

BAKER BOTTS L.L.P.

1 Stuart C. Plunkett (SBN 187971)  
2 stuart.plunkett@bakerbotts.com  
3 Peter K. Huston (SBN 150058)  
4 peter.huston@bakerbotts.com  
5 BAKER BOTTS LLP  
6 101 California Street, Suite 3600  
7 San Francisco, California 94111  
8 Telephone: (415) 291-6200

9 Theresa A. Sutton (SBN 211857)  
10 theresa.sutton@bakerbotts.com  
11 Kathryn S. Christopherson (SBN 322289)  
12 kathryn.christopherson@bakerbotts.com  
13 BAKER BOTTS LLP  
14 1001 Page Mill Road, Bldg. 1, Suite 200  
15 Palo Alto, California 94304  
16 Telephone: (650) 739-7500

17 *Counsel for Plaintiffs Francine Shulman,  
18 Iron Angel, LLC, and 3F, Inc.*

19 **UNITED STATES DISTRICT COURT**

20 **CENTRAL DISTRICT OF CALIFORNIA**

21 FRANCINE SHULMAN; IRON  
22 ANGEL, LLC; 3F, INC.,

23 Plaintiffs,

24 v.

25 TODD KAPLAN; MEDICAL  
26 INVESTOR HOLDINGS LLC dba  
27 VERTICAL COMPANIES;  
28 VERTICAL WELLNESS, INC.;  
CHARLES HOUGHTON; MATT  
KAPLAN; DREW MILBURN;  
COURTNEY DORNE; SMOKE  
WALLIN; ROBERT SCOTT  
KAPLAN aka ROBERT SCOTT;  
ELYSE KAPLAN; JEFF SILVER;  
IRON ANGEL II, LLC; NCAMBA9,  
INC., and DOES 1 through 10,  
inclusive,

Defendants.

Case No. 2:19-CV-05413

**COMPLAINT FOR VIOLATION  
OF RICO, RICO CONSPIRACY,  
FRAUD, NEGLIGENT  
MISREPRESENTATION,  
BREACH OF CONTRACT,  
BREACH OF IMPLIED  
COVENANT OF GOOD FAITH  
AND FAIR DEALING,  
VIOLATION OF CALIFORNIA  
BUSINESS & PROFESSIONS  
CODE §§ 17200 & 17500,  
VIOLATION OF THE LANHAM  
ACT, COMMON-LAW UNFAIR  
COMPETITION, INTENTIONAL  
INTERFERENCE WITH  
CONTRACTUAL RELATIONS,  
INTENTIONAL INTERFERENCE  
WITH PROSPECTIVE**

BAKER BOTTS L.L.P.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ECONOMIC ADVANTAGE,  
INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS, ELDER  
FINANCIAL ABUSE,  
ASSISTANCE OF ELDER  
FINANCIAL ABUSE, BREACH OF  
FIDUCIARY DUTY BY  
ATTORNEY, MALICIOUS  
PROSECUTION, RESCISSION,  
AND CONSTRUCTIVE TRUST**

**JURY TRIAL DEMANDED**

BAKER BOTTS L.L.P.

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Page**

I. INTRODUCTION..... 1

II. PARTIES..... 10

    A. Plaintiffs..... 10

    B. Defendants..... 10

III. JURISDICTION AND VENUE..... 13

IV. FACTUAL ALLEGATIONS..... 17

    A. Ms. Shulman Accumulates Rights to Valuable Assets, Including Iron Angel, Sisters, and Wellsprings ..... 17

    B. Ms. Shulman, Looking for a Business Partner, Meets Todd Kaplan and Enters Cultivation Agreement and Branding Agreement..... 21

    C. The Parties Agree to the Same Business Arrangement for Cannabis Operations on Wellsprings, and Defendants Implement the Most Damaging of their Fraudulent Schemes ..... 32

    D. Defendants, Directed by Kaplan and Houghton, Execute on a Plan to Oust Ms. Shulman from Iron Angel ..... 40

    E. Defendants Engage in Fraud to Exclude Ms. Shulman from Operator Licensing..... 43

    F. Defendants’ Breaches of the Cultivation Agreement and Wellsprings Agreement Continue and Escalate..... 46

    G. Defendants Attempt to Manipulate Ms. Shulman Into Voluntarily Forfeiting Her Rights ..... 51

    H. Defendants’ Actions Force Termination of Cultivation Agreement and Cause Loss of Wellsprings..... 55

    I. Kaplan Retaliates and Maliciously Files Suit Against Ms. Shulman, Following Through on Promise to “Bury” Her in Litigation ..... 57

    J. Defendants’ Conduct Caused Substantial Financial and Other Harm..... 61

    K. Ms. Shulman Is Not Defendants’ Only Victim..... 64

BAKER BOTTS L.L.P.

1 V. CLAIMS FOR RELIEF..... 69

2 **COUNT I:** Violation of the Federal Racketeer Influenced and

3 Corrupt Organizations Act (18 U.S.C. §§ 1962(c) and 1964(c)) (All

4 Plaintiffs Against Todd Kaplan, Charles Houghton, and Vertical) ..... 69

5 **COUNT II:** Violation of the Federal Racketeer Influenced and Corrupt

6 Organizations Act (18 U.S.C. §§ 1962(d) and 1964(c))

(All Plaintiffs Against All Defendants)..... 85

7 **COUNT III:** Fraud — Intentional Misrepresentation

8 (All Plaintiffs Against Todd Kaplan, Charles Houghton, Courtney

9 Dorne, and Vertical) ..... 86

10 **COUNT IV:** Fraud — Concealment (All Plaintiffs Against Todd

Kaplan, Charles Houghton, Courtney Dorne, and Vertical) ..... 90

11 **COUNT V:** Negligent Misrepresentation (All Plaintiffs Against Todd

12 Kaplan, Charles Houghton, Courtney Dorne, and Vertical) ..... 94

13 **COUNT VI:** Breach of Contract — Cultivation Agreement

14 (All Plaintiffs Against Todd Kaplan, NCAMBA9, and Vertical) ..... 98

15 **COUNT VII:** Breach of Oral Contract — Wellsprings Agreement

16 (Ms. Shulman Against Todd Kaplan, NCAMBA9, and Vertical) ..... 100

17 **COUNT VIII:** Breach of Oral Contract — Branding Agreement (Ms.

18 Shulman and Iron Angel, LLC, Against Todd Kaplan, and Vertical) ..... 101

19 **COUNT IX:** Breach of Implied Covenant of Good Faith and Fair

20 Dealing — Cultivation Agreement (Ms. Shulman Against NCAMBA9

and Vertical) ..... 103

21 **COUNT X:** Breach of Implied Covenant of Good Faith and Fair

22 Dealing — Wellsprings Agreement (Ms. Shulman Against

23 Todd Kaplan, NCAMBA9, and Vertical) ..... 104

24 **COUNT XI:** Breach of Implied Covenant of Good Faith and Fair

25 Dealing — Branding Agreement (Ms. Shulman and Iron Angel, LLC

Against Todd Kaplan and Vertical) ..... 104

26 **COUNT XII:** Unfair Competition — Bus. & Prof. Code § 17200

27 (Ms. Shulman Against Todd Kaplan, Iron Angel II, LLC, and Vertical) ...

28 ..... 105

BAKER BOTTS L.L.P.

1           **COUNT XIII:** False Advertising in Violation of California Business  
2           & Professions Code § 17500, et seq. (Ms. Shulman and Iron Angel,  
3           LLC, Against Todd Kaplan, Iron Angel II, LLC, and Vertical) ..... 110

4           **COUNT XIV:** Unfair Competition in Violation of Section 43(a) of the  
5           Lanham Act, 15 U.S.C. § 1125(a) Trademark Infringement  
6           (Ms. Shulman and Iron Angel, LLC, Against Todd Kaplan,  
7           Iron Angel II, LLC, and Vertical) ..... 111

8           **COUNT XV:** False Advertising in Violation of Section 43(a) of the  
9           Lanham Act, 15 U.S.C. § 1125(a) (Ms. Shulman and Iron Angel, LLC,  
10          Against Todd Kaplan, Iron Angel II, and Vertical) ..... 112

11          **COUNT XVI:** Unfair Competition in Violation of California Common  
12          Law (Ms. Shulman and Iron Angel, LLC, Against Todd Kaplan,  
13          Iron Angel II, LLC, and Vertical) ..... 113

14          **COUNT XVII:** Intentional Interference with Contractual Relations  
15          (Ms. Shulman Against Todd Kaplan and Vertical)..... 114

16          **COUNT XVIII:** Intentional Interference with Prospective Economic  
17          Advantage (Ms. Shulman Against Todd Kaplan and Vertical) ..... 115

18          **COUNT XIX:** Intentional Infliction of Emotional Distress  
19          (Ms. Shulman Against Todd Kaplan, Matt Kaplan, Drew Milburn,  
20          Robert Scott, Courtney Dorne, and Vertical)..... 116

21          **COUNT XX:** Elder Financial Abuse Pursuant to Cal. Welf. & Inst.  
22          Code § 15610.30 (Ms. Shulman Against Todd Kaplan, Iron Angel II,  
23          LLC, and Vertical) ..... 117

24          **COUNT XXI:** Assistance of Elder Financial Abuse Pursuant to Cal.  
25          Welf. & Inst. Code §15610.30  
26          (Ms. Shulman Against Charles Houghton) ..... 119

27          **COUNT XXII:** Breach of Fiduciary Duty by Attorney (Ms. Shulman  
28          Against Charles Houghton)..... 120

**COUNT XXIII:** Malicious Prosecution/Wrongful Use of Civil  
            Proceedings (Ms. Shulman Against Todd Kaplan, Matt Kaplan,  
            Elyse Kaplan, Iron Angel II, LLC, and Vertical)..... 121

BAKER BOTTS L.L.P.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**COUNT XXIV:** Rescission of Iron Angel Lease Due to Fraud  
in the Inducement (Ms. Shulman Against Todd Kaplan and  
Iron Angel II, LLC) .....123

**COUNT XXV:** Constructive Trust (Ms. Shulman Against  
Vertical Wellness) .....125

1 Plaintiffs Francine Shulman, individually and as Trustee of the Shulman  
 2 Family Trust Dated December 24, 2001, Iron Angel, LLC, and 3F, Inc. file this  
 3 Complaint against Defendants Todd Kaplan, Medical Investor Holdings LLC dba  
 4 Vertical Companies (“Vertical”), Vertical Wellness, Inc., Charles Houghton, Matt  
 5 Kaplan, Drew Milburn, Courtney Dorne, Smoke Wallin, Robert Scott Kaplan,  
 6 Elyse Kaplan, Jeff Silver, Iron Angel II, LLC, and NCAMBA9, Inc., and allege as  
 7 follows:

## 8 I. INTRODUCTION

9 1. Defendant Todd Kaplan and his enterprise defrauded Plaintiff  
 10 Francine Shulman and her companies out of their interest in a cannabis cultivation  
 11 operation that Defendants admit would have been one of the “largest in the world  
 12 in 2019” (Exhibit A hereto).<sup>1</sup> Ms. Shulman’s damages, without considering  
 13 exemplary and punitive damages, run into the tens of millions of dollars. While the  
 14 scope and extent of the fraud inflicted on Ms. Shulman is far greater, her  
 15 experience fits neatly into a larger pattern of fraud that Defendants have visited on  
 16 many other victims.

17 2. Ms. Shulman has been a farmer in Santa Barbara County for over  
 18 twenty years. In 1996, she purchased Apple Creek Ranch—a 50-acre apple  
 19 orchard in in the Santa Rita Hills wine appellation. It was there that she studied  
 20 and mastered organic farming practices, and her business grew rapidly as a result.  
 21 She expanded the orchard to produce fifteen apple varieties and other high-quality,  
 22 unique organic fruits and vegetables. Ms. Shulman’s customers—including dozens  
 23 of restaurants and patrons at numerous farmer’s markets—lauded her  
 24 comprehensive farming knowledge and ability to grow unusual and challenging  
 25 varieties. Over time, her business expanded to include the cultivation of gourds,  
 26 which Ms. Shulman—described by one newspaper as an “artistic force”—hand-  
 27 painted, lacquered, and sold internationally. Beginning in 2011, she further

28 \_\_\_\_\_  
<sup>1</sup> Exhibit A is an excerpt from Defendants’ website as of May 2019.

1 developed Apple Creek Ranch into a wedding venue and event space in addition to  
2 a working farm.

3 3. Through her hard work and dedication to ethical, sustainable business  
4 practices, Ms. Shulman forged deep relationships with her neighbors and the  
5 broader agricultural community—a community that is often skeptical of outsiders.  
6 She fostered and maintained valuable relationships with customers, suppliers, and  
7 other business owners. These relationships were based on trust, and they proved  
8 invaluable over the years to her farming business.

9 4. In the Santa Rita Hills and adjacent communities, Ms. Shulman—  
10 “Frannie” to her family and friends—was far more than a talented farmer. She was  
11 a respected leader revered for her kindness and generosity. She mentored young  
12 women; she provided safe and positive jobs to local teenagers and hard-to-employ  
13 individuals; she brought Southern California school children to her farm to dirty  
14 their hands and learn farming techniques; she donated thousands of pounds of  
15 apples and produce to local schools and shelters; and over the years, she provided  
16 hundreds of meals to those in need. Now 66 years old, a mother and grandmother,  
17 Ms. Shulman has spent 20 years boosting the community around her, giving more  
18 and taking less, sacrificing so others could succeed. She found tranquility in this—  
19 a peaceful respite from personal tragedies she has experienced over the years,  
20 including the sudden loss of one of her three sons.

21 5. But nowhere did she envision that tranquility more than on a  
22 stunning, rugged property not far from Apple Creek Ranch in Santa Rita Hills, a  
23 property ideal for multiple uses, including cultivation. Ms. Shulman saw the “for  
24 sale” sign at 5930 Santa Rosa Road, Lompoc, California, while riding past on her  
25 beloved Harley Davidson, nicknamed “Iron Angel,” in early 2014. She arranged to  
26 lease the 1,100-acre property and ultimately purchased it in December 2014 with  
27 the goal of cultivating produce and medical cannabis and ultimately building a  
28 wellness retreat. She named the property after her motorcycle. Iron Angel Ranch



1 was perfectly situated for a farming operation requiring security, located far from  
2 any major highway, accessible by one road, through a single gate, with the  
3 cultivable acreage located in the most private and secure area of the property.  
4 After purchasing the ranch, Ms. Shulman invested in critical infrastructure—  
5 including a well, irrigation, power, and roads—and began farming organic produce  
6 and cannabis, always ensuring compliance with State and County medical  
7 cannabis laws and regulations. In 2017, Ms. Shulman’s grow generated almost  
8 \$3,000,000 in revenue cultivating on just four acres.

9         6. Just as Ms. Shulman was perfecting her knowledge of cannabis  
10 cultivation in the Santa Rita Hills appellation, favorable changes in the law  
11 dramatically changed the value of her business. The County of Santa Barbara  
12 passed regulations in January 2016 favoring local farmers like Ms. Shulman, who  
13 had existing medical cannabis grows. And in November 2016, California voters  
14 approved Proposition 64, the Adult Use of Marijuana Act, permitting the sale of  
15 cannabis for recreational use as of January 1, 2018. These changes fundamentally  
16 altered the cannabis business and positioned farmers like Ms. Shulman to  
17 transform modest, albeit highly generative, cannabis grows into large-scale  
18 cannabis cultivation, manufacturing and processing operations.

19         7. Ms. Shulman saw the enormous potential and positioned herself to  
20 expand onto adjacent properties with even greater cultivable acreage than on Iron  
21 Angel. By July 2017, she had leased a property at 5000 Santa Rosa Road, Lompoc,  
22 California, from Divine Mercy, Inc., a tax-exempt religious organization operated  
23 by Sister Jean Marie Kirby (the property is referred to as “Sisters”). Sisters had  
24 more than five-times the cultivable acreage of Iron Angel with an option for  
25 further expansion. She was also in discussions with neighbors Russell (“Rusty”)  
26 and Susan Lugli, who had sold her Iron Angel, to buy 6500 Santa Rosa Road  
27 (known as “Wellsprings”). Iron Angel was once part of Wellsprings and together  
28

1 had been a 1,500-acre ranch with by far the most cultivable acreage on  
2 Wellsprings.



10 8. With Iron Angel already in operation, Sisters under lease, and a  
11 purchase agreement on Wellsprings, Ms. Shulman's foresight placed her in a most  
12 unlikely position—once an Apple farmer, now on the ground floor of an  
13 agricultural revolution in California, situated on some of the most desirable land  
14 for cannabis cultivation in the middle of Santa Barbara County, which, like no  
15 other agricultural county in the State, understood the transformative power of the  
16 cannabis business on its communities. And this was all happening in her backyard,  
17 near the very fields where she had perfected her farming skills, in the place where  
18 she was known and trusted, and in the community where she had built a valuable  
19 network of business connections.

20 9. By Spring 2017, Ms. Shulman recognized that she needed a business  
21 partner, someone with the capital to invest in her business to achieve its full  
22 potential and someone with even greater industry experience and knowledge to  
23 help guide her through the changing regulatory landscape. She was exceptionally  
24 well-positioned to attract such a partner, and if she were able to find the right one,  
25 the sky was the limit. But Ms. Shulman was also uniquely vulnerable. She was in  
26 control of land that could produce tens of millions of dollars in crops in a short  
27 amount of time, in a burgeoning industry that was attracting investors of all types,  
28 legitimate and otherwise. And Ms. Shulman's past business dealings had been far

1 more modest, built largely on trust. For these reasons, in June 2017, poised atop  
2 this century's version of a Sutter's Mill, Ms. Shulman really was a sitting duck.

3 10. That month, Ms. Shulman was introduced to Defendant Todd Kaplan.  
4 Instantly aware of the value of her assets, fully attuned to her vulnerabilities,  
5 already determined to strike it rich in cannabis at anyone's expense, and desperate  
6 for a picturesque centerpiece for marketing materials used to steer funds to his  
7 own enterprise, Kaplan was the worst thing that could have happened to  
8 Ms. Shulman. For Kaplan's part, he saw Iron Angel, Sisters, and Wellsprings as  
9 the ultimate source for Vertical's aspirations of a "global" supply chain.

10 11. Preliminarily, Kaplan is an admitted felon. A federal grand jury  
11 indicted him for health care fraud, conspiracy to commit money laundering, illegal  
12 kickbacks, and attempts to evade taxes. He pleaded guilty in 2007 to the tax  
13 charge. Fortunately for Kaplan, the government did not pursue the other 133  
14 counts against him after the court suppressed evidence from the search of Kaplan's  
15 business, finding that the warrant was vague and overbroad. The government  
16 described his plea agreement as "extremely generous."

17 12. But Ms. Shulman was not so lucky. She quickly became a victim of a  
18 fraudulent scheme, perpetrated by Kaplan and the other members of his enterprise,  
19 to steal Ms. Shulman's business and take for itself millions of dollars in profits, to  
20 oust her from her property, and to steal money and property from her and her  
21 family. Like many con artists working their mark, Kaplan exhibited a cloying  
22 charm in the beginning. He and other members of his enterprise repeatedly told  
23 Ms. Shulman she was "family," lavishing her with praise and gratitude in glowing  
24 terms, such as thanking her for letting them be part of her "dream." But then when  
25 she was viewed as standing in the way of Kaplan's illegal goals—indeed, when  
26 she so much as stood her ground under the contracts in place—Kaplan turned on a  
27 dime, becoming the raging "tyrant" and "bully" known so well to those who have  
28 worked with him. Kaplan screamed—literally, screamed, as loud as a person could

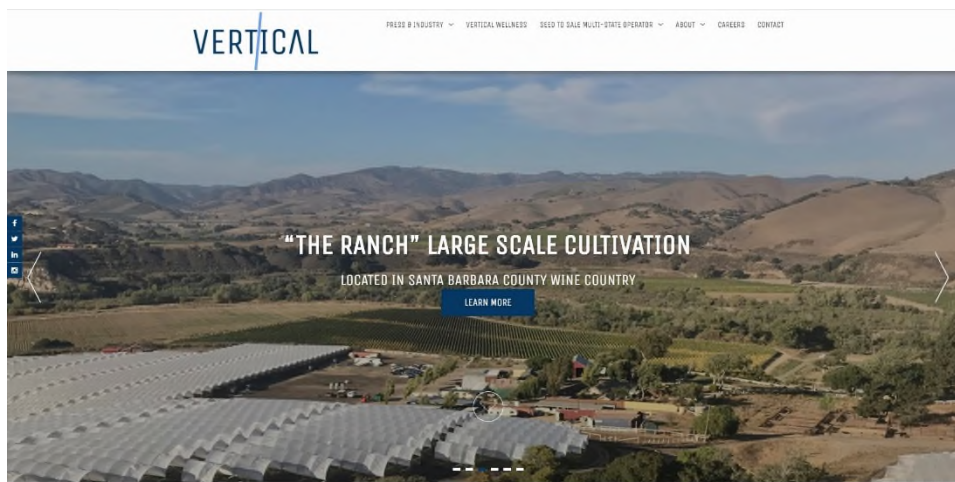
1 scream—at Ms. Shulman on numerous occasions, and he and other Defendants  
2 oscillated from calling Ms. Shulman “family” and saying how much they “loved”  
3 her to calling her a “fucking bitch,” an “old lady who should stay behind her  
4 fence,” “lazy,” and “stupid,” among many other horrendous epithets.

5 13. Kaplan and his crew threatened and intimidated Ms. Shulman,  
6 inflicting emotional pain and suffering on her. Kaplan threatened to “bury” her in  
7 litigation if she had the nerve to fight back. Indeed, Ms. Shulman had been warned  
8 of the consequences of not agreeing to Kaplan’s demands. In 2019, after the  
9 business relationship was terminated, Kaplan and other Defendants violated the  
10 terms of a temporary restraining order for the specific purpose of harassing and  
11 intimidating Ms. Shulman on her own property, menacingly parking a car outside  
12 of her house all night with two men in it. When their lawyer explained to them that  
13 they were not permitted to park a car on the property, they moved the car even  
14 closer to the house; and they did this night after night. In another illustrative  
15 moment, following a court conference in May 2019, Kaplan and his brother,  
16 Robert Scott Kaplan, intimidatingly followed Ms. Shulman on the highway,  
17 cutting in and out of traffic to stay next to her car, ultimately forcing her off the  
18 road to avoid an accident; and then when she did exit, Kaplan revealed exactly  
19 who he is by making an obscene gesture at Ms. Shulman from the passenger seat  
20 of Robert’s jeep.

21 14. Kaplan and Defendants defrauded Ms. Shulman from day one. To  
22 state just a few examples, Kaplan lied about his criminal history, telling her and  
23 others that he was innocent of the charges—a claim he makes publicly on his  
24 website. He concealed from Ms. Shulman that, in fact, he had sworn under oath to  
25 a federal judge in open court that he was guilty of the felony he pleaded to (or he  
26 concealed that he had perjured himself in court that day to get the “generous” plea  
27 deal). Either way, he lied about it. Kaplan represented that his company managed a  
28 cannabis dispensary in Studio City and that it was one of the places where he

1 would be distributing her products, concealing from her that in fact he had been  
 2 locked out of the dispensary and sued by its owner for fraud and breach of  
 3 contract. The owner of the dispensary alleged that Kaplan had attempted to  
 4 execute on a secret plan to take over ownership of the small business. Kaplan also  
 5 misrepresented the status of a cannabis facility his company had in Needles,  
 6 California, on the Arizona border, representing that it was a state-of-the art facility  
 7 with significant production taking place at the time. In fact, the facility was in  
 8 shambles and continued to be in shambles during the parties' business dealings.

9 15. Kaplan and other Defendants would ultimately lie to investors and  
 10 others, claiming they owned Iron Angel and Wellsprings, prominently featuring  
 11 the properties in their marketing materials—even after they had been evicted. They  
 12 used the term “Santa Rita” to refer to Iron Angel and Wellsprings, and,  
 13 misrepresenting their interests in these 1,500 acres, they claim to have raised at  
 14 least \$65 million in investment funds. Astoundingly, as of June 2019, Vertical’s  
 15 website prominently featured pictures of “The Ranch,” described as “1,500 Acres”  
 16 of “Large Scale Cultivation” in “Santa Barbara County Wine Country.” Of course,  
 17 Defendants had long ago been evicted from the property represented to the world  
 18 as their own. The picture of “The Ranch” shows the substantial cultivation  
 19 operations on Wellsprings that Ms. Shulman was entitled to, but which Defenants  
 20 had already harvested, disassembled, and removed from the property.



1           16. At the time of filing of this Complaint, Defendants had begun to  
2 expand the fraudulent use the photograph of the Wellsprings operation, which was  
3 already defunct as the result of their wrongful conduct. The below image appears  
4 on the website for Vertical CR (Costa Rica):



16           17. In negotiating the business deal to operate a cannabis cultivation with  
17 Ms. Shulman on Iron Angel, Sisters, and Wellsprings, Kaplan and members of his  
18 enterprise outright misrepresented their experience in the cannabis business and  
19 their ability to fund operations—two of the most essential terms of the  
20 arrangement to Ms. Shulman. Almost immediately after inking the deal, Kaplan  
21 worked with Defendant Charles Houghton, in-house counsel for Kaplan’s  
22 business, to devise and implement a plan to defraud Ms. Shulman out of her land  
23 and her business. Houghton also acted as legal adviser to Ms. Shulman, pretending  
24 to have her best interest in mind. In fact, working with Kaplan, Houghton conned  
25 Ms. Shulman into signing a “lease” on Iron Angel, saying it was “not important”  
26 and solely for regulatory purposes. Then, following through on threats to “bury”  
27 Ms. Shulman in litigation, Kaplan sued Ms. Shulman, arguing that the lease meant  
28 Kaplan’s enterprise could oust Ms. Shulman from her own land. Houghton also

1 assisted Kaplan to illegally manipulate the regulatory system to steal from  
2 Ms. Shulman the legal rights to run her business. The pattern of illegal  
3 racketeering activity goes well beyond these examples and are set forth in detail in  
4 this Complaint.

5 18. That this is the conduct of an illegal racketeering enterprise is clear  
6 not only from the pattern of activity directed at Ms. Shulman, but also by  
7 strikingly similar conduct by Kaplan and his enterprise directed at other victims,  
8 both here in California and as far away as Costa Rica, as set forth herein. As just  
9 one example, Kaplan, Houghton, and other Defendants engaged in the same  
10 unlawful behavior with Mr. and Mrs. Lugli, owners of Wellsprings, employing the  
11 same tactics—referring to them as family, cajoling them into signing a supposedly  
12 “unimportant” contract, later threatening to bury them in litigation (ultimately  
13 filing a \$30 million claim against them), and lying to them about the status of  
14 Kaplan’s cannabis business. But most striking of all is the pattern of elder abuse  
15 by Kaplan and Houghton. Rusty and Susan Lugli, like Ms. Shulman, are seniors;  
16 Mr. Lugli is in his eighties and Mrs. Lugli in her late seventies. Mr. and Mrs. Lugli  
17 are also burn victims, having been seriously injured and permanently disfigured in  
18 a fire years ago. Kaplan had been hounding them to sign the “unimportant”  
19 contract that would later form the basis for his \$30 million claim against them, and  
20 finally got the signatures he so desperately wanted—by tracking them on a visit to  
21 Cedar Sinai Burn Center in Los Angeles where they go regularly for treatments to  
22 their wounds.

23 19. There isn’t much Kaplan wouldn’t do to enrich himself at the expense  
24 of others, which explains why his own son calls him “the greediest person in the  
25 world.”  
26  
27  
28

## II. PARTIES

### A. Plaintiffs

20. Plaintiff Francine Shulman is an individual and, at all relevant times, a resident of the County of Santa Barbara.

21. Plaintiff Iron Angel, LLC is a California Limited Liability Company with its principal place of business in Lompoc, California. Iron Angel, LLC is owned and operated by Ms. Shulman and has been registered with the California Secretary of State since January 10, 2018.

22. Plaintiff 3F, Inc. is a California nonprofit mutual benefit corporation with its principal place of business in Lompoc, California. 3F, Inc. is owned and operated by Ms. Shulman and has been registered with the California Secretary of State since May 26, 2016.

### B. Defendants

23. Defendant Todd Kaplan is an individual residing in Los Angeles County, California. At all relevant times, Kaplan was doing business in California, including in the County of Santa Barbara. Kaplan is the founder and CEO of Defendant Vertical, owner of Defendants NCAMBA9, Inc. and Iron Angel II, LLC. At all relevant times, Kaplan was acting as the agent or employee of those entities and acting within the scope of his agency or employment.

24. Defendant Medical Investor Holdings LLC, dba Vertical Companies (“Vertical”) is a California limited liability company that is majority owned and controlled by and through Defendant Kaplan, its CEO and founder. Vertical was registered with the California Secretary of State on June 22, 2016.

25. Vertical Wellness, Inc. is a Delaware corporation with its principal place of business in Los Angeles County, California. Vertical Wellness was incorporated in the State of Delaware on January 11, 2019, and it was registered with the California Secretary of State on March 11, 2019.

BAKER BOTTS L.L.P.



1           26. Defendant Charles Houghton was at all times relevant herein an  
2 individual residing in California. Houghton is an attorney licensed to practice in  
3 Colorado. He is a regulatory advisor to Vertical and was, at all times relevant,  
4 counsel to Vertical. Houghton returned to his home state of Colorado in 2018 and  
5 continues to advise Kaplan and Vertical.

