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ANN MARIE BORGES

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EZEKIAL FLATTEN, WILLIAM KNIGHT,
CHRIS GURR and ANN MARIE BORGES,

Plaintiffs,
v.

BRUCE SMITH, STEVE WHITE and DOES
1-50, inclusive.

Defendants.

Case No: 3:21-cv-07031-SI
(Related to Case No. 3:20-cv-04537-SI)

**FIRST AMENDED COMPLAINT FOR
DAMAGES**

JURY TRIAL DEMANDED

INTRODUCTION

1
2 1. Although RICO (18 United States Code sections 1961 – 1968) is a federal
3 statutory scheme, it is well settled that state courts have concurrent jurisdiction with federal courts
4 over alleged violations of the civil provisions of RICO. *Cianci v. Superior Court*, 40 Cal. 3d 903,
5 910-916 (1985). This case was originally filed in state court and removed to federal court by the
6 defendants.

7
8 2. The elements of a civil RICO claim include (1) conduct that harms plaintiff's
9 business or property; (2) in connection with an enterprise that affects interstate commerce; and (3)
10 a pattern of racketeering activity. *Gervase v. Superior Court*, 31 Cal. App. 4th 1218, 1228-1234
11 (1995) RICO applies to both private and government entities generally and includes law
12 enforcement activities. *Diaz v. Gates*, 420 F.3d 897 (9th Cir. 2005) (en banc); *U.S. v. Thompson*,
13 685 F. 2d 993 (6th Cir. 1982) (en banc). It is one of few civil remedies available for citizens to
14 challenge government corruption. In this case, the government officials responsible for acting as
15 the checks and balances on corrupt police practices authorized, encouraged and/or condoned
16 those activities.

17
18 3. In Mendocino County certain corrupt law enforcement officers are above the law
19 because the Sheriff's Office and the District Attorney's Office have given officers the green light
20 to steal marijuana, guns and cash under color of law. Many local officials and judges have been
21 willfully blind to unlawful conduct by local law enforcement that is common knowledge among
22 many in the community.

23
24 4. In *Boyle v. United States*, 556 U.S. 938 (2009) the U.S. Supreme Court clarified
25 the broad range of organized, repeated criminal activities which could be caught in the net of the
26 Racketeer Influenced and Corrupt Organizations Act codified at 18 U.S.C §§1961-1968 and
27 popularly known as RICO. Petitioner Boyle was convicted of violating the RICO provision
28

1 forbidding “any person ... associated with any enterprise engaged in, or the activities of which
2 affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the
3 conduct of such enterprise’s affairs through a pattern of racketeering activity,” 18 U.S.C.
4 §1962(c). 18 U.S.C. 1962(d) provides: “It shall be unlawful for any person to conspire to violate
5 any of the provisions of subsection. . . (c) of this section.”
6

7 5. The Complaint instanter alleges a long standing and continuing RICO conspiracy
8 involving law enforcement officers in Mendocino County and surrounding jurisdictions
9 conducting the affairs of an enterprise including the Mendocino County Sheriff’s Department and
10 the Mendocino County District Attorney’s Office through a pattern of racketeering activity
11 consisting of extortion to obtain marijuana, guns and cash from victims in possession of
12 marijuana (18 U.S.C. §1951) by unlawfully searching their residences, stopping, detaining
13 Plaintiffs and hundreds of other victims, committing robbery, obstruction of justice, (18 U.S.C.
14 §1512) money laundering (18 U.S.C. §1956), tax evasion (26 U.S.C. §7201), and structuring
15 currency transactions to evade the currency transaction reporting requirement (31 U.S.C. §5313).
16

17 6. The RICO statute begins with a list of predicate offenses constituting “racketeering
18 activity” in 18 U.S.C. 1961(1) and provides that a “‘pattern of racketeering activity’ requires at
19 least two acts of ‘racketeering activity,’ one of which occurred after [1970] and the last of which
20 occurred within ten years . . . after the commission of a prior act of racketeering activity.” 18
21 U.S.C. §1961(1) “racketeering activity” includes defendants’ and their co-conspirators’
22 obstruction of justice (18 U.S.C. §1512), extortion (18 U.S.C. §1951), money laundering (18
23 U.S.C. §1956) and tax evasion (26 U.S.C. §7201).
24

25 7. Petitioner Boyle challenged the definition of the “association-in-fact” enterprise in
26 18 U.S.C. §1961(4). Boyle and others participated in a series of bank thefts in New York, New
27 Jersey, Ohio and Wisconsin. The participants included a core group, along with others who were
28

