specializes in both State & Federal Court Receiverships (Real Estate & Businesses), Referee Assignments, Partition Sales, Real Estate & Business Brokeraging, and Real Estate Consulting for Receiverships. Receivership Specialists has eight offices throughout the Southwest. (**Exhibit 8**, Declaration of Kevin A. Singer, ¶ 1). He has significant experience as a receiver/referee, serving in those capacities in over 442 cases in the last 21 years. (*Id*. at ¶ 2). In addition, Mr. Singer has served as a Court Receiver over thirteen

marijuana businesses including ten retail dispensaries, six marijuana grow operations, seven distribution centers and two marijuana kitchen and an oil extraction facilities. (*Id*. at ¶ 3). Details about Mr. Singer's receivership and referee work, including his cannabis-related experience, is contained in Mr. Singer's declaration and attached resume. (*See* Exhibit 8).

A Proposed Order Appointing Mr. Singer as receiver over NuVeda and its subsidiaries and affiliates is attached as **Exhibit 9**.

IV. CONCLUSION

Based on the foregoing, the instant Motion should be granted, and this Court should enter an Order appointing a receiver over NuVeda and its subsidiaries and affiliates for the benefit of NuVeda's creditors, including Goldstein.

DATED this 7th day of March 2022.

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Attorneys for Plaintiff Jennifer M. Goldstein

CERTIFICATE OF SERVICE

The undersigned, an employee of Dickinson Wright PLLC, hereby certifies that on March 7, 2022, I caused a copy of the foregoing **PLAINTIFF JENNIFER M. GOLDSTEIN'S MOTION TO APPOINT RECEIVER** and any Exhibits or attachments to be transmitted by electronic service, in accordance with Administrative Order 14.2, to all interested parties through the Court's Odyssey E-File & Serve system.

/s/ Ashley B. Moretto
An Employee of Dickinson Wright PLLC

EXHIBIT 6

Electronically Filed
11/28/2022 10:46 AM
Steven D. Grierson
CLERK OF THE COURT

CHAMBERS:
702-671-3634

LAW CLERK:
702-671-0899

MEMO
DISTRICT COURT
DEPARTMENT XXXI

To:	ALL COUNSEL and/or PARTIES PRO SE – SERVED VIA E-SERVICE and/or E-MAIL
From:	DEPARTMENT 31
Subject:	**A728510 – NUVEDA vs. PEJMAN BADY** **CONTINUANCE OF HEARING SET FOR NOVEMBER 29, 2022** ****PLEASE REVIEW ENTIRE MEMO****
Date:	November 28, 2022

Dear Counsel and/or Parties,

Due to an unforeseen Court emergency, the Court must continue the matter set for hearing on November 29, 2022. The matter has been reset for **TUESDAY, DECEMBER 13, 2022, at 8:30 a.m.** at which time the Motion to Appoint Receiver will be heard by the Court. We sincerely apologize for any inconvenience this may cause to any party and appreciate your understanding in having to reschedule your matter.

Department 31 will be hearing this matter either by remote **audiovisual** appearances through Bluejeans **or** parties may appear in-person. **Any/all** counsel and/or parties appearing in a multi-party case, Construction Defect (CD) case, or a Business Court (BC) case, **must** appear **audiovisually** or appear in person to better aid the Court with keeping track of connected parties.

****NOTE** Please be advised that any hearing on or after May 30, 2022, must comply with Administrative Order 22-07 and Nevada Supreme Court Rule Part IX- A and B – Rules Governing Appearance by Telephonic Transmission Equipment and Rules Governing Appearance by Simultaneous Audiovisual Transmission Equipment. Current Administrative Orders and Forms for Audiovisual appearances may be found on the Court's website: www.clarkcountycourts.us. (Please see Administrative Order 22-07 and Supreme Court Rule Part IX (A and B) to ensure full compliance.)**

ALL parties must register for electronic service, pursuant to the rules and Administrative Order 22-07, to ensure every party receives all Notices from the Court. Instructions on how to register for electronic service may be found on the Court's website, http://www.clarkcountycourts.us/departments/clerk/electronic-filing/file-and-serve/#Service-Contacts

The Bluejeans connection information is:

Phone Dial-in
+1.408.419.1715 (United States(San Jose))
+1.408.915.6290 (United States(San Jose))
(Global Numbers)

Room System
199.48.152.152 or bjn.vc

From internet browser, copy and paste:
https://bluejeans.com/621838351/1475

Meeting ID: **621 838 351** Participant Passcode: **1475**

INSTRUCTIONS FOR APPEARING VIA BLUEJEANS:

****Please ensure that you are able to connect prior to the hearing**** You may test your connection at: https://bluejeans.com/111. Below are a few guidelines that must be followed when appearing remotely:

1. ****IMPORTANT** Upon connection, please place your microphone/phone on MUTE and wait for your matter to be called.** If you are connected via phone and are interrupted for any reason, please **DO NOT place the call on hold**, it will interrupt other matters being heard and we will hear background music. Either set your phone down and step away (**while it is on mute**), or please hang up and then reconnect when you are ready.

   ****To mute/unmute: Press *4 on your phone keypad to mute (and unmute) your microphone within the BlueJeans system; or if using your computer, click on the microphone icon or "M" on your keyboard.****

2. Background noise is **very** disturbing and it does not allow for a good record. If using your phone for connection, **please refrain from using the speaker mode on your phone and use the hand-set**. The record will be much clearer. Please do not connect while driving and please do not be in an area with others talking.

3. All parties **must** check in - in the chat box - **upon connection**. **Please put your name, bar number, and party(ies) you represent in the "Chat" box upon connection**.

4. Due to multiple matters scheduled at the same time, there may be a delay in your case being called, so please be patient.

5. When your case is called - to make your appearance, please clearly state your name, bar number, and the party you represent – with Plaintiff's counsel appearing first. ****Please state your name EACH and EVERY time you speak to ensure a complete record.****

6. If you are only a participant/interested party listening to the hearing, you must make your appearance and after making your appearance, please ensure to adhere to the same instructions and please ensure your phone remains on mute for the entire hearing.

Thank you,

Department 31

EXHIBIT 7

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IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

NUVEDA, LLC, a Nevada Limited Liability Company; and CWNEVADA LLC, a Nevada Limited Liability Company, Plaintiffs, v. 4FRONT ADVISORS LLC, foreign limited liability company, DOES I through X and ROE ENTITIES, II through XX, inclusive, Defendants. AND RELATED MATTERS.	Case: A-17-755479-B Consolidated Cases: A-19-791405-C, A-19-796300-B, and A-20-817363-B Dept. No.: 13 **MOTION TO ENFORCE CWNEVADA INDEMNIFICATION AGREEMENT OR ENJOIN JENNIFER GOLDSTEIN FROM COLLECTION ACTIVITY** **HEARING REQUESTED**

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"),[1] by and through counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced motion. This motion is made based on the Joint Declaration of Joseph Kennedy and Drs. Bady and Mohajer, which is included herewith. **Exhibit A**[2] contains a copy of an indemnification agreement separately provided by CW Nevada, LLC, a Nevada limited liability company ("CWNevada"), for the benefit of NuVeda and Drs. Bady and Mohajer (the "Indemnification Agreement") concerning CWNevada's agreement to pay claims of Jennifer Goldstein and Shane Terry. To be awarded specific performance, CWNevada must demonstrate that it is ready, willing, and able to perform under its agreements with NuVeda. See Cohen v. Rasner, 97 Nev. 118, 120 (Nev. 1981). Based on recent representations by the Receiver and his counsel, Joe Coppedge, the Receiver claims CWNevada is now ready, willing and able to perform.

FACTUAL BACKGROUND

A. Receivership Action.

1. NuVeda is a party in Case No. A-20-817363-B, which was consolidated into Case No. A-17-755479-B (the "Receivership Action"), currently pending in Department 13 of the Eighth Judicial District Court, Clark County, State of Nevada. The Receivership Action originally concerned the dispute between NuVeda and CW Nevada, LLC ("CWNevada") on the one hand, and 4Front, on the other hand. 4Front obtained judgments against NuVeda and CWNevada. NuVeda paid its judgment. CWNevada did not. Accordingly, 4Front requested the appointment of the Receiver to which CWNevada ultimately stipulated.

B. Goldstein/Terry Action.

2. Creditors of NuVeda, Jennifer Goldstein and Shane Terry, filed a lawsuit against NuVeda ***in 2015*** (Case No. A-15-728510-B), currently pending in Department 31 of the Eighth Judicial District Court, Clark County, State of Nevada. They sought to stop a sale transaction

[1] NuVeda, Clark NMSD, Nye Natural, Clark Natural, Bady, Mohajer, and Kennedy together with NuVeda, LLC, a Delaware limited liability company ("NuVeda DE"), UL-NuVeda Holdings, LLC, a Delaware limited liability company ("UL-NuVeda"), CWNV LLC, a Nevada limited liability company ("Merged CWNV"), and CWNV1 LLC, a Nevada limited liability company ("Merged CWNW1") shall be referred to herein collectively as "Defendants."

[2] Defendants have filed a separate Appendix with Exhibits in support of the Motion.

between CWNevada and NuVeda. However, the state court denied the request by Ms. Goldstein and Mr. Terry for a preliminary injunction, and they appealed. The Nevada Supreme Court upheld the state court's decision. See Dkt. No. 17-35048, Case No. 69648 (noting the absurdity of the request as a minority member of NuVeda).