6           27. Defendant Matthew Kaplan is an individual residing in Los Angeles  
7 County. He is the son of Todd Kaplan and Director of Operations at Vertical. At  
8 all relevant times, he was acting as the agent or employee of Vertical and acting  
9 within the scope of his agency or employment.

10           28. Defendant Drew Milburn is an individual residing in Los Angeles  
11 County. He is Chief Operating Officer of Vertical and at all relevant times was  
12 acting as the agent or employee of Vertical and acting within the scope of his  
13 agency or employment.

14           29. Courtney Dorne is an individual residing in Los Angeles County. She  
15 is the President, Vertical Brands and, at all relevant times, was acting as the agent  
16 or employee of Vertical and acting within the scope of her agency or employment.

17           30. Defendant Smoke Wallin is an individual residing in Los Angeles  
18 County. He is President of Vertical and President and CEO of Vertical Wellness  
19 and, at all relevant times, was acting as the agent or employee of Vertical and  
20 acting within the scope of his agency or employment.

21           31. Defendant Robert Scott Kaplan (aka Robert Scott) is an individual  
22 residing in Los Angeles County. He is the brother of Todd Kaplan, father of  
23 Elyse Kaplan, and Chief Technology Officer of Vertical. At all relevant times, he  
24 was acting as the agent or employee of Vertical and acting within the scope of his  
25 agency or employment.

26           32. Defendant Elyse Kaplan is an individual residing in Los Angeles  
27 County and Corporate Counsel at Vertical. At all relevant times, she was acting as  
28

1 the agent or employee of Vertical and acting within the scope of her agency or  
2 employment.

3 33. Defendant Jeff Silver is an individual residing in Los Angeles County  
4 and Vertical's former Chief Financial Officer and now its strategic advisor. At all  
5 relevant times, he was acting as the agent or employee of Vertical and acting  
6 within the scope of his agency or employment.

7 34. Defendant Iron Angel II, LLC, is, and was at all relevant times, a  
8 California limited liability company owned and controlled by and through  
9 Defendant Todd Kaplan. Iron Angel II, LLC, was registered with the California  
10 Secretary of State on or about January 10, 2018.

11 35. Defendant NCAMBA9, Inc. is a California nonprofit mutual benefit  
12 corporation owned and controlled by and through its President, Defendant  
13 Todd Kaplan. Defendant Kaplan incorporated NCAMBA9 in August 2016.

14 36. Plaintiffs do not know the true names and capacities, whether  
15 individual, corporate, associate or otherwise, of defendants sued herein as Does 1  
16 through 10, inclusive, and therefore sue these Defendants by such fictitious names.  
17 Plaintiffs will amend this Complaint to allege the true names and capacities when  
18 ascertained.

19 37. Plaintiffs are informed and believe, and thereupon allege, that each of  
20 the fictitiously named Defendants is responsible in some manner for the  
21 occurrences and damages herein alleged, and that Plaintiffs' injuries as herein  
22 alleged were proximately caused by the actions and omissions of such fictitiously  
23 named Defendants.

24 38. Plaintiffs are informed and believe, and thereupon allege, that at all  
25 times herein mentioned, each of the Defendants were the agents and employees of  
26 each of the remaining Defendants, and, in doing the things hereinafter alleged,  
27 were acting within the course and scope of such agency and employment.  
28

### III. JURISDICTION AND VENUE

1  
2 39. This Court has jurisdiction over this matter pursuant to 28 U.S.C.  
3 § 1331 (federal question jurisdiction), and 18 U.S.C. § 1964 (RICO), and 15  
4 U.S.C. § 1125 (trademark infringement and false advertising), 28 U.S. Code  
5 § 1338 (trademarks and unfair competition), and 28 U.S.C. § 1367 (supplemental  
6 jurisdiction) conferring jurisdiction over state-law claims that are so related to  
7 Plaintiffs' federal law claims that they form part of the same case or controversy  
8 under Article III of the United States Constitution.

9 40. Defendants are subject to personal jurisdiction in the Central District  
10 of California because most of them are residents of this District and because they  
11 have committed torts and caused tortious injury in this District by acts committed  
12 both inside and outside this District. Defendants also regularly solicit business in  
13 this District, and Defendants have engaged in a persistent course of conduct in this  
14 District.

15 41. Defendant Todd Kaplan is subject to personal jurisdiction in the  
16 Central District of California because, (1) he currently works and resides, and at  
17 all relevant times worked and resided, within the District, (2) he has purposely  
18 availed himself of the benefits of California, (3) the controversy is related to and  
19 arises out of his acts committed within the District, (4) his torts and acts caused  
20 injury within this District, and (5) the assertion of personal jurisdiction over him  
21 comports with fair play and substantial justice.

22 42. Defendant Vertical is subject to personal jurisdiction in the Central  
23 District of California because, (1) it is currently, and at all relevant times, was a  
24 California limited liability corporation headquartered within the District, (2) it  
25 purposely availed itself of the benefits of California, (3) the controversy is related  
26 to and arises out of Vertical's acts (4) Vertical's torts and acts caused injury within  
27 this District, and (5) the assertion of personal jurisdiction comports with fair play  
28 and substantial justice.

BAKER BOTTS L.L.P.

1           43. Defendant Vertical Wellness, Inc. is subject to personal jurisdiction in  
2 the Central District of California because (1) it is currently, and at all relevant  
3 times, was headquartered within the District, (2) until on or about March 2019 it  
4 was a division, or other unincorporated affiliate, of Defendant Vertical (3) it has  
5 purposely availed itself of the benefits of California, (4) it has held or used funds  
6 misappropriated from Plaintiffs within the District, and (5) the assertion of  
7 personal jurisdiction comports with fair play and substantial justice.

8           44. Defendant Charles Houghton is subject to personal jurisdiction in the  
9 Central District of California because, (1) until on or about July 2018, he worked  
10 and resided within the District employed as counsel to Defendant Vertical  
11 (wherein Houghton executed, and filed with the California Secretary of State,  
12 documents to register Plaintiff Iron Angel, LLC, and Defendant Iron Angel II,  
13 LLC, to conduct business in the State of California) and gave legal advice to  
14 Kaplan's businesses regarding California business practices, (2) he is currently  
15 listed as Vertical's Regulatory Advisor and thus continues to have contact with,  
16 and continues to do business in, California in furtherance of Defendants' ongoing  
17 unlawful behavior (3) he has purposely availed himself of the benefits of  
18 California, (4) the controversy is related to and arises out of his acts committed  
19 within the District, including his intentional and negligent misrepresentations and  
20 fraudulent concealments regarding the lease for Iron Angel Ranch; the assistance  
21 he gave to Kaplan in appropriating Ms. Shulman's property by inducing her  
22 through legal advice holding himself out as Ms. Shulman's attorney, inducing her  
23 to sign the lease through fraud, giving Plaintiffs legal advice regarding their  
24 business, the California licenses he alleged Plaintiffs needed to procure, and the  
25 supporting documents he fraudulently induced Ms. Shulman to sign for county and  
26 state licenses, (5) Houghton's torts and acts caused injury within this District,  
27 Houghton's purported position as Ms. Shulman's attorney when in actuality he had  
28 a conflict of interest in his position as both attorney for Kaplan's business and

BAKER BOTTS L.L.P.

1 Ms. Shulman, and (5) the assertion of personal jurisdiction comports with fair  
2 play and substantial justice.

3 45. Defendant Matt Kaplan is subject to personal jurisdiction in the  
4 Central District of California because, (1) he currently resides, and at all relevant  
5 times resided, within the District, (2) he has purposely availed himself of the  
6 benefits of California, (3) the controversy is related to and arises out of his acts  
7 committed within the District, (4) his torts and acts caused injury within this  
8 District, and (5) the assertion of personal jurisdiction over him comports with fair  
9 play and substantial justice.

10 46. Defendant Drew Milburn is subject to personal jurisdiction in the  
11 Central District of California because, (1) he currently resides, and at all relevant  
12 times resided, within the District, (2) he has purposely availed himself of the  
13 benefits of California, (3) the controversy is related to and arises out of his acts  
14 committed within the District, (4) his torts and acts caused injury within this  
15 District, and (5) the assertion of personal jurisdiction comports with fair play and  
16 substantial justice.

17 47. Defendant Courtney Dorne is subject to personal jurisdiction in the  
18 Central District of California because, (1) she currently resides, and at all relevant  
19 times resided, within the District, (2) she has purposely availed herself of the  
20 benefits of California, (3) the controversy is related to and arises out of her acts  
21 committed within the District, (4) her torts and acts caused injury within this  
22 District, and (5) the assertion of personal jurisdiction comports with fair play and  
23 substantial justice.

24 48. Defendant Smoke Wallin is subject to personal jurisdiction in the  
25 Central District of California because, (1) he currently resides, and at all relevant  
26 times resided, within the District, (2) he has purposely availed himself of the  
27 benefits of California, (3) the controversy is related to and arises out of his acts  
28 committed within the District, (4) his torts and acts caused injury within this

1 District, and (5) the assertion of personal jurisdiction comports with fair play and  
2 substantial justice.

3 49. Defendant Robert Scott is subject to personal jurisdiction in the  
4 Central District of California because, (1) he currently resides, and at all relevant  
5 times resided, within the District, (2) he has purposely availed himself of the  
6 benefits of California, (3) the controversy is related to and arises out of his acts  
7 committed within the District, (4) his torts and acts caused injury within this  
8 District, and (5) the assertion of personal jurisdiction comports with fair play and  
9 substantial justice.

10 50. Defendant Elyse Kaplan is subject to personal jurisdiction in the  
11 Central District of California because, (1) she currently resides, and at all relevant  
12 times resided, within the District, (2) she has purposely availed herself of the  
13 benefits of California, (3) the controversy is related to and arises out of her acts  
14 committed within the District, (4) her torts and acts caused injury within this  
15 District, and (5) the assertion of personal jurisdiction comports with fair play and  
16 substantial justice.

17 51. Defendant Jeff Silver is subject to personal jurisdiction in the Central  
18 District of California because, (1) he currently resides, and at all relevant times  
19 resided, within the District, (2) he has purposely availed himself of the benefits of  
20 California, (3) the controversy is related to and arises out of his acts committed  
21 within the District, (4) his torts and acts caused injury within this District, and  
22 (5) the assertion of personal jurisdiction comports with fair play and substantial  
23 justice.

24 52. Defendant Iron Angel II, LLC is subject to personal jurisdiction in the  
25 Central District of California because (1) it is currently, and at all relevant times,  
26 was a California limited liability corporation headquartered within the District,  
27 (2) it has purposely availed itself of the benefits of California, (3) the controversy  
28 is related to and arises out of Iron Angel II's acts (4) Iron Angel II's torts and acts

1 caused injury within this District, and (5) the assertion of personal jurisdiction  
2 comports with fair play and substantial justice.

3 53. Defendant NCAMBA9, Inc. is subject to personal jurisdiction in the  
4 Central District of California because (1) it is currently, and at all relevant times,  
5 was a California non-profit mutual benefit corporation headquartered within the  
6 District, (2) it has purposely availed itself of the benefits of California, (3) the  
7 controversy is related to and arises out of Vertical's acts (4) Vertical's torts and  
8 acts caused injury within this District, and (5) the assertion of personal jurisdiction  
9 comports with fair play and substantial justice.

10 54. Venue for this action is proper in this District pursuant to 28 U.S.C.  
11 §§ 1391 and 18 U.S.C. §1965, because a significant portion of the Defendants'  
12 unlawful activities have occurred in this District, Defendant Vertical maintains its  
13 headquarters in this District, most of the individual Defendants work and reside in  
14 this District, and the ends of justice require that Defendants be brought before this  
15 Court.

#### 16 IV. FACTUAL ALLEGATIONS

17 55. In addition to the factual allegations made in the foregoing  
18 Introduction, Plaintiffs allege the following.

##### 19 A. **Ms. Shulman Accumulates Rights to Valuable Assets, Including** 20 **Iron Angel, Sisters, and Wellsprings**

21 56. After operating a farm on Apple Creek Ranch since 1996,  
22 Ms. Shulman turned her focus to Iron Angel, where she saw the possibility of  
23 establishing a medical cannabis business. In March 2014, Ms. Shulman began  
24 leasing Iron Angel from Rusty and Susan Lugli. At that time, she moved into the  
25 house already built on the property. On December 1, 2014, Ms. Shulman  
26 purchased Iron Angel from Mr. and Mrs. Lugli.<sup>2</sup> Once on the property, she quickly  
27

28 <sup>2</sup> Her friends, Kim and Barbara Marienthal, hold a 30% interest in the land. Title to the property is held by Kim L. Marienthal and Barbara M. Marienthal, Trustees of

1 developed the necessary infrastructure for cultivation, including irrigation and  
2 roads, and she prepared certain acreage on the property for cultivation. In  
3 approximately August 2014, not long after moving onto the property, and pursuant  
4 to the Compassionate Use Act of 1996, Ms. Shulman began to farm medical  
5 cannabis. At the time, under California Health & Safety Code, patients and  
6 caregivers were authorized to “collectively or cooperatively” cultivate medical  
7 marijuana through organizations that facilitated the collaborative efforts of its  
8 members. To comply with this legal requirement, Ms. Shulman formed and joined  
9 collectives, including 3F, Inc. She also grew organic produce on Iron Angel,  
10 including beans, corn, tomatoes, lettuce, beets, carrots, pumpkins, raspberries, and  
11 hundreds of apple trees.

12 57. From the beginning, Ms. Shulman and her collectives complied with  
13 all local and state laws and regulations. Ms. Shulman started with a one-acre grow  
14 in 2014, which yielded approximately 2,000 pounds of cannabis and sold for about  
15 \$1,300 per pound. She reinvested and expanded her grow each year. Ms. Shulman  
16 became more experienced farming on Iron Angel and choosing the most  
17 productive and lucrative varieties for the property’s characteristics, dramatically  
18 increasing her yield per acre each year. By 2017, she cultivated four acres on Iron  
19 Angel and had installed the necessary infrastructure and hired the right people to  
20 help run the operation. Under Ms. Shulman’s management, the 2017 plants were  
21 huge. The first 5,000 pounds of cannabis cultivated left the ranch on October 11,  
22 2017. Though cannabis prices can fluctuate wildly, Ms. Shulman’s crops garnered  
23 approximately \$650 per pound in 2017, bringing revenue to almost \$3 million.

24 58. In November 2016, the Adult Use of Marijuana Act passed. Under the  
25 Act, beginning January 1, 2018, California residents were to be permitted to sell  
26

27 \_\_\_\_\_  
28 the Kim L. Marienthal and Barbara M Marienthal 2003 Trust, under trust  
instrument dated April 17, 2003; and Barry Shulman and Francine Shulman,  
Trustees of the Shulman Family Trust, under trust dated December 24, 2001.



1 marijuana for recreational use. When the Act passed, Ms. Shulman saw an  
2 opportunity to substantially grow her business. To do that, she began exploring the  
3 possibility of expanding onto adjoining properties that were even more favorable  
4 for cannabis cultivation than Iron Angel, in part because they had more cultivable  
5 acreage.

6 59. On July 1, 2017, after two months of negotiations and before any  
7 agreement with Kaplan, Ms. Shulman signed a deal with Divine Mercy, Inc., to  
8 lease up to 40 acres of cultivable, neighboring land (referred to as “Sisters”).  
9 Divine Mercy is a religious organization operated by President and Chief  
10 Operating Officer, Sister Jean Marie Kirby. The lease authorized Ms. Shulman,  
11 through her company Emerald Sky, to grow, cultivate, manufacture, market, and  
12 distribute agricultural products, including cannabis and derivative products, on and  
13 from Sisters. Sisters’ terrain was flat and very conducive to farming, with much  
14 more cultivable acreage than on Iron Angel.

15 60. In September 2017, Ms. Shulman and Kaplan cultivated six acres on  
16 Sisters. A second grow on approximately eight acres began in early 2018. In  
17 June 2018, after two successful harvests, and at Kaplan’s insistence, Houghton  
18 instructed Ms. Shulman to discontinue operations on Sisters. Matt Kaplan drafted  
19 an email to CDFR to deactivate Ms. Shulman’s licenses, which prompted the  
20 CDFR to question the deactivation. Houghton wrote: “Unless somebody has a  
21 better suggestion, I would suggest that we inform CDFR that the reason for the  
22 deactivation is that we are still planning how to use available financial resources,  
23 and rather than commit to time and cost of applying for these licenses, we have  
24 decided to forego these licenses until plans are finalized.” A portion of Sisters was  
25 on a riverbed and thus could not be cultivated, but Sister Kirby had given the  
26 parties the option of moving the grow to a different, useable part of the property.  
27 Rather than invest the resources to continue harvesting on Sisters, as they were  
28 required to do under the Cultivation Agreement, Defendants instead stripped

1 Ms. Shulman of her rights to cultivate on the land. Houghton directed the  
2 deactivation of Ms. Shulman’s licenses to operate, rendering Sisters unusable for  
3 lawfully cultivating cannabis. Houghton also took over negotiations and  
4 discussions regarding Ms. Shulman’s lease on Sisters. Kaplan made the decision to  
5 abandon Sisters as part of the overall scheme to rid Ms. Shulman of her licenses,  
6 move the business entirely to Wellsprings, and ultimately to take control of  
7 Wellsprings and remove Ms. Shulman from the business entirely.

8 61. Just after July 4, 2017, and shortly after she had signed the lease for  
9 Sisters, Ms. Shulman was negotiating with Mr. and Mrs. Lugli—her neighbors and  
10 friends who had sold Iron Angel to her—for the purchase of Wellsprings Ranch,  
11 located at 6500 Santa Rosa Road, Buellton, California. Wellsprings is 402 acres  
12 and was once part of Iron Angel, together comprising an approximately 1,500-acre  
13 ranch with most of the cultivable acreage on Wellsprings. Wellsprings has all the  
14 same security advantages of Iron Angel—far from any major highway and  
15 accessible by a single road—but it is flatter than Iron Angel and has a minimum of  
16 100 cultivable acreage—about ten-times that of Iron Angel. Wellsprings was thus  
17 a valuable asset that could support a large-scale commercial cannabis operation.

18 62. By July 7, 2017, Ms. Shulman had reached an agreement in principal  
19 with the Lugli’s to purchase the property subject to finalizing the terms of a sale in  
20 a written agreement. Ms. Shulman and the Lugli Family Trust (“Lugli Trust”)  
21 entered into a Purchase and Sale Agreement and Joint Escrow Instructions (the  
22 “Wellsprings Purchase Agreement”), effective July 15, 2017, for the purchase  
23 price of \$7.5 million. The Wellsprings Purchase Agreement required Ms. Shulman  
24 to make four installment payments towards the Purchase Price of Wellsprings  
25 Ranch. The first installment was deemed a nonrefundable deposit, in the amount of  
26 \$50,000, due on July 15, 2017. The second installment in the amount of \$500,000  
27 was due and payable within thirty days after the execution of the Wellsprings  
28 Purchase Agreement; the third installment in the amount of \$500,000,00 was due

1 within 90 days. The remaining balance of \$6,450,000.00 was due on January 15,  
2 2018—the close of escrow date. The first two payments were timely made.

3 63. Determined to get her cannabis business up and running on  
4 Wellsprings as early as possible, Ms. Shulman also negotiated a lease of  
5 Wellsprings, so she could take immediate possession of the property and begin  
6 preparing the fields for cultivation. On July 22, 2017, the Lugli Trust, on the one  
7 hand, and Ms. Shulman and her company, Emerald Sky Agricultural Acquisition,  
8 on the other, executed the Wellsprings Ranch Land Lease. The lease entitled  
9 Ms. Shulman to use Wellsprings for farming operations. The lease payment was  
10 due at the end of the leasing period, or January 15, 2018, and the parties agreed the  
11 lease payment would be deducted from the purchase price for Wellsprings.  
12 Ms. Shulman quickly began work on Wellsprings—including plowing the fields  
13 herself—and later moved into an existing residence on the property.

14 **B. Ms. Shulman, Looking for a Business Partner, Meets**  
15 **Todd Kaplan and Enters Cultivation Agreement and Branding**  
16 **Agreement**

17 64. In June 2017, recognizing the potential for exponential growth,  
18 Ms. Shulman began looking for an investor and business partner—one with the  
19 funds needed to expand the business and the knowledge and experience to guide  
20 the business through the changing and complex regulatory scheme for cannabis  
21 operations in California. Ms. Shulman, her son Brandon Shulman, and their  
22 attorney began a search for a suitable investor and partner. Brandon and their  
23 attorney both identified interested investors. But, it was Defendant  
24 Courtney Dorne—a trusted childhood friend of Ms. Shulman’s daughter-in-law  
25 and a President at Vertical—who introduced Ms. Shulman to Todd Kaplan and  
26 Defendants. While working hard to convince Ms. Shulman that she should trust  
27 Kaplan and partner with him, Ms. Dorne leveraged her friendship with a member  
28 of the Shulman family, writing that she “cherished” the relationship and would  
take her friendship with Brandon’s wife “to the grave.” She promised to “navigate

1 the waters together” with Ms. Shulman and led the Shulmans to believe that  
2 Kaplan was, in her words, “an amazing man.”

3 65. In June 2017, after several phone conversations with Brandon,  
4 Ms. Dorne invited him and Ms. Shulman to meet Kaplan and other Defendants at  
5 Vertical’s offices in Agoura Hills, California. Ms. Dorne misrepresented Vertical  
6 as a “huge” cannabis company. She also misrepresented to Brandon that Vertical  
7 was a financially stable company and that it had existing indoor cultivation, large-  
8 scale manufacturing, many brand partners, and dispensaries. She touted that  
9 Vertical had significant experience in the cannabis industry and had in-house  
10 counsel with local regulatory expertise.

11 66. On June 23, 2017, Ms. Shulman and Brandon drove to Agoura Hills,  
12 where Ms. Dorne introduced her to Kaplan, Mr. Silver, Robert Scott, Mr. Milburn,  
13 Houghton, and Dr. Donald Davidson. During this meeting, Kaplan spent an hour  
14 selling Vertical to Ms. Shulman and Brandon. Kaplan promoted his Needles,  
15 California, facility as a “state-of-the-art” manufacturing facility—the crown jewel  
16 of Vertical’s operations—extolling its ongoing, indoor cannabis production.  
17 Kaplan ran down a list of 15 different brands with which Vertical claimed to have  
18 partnered; he told Ms. Shulman about his partnerships with a dispensary and with  
19 Dr. Donald Davidson; he talked about revenue streams and growth of the cannabis  
20 industry; he promised to take Vertical global and lauded his multistate operations,  
21 including those in Colorado and Arizona. Kaplan told Ms. Shulman that Vertical  
22 hoped to bring her into the “family,” promoting the “Iron Angel” brand and  
23 growing cannabis with her. Ms. Shulman was sold on Kaplan’s vision, but she  
24 would ultimately learn that his promises were built on falsehoods. She would later  
25 learn that Needles had little more than four walls and no competent help,  
26 Vertical’s partnerships were fabricated, and there was no revenue stream.

BAKER BOTTS L.L.P.

1           67. At this meeting, Kaplan invited Ms. Shulman to look him up on the  
2 Internet. He said he had had some trouble with the government, but it was the  
3 government's fault and he was not guilty.

4           68. On June 26, 2017, Ms. Shulman and Brandon arranged to have  
5 Ms. Dorne and Kaplan visit Iron Angel. Ms. Dorne claimed that Vertical was "in  
6 the process" of purchasing a million square foot indoor grow space in Monterey,  
7 California (a purchase that never actually happened, if in fact it was ever "in the  
8 process") and would thus be driving near Iron Angel. Ms. Dorne, Kaplan,  
9 Houghton, Mr. Milburn, and Mr. Silver arrived at Iron Angel that day. They spent  
10 two to three hours touring Iron Angel in Kubotas. Ms. Shulman told Kaplan she  
11 was looking for a partner to invest in her business. Ms. Shulman was explicit with  
12 Kaplan that she was in the process of looking for other investors and that if she did  
13 not enter into a contract with him and his company, she would pursue other  
14 opportunities. Ms. Shulman was in fact pursuing other opportunities, including  
15 obtaining financing from her son and from some of his friends and colleagues,  
16 who are also physicians, as well as from other local contacts who had expressed  
17 interest in the cannabis business.

18           69. Drew Milburn and Mr. Scott also met with Ms. Shulman at Iron  
19 Angel during the second week of July 2017. Ms. Shulman gave Mr. Milburn and  
20 Mr. Scott a tour of Sisters. They discussed the proposed 50-50 split for all Santa  
21 Barbara properties and any new business that developed, and Mr. Milburn  
22 acknowledged that was the agreement Kaplan and Vertical wished to strike.  
23 Regarding manufacturing on-site at Iron Angel, Mr. Milburn explained that Co2  
24 equipment at the Needles facility (or then-stored ethanol extraction equipment)  
25 would be shipped to Iron Angel and used for manufacturing on that property.  
26 Mr. Milburn also stated that he was the "operations guy" and said he would live  
27 near the property to manage cannabis operations from the beginning of the  
28 contractual relationship. Mr. Milburn told Ms. Shulman that he and Robert Scott

1 were looking for homes in the area where they could live. Mr. Milburn's close  
2 proximity to Iron Angel was important to Ms. Shulman and, as she told Kaplan,  
3 one of the key ingredients to the business relationship.

4 70. A few days later, around the third week in July 2017, Mr. Milburn  
5 returned to visit Ms. Shulman, who gave him a tour of Wellsprings Ranch and  
6 talked to him about her expansion plans. Mr. Milburn asked many questions  
7 regarding the property and its potential and, by the end of the afternoon, he told  
8 Ms. Shulman that he fully believed in her vision and would support the acquisition  
9 of Wellsprings. Mr. Milburn returned to Vertical and gave Kaplan the "thumbs up"  
10 on expanding the Iron Angel deal.

11 71. Kaplan was highly motivated to close a deal with Ms. Shulman. He  
12 understood the inherent value of the properties she had secured rights to and the  
13 potential for a large and highly profitable cannabis business on those properties.  
14 Kaplan also knew that Ms. Shulman had an existing, thriving medical cannabis  
15 farm, as well as extensive farming experience, local community contacts, and,  
16 most importantly, the support of the County to continue her business operations.

17 72. Kaplan was equally aware of Ms. Shulman's vulnerabilities. He  
18 believed she was unsophisticated, and he knew her prior business dealings had  
19 been much smaller in scale. He was aware of vulnerabilities caused by her age, her  
20 trusting nature, personal tragedies in her life, and her admitted unfamiliarity with  
21 the details of the new cannabis regulatory scheme. Kaplan, utilizing tactics well-  
22 known to psychologists who have studied con men, zeroed in on Ms. Shulman's  
23 desires and then laid an emotional foundation of trust by repeatedly displaying  
24 empathy and developing a rapport with Ms. Shulman. He also knew that  
25 Ms. Shulman had little ability to investigate Kaplan's company, Vertical, the other  
26 members of his enterprise, or his business history, including his past criminal  
27 conduct and criminal indictments.  
28

1           73. Recognizing the key attributes that were important to Ms. Shulman in  
2 selecting a business partner—financing, operations, distribution, branding,  
3 manufacturing, and regulatory expertise—Kaplan misrepresented his and his  
4 company’s experience in the cannabis business and misrepresented the financial  
5 status of his company and his ability to fund a cannabis operation. Kaplan claimed  
6 that Defendants had extensive experience in cannabis cultivation and production in  
7 California. He claimed they were experts in cannabis operations. He falsely  
8 claimed expertise in cannabis laws and regulations in California and misled  
9 Ms. Shulman into believing that Defendants could expertly guide the business  
10 through regulatory and licensing procedures. With regard to available capital to  
11 invest in the business, Kaplan assured Ms. Shulman that she would never have to  
12 worry about the finances. He stated that he had numerous investors lining up to  
13 provide cash and that he had substantial personal resources that were also available  
14 to the business. Early on in the relationship when Ms. Shulman expressed concern  
15 about Kaplan’s financial resources, he told her that a group from Mexico City had  
16 agreed to a \$150 million investment. The money never arrived, despite Kaplan’s  
17 repeated assurances that it was forthcoming. Kaplan told Ms. Shulman that the  
18 money was stuck in the bank in Florida, that Kaplan could see the money in the  
19 account but that the bank would not release it. Kaplan continued the ruse by telling  
20 Ms. Shulman she would be “the first to know when the [funding] goes through”  
21 and that “we’ll be able to do everything, once we get the money.” On May 4,  
22 2018, Kaplan wrote to Ms. Shulman that “everyone keeps saying [the money] is  
23 coming.” Of course, it never came.

24           74. The general plan for the business provided that Vertical would pay  
25 operational expenses and manage day-to-day operations in exchange for the use of  
26 Ms. Shulman’s farmland, a share of crops existing at the time of the partnership  
27 (with a defined split), contacts, and the ability to cultivate by piggybacking on  
28 Ms. Shulman’s legal nonconforming use licenses. As confirmed by Kaplan, the

1 parties would work “together” to obtain county and state licenses (under the new  
2 regulations), launch brands based on Ms. Shulman’s Iron Angel name, and manage  
3 the overall business operations. Vertical would also ensure on-site manufacturing,  
4 including on-site extraction. Vertical and Ms. Shulman were to share net profits  
5 from Iron Angel and Sisters equally. Kaplan also included a provision that gave  
6 him an option to purchase 42.5% “tenant in common interest” in Iron Angel.

7 75. From the beginning of the business, Kaplan told Ms. Shulman that  
8 “Iron Angel” was to be one of Vertical’s top five brands, generating \$8 million of  
9 revenue in the first year. Kaplan told Ms. Shulman that would mean \$4 million in  
10 her pocket. On information and belief, Ms. Shulman signed a contract for branding  
11 services, but Vertical retained the only copy. As part of the agreement, Kaplan  
12 falsely promised that Vertical would develop the Iron Angel brand for  
13 Ms. Shulman and the business and that Vertical would bear the costs for doing so.  
14 In exchange, Kaplan asked Ms. Shulman to be the spokesperson. In November  
15 2017, Vertical arranged for a photo shoot of Ms. Shulman, sending her first for  
16 professional hair and make-up work prior to the shoot. Later, Vertical also  
17 commissioned a video showing Ms. Shulman riding her Harley Davidson, after  
18 which the Iron Angel brand splashed across the screen. This video (pictured  
19 below) remains on Vertical’s website, long after the parties’ business relationship  
20 terminated.  
21  
22  
23  
24  
25  
26  
27  
28





76. In furtherance of Kaplan’s scheme, Defendants directed two Vertical employees to mislead Ms. Shulman into believing that branding efforts would include, at least, (a) “seeding” insertions about Iron Angel into new product reviews and podcasts focusing on women, seniors, and wellness; (b) creating a website, promotional, social media and a media kit focused on Iron Angel; (c) creating packaging for single pre-roll and vape pen; (d) creating promotional items, such as tee shirts, caps, and stickers; and (e) developing the Iron Angel logo. Vertical then engaged in a start-and-stop effort over several months, prompting Ms. Shulman to make several inquiries into the status of her Iron Angel brand creation. Vertical (through Defendant Smoke Wallin) led Ms. Shulman on by sending vague assurances that he wanted to meet with Ms. Shulman, including in an April 11, 2018, email message where Mr. Wallin told Ms. Shulman he would “absolutely” have a “phone conversation about the branding of Iron Angel,” and then later he wrote to her to “get [branding efforts] moving,” noting that “the team [would send her] a full picture of the plan.” On September 4, 2018, Mr. Wallin sent an email message letting Ms. Shulman know Vertical had “put together an Iron Angel brand overview with a monthly timeline up to brand launch early 2019 and would love to walk [her] through it.” On October 12, 2018, Mr. Wallin sent a

1 letter to Ms. Shulman, purporting also to be meant for all “Vertical Brand  
2 Partners,” which promised dedicated staff for Ms. Shulman’s marketing efforts.  
3 The “Brand Manager” also wrote, in November 2018, to confirm that he would  
4 send Ms. Shulman “budgets, marketing strategy, and calendar/timeline.” Then, in  
5 December 2018, dissatisfied with the lack of movement on the Iron Angel brand,  
6 Ms. Shulman expressed to Mr. Wallin that she would engage a different agency to  
7 help her develop her brand. Mr. Wallin insisted that such a move would be a  
8 mistake and that Ms. Shulman should leave her brand in Vertical’s hands. But the  
9 project did not progress as promised. By February 1, 2019, Ms. Shulman’s  
10 frustration with the lack of attention to her branding efforts prompted her to email  
11 Vertical to say, “It’s strange to not be hearing anything back from you. . . we’d  
12 really like an update on where we are with Iron Angel.” She received no response.

13 77. With regard to cultivation, Ms. Shulman relied on Kaplan’s  
14 misrepresentations of fact and fraudulent omissions, ultimately agreeing to work  
15 with Kaplan, Vertical, and other Defendants. The parties negotiated a written  
16 agreement to work together on cultivation operations on Iron Angel and Sisters.  
17 Ms. Dorne helped broker the deal. But while telling the Shulmans she loved and  
18 cherished them, she was working behind the scenes with Kaplan to ensure that the  
19 Shulmans entered into a business arrangement on Kaplan’s terms. For example,  
20 when a draft agreement did not give Kaplan any rights to ownership of the land at  
21 Iron Angel, she sent the Shulmans an alarming message of “big problems” because  
22 Kaplan was “unbelievably upset.” Taking advantage of their friendship and hiding  
23 her true loyalty, Ms. Dorne successfully pressured Ms. Shulman into entering into  
24 an agreement on Vertical’s terms.

25 78. Ultimately, the parties entered into a Reciprocal Membership and  
26 Cultivation Agreement (the “Cultivation Agreement”) (attached hereto as  
27 Exhibit B). The Cultivation Agreement has a blank line for the specific date it was  
28 “made and entered” in “July \_\_, 2017”—*i.e.* the “Effective Date”—but Kaplan did

1 not return the fully executed agreement until August 2, 2017, making that the  
2 Effective Date. Kaplan signed the Cultivation Agreement on behalf of an entity  
3 that he formed and for which he acted as CEO, NCAMBA9, but Kaplan, Vertical,  
4 and other Defendants were the intended beneficiaries. NCAMBA9 was authorized  
5 to use a management company to manage operations under the Cultivation  
6 Agreement. NCAMBA9 immediately turned management over to Vertical and  
7 Kaplan.

8 79. Ms. Shulman signed the agreement as Trustee of The Shulman  
9 Family Trust, The Kim L. Marienthal and Barbara N. Marienthal 2003 Trust, and  
10 the collectives she formed—The Sweet Ambergris Collective, 3F, Inc., and  
11 Emerald Sky, LLC. At the time the parties entered into the Cultivation Agreement,  
12 California permitted only nonprofit mutual benefit corporations or collectives to  
13 cultivate cannabis for patients with prescriptions from their doctors (though that  
14 would change in January 2018).

15 80. After executing the Cultivation Agreement, Kaplan whispered in  
16 Ms. Shulman’s ear that he never asks for permission to do something. He said, “I  
17 just do it, and, if necessary, ask for forgiveness.” He told Ms. Shulman that he  
18 pays little attention to what he signs. He would later live up to this warning.

19 81. Pursuant to the Cultivation Agreement, NCAMBA9 was required to  
20 manage Cultivation Operations, which included “all activities relating to the  
21 cultivation of Cannabis on the Properties, the distribution of product to collective  
22 members and the manufacture of products therefrom.” This included:

23 site planning and preparation; construction of permanent or  
24 temporary structures of any sort and on-going maintenance  
25 thereof; provision for utilities and water to the fields and  
26 facilities used for cultivation; installation of utilities lines,  
27 retention and management of all workers and labor necessary  
28 for the cultivation . . . .

1           82. NCAMBA9 was required to ensure that Ms. Shulman was to “be  
2 actively engaged in the Cultivation Operations” and that the parties would “use  
3 good faith efforts to coordinate their respective activities to achieve the best  
4 agricultural results practicable.” Separately, NCAMBA9 was required to use its  
5 “Best Efforts to manage the Cultivation Operations in the most efficient and  
6 effective manner possible under the circumstances.”

7           83. According to the Cultivation Agreement, NCAMBA9 was “solely  
8 responsible for timely paying all Operational Expenses with respect to the  
9 Cultivation Operations.” Operational Expenses are “all costs stemming from or  
10 relating to the Cultivation Operation,” including “the mortgage expense, property  
11 taxes and assessments and insurance” for Iron Angel and Sisters. NCAMBA9 was  
12 also required to “keep and maintain detailed expense and accounting records of all  
13 expenses and revenue stemming from its activities . . . [and then] provide the  
14 collectives with a quarterly P&L and related financial information [on operations]  
15 and make payments to the Collective quarterly . . . .”

16           84. Except with respect to specific exceptions for crops already in the  
17 ground, Ms. Shulman and NCAMBA9 agreed to split Net Income equally. Net  
18 Income included gross revenue from sales of cannabis and cannabis derivatives  
19 cultivated on Iron Angel and Sisters, less Operational Expenses. The parties  
20 agreed that salaries and expenses for “Representatives” that NCAMBA9 “employs  
21 or retains,” such as officers, directors, attorneys, and advisors, could not be  
22 included in Net Income—meaning that NCAMBA9 could not deduct these  
23 expenses as Operational Expenses.

24           85. Before the ink had even dried on Kaplan’s signature on the  
25 Cultivation Agreement, it became clear that he and Defendants had defrauded  
26 Ms. Shulman. Despite repeated representations prior to signing the Agreement,  
27 Kaplan and his company did not have the necessary resources to even begin  
28 operations on Iron Angel and Sisters. Thus, even though she had entered the

1 Agreement for the specific purpose of obtaining funding from a business partner,  
2 Ms. Shulman had to continue to fund operations on the properties for several  
3 months. Defendants thus forced Ms. Shulman to spend the remainder of her life  
4 savings of approximately \$320,000 to pay for operational expenses, including  
5 cultivation supplies, insurance, equipment rentals, irrigation supplies, agricultural  
6 labor costs, and lease payments at Sisters. Defendants agreed to pay Ms. Shulman  
7 \$10,000 a month to help reimburse her, but even that has never been fully paid. In  
8 sum, within days after entering into a business contract with a supposedly  
9 experienced and well-financed company, Ms. Shulman found herself defrauded of  
10 her life savings, with only vague assurances that she might get paid back in the  
11 years ahead. And unbeknownst to Ms. Shulman, Kaplan and Vertical were  
12 hurriedly seeking other sources of funding to make up the deficit, including from  
13 Dr. Davidson.

14 86. Nor were Defendants prepared to operate the business, as they had  
15 promised to do. Mr. Milburn never moved to the properties to act as Operations  
16 Manager, despite repeated promises, and no one else with any relevant experience  
17 whatsoever showed up. Thus, Ms. Shulman and her son Brandon (a full-time  
18 physician) had no choice but to step in and run operations on all three properties.  
19 Brandon became the de facto Operations Manager. He managed expenses, placed  
20 orders, worked with Houghton on licensing, negotiated contracts for farm labor  
21 and cattle, worked with the County on compliance issues, and sourced materials.  
22 Vertical offered little assistance by way of bringing two employees who had no  
23 farm, agriculture, ranch, or flower grow experience. In fact, within two months,  
24 one of the workers was fired because of his inexperience.

25 87. Also, unbeknownst to Ms. Shulman, immediately after entering into  
26 the Cultivation Agreement and the related agreement on Wellsprings described  
27 below, on August 8, 2017, Kaplan borrowed \$250,000 from Dr. Davidson to give  
28 him some of the funds Kaplan needed to perform on the contracts with

1 Ms. Shulman. Neither Kaplan nor any Defendant told Ms. Shulman that Kaplan  
2 was borrowing money from third parties to fund operations on Iron Angel, Sisters,  
3 and Wellsprings.

4 **C. The Parties Agree to the Same Business Arrangement for**  
5 **Cannabis Operations on Wellsprings, and Defendants Implement**  
6 **the Most Damaging of their Fraudulent Schemes**

7 88. Although the written Cultivation Agreement applied only to Iron  
8 Angel and Sisters, Kaplan and Vertical ultimately decided to partner with  
9 Ms. Shulman to extend the cannabis business to Wellsprings. Accordingly, the  
10 parties—Ms. Shulman, Todd Kaplan, Vertical, and the collectives—entered into  
11 an oral contract on the same operational and financial terms as the Cultivation  
12 Agreement—most importantly, that NCAMBA9/Vertical was responsible for  
13 managing cannabis operations, subject to Ms. Shulman’s active participation, and  
14 that profits would be split 50/50, on the same terms as the profit split on the other  
15 properties set forth in the Cultivation Agreement. The parties entered into this  
16 contract (the “Wellsprings Agreement”) on July 21, 2017.

17 89. Ms. Shulman was explicit with Kaplan that she intended to purchase  
18 Wellsprings and conduct cannabis operations there regardless of whether he and  
19 Defendants decided to enter into an arrangement on the same operational and  
20 financial terms as the Cultivation Agreement. Ms. Shulman was in fact pursuing  
21 other potential business partners, including those described above. And with the  
22 Wellsprings Purchase Agreement and lease in place, she had time to find an  
23 appropriate partner if Kaplan was not interested.

24 90. Defendants’ true intentions were unknown to Ms. Shulman at the  
25 time she entered into the Wellsprings Agreement, and they remained unknown to  
26 her during most of the performance of the contract. Kaplan and Defendants were  
27 aware that Wellsprings had by far the most cultivable acreage of the three  
28 properties and the most ideal topography for both cultivation and cannabis  
processing and distribution. They wanted Wellsprings for themselves, but it was

1 Ms. Shulman who had the relationship with Mr. Lugli and it was Ms. Shulman  
2 who had the Wellsprings Purchase Agreement and the lease. Ms. Shulman also  
3 had the ability to find other investors if Kaplan declined. It was in these  
4 circumstances that Kaplan and his enterprise hatched a plan to defraud  
5 Ms. Shulman of her interests in Wellsprings. Defendants would enter into the  
6 Wellsprings Agreement, agreeing to close on the sale, manage operations, and split  
7 profits with Ms. Shulman, but Defendants would work on a parallel track to strip  
8 Ms. Shulman of her rights. They would provide her with legal representation using  
9 their own lawyer; they would negotiate directly with Mr. Lugli, cutting her  
10 completely out; they would commence cannabis operations, producing millions of  
11 dollars in revenue during the first harvest alone, but never paying Ms. Shulman a  
12 dime; they would negotiate separately with Mr. and Mrs. Lugli to invest in  
13 Vertical; they would lie to investors and others about their true interest in  
14 Wellsprings (which, jointly with Iron Angel, they called “Santa Rita”) and use the  
15 property as the centerpiece of their color brochures to steer tens of millions of  
16 dollars in investments into their enterprise, even after they had been evicted from  
17 Wellsprings; they would delay and delay to provide sufficient time to harvest all  
18 the cannabis; they would ultimately never close on the property; and then, in a  
19 final act revealing the fraudulent intentions held during the entire relationship,  
20 after failing to close on the deal for Wellsprings that would have made  
21 Ms. Shulman an owner, they immediately returned to Mr. Lugli to make their own,  
22 separate offer to purchase the property for themselves. Indeed, they made two such  
23 offers. But by that point, Mr. Lugli had learned enough about Kaplan and  
24 Vertical—and had been directly threatened by Kaplan—and thus said no.  
25 Mr. Lugli’s attorney informed Mr. Kaplan that his efforts to unwind the original  
26 offer by Ms. Shulman in order to make his own offer was illegal. True to form,  
27 Kaplan then sued Mr. Lugli for \$30 million.  
28

1           91. Defendant Houghton was key to the implementation of the fraudulent  
2 scheme perpetrated on Ms. Shulman to steal her interest in Wellsprings. On  
3 July 19, 2017, Kaplan instructed Ms. Shulman to contact Houghton to discuss  
4 Wellsprings and, specifically, to let Houghton know that she was not already  
5 represented by counsel so that Houghton could serve as her legal adviser.  
6 Ms. Shulman confirmed she was not represented, and from that point forward,  
7 Houghton worked with Defendants to implement a fraudulent course of conduct to  
8 wrest control of Wellsprings from Ms. Shulman and to take for Kaplan’s  
9 enterprise the tens of millions of dollars in profits that were expected from  
10 cannabis operations on Wellsprings—by far the most valuable and lucrative of the  
11 three properties. Acting as attorney for both Kaplan and Ms. Shulman, Houghton  
12 deceived Ms. Shulman into believing he was looking out for her best interest—a  
13 fraudulent act in clear breach of his fiduciary duties and one that he would employ  
14 with Ms. Shulman and her family throughout their dealings with Defendants.

15           92. After entering into the Wellsprings Agreement, Kaplan and Vertical  
16 began managing operations on Wellsprings, but then quickly confessed that they  
17 did not have the financial resources to close escrow by January 2018. Had  
18 Ms. Shulman had a different business partner with the funds to close, she would  
19 have been an owner of Wellsprings as of January 2018.

20           93. Kaplan, who was not a party to the Wellsprings Purchase Agreement,  
21 contacted Mr. Lugli directly, purportedly on behalf of Ms. Shulman and “the  
22 team,” to seek a one-year extension of close of escrow. In an undated, typed letter  
23 in mid-November 2017, Kaplan wrote to Mr. Lugli and noted that “it is in our  
24 collective best interests to make this proposed change, for the benefit of all  
25 involved.” As an incentive for extending escrow, and without notice to  
26 Ms. Shulman or with her consent, Kaplan promised to pay Mr. and Mrs. Lugli, in  
27 addition to the Wellsprings purchase price, “2 acres of projected cannabis profits  
28 [from Wellsprings Ranch] during 2019, 2020, 2021,” which Kaplan estimated to



1 be \$6 million. Kaplan also negotiated an extension on Ms. Shulman's Wellsprings  
2 lease, extending it to coincide with the new close of escrow on January 15, 2019.  
3 In other words, short of funds despite his express representations, Kaplan was  
4 already giving away Ms. Shulman's interest in the business to buy himself time  
5 more to live up to the promises Defendants had made.

6 94. These various arrangements were set forth in documents prepared by  
7 Houghton for Ms. Shulman's signature on November 20, 2017, including an  
8 Amendment to Purchase and Sale Agreement and Joint Escrow Instructions  
9 ("Wellsprings Purchase Agreement Amendment"), extending the close of escrow  
10 until January 15, 2019, and a document titled "Agreement" providing that Mr. and  
11 Mrs. Lugli would receive net income for two acres of cannabis grown on  
12 Wellsprings. Had Kaplan and Vertical been able to fund a timely close on the  
13 property, the "Agreement" would never have been proposed.

14 95. Also, on November 20, 2017, Kaplan, supported by Houghton,  
15 defrauded Ms. Shulman into assigning her rights to Wellsprings to Kaplan without  
16 any consideration, so that at close of escrow Kaplan would be a joint owner of the  
17 property. Houghton, at Kaplan's direction, drafted the agreements. Houghton then  
18 presented the agreement to Ms. Shulman, causing her to sign away half of her  
19 rights in Wellsprings. Houghton, affirming his representation of Ms. Shulman and  
20 Kaplan's business venture, sent the drafts to Mr. Lugli and noted that he had  
21 copied his "clients" (Ms. Shulman and Brandon Shulman) on the email.

22 96. Following execution of the November 20, 2017 agreements,  
23 substantial operations on Wellsprings continued, with Ms. Shulman and Brandon  
24 Shulman managing operations. They oversaw the cultivation of 16 acres of  
25 cannabis on Wellsprings in 2018, with the first plants placed in the ground on  
26 August 20, 2018. The harvest began in November 2018 and continued up until,  
27 and even after, the date on which Defendants were evicted from the property.  
28

1           97.    Though Kaplan had promised to send an experienced grower to  
2 manage Wellsprings operations, competent help never arrived. Instead, Kaplan  
3 hired two young men who had run a small clone business in San Diego, but neither  
4 of whom had any farming, agriculture or cannabis cultivation experience.  
5 Mr. Milburn had promised repeatedly to join the team at Wellsprings as  
6 Operations Manager, a promise Ms. Shulman had relied on in agreeing to partner  
7 with Kaplan. Mr. Milburn made only a few sporadic visits and ultimately  
8 announced he had been “recalled to manage Vertical’s strategic growth.” Kaplan  
9 then sent his son, Matt, to manage Wellsprings, but Matt had no cannabis  
10 experience and no farming or agricultural experience whatsoever. Instead of  
11 managing operations, which he was never qualified to do, Matt spent his time  
12 implementing his father’s and Vertical’s plans to defraud Ms. Shulman and  
13 potential investors in Vertical. Matt spent a significant amount of his time giving  
14 tours to scores of investors around Wellsprings and Iron Angel, fraudulently  
15 telling them that Vertical owned the property and the acres of cannabis growing on  
16 them. When he was not giving tours, Matt used Ms. Shulman and Brandon to  
17 educate him on the basics of cannabis and the farming industry and to introduce  
18 him to the local community and Ms. Shulman’s vendors. Later, Ms. Shulman  
19 caught Matt coordinating the illegal transport of cannabis off the property and  
20 hiding product so Vertical could artificially lower production numbers and defraud  
21 Ms. Shulman of her share of the profits. Initially, Matt feigned appreciation for  
22 being welcome in Ms. Shulman’s family and business, but he showed his true  
23 colors and intentions when he began to verbally abuse Ms. Shulman and her  
24 family (including telling Ms. Shulman he hopes she rots on the Wellsprings  
25 property, that she’s stupid, and that everyone dislikes her). Matt also took to  
26 physically assaulting Ms. Shulman’s son, Randall Shulman and vandalizing  
27 Ms. Shulman’s property. On information and belief, Defendants, including  
28

1 Matt Kaplan, caused and assisted in illegal “black market” sales of cannabis from  
2 operations at Wellsprings, Iron Angel, and Sisters.

3 98. Although Kaplan and Vertical made various deposit payments to the  
4 Lugli Trust to stave off any eviction before they could entrench themselves on the  
5 property and cultivate the valuable cannabis growing on 16 acres, Kaplan  
6 ultimately failed to deliver the monies required to close on the property on  
7 January 15, 2019, or on February 25, 2019, after the contractual cure period. After  
8 failing to fund the closing that would have made Ms. Shulman an owner, Kaplan  
9 returned—twice—to make offers to Mr. Lugli to purchase the property without  
10 Ms. Shulman. Mr. Lugli rejected these offers, terminated the Wellsprings Purchase  
11 Agreement, and evicted Kaplan and Defendants from the property.

12 99. A key reason Defendants paid the Lugli Trust just enough to remain  
13 on the property until they could make their own offer to purchase Wellsprings  
14 without Ms. Shulman was the importance of Wellsprings to Vertical’s marketing  
15 and fundraising efforts. Once operations were underway and of more than 40 acres  
16 of hoop houses had been set up on Wellsprings, Defendants photographed the  
17 property. One of those photos (included as Exhibit A hereto) has been the  
18 centerpiece of Vertical’s marketing and investment campaign ever since, and it has  
19 been featured prominently on Vertical’s website and other social media—even  
20 after Vertical’s rights to Wellsprings were terminated. And Kaplan’s marketing  
21 campaign was not just photographic. He and Defendants frequently brought  
22 potential investors to Wellsprings and Iron Angel to tour the properties, but he  
23 never included Ms. Shulman in most of those meetings or discussions or even  
24 notified her that such tours would occur or the purpose of those tours. During the  
25 tours, Matt Kaplan and Smoke Wallin lied to potential investors, telling them that  
26 Vertical owned the 1,500 acres that comprised Wellsprings and Iron Angel.

27 100. Defendants coined their own name for the collective properties,  
28 misleadingly repackaging them for investors and potential business partners as

1 “Santa Rita” or “The Ranch.” Their ability to portray to investors that they owned  
2 the land and had all rights to the cannabis business was key to their fundraising  
3 and their desire to go public and strike it rich. In fact, Vertical obtained tens of  
4 millions of dollars in investments based on these misrepresentations about  
5 Wellsprings and Iron Angel. On information and belief, Defendants never told  
6 actual or potential investors about Ms. Shulman’s (a) ownership of Iron Angel,  
7 (b) rights to Wellsprings, including the lease and purchase, or (c) right to 50  
8 percent of net income on the properties. Vertical’s website and marketing  
9 materials also contain numerous other misrepresentations to investors, including  
10 identifying brands and partnerships to which Vertical had no rights.

11 101. During the course of performance of the Wellsprings Agreement,  
12 Kaplan worked hard to convince Mr. and Mrs. Lugli to invest in Vertical by  
13 entering into a subscription agreement, which really amounted to making a loan to  
14 Kaplan. Kaplan used familiar tactics, referring to the Luglis as “family” (as he did  
15 Ms. Shulman) and offering them a “special investment opportunity” by  
16 misrepresenting the true financial condition of Vertical. He convinced Mr. Lugli to  
17 sign the subscription agreement, promising that Vertical would go public in 2019  
18 and that Lugli would make a significant profit. In fact, Mr. Lugli later learned that  
19 Kaplan had made substantial misrepresentations to lure him into making Kaplan a  
20 loan via a subscription agreement. Mr. Lugli learned that Vertical was severely  
21 undercapitalized and indebted and that all of its alleged “investors” were actually  
22 lenders. Kaplan had hoped to entice Mr. Lugli to invest in Vertical so that Kaplan  
23 could apply Mr. Lugli’s “investment” towards the purchase price of Wellsprings.  
24 Mr. Lugli ultimately did not pay money to Vertical, having concluded that Kaplan  
25 lied to him about the subscription agreement.

26 102. Kaplan’s failure to close on Wellsprings deprived Ms. Shulman of  
27 ownership of a property that could only substantially increase in value given the  
28 cannabis revolution taking place in Santa Barbara County. It also deprived

1 Ms. Shulman of profits that were expected to be generated on the property in the  
2 years ahead—future profits that Defendants had already calculated and reported to  
3 its investors and potential investors. In an October 2018 interview, Matt Kaplan  
4 announced that the 20 acres under cultivation at that time would grow five-fold by  
5 Spring 2019; he also said Vertical was considering using the properties for cabins  
6 or other accommodations for tourists. Vertical’s website as late as June 2019  
7 boasted that “Vertical’s Santa Rita Hills Outdoor Grow will be one of the largest  
8 in the world in 2019.” (Exhibit A hereto).

9 103. With regard to the cannabis cultivated on Wellsprings before  
10 Defendants were evicted, Ms. Shulman has never been paid her 50 percent of the  
11 net income due under the Wellsprings Agreement. Nor have Defendants ever  
12 followed through on other obligations, including: accounting for the costs of  
13 operations and revenue on sales, bringing a competent operations manager to the  
14 property to oversee cultivation activities (such as planning and preparation,  
15 workforce management, legal product transport and distribution), obtaining  
16 appropriate cultivation licenses from the County and State (such as land use  
17 permits and cultivation licenses), working cooperatively with Ms. Shulman to  
18 obtain such permits and licenses (and not fraudulently preventing her from  
19 obtaining valid licenses), maintaining proper insurance coverage, using best efforts  
20 to manage Cultivation Operations in the most efficient and effective manner,  
21 actively engaging Ms. Shulman in the Cultivation Operations, using good faith  
22 efforts to achieve the best agricultural results practicable (such as providing for  
23 proper drying and processing facilities, maintaining proper temperatures in the  
24 greenhouse to permit plants to flourish, caring for plants to avoid mold and pest  
25 infestation, and properly addressing failed testing requirements), complying with  
26 all laws and regulations associated with cultivating, processing, and selling  
27 cannabis (such as legally transporting cannabis off the property in code-compliant  
28 vehicles and distributing only to licensed entities).

1           104. In addition, Kaplan misrepresented, in breach of the Agreement, that  
2 Vertical had substantial experience and expertise with the laws and requirements  
3 of cultivating cannabis in California and could and would perform all of its duties  
4 and responsibilities in accordance with state and local laws; that it had sufficient  
5 capital reserves to timely pay all Operational Expenses; that it had all licenses,  
6 consents, and authorizations to perform its duties and obligations under the  
7 Agreement. Vertical further failed to provide financial documents on a quarterly  
8 basis, with detail of Operational Expenses. In fact, according to Mr. Silver,  
9 Vertical prepared two sets of financial records, thereby breaching the Wellsprings  
10 Agreement by failing to prepare financial reports and other documents without  
11 untrue statements of material fact or omissions of material facts necessary to  
12 ensure such statements were not misleading.

13           **D. Defendants, Directed by Kaplan and Houghton, Execute on a**  
14           **Plan to Oust Ms. Shulman from Iron Angel**

15           105. The Cultivation Agreement provided that Defendants were to conduct  
16 cannabis operations, including cultivation and manufacturing, on the Iron Angel  
17 property. But if the Agreement were terminated by either party, Defendants would  
18 have no further rights to Iron Angel and Ms. Shulman would, of course, be free to  
19 do whatever she wanted with her own property—including continuing to use that  
20 property for cannabis cultivation. This, of course, was a big problem for Kaplan,  
21 because it meant he would always have to split profits on Iron Angel with  
22 Ms. Shulman. Defendants devised a plan to steal Iron Angel from Ms. Shulman  
23 and take for their enterprise all of the profits from cannabis cultivation on the  
24 property. Again, Houghton was key to this plan.

25           106. Houghton was acting as attorney for the business regarding licensing,  
26 which meant he was providing legal advice to Kaplan and Vertical and to  
27 Ms. Shulman and Brandon Shulman regarding cannabis regulatory requirements.  
28 Houghton held himself out as attorney for the entire venture and he had

1 specifically referred to Ms. Shulman and Brandon Shulman as his “clients.”  
2 Indeed, Houghton exchanged hundreds, possibly thousands, of communications  
3 with Ms. Shulman and Brandon Shulman concerning the Wellsprings property  
4 purchase and regulatory requirements. The Shulmans relied on Houghton’s legal  
5 advice and believed, wrongly, that Houghton was acting in their best interest. It  
6 was in this context that Houghton approached the Shulmans on January 14, 2018,  
7 telling them that they needed to sign an agreement to lease the Iron Angel property  
8 to Iron Angel II, LLC—an entity Houghton had registered with the California  
9 Secretary of State just four days earlier, naming Kaplan the sole manager. The  
10 entity was purportedly set up to be the licensed cannabis operator, given changes  
11 in the law that meant collectives were no longer necessary. With regard to the  
12 name, it was Kaplan’s idea to use Ms. Shulman’s trademark, “Iron Angel,” as the  
13 name for the LLC as part of the overall “branding” for the business venture. In  
14 reality, his intent was to steal it from Ms. Shulman, along with the goodwill she  
15 had generated using the Iron Angel mark.

16 107. In a January 14, 2018, email from Houghton to Ms. Shulman and  
17 Brandon Shulman, copying Kaplan and Defendants Drew Milburn, Jeff Silver, and  
18 Robert Scott, Houghton said Ms. Shulman needed to sign the lease he attached  
19 “for State licensing purposes,” specifically, “to show evidence of the right to  
20 occupy the land by the Licensee [the operator].” In subsequent communications,  
21 Houghton assured the Shulmans that the lease was just a formality and was solely  
22 for licensing purposes, that the parties would not follow the terms of the lease, and  
23 that the parties were still operating pursuant to the Cultivation Agreement. Based  
24 on these representations and assurances and relying on Kaplan’s and Houghton’s  
25 professed “expertise” in the regulatory arena—and, critically, believing that  
26 Houghton represented their interests—the Shulmans directed that the Iron Angel  
27 landowners sign the lease for licensing purposes only. The lease purports to have  
28 an initial 10-year term, with three five-year automatic renewals.