C. Arbitration and Transfer of Terry Claims.

3. At the request of the parties, Case No. A-15-728510-B was referred to the American Arbitration Association ("AAA") for ***binding arbitration*** (AAA Case No. 01-15-0005-8574). During the arbitration before AAA, Mr. Terry sold his interest in and claims against NuVeda and its affiliates/subsidiaries to BCP Holding 7, LLC ("BCP 7"), which is the manager of CWNevada and affiliated with Brian Padgett.

4. The allegations by Mr. Terry in the complaint filed in Case No. A-20-817363-B mirror the allegations by Mr. Terry in the arbitration (AAA Case No. 01-15-0005-8574). After Mr. Terry entered into the transaction with BCP 7 and Mr. Padgett, Mr. Terry through his counsel-of-record, Erika Pike Turner, Esq., filed a motion in the arbitration to substitute BCP 7 ***in place of*** Mr. Terry as the real party in interest ***with all rights*** to Mr. Terry's interest and claims.

5. The AAA permitted BCP 7 to substitute into the arbitration for Mr. Terry. After substituting into the case in place of Mr. Terry, on ***June 5, 2018***, ***BCP 7 voluntarily and unconditionally dismissed all of Mr. Terry's claims with prejudice***. In accordance with the request by BCP 7 to dismiss the claims with prejudice, AAA ordered these claims finally to be dismissed on ***October 9, 2018*** (approximately four (4) months later).

D. Consolidation of Actions and Terry Dispute Over Claim Transfer.

6. BCP 7 defaulted on its obligations to Mr. Terry, and Mr. Terry sued BCP 7 and Mr. Padgett. See Case No. A-19-796300-B (Eighth Judicial District Court, Clark County, State of Nevada). The state court consolidated this action into the Receivership Action. On November 30, 2020, Mr. Terry filed an *ex parte* motion before AAA (AAA Case No. 01-15-0005-8574) to rescind the transaction with BCP 7 and Mr. Padgett and to set aside the orders by AAA to dismiss Mr. Terry's claims. In his motion, Mr. Terry asked AAA to rescind the agreement with BCP 7 and Mr. Padgett for fraud in the inducement and failure of consideration. Upon rescission, Mr. Terry then requested

AAA to set aside the dismissal of his claims by AAA under NRCP 60(b)(4) (void judgments). AAA determined that the case before AAA was closed on March 20, 2019, and AAA did not have jurisdiction to consider his requests for relief.

7. According to Mr. Terry's Proof of Claim filed in the Receivership Action, Mr. Terry collected **$757,757.00** from BCP 7, Mr. Padgett and their affiliates between April 18, 2019 and June 7, 2019—the date Mr. Terry initially sued BCP 7 and Mr. Padgett. Now, Mr. Terry is "litigation partners" with the Receiver in their action against NuVeda. **Exhibit B** is Mr. Terry's proof of claim.

E. Goldstein Judgment.

8. Ms. Goldstein completed the arbitration (AAA Case No. 01-15-0005-8574) and received an award for the fair market value of her interests. Ms. Goldstein, a former member of NuVeda and its General Counsel, was expelled from the partnership due to misconduct (including conspiring with Mr. Terry to take over NuVeda and to block the joint venture with CWNevada). The expulsion of Ms. Goldstein still provided her a right under NuVeda's operating agreement to the fair market value of her interests. The amount of the judgment confirmed by the state court ($2,565,276.41) is not being contested. However, Ms. Goldstein's judgment is subject to the Indemnification Agreement. Noteworthy, Ms. Goldstein filed a proof of claim in the Receivership Action, which was denied by the receiver. **Exhibit C** includes Ms. Goldstein's proof of claim. As a result of the proof of claim, Ms. Goldstein stipulated to have her claim resolved in the Receivership Action. See Dkt. No. 272. The Receiver also has identified her claim as one of the claims still to be resolved in this case. See Dkt. No. 1343.

F. Divestment of Cannabis Businesses.

9. NuVeda was involved in the cannabis industry ***until June 12, 2019***. On June 12, 2019, the NuVeda divested itself of ownership of subsidiaries, Clark NMSD and Nye Natural, which are licensed cannabis establishments under Nevada law. Id.

10. On or about June 12, 2019, the NuVeda's members amended the Operating Agreement of the NuVeda to include the following provision:

> "[U]nder no circumstances shall the Company engage in any activities that are illegal under the laws of the United States, including, the Controlled Substances

> Act ("Controlled Substances Act"), which makes it illegal to use, possess, grow, and sell marijuana. With respect to any interest in any marijuana establishment as defined by the law of the State of Nevada, the Company disclaims any interest therein including to any entity which owns marijuana licenses or otherwise engages in activities that are illegal under the Controlled Substances Act."

11. At the time of the divestment, change of ownership was governed by Nevada Administrative Code § 453D.315(5), which was subsequently repealed but provided as follows:

> A transfer of an ownership interest in any amount in a marijuana establishment is not effective until the Department has been notified on a form prescribed by the Department of the intent to transfer an ownership interest in the marijuana establishment and the Department has found that each person to whom an ownership interest is proposed to be transferred is individually qualified to be an owner of the marijuana establishment.

12. The Nevada Department of Taxation ("NDT") received notice of the change of ownership applications, and Dr. Bady, Dr. Mohajer, and Mr. Kennedy were already individually qualified to be owners.

13. On or about June 12, 2019, Governor Steve Sisolak signed Assembly Bill 533 ("AB 533"). AB 533, now codified in Nevada Revised Statutes 678A, 678B, 678C and 678D, establishes the framework for the CCB. The CCB officially took over regulation of the cannabis industry on July 1, 2020, and immediately adopted regulations at the CCB's first meeting on July 21, 2021 (including NCCR 5). At the same meeting, the CCB also lifted the moratorium on processing change of ownership applications for marijuana establishments imposed by Governor Sisolak in 2019.

14. NDT and CCB are not challenging the transfer described in Paragraph 9 above. **Exhibit D** contains the stipulation reached with NDT/CCB in NuVeda's bankruptcy case.

15. NuVeda has complied with Ms. Goldstein's post-judgment discovery requests. On February 24, 2021, NuVeda responded to Ms. Goldstein's request for records and provided the transaction document memorializing the divestment of NuVeda's interests in all cannabis businesses as referenced in Paragraph 9 above.

16. Given the lack of assets to satisfy the judgment, Ms. Goldstein previously served writs of execution instructing the constable's office to seize cash from the dispensaries operated by Clark NMSD, which is not owned by NuVeda. See Case No. 84623 (Nevada Supreme Court). Further,

Ms. Goldstein sought the appointment of a receiver over NuVeda and its ***former subsidiaries***, Clark NMSD and Nye Natural. Dkt. No. 179 (Case No. A-15-728510-B). Ms. Goldstein's judgment is only against NuVeda.

17. The Receiver and CIMA (preferred creditor of the Receiver which is primarily responsible for the appointment) conspired to extend the receivership over CWNevada to the predecessor-in-interest to Merged CWNV. When Judge Bare presided over Case No. A-17-755479-B, he refused to appoint a receiver over CWNevada without an evidentiary hearing. The Receiver and CIMA convinced another district court judge in Case No. A-18-773230-B to appoint a receiver, and the order submitted for entry as provided by the Receiver included receivership over CWNevada ***and its subsidiaries***, including predecessor-in-interest to Merged CWNV. See Dkt. No. 118 (Notice of Temporary Receivership Order). CWNevada ultimately stipulated to the appointment of a receiver before Judge Bare, and (based on the request of NuVeda) the order entered by Judge Bare removed the language extending the receivership over the predecessor-in-interest to Merged CWNV. See Dkt. No. 136.

18. NuVeda has filed a proof of claim in the Receivership Action, which has been denied by the Receiver. **Exhibit E** includes NuVeda's proof of claim. NuVeda's proof of claim includes claims under the Indemnification Agreement. Id.

POINTS AND AUTHORITIES

A. CWNevada should satisfy the Judgment in Favor of Ms. Goldstein and any claims by Mr. Terry under the Indemnification Agreement.

19. The receiver for CWNevada has supplied numerous declarations in this case concerning the financial state of the receivership. First, the Receiver claimed the estate was not insolvent. See Motion for Status Check, Dkt. No. 883 (FN's 2 and 3) and Exhibits in Support (Dkt. No. 878) (Exhibits A and C) (discussing the Receiver's responses to written discovery compared to his statements to creditors). The Receiver later supplemented his response to requests for admissions. Unfortunately, he still provided false testimony when he claimed the estate was suddenly solvent based on revenues purportedly generated as of December 6, 2021. See Appendix, Dkt. No. 1232,

Exhibit G, Deposition Transcript, APP 280 (Line 13) through APP 286 (Line 6) (admitting statement about revenues provided in response to request for admission was false). As of today, the Receiver has not amended or supplemented his discovery responses. Recently, the Receiver admitted that the estate is insolvent See Motion, Dkt. No. 1259 (Declaration of Receiver, Exhibit 2, Page 6, Paragraph 23). Despite this admission, in response to Defendants' motion to dismiss/summary judgment, the Receiver states under penalty of perjury that "CWNevada has access to all necessary facilities and has the ability to perform under the MIPA." See Exhibit 4 to Opposition, Dkt. No. 1351 (Page 7, Paragraph 33).