1           108. Defendants, and Houghton in particular, lied to the Shulmans about  
2 the true purpose of the lease. In fact, the lease was not required for regulatory  
3 purposes; the Cultivation Agreement easily would have sufficed to show the  
4 operator's right to occupy the land. The County required only that the cultivation  
5 operator have evidence that the property owner is aware that it is cultivating  
6 cannabis on the property; the Cultivation Agreement expressly acknowledged the  
7 purpose of the agreement was for cannabis growth and cultivation. This was an  
8 unmistakable breach of Houghton's fiduciary obligations to Ms. Shulman, and  
9 Houghton made the foregoing representations and omissions about the necessity of  
10 the Iron Angel lease with the intent to defraud.

11           109. Defendants never intended the lease to have any legal effect with  
12 respect to the parties' cultivation activities; indeed, Defendants never paid rent due  
13 under the lease. The lease instead gave Kaplan and his enterprise the freedom to  
14 breach the Cultivation Agreement with the assurance that, if Ms. Shulman fought  
15 back in any way, they could assert the lease as the basis for their right to continue  
16 operating a cannabis business on Iron Angel, to oust Ms. Shulman from the  
17 property, and to take 100 percent, rather than 50 percent, of the profits.

18           110. Indeed, that is exactly what Defendants did. After suffering through  
19 months of significant breaches of the Cultivation Agreement, as described below,  
20 Ms. Shulman was finally convinced that Kaplan did not intend to make good on  
21 his promises—even on the most fundamental promise of paying Ms. Shulman her  
22 share of net income. She gave Kaplan and Defendants the opportunity to cure, and  
23 when they failed adequately to respond (and Kaplan failed to close escrow on the  
24 Wellsprings property), Ms. Shulman properly terminated the Cultivation  
25 Agreement. With the termination of the agreement, the parties' business  
26 arrangement on Iron Angel was concluded and Ms. Shulman should have been  
27 free to continue cultivation on Iron Angel. But Kaplan and Vertical, with the  
28 support of Houghton and other Defendants, revealed their fraud by suing



1 Ms. Shulman for possession of Iron Angel and claiming that they, not  
2 Ms. Shulman, had the exclusive right to operate a cannabis business on Iron  
3 Angel. They claimed that the lease gave them this right and that the terms of the  
4 Cultivation Agreement did not matter. In other words, they attempted to use the  
5 lease, which Houghton had represented to the Shulmans as unimportant and solely  
6 to obtain licenses, as the vehicle to oust Ms. Shulman from her property, steal her  
7 cannabis business, and take 100 percent, rather than just 50 percent, of all profits  
8 going forward.

9 111. As described more fully below, Defendants' willingness to proceed  
10 on this fraudulent and malicious legal theory in court resulted in Ms. Shulman's  
11 ouster from the business on her property under the terms of a temporary  
12 restraining order. While back on the property, Defendants intentionally inflicted  
13 emotional distress on Ms. Shulman and wreaked havoc on the cannabis cultivation  
14 business, causing serious damage to the crops. During this process, Defendants  
15 lied repeatedly about conditions on the property to the court in order to effectuate  
16 their malicious prosecution of the theory that the lease somehow displaced the  
17 Cultivation Agreement.

18 112. The lease was also unnecessary and made no practical sense, except  
19 to defraud Ms. Shulman, because Kaplan had a contractual right to purchase Iron  
20 Angel as a tenant in common. If Defendants wanted to protect some interest in the  
21 Iron Angel property, Kaplan could have exercised that purchase option.

22 **E. Defendants Engage in Fraud to Exclude Ms. Shulman from**  
23 **Operator Licensing**

24 113. The passage of the Adult Use of Marijuana Act set in motion the  
25 establishment of a new regulatory and permitting regime, which operates at both  
26 the county and state level. Santa Barbara County, unlike many other California  
27 counties, embraced cultivation of recreational cannabis. That Ms. Shulman had  
28 already been cultivating medical cannabis in Santa Barbara County under then-

1 existing laws and regulations gave her a huge advantage and head-start, because  
2 the County allowed those who had been cultivating in the County prior to  
3 January 19, 2016, to continue to do so while their state annual licenses were being  
4 processed. (*See* Santa Barbara Code of Ordinances, Section 35-1003(c)(2).) As a  
5 result, continuing cultivation on Iron Angel, Sisters, and Wellsprings was allowed  
6 for purposes of applying for the requisite permits and licenses to operate those  
7 sites for recreational cannabis cultivation. This greatly appealed to Kaplan, who  
8 needed to latch onto someone in Ms. Shulman’s position to take advantage of the  
9 law to reap the enormous profits from cannabis cultivation in Santa Barbara  
10 County.

11 114. Once he had entered into the Cultivation Agreement with  
12 Ms. Shulman, Kaplan fraudulently sought to replace her as the licensee. In  
13 December 2017, Ms. Shulman had initiated the process to obtain the necessary  
14 “Small Outdoor” and “Processor” licenses to operate on Iron Angel, Sisters, and  
15 Wellsprings as commercial cannabis sites. Because Ms. Shulman had been  
16 operating prior to January 19, 2016, the County, on December 22, 2017, issued  
17 letters to the State Licensing Authority on Ms. Shulman’s behalf, grandfathering in  
18 her nonconforming use on Iron Angel, Sisters, and Wellsprings pursuant to  
19 Section 35-1003(c)(2).

20 115. After taking this first step, Ms. Shulman looked to Kaplan, Houghton,  
21 and, later, Elyse Kaplan for their alleged regulatory experience to assist with  
22 navigating State and County licensing requirements. Ms. Shulman gave the letters  
23 from the County to Houghton to process. Despite having agreed that Kaplan, on  
24 the one hand, and Ms. Shulman, on the other, would “work together to get Santa  
25 Barbara County and State Licenses” and that they would hold licenses 50-50,  
26 Kaplan and Houghton changed the deal. Houghton applied for the State operator  
27 licenses for Kaplan’s LLC, Iron Angel II, only. Rather than use the County letters  
28 Ms. Shulman obtained acknowledging her previous Legal Nonconforming Use,

1 Kaplan and Houghton submitted false affidavits stating that *they* had been  
2 operating continuously in Santa Barbara County since prior to January 19, 2016, in  
3 order to obtain temporary licenses in the name of Kaplan's LLC only.

4 116. Houghton failed to identify Ms. Shulman as an owner at all, even  
5 though California law requires that a person with an aggregate ownership interest  
6 of 20 percent or more in the business applying for a license must be registered  
7 with the State as an owner of the business interest. After Houghton left Vertical to  
8 return to Colorado, Elyse Kaplan carried his torch. Ms. Kaplan, however, had no  
9 regulatory experience. Kaplan had promised Ms. Shulman that an experienced  
10 attorney would assist with regulatory issues, and that was a key reason she agreed  
11 to do business with Kaplan. Despite numerous requests about the status of  
12 licensing, Elyse failed to ensure that Ms. Shulman held a joint interest in the  
13 operator licenses. When Ms. Shulman and Brandon sought clarification from Elyse  
14 and information regarding the status, Elyse either ignored them completely or took  
15 multiple weeks to respond.

16 117. This breach of the parties' agreement and business objectives poses  
17 many problems for Ms. Shulman. Houghton's and Elyse's refusal to include  
18 Ms. Shulman as an owner on the applications for cultivation licenses has resulted  
19 in Ms. Shulman's inability to access any information related to any current and  
20 expired licenses related to Iron Angel. Without access, Ms. Shulman is prevented  
21 from continuing the licensing process and, importantly, remedying any issues that  
22 have arisen due to Kaplan's failure to timely renew the operator licenses, including  
23 remedying Notices of Violation, completing County and State requirements  
24 (including Fish & Wildlife and the Water Board), or ensuring all necessary permits  
25 have been obtained. Without access and the ability to remedy the problems the  
26 Kaplans created, Ms. Shulman's ability to cultivate cannabis on her farm is  
27 threatened.  
28

1           **F. Defendants’ Breaches of the Cultivation Agreement and**  
2           **Wellsprings Agreement Continue and Escalate**

3           118. Defendants breached the Cultivation Agreement and the Wellsprings  
4 Agreement from the moment they were entered into, as set forth above. While  
5 Ms. Shulman continued to perform all of her obligations under the agreements—  
6 and, indeed, while both Ms. Shulman and Brandon Shulman were forced to take  
7 on significant additional responsibilities to make up for Vertical’s failures—  
8 Defendants’ breaches continued and escalated.

9           119. Section 6 of the Cultivation Agreement required NCAMBA9 to share  
10 equally the balance of the net income from the 2017 Iron Angel cultivation  
11 activities (after deducting some revenue for a reserve and to make payments to  
12 identified third parties). Section 6 also required NCAMBA9 to pay the collectives  
13 50 percent of the net income from post-2017 crops on each of the properties. Net  
14 Income is defined in the Cultivation Agreement as “gross revenue from the sale of  
15 cannabis or cannabis derivatives cultivated at the Property less Operational  
16 Expense actually incurred . . . .” Operational Expenses include “costs stemming  
17 from or relating to the Cultivation Operation on the Properties and the  
18 performance of [Vertical’s cultivation] responsibilities,” but Vertical was solely  
19 responsible for “salaries, expenses and charges for Representatives, officer,  
20 director, managers, agents, attorneys, advisors, consultants which [Vertical]  
21 employs or retains to operate as [Vertical] (other than agriculture workers who are  
22 members of the Collective and then, only to the extent they are actually providing  
23 services on the Properties.” Section 5.5 of the Cultivation Agreement required  
24 Vertical “in the course of operations, [ ] provide financial documents to the  
25 Collectives on a quarterly basis. The financial documents [were to] detail the  
26 Operational Expenses that constitute the expenses of operation and revenue  
27 received from operations.” The Wellsprings Agreement included these same  
28 requirements.

BAKER BOTTS L.L.P.

1           120. Vertical breached these and other express obligations. With  
2 Jeff Silver’s oversight, endorsement, and substantial assistance as CFO, Vertical  
3 violated virtually every term in the parties’ agreements related to business  
4 finances. Mr. Silver failed timely to pay all Operational Expenses with respect to  
5 the Cultivation Operations on Iron Angel, Sisters and Wellsprings. He failed to  
6 provide to Ms. Shulman quarterly financial reports and intentionally  
7 misrepresented (and thus failed also to provide) the Operational Expenses that  
8 constitute the expenses of operation and revenue received from operations on the  
9 properties. When asked about inappropriately billed “operational expenses,”  
10 Mr. Silver ignored Brandon and Ms. Shulman and made none of the necessary  
11 adjustments to expenses. The falsification of the financial statements was a breach  
12 of the express prohibition against untrue statements of material fact (or omissions  
13 of them) in financial reports prepared by Vertical.

14           121. The Shulmans eventually learned why Mr. Silver was not making  
15 necessary adjustments or keeping her informed as required under the contract:  
16 Mr. Silver was keeping two sets of books for Vertical. Most, if not all, of the  
17 revenue generated in 2017 and early 2018 was received in cash. Ms. Shulman  
18 learned in early 2019 that Vertical had kept two sets of books in an effort to  
19 underreport taxes for sales in 2017. Vertical operated on a cash-only basis in order  
20 to avoid declaring revenue to the IRS. The Profit and Loss statement for 2017  
21 showed revenue of \$1,775,057. Kaplan reported to Ms. Shulman at the same time  
22 that gross revenue was \$2,704,368 from Iron Angel and \$300,325 from Sisters, for  
23 a total of \$3,004,693. Brandon Shulman asked Mr. Silver to explain the  
24 discrepancy in the financials, and Mr. Silver stated that because Vertical’s revenue  
25 was all cash, Kaplan decided not to declare it all. In order to hide the actual  
26 amount, Kaplan directed Silver to prepare two sets of financial records. Mr. Silver  
27 thus admitted to Brandon Shulman that his bookkeeping efforts were designed to  
28 defraud the tax authorities.

1           122. In addition to manipulating and falsifying the company's financial  
2 records, Mr. Silver was the gatekeeper to Vertical's payment of funds. In that role,  
3 Mr. Silver failed timely to pay vendors, requiring Ms. Shulman or her son  
4 repeatedly, and unsuccessfully, to contact Mr. Silver. Ms. Shulman received  
5 countless phone calls and emails from these vendors about Vertical's refusal to  
6 pay them. On one occasion, a long-time vendor of Ms. Shulman's, who had been  
7 given the run-around by Vertical, felt compelled to show up at Vertical's Agoura  
8 Hills office to demand payment of \$100,000 Vertical owed him. Ms. Shulman had  
9 spent years developing relationships with these vendors, and Mr. Silver's and  
10 other Defendants' actions were damaging those relationships. Mr. Silver also  
11 failed or refused to reimburse Ms. Shulman for the operational expenses she had  
12 covered after the Cultivation Agreement had been signed.

13           123. One contractor, who Vertical owed \$215,000, and who had not been  
14 paid for several months after his work was complete, took out a mechanics' lien on  
15 Ms. Shulman's property. Brandon Shulman frequently asked Kaplan, Mr. Milburn,  
16 and Mr. Silver to stay on top of payments in order not to destroy the goodwill  
17 Ms. Shulman had built up. Defendant Elyse Kaplan, as Vertical's counsel, knew or  
18 should have known that having a lien on the property would jeopardize the  
19 licenses to cultivate on Iron Angel and Wellsprings. Yet, she failed to take steps to  
20 ensure Vertical executives took actions to preserve the licenses.

21           124. In connection with Mr. Silver's actions described above, Vertical  
22 failed to pay the collectives their full share of the 2017 harvest, because it had  
23 been recording impermissible expense deductions, such as compensation,  
24 transportation and professional services for non-agricultural personnel (which  
25 adversely affected the net income payable to the collectives). As a result of these  
26 breaches alone, Defendants have damaged Ms. Shulman in excess of \$650,000. On  
27 January 24, 2019, Ms. Shulman's counsel put Vertical on notice that its payment  
28 of net profits for product sold was in arrears, adding that Vertical's failure to

1 timely compensate the collectives would result in default and potential termination  
2 of the Cultivation Agreement.

3 125. Vertical's breaches of the parties' agreements continued through  
4 2018. Because Vertical was unable to fund the operational expenses it agreed to  
5 pay, Ms. Shulman loaned the business her life savings to support operations.  
6 Vertical failed to make Ms. Shulman whole, as it was required to do. In addition,  
7 Vertical harvested 22,000 pounds of cannabis from Wellsprings and never  
8 compensated Ms. Shulman or provided any accounting whatsoever.

9 126. Vertical also failed to pay a variety of the operational expenses  
10 "stemming from or relating to the Cultivation Operation on the Properties,"  
11 including costs that Ms. Shulman incurred for "the mortgage, the real property  
12 taxes and . . . rent and real property taxes [Ms. Shulman] incurred under its lease  
13 for [the Sisters' Property]." These expenses also included payments to vendors  
14 who provided valuable services to the business. As a result, on February 1, 2019,  
15 Ms. Shulman's attorney sent an Additional Notice of Default to Kaplan's attorney.  
16 Ms. Shulman demanded that Defendants' breaches be remedied within 10 days, as  
17 required by the Cultivation Agreement. Vertical did not comply with the Notice of  
18 Default and remedy any of the identified breaches.

19 127. Despite the parties' obligation to keep "Frannie Shulman . . . actively  
20 engaged in the Cultivation Operations" and to "use good faith efforts to coordinate  
21 their respective activities to achieve the best agricultural results practicable,"  
22 Drew Milburn (Vertical's Chief Operating Officer) and others at Vertical  
23 eventually ceased communicating with Ms. Shulman. Though Mr. Milburn had at  
24 all times coordinated product sales with Ms. Shulman, he abandoned that practice  
25 without explanation or notice. On April 18, 2018, Mr. Milburn sought permission  
26 to sell trim (essentially, the leaves from the cannabis plant) at \$100 a pound to  
27 Kaplan's affiliate in Needles, California, but then Mr. Milburn sold the trim for  
28 just \$30 a pound. Thereafter, Mr. Milburn sold flower (the bud) to Kaplan's

1 Needles affiliate from both the remaining 2017 and 2018 harvests for just \$150 per  
2 pound (when market value was clearly \$250 to \$300 or more per pound) without  
3 involving Ms. Shulman, as he was obligated to do. Mr. Milburn also sold product  
4 to other distributors, without involving Ms. Shulman or disclosing the sales price.

5 128. When Ms. Shulman raised questions about Mr. Milburn's failure to  
6 obtain market value for the product, Mr. Milburn invited Ms. Shulman to talk to  
7 distributors to determine what price she could get. Brandon Shulman then had two  
8 licensed distributors inspect the product, both of whom were surprised at the  
9 inefficient and apathetic manner in which Kaplan's team was harvesting and  
10 packaging product for sale. Both distributors said that Kaplan could have obtained  
11 at least twice the price at which product was being sold to Kaplan's Needles  
12 affiliate. The yield and price would have been even higher if Kaplan's team had  
13 harvested and packaged the product correctly.

14 129. Kaplan's "inside sales" to an affiliate at prices well below market  
15 value and its failure to harvest and package correctly are a breach of the  
16 Cultivation Agreement and Wellsprings Agreement, which required Vertical to use  
17 its "Best Efforts" to manage operations in the most efficient and effective manner  
18 possible. Vertical had a duty to the collectives to use "good faith efforts to  
19 coordinate their respective activities to achieve the best agricultural results  
20 practicable."

21 130. By early 2019, Kaplan refused to sell, despite a substantial market for  
22 licensed product, approximately 7,500 pounds of remaining Iron Angel packaged  
23 product. Kaplan and his team refused to sell the remaining product because they  
24 were waiting for Vertical's dysfunctional Needles facility to process what it  
25 already purchased so it could then buy more. Indeed, Kaplan's team informed  
26 Ms. Shulman that the product waiting at Iron Angel and Wellsprings was  
27 "assigned to or claimed by" Kaplan's affiliate specifically for projects at the  
28 Needles facility. When the time came, Kaplan sold cannabis harvested from Iron



1 Angel and Wellsprings at significantly reduced rates so that Kaplan’s affiliates  
2 could turn around and sell derivative products at a profit, thereby circumventing  
3 his profit-sharing agreements with Ms. Shulman. All profits from these  
4 transactions were diverted straight into Defendants’ pocket.

5 131. In fact, Defendants never intended to honor their obligations to  
6 Ms. Shulman. Ms. Shulman (through the collectives) has never been paid a dime  
7 for any harvested product since entering into the Cultivation Agreement and the  
8 Wellsprings Agreement. Defendants never intended to maximize profits for  
9 Ms. Shulman’s benefit. Instead, part of their fraudulent scheme was to leverage  
10 Ms. Shulman’s assets and hard work to supply their own facility at Needles with  
11 low-cost cannabis product, so they could turn around and make highly profitable  
12 sales further down the chain of distribution that would never benefit Ms. Shulman.  
13 Significantly, Defendants never provided the necessary manufacturing facilities,  
14 which was key to the Cultivation Agreement and the Wellsprings Agreement and  
15 would have substantially increased revenue and profits.

16 **G. Defendants Attempt to Manipulate Ms. Shulman Into Voluntarily**  
17 **Forfeiting Her Rights**

18 132. By late fall 2018, Kaplan and his cohorts had almost completely  
19 ceased communicating with Ms. Shulman despite their obligations under the  
20 contracts in place. Ms. Shulman and Brandon Shulman made repeated requests to  
21 various Defendants on multiple issues but were ignored. Ms. Shulman repeatedly  
22 asked to meet with Kaplan, but her requests went unacknowledged for months.

23 133. On November 28, 2018, Ms. Shulman managed to get Mr. Milburn’s  
24 attention, after which she began to understand why Kaplan was ignoring her.  
25 Mr. Milburn called Ms. Shulman in preparation of her November 30<sup>th</sup> meeting  
26 with Kaplan, and he told her that Kaplan intended to offer her equity in the  
27 “motherhip” in exchange for Wellsprings. He told her this was a “generous offer”  
28 and she should accept it. Mr. Milburn told Ms. Shulman that he did not want

1 Brandon Shulman included in conversations about this “deal.” Of course,  
2 Ms. Shulman did talk to her son and told Mr. Milburn that any conversations  
3 regarding the business must include Brandon (because Ms. Shulman felt  
4 intimidated by the way Mr. Milburn had been speaking to her). In response, and  
5 completely justifying her hesitation, Mr. Milburn screamed “fuck you” at them  
6 and hung up the phone.

7 134. Kaplan eventually summoned Ms. Shulman to his office in Agoura  
8 Hills, allotting a single hour, to discuss the parties’ “financial arrangement.” On  
9 November 30, 2018, Ms. Shulman and Brandon met Kaplan and Mr. Milburn in  
10 the Agoura Hills office. Kaplan informed the Shulmans that Vertical needed to  
11 raise more capital and thus Ms. Shulman would no longer be entitled to a 50-50  
12 profit split. This conversation coincided with the beginning of a massive harvest  
13 on Wellsprings that Defendants knew would yield millions of dollars in profits.  
14 With the intent to defraud Ms. Shulman, Kaplan proposed that, in exchange for  
15 him obtaining full title to Wellsprings, Kaplan would give Ms. Shulman a one  
16 percent equity interest in Vertical. Kaplan told Ms. Shulman that he decided that  
17 Wellsprings was “not going to be a profit center” because he would “make sure”  
18 that the price of products matched expenses. Kaplan used this threat to manipulate  
19 prices and expenses on Wellsprings to try to force Ms. Shulman to give up her  
20 rights in exchange for his “generous offer” of a one percent interest in the  
21 company. In other words, as he had done so often with others, Kaplan attempted to  
22 use the false promise of a valuable investment in Vertical to avoid his contractual  
23 and financial obligations. During this same conversation, Kaplan told  
24 Ms. Shulman he would “bury” her in litigation if she did not go along with his  
25 plan. This threat mirrored similar threats Kaplan has made against others,  
26 including Mr. and Mrs. Lugli.

27 135. On December 14, 2018, Kaplan attempted to bully Ms. Shulman with  
28 a letter containing a “take it or leave it” proposition that bore no resemblance to

1 the parties' contractual relationship. Acknowledging and affirming his contractual  
2 obligations—including his obligations under the Wellsprings Agreement pursuant  
3 to which the parties had been performing but which had not been reduced to  
4 writing, Kaplan admitted that his offer was “a change in the deal.” With the  
5 Shulmans' substantial contributions and hard work, the business had become  
6 wildly successful, but Kaplan nonetheless wrote that that his continued  
7 “investment would not make sense on [Wellsprings] if the Company had to split  
8 the proceeds on all the incremental grow.” In other words, Kaplan wanted to keep  
9 all of the profits for his enterprise and cut Ms. Shulman out of the deal.

10 Furthermore, his threats and assertions were made without providing Ms. Shulman  
11 any information regarding finances or operations on the properties. Nor did Kaplan  
12 explain why Defendants had abandoned Sisters, why Defendants had failed to  
13 install manufacturing facilities on the properties, or why Defendants had failed to  
14 utilize, or even prepare to utilize, the full cultivable acreage on the properties.  
15 Believing she had no alternatives, Ms. Shulman attempted to consider the options  
16 Kaplan purported to offer, even though none of them resembled the original deal.

17 136. Even if Kaplan could not defraud Ms. Shulman into voluntarily  
18 giving up her substantial rights to the business and the properties, Defendants  
19 hoped to at least buy time—valuable time. The risk to Defendants was that their  
20 breaches would catch up with them, causing Ms. Shulman or Mr. Lugli to  
21 terminate Defendants' rights under the various contracts in place before  
22 Defendants could finish harvesting 16 acres of cannabis on Wellsprings. They  
23 were desperate to stay on the properties for at least three reasons. First, they  
24 needed occupancy and on-going operations to steer investors to Vertical. The  
25 properties were essential to their plan to strike it rich with an IPO. It was essential  
26 that they be able to bring investors to the properties and to use images of the  
27 properties in their printed and online marketing. And it was essential that they lie  
28 to investors that they owned the property and the business, when in fact they

1 owned none of the properties and were contractually bound to a 50-50 profit split  
2 with Ms. Shulman. Indeed, Defendants were not even leaseholders on the  
3 properties, but were instead subject to contractual termination provisions. Second,  
4 they needed to harvest the cannabis on Wellsprings, so they could sell it to their  
5 own affiliate and take all of the profits. Third, they needed to entrench themselves  
6 on Wellsprings to make it more likely that Mr. Lugli would sell Wellsprings to  
7 Kaplan after Kaplan failed to close on the deal that would have made Ms. Shulman  
8 an owner.

9 137. Kaplan was not alone in executing on this plan. At the time Kaplan  
10 was making his “take it or leave it” offer, Robert Scott falsely assured  
11 Ms. Shulman that she need not worry because “there is enough money to go  
12 around.” He assured Ms. Shulman that Vertical wished to reach an amicable  
13 resolution. In addition, after months of silence regarding branding Iron Angel, on  
14 November 26, 2018, Vertical’s branding manager, Kevin Henry, reached out to  
15 Ms. Shulman to give her “a quick update.” But, just as quickly, he stopped  
16 communicating. On February 2, 2019, a bewildered Ms. Shulman wrote: “It’s  
17 strange to not be hearing anything back from you.”

18 138. Discussions directly with Kaplan ended on December 26, 2018. On  
19 December 27, 2018, Smoke Wallin (then Vertical’s CEO) emailed Ms. Shulman  
20 telling her he was the person authorized to negotiate a resolution on Vertical’s  
21 behalf. He claimed to be disinterested, saying he was not “emotionally attached” to  
22 anything that had already happened. In reality, he was working exclusively at  
23 Kaplan’s direction. When nothing came of Mr. Wallin’s contrived efforts, he sent  
24 Ms. Shulman the following text on January 4, 2019: “Ok, well I know  
25 substantially where we are. Bottom line we will simply honor the original deal as  
26 discussed. I’ll have Charles [Houghton] draw up an addendum to the agreement to  
27 add Wellsprings and clarify some of the points we discussed. Keeping it simple  
28 and let’s move on together.” Thus, Mr. Wallin, on behalf of Vertical and Kaplan,

1 also acknowledged and affirmed the parties' contractual agreements, including the  
2 Wellsprings Agreement (*i.e.*, "the original deal").

3 139. On January 6, 2019, while waiting for the "addendum" Mr. Wallin  
4 had referenced, Ms. Shulman demanded a meeting with Defendants to clarify the  
5 roles of all participants going forward. There was no response. And despite  
6 Mr. Wallin's assurances that the parties would "move on together" under the  
7 "original deal," Defendants never followed through on the promise. In fact,  
8 Mr. Wallin never intended to have Vertical "honor the original deal." Instead, like  
9 Kaplan and others, he used the "negotiations" to stall while Vertical continued to  
10 harvest and sell more and more cannabis from Wellsprings. For example, in early  
11 2019, Vertical sold 3,800 pounds of cannabis from Wellsprings. On January 19,  
12 2019, Ms. Shulman's attorney requested an update from Houghton and  
13 Defendants. Houghton delayed responding, and ultimately no answer was  
14 provided.

15 **H. Defendants' Actions Force Termination of Cultivation Agreement**  
16 **and Cause Loss of Wellsprings**

17 140. Defendants' actions and their failures to cure significant breaches  
18 ultimately forced Ms. Shulman to exercise her right to terminate the Cultivation  
19 Agreement, which meant terminating the parties' business relationship on Iron  
20 Angel. Defendants also forced Mr. Lugli to evict the parties from Wellsprings,  
21 resulting in the loss to Ms. Shulman of cannabis operations on that property and  
22 ownership of the property.

23 141. On January 9, 2019, Courtney Dorne showed up at Iron Angel  
24 unannounced and told Ms. Shulman and Brandon Shulman that Kaplan would  
25 "drag them through litigation" if Ms. Shulman did not agree to his demands. By  
26 late January 2019, the tone of Defendants' communications had changed even  
27 more. On January 24, 2019, Vertical's new attorney, Fred Gartside, told  
28 Ms. Shulman that she had no ownership interest in Wellsprings and that, if she

1 wanted any part of the business on Wellsprings, she was required to pay  
2 \$3,750,000 to “buy-in” to the “ownership group” for a 25 percent share in net  
3 profits. This, of course, was completely divorced from the contractual obligations  
4 already in place. Ms. Shulman’s attorney reminded Mr. Gartside and Vertical that  
5 it was Ms. Shulman who brought the Wellsprings opportunity to them and that she  
6 was entitled to 50 percent ownership. He also reminded Defendants that Kaplan  
7 and Vertical remained in default of the contracts in place, which would be  
8 terminated if the breaches were not cured. Mr. Gartside continued to “negotiate”  
9 over contract terms that were already settled, accomplishing precisely what Kaplan  
10 wanted: further delay while the crops on Wellsprings were harvested and while he  
11 prepared to make a separate offer to Mr. Lugli to eliminate Ms. Shulman from the  
12 equation.