20. The bankruptcy court in NuVeda's bankruptcy dismissed NuVeda's chapter 11 petition on October 14, 2022 at the request of Ms. Goldstein. Of course, the Receiver and Mr. Terry joined Ms. Goldstein's motion. The bankruptcy court determined that NuVeda's filing was made in "bad faith" because (a) NuVeda was previously involved in the cannabis industry (which involvement violated the Controlled Substances Act (unclean hands)); and (b) there is nothing for NuVeda to reorganize because NuVeda has no income or assets.[3] Essentially, the bankruptcy court believed resolution of Ms. Goldstein's judgment and the claims of CWNevada, Mr. Terry, and Mr. Ivey are better served in the state courts.

21. NuVeda proposed a plan of reorganization that provided Ms. Goldstein and NuVeda's other creditors meaningful relief, which they refused to support. **Exhibit F** includes NuVeda's proposed plan of reorganization filed in the bankruptcy case.

22. The court should order the Receiver to consent to NuVeda's payment of the judgment in favor of Ms. Goldstein, subject to reimbursement in accordance with the Indemnification Agreement. Mr. Kennedy and Drs. Bady and Mohajer have agreed to contribute the funds to NuVeda to pay Ms. Goldstein (provided, NuVeda is reimbursed).

23. The court also should order the Receiver to reimburse Defendants for the fees, costs

[3] A lack of good faith in filing a bankruptcy petition may constitute "cause" warranting dismissal under Section 1112(b) of the Bankruptcy Code. See Marsch v. Marsch (In re Marsch), 36 F.3d 825, 828-29 (9th Cir. 1994). "Good faith is lacking only when the debtor's actions are a clear abuse of the bankruptcy process.... Good faith depends on an amalgam of factors, not a specific fact or facts.'' Margitan v. Hanna (In re Hanna), 2018 WL 1770960, at *5 (9th Cir. BAP Apr. 13, 2018) (quotations and citations omitted).

and expenses incurred defending against Mr. Terry's claims (which is covered by the Indemnification Agreement). Defendants will provide an interim memorandum of fees and costs for review by the court.

24. The Receiver for CWNevada asserts that CWNevada is "ready, willing, and able to perform" its agreements with NuVeda. If so, CWNevada should start performing its obligations and make payments to parties other than to the Receiver and his professionals.

25. CWNevada has not asserted any affirmative defense excusing or justifying its failure to perform under the Indemnification Agreement. Any alleged defaults under the MIPA do not excuse performance or justify non-performance by CWNevada.

B. The Court should enjoin any further collection efforts by Ms. Goldstein against Defendants until her proof of claim and the proof of claim of NuVeda are resolved.

26. A preliminary injunction is available when the moving party can demonstrate that the nonmoving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory relief is inadequate and that the moving party has a reasonable likelihood of success on the merits. See NRS 33.010; University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004); Dangberg Holdings v. Douglas Co., 115 Nev. 129, 142, 978 P.2d 311, 319 (1999). A district court has discretion in deciding whether to grant a preliminary injunction. University Sys., 120 Nev. at 721, 100 P.3d at 187. The district court's decision "`will be reversed only where the district court abused its discretion or based its decision on an erroneous legal standard or on clearly erroneous findings of fact.'" Attorney General v. NOS Communications, 120 Nev. 65, 67, 84 P.3d 1052, 1053 (2004) (quoting U.S. v. Nutri-cology, Inc., 982 F.2d 394, 397 (9th Cir. 1992)); see S.O.C., Inc. v. The Mirage Casino-Hotel, 117 Nev. 403, 407, 23 P.3d 243, 246 (2001).

27. The court has jurisdiction over Ms. Goldstein as a result of her proof of claim.

28. The bankruptcy court has dismissed NuVeda's bankruptcy as a result of a motion filed by Ms. Goldstein (as joined by the Receiver and Mr. Terry).

29. If the court is unwilling to enforce the Indemnification Agreement, then Ms. Goldstein should be enjoined from engaging in further collection activities arising from her judgment pending resolution of the proofs of claim by NuVeda and Ms. Goldstein.

30. The appointment of a receiver over NuVeda (together with Clark NMSD and Nye Natural) will cause irreparable harm to the Defendants. The appointment of a receiver is a harsh and extreme remedy which should be used sparingly and only when the securing of ultimate justice requires it. Hines v. Plante, 99 Nev. 259, 261, 661 P.2d 880, 881-82 (1983). It would be a clear abuse of discretion to appoint a receiver over former subsidiaries of NuVeda—Clark NMSD and Nye Natural—when Ms. Goldstein does not have a judgment against them. See Medical Device Alliance, Inc. v. Ahr,116 Nev. 851, 862, 8 P.3d 135, 142 (2000) (quoting Nishon's Inc. v. Kendigian,91 Nev. 504, 505, 538 P.2d 580, 581 (1975)); see also Peri–Gil Corp. v. Sutton, 84 Nev. 406, 411, 442 P.2d 35, 37 (1968); Bowler v. Leonard, 70 Nev. 370, 383, 269 P.2d 833, 839 (1954).

31. Nothing preventing the court from enjoining Ms. Goldstein from pursuing collection activity pending resolution of the parties' respective proofs of claim (i.e., proofs of claim by Ms. Goldstein and NuVeda).

32. NuVeda agrees to post a bond in a reasonable amount to secure any damages incurred by Ms. Goldstein as a result of the injunction. Since NuVeda has no income or assets available to satisfy Ms. Goldstein's judgment, Defendants suggest a bond not to exceed ***$250,000.00***. Such amount will more than cover any accrued interest on the judgment pending resolution of the disputes.

CONCLUSION

The court should enforce the Indemnification Agreement. Alternatively, the court should enjoin further collection activities of Ms. Goldstein against any Defendants pending resolution of her proof of claim and NuVeda's proof of claim in the Receivership Action.

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DATED this 18th day of October, 2022.

Respectfully submitted by:

LAW OFFICE OF MITCHELL STIPP, P.C.

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

DECLARATION OF DR. PEJMAN BADY, DR. POUYA MOHAJER, AND JOSEPH KENNEDY

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

1. The factual statements set forth in the motion above are true, accurate and complete to the best of our knowledge and belief.

2. We submit the above-titled declaration in support of the motion which has been filed concurrently herewith.

Dated this 18th day of October, 2022

/s/ *Pejman Bady*
Dr. Pejman Bady

/s/ *Pouya Mohajer*
Dr. Pouya Mohajer

/s/ *Joseph Kennedy*
Joseph Kennedy

EXHIBIT 8

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IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

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

Plaintiffs,

v.

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

Defendants.

AND RELATED MATTERS.

Case: A-17-755479-B

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

Dept. No.: 13

APPENDIX IN SUPPORT OF MOTION TO ENFORCE CWNEVADA INDEMNIFICATION AGREEMENT OR ENJOIN JENNIFER GOLDSTEIN FROM COLLECTION ACTIVITY

NuVeda, LLC, a Nevada limited liability company, Clark NMSD, LLC, a Nevada limited liability company, Nye Natural Medicinal Solutions, LLC, a Nevada limited liability company, Clark Natural Medicinal Solutions, LLC, a Nevada limited liability company, Dr. Pejman Bady, Dr. Pouya Mohajer, and Joseph Kennedy, by and through counsel of record, Mitchell Stipp, Esq., of the Law Office of Mitchell Stipp, hereby files the above-referenced Appendix in support of its motion.

EXHIBIT A

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (the "Agreement") is made and entered into as of June 5th, 2018 between, CWNevada, LLC, a Nevada limited liability corporation (hereinafter "CW" or "Indemnitor"), and NuVeda, LLC, Dr. Pejman Bady and Dr. Pouya Mohajer (collectively "Indemnitees").

RECITALS

On December 3, 2015, Shane Terry and Jennifer Goldstein (collectively, "Plaintiffs") filed an action purportedly on behalf of NuVeda against Dr. Bady and Dr. Mohajer in Clark County District Court Case No. A-15-728510-B ("District Court Case"). The judge in the District Court Case ruled that the matter be sent to arbitration. As a result, Plaintiffs filed an arbitration action with AAA against the Indemnitees in Case No. 01-15-005-8574 (hereinafter "Arbitration Case"). On or about May 2, 2018, BCP 7, LLC purchased Shane Terry's interest in District Court Case and Arbitration Case, therefore, became a Co-Plaintiff with Ms. Goldstein.

It is reasonable, prudent and necessary for CW contractually to obligate itself to indemnify the Indemnitees to the fullest extent permitted by applicable law so that they will be able to defend themselves in the District Court, Arbitration Cases and appeals thereof (hereinafter collectively, "Proceedings"). This Agreement is a supplement to and in furtherance of the Operating Agreement of CW and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitees thereunder.

The parties hereto agree that each of the Recitals set forth above are true and correct and hereby incorporated into this Agreement by this reference and made as part hereof and further agree as follows:

INDEMNIFICATION OF INDEMNITEES

CW hereby agrees to hold harmless and indemnify Indemnitees to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification, and without limiting the generality thereof:

A. **Proceedings in the Arbitration and District Court Cases.** Indemnitees shall be entitled to the rights of indemnification provided in this Section if, as a result of the Proceedings, Indemnitees are ordered to pay "Expenses". "Expenses" are defined as judgments, penalties, fines, and amounts paid or ordered to be paid in settlement, actually and reasonably incurred by them or on their behalf, in connection with the Proceedings, or any claim, issue or matter therein.