13 142. In late January, Ms. Shulman obtained financial information that  
14 confirmed many of the suspected problems with Vertical’s bookkeeping. In  
15 particular, Vertical had been maintaining two sets of financials (in order to avoid  
16 tax consequences), had recorded improper deductions and expenses, and had  
17 underreported net profit in order to deprive Ms. Shulman of her share in those  
18 profits. Ms. Shulman’s attorney, again, put Vertical on notice of default and, on  
19 February 1, 2019, demanded that Vertical pay to Ms. Shulman the net income due  
20 pursuant to the parties’ agreements. Kaplan did not comply. Rather than remedy  
21 the defaults, Kaplan refused to fund escrow on Wellsprings by the February 25,  
22 2019 deadline, placing Ms. Shulman in default on the Wellsprings lease and  
23 depriving her of ownership of the property.

24 143. On February 25, 2019, Ms. Shulman terminated the Cultivation  
25 Agreement, thereby extinguishing the parties’ business relationship. On March 12,  
26 2019, due to Kaplan’s failure to close on the property, Mr. Lugli evicted the  
27 parties from Wellsprings. Vertical, however, refused to leave the property until  
28 they had completed the harvest and removed the cannabis product. Astonishingly,

1 Kaplan then approached Mr. Lugli—twice—to purchase Wellsprings directly from  
2 him. Mr. Lugli rejected both offers, and his attorney noted that Kaplan’s efforts to  
3 subvert Ms. Shulman’s offer in favor of his own was illegal.

4 **I. Kaplan Retaliates and Maliciously Files Suit Against**  
5 **Ms. Shulman, Following Through on Promise to “Bury” Her in**  
6 **Litigation**

7 144. After Defendants caused the loss of Wellsprings, Ms. Shulman  
8 returned to her permanent residence on Iron Angel and continued her cannabis  
9 operation on the property that she had begun years before meeting Kaplan. But  
10 true to Kaplan’s promise to “bury” Ms. Shulman in litigation, Kaplan quickly sued  
11 Ms. Shulman in Superior Court in Santa Barbara. Through his entity, Iron Angel  
12 II, LLC, Kaplan claimed—contrary to the express terms of the Cultivation  
13 Agreement—that he and Defendants had the exclusive right to occupy all of Iron  
14 Angel and to operate a cannabis business on the property, ousting Ms. Shulman  
15 from the property and her home and taking all the proceeds for Defendants’  
16 enterprise.

17 145. Kaplan’s basis for this outrageous and wholly implausible claim was  
18 that the Cultivation Agreement had been superseded by the lease that Houghton  
19 and Kaplan had fraudulently obtained from Ms. Shulman for the supposed purpose  
20 of obtaining licenses for cannabis cultivation. Kaplan sought emergency relief  
21 from the court, arguing that Ms. Shulman should be kicked out of her house and  
22 removed from the property altogether and that he and Defendants should be given  
23 possession and the exclusive right to operate the business that had been governed  
24 by the Cultivation Agreement. Kaplan and his attorneys attempted to hide the  
25 Cultivation Agreement from the court, failing to inform the court that the  
26 Cultivation Agreement was the basis for the parties’ business on Iron Angel and  
27 governed the parties’ performance and obligations. They also failed to provide the  
28 court any of the written communications with the Shulmans in which Houghton  
had represented that the lease was solely for the purpose of obtaining licenses.

1 Furthermore, in an attempt to cover up the fraud perpetrated with the lease, they  
2 lied to the Court, saying that had always paid rent under the lease. In fact, they had  
3 written only one check for “rent”—a check they tried to give Ms. Shulman on  
4 March 7, 2019, immediately before suing her, knowing that if she accepted it, they  
5 could at least claim to have paid rent once. She rejected the check, but they sued  
6 anyway.

7 146. Kaplan and Defendants Charles Houghton, Elyse Kaplan, and Matt  
8 Kaplan all submitted statements to the court in support of the case against Ms.  
9 Shulman. Ms. Kaplan’s sworn statement misrepresents to the court the status and  
10 efforts of Kaplan and Vertical regarding its licenses on Iron Angel and fails to  
11 acknowledge the Cultivation Agreement or that Ms. Shulman is a rightful owner  
12 of any and all licenses on the property. Ms. Kaplan also acknowledges that she  
13 contacted regulators with false accusations about the Shulmans and thus she aided  
14 Vertical in its efforts to strip Ms. Shulman of the licenses necessary to operate her  
15 cannabis business. She also misrepresented to the court she understood that  
16 Brandon Shulman and Drew Simons (his lawyer) were taking steps to remedy  
17 violations raised by regulators in a Notice of Violation, when in fact Ms. Kaplan  
18 was fully aware that Brandon did not have the requisite access to remedy any  
19 issues with regard to the notices. Ms. Kaplan made all of the statements to assist  
20 the enterprise in stealing Ms. Shulman’s cannabis business. In aid of the  
21 enterprise, Matt Kaplan told the court that he believed the Shulmans would use  
22 physical force, including firearms, to keep him off the property after the  
23 Cultivation Agreement was terminated, when in fact Mr. Kaplan knows that he  
24 was politely handed the termination letter when he returned to Iron Angel and was  
25 not threatened in any way. For his part, Todd Kaplan misrepresented the stated  
26 purpose of the lease, omits any reference to the Cultivation Agreement, and  
27 fabricated claims of “devastating” harm if he were not allowed to return to Iron  
28 Angel.



1           147. In early April 2019, the court gave Kaplan the right to enter  
2 Iron Angel on certain terms and the exclusive right to operate the cannabis  
3 business. Having received this temporary order from the court, Defendants  
4 immediately returned to Iron Angel and began harassing and intimidating  
5 Ms. Shulman at the doorstep of her house. For example, in violation of the court's  
6 order, which allowed only ingress and egress from the property, defendants parked  
7 a car on the property every night with two men in it. On the first night, they  
8 intimidatingly parked outside of Ms. Shulman's house. When Kaplan's lawyer told  
9 them to leave because they were violating the court's order, they refused to leave  
10 and moved even closer to the house. In order to continue this intimidation, they  
11 lied, claiming that the car was for security for their workers, even though the few  
12 workers assigned to the property were gone by 5:00 P.M. They repeated this lie not  
13 only to Ms. Shulman, but also to the court.

14           148. Over time, Defendants increased the intimidation and harassment,  
15 playing loud music at night, urinating on the property, turning the engine of the car  
16 on and off to cause the dogs to bark repeatedly in the middle of the night. The sole  
17 purpose of the "security" vehicle was to harass Ms. Shulman and to harm her in  
18 whatever way they could.

19           149. The court's order made Kaplan and Vertical solely responsible for the  
20 care of all plants to ensure successful 2019 harvests on Iron Angel. Under  
21 Kaplan's management, however, Vertical failed to properly manage the harvest  
22 and failed to obtain proper licenses to operate on Iron Angel. They also engaged in  
23 multiple regulatory violations, including employing an underaged worker. And  
24 they were cited, again, by the County of Santa Barbara for numerous violations on  
25 the property.

26           150. Kaplan used the legal proceedings to cause damage to Ms. Shulman  
27 and to create substantial chaos and harm to Ms. Shulman's cannabis cultivation  
28 operation on Iron Angel. For instance, Vertical failed to pay the most basic

1 expenses on the property, such as comprehensive insurance and PG&E to ensure  
2 electricity ran to the greenhouses. Vertical received Notices of Violation from the  
3 California Water Board, which it ignored, which will result in substantial daily  
4 fines. Vertical allowed all of the temporary licenses to operate on Iron Angel to  
5 expire and otherwise failed to pursue licenses to ensure cultivation could continue  
6 on the property. Defendants failed to prep the fields for planting, and they failed to  
7 take care of young plants in the greenhouse; they also failed to make clones to  
8 ensure a successful future harvest. Vertical left significant cannabis waste in totes  
9 outside the greenhouses in violation of regulations associated with such waste. In  
10 short, they caused significant damage to the 2019 cultivation season, imperiling  
11 Ms. Shulman's efforts at mitigating damages Defendants had caused under the  
12 Cultivation Agreement, as well as her efforts to reestablish the business for  
13 successful harvests in future years.

14 151. Defendants imposed substantial attorneys' fees and costs on  
15 Ms. Shulman, only to abandon the property, leaving the business in shambles.  
16 With no notice to Ms. Shulman, who had laid off a dozen or more workers when  
17 Kaplan took over the business again, Kaplan suddenly decided to abandon the  
18 property and voluntarily dissolve the court's order. Defendants then left the  
19 property, using the excuse that the business could not be salvaged because  
20 Ms. Shulman had damaged all the plants. This, of course, was another lie, easily  
21 disproven with photographic evidence.

22 152. Kaplan's attorney then propounded extensive discovery on  
23 Ms. Shulman and demanded numerous depositions, imposing additional fees and  
24 costs on Ms. Shulman. Counsel for Ms. Shulman responded to discovery and  
25 prepared to take and defend multiple depositions, including protracted efforts to  
26 secure the deposition of Charles Houghton, who had successfully evaded service at  
27 his home in Colorado for weeks. But then, with no explanation whatsoever,  
28 Kaplan's attorney announced that Kaplan was voluntarily dismissing his case. This

1 announcement was coupled with a threat that Kaplan could bring his claims at  
2 another time in another forum—in other words, that Kaplan could at any time  
3 attempt once again to steal Ms. Shulman’s business and property using the lease.

4 153. On information and belief, Kaplan came to realize that by suing  
5 Ms. Shulman in superior court to re-gain control over the cultivation business that  
6 was established and governed by the Cultivation Agreement, he had made a  
7 serious miscalculation. He had waived the provision in the Cultivation Agreement  
8 requiring that disputes be mediated and arbitrated—which would allow  
9 Ms. Shulman to pursue her claims against him in court, where a jury would decide  
10 liability and damages. Kaplan was right about that.

11 **J. Defendants’ Conduct Caused Substantial Financial and Other**  
12 **Harm**

13 154. Defendants’ conduct has resulted in substantial financial and other  
14 harm to Plaintiffs. For purely financial losses, Plaintiffs have been damaged in an  
15 amount not less than \$67 million (an amount that does not include the substantial  
16 monetary damage Ms. Shulman sustained from the loss of her ownership interest  
17 in Wellsprings and Defendants’ failure to develop and promote the Iron Angel  
18 brand). Plaintiffs are also entitled to treble damages and punitive damages for  
19 fraud, amounting to no less than \$200 million.

20 155. Defendants have failed to pay any amounts due under for the  
21 cultivation of cannabis on Iron Angel, Sisters, and Wellsprings. The few financial  
22 documents that have been made available to Ms. Shulman indicate that Defendants  
23 were improperly calculating profits from the 2017 Iron Angel and Sisters cannabis  
24 harvests and sales. Defendants thus intended to defraud Ms. Shulman, dramatically  
25 underestimating amounts due by making improper deductions from the gross  
26 revenue for non-agricultural staff compensation and travel expenses, as well as  
27 inflated costs for plants, soil, and landscape.  
28

1 156. Defendants also deprived Plaintiffs of profits due to them from Iron  
2 Angel's 2018 harvest. Vertical sold, without compensating Ms. Shulman, at least  
3 3,800 pounds of cannabis that year. Then, due to Defendants' breaches of the  
4 Cultivation Agreement, Ms. Shulman was forced to sell the remaining 6,200  
5 pounds of cannabis at greatly reduced prices. This was due largely to Vertical's  
6 complete mismanagement and operation failures, including the failure to store and  
7 package the product correctly, causing it to mold. Defendants also harvested at  
8 least 22,000 pounds of cannabis from Wellsprings in 2018 and have paid  
9 Ms. Shulman nothing.

10 157. The financial harm for the 2017 and 2018 harvests on all properties is  
11 multiplied due to Defendants' failure to meet the contractual requirement of  
12 providing on-site manufacturing, which would have allowed for sales at much  
13 higher prices. Defendants instead improperly sold product to their own affiliate at  
14 greatly reduced prices, so the affiliate could manufacture the product for final sale,  
15 fraudulently steering all profits to Defendants alone. For just the 2017 and 2018  
16 harvests, Plaintiffs have been damages in an amount no less than \$5 million.

17 158. Defendants' actions described herein have also deprived Ms. Shulman  
18 of future profits for cultivation on all three properties—amounts that Defendants  
19 themselves have calculated for investors and thus are reasonably certain. These  
20 damages are no less than \$60 million, based on Defendants' own plans and  
21 projections. Wellsprings, for example, was to be one of the largest cannabis grows  
22 in the world in 2019, and Ms. Shulman was entitled to 50 percent of those profits.  
23 Among other statements, Vertical told its investors that it had made sales in excess  
24 of \$500,000 from Wellsprings in February 2019 and expected an additional  
25 \$10 million in outdoor flower sales—all for the 2018 harvest.

26 159. Defendants have caused other financial harm, including the failure to  
27 pay Ms. Shulman for a loan she made to Kaplan; for money owed for living  
28 expenses and other work done by Ms. Shulman; for money spent by Ms. Shulman

1 for living quarters; for 50 percent of infrastructure and equipment removed from  
2 Sisters, taken to Wellsprings, and then ultimately removed from Wellsprings and  
3 not returned; for unpaid vendors; for damage to Ms. Shulman's property on Iron  
4 Angel; and for the damages caused to Ms. Shulman by Defendants' malicious  
5 prosecution, as alleged herein.

6 160. Defendants' fraudulent conduct also deprived Ms. Shulman of her  
7 ownership interest in Wellsprings, a property that, by Defendants' own  
8 admissions, was dramatically increasing in value.

9 161. Defendants' failure to live up to their obligations to develop and  
10 promote the Iron Angel brand has also resulted in monetary damages in the  
11 millions of dollars.

12 162. Defendants' infliction of emotional distress on Ms. Shulman also  
13 resulted in substantial harm. After months of referring to Ms. Shulman as "family"  
14 and expressing hope for a long-term relationship, Kaplan and other Defendants  
15 embarked on a campaign of emotional torture. They screamed profanities at her,  
16 told her to "stay behind the fence like the old lady she is," called her "stupid,"  
17 "greedy" and a "loser," and told her she "had not worked hard enough," and did  
18 "not deserve any of the business." Defendants made veiled threats to Ms. Shulman  
19 by arriving on her property in black masks, parking close to her home in the  
20 middle of the night, causing other disturbances outside her home in the night, and  
21 intimidating her while driving on the freeway. Kaplan threatened to bury her in  
22 litigation if she failed to comply with his demands to allow Vertical to take over  
23 the business. Defendants also sought to ruin Ms. Shulman financially and to ruin  
24 the reputation she had spent years developing in the community. Defendants  
25 robbed her of her share of profits, destroyed her home, tarnished her reputation in  
26 the community, took her life savings, and left her living in a destroyed "house" on  
27 Iron Angel with little more than four walls. Kaplan then kept his promise and sued  
28 Ms. Shulman to obtain possession of Iron Angel. Defendants also engaged in

1 vandalism of Ms. Shulman's property and violated the terms of temporary  
2 restraining order to harass and intimidate her.

3 163. Ms. Shulman's distress has manifested itself in a variety of physical  
4 and emotional ways, as set forth below.

5 **K. Ms. Shulman Is Not Defendants' Only Victim**

6 164. As Defendants have sought to muscle their way into the California  
7 cannabis industry at several levels simultaneously, they have been desperate to  
8 portray Vertical as a company with significant assets and relationships. Their  
9 misrepresentations in support of that goal have victimized not only Ms. Shulman,  
10 but many other parties.

11 **Dr. Donald Davidson**

12 165. Dr. Davidson is a medical doctor who has been involved in the  
13 medical cannabis field in California for many years. In 2017, Dr. Davidson met  
14 Todd Kaplan at a meeting of a business networking organization known as the  
15 Young Presidents Organization. Mr. Kaplan agreed, on behalf of Vertical, to be  
16 part of a 50/50 joint venture into the "Dr. D" brand of cannabis products (CBD  
17 oils, capsules, vape cartridges, etc.). Kaplan promised that Vertical could provide  
18 state of the art manufacturing facilities, marketing/branding support, packaging, a  
19 full-service sales team, and statewide distribution. Based on Kaplan's promises,  
20 Dr. Davidson not only forewent other opportunities, but loaned hundreds of  
21 thousands of dollars to Kaplan and Vertical. Vertical prominently displayed the  
22 "Dr. D" brand in its promotional materials and listed Dr. Davidson as part of its  
23 leadership team as a Medical Advisor. Kaplan and Vertical, however, did not  
24 follow through on any of their promises to Dr. Davidson, badly mismanaged the  
25 project, and refused to supply financial or operational records to him. When  
26 Dr. Davidson sought repayment of the loans he had made, Kaplan grew angry,  
27 verbally abusive, and refused to repay the loans or to abide by the terms of their  
28 contractual arrangement. Kaplan forced Dr. Davidson, under economic duress, to

1 convert the loans into an equity investment in Vertical. In addition, on the morning  
2 of the day this Complaint was filed, Kaplan called Dr. Davidson's mother and  
3 threatened her. Kaplan told Dr. Davidson's 70-year-old mother that if she did not  
4 make Dr. Davidson stop talking about Vertical, Kaplan would "bury" her in  
5 litigation and "drain" Dr. Davidson's inheritance. Kaplan also made threats to her  
6 amounting to blackmail. Dr. Davidson's parents had loaned approximately  
7 \$200,000 to Vertical, after which Kaplan bullied them, like so many others, into  
8 signing a subscription agreement rather than repaying them.

9 **Mr. and Mrs. Lugli**

10 166. As noted above, Rusty and Susan Lugli are the elderly owners of the  
11 Wellsprings property. Defendants not only defrauded Ms. Shulman out of her  
12 interest in Wellsprings, they also defrauded the Luglis. The Luglis have filed suit  
13 in Santa Barbara Superior Court against Vertical and Kaplan, claiming fraud, elder  
14 abuse, and other bases for relief. As the Luglis allege, Kaplan made material  
15 misrepresentations and false promises to earn the Luglis' trust and confused them  
16 in an effort to induce Rusty Lugli into investing \$2,000,000 in Vertical through a  
17 subscription agreement. Defendants made misrepresentations as to the financial  
18 health of Vertical. Kaplan made statements that they were "family," that "he had  
19 their best interest in mind," and that he was giving them a better deal under the  
20 subscription agreement because they were "friends and family." The Luglis further  
21 allege that Kaplan stated that the subscription agreement he wanted them to sign  
22 was a mere formality and inconsequential. Kaplan led Mr. Lugli to believe that he  
23 needed to sign the subscription agreement in order to receive the operating  
24 agreement and financial disclosures that Kaplan had previously withheld. Kaplan  
25 stated that after Mr. Lugli signed the subscription agreement the parties would  
26 then be able to further negotiate a purchase price and enter into an "actual"  
27 agreement.  
28

BAKER BOTTS L.L.P.

**Calvin Frye**

1  
2 167. Calvin Frye is the owner of a cannabis dispensary in Studio City,  
3 California, called “Cloneville.” Mr. Frye entered into an agreement with Kaplan  
4 for Kaplan to manage the dispensary. Mr. Frye filed a lawsuit against Kaplan in  
5 Los Angeles Superior Court claiming fraud, breach of contract, and other bases for  
6 relief. According to Mr. Frye, Kaplan’s “ulterior motive in entering into the  
7 agreement was to take over plaintiff’s valuable business.” Kaplan had fraudulently  
8 concealed that he was a convicted felon, so he could not perform his obligations  
9 related to licensing and regulatory requirements under the contract. Frye alleges  
10 that after he learned of Kaplan’s inability to comply with the obligations of the  
11 contract, he terminated the contract and soon learned of other breaches Kaplan  
12 committed while operating Frye’s cannabis distribution business, including  
13 operating the business at illegal times and failing to pay Frye the portion of money  
14 he is due pursuant to the terms of the contract.

**Camie Cutter**

15  
16 168. Camie Cutter is trained as a commercial pilot. Rather than pursuing  
17 her career as a pilot, she entered the cannabis industry after cannabis became legal  
18 in Washington and Oregon. She developed expertise in all aspects of cannabis,  
19 especially in manufacturing of edible cannabis products and isolates of cannabis  
20 ingredients tetrahydrocannabinol (THC) and cannabidiol (CBD). She worked for  
21 Vertical from March 2018 to October 2018 as a cannabis consultant and sales  
22 person. Soon after joining, she realized that Vertical’s executive team did not have  
23 nearly the expertise in cannabis that they had initially represented. She gave them  
24 a “Cannabis 101” presentation to help bring them up to speed on the various  
25 products that Vertical could bring to market. Eventually, she realized that Vertical  
26 was not interested in getting product on the shelves, that, in fact, it was a “massive  
27 fraud” based on “smoke and mirrors” and was solely interested in building up the  
28 appearance of a sophisticated cannabis company in order to lure investors. After



1 she left the company, Vertical refused to reimburse her for approximately \$12,000  
2 that it owed her for expenses she had incurred and approximately \$10,000 that it  
3 owed her in back pay unless she agreed to sign a non-disclosure and  
4 non-disparagement agreement. She refused to sign and was never paid.  
5 Representatives of Vertical threatened to bury her in litigation if she attempted to  
6 legally seek repayment of the monies owed to her.

### 7 Other Brand Affiliates

8 169. Defendants have promoted Vertical's supposed expertise in brands  
9 and distribution in appearances before potential investors and the media. At  
10 various times, Defendants have touted the company's vast stable of brands (25-35  
11 depending on the presentation) and its full distribution and sales capabilities. In  
12 fact, however, when these representations were made the company was  
13 distributing no brands. Indeed, most of its "brands" are nothing more than  
14 concepts.

15 170. To be sure, Defendants have entered into some arrangements with  
16 companies that have existing cannabis brands. They secured those relationships,  
17 however, through misrepresentation and have systematically taken advantage of  
18 the founders of those brands. In these cases, the typical pattern was for Defendants  
19 to invite the potential partner to the Vertical office which was designed to impart  
20 an air of solidity and legitimacy. The office was curated with sports and music  
21 memorabilia (which at least one former employee became convinced were fake).  
22 To impart a sense of gravitas, prospective brand affiliates would invariably be  
23 shown the office of former California State Senator Tony Strickland, who Vertical  
24 lists as part of its leadership team, although according to former employees he  
25 spent less than an hour each month at the offices. The office set aside for  
26 Strickland was adorned with large U.S. and California flags and photos with  
27 Strickland and prominent Republican politicians. Meanwhile, in the part of the  
28 office that was not publicly facing, employees had to work on dirty folding tables

1 and were given cheap computers that lacked even basic word processing or  
2 spreadsheet software (if they were provided a computer at all).

3 171. Defendants would pitch themselves to potential brand affiliates as  
4 established, experienced, sophisticated, well-staffed, well-financed vertically  
5 integrated cannabis organization with significant assets and a significant track  
6 record. They would then seek to dazzle the potential partner with an array of  
7 promises including resources (which often didn't exist), ambitious sales and  
8 marketing plans, packaging ideas, events, expansion opportunities, etc. After  
9 Defendants had lured the affiliate into signing up, things would then change. At  
10 that point, Defendants had what they needed: a brand to add to the list, a logo to  
11 add to their materials. The affiliate was then left to fend for themselves. Phone  
12 calls would not be returned, and the promised plans, funds, and support would not  
13 materialize or would be severely "slow-rolled." The affiliate's dream of building a  
14 thriving cannabis-related business would begin to die from starvation.

15 172. One employee who worked at Vertical in the branding department  
16 and who regularly attended weekly senior leadership meetings in 2017 and 2018  
17 ended up quitting because he had been consistently tasked with reassuring  
18 increasingly agitated brand affiliates that their projects were progressing and under  
19 control even though he knew from discussions with Defendants that Defendants  
20 were not going to live up to their promises.

### 21 Investors

22 173. Defendants' misrepresentations as to their interest in Iron Angel and  
23 Wellsprings, the state of their manufacturing operations, their brands, their other  
24 affiliations, their expertise, their licenses, their distribution network, and their  
25 financial resources, are all designed to lure in potential investors. Defendants have  
26 relied on the rapidly changing and expanding cannabis industry and frenzied pace  
27 of investment (which some have likened to the dot-com craze of the late 1990s) to  
28 avoid the type of detailed scrutiny that might otherwise expose their deception.

1 Defendants care much more about padding to their investment presentation,  
2 website, and press packet with purported assets, affiliations, and deals than putting  
3 in the effort to actually advance the business or get products on shelves.  
4 Defendants' ultimate goal, it appears, is to cash out before the house of cards  
5 comes tumbling down.

## 6 V. CLAIMS FOR RELIEF

### 7 COUNT I

#### 8 **Violation of the Federal Racketeer Influenced and Corrupt Organizations Act** 9 **(18 U.S.C. §§ 1962(c) and 1964(c))** 10 **(All Plaintiffs Against Todd Kaplan, Charles Houghton, and Vertical)**

11 174. Plaintiffs repeat and reallege each of the allegations set forth in the  
12 preceding paragraphs and in Counts III, IV, and V.

#### 13 **RICO Standing, Injury, and Proximate Cause**

14 175. Each Plaintiff is a "person" as defined in 18 U.S.C. §1961(3) of  
15 RICO as they are entities and individuals capable of holding a legal or beneficial  
16 interest in property.

17 176. Each Defendant is a "person" as defined in 18 U.S.C. §1961(3) of  
18 RICO as they are entities and individuals capable of holding a legal or beneficial  
19 interest in property.

20 177. Plaintiffs sustained injury to their business or property by reason of  
21 the acts and conduct of Defendants alleged in this Complaint, including  
22 Defendants' scheme to take over Ms. Shulman's cannabis business, divert profits  
23 belonging to Plaintiffs, wrest control of the Wellsprings opportunity from  
24 Plaintiffs, induce Plaintiffs to forego the Sisters opportunity, misappropriate  
25 Plaintiffs' Iron Angel brand, and maliciously prosecute an unlawful detainer  
26 action. Defendants knowingly and willfully excluded Plaintiffs from cannabis  
27 operations and cut Plaintiffs off from profits and expected profits to which they  
28 were rightfully entitled under the Cultivation Agreement and Wellsprings

1 Agreement. Through a series of fraudulent statements and promises, Defendants  
2 induced Plaintiffs to sign the Iron Angel lease that they alleged gave Defendants  
3 sole right of possession of Iron Angel and to take numerous other actions for  
4 Defendants' benefit and to Plaintiffs' detriment. As a result, Plaintiffs lost control  
5 over their cannabis cultivation operation for a time at the Iron Angel Property, lost  
6 the opportunity to purchase and cultivate cannabis on the Wellsprings Property,  
7 among numerous and significant other injuries to their business and property  
8 interests.

9 178. Plaintiffs suffered concrete financial and other damages, including in  
10 the form of lost profits.

11 179. But for the conduct of Defendants alleged in this Complaint,  
12 Plaintiffs would not have been injured.

13 180. The losses suffered by Plaintiffs was proximately caused by  
14 Defendants, as the fraudulent scheme and enterprise was a direct and substantial  
15 factor in causing their injuries. As in *Bridge v. Phoenix Bond & Indemnity Co.*,  
16 553 U.S. 639 (2008), the injuries suffered by Plaintiffs was "a foreseeable and  
17 natural consequence of [Defendants'] scheme" to force Plaintiffs out of the  
18 cannabis cultivation operations at Iron Angel, Wellsprings, and Sisters,  
19 misappropriate Plaintiffs' brand, and cut Plaintiffs off from the resulting profits—  
20 all part of an ongoing pattern of mail and wire fraud. Moreover, while Defendants  
21 have engaged in similar fraudulent schemes against similarly situated individuals  
22 and small businesses, there are no victims beyond Plaintiffs who are more directly  
23 injured by Defendants' scheme and enterprise who can be counted on to seek  
24 remedies under RICO.

25 181. The harm suffered by Plaintiffs amounts to compensable injury  
26 caused by Defendants' conduct of an enterprise through a pattern of racketeering.  
27 *Sedima, S.P.R.I. v. Imrex Co.*, 473 U.S. 479 (1985).

28 182. Plaintiffs were the target of the RICO scheme.

**The Associated-in-Fact RICO Enterprise**

183. The following persons associated in fact as an “enterprise” within the meaning of 18 U.S.C. §1961(4) to defraud and steal from Ms. Shulman:

Todd Kaplan, Charles Houghton, Matt Kaplan, Drew Milburn, Courtney Dorne, Smoke Wallin, Robert Scott, Elyse Kaplan, Jeff Silver, Vertical, Vertical Wellness, Vertical CR (Costa Rica), Iron Angel II, LLC, and NCAMBA9. The associated-in-fact enterprise is referred to as the “Kaplan Enterprise” and its constituents are referred to as the “Enterprise Associates.”

184. The Kaplan Enterprise is separate and distinct from the persons that constitute the enterprise and it is separate and apart from the pattern of racketeering activity alleged.

185. As alleged herein, the Enterprise Associates conducted the affairs of the Kaplan Enterprise through a pattern of racketeering activity.

186. **The Purpose of the Kaplan Enterprise.** The Kaplan Enterprise is an ongoing and continuing organization, formed for the common and shared purpose of portraying to the world and potential investors what appears, through smoke and mirrors, to be an established, experienced, sophisticated, well-staffed, well-financed vertically integrated cannabis organization with significant assets and a significant track record which, in fact, did not exist. The ultimate goal of the Kaplan Enterprise is to dupe and take advantage of unsuspecting affiliates and investors, before ultimately cashing out to leave its victims to sift through the wreckage. The means and methods the Kaplan Enterprise used in pursuit of this purpose included defrauding and otherwise taking unfair advantage of individuals, land owners, potential investors, and existing small business owners in and out of the cannabis industry. The Kaplan Enterprise regularly relied on threats, intimidation, and duress to achieve its ends. The Kaplan Enterprise used fraudulent methods to induce its victims to sign contracts in circumstances where the victim was unaware of the Kaplan Enterprise’s true intentions. The Kaplan Enterprise

1 relied on elder abuse and frequently targeted elderly and other vulnerable victims.  
2 The Kaplan Enterprise also cut corners and violated laws and regulations in  
3 numerous ways including by seeking to fraudulently conceal that cannabis product  
4 that it claimed was safe actually contained ingredients not fit for human  
5 consumption. The Kaplan Enterprise defrauded Ms. Shulman and other business  
6 owners by luring them into business deals with misrepresentations, concealments,  
7 and false promises, fraudulently inducing them to sign over property and rights to  
8 profits, and converting the benefits arising out of the business operations for  
9 Kaplan Enterprise's sole benefit.

10 187. Instead of putting in the work to start its own cannabis cultivation  
11 operation, the Kaplan Enterprise sought to take over Ms. Shulman's business by  
12 defrauding her in order to gain the advantage she had in owning an  
13 already-operating cannabis cultivation business, the contractual rights she had that  
14 would allow for expansion, taking advantage of her skill, expertise, community  
15 relationships, her priority position for licensing and regulatory requirements, and  
16 avoiding the numerous and significant other start-up costs. The Kaplan Enterprise  
17 sought to similarly advantage itself from defrauding other owners of  
18 already-operating cannabis businesses at differing levels of the cannabis  
19 distribution chain. In so doing, Defendants have defrauded Plaintiffs of tens of  
20 millions of dollars that rightfully belong to Plaintiffs.

21 188. **The Relationship Among, and Conspiracy Between, Separate and**  
22 **Distinct Associates.** In order to effectuate the fraudulent scheme and wrongfully  
23 convert the funds and property of Plaintiffs, Defendants had to create a  
24 relationship between the Enterprise Associates. These relationships facilitated and  
25 enabled the theft and fraud.

26 189. Each associate of the Kaplan Enterprise has an existence separate and  
27 distinct from its participation in the racketeering activities of the Kaplan  
28 Enterprise.

1 190. The Kaplan Enterprise has an existence and structure that is separate  
2 and distinct from the other affairs of its members.

3 191. The Enterprise Associates engage in business operations separate and  
4 distinct from other affairs of its members and separate and apart from their  
5 activities on behalf of the Kaplan Enterprise.

6 192. The Enterprise Associates nevertheless became associated with the  
7 Kaplan Enterprise and conducted or participated in the affairs of the Kaplan  
8 Enterprise in addition to their own affairs. The activities engaged in by the  
9 Enterprise Associates are not, however, ordinary legitimate business activities, and  
10 in fact were unlawful.

11 193. Each of the Enterprise Associates had a different and clearly defined  
12 role in the conduct of Kaplan Enterprise. All of the Defendants intended to further  
13 the fraud against Plaintiffs and agreed to participate in it:

- 14 • Todd Kaplan, the leader of the Kaplan Enterprise, is the  
15 founder and chief executive officer of Vertical Companies,  
16 CEO of NCAMBA9, and Managing Member of Iron Angel II,  
17 LLC. Kaplan engaged in numerous misrepresentations and  
18 fraudulent acts, as detailed herein. These include Kaplan's  
19 participation in the fraud related to the Iron Angel lease and the  
20 attempts to foreclose Ms. Shulman from the Sisters and  
21 Wellsprings properties. Kaplan also persuaded Ms. Shulman to  
22 loan Vertical approximately \$320,000—the remainder of her  
23 life savings—to pursue joint initiatives under the Cultivation  
24 Agreement, while at the same time diverting the funds to use  
25 for his own benefit and failing to meet obligations under the  
26 Cultivation Agreement. When he was unwilling or unable to  
27 repay the loan in full, Kaplan sought to persuade Ms. Shulman  
28 to convert the loan into an investment in Vertical, and when she

1 declined he grew verbally and emotionally abusive and refused  
2 to abide by the terms of their contract. Kaplan similarly tried to  
3 pressure several others into making investments in Vertical.  
4 Kaplan presided over weekly Monday morning meetings of key  
5 members of the Kaplan Enterprise, where, on information and  
6 belief, such members discussed Vertical's strategy, including  
7 methods for enticing unsuspecting investors into purchasing  
8 company "units," related businesses into partnering with  
9 Vertical, and otherwise unsophisticated persons and entities  
10 into parting with their financial and real property interests.

- 11 • Vertical is a multistate limited liability corporation, with  
12 operations in at least California, Kentucky, and Arizona, and  
13 international operations in Costa Rica. Kaplan owns a majority  
14 of Vertical, and Vertical is used to carry out the Kaplan  
15 Enterprise's purpose and is a primary vehicle for defrauding  
16 affiliates and investors.
- 17 • Vertical CR (Costa Rica) is an entity that sought to takeover  
18 Costa Rica Alchemy, an association studying and lobbying for  
19 medical cannabis in Costa Rica and providing cannabis oil to  
20 patients. Upon information and belief Vertical CR facilitated  
21 cash payments to affiliates in Costa Rica in a manner designed  
22 to avoid Financial Crimes Enforcement Network (FinCEN)  
23 Report of International Transportation of Currency or  
24 Monetary Instruments.
- 25 • Vertical Wellness, Inc. is an affiliate of Vertical and is a  
26 recipient of ill-gotten gains from the Kaplan Enterprise and acts  
27 as a constructive trustee of funds that rightfully belong to  
28 Plaintiffs.



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- Charles Houghton was in-house counsel and now a regulatory advisor for Vertical. He assisted the Kaplan Enterprise by providing advice on legal and regulatory issues. He engaged in fraud by gaining Plaintiffs' trust by leading them to believe that he was their attorney and inducing them to sign a lease based on material misrepresentations of fact. Houghton specifically told Ms. Shulman that the lease for Iron Angel was for licensing requirements, leading her to believe that it would only be treated as a formality, but not enforced on its terms, when in fact the lease was not necessary for any county or state licensing requirements and was later used as a basis of the Kaplan Enterprise's attempt to force Ms. Shulman off of Iron Angel. Houghton also steered used his position to defraud Ms. Shulman by directing all licenses to Kaplan and otherwise manipulating the licensing process to Kaplan's benefit and Ms. Shulman's detriment. Houghton also directed that operations stop on Sisters even though there was no legitimate purpose for doing so, and he aided his manipulation of the Sisters property by taking over all discussions of Ms. Shulman's lease on the property. Houghton was also instrumental in implementing Kaplan's scheme to steal the Wellsprings property and cannabis business from Ms. Shulman. Houghton regularly attended the Monday morning meetings of the Kaplan Enterprise.
  - Matt Kaplan is Todd Kaplan's son. Matt was instrumental in carrying out the Kaplan Enterprise's plans, following Todd Kaplan's lead and instructions. He is the director of operations of Vertical. He was brought in to the Iron Angel

1 property operations near the end of 2017 and acted as the  
2 director of operations for the cannabis cultivation operations at  
3 the Iron Angel and Wellsprings. Matt Kaplan participated in  
4 the fraudulent scheme against Ms. Shulman by helping to push  
5 Ms. Shulman out of the business operations. In 2018, Matt  
6 Kaplan stopped sharing financial information about the  
7 business with Ms. Shulman, as was required under the  
8 Cultivation Agreement. Matt Kaplan further directed  
9 employees not to share information with Ms. Shulman. Matt  
10 Kaplan frequently misrepresented to investors that Vertical  
11 owned the Wellsprings Property. Matt physically assaulted  
12 Ms. Shulman's son, Randall. Matt Kaplan shouted obscenities  
13 at Ms. Shulman and told her she was "stupid" and "greedy,"  
14 and he hoped she rots in the house on Wellsprings. He also  
15 helped vandalize Ms. Shulman's property, including as recently  
16 as April 2019, destroying the fence around her home. Matt  
17 Kaplan, at least initially, regularly attended the Monday  
18 morning meetings of the Kaplan Enterprise.

- 19 • Drew Milburn, the chief operating officer of Vertical  
20 Companies, was the middle-man and gate-keeper between  
21 Ms. Shulman and Todd Kaplan. He managed the Kaplan  
22 Enterprise operations. During the negotiations of the  
23 Cultivation Agreement, Kaplan represented to Ms. Shulman  
24 that Drew Milburn would be brought in to the Iron Angel  
25 property to manage the operations there. Instead, Milburn  
26 brought in young workers, including Matt Kaplan, with little or  
27 no experience in the cannabis industry or agriculture. Milburn  
28 oversaw a 2018 harvest at Iron Angel that produced a high

1 volume of low-quality product with the goal of operating Iron  
2 Angel at the lowest possible cost to strip Ms. Shulman of any  
3 profits. Milburn was involved in the financial matters related to  
4 sales from Iron Angel. Kaplan also enlisted Milburn to help  
5 strong-arm Ms. Shulman into taking the “generous” November  
6 2018 offer to exchange her 50 percent interest in Wellsprings  
7 for one percent in Vertical. Milburn regularly attended the  
8 Monday morning meetings of the Kaplan Enterprise.

- 9 • Courtney Dorne, the president of Vertical brands, introduced  
10 Ms. Shulman to Todd Kaplan. She was integral to inducing  
11 Ms. Shulman to enter into a business relationship with Vertical.  
12 From the very beginning, Ms. Dorne used the reminder of her  
13 childhood friendship with Ms. Shulman’s daughter-in-law to  
14 lure Ms. Shulman into a deal with Kaplan. She misrepresented  
15 the status of Vertical and what it was capable of offering  
16 Ms. Shulman. When Kaplan was unhappy, it was Ms. Dorne  
17 who reached out to the Shulmans, under the guise of friendship  
18 and trust, and encouraged Ms. Shulman to comply with  
19 Kaplan’s demands—or else. Ms. Dorne visited Iron Angel in  
20 January 2019, stating that she intended to help resolve the  
21 conflict that was then arising between the parties. Though she  
22 denied having any knowledge of the problems between  
23 Ms. Shulman and Kaplan and his employees, after she heard  
24 Ms. Shulman’s account of the problems they were experiencing  
25 with Kaplan, Vertical, and Vertical employees, she stopped  
26 communicating with Ms. Shulman. Ms. Dorne, like Matt  
27 Kaplan, was tasked with providing tours to investors and  
28 misrepresenting ownership of the property as that of Vertical.

1 To this day, Ms. Dorne has pictures of Iron Angel and  
2 Wellsprings on her publicly-accessible social media accounts  
3 and claims to own them. Ms. Dorne regularly attended the  
4 Monday morning meetings of the Kaplan Enterprise.

- 5 • Smoke Wallin, the president of Vertical and the president and  
6 chief executive officer of Vertical Wellness, joined Vertical in  
7 January 2018. Wallin is the face of the Kaplan Enterprise and,  
8 in step with Kaplan's demands, runs the company. Wallin was  
9 and remains heavily involved in fundraising for Vertical. On  
10 multiple occasions, Wallin joined potential investors on the  
11 Iron Angel and Wellsprings properties and often represented to  
12 the investors that Vertical owned the properties. Wallin was  
13 also responsible for branding of Iron Angel products, but  
14 repeatedly delayed and obstructed working with Ms. Shulman,  
15 instead prioritizing Vertical's own brands and profit potential.  
16 Wallin regularly attended the Monday morning meetings of the  
17 Kaplan Enterprise.
- 18 • Robert Scott is the brother and close confidant of Todd Kaplan.  
19 He is the chief technology officer of Vertical and has been  
20 described as the "brains behind the brawn" at Vertical. Robert  
21 Scott was present during the June 23 visit to Iron Angel and  
22 Ms. Shulman's June 26 visit to the Agoura Hills office where  
23 Kaplan misrepresented the virtues of partnering with Vertical.  
24 Robert Scott was included in numerous communications  
25 between Todd Kaplan and Ms. Shulman, including fraudulent  
26 emails regarding the Iron Angel lease that Defendants claimed  
27 was necessary for licensing requirements and emails regarding  
28 the feigned attempts in late 2018 to negotiate a revised deal.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Robert Scott also offered Ms. Shulman false assurances that she would be compensated and misled Ms. Shulman about the status of the Needles facility. He regularly attended the Monday morning meetings of the Kaplan Enterprise.

- Elyse Kaplan, Vertical’s corporate counsel, assisted in the legal aspects of the cannabis business. She worked to obtain the state and county licenses but did not take the appropriate steps to have the licenses split as required by the Cultivation Agreement, despite repeated reminders from Brandon Shulman to do so, nor did she do so in a timely or complete manner. Elyse Kaplan was responsible for addressing and resolving Notices of Violations on the Iron Angel and Wellsprings properties but did not do so. Elyse Kaplan further set up accounts with regulatory authorities but declined to give Ms. Shulman the access to which she was entitled.
- Jeff Silver, formerly the Chief Financial Officer and now a strategic advisor to Vertical, was the self-declared “sole person to coordinate all the financial aspects,” of the cannabis cultivation operation at Iron Angel and Wellsprings. Silver admitted to Brandon Shulman that Vertical keeps two sets of books to avoid reporting all cash income. He furthered the fraud by providing Plaintiffs with materially false financial information.
- Iron Angel II, LLC, is a limited liability corporation established by Kaplan and Houghton in order to carry out various of the Kapan Enterprise’s schemes, including the scheme to defraud Ms. Shulman and oust her from Iron Angel.

- 1           • NCAMBA9 is a corporation established by Kaplan in order to  
2           help carry out various of the Kaplan Enterprise's schemes.  
3           NCAMBA9 served as the operator under the Cultivation  
4           Agreement until those duties were delegated to Kaplan and  
5           Vertical.

6           194. In these ways and others, each Defendant directly or indirectly  
7           participated in, managed aspects of, facilitated, or otherwise took some part in  
8           directing the unlawful activities comprising Kaplan Enterprise's affairs.

9           195. The cooperation exhibited by the Enterprise Associates of Kaplan  
10          Enterprise fell outside the bounds of Defendants' normal commercial relationships  
11          and was undertaken to advance the corrupt practices of Kaplan Enterprise.

12          196. **Continuous Existence.** The Kaplan Enterprise has had an ongoing  
13          and continuous existence sufficient to permit the Enterprise Associates to follow  
14          its fraudulent pursuits. The Enterprise Associates associated in fact to engage in a  
15          pattern of fraud against the Plaintiffs while concealing the true nature of their  
16          intentions and purpose, on an ongoing rather than ad hoc basis. None of the  
17          Enterprise Associates acted independently or in competition with one another, or  
18          otherwise in a manner contrary to Kaplan Enterprise's purpose.

19          197. The Kaplan Enterprise has displayed a continuity of membership  
20          during the times relevant to this Complaint, during which time the Enterprise  
21          Associates acted continuously in their respective roles in the Kaplan Enterprise.

22          198. During the times relevant to this Complaint, each Enterprise  
23          Associate was aware of the scheme to defraud the Plaintiffs and was a knowing  
24          and willing participant in that scheme.

25          199. **Interstate Commerce.** Kaplan Enterprise engages in and its activities  
26          affected interstate and foreign commerce as it conducts business in multiple states  
27          within the United States and with foreign countries.  
28

1                                    **Pattern of Racketeering Activity and Predicate Acts**

2            200. All of the Enterprise Associates' predicate acts of racketeering set  
3 forth herein were so continuous so as to form a pattern of racketeering activity as  
4 defined by 18 U.S.C. §1961(5) in that: (a) Enterprise Associates engaged in  
5 multiple predicate acts of racketeering activity, i.e. indictable violations of  
6 18 U.S.C. § 1341 (mail fraud) and 18 U.S.C. § 1343 (wire fraud), from at least  
7 2017 through the present; (b) the conduct has become the Enterprise Associates'  
8 and Kaplan Enterprise's regular way of conducting business; and (c) is continuing  
9 and threatens to continue in the future.

10           201. Defendants used interstate mails and wires to defraud Plaintiffs and  
11 others through a scheme by which Defendants sought to portray to the world and  
12 potential investors and affiliates what appears to be an established, legitimate,  
13 credible, experienced, sophisticated, well-staffed, well-financed vertically  
14 integrated cannabis organization with significant assets, a proven track record, the  
15 financial means and ability to conduct a large-scale, leading-edge cannabis  
16 operation including cannabis cultivation. With this façade of credibility and  
17 through extreme emotional manipulation, Defendants induced Ms. Shulman to  
18 take various actions, including entering into the Cultivation Agreement and the  
19 Wellsprings Agreement, assigning rights to Wellsprings to Kaplan, signing a lease  
20 based on fraudulent statements, and loaning capital to the business that Defendants  
21 had no intention of fully repaying. Defendants later resorted to threats, bullying,  
22 intimidation tactics, and duress in order to pressure Plaintiffs into foregoing their  
23 rights. Ms. Shulman was injured by the fraudulent scheme that was furthered by  
24 Defendants' mail and wire fraud.

25           202. Defendants engaged in a similar pattern with other affiliates of  
26 Vertical, as alleged herein.

27           203. The Enterprise Associates and Kaplan Enterprise's scheme to defraud  
28 Plaintiffs was furthered by the Enterprise Associates' use of mail and private or

1 commercial interstate carriers. Among the many acts of mail fraud are the  
2 following representative examples:

3 **Sample of Use of the Interstate mail and private or commercial interstate**  
4 **carriers in Violation of 18 U.S.C. §1341**

| 5 Date                                       | 6 Carrier   | 7 Description   | 8 From/to  |
|--|---|---|--|
| 9 On or before<br>10 December<br>11 12, 2017 | 12 Interstate Mail—USPS   | 13 Payroll checks<br>14 for numerous<br>15 employees  | 16 From Alan<br>17 Bramson on<br>18 behalf of MIH to<br>19 the Iron Angel<br>20 Property for<br>21 several employees |
| 22 On or before<br>23 January 1,<br>24 2018  | 25 Interstate Mail—USPS   | 26 Check for<br>27 \$63,366.88 to<br>28 cover mortgage<br>on Iron Angel<br>Property   | From Jeff Silver<br>on behalf of MIH,<br>to Zion<br>Agricultural Bank<br>on behalf of<br>Ms. Shulman.                |
| On or before<br>January 12,<br>2018          | Interstate Mail—USPS,<br>tracking number<br>947011020088163160403 | Check to cover<br>rent payment on<br>the Sisters’<br>Property   | From Alan<br>Bramson on<br>behalf of MIH, to<br>[Devine Mercy]<br>on behalf of<br>[Ms. Shulman]                      |
| On or after<br>February<br>16, 2018          | Interstate Mail—USPS  | Checks for<br>\$1,159.30 and<br>\$986.84, totaling<br>\$2146.14 to pay<br>invoice from<br>contractor                              | From Alan<br>Bramson on<br>behalf of MIH, to<br>Westcoast<br>Industries on<br>behalf of<br>Ms. Shulman               |
| On or after<br>April 11,<br>2018             | Interstate Mail--USPS   | Money Order for<br>\$11,507 to<br>reimburse<br>Brandon<br>Shulman for<br>operation<br>expenses<br>incurred on his<br>credit card. | From Jeff Silver<br>on behalf of MIH,<br>to Brandon<br>Shulman.  |

24 Numerous other uses of interstate mail occurred, including the recurring use of the  
25 United States Postal Service and UPS for delivery of payroll checks to the Iron  
26 Angel Property for employees and Ms. Shulman and Brandon Shulman. Each use  
27 by Defendants of the United States mails, in furtherance of and to execute the  
28 scheme, constitutes a separate mail fraud offense and is thus an act of racketeering



1 pursuant to 18 U.S.C. §1961(1).

2 204. The Enterprise Associates and Kaplan Enterprise's scheme to defraud  
 3 the Plaintiffs was furthered by the Enterprise Associates' use of the Interstate  
 4 Wires. Through the course of the parties' business relationship, Defendants wired  
 5 approximately \$111,000 into Rabobank debit account number XXXXXXXX92,  
 6 held in the name of Eddy Street Management, LLC (an LLC owned by Kaplan)  
 7 and Francine Shulman, which was used by Ms. Shulman and Brandon Shulman for  
 8 operational expenses incurred in the cannabis cultivation operation and to  
 9 reimburse Ms. Shulman and Brandon Shulman for operational expense charges  
 10 placed on their personal credit cards. Defendants wired approximately \$284,790  
 11 into Rabobank account number XXXXXXXX26, held in the name of Eddy Street  
 12 Management, LLC, to which Ms. Shulman and Brandon Shulman accessed and  
 13 used for payroll expenses. Among the many acts of wire fraud are the following  
 14 representative examples:

15 **Sample of Use of the Interstate Wires in Violation of 18 U.S.C. § 1343**

| Date                    | Method          | Description   | From/to  |
|-------------------------|-----------------|---|--|
| 8/30/2017               | Interstate Wire | \$10,000 for payroll to Vertical Employees.   | From Alan Bramson on behalf of MIH, to Ms. Shulman's Bank of America account number *****27, held in the name Iron Angel Ranch and Retreat, LLC, |
| 10/5/2017               | Interstate Wire | \$42,000 for seasonal funding, used to cover payroll.                                   | From Alan Bramson on behalf of MIH into Rabobank account number *****26  |
| On or before 12/15/2017 | Interstate Wire | \$10,000 for operational expenses and reimbursement to Ms. Shulman and Brandon Shulman. | From Alan Bramson on behalf of MIH, to Rabobank debit account number *****92   |

BAKER BOTTS L.L.P.

1 Each use by the Enterprise Associates of interstate wires was made in furtherance  
2 of and to execute the scheme, constitutes a separate wire fraud offense, and is thus  
3 an act of racketeering pursuant to 18 U.S.C. § 1961(1).

4 205. Defendants have engaged in similar patterns of fraudulent conduct  
5 against similarly situated, small business owners who conduct cannabis cultivation  
6 operations, as alleged above. On information and belief, Defendants have engaged  
7 in similar patterns of fraudulent conduct with respect to individuals and entities not  
8 yet identified herein.

9 206. Defendants are a group of individuals who operated the Kaplan  
10 Enterprise.

11 207. Defendants were associated with or employed by Vertical from at  
12 least 2017 through the filing of this Complaint.

13 208. Commencing in 2017 and continuing through the filing of this  
14 Complaint, Defendants conducted and/or participated in the conduct of Kaplan  
15 Enterprise's affairs through a pattern of criminal racketeering activity.

16 209. Defendants have engaged in a pattern of repeated racketeering  
17 activity.

18 210. All of the Defendants' predicate acts of racketeering set forth herein  
19 were so related as to establish a pattern of racketeering activity as that term is  
20 defined in 18 U.S.C. § 1961(5), as they had the same or similar purposes; i.e., to  
21 defraud Ms. Shulman, and to convert, steal, and divert the Shulman's property,  
22 assets, and entitlement to profits to their own benefit and use. They also involved  
23 the same or similar participants and methods of commission and had similar  
24 results, impacting the same or similar victims, namely the Plaintiffs.

25 211. As a direct and proximate result of Defendants' violations of  
26 18 U.S.C. § 1962(c), Plaintiffs have been injured in their business and property,  
27 because their moneys, profits, and property have been wrongly diverted to and  
28 converted by Defendants.



1 220. In bringing this action, Plaintiffs have and will incur attorney’ fees  
2 and are entitled to an award of reasonable attorneys’ fees under 18 U.S.C.  
3 § 1964(c).

4 **COUNT III**  
5 **Fraud — Intentional Misrepresentation**  
6 **(All Plaintiffs Against Todd Kaplan, Charles Houghton,**  
7 **Courtney Dorne, and Vertical)**

8 221. Plaintiffs repeat and reallege each of the allegations set forth in the  
9 preceding paragraphs.

10 ***Intentional Misrepresentations by Todd Kaplan***

11 222. During the negotiation of the Cultivation Agreement and the  
12 agreements regarding the Wellsprings Property, Kaplan, acting in his capacity as  
13 an agent and employees of Vertical or the Kaplan Enterprise, represented  
14 numerous material falsehoods to Ms. Shulman. For example:

- 15 a. On or about June 23, 2017, in Vertical’s Agoura Hills office,  
16 Kaplan told Ms. Shulman and others that he was innocent of  
17 any charge of past criminal conduct;
- 18 b. On or about June 23, 2017, in Vertical’s Agoura Hills office,  
19 Kaplan told Ms. Shulman that he and Vertical had extensive  
20 expertise in the cannabis industry, with particular expertise in  
21 cannabis licensing and regulatory schemes;
- 22 c. On or about June 23, 2017, in Vertical’s Agoura Hills office,  
23 Kaplan told Ms. Shulman that he managed a dispensary in  
24 Studio City, California called Cloneville and that he would use  
25 this position to place product from Iron Angel Ranch there;
- 26 d. On or about June 23, 2017, in Vertical’s Agoura Hills office,  
27 Kaplan told Ms. Shulman that Vertical already had significant  
28 investor funding so Vertical was able and ready to spend  
significant capital on the Iron Angel cannabis cultivation

BAKER BOTTS L.L.P.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

operation.

e. On or about July 21, 2017, Kaplan told Ms. Shulman that he intended to and had the financial means available to close on the Wellsprings Property;

f. On or about June 3, 2018, Kaplan told Ms. Shulman that a group from Mexico City had agreed to a \$150 million investment.

g. On or about June 3, 2018 Kaplan told Ms. Shulman that the money was stuck in the bank in Florida, that Kaplan could see the money in the account but that the bank would not release it.

h. On May 4, 2018, Kaplan wrote to Ms. Shulman that “everyone keeps saying [the money] is coming.” This refers to the money that Kaplan had misrepresented was coming from investors in Mexico City.

223. Kaplan’s representations were false when he made them.

224. Kaplan knew that the representations were false when he made them.

225. Kaplan intended that Ms. Shulman rely on the representations to her detriment including inducing her to enter a business relationship with him, foregoing business opportunities with others, and signing agreements giving Kaplan rights to Ms. Shulman’s property and assets.

226. Ms. Shulman reasonably relied on Kaplan’s representations. Ms. Shulman reasonably trusted Kaplan’s statements, in part due to his extensive emotional manipulation of her.

227. Plaintiffs were harmed by these misrepresentations, as set forth above. Ms. Shulman’s reliance on Kaplan’s representations was a substantial factor in causing such harm.

1           ***Intentional Misrepresentations by Charles Houghton***

2           228. During the process of applying for licenses for cultivation of cannabis  
3 on Iron Angel, Houghton, acting in his capacity as an agent and/or employee of  
4 Vertical or the Kaplan Enterprise, intentionally made material misrepresentations  
5 to Ms. Shulman. For example, on or about January 14, 2018, Houghton  
6 represented in an email to Ms. Shulman that the Lease for the Iron Angel Property  
7 was necessary “for licensing purposes.” Defendants Drew Milburn, Todd Kaplan,  
8 Jeff Silver, and Robert Scott were copied.

9           229. This representation was false when he made it.

10          230. Houghton knew that the representation was false when he made it.

11          231. By misrepresenting the nature of the lease and purporting it to be an  
12 inconsequential document and merely a formality necessary for obtaining the  
13 requisite licensing for the cannabis cultivation operation on Iron Angel and for  
14 Kaplan to fulfill his obligations under the Cultivation Agreement, and by leaving  
15 Ms. Shulman with the impression that the Lease would not be performed or  
16 enforced by either party, Houghton intended to induce Ms. Shulman to rely on the  
17 misrepresentation by executing the lease, giving Kaplan’s LLC, Iron Angel II,  
18 rights to Ms. Shulman’s property.

19          232. On or about January 18, 2018, Ms. Shulman, in reasonable reliance  
20 on Defendants’ fraudulent affirmations and misrepresentations, and without intent  
21 to be bound in any way that deviated from the Cultivation Agreement, executed  
22 the lease.

23          233. The parties did not discuss the key terms in the lease, which  
24 Houghton dismissed as unimportant since the parties would not actually perform  
25 under the lease, and Houghton did not send the lease to Ms. Shulman’s separate  
26 attorney.

1           234. At the time Defendants made the representations set forth in this  
2 Complaint, Ms. Shulman had no reason to believe that the representations were  
3 untrue or that Defendants had any intention of enforcing the lease.

4           235. Ms. Shulman reasonably trusted Houghton's misrepresentations  
5 because of her reasonable belief that he was representing her interests in an  
6 attorney-client relationship.

7           236. As a direct and proximate result of Houghton's intentional fraud and  
8 misrepresentations, Plaintiffs suffered damages as set forth above, including, but  
9 not limited to, Defendants' trespass and damage to Iron Angel.

10           237. Ms. Shulman's reliance on Houghton's representations was a  
11 substantial factor in causing the harm.

12           ***Intentional Misrepresentations by Courtney Dorne***

13           238. Prior to and during the negotiation of the Cultivation Agreement and  
14 the agreements regarding Wellsprings, Ms. Dorne, acting in her capacity as an  
15 agent and employee of Vertical or the Kaplan Enterprise, represented numerous  
16 material falsehoods to Ms. Shulman. For example:

- 17           a) On or about June 6, 2017, in a telephone conversation, Ms. Dorne  
18 represented that she was working with a financially stable  
19 company with existing indoor cultivation, manufacturing, brand  
20 partners, and dispensaries.
- 21           b) On or about June 6, 2017, in a telephone conversation, Ms. Dorne  
22 represented that Vertical had significant experience in the cannabis  
23 industry and in-house counsel with regulatory expertise.
- 24           c) On or about June 29, 2017, in a telephone conversation,  
25 Ms. Dorne represented to Ms. Shulman that Vertical was in the  
26 process of purchasing a one million square foot indoor grow space  
27 in Monterey, California.
- 28





BAKER BOTTS L.L.P.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- elements of the crime, and that Mr. Kaplan’s criminal attorney had, on behalf of Mr. Kaplan, praised the professionalism of the prosecutor;
- b. That his “felony conviction involve[ed] fraud, deceit, or embezzlement,” which the State of California considers “substantially related to the qualifications, functions, or duties” of cannabis cultivation and “may be a basis for denying [a] license.” 3 Cal. Code Reg. sec. 8113.
  - c. That Vertical was a startup and dependent on investors, and that the represented “investors” were actually lenders;
  - d. That Kaplan had no significant cannabis industry or regulatory expertise;
  - e. That Kaplan lacked sufficient funds to operate the business at Iron Angel, Sisters, or Wellsprings;
  - f. That Kaplan lacked sufficient funds to meet his obligations under the Cultivation Agreement or any other agreements made by the parties;
  - g. That Kaplan was obtaining funds from Dr. Davidson and others to finance the business with Ms. Shulman.
  - h. That Kaplan lacked sufficient funds to close on the purchase of Wellsprings.
  - i. That Kaplan had been locked out of the Cloneville dispensary and had been sued by its owner for fraud and breach of contract and faced allegations that he had entered into the agreement with the owner of the dispensary with the ulterior motive of taking over his business.
  - j. That the Lease would be used to claim a right to the Iron Angel Property, notwithstanding the Cultivation Agreement.