B. As CW has agreed to indemnify the Indemnitees for Expenses in the Proceedings pursuant to the Terms listed in this Agreement, in consideration for such indemnity, CW has the right to direct the litigation strategy of the Proceedings subject to any objections by Indemnitees or their respective counsel. CW also shall be entitled to veto any settlement with Plaintiffs or payment of any judgment.

C. **Terms of the Indemnification.** If Indemnitees are entitled under any provision of this Agreement to indemnification by CW, CW shall indemnify Indemnitees for the portion thereof to which Indemnitees are entitled. The parameters of the indemnity are as follows:

1. For any Expenses (as defined in Section A, above) below $5M, CW agrees to completely indemnify Indemnitees;

2. For any Expenses in excess of $5M, CW agrees to indemnify Indemnitees fifty percent (50%) of the Expenses. The terms and conditions of indemnification contained in this Provision (C)(2) are meant to be used in conjunction with Provision (C)(1) and are not to be construed as an exclusive.

PROCEDURES AND PRESUMPTIONS FOR DETERMINATION OF ENTITLEMENT TO INDEMNIFICATION

A. To obtain indemnification under this Agreement, Indemnitees shall submit to CW a written request, including such documentation and information as is available to Indemnitees and is reasonably necessary to determine whether and to what extent Indemnitees are entitled to indemnification. CW shall upon settlement or award, and within thirty (30) business days upon receipt of such a request for indemnification, pay the Indemnitees the requested indemnification.

B. In making a determination with respect to entitlement to indemnification hereunder, CW shall presume that Indemnitees are entitled to indemnification under this Agreement.

C. If CW does not remit the indemnification amount to the Indemnitees within thirty (30) days after receipt by CW of the request therefor, Indemnitees shall be entitled to file an action in Clark County District Court of the State of Nevada for Indemnitees entitlement to such indemnification. CW shall not oppose Indemnitees' right to seek any such adjudication.

D. The parties shall be precluded from asserting in any judicial proceeding to enforce this Agreement that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court that the parties are bound by all the provisions of this Agreement.

DURATION OF AGREEMENT

All agreements and obligations of CW contained herein shall continue during the period of the Proceedings, subsequent appeals and potential future Proceedings based upon the ruling on the appeals.

ENFORCEMENT

A. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof

B. In the event of any inconsistency or conflict between (i) this Agreement; (ii) CW's Operating Agreement; (iii) NuVeda's Operating Agreement; and (iv) the MIPA (collectively, the "Organizational Documents") with respect to indemnification, then the parties shall be bound by the provisions of this Agreement.

SEVERABILITY

The invalidity of unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. This Agreement is intended to confer upon Indemnitees indemnification rights to the fullest extent permitted by applicable laws.

MODIFICATION AND WAIVER

No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

NOTICE BY INDEMNITEES

Indemnitees agrees promptly to notify CW in writing upon being served with or otherwise receiving any relating to the Proceedings which may be subject to indemnification covered hereunder. The failure to so notify the CW shall not relieve CW of any obligation which it may have to Indemnitees under this Agreement.

NOTICES

All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery, (b) electronic mail or facsimile, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the addresses below.

COUNTERPARTS

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

GOVERNING LAW AND CONSENT TO JURISDICTION

This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Nevada, without regard to its conflict of laws rules. CW and Indemnitees hereby irrevocably and unconditionally agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Clark County District Court (the "Nevada Court"). The prevailing party will be entitled to their attorney's fees.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year first above written.

Indemnitor

CW Nevada, LLC.

4145 W. Alibaba LN.

Las Vegas NV. 89118

Indemnitees

NuVeda, LLC

2171 River Plate Dr.

Pahrump NV. 89048

6/5/18

Dr. Pouya Mohajer

2700 Las Vegas Blvd S. #3311

Las Vegas, NV. 89109

Dr. Pejman Bady

2700 Las Vegas Blvd S. #2709

Las Vegas, NV. 89019

EXHIBIT B

PROF
RICHARD F. HOLLEY, ESQ.
Nevada Bar No. 3077
E-mail: rholley@nevadafirm.com
JOHN J. SAVAGE, ESQ.
Nevada Bar No. 11455
E-mail: jsavage@nevdafirm.com
HOLLEY DRIGGS WALCH
FINE PUZEY STEIN & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912
Attorneys for Dotan Y. Melech, Receiver

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 Dept. No.: 11

PROOF OF CLAIM

Shane Terry, a creditor of CWNevada, LLC, hereby submits the following claim as an [ ] unsecured claim or [X] secured claim [check a box] and provides the basis for the claim as follows:

Attached is a purchase + sale agreement for the sale of my interest in Nuveda, LLC. The agreement was never paid as outlined, and was subsequently renegotiated with Brian Padgett to include extension fees, late fees and other penalties. I have provided written notice of breach and have not received any engagement on this matter since May 18, 2019. The purchase currently in breach is personally guaranteed.

EXHIBIT "B"

to Order Approving Claims Process

The total claim amount as of 4 March, 2020, is $4,994,358, with interest continuing to accrue at the rate of ~~$ per day~~ 18% per annum on principle, plus $14,994 per day as of 4 March 2020, plus legal fees and costs in the amount of $.

State of Nevada
County of Clark

Shane Terry [name], being duly sworn states: that he/she is the duly authorized agent of Shane Terry who has submitted the foregoing claim against CWNevada, LLC; that the amount of the claim is justly due or is a just demand and will become due on the date set forth above; that all payments have been credited; that there are no offsets known to affiant which have not been credited; and (complete if applicable) affiant rather than the creditor has submitted this claim for the following reason:

Creditor: Shane Terry
By:
Address: 2105 Bonnie Brae Ave
Las Vegas NV 89102
Phone - 702 858 2465
Fax -

Signed and sworn (or affirmed) to before me this 5 day of March, 2020, by Shane Terry (name of person making statement).

NOTARY PUBLIC

Notary Public - State Of Nevada
COUNTY OF CLARK
DAVID ERIC GOLDFARB
No. 17-1737-1
My Appointment Expires
March 8, 2021

EXHIBIT "C"

to Order Approving Claims Process

UPDATE THIS CHART FOR ACTUAL INPUTS

Principle Rollup with Late Fee Agreements

Total Payment: $ (22,565,860)

18%

Current through

		2018						2019														
		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
	Month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
	Principle	$ 1,750,000	$ 1,500,000	$ 1,550,000	$ 1,558,306	$ 1,562,931	$ 1,567,625	$ 1,572,389	$ 1,637,213	$ 1,683,337	$ 1,766,700	$ 1,803,201	$ 1,876,763	$ 1,978,167	$ 2,135,981	$ 2,328,063	$ 2,557,987	$ 2,848,605	$ 3,164,209	$ 3,533,363	$ 3,956,785	$ 4,455,899
	Accrued Interest (Beg Bal)	$ -	$ -	$ 3,750	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 12,048	$ 40,380	$ 70,658	$ 103,758	$ 140,235	$ 180,709	$ 226,148	$ 277,004	$ 334,159	$ 398,523
	Additional Principle to Rollup																					
	Beg. Balance	$ 1,750,000	$ 1,500,000	$ 1,553,750	$ 1,558,306	$ 1,562,931	$ 1,567,625	$ 1,572,389	$ 1,637,213	$ 1,683,337	$ 1,766,700	$ 1,803,201	$ 1,888,811	$ 2,018,547	$ 2,206,639	$ 2,431,821	$ 2,698,222	$ 3,029,313	$ 3,390,357	$ 3,810,366	$ 4,290,944	$ 4,854,422
	Monthly Interest		$ 22,500	$ 23,306	$ 23,375	$ 23,444	$ 23,514	$ 23,586	$ 24,558	$ 25,250	$ 26,501	$ 27,048	$ 28,332	$ 30,278	$ 33,100	$ 36,477	$ 40,473	$ 45,440	$ 50,855	$ 57,155	$ 64,364	$ 72,816
	Extension Fee		$ 50,000	$ 40,000	$ 50,000	$ 40,000	$ 40,000	$ 50,000	$ 40,000	$ 40,000	$ 40,000	$ 50,000	$ 40,000	$ 50,000	$ 40,000	$ 40,000	$ 50,000	$ 40,000	$ 40,000	$ 50,000	$ 40,000	$ 10,000
	Late Fee							$ 59,976	$ 71,400	$ 58,548		$ 23,562	$ 61,404	$ 107,814	$ 152,082	$ 189,924	$ 240,618	$ 275,604	$ 329,154	$ 373,422	$ 459,114	$ 57,120
	Total Monthly Charges	$ -	$ 72,500	$ 63,306	$ 73,375	$ 63,444	$ 63,514	$ 133,562	$ 135,958	$ 123,798	$ 66,501	$ 100,610	$ 129,736	$ 188,092	$ 225,182	$ 266,401	$ 331,091	$ 361,044	$ 420,009	$ 480,577	$ 563,478	$ 139,936
	Loan Balance	$ 1,750,000	$ 1,572,500	$ 1,617,056	$ 1,631,681	$ 1,626,375	$ 1,631,139	$ 1,705,951	$ 1,773,171	$ 1,807,135	$ 1,833,201	$ 1,903,811	$ 2,018,547	$ 2,206,639	$ 2,431,821	$ 2,698,222	$ 3,029,313	$ 3,390,357	$ 3,810,366	$ 4,290,944	$ 4,854,422	$ 4,994,358
	Interest Payment		$ (18,750)	$ (18,750)	$ (18,750)	$ (18,750)	$ (18,750)	$ (18,750)	$ (22,500)	$ (23,000)	$ (30,000)	$ (15,000)	$ -	$ -	$ -								
	Principle Payment	$ (250,000)																				
	Extension Payment			$ (40,000)	$ (50,000)	$ (40,000)	$ (40,000)	$ (20,000)	$ (60,000)	$ (10,000)	$ -	$ -	$ -	$ -								
	Late Fee Payment			$ -	$ -	$ -	$ -	$ (29,988)	$ (7,334)	$ (7,435)	$ -	$ -	$ -	$ -								
	Deficit / Adjusted Payment																					
	Total Payments	$ (250,000)	$ (18,750)	$ (58,750)	$ (68,750)	$ (58,750)	$ (58,750)	$ (68,738)	$ (89,834)	$ (40,435)	$ (30,000)	$ (15,000)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
	EOM Balance	$ 1,500,000	$ 1,553,750	$ 1,558,306	$ 1,562,931	$ 1,567,625	$ 1,572,389	$ 1,637,213	$ 1,683,337	$ 1,766,700	$ 1,803,201	$ 1,888,811	$ 2,018,547	$ 2,206,639	$ 2,431,821	$ 2,698,222	$ 3,029,313	$ 3,390,357	$ 3,810,366	$ 4,290,944	$ 4,854,422	$ 4,994,358