1 k. That Vertical intended to make inside sales at below market  
2 prices to deprive Ms. Shulman of profit and obtain the profit at  
3 other points in Vertical's distribution operation.

4 246. Kaplan had a duty to disclose these facts, because (1) they materially  
5 qualify other facts that he did disclose, (2) they were accessible only to him and  
6 not reasonably accessible to Ms. Shulman, (3) he actively concealed the facts, and  
7 (4) he had a relationship with Ms. Shulman that Kaplan actively sought to foster  
8 through emotional manipulation.

9 247. Ms. Shulman did not know of the concealed facts.

10 248. Kaplan intended to deceive Ms. Shulman by concealing the facts.

11 249. Had those facts been disclosed, Ms. Shulman reasonably would have  
12 behaved differently.

13 250. Ms. Shulman and her companies were harmed as alleged above.

14 251. Kaplan's concealment was a substantial factor in causing such harm.

15 ***Charles Houghton's Concealments***

16 252. Houghton, acting in his capacity as agent and/or employee of Vertical  
17 or the Kaplan Enterprise, concealed material facts from Ms. Shulman, not telling  
18 her that, rather than the lease on Iron Angel being used merely for purposes of the  
19 licensing process, it was the intent of Defendants to enforce the terms of the lease  
20 to deprive Ms. Shulman of access to her land.

21 253. Houghton concealed this fact, intending to induce Ms. Shulman into  
22 executing the lease.

23 254. Had Houghton disclosed the fact that the Iron Angel lease was not  
24 just for licensing purposes, but that Defendants intended to enforce its terms,  
25 Ms. Shulman would not have signed it.

26 255. Houghton had a duty to disclose these facts because (1) he was acting  
27 as her attorney and had a fiduciary relationship or otherwise attempted to foster a  
28 relationship of trust, (2) the facts he concealed materially qualify other facts that

1 he disclosed, (3) the concealed facts were accessible only to him and not  
2 reasonably accessible to Ms. Shulman, and (4) he actively concealed the facts.

3 256. As a direct and proximate result of Houghton's concealment,  
4 Ms. Shulman and her companies suffered damages, as alleged above.

5 257. Ms. Shulman's reliance on Houghton's concealments was a substantial  
6 factor in causing the harm.

7 *Courtney Dorne's Concealments*

8 258. Ms. Dorne, acting in her capacity as agent and/or employee of  
9 Vertical or the Kaplan Enterprise, concealed material facts from Ms. Shulman. She  
10 did not tell Ms. Shulman that Vertical was without the financial and business  
11 resources and expertise necessary to run a successful cannabis business. She did  
12 not tell Ms. Shulman that Vertical was misleading potential investors and brand  
13 partners to believe that Vertical solely owned Iron Angel and Wellsprings and the  
14 rights to the lucrative cannabis business on those properties.

15 259. Ms. Dorne concealed these facts intending to induce Ms. Shulman  
16 into trusting Defendants and assigning her property and financial interests to them.

17 260. Had Ms. Dorne disclosed these facts to her, Ms. Shulman would not  
18 have entered into any agreements with Kaplan or Vertical.

19 261. Ms. Dorne had a duty to disclose these facts because (1) they  
20 materially qualify other facts that she did disclose, (2) they were accessible only to  
21 her and not reasonably accessible to Ms. Shulman, (3) she actively concealed the  
22 facts, and (4) she had a relationship of trust with Ms. Shulman that Ms. Dorne  
23 actively sought to foster through emotional manipulation.

24 262. Ms. Shulman did not know of the concealed facts.

25 263. Ms. Dorne intended to deceive Ms. Shulman by concealing the facts.

26 264. Had those facts been disclosed, Ms. Shulman reasonably would have  
27 behaved differently.

28 265. Ms. Shulman and her companies were harmed as alleged above.

1 266. Ms. Dorne’s concealment was a substantial factor in causing such  
2 harm.

3 **COUNT V**  
4 **Negligent Misrepresentation**  
5 **(All Plaintiffs Against Todd Kaplan, Charles Houghton,**  
6 **Courtney Dorne, and Vertical)**

7 267. Plaintiffs repeat and reallege each of the allegations set forth in the  
8 preceding paragraphs.

9 ***Negligent Misrepresentations by Todd Kaplan***

10 268. During the negotiation of the Cultivation Agreement and the  
11 agreements regarding the Wellsprings Property, Kaplan, acting in his capacity as  
12 an agent and employees of Vertical or the Kaplan Enterprise, represented  
13 numerous material falsehoods to Ms. Shulman. For example:

- 14 a. On or about June 23, 2017, in Vertical’s Agoura Hills office,  
15 Kaplan told Ms. Shulman and others that he was innocent of  
16 any charge of past criminal conduct.
- 17 b. On or about June 23, 2017, in Vertical’s Agoura Hills office,  
18 Kaplan told Ms. Shulman that he and Vertical had extensive  
19 expertise in the cannabis industry, with particular expertise in  
20 cannabis licensing and regulatory schemes.
- 21 c. On or about June 23, 2017, in Vertical’s Agoura Hills office,  
22 Kaplan told Ms. Shulman that he managed a dispensary in  
23 Studio City, California called Cloneville and that he would use  
24 this position to place product from Iron Angel Ranch there.
- 25 d. On or about June 23, 2017, in Vertical’s Agoura Hills office,  
26 Kaplan told Ms. Shulman that Vertical already had significant  
27 investor funding so Vertical was able and ready to spend  
28 significant capital on the Iron Angel cannabis cultivation  
operation.

BAKER BOTTS L.L.P.

- 1 e. On or about July 21, 2017, Kaplan told Ms. Shulman that he
- 2 intended to and had the financial means available to close on
- 3 the Wellsprings Property.
- 4 f. On or about June 3, 2018, Kaplan told Ms. Shulman that a
- 5 group from Mexico City had agreed to a \$150 million
- 6 investment.
- 7 g. On or about June 3, 2018, Kaplan told Ms. Shulman that the
- 8 money was stuck in the bank in Florida, that Kaplan could see
- 9 the money in the account but that the bank would not release it.
- 10 h. On May 4, 2018, Kaplan wrote to Ms. Shulman that “everyone
- 11 keeps saying [the money] is coming.”

12 269. Kaplan’s representations were false when he made them.

13 270. Kaplan had no reasonable grounds for believing the representations  
14 were true when he made them.

15 271. Kaplan intended that Ms. Shulman rely on these representations to her  
16 detriment including inducing her to enter a business relationship with him,  
17 foregoing business opportunities with others, and signing agreements giving  
18 Kaplan rights to Ms. Shulman’s property and assets.

19 272. Ms. Shulman reasonably relied on Kaplan’s representations.  
20 Ms. Shulman reasonably trusted Kaplan’s statements, in part due to his extensive  
21 emotional manipulation of her.

22 273. Plaintiffs were harmed by these misrepresentations, as set forth  
23 above. Ms. Shulman’s reliance on Kaplan’s representations was a substantial  
24 factor in causing their harm.

25 ***Negligent Misrepresentations by Charles Houghton***

26 274. During the process of applying for licenses for cultivation of cannabis  
27 on Iron Angel, Houghton, acting in his capacity as an agent and/or employee of  
28 Vertical or the Kaplan Enterprise, intentionally made material misrepresentations

1 to Ms. Shulman. For example, on or about January 14, 2018, Houghton  
2 represented in an email to Ms. Shulman that the Lease for the Iron Angel Property  
3 was necessary “for licensing purposes.” Defendants Drew Milburn, Todd Kaplan,  
4 Jeff Silver, and Robert Scott were copied.

5 275. This representation was false when he made it.

6 276. Houghton had no reasonable grounds for believing the representation  
7 when he made it.

8 277. By misrepresenting the nature of the Lease Agreement and purporting  
9 it to be an inconsequential document and merely a formality necessary for  
10 obtaining the requisite licensing for the cannabis cultivation operation on Iron  
11 Angel and for Kaplan to fulfill his obligations under the Cultivation Agreement,  
12 and by leaving Ms. Shulman with the impression that the Lease would not be  
13 performed or enforced by either party, Houghton reasonably induced Ms. Shulman  
14 to rely on the misrepresentation by executing the Lease Agreement giving  
15 Kaplan’s LLC, Iron Angel II, rights to Ms. Shulman property.

16 278. On or about January 18, 2018, Ms. Shulman, in reasonable reliance  
17 on Defendants’ fraudulent affirmations and misrepresentations, and without intent  
18 to be bound in any way that deviated from the parties existing Cultivation  
19 Agreement, executed the Lease Agreement.

20 279. The parties did not discuss the key terms in the lease, which  
21 Houghton dismissed as unimportant since the parties would not actually perform  
22 under the lease, and Houghton did not send the lease to Ms. Shulman’s separate  
23 attorney.

24 280. At the time Houghton made the representations set forth in this  
25 Complaint, Ms. Shulman had no reason to believe that the representations were  
26 untrue or that Defendants had any intention of enforcing the lease.  
27  
28

1           281. Ms. Shulman reasonably trusted Houghton’s misrepresentations  
2 because of her reasonable belief that he was representing her interests in an  
3 attorney-client relationship.

4           282. As a direct and proximate result of Houghton’s misrepresentations,  
5 Plaintiffs suffered damages as set forth above, including, but not limited to,  
6 Defendants’ trespass and damage to Iron Angel.

7           283. Ms. Shulman’s reliance on Houghton’s representations was a  
8 substantial factor in causing the harm.

9           ***Negligent Misrepresentations by Courtney Dorne***

10           284. Prior to and during the negotiation of the Cultivation Agreement and  
11 the agreements regarding Wellsprings, Ms. Dorne, acting in her capacity as an  
12 agent and employee of Vertical or the Kaplan Enterprise, represented numerous  
13 material falsehoods to Ms. Shulman. For example:

- 14                   d) On or about June 6, 2017, in a telephone conversation, Ms. Dorne  
15                   represented that she was working with a financially stable  
16                   company with existing indoor cultivation, manufacturing, brand  
17                   partners, and dispensaries.
- 18                   e) On or about June 6, 2017, in a telephone conversation, Ms. Dorne  
19                   represented that Vertical had significant experience in the cannabis  
20                   industry and in-house counsel with regulatory expertise.
- 21                   f) On or about June 29, 2017, in a telephone conversation,  
22                   Ms. Dorne represented to Ms. Shulman that Vertical was in the  
23                   process of purchasing a one million square foot indoor grow space  
24                   in Monterey, California.

25           285. Ms. Dorne’s representations were false when she made them (alleged  
26 on information and belief with respect to the purchase of the Monterey facility).

27  
28

1 286. At the time Ms. Dorne made the representations set forth in this  
2 Complaint, Ms. Shulman had no reason to believe that the representations were  
3 untrue.

4 287. Ms. Shulman reasonably trusted Ms. Dorne's misrepresentations  
5 because of her reasonable belief that Ms. Dorne valued her longstanding personal  
6 relationship with the Shulman family and had promised to "navigate the waters  
7 together" with the Shulmans.

8 288. As a direct and proximate result of Ms. Dorne's misrepresentations,  
9 Plaintiffs suffered damages as set forth above.

10 289. Ms. Shulman's reliance on Ms. Dorne's representations was a  
11 substantial factor in causing the harm.

12 **COUNT VI**  
13 **Breach of Contract — Cultivation Agreement**  
14 **(All Plaintiffs Against Todd Kaplan, NCAMBA9, and Vertical)**

15 290. Plaintiffs repeat and reallege each of the allegations set forth in the  
16 preceding paragraphs.

17 291. NCAMBA9, Inc., on the one hand, and Ms. Shulman as trustee for  
18 the Shulman Family Trust, 3F, Inc., and Emerald Sky on the other hand, entered  
19 into the Cultivation Agreement.

20 292. Plaintiffs did all, or substantially all, of the significant things that the  
21 Cultivation Agreement required them to do.

22 293. Vertical (as NCAMBA9's "management company") was required to:  
23 a) pay all Operational Expenses, as that term is defined in the Cultivation  
24 Agreement; b) keep and maintain detailed expense and accounting records of all  
25 expenses and revenue stemming from its activities so it could track and report  
26 revenue and Net Income; c) provide to the Collectives quarterly Profit and Loss  
27 statements and related financial information of NCAMBA9's operations; d) make  
28 payments to the Collectives quarterly; e) permit the Collectives to audit the books



1 and records of NCAMBA9 to confirm that all payments had been properly  
2 calculated and paid; f) use Best Efforts to manage the Cultivation Operations in  
3 the most efficient and effective manner possible under the circumstances; g) take  
4 all steps necessary or prudent on behalf of The Shulman Trust and the Collectives  
5 to ensure all Cultivation Operations on the properties were conducted in strict  
6 accordance with applicable California law and any County ordinance, rules or  
7 regulation; and h) obtain from The Shulman Trust pre-approval for actions  
8 requiring a building, zoning land use or other permit.

9 294. Vertical failed to a) pay all Operational Expenses, as that term is  
10 defined in the Cultivation Agreement; b) keep and maintain detailed expense and  
11 accounting records of all expenses and revenue stemming from its activities so it  
12 can track and report revenue and Net Income; c) provide to the Collectives  
13 quarterly Profit and Loss statements and related financial information of Vertical's  
14 operations; d) make payments to the Collectives quarterly; e) permit the  
15 Collectives to audit the books and records of Vertical to confirm that all payments  
16 have been properly calculated and paid; improperly disclosed Confidential  
17 Information; f) use Best Efforts to manage the Cultivation Operations in the most  
18 efficient and effective manner possible under the circumstances; g) take all steps  
19 necessary or prudent on behalf of The Shulman Trust and the Collectives to ensure  
20 all Cultivation Operations on the properties are conducted in strict accordance with  
21 applicable California law and any County ordinance, rule or regulation; and  
22 h) obtain from The Shulman Trust pre-approval for actions requiring building,  
23 zoning land use or other permits.

24 295. Ms. Shulman was harmed as alleged above.

25 296. Vertical's breach of contract was a substantial factor in causing  
26 Ms. Shulman harm.

27 297. As a direct and proximate result of Defendants' material breaches of  
28 the Cultivation Agreement, Ms. Shulman was harmed as alleged above.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**COUNT VII**  
**Breach of Oral Contract — Wellsprings Agreement**  
**(Ms. Shulman Against Todd Kaplan, NCAMBA<sup>9</sup>, and Vertical)**

298. Plaintiffs repeat and reallege each of the allegations set forth in the preceding paragraphs.

299. Iron Angel II, Kaplan, and Vertical entered into an oral contract with Ms. Shulman whereby Defendants agreed to: a) pay all Wellsprings operational expenses; b) keep and maintain detailed expense and accounting records of all Wellsprings expenses and revenue stemming from its activities so it can track and report revenue and Net Income; c) provide to Ms. Shulman quarterly Profit and Loss statements and related financial information of Wellsprings operations; d) make payments to Ms. Shulman quarterly; e) permit Ms. Shulman to audit the Wellsprings books and records to confirm that all payments had been properly calculated and paid; f) use Best Efforts to manage the Wellsprings Ranch Cultivation Operations in the most efficient and effective manner possible under the circumstances; g) take all steps necessary or prudent on Ms. Shulman's behalf to ensure all Cultivation Operations on Wellspring were conducted in strict accordance with applicable California law and any County ordinance, rules and regulations; and h) obtain from Ms. Shulman pre-approval for actions requiring a building, zoning land use or other permit on Wellspring.

300. The oral agreement is supported by numerous communications among the parties, including messages describing cultivation efforts on Wellsprings, communications from Mr. Silver with Wellsprings expense detail, a December 14, 2018, letter from Kaplan describing his and Ms. Shulman's acquisition of rights to Wellsprings, and a January 4, 2019, message from Smoke Wallin confirming that Wellsprings was part of the "original deal." The Wellsprings Agreement also is evidenced by Kaplan's partial payments toward the purchase of Wellsprings, his and Houghton's communications regarding the

BAKER BOTTS L.L.P.

1 renegotiation of the original Wellsprings Purchase Agreement and lease, the  
2 November 2017 profit sharing agreement with the Luglis, Vertical's attempt to  
3 manage operations on the property, and its having cultivated and sold product  
4 from Wellsprings.

5 301. Defendants breached the oral contract with Ms. Shulman by failing to  
6 a) pay all Operational Expenses; b) keep and maintain detailed expense and  
7 accounting records of all expenses and revenue stemming from its activities so it  
8 can track and report revenue and Net Income; c) provide to Ms. Shulman quarterly  
9 Profit and Loss statements and related financial information of Vertical's  
10 operations; d) make payments to Ms. Shulman quarterly; e) permit Ms. Shulman to  
11 audit Vertical's books and records to confirm that all payments had been properly  
12 calculated and paid; f) use Best Efforts to manage the Cultivation Operations in  
13 the most efficient and effective manner possible under the circumstances; g) take  
14 all steps necessary or prudent on Ms. Shulman's behalf to ensure all Cultivation  
15 Operations on the properties are conducted in strict accordance with applicable  
16 California law and any County ordinance, rule or regulation; and h) obtain from  
17 Ms. Shulman pre-approval for actions requiring building, zoning land use or other  
18 permits.

19 302. As a direct and proximate cause of Defendants' breaches,  
20 Ms. Shulman has been harmed 'as alleged above.

21 **COUNT VIII**  
22 **Breach of Oral Contract — Branding Agreement**  
23 **(Ms. Shulman and Iron Angel, LLC, Against Todd Kaplan, and Vertical)**

24 303. Plaintiffs repeat and reallege each of the allegations set forth in the  
25 preceding paragraphs.

26 304. On or around July 19, 2017, Ms. Shulman and Iron Angel, on the one  
27 hand, and Kaplan and Vertical, on the other, entered into an oral contract whereby  
28 Defendants agreed to launch one or more brands, including specifically "Iron

1 Angel,” as well as other brands Ms. Shulman identified by a) “seeding” insertions  
2 about Iron Angel into new product reviews and podcasts focusing on women,  
3 seniors and wellness; b) creating a website, promotional, social media and a media  
4 kit focused on Iron Angel; c) creating packaging for single pre-roll and vape pen;  
5 d) creating promotional items, such as tee shirts, caps and stickers; and  
6 e) developing the Iron Angel logo.

7 305. Defendants also agreed to fund the branding efforts of a designer and,  
8 to that end, hired two employees to help Ms. Shulman develop the Iron Angel  
9 brand.

10 306. In exchange, Ms. Shulman agreed to a) be the “face” of the Iron  
11 Angel brand and b) permit the Iron Angel brand to be used in connection with the  
12 cultivation operations on Iron Angel and Wellsprings pursuant to the Cultivation  
13 Agreement and Wellsprings Agreement.

14 307. On information and belief, Ms. Shulman signed a written branding  
15 agreement, but Defendants failed to provide her with a copy. Nonetheless, the  
16 agreement is evidenced by numerous communications between Ms. Shulman and  
17 various Vertical employees and agents, as alleged above.

18 308. Ms. Shulman did all or substantially all of the significant things that  
19 the contract required her to do.

20 309. Defendants breached the oral contract by failing to create for  
21 Ms. Shulman the branding elements described above, and by taking the brand  
22 trademark for Vertical’s own use, thereby misappropriating Ms. Shulman’s “Iron  
23 Angel” mark.

24 310. As a direct and proximate result of Defendants’ material breaches of  
25 the oral agreement, Plaintiffs have been damaged as alleged above.  
26  
27  
28

**COUNT IX**  
**Breach of Implied Covenant of Good Faith and**  
**Fair Dealing — Cultivation Agreement**  
**(Ms. Shulman Against NCAMBA9 and Vertical)**

1  
2  
3  
4       311. Plaintiffs repeat and reallege each of the allegations set forth in the  
5 preceding paragraphs.

6       312. Ms. Shulman and Kaplan entered into a contract whereby the parties  
7 agreed to jointly operate a cannabis farm on the properties for medical and adult  
8 recreational use. Kaplan and Vertical agreed to manage cultivation operations,  
9 with Ms. Shulman’s active engagement, pay operational expenses, and share all  
10 net profits with Ms. Shulman.

11       313. The Cultivation Agreement contained, by operation of law, an  
12 implied covenant of good faith and fair dealing that neither party will do anything  
13 that will injure the rights of the other to receive the benefits of the agreement.

14       314. Ms. Shulman did all or substantially all of the significant things that  
15 the contract required her to do.

16       315. All conditions required for Defendants’ performance had occurred. In  
17 fulfilling their duty to act in good faith under the Cultivation Agreement,  
18 Defendants were required to act in the venture’s best interest by, at least, using  
19 best efforts to ensure product was sold at fair market value, that operator licenses  
20 were procured on behalf of the business, that Ms. Shulman’s interest in the  
21 business, rights in real property and entitlement to profits were not hindered;

22       316. Defendants unfairly interfered with Ms. Shulman’s right to receive  
23 the benefits of the contract by engaging in self-dealing and intentionally selling  
24 product at below-market prices to Defendants’ affiliate companies in order to  
25 generate greater profits and retain them for themselves while preventing Ms.  
26 Shulman from reaping the benefit of the bargain under the Cultivation Agreement.

27       317. Ms. Shulman was harmed as alleged above.  
28

BAKER BOTTS L.L.P.

BAKER BOTTS L.L.P.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**COUNT X**  
**Breach of Implied Covenant of Good Faith and**  
**Fair Dealing — Wellsprings Agreement**  
**(Ms. Shulman Against Todd Kaplan, NCAMBA9, and Vertical)**

318. Plaintiffs repeat and reallege each of the allegations set forth in the preceding paragraphs.

319. Ms. Shulman, on the one hand; and Kaplan and Vertical, on the other; entered into a contract whereby the parties agreed to jointly operate a cannabis farm on Wellsprings Ranch for medical and adult recreational use. Defendants agreed to manage cultivation operations, with Ms. Shulman’s active engagement, pay operational expenses, and share all net profits with Ms. Shulman;

320. The Wellsprings agreement contained, by operation of law, an implied covenant of good faith and fair dealing, whereby each party will not do anything to unfairly interfere with the right of any other party to receive the benefits of the contract.

321. Ms. Shulman did all, or substantially all of the significant things that the contract required her to do.

322. All conditions required for Defendants’ performance had occurred.

323. Kaplan unfairly interfered with Ms. Shulman’s right to receive the benefits of the contract by engaging in self-dealing and intentionally selling product at below-market prices to Defendants’ affiliate companies in order to generate greater profits and retain them for himself while preventing Ms. Shulman from reaping the benefit of the bargain under the parties’ agreement.

324. Ms. Shulman was harmed as alleged above.

**COUNT XI**  
**Breach of Implied Covenant of Good Faith and**  
**Fair Dealing — Branding Agreement**  
**(Ms. Shulman and Iron Angel, LLC Against Todd Kaplan and Vertical)**

325. Plaintiffs repeat and reallege each of the allegations set forth in the preceding paragraphs.



1           334. *Defendants' Unlawful Practices.* Section 17200 borrows violations of  
2 other laws and treats those transgressions, when committed as business activity, as  
3 “unlawful” business practices. The unlawful practices prohibited by section 17200  
4 are any practices forbidden by law, be it civil or criminal, federal, state, or  
5 municipal, statutory, regulatory, or court-made. Defendants have engaged in  
6 numerous unlawful business practices, as alleged herein, including submitting  
7 fraudulent affidavits to the County of Santa Barbara in order to procure operator  
8 licenses, infringing Ms. Shulman’s rights in the Iron Angel trademark, breaching  
9 the parties’ agreements related to cultivation on Iron Angel, Sisters, and  
10 Wellsprings; engaging in fraudulent behavior designed to mislead Ms. Shulman  
11 into believing the business venture was for everyone’s benefit and concealing  
12 material facts from them about Kaplan’s felony plea and their efforts to retain  
13 financial profits for the benefit of Kaplan’s other business entities, such as Vertical  
14 and Iron Angel II; coaxing Ms. Shulman into sharing proprietary and confidential  
15 information about cultivation processes and then misappropriating, without just  
16 compensation, the same for Defendants’ own use; and for violations of Welfare &  
17 Institutions Code Section 15610.30 for financial elder abuse, violations of the  
18 Federal RICO Act, as alleged above.

19           335. Defendants have falsely represented that Defendants’ products and  
20 services are the same as Plaintiffs’ products and services, which are familiar to  
21 many California consumers. By these misrepresentations, Defendants have  
22 deceived consumers into believing that Defendants or their products and services  
23 are, or are affiliated with, Plaintiffs and their products and services. In doing so,  
24 Defendants have traded on the goodwill of Plaintiffs’ Iron Angel name and  
25 trademark to compete unfairly against Plaintiffs’ goods and services.

26           336. *Defendants' Unfair Practices.* At all times relevant, Defendants  
27 engaged in unfair business practices, as alleged herein. Their conduct offends  
28 established public policy and is immoral, unethical, oppressive, unscrupulous, and



1 substantially injurious. Defendants and Ms. Shulman were engaged in a business  
2 founded on the idea that Kaplan and Ms. Shulman would benefit equally from its  
3 operations. As business partners, Defendants owed Ms. Shulman a duty to act in  
4 the best interests of the business venture. Instead, Defendants' efforts, throughout  
5 the relationship, were aimed at separating Ms. Shulman from her pre-established  
6 and ongoing financial and property rights in Iron Angel, Sisters, and Wellsprings.

7 337. Taking advantage of Ms. Shulman's relative lack of sophistication  
8 with regard to legal matters, Defendants routinely misled Ms. Shulman about  
9 Kaplan and his business operations, including Vertical's lack of stability and  
10 resources to carry out Kaplan's promises under the Cultivation and Wellsprings  
11 Agreements, ownership of "state-of-the art" facilities that were little more than  
12 unused buildings, business dealings with numerous partners that had zero backing  
13 or substance, and the status of their own business (including keeping two sets of  
14 financials so as to hide actual revenue and production numbers from  
15 Ms. Shulman).

16 338. Defendants also prepared legal instruments for Ms. Shulman and  
17 induced her to sign them based on misrepresentations. Defendants regularly misled  
18 Ms. Shulman as to the true meaning of such legal documents and hid from her the  
19 intended consequences of those materials. For instance, Kaplan and Houghton  
20 prepared the Iron Angel lease claiming it was necessary for regulatory approval,  
21 when instead it purported to give Kaplan long-term rights to possess and use Iron  
22 Angel. Houghton also had Ms. Shulman prepare a number of affidavits supporting  
23 her legal nonconforming use of the properties, implying that he would obtain  
24 licenses in her name when, in fact, Houghton pursued licenses only for Kaplan's  
25 company, Iron Angel II, LLC. Houghton and Kaplan prepared, and instructed  
26 Ms. Shulman to sign, an assignment of rights in Wellsprings, giving Kaplan an  
27 undivided joint interest in the property, which Kaplan used to a) claim he was  
28

1 rightfully in possession of Wellsprings and b) attempt to extract millions of dollars  
2 from Ms. Shulman.

3 339. Defendants encouraged Ms. Shulman to leave her home on Iron  
4 Angel to take up residence at Wellsprings so they could convert her home to a  
5 processing center. But Defendants failed to complete the processing center and, in  
6 the process, completely disassembled the residence to the point that it is no more  
7 than walls and a dilapidated roof. When Defendants subsequently defaulted on the  
8 Wellsprings Agreement, Ms. Shulman was forced to return to the home that was  
9 then in shambles. The home no longer had a kitchen or bathroom, and  
10 Ms. Shulman was forced to rent a hotel room (so she could shower) and to place a  
11 temporary toilet on Iron Angel.

12 340. By engaging in these acts, and others alleged herein, Defendants  
13 showed no regard for Ms. Shulman's business or for her welfare or dignity.  
14 Defendants' behavior is particularly egregious because they have an established  
15 practice of preying on the elderly to strip them of their property for Defendants'  
16 own gain while suggesting they are "family" and wish to establish a long-term  
17 relationship for their mutual benefit. Ms. Shulman has been engaged in the  
18 cultivation business (whether produce or cannabis) for more than 20 years. Prior to  
19 partnering with Defendants, Ms. Shulman was successful and in compliance with  
20 all local and state laws, rules and regulations. She had cultivated important  
21 relationships with local vendors, County employees, and clients. Defendants'  
22 conduct has injured Ms. Shulman's reputation in the community and stripped her  
23 of important and demonstrably lucrative property rights.

24 341. *Defendants' Fraudulent Practices.* At all times relevant, Defendants  
25 engaged in the fraudulent business activities described herein.