Actual Balance Owed on Daily Accrual sheet as of 4 March 2020: $ 4,994,358
(Tracked since Jan 16th 2019)

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

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

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

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

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

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

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

1 of 5

(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

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

shall be awarded to the prevailing party.

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

Dated this 30th day April, 2018

BUYER:

BCP 7, LLC
By its Manager:

Name:

SELLER:

Shane Terry

GUARANTOR:

Brian C. Padgett

4.05

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

Dated this 30th day April, 2018

BUYER:

BCP 7, LLC
By its Manager:

Name:

SELLER:

Shane Terry

GUARANTOR:

Brian C. Padgett

5 of 6

From: **Shane Terry** shane@taprootbrands.com
Subject: Re: 5 Sept Extension Agreement
Date: February 2, 2019 at 9:45 PM
To: Brian Padgett brian@briancpadgett.com

Brian,
I've attached a spreadsheet showing what is overdue as of today. It includes the $10K payment I received from Dell today.

As of close of business 2 February 2019 a total of $79,628 is overdue. Late fees are accumulating at $2,856/day. There's another $10K payment due Wednesday, and if that is late we are back at a rate of $4,284/day.

Out of the $79,628 due, $52,500 is principle payments and the rest are late fees. Until the $52,500 is caught up the late fees will continue to accumulate at a rate that exceeds dispensary sales.

I need a plan for the payments that has specific payment dates or else I'll have no choice but to call the outstanding note (which would be due immediately).

Here's what I'm willing to offer: I will waive the late fees which are approximately $30K and increasing daily. In exchange, we will execute a 18 month contract that 1) gives me the right to sell product through all Canopi dispensaries and recoup 100% of the retail price (net of taxes) and 2) allows us to setup an in-store display (like a pop-up) that will permanently remain in your stores.

This should be an easy win for both of us. I went to each store last week and I know product availability is limited so this will at least get more product on your shelves. Additionally, just from our marketing campaign we drove traffic to your store which gives you the opportunity for up-sells/cross-sells. You have nothing to lose.

Let me know what you think.

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

TAPROOT

> On Jan 16, 2019, at 6:09 PM, Shane Terry <shane@taprootbrands.com> wrote:
>
> Hi Bryan,
> I just brought in a new CPA and legal team and they were reviewing all our documents & payments so far and discovered that we've been underpaying the interest to date.
>
> Per our original agreement there was a $500K initial payment and then you would make interest only payments each month at 18% of the balance which in our contract we assumed would be a principal balance of $1,250,000 which would equate to $18,750/month.
>
> However, when only half of the initial payment was made, we never adjusted the remaining principle (which is now $1.5m instead of $1.25m) so actually $22,500/month was due beginning 1 August 2018 instead of $18,750. Therefore, between August and January there was a deficit of $3,750/month for a total of $22,500 (6 months x $3,750 deficit) as of 1 January 2018.
>
> I do realize that when we agreed on a payment schedule below we did agree on $18,750/month for the monthly payment, even though it should have been $22,500/month. Therefore, I'll propose the following options to catch us back up. Please note that this applies to the monthly payment only, and has no bearing on the weekly extensions of $10,000/week.
>
> 1) A one-time payment of $22,500 by end of January 2018 to catch up on the outstanding deficit, and then $22,500/month beginning on Feb 1, 2018 and on the 1st of the month after that. Once the full initial payment has been made (of which $300K is outstanding) then we will re-adjust the principle back to $1.25m and the monthly payments will return to $18,750/month in interest-only payments until the principle is further paid down.
>
> 2) We continue to stick to the agreed upon $18,750/month, but the outstanding $22,500 deficit will be added to the principle immediately and then an additional monthly deficit will be added to the principle and compounded monthly until there is an additional principle payment.
>
> **SHANE TERRY** | CEO
> TapRoot Holdings, Inc.
> m. 702.858.2465
>
> On Sep 11, 2018, at 6:13 PM, Brian Padgett <brian@briancpadgett.com> wrote:

Sounds like long days for both of us.

Will you be in town tomorrow or you need a wire?

BCP

iPhone

On Sep 11, 2018, at 5:40 PM, Shane Terry <shane@taprootbrands.com> wrote:

> Also, I've settled my bill and no longer have a retainer with Erika. If continuing to accept payments is normal within legal community then I don't mind asking her, but I know the cash makes it a pain for everyone and I was trying to keep her office from having that liability.
>
> If it's coordinated with me (or wire) then there's a better chance i'll be able to be flexible after hours and weekends to avoid fees, but that's totally up to you.
>
> Shane Terry
> CEO, TapRoot Holdings
> 702.858.2465
>
> Sent from my iPhone
>
> On Sep 11, 2018, at 4:56 PM, Brian Padgett <brian@briancpadgett.com> wrote:
>
> > In the future cash is best.
> >
> > Delivery to Erika if she is still accepting on your behalf.
> >
> > Why $15,000?
> >
> > What is interest on the $11k+\- ?
> >
> > BCP
> >
> > ## iPhone
> >
> > On Sep 11, 2018, at 1:47 PM, Shane Terry <shane@taprootbrands.com> wrote:
> >
> > > I will try and be helpful on this one, and will split the difference to an even $15,000 if it's paid today.
> > >
> > > Shane Terry
> > > CEO, TapRoot Holdings
> > > 702.858.2465
> > >
> > > Sent from my iPhone
> > >
> > > On Sep 11, 2018, at 1:42 PM, Shane Terry <shane@taprootbrands.com> wrote:
> > >
> > > > Brian, not only did she know nothing about the arrangement or what we had discussed going forward, it can't be up to me to coordinate with your staff unless you initiate it bring them in the loop and authorize it. So no, as far as her and eyes discussion there was no authorization or knowledge for a Friday payment.
> > > >
> > > > Please think of this like any other loan or credit card payment. And I have giving you the wire instructions so your team can pay it whenever it to do, or take cash to the bank to pay it. I'm even trying to be helpful by telling you that I will come pick up cash to save them the hassle.
> > > >
> > > > *Also, Friday's payment was $11,428 Per our email thread below and is still accumulating late fees.*
> > > >
> > > > I can come by this afternoon to pick up cash if you want to authorize it with your team.
> > > >
> > > > Shane Terry
> > > > CEO, TapRoot Holdings
> > > > 702.858.2465
> > > >
> > > > Sent from my iPhone

Sent from my iPhone

On Sep 11, 2018, at 1:08 PM, Brian Padgett <brian@briancpadgett.com> wrote:

> Hey, you saw me note the $10k Friday payment with Diana on Wednesday
>
> Didn't you coordinate payment with her when you picked up payment on Wednesday?
>
> BCP

iPhone

On Sep 11, 2018, at 12:58 PM, Shane Terry <shane@taprootbrands.com> wrote:

> Brian,
> Thanks for coordinating the payment for last Wednesday, but I never received anything on Friday as discussed.
>
> The amount due on Friday is now $17,140 if paid today. Also a reminder of the next $10,000 due tomorrow by 5pm.
>
> Please lmk if you want me to pick up cash again or you'd like the wire info. Even though we're probably past the wire cutoff time for today. I will consider it paid if I get a transfer confirmation by 5pm.
>
> Best,
> Shane
>
> Shane Terry
> CEO, TapRoot Holdings
> 702.858.2465
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** Brian Padgett <brian@briancpadgett.com>
> > **Date:** September 5, 2018 at 9:40:45 AM PDT
> > **To:** Shane Terry <shane@taprootbrands.com>
> > **Subject: Re: 5 Sept Extension Agreement**
> >
> > I agree to the terms per my last email.
> >
> > I will advise prior to 11:30 whether you will pick up the $18k or $28K
> >
> > Do we have an understanding?
> >
> > If so, just say "GOOD".
> >
> > **Brian C. Padgett**
> > Law Offices of Brian C. Padgett
> > 611 South 6th Street
> > Las Vegas, Nevada 89101
> > (702) 304-0123
> > ***www.briancpadgett.com***
> > <A9E75E53-2BEE-408C-80D5-65A27871BFA3[31].png>
> > <02FB6BDA-A5D4-4C9A-B4A1-9592526E8853[31].png><0BA33676-1819-4E23-BEA0-F652CA6B8A41[31].png><09B7C04A-978C-4C8F-9458-1BFC61B27F33[31].png><AE5C1DE7-3604-4651-8834-33CC0A92B4E6[31].png>
> >
> >

From: Shane Terry <shane@taprootbrands.com>
Date: Wednesday, September 5, 2018 at 9:39 AM
To: Brian Padgett <brian@briancpadgett.com>
Subject: Re: 5 Sept Extension Agreement

I will let Tanaka know we will follow up. If we want to extend the next payment until Friday, then I'm good with that if we add the daily pro-rata amount of $1,428. Since I agreed to a 24 hour cure-period, it will only be assessed as 1 day late vs 2 days, so a total of $11,428 due Friday by 5pm, and thereafter $10,000 due every Wednesday by 5pm.

If that is good with you, let me know and I'll be in at 1130 to pickup the $18,750.

Best,
Shane

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

> On Sep 5, 2018, at 9:33 AM, Brian Padgett <brian@briancpadgett.com> wrote:
>
> Please tell Tanaka the latter.
>
> I am not agreeing the cure period of 10 days was ever waived.
>
> However, I agree to your terms as set forth below.
>
> Except, I am being told we just paid payroll and cash is low. I can have $18750 today and I would like the option of paying the $10k Friday. Thereafter, Wednesday.
>
> **Brian C. Padgett**
> Law Offices of Brian C. Padgett
> 611 South 6th Street
> Las Vegas, Nevada 89101
> (702) 304-0123
> www.briancpadgett.com
> <A9E75E53-2BEE-408C-80D5-65A27871BFA3[30].png>
> <02FB6BDA-A5D4-4C9A-B4A1-9592526E8853[30].png><0BA33676-1819-4E23-BEA0-F652CA6B8A41[30].png><09B7C04A-978C-4C8F-9458-1BFC61B27F33[30].png>
> <AE5C1DE7-3604-4651-8834-33CC0A92B4E6[30].png>
>
>

From: Shane Terry <shane@taprootbrands.com>
Date: Wednesday, September 5, 2018 at 9:22 AM

To: Brian Padgett <brian@briancpadgett.com>
Subject: Re: 5 Sept Extension Agreement

You previously agreed with Erika via text that there was no longer a cure period on the monthly interest payments while the initial payment was outstanding. That was due to our monthly issues with collections. Here is what I am okay with:

24 hour cure period will apply to:

1. $10,000 weekly payments
2. $18,750 monthly interest
3. $300,000 payment after notice is given.

Once the $300,000 payment that will be extended is received, then that should conclude the modifications to the original initial payment. After that, all other terms, including the standard cure period, in the original agreement will be back in effect.

I need to receive cash by 1030 in order to comply with Tanaka's request due at 1100 PST. If you prefer, I can send him an email saying that I will respond with an update by 1300 PST and then I can pickup from you at 1130. Please let me know what you prefer.

Fair enough?

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

> On Sep 5, 2018, at 9:07 AM, Brian Padgett <brian@briancpadgett.com> wrote:
>
> The 24 hour cure period is only for the $10K.
>
> I am not waiving any standard cure period found in the original agreement.
>
> You can pick up the cash at 11:30
>
> *All other terms are acceptable.*
>
> Please confirm your acceptance.
>
> **Brian C. Padgett**
> Law Offices of Brian C. Padgett
> 611 South 6th Street
> Las Vegas, Nevada 89101
> (702) 304-0123
> www.briancpadgett.com
> <A9E75E53-2BEE-408C-80D5-65A27871BFA3[29].png>
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> <AE5C1DE7-3604-4651-8834-33CC0A92B4E6[29].png>

From: Shane Terry <shane@taprootbrands.com>
Date: Wednesday, September 5, 2018 at 9:00 AM
To: Brian Padgett <brian@briancpadgett.com>
Subject: 5 Sept Extension Agreement

Memorializing what we just discussed on the phone:

$318,750 is currently overdue, consisting of the following:

- $250,000 payment of initial $500,000 due in June per the Purchase Agreement
- $50,000 extension fee to extend the $250K until August
- $18,750 monthly interest due 1 September.

To further extend the large payment until after the transfer is completed I will agree to the following:

- $300,000 is extended at BCP's discretion at the cost of $10,000 per week. BCP *has the right to cancel the extension at anytime with notice and payment of* $300,000.
- The $10,000 a week is assessed and paid by 5pm every Wednesday. There is a 24 hour cure period before it is in default, which allows the acceleration of all money due under the original Interest Purchase agreement dated 30 April 2018.
- When canceled by BCP, the pro-rata amount of $10,000/week is due in addition to the $300,000 payment, and will be assessed by the number of calendar days passed since the previous Wednesday at a rate of $1,428/day.

To execute the above agreement $28,750 will be due by 1030am today (5 Sept) which consists of the overdue 1 September interest payment ($18,750) plus a $10,000 weekly extension that will extend the remaining balance until next Wednesday, 12 September, 5pm.

Please let me know if you are in agreement. Today's payment can be made via wire, or I can come pick it up from your office before 1030am.

Regards,
Shane

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

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S.Terry
Outsta....19.xlsx

From: **Shane Terry** shane@taprootbrands.com
Subject: Re: 26 Feb Agreement // 17 Feb 19 Extension Agreement // Fwd: 5 Sept Extension Agreement
Date: May 18, 2019 at 10:02 AM
To: Brian Padgett brian@briancpadgett.com

Brian,
Consider this written notice that per our agreement below you are in default of the monthly interest payment for May 2019.

As of our text agreement in the beginning of the month, I would accept a $15000 payment (which was received the night of 6 May), and the remaining $15,000 of the interest payment plus late fees would be due 15 May. I also offered to pro-rate the $1,428/day late fee based on the initial payment if we kept to our schedule.

To continue on good terms a payment of $29,280 will be due by 4pm Sunday which is comprised of $15,000 for the 2nd monthly interest payment and $14,280 in late fees.

If this payment is made in full by 4pm Sunday I offered to delay the 1 June interest payment of $30,000 until the 10th of June with no late fees, to allow you some time with the investment coming in at the end of this month.

Finally, assuming that I receive payment in accordance with the above and the entire note isn't accelerated, as of 31 May **$641,954** will be due in order to bring the principle down to $1.25M and the only planned monthly charge would be the interest payment due at the beginning of the month. The extension fee of $10,000/week will cease.

Regards,
Shane

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

TAPROOT

> On Feb 27, 2019, at 9:30 AM, Brian Padgett <brian@briancpadgett.com> wrote:
>
> Agreed.
>
> BCP
>
> iPhone
>
> > On Feb 27, 2019, at 12:17 AM, Shane Terry <shane@taprootbrands.com> wrote:
> >
> > Brian,
> > Summarizing what we discussed via text today:
> >
> > On 1 March 2019 S182,266 will be due. That does not include the second payment of S250K that was due in September and was extended under a previous agreement in the email thread below. As you know, part of that agreement involved additional S10K per week as an extension fee until the S250K was paid, and at that point reoccurring payments would revert back to an interest-only payment due on the first of every month.
> >
> > In order to avoid acceleration of the entire note and past dues which are currently in default, I will agree to roll most of the outstanding fees into principle payments with the following breakdown:
> >
> > **Payment Schedule within 30 days:**
> >
> > S10K to be paid 2/26/19 (outstanding from 2/20/19)
> > S12.5K on 3/4/19 (#1 of 2 of the monthly interest payment normally due 3/1/19)
> > S12.5K on 3/8/19 (#2 of 2 of the monthly interest payment)
> > S16,007 due 3/15/19
> >
> > If that payment schedule is met, then I will roll the remaining past due payments into the principle which will be a total principle of S1,679,819 as of close of business on 3/15/19.
> >
> > **Monthly Reoccurring Payments after 30 days:**
> >
> > Starting 4/1/19 S30K per month will be due on the 1st of each month until the remaining initial fee of S250K is paid. In addition, extension fees of S10K per week will be accrued and added to the principle and compounded monthly, along with any deficit in

payment should the actual monthly interest-only payments exceed $30K/month. By way of example only, if accrued principle would result in a monthly interest-only payment of $35K, only a $30K monthly cash payment would be required and the $5K deficit would be added to the principle.

Once the remaining initial fee of $250K is paid, then the monthly payment due on the 1st of each month will drop to an estimated $22,500** per month, and the $10K/month extension fee will cease.
**The actual interest-only payment will be calculated based on the current principle at that time.

Additional Agreements:

We didn't specifically address this, but to clarify, acceleration and late fees which are currently assessed at $1,428/day after a 24 hour cure period will still apply to all payments going forward. Late fees will not become due in cash, but will be added to the principle.

After the remaining initial payment is made, any late payments will accrue fees at a rate of $1,428 per day after a 24 hour cure period, however the right to accelerate the entire payment will be in accordance with the cure period (10 days) and terms of the original interest purchase agreement executed 30 April 2018. Similar to the above, any accrued late fees will not be paid in cash but will be added to the principle.