26 342. After negotiating the Cultivation Agreement with Ms. Shulman,  
27 Kaplan fraudulently induced Ms. Shulman to sign the Iron Angel lease and the  
28 Amendment to the Purchase Sale Agreement regarding Wellsprings. Kaplan then

1 persuaded Ms. Shulman to loan approximately \$320,000—the remainder of her  
2 life savings—to pursue joint initiatives under the Cultivation Agreement, while at  
3 the same time diverting the funds to use for his own benefit and failing to meet  
4 obligations under the Cultivation Agreement. When he was unwilling or unable to  
5 repay the loan in full, Kaplan sought to persuade Ms. Shulman to convert the loan  
6 into an investment in Vertical.

7 343. In order to attract more investors and infuse more capital in Vertical,  
8 Defendants frequently misrepresented to investors that Vertical owns Iron Angel  
9 and Wellsprings. Vertical does not, and never has, owned these properties, but, on  
10 information and belief, misled third parties into believing Vertical has expansive  
11 farming land available in order to persuade third parties to invest in Vertical,  
12 thereby stripping profits from Ms. Shulman.

13 344. Defendants misled Ms. Shulman into believing that the Iron Angel  
14 lease was required solely for licensing purposes and was merely a formality, when  
15 in fact the lease was not necessary for any county or state licensing requirements  
16 and was later used as a basis for Defendants to bar Ms. Shulman from her cannabis  
17 operation on Iron Angel.

18 345. Defendants' former Chief Financial Officer admitted to Brandon  
19 Shulman that Vertical keeps two sets of books to avoid reporting all cash income.  
20 The CFO furthered Defendants' fraud by providing Plaintiffs with materially false  
21 financial information, in an effort to reduce the amount of profits payable under  
22 the parties' agreements and to divert profits to Kaplan's other business affiliates.

23 346. Defendants' acts of unlawful, unfair, and fraudulent competition have  
24 proximately caused Ms. Shulman to suffer injury in fact and loss of money and  
25 property (including as a result of expenses that Ms. Shulman has incurred, and  
26 continue to incur, in their efforts to prevent and deter Defendants from engaging in  
27 unlawful conduct) in an amount to be proven at trial.  
28

1 347. As a result of Kaplan's unlawful, unfair, and fraudulent conduct  
2 performed in furtherance of the Defendants' concerted scheme, conspiracy, and  
3 enterprise, Defendants have been unjustly enriched in an amount that as yet is  
4 unascertained, which will be determined according to proof at trial, but which  
5 includes their ill-gotten receipt from Ms. Shulman.

6 348. Ms. Shulman has suffered "injury in fact" within the meaning of  
7 Section 17204 of the UCL as a result of the Kaplan and Vertical's actions.  
8 Ms. Shulman has suffered distinct and palpable injury as a result of the misconduct  
9 that is (a) concrete and particularized, and (b) is actual and imminent, not  
10 conjectural or hypothetical, including but not limited to the loss of cultivation and  
11 processor operator's licenses and her 50 percent profit share as a result of Kaplan's  
12 below-market sales to his affiliates.

13 349. Under Section 17203 of the UCL, Ms. Shulman is entitled to  
14 equitable relief in the form of an accounting, restitution, and disgorgement of all  
15 ill-gotten gains, earnings, profits, and benefits obtained by Kaplan and Vertical.

16 350. Pursuant to California Business and Professions Code Section 17205,  
17 Ms. Shulman's remedies under Business and Professions Code Sections 17200 *et*  
18 *seq.* are cumulative with remedies under all other statutory and common law  
19 remedies available in California.

20 351. Pursuant to Section 17206.1, Ms. Shulman, who was at least 65 at all  
21 relevant times, is entitled to additional penalties for each act of unfair competition  
22 perpetrated against her.

23  
24 **COUNT XIII**  
25 **False Advertising in Violation of California**  
26 **Business & Professions Code § 17500, et seq.**  
27 **(Ms. Shulman and Iron Angel, LLC, Against Todd Kaplan,**  
28 **Iron Angel II, LLC, and Vertical)**

352. Plaintiffs repeat and reallege each of the allegations set forth in the  
preceding paragraphs.

1 353. Defendants' marketing materials suggest that they own the Iron Angel  
2 mark and that they own the Wellsprings and Iron Angel properties. Defendants'  
3 marketing claims, which are distributed and presented to investors, are false and/or  
4 misleading statements of fact that Defendants know to be false and/or misleading.

5 354. The representations are untrue, have actually deceived, have the  
6 tendency to deceive, and/or are likely to deceive consumers.

7 355. Defendants' misrepresentations have been with the intent to usurp  
8 Plaintiffs' goodwill in an effort to compete unfairly against, among others,  
9 Plaintiffs.

10 356. Defendants' aforesaid misrepresentations constitute false advertising  
11 in violation of California Business and Professions Code §§ 17500 and 17505.

12 357. Defendants' acts greatly and irreparably damage and will continue to  
13 damage Plaintiffs unless restrained by this Court. Plaintiffs are without an  
14 adequate remedy at law.

15 **COUNT XIV**  
16 **Unfair Competition in Violation of Section 43(a) of the Lanham Act,**  
17 **15 U.S.C. § 1125(a) Trademark Infringement**  
18 **(Ms. Shulman and Iron Angel, LLC, Against Todd Kaplan,**  
**Iron Angel II, LLC, and Vertical)**

19 358. Plaintiffs repeat and reallege each of the allegations set forth in the  
20 preceding paragraphs.

21 359. Defendants' aforesaid use of the Iron Angel name and mark, and  
22 deceptive marketing and advertising materials, falsely represent that Defendants  
23 are affiliated, connected, or associated with, or sponsored or approved by Plaintiffs  
24 in violation of Section 42(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

25 360. Defendants' aforesaid use of the Iron Angel name and mark, and  
26 deceptive marketing and advertising materials, falsely represent the nature,  
27 character, and/or qualities of their goods, services, and commercial activities in  
28 violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).



BAKER BOTTS L.L.P.

1 369. Defendants knew, or should have known, that the Iron Angel and  
2 Wellsprings properties belong to Plaintiffs and that any suggestion that Defendants  
3 own them violates Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

4 370. Defendants’ aforesaid claims constitute false advertising in violation  
5 of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

6 371. Defendants’ acts greatly and irreparably damage and will continue to  
7 damage Plaintiffs unless restrained by this Court. Plaintiffs are without an  
8 adequate remedy at law.

9 **COUNT XVI**  
10 **Unfair Competition in Violation of California Common Law**  
11 **(Ms. Shulman and Iron Angel, LLC, Against Todd Kaplan,**  
**Iron Angel II, LLC, and Vertical)**

12 372. Plaintiffs repeat and reallege each of the allegations set forth in the  
13 preceding paragraphs.

14 373. Defendants’ acts constitute unfair competition in violation of the  
15 common law of the State of California.

16 374. Defendants intentionally have traded upon and unfairly benefited  
17 from Plaintiff’s valuable goodwill, reputation, and marketing in order to compete  
18 unfairly with Plaintiffs and have been unjustly enriched thereby.

19 375. Defendants have misappropriated for themselves the commercial  
20 value of the Iron Angel name and mark in conscious disregard of Plaintiffs’ rights  
21 and have greatly impaired the value of Plaintiffs’ goodwill in the name and mark  
22 among American consumers.

23 376. Defendants knew, or should have known, that the Iron Angel name  
24 and mark belong to Plaintiffs and that any suggestion that Defendants own them is  
25 false and misleading.

26 377. In conducting such acts, Defendants are guilty of oppression, fraud  
27 and/or malice, as defined in Cal. Civ. Code § 3294.  
28

1 378. Defendants' acts greatly and irreparably damage and will continue to  
2 damage Plaintiffs unless restrained by this Court. Plaintiffs are without an  
3 adequate remedy at law.

4 **COUNT XVII**  
5 **Intentional Interference with Contractual Relations**  
6 **(Ms. Shulman Against Todd Kaplan and Vertical)**

7 379. Plaintiffs repeat and reallege each of the allegations set forth in the  
8 preceding paragraphs.

9 380. The Wellsprings Purchase Agreement and its subsequent  
10 November 20, 2017, amendment together constituted a valid and enforceable  
11 contract between Francine Shulman and The Lugli Family Trust.

12 381. Kaplan had knowledge of the existence and terms of the Wellsprings  
13 Purchase Agreement, as amended, as well as the parties' respective obligations  
14 thereunder.

15 382. Kaplan intentionally interfered with the Wellsprings Purchase  
16 Agreement, as amended, between Ms. Shulman and the Lugli Family Trust.

17 383. Kaplan engaged in an orchestrated series of intentional and bad faith  
18 acts, which were not privileged and were undertaken by improper means for illicit  
19 and even illegal motives, in order to induce a breach or disruption of the  
20 contractual relationship between Ms. Shulman and the Lugli Trust. Specifically,  
21 after the Wellsprings Purchase Agreement, and the November 2017 Amendment  
22 had been signed, Kaplan engaged in efforts to take title to the property and exclude  
23 Ms. Shulman. As part of the parties' Cultivation Agreement and Wellsprings  
24 Agreement, Kaplan and Vertical agreed to pay the venture's operational expenses,  
25 which included lease and mortgage payments. Kaplan made some payments but  
26 ultimately defaulted on the parties' agreement, rendering Ms. Shulman in default  
27 on the Wellsprings Purchase Agreement, as amended. The Luglis evicted  
28 Ms. Shulman and terminated the Wellsprings Purchase Agreement, stripping

BAKER BOTTS L.L.P.



BAKER BOTTS L.L.P.

1 Ms. Shulman of her right to purchase Wellsprings Ranch and to expand her  
2 business.

3 384. As a direct and proximate result of Kaplan's misconduct,  
4 Ms. Shulman has suffered harm as alleged above.

5 **COUNT XVIII**  
6 **Intentional Interference with Prospective Economic Advantage**  
7 **(Ms. Shulman Against Todd Kaplan and Vertical)**

8 385. Plaintiffs repeat and reallege each of the allegations set forth in the  
9 preceding paragraphs.

10 386. Plaintiff and the Lugli Family Trust were in an economic relationship  
11 that would have resulted in an economic benefit to Ms. Shulman. Prior to engaging  
12 with Kaplan, Ms. Shulman had negotiated with the Luglis to purchase 402 acres of  
13 real property on which Ms. Shulman could expand her cannabis cultivation farm.

14 387. Kaplan and Vertical knew of the relationship, because Ms. Shulman  
15 had, prior to executing the Wellsprings Purchase Agreement, invited Kaplan to  
16 invest in Wellsprings with her.

17 388. After the Wellsprings Purchase Agreement had been signed, Kaplan  
18 engaged in efforts to take title to the property and exclude Ms. Shulman. As part of  
19 the parties' Cultivation Agreement and Wellsprings Agreement, Kaplan and Iron  
20 Angel II agreed to pay operational expenses, which included lease and mortgage  
21 payments. Kaplan initially made payments to the Luglis but failed to pay the  
22 balance due. By February 2019, Kaplan and Vertical defaulted on the parties'  
23 agreement, rendering Ms. Shulman in default on the Wellsprings Purchase  
24 Agreement, as amended. The Luglis evicted Ms. Shulman and terminated the  
25 Wellsprings Purchase Agreement, stripping Ms. Shulman of her right to purchase  
26 Wellsprings Ranch where she had been living and intended to expand her  
27 business.

28

BAKER BOTTS L.L.P.

1 389. By engaging in this conduct, Kaplan and Vertical intended to disrupt  
2 the relationship or knew that disruption of the relationship was certain or  
3 substantially certain to occur.

4 390. The relationship was, in fact, disrupted.

5 391. Ms. Shulman was harmed as alleged above.

6 392. Kaplan and Vertical's conduct was a substantial factor in causing  
7 Ms. Shulman's harm.

8 **COUNT XIX**  
9 **Intentional Infliction of Emotional Distress**  
10 **(Ms. Shulman Against Todd Kaplan, Matt Kaplan, Drew Milburn,**  
11 **Robert Scott, Courtney Dorne, and Vertical)**

12 393. Plaintiffs repeat and reallege each of the allegations set forth in the  
13 preceding paragraphs.

14 394. Defendants' conduct caused Ms. Shulman to suffer severe emotional  
15 distress.

16 395. Defendants' conduct was outrageous, as alleged herein.

17 396. Defendants acted with reckless disregard of the probability that  
18 Ms. Shulman would suffer emotional distress, knowing that Ms. Shulman had  
19 dedicated her life (and invested her life savings) into making the cannabis  
20 cultivation business successful.

21 397. Ms. Shulman suffered severe emotional distress as a result of  
22 Defendants' actions. Ms. Shulman's distress has manifested itself in a variety of  
23 physical and emotional ways, including: 1) sleepless nights induced by Vertical's  
24 acts of aggression (*e.g.*, threatening to "bury" her in litigation, screaming at her,  
25 and attempting to drive her off the road) and fraudulent activity described herein,  
26 as well as by the physical presence of Vertical employees sent to intimidate her  
27 around the clock by arriving on her property in masks, parking through the night  
28 by her house (where she lives alone), playing loud music in the middle of the  
night, and causing her dogs to bark in order to frighten her and prevent her from

1 sleeping; 2) severe anxiety brought on by uncertainty and fear instilled by Vertical  
2 and its executives' actions; 3) living in isolation and unable to visit her  
3 grandchildren, participate in significant family events, or to maintain relationships  
4 with friends and family; 4) days of nausea, migraines (where she never had  
5 headaches before), and uncharacteristic mood swings; and 5) humiliation and  
6 emotional suffering in and among her peers and community. Ms. Shulman, once a  
7 successful, gregarious businesswoman and now house-bound and reclusive, has  
8 overwhelming doubts of self-worth, which have left her living in deep despair.

9 398. Defendants' conduct was a substantial factor in causing  
10 Ms. Shulman's severe emotional distress.

11 **COUNT XX**

12 **Elder Financial Abuse Pursuant to Cal. Welf. & Inst. Code § 15610.30**  
13 **(Ms. Shulman Against Todd Kaplan, Iron Angel II, LLC, and Vertical)**

14 399. Plaintiffs repeat and reallege each of the allegations set forth in the  
15 preceding paragraphs.

16 400. Kaplan and Iron Angel II have violated the Elder Abuse and  
17 Dependent Adult Protection Act by taking financial advantage of Ms. Shulman.  
18 The purpose of the Elder Abuse Act is to protect a particularly vulnerable portion  
19 of the population from gross mistreatment in various forms, including protecting  
20 the elderly from financial abuse. Ms. Shulman is entitled not to be abused or  
21 defrauded.

22 401. Through the acts described herein, Kaplan took, misappropriated and  
23 maliciously retained possession of Ms. Shulman's property, including her 50  
24 percent share in net income from the crops on the Ranches, prospective business  
25 opportunities flowing from the business arrangement, her real property interest in  
26 Wellsprings Ranch, and the goodwill she earned in the Iron Angel mark, and  
27 caused substantial damage to the Iron Angel and Wellsprings properties and the  
28 cannabis operations on those properties. Kaplan and others also induced

1 Ms. Shulman to sign the Iron Angel lease based on fraudulent misrepresentations.  
2 Defendants also failed to uphold their end of the bargain with respect to  
3 operational expenses, causing Ms. Shulman to invest her life savings in keeping  
4 the business afloat, but not paying her back.

5 402. The actions of Kaplan and others, as alleged herein and above, are an  
6 unconscionable and despicable fraud upon Ms. Shulman. Kaplan took advantage  
7 of Ms. Shulman's advanced age, health, and emotional vulnerability.

8 403. Ms. Shulman was at least 65 years of age or older at the time she  
9 signed the Iron Angel lease and the Amended Purchase and Sale Agreement for  
10 the Wellsprings Ranch, as amended in November 2017.

11 404. Defendants wrongfully have refused to surrender possession or the  
12 right to possession of Iron Angel, have caused physical damage to the property and  
13 cannabis plants, and have used the alleged lease agreement as their last effort to  
14 continue to wrongfully retain alleged rights to Ms. Shulman's real property while  
15 simultaneously damaging Iron Angel and the plants growing thereon.

16 405. The conduct, as described and alleged herein, constitutes financial  
17 abuse as defined in Welfare & Institutions Code Section 15610.30.

18 406. Defendants are guilty of recklessness, oppression, fraud, and malice  
19 in the commission of the financial abuse of Ms. Shulman, as described and alleged  
20 herein.

21 407. Under the Welfare & Institutions Code Section 15657.5, Defendants  
22 are liable for Ms. Shulman's reasonable attorney fees and costs. Additionally,  
23 under California Civil Code Section 3294, Ms. Shulman is entitled to punitive or  
24 exemplary damages against Defendants.

25 408. By committing the above acts, Defendants violated the California  
26 Elder Abuse and Dependent Abuse Civil Protection Act by taking financial  
27 advantage of Ms. Shulman with the intent to defraud and/or commit undue  
28 influence against her in her vulnerable state.

BAKER BOTTS L.L.P.

1 409. In doing the acts alleged herein, Defendants acted with oppression,  
2 fraud, and malice as set forth in Civil Code Section 3294. Ms. Shulman is entitled  
3 to an award of punitive damages to make an example of and to punish Defendants  
4 in addition to damages and other relief requested in this Complaint for an amount  
5 to be proven at the time of trial.

6 410. Defendants' conduct was a substantial factor in causing  
7 Ms. Shulman's harm.

8 **COUNT XXI**  
9 **Assistance of Elder Financial Abuse Pursuant to**  
10 **Cal. Welf. & Inst. Code §15610.30**  
11 **(Ms. Shulman Against Charles Houghton)**

12 411. Plaintiffs repeat and reallege each of the allegations set forth in the  
13 preceding paragraphs.

14 412. Houghton has violated the Elder Abuse and Dependent Adult  
15 Protection Act by assisting Kaplan's and Iron Angel II's taking financial  
16 advantage of Ms. Shulman. The purpose of the Elder Abuse Act is to protect a  
17 particularly vulnerable portion of the population from gross mistreatment in  
18 various forms, including protecting the elderly from financial abuse. Ms. Shulman  
19 is entitled not to be abused or defrauded.

20 413. Through the acts described herein, Houghton assisted Kaplan and  
21 Iron Angel II in appropriating and retaining Ms. Shulman's property, including her  
22 50 percent share in net income from the crops cultivated on the properties,  
23 prospective business opportunities flowing from the business venture, her real  
24 property interest in Wellsprings, and the goodwill she earned in the Iron Angel  
25 mark. Houghton also assisted Kaplan in inducing Ms. Shulman to sign the Iron  
26 Angel lease based on fraudulent misrepresentations.

27 414. Houghton's actions, and that of others, as alleged herein, are an  
28 unconscionable and despicable fraud upon Ms. Shulman. Houghton assisted

1 Kaplan in taking advantage of Ms. Shulman’s advanced age, health, and emotional  
2 vulnerability.

3 415. Ms. Shulman was at least 65 years of age at the time of Kaplan’s and  
4 Iron Angel II’s conduct.

5 416. Houghton assisted Kaplan and Iron Angel II in appropriating  
6 Ms. Shulman’s property with the intent to defraud and by undue influence.

7 417. Ms. Shulman was harmed.

8 418. Houghton’s conduct was a substantial factor in causing  
9 Ms. Shulman’s harm.

10 419. The conduct, as described and alleged herein, constitutes financial  
11 abuse as defined in Welfare & Institutions Code Section 15610.30.

12 420. Under the Welfare & Institutions Code Section 15657.5, Houghton is  
13 liable for Ms. Shulman’s reasonable attorneys’ fees and costs. Houghton is guilty  
14 of recklessness, oppression, fraud, and malice in assisting the commission of the  
15 financial abuse of Ms. Shulman as described and alleged herein. Under California  
16 Civil Code Section 3294, Ms. Shulman is entitled to punitive or exemplary  
17 damages against Houghton.

18 **COUNT XXII**  
19 **Breach of Fiduciary Duty by Attorney**  
20 **(Ms. Shulman Against Charles Houghton)**

21 421. Plaintiffs repeat and reallege each of the allegations set forth in the  
22 preceding paragraphs.

23 422. Houghton held himself out to third parties as Ms. Shulman’s attorney  
24 and led Ms. Shulman to believe he would act in good faith on her behalf.

25 423. Houghton breached the duty of an attorney to maintain loyalty and  
26 zealous advocacy on their behalf and not to engage in activities that posed a  
27 conflict of interest to his clients.

28 424. Ms. Shulman was harmed by Houghton’s conflicts of interest,  
wherein he induced reliance by Ms. Shulman on his professed regulatory expertise

1 and promises to assist the her when, in fact, he sought to assist the  
2 misappropriation of Ms. Shulman's financial and property rights for Kaplan's  
3 benefit. Houghton led Ms. Shulman to believe that he would obtain operator  
4 licenses on behalf of Kaplan and Ms. Shulman jointly. He misled Ms. Shulman  
5 about the types of information he needed to complete the application process,  
6 including requesting (but failing to use) true and correct affidavits from  
7 Ms. Shulman regarding the legal nonconforming use of Iron Angel in order to  
8 expedite the permanent application process, and he misled them to believe the  
9 application would be denied absent a long-term lease on Iron Angel. Houghton  
10 took the lead, on Ms. Shulman's behalf, in drafting legal documents (such as the  
11 Iron Angel lease) without consultation with her or her other attorney. Houghton  
12 was instrumental in inducing Ms. Shulman to give up all of her rights on Sisters.  
13 Ms. Shulman reasonably believed that Houghton was acting on her behalf, when at  
14 all times he was acting for Kaplan, Vertical, and other Defendants. In the end,  
15 Houghton's work on behalf of Kaplan and Ms. Shulman jointly resulted in  
16 stripping Ms. Shulman of her licenses to operate on her property (and, instead,  
17 putting them in Kaplan's name) and ousting Ms. Shulman from the cannabis  
18 business on her own property by coercing her to sign a lease that was not needed.

19 425. Ms. Shulman was harmed as alleged herein, and Houghton's conduct  
20 was a substantial factor in causing Ms. Shulman's harm.

21 **COUNT XXIII**  
22 **Malicious Prosecution/Wrongful Use of Civil Proceedings**  
23 **(Ms. Shulman Against Todd Kaplan, Matt Kaplan, Elyse Kaplan,**  
**Iron Angel II, LLC, and Vertical)**

24 426. Plaintiffs repeat and reallege each of the allegations set forth in the  
25 preceding paragraphs.

26 427. Defendants were actively involved in bringing an unlawful detainer  
27 and forcible entry proceeding on behalf of Iron Angel II, LLC, against  
28 Ms. Shulman and other related individuals and entities. The lawsuit was brought in

1 Santa Barbara Superior Court and was styled *Iron Angel II, LLC v. Francine*  
2 *Shulman, et al.*, No. 19CV01406. The Kaplans also pursued a temporary  
3 restraining order and a preliminary injunction at the outset of the proceedings.

4 428. Defendants ultimately moved for a dismissal without prejudice  
5 (expressly reserving their rights to re-initiate the action at any time) as soon as the  
6 Kaplans, Charles Houghton, and other related individuals were scheduled to be  
7 deposed. The request for dismissal was made without any reasonable explanation  
8 and was not made pursuant to a settlement agreement or any other concession by  
9 Defendants. The Court granted Iron Angel II's request for dismissal, effective  
10 May 10, 2019.

11 429. The Kaplans similarly pursued a temporary restraining order and a  
12 preliminary injunction, but reversed course and withdrew their requests for  
13 injunctive relief suddenly and without explanation or notice to Ms. Shulman.

14 430. No reasonable person in Defendants' circumstances would have  
15 believed that there were reasonable grounds to bring the lawsuit against  
16 Ms. Shulman or the other defendants in that case. Defendants pursued the lawsuit  
17 and temporary injunctive relief in bad faith and engaged in sanctionable conduct.

18 431. The dismissal without explanation and immediately before Todd  
19 Kaplan, Matt Kaplan, and Charles Houghton were set to be deposed demonstrates  
20 that there was no legitimate basis for the lawsuit. Defendants acted primarily for a  
21 purpose other than succeeding on the merits of the claim. Defendants pursued the  
22 lawsuit and the accompanying proceedings for a temporary restraining order to  
23 cause damage and harass Ms. Shulman, making good on Kaplan's promise to  
24 "bury" her in litigation.

25 432. Ms. Shulman was harmed by Defendants' conduct. As a result of  
26 their unreasonable and baseless pursuit of litigation, Ms. Shulman incurred  
27 substantial costs and attorneys' fees, and the cannabis cultivation operation at  
28 Iron Angel Ranch incurred substantial damage.



1 433. Defendants' conduct was a substantial factor in causing  
2 Ms. Shulman's harm.

3  
4 **COUNT XXIV**

5 **Rescission of Iron Angel Lease Due to Fraud in the Inducement**  
6 **(Ms. Shulman Against Todd Kaplan and Iron Angel II, LLC)**

7 434. Plaintiffs repeat and reallege each of the allegations set forth in the  
8 preceding paragraphs.

9 435. Civil Code Sections 1688 and 1689 provide generally that a party to a  
10 contract may rescind a contract.

11 436. On or prior to January 14, 2018, in order to induce Ms. Shulman to  
12 enter into the Iron Angel lease:

- 13 a. Houghton represented to Ms. Shulman that the lease was a  
14 necessary formality in order for Defendants to obtain licenses  
15 on the Iron Angel property, as the Defendants were obligated to  
16 do under the Cultivation Agreement.
- 17 b. Defendants represented that in executing the lease, neither  
18 party would be bound by the terms therein and that the  
19 Cultivation Agreement would continue to govern.
- 20 c. Defendants represented that the lease was inconsequential and  
21 merely a means of obtaining the requisite licensing to enable  
22 the parties to cultivate cannabis on Iron Angel.

23 437. Said statements were false and made with knowledge of their falsity.

24 438. Houghton misused his position as an attorney to induce Ms. Shulman  
25 to sign the lease and to believe the veracity of the Defendants' misrepresentations.

26 439. The truth is that the lease was never needed for any county or state  
27 licensing requirements, and Defendants knew that it was not needed for any such  
28 purpose.

BAKER BOTTS L.L.P.

1 440. These representations were made with the intent to induce  
2 Ms. Shulman to sign the lease.

3 441. In reasonable reliance on these statements, Ms. Shulman executed the  
4 lease.

5 442. Defendants fully intended to enforce the lease against Ms. Shulman in  
6 an effort to force Ms. Shulman off of Iron Angel and out of the cannabis  
7 cultivation operation at Iron Angel, stripping Ms. Shulman of any profits to which  
8 she is entitled under the Cultivation Agreement.

9 443. After the Defendants committed numerous breaches of the  
10 Cultivation Agreement and shut Ms. Shulman out of any profit arising from the  
11 cannabis cultivation operation on Iron Angel, Ms. Shulman threatened to terminate  
12 the Cultivation Agreement. Only then, in March 2019, did Defendants attempt to  
13 treat the lease as an enforceable contract by attempting to pay Ms. Shulman the  
14 first ever rent check.

15 444. After Ms. Shulman terminated the Cultivation Agreement, by letter  
16 on February 25, 2019, Kaplan filed a lawsuit against Ms. Shulman in Santa  
17 Barbara Superior Court seeking to enforce the lease.

18 445. Ms. Shulman had no reason to suspect and did not discover the above  
19 fraudulent statements and omissions until March 2019 when Kaplan intended to  
20 try to enforce the lease in an unlawful detainer proceeding in California state court.

21 446. Had the true facts been disclosed, Ms. Shulman would not have  
22 executed the lease giving Defendants possession of Iron Angel. The failure to  
23 disclose the fact that the Iron Angel lease was not, in fact, required for regulatory  
24 purposes but was, instead, going to be used to oust Ms. Shulman from her own  
25 property, is material pursuant to Cal. Corp. sections 25401 and 25110.

26 447. Ms. Shulman is therefore entitled to rescind the Iron Angel lease  
27 pursuant California Civil Code sections 1688, 1689, 1691, and 1692.  
28

1 448. Ms. Shulman is informed and believe and thereupon alleges that  
2 Defendants dispute her contention that she is entitled to rescind the Iron Angel  
3 lease.

4 **COUNT XXV**  
5 **Constructive Trust**  
6 **(Ms. Shulman Against Vertical Wellness)**

7 449. Plaintiffs repeat and reallege each of the allegations set forth in the  
8 preceding paragraphs.

9 450. Vertical Wellness is an affiliate of Vertical and is a recipient of ill-  
10 gotten gains from the Kaplan Enterprise, as alleged above, and acts as a  
11 constructive trustee of funds that rightfully belong to Ms. Shulman.

12 451. Pursuant to the Cultivation Agreement and the Wellsprings  
13 Agreement, Ms. Shulman is the rightful owner of 50 percent of the net income  
14 generated from cultivation operations on those properties.

15 452. On information and belief, Kaplan and Vertical fraudulently siphoned  
16 the money owed to Ms. Shulman under the Cultivation and Wellsprings  
17 Agreements and diverted that money to Vertical Wellness for its use.

18 453. At all times relevant hereto, Vertical Wellness had knowledge of  
19 Kaplan's and Vertical's breaches of the Cultivation and Wellsprings Agreements  
20 and fraudulent transfer of money to fund and build Vertical Wellness.

21 454. Based on Vertical's fraudulent acts described above, and use of undue  
22 influence over Ms. Shulman, and Vertical Wellness's substantial assistance  
23 thereto, Vertical Wellness has profited from and has been unjustly enriched by the  
24 cash diverted to it, which rightfully belongs to Ms. Shulman.

25 455. Vertical Wellness currently holds the profits in a constructive trust on  
26 behalf of the true owner, Ms. Shulman.

27 456. Vertical Wellness is not entitled to the profits generated under the  
28 Cultivation and Wellsprings agreements, and those funds should be disgorged and  
returned to the true owner, Ms. Shulman.