If you agree, please affirmatively reply.
Regards,

SHANE TERRY I CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

> On Feb 18, 2019, at 9:47 PM, Shane Terry <shane@taprootbrands.com> wrote:
>
> Brian,
> Based on our call tonight I'd like to summarize what we discussed so that we're in agreement on the payment schedule:
>
> $52,500 - Due 18/19 Feb (principle extension fees)
> $25,000 - Due 22 Feb (Sept extension fee #1)
> $25,000 - Due 25 Feb (Sept extension fee #2)
> $86,914 - Due 2 March (Late fees assuming $52,500 is paid on the 18th/19th of Feb and we don't do a deal on shelf space)
>
> Those are just the overdue payments. Additionally, the following routine payments will become due during that time period:
>
> $10,000 - Due 20 Feb
> $10,000 - Due 27 Feb
> $22,500 - Due 1 March
>
> If we come to an agreement on shelf space AND the payment deadlines are made then I'm open to waiving some of the late fees, but thats a separate discussion.
>
> We also have $23,361 that was a deficit on monthly interest payments through January. I'm open to paying that off or just adding it to the principle at your discretion. Just let me know which one or I'll assume I should just add it to the principle until its paid.
>
> Please reply that you're in agreement with this, and I'll even send calendar invites for each date so there aren't any surprises.
>
> Regards,
> Shane
>
> **SHANE TERRY** I CEO
> TapRoot Holdings, Inc.
> m. 702.858.2465
>
> <TAPROOT_emailsig.png>
>
> > On Feb 18, 2019, at 4:18 PM, Shane Terry <shane@taprootbrands.com> wrote:
> >
> > Thank you for the response Brian and I have the following comments/questions:
> >
> > 1) What would you propose for a post-tax revenue split?

2) There was an offer that started at waiving 100% of the fees and decreased over time. Unfortunately I didn't get a response from you or payment, and that deadline passed. Given our current situation, this is what I'm willing to waive and ONLY would be on the table if I get payment from you in time to pay my NLV city fees tomorrow without having to resort to a backup plan that would cost me equity.

I'm always open to a proposal that could include waiving more than 50% of the fees, but it would require an alternative financial consideration.

Regards,
Shane

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

> On Feb 18, 2019, at 3:53 AM, Brian Padgett <brian@briancpadgett.com> wrote:
>
> Shane,
>
> I think we are in agreement on many general terms.
>
> Here are a items for us to discuss:
>
> > Taproot will have the rights to shelf space and a pop-up sized merchandizing for 18 months that includes 100% of the post-tax proceeds from the sale of all products TapRoot offers
>
> 100% of post tax profits is too tough for any of our stores to lose.
>
> Additionally wasn't there a prior offer that waived ALL late fees? Currently, you have offered :
>
> > $39,173 to be paid on 25 Feb for late fees (50% of the fees will be waived if this agreement is executed on time)
>
> Let's discuss today. I'm open between 2-4pm.
>
> BCP
>
> iPhone
>
> On Feb 17, 2019, at 9:20 PM, Shane Terry <shane@taprootbrands.com> wrote:
>
> > Brian,
> > Thank you for working with me on this. Just to highlight where we stand now, I've attached the demand letter that you received that highlights $300,000 of the initial payment is still past due. Per our extension agreement last September, I was willing to extend that with certain conditions in the email thread below. Under that additional agreement, I have attached an excel sheet that shows what is currently due in addition to the $300,000 and is summarized with the following:
> >
> > $250,000 - second half of initial payment
> > $50,000 - September extension fee
> > $52,500 - principle extension fees
> > $78,346
> > - late fees
> > $430,846 - Total Past Due Payments
> >
> > Per our phone call tonight, to avoid commencing litigation to accelerate the entire amount outstanding of $1,677,057 please reply stating your agreement with the following:
> >
> > $52,500 to be paid on 18 Feb 2019 for the principle extension fees
> > $50,000 to be paid on 22 Feb
> > $39,173 to be paid on 25 Feb for late fees (50% of the fees will be waived if this agreement is executed on time)
> >
> > In addition, lapRoot will have the rights to shelf space and a pop-up sized merchandizing for 18 months that includes 100% of the post-tax proceeds from the sale of all products TapRoot offers in Canopi's three dispensaries. TapRoot will provide those products at no cost to Canopi, and will collect payment for units sold every Friday of each week along with a summary of all units sold from Canopi's accounting team. I will have my attorney draft the agreement and we will have an execution date of no later than 1 March 2019

an execution date of no later than 1 March 2019.

Finally, as you recall the monthly interest payment (previously $18,750) was for interest-only payments based on an outstanding principle of $1.25m and an 18% annual interest rate. Since the initial payment was only partially made ($250K of the $500K initial payment), there was a total principle of $1.5m and not $1.25m. Therefore, 18% interest on a monthly basis should have been $22,500 and not $18,750. We will discuss how to rectify past deficits at a later date. I will not ask for any late fees due to this shared oversight, but moving forward the monthly interest payment due on the 1st of each month will be $22,500. Per our September agreement I had the right to accelerate the entire note if payment wasn't received within 24 hours, and in addition to retaining that right I will also require a late fee of $1,428/day similar to the late fees for our weekly extension payment.

Upon receipt of the $52,500 payment on 18 Feb, I will cease accruing any late fees for past due amounts. This will not affect any late fees that might be accruing for future missed payments. If all remaining payments are made on the schedule outlined above and the merchandising/sales agreement is executed by 1 March, then I will waive 50% of the currently outstanding late fees. If this agreement is not fulfilled, then the late fees will not be waived and will retroactively be assessed along with my option to accelerate the entire note and past due payments.

I believe that covers everything that we need to memorialize, and please either reply to this email with questions/clarifications, or reply with your agreement.

Regards,
Shane

SHANE TERRY I CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

Begin forwarded message:

From: Shane Terry <shane@taprootbrands.com>
Subject: Re: 5 Sept Extension Agreement
Date: February 8, 2019 at 11:44:42 AM PST
To: Brian Padgett <brian@briancpadgett.com>
Cc: "ann.cooper@cwnevada.com" <ann.cooper@cwnevada.com>

Brian,
Per your request I've attached the overdue amounts.

Let me also re-iterate a summary of my text offer to you:

As of 8 Feb the following is due:

$62,500 in principle
$41,977 in late fees
$104,477 total

I gave you until yesterday to pay $62,500 in principle and I would have waived 100% of the late fees. Since that didn't happen here is the remaining schedule of the offer if you pay the $62,500 principle:

- paid today and I'll waive 75% of late fees
- paid tomorrow and I'll waive 50%
- paid Sunday and I'll waive 25%
- Paid Monday and I'll waive 15%

Tuesday I'll have to file a default and accelerate the entire note with your attached personal guarantee.

Breakdown of individual charges is attached.

SHANE TERRY I CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

On Feb 6, 2019, at 11:18 AM, Shane Terry <shane@taprootbrands.com> wrote:

See attached: you're currently in default, over $100K is outstanding and at 430 today it starts accumulating at $4,284.

In the past I've always waived fees to make it manageable. If I get zero communication back from you I have no interest in collecting anything other than the full amount due since all this is doing is taking up my time to track you down.

SHANE TERRY I CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

> On Feb 2, 2019, at 6:45 PM, Shane Terry <shane@taprootbrands.com> wrote:
>
> Brian,
> I've attached a spreadsheet showing what is overdue as of today. It includes the $10K payment I received from Dell today.
>
> As of close of business 2 February 2019 a total of $79,628 is overdue. Late fees are accumulating at $2,856/day. There's another $10K payment due Wednesday, and if that is late we are back at a rate of $4,284/day.
>
> Out of the $79,628 due, $52,500 is principle payments and the rest are late fees. Until the $52,500 is caught up the late fees will continue to accumulate at a rate that exceeds dispensary sales.
>
> I need a plan for the payments that has specific payment dates or else I'll have no choice but to call the outstanding note (which would be due immediately).
>
> Here's what I'm willing to offer: I will waive the late fees which are approximately $30K and increasing daily. In exchange, we will execute a 18 month contract that 1) gives me the right to sell product through all Canopi dispensaries and recoup 100% of the retail price (net of taxes) and 2) allows us to setup an in-store display (like a pop-up) that will permanently remain in your stores.
>
> This should be an easy win for both of us. I went to each store last week and I know product availability is limited so this will at least get more product on your shelves. Additionally, just from our marketing campaign we drove traffic to your store which gives you the opportunity for up-sells/cross-sells. You have nothing to lose.
>
> Let me know what you think.

SHANE TERRY I CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

> On Jan 16, 2019, at 6:09 PM, Shane Terry <shane@taprootbrands.com> wrote:
>
> Hi Bryan,
> I just brought in a new CPA and legal team and they were reviewing all our documents & payments so far and discovered that we've been underpaying the interest to date.
>
> Per our original agreement there was a $500K initial payment and then you would make interest only payments each month at 18% of the balance which in our contract we assumed would be a principal balance of $1,250,000 which would equate to $18,750/month.
>
> However, when only half of the initial payment was made, we never adjusted the remaining principle (which is now $1.5m instead of $1.25m) so actually $22,500/month was due beginning 1 August 2018 instead of $18,750. Therefore, between August and January there was a deficit of $3,750/month for a total of $22,500 (6 months x $3,750 deficit) as of 1 January 2018.
>
> I do realize that when we agreed on a payment schedule below we did agree on $18,750/month for the monthly payment, even though it should have been $22,500/month. Therefore, I'll propose the following options to catch us back up. Please note that this applies to the monthly payment only, and has no bearing on the weekly

us back up. Please note that this applies to the monthly payment only, and has no bearing on the weekly extensions of $10,000/week.

1) A one-time payment of $22,500 by end of January 2018 to catch up on the outstanding deficit, and then $22,500/month beginning on Feb 1, 2018 and on the 1st of the month after that. Once the full initial payment has been made (of which $300K is outstanding) then we will re-adjust the principle back to $1.25m and the monthly payments will return to $18,750/month in interest-only payments until the principle is further paid down.

2) We continue to stick to the agreed upon $18,750/month, but the outstanding $22,500 deficit will be added to the principle immediately and then an additional monthly deficit will be added to the principle and compounded monthly until there is an additional principle payment.

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

> On Sep 11, 2018, at 6:13 PM, Brian Padgett <brian@briancpadgett.com> wrote:
>
> Sounds like long days for both of us.
>
> Will you be in town tomorrow or you need a wire?
>
> BCP
>
> iPhone
>
> On Sep 11, 2018, at 5:40 PM, Shane Terry <shane@taprootbrands.com> wrote:
>
> > Also, I've settled my bill and no longer have a retainer with Erika. If continuing to accept payments is normal within legal community then I don't mind asking her, but I know the cash makes it a pain for *everyone and I was trying to keep her office from having that liability.*
> >
> > If it's coordinated with me (or wire) then there's a better chance i'll be able to be flexible after hours and weekends to avoid fees, but that's totally up to you.
> >
> > Shane Terry
> > CEO, TapRoot Holdings
> > 702.858.2465
> >
> > Sent from my iPhone
> >
> > On Sep 11, 2018, at 4:56 PM, Brian Padgett <brian@briancpadgett.com> wrote:
> >
> > > In the future cash is best.
> > >
> > > Delivery to Erika if she is still accepting on your behalf.
> > >
> > > Why $15,000?
> > >
> > > What is interest on the $11k+\- ?
> > >
> > > BCP
> > >
> > > iPhone
> > >
> > > On Sep 11, 2018, at 1:47 PM, Shane Terry <shane@taprootbrands.com> wrote:
> > >
> > > > I will try and be helpful on this one, and will split the difference to an even $15,000 if it's paid today.
> > > >
> > > > Shane Terry
> > > > CEO, TapRoot Holdings
> > > > 702.858.2465
> > > >
> > > > Sent from my iPhone
> > > >
> > > > On Sep 11, 2018, at 1:42 PM, Shane Terry <shane@taprootbrands.com> wrote:

Brian, not only did she know nothing about the arrangement or what we had discussed going forward, it can't be up to me to coordinate with your staff unless you initiate it bring them in the loop and authorize it. So no, as far as her and eyes discussion there was no authorization or knowledge for a Friday payment.

Please think of this like any other loan or credit card payment. And I have giving you the wire instructions so your team can pay it whenever it to do, or take cash to the bank to pay it. I'm even trying to be helpful by telling you that I will come pick up cash to save them the hassle.

Also, Friday's payment was $11,428 Per our email thread below and is still accumulating late fees.

I can come by this afternoon to pick up cash if you want to authorize it with your team.

Shane Terry
CEO, TapRoot Holdings
702.858.2465

Sent from my iPhone

On Sep 11, 2018, at 1:08 PM, Brian Padgett <brian@briancpadgett.com> wrote:

> Hey, you saw me note the $10k Friday payment with Diana on Wednesday
>
> Didn't you coordinate payment with her when you picked up payment on Wednesday?
>
> BCP
>
> iPhone
>
> On Sep 11, 2018, at 12:58 PM, Shane Terry <shane@taprootbrands.com> wrote:
>
> > Brian,
> > Thanks for coordinating the payment for last Wednesday, but I never received anything on Friday as discussed.
> >
> > The amount due on Friday is now $17,140 if paid today. Also a reminder of the next $10,000 due tomorrow by 5pm.
> >
> > Please lmk if you want me to pick up cash again or you'd like the wire info. Even though we're probably past the wire cutoff time for today, I will consider it paid if I get a transfer confirmation *by 5pm.*
> >
> > Best,
> > Shane
> >
> > Shane Terry
> > CEO, TapRoot Holdings
> > 702.858.2465
> >
> > Sent from my iPhone
> >
> > Begin forwarded message:
> >
> > > **From:** Brian Padgett <brian@briancpadgett.com>
> > > **Date:** September 5, 2018 at 9:40:45 AM PDT
> > > **To:** Shane Terry <shane@taprootbrands.com>
> > > **Subject: Re: 5 Sept Extension Agreement**
> > >
> > > I agree to the terms per my last email.
> > >
> > > I will advise prior to 11:30 whether you will pick up the $18k or $28K
> > >
> > > Do we have an understanding?
> > >
> > > If so, just say "GOOD".
> > >
> > > **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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<AE5C1DE7-3604-4651-8834-33CC0A92B4E6[31].png>

From: Shane Terry <shane@taprootbrands.com>
Date: Wednesday, September 5, 2018 at 9:39 AM
To: Brian Padgett <brian@briancpadgett.com>
Subject: Re: 5 Sept Extension Agreement

I will let Tanaka know we will follow up. If we want to extend the next payment until Friday, then I'm good with that if we add the daily pro-rata amount of $1,428. Since I agreed to a 24 hour cure-period, it will only be assessed as 1 day late vs 2 days, so a total of $11,428 due Friday by 5pm, and thereafter $10,000 due every Wednesday by 5pm.

If that is good with you, let me know and I'll be in at 1130 to pickup the $18,750.

Best,
Shane

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

<TAPROOT_emailsig.png>

> On Sep 5, 2018, at 9:33 AM, Brian Padgett <brian@briancpadgett.com> wrote:
>
> Please tell Tanaka the latter.
>
> *I am not agreeing the cure period of 10 days was ever waived.*
>
> However, I agree to your terms as set forth below.
>
> Except, I am being told we just paid payroll and cash is low. I can have $18750 today and I would like the option of paying the $10k Friday. Thereafter, Wednesday.
>
> **Brian C. Padgett**
> Law Offices of Brian C. Padgett
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From: Shane Terry <shane@taprootbrands.com>
Date: Wednesday, September 5, 2018 at 9:22 AM
To: Brian Padgett <brian@briancpadgett.com>
Subject: Re: 5 Sept Extension Agreement

You previously agreed with Erika via text that there was no longer a cure period on the monthly interest payments while the initial payment was outstanding. That was due to our monthly issues with collections. Here is what I am okay with:

24 hour cure period will apply to:

1. *$10,000* weekly payments
2. $18,750 monthly interest
3. $300,000 payment after notice is given.

Once the $300,000 payment that will be extended is received, then that should conclude the modifications to the original initial payment. After that, all other terms, including the standard cure period, in the original agreement will be back in effect.

I need to receive cash by 1030 in order to comply with Tanaka's request due at 1100 PST. If you prefer, I can send him an email saying that I will respond with an update by 1300 PST and then I can pickup from you at 1130. Please let me know what you prefer.

Fair enough?

SHANE TERRY | CEO
TapRoot Holdings, Inc.
m. 702.858.2465

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On Sep 5, 2018, at 9:07 AM, Brian Padgett <brian@briancpadgett.com> wrote:

The 24 hour cure period is only for the $10K.

I am not waiving any standard cure period found in the original agreement.

You can pick up the cash at 11:30

All other terms are acceptable.

Please confirm your acceptance.

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From: Shane Terry <shane@taprootbrands.com>
Date: Wednesday, September 5, 2018 at 9:00 AM
To: Brian Padgett <brian@briancpadgett.com>
Subject: 5 Sept Extension Agreement

Memorializing what we just discussed on the phone:

$318,750 is currently overdue, consisting of the following:

- $250,000 payment of initial $500,000 due in June per the Purchase Agreement
- $50,000 extension fee to extend the $250K until August
- $18,750 monthly interest due 1 September.

To further extend the large payment until after the transfer is completed I will agree to the following:

- $300,000 is extended at BCP's discretion at the cost of $10,000 per week. BCP has the right to cancel the extension at anytime with notice and payment of $300,000.
- The $10,000 a week is assessed and paid by 5pm every Wednesday. There is a 24 hour cure period before it is in default, which allows the acceleration of all money due under the original Interest Purchase agreement dated 30 April 2018.
- When canceled by BCP, the pro-rata amount of $10,000/week is due in addition to the $300,000 payment, and will be assessed by the number of calendar days passed since the previous Wednesday at a rate of $1,428/day.

To execute the above agreement $28,750 will be due by 1030am today (5 Sept) which consists of the overdue 1 September interest payment ($18,750) plus a $10,000 weekly extension that will extend the remaining balance until next Wednesday, 12 September, 5pm.

Please let me know if you are in agreement. Today's payment can be made via wire, or I can come pick it up from your office before 1030am.

Regards,
Shane

SHANE TERRY *I CEO*
TapRoot Holdings, Inc.
m. 702.858.2465

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EXHIBIT C