1 recruited from time to time. Although the participants sometimes attempted bank vault burglaries
2 and bank robberies, the group usually targeted cash-laden night deposit boxes. The group was
3 loosely and informally organized. It did not appear to have had a leader or hierarchy; nor did it
4 appear that the participants ever formulated any long-term master plan or agreement. The *Boyle*
5 Court noted that “[c]ommon sense suggests that the existence of an association-in-fact is
6 oftentimes more readily proven by what it does, rather than by abstract analysis of its structure.”
7

8 The *Boyle* Court held that:

9 From the terms of RICO, it is apparent that an association-in-fact enterprise must
10 have at least three structural features: a purpose, relationship among those
11 associated with the enterprise, and longevity sufficient to permit these associates to
pursue the enterprise’s purposes.

12 8. As will be shown in detail below, defendants Bruce Smith and Steve White and
13 their co-conspirators Tom Allman – former Sheriff of Mendocino County, Randy Johnson –
14 former Undersheriff of Mendocino County, David Eyster – District Attorney of Mendocino
15 County, and former Rohnert Park police officers Jacy Tatum and Joseph Huffaker conducted and
16 conspired to conduct the affairs of the Mendocino County District Attorney’s Office and Sheriff’s
17 Office through a pattern of racketeering activity including hundreds of acts of extortion, theft and
18 robbery of marijuana, guns and cash, obstruction of justice, money laundering and tax evasion. In
19 the guise of enforcing the law defendants and their co-conspirators extorted tons of marijuana,
20 stole millions of dollars and hundreds of guns and laundered the proceeds, committing tax
21 evasion and structuring currency transactions to evade detection. They obtained hundreds of
22 search warrants and destroyed and impounded some of the marijuana, cash and guns to maintain
23 the façade that they were enforcing the law to conceal their ongoing pattern of racketeering
24 activity.
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1 9. On December 12, 2019, Sheriff Allman announced his retirement -- less than one
2 year into his new 4 years term. Allman persuaded the Mendocino County Board of Supervisors
3 to appoint his then Undersheriff Matthew Kendall, a 30 years veteran of the Mendocino County
4 Sheriff's Office, as his replacement for the remaining three years of Allman's term. Earlier,
5 Allman appointed Kendall to replace Undersheriff Johnson, who retired in March 2018.

6
7 10. On January 27, 2020, Darren Brewster was appointed by Matthew Kendall to
8 replace him as the new Undersheriff. Brewster is another 30 years veteran of the MCSO. Both
9 Sheriff Kendall and Undersheriff Brewster are co-conspirators in the RICO conspiracy alleged
10 herein, replacing co-conspirators Allman and Johnson, respectively, as the conspiracy's hub with
11 Eyster to continue to cover up, aid, abet and encourage the officers in the field to extort cannabis,
12 cash and guns from growers and transporters of cannabis in Mendocino County, regardless of
13 whether the growers or transporters are licensed by the State of California and/or Mendocino
14 County and regardless of whether the extortion is purportedly authorized by a valid warrant, a
15 pretextual warrant, no warrant, probable cause, or no probable cause

16
17 11. Notwithstanding his "retirement" as Sheriff, Allman became "Lost Coast Resident
18 Deputy Sheriff of Humboldt County" in November 2020. Similarly, Bruce Smith's "retirement"
19 from Mendocino County was immediately followed by employment in Lake County as an
20 investigator for the local District Attorney.

21
22 12. Neither co-conspirator Allman nor Defendant Smith actually "retired" from law
23 enforcement employment. Instead, both men left their positions despite substantial reductions in
24 their law enforcement incomes, inviting the inference that each sought to distance himself from
25 activities being investigated by the ATF and the FBI, while maintaining contacts with their co-
26 conspirators, including his successor appointed by Allman to Sheriff and co-conspirator Kendall's
27 appointment of co-conspirator Brewster as his replacement for retired co-conspirator Johnson.

1 Although Allman and Smith “retired” from their Mendocino County law enforcement positions,
2 neither actually retired nor did either withdraw from the RICO conspiracy alleged herein.

3
4 **BACKGROUND**

5 13. Mendocino, Trinity and Humboldt Counties have been known for more than half a
6 century as “the emerald triangle” for the production of cannabis. Thousands of tons of cannabis
7 are produced every year in that emerald triangle and in recent years that translates to billions of
8 dollars in sales proceeds. Power tends to corrupt; absolute power tends to corrupt absolutely.
9 Like law enforcement communities around the United States during the roaring 1920’s, most
10 famously Cook County, Illinois, Mendocino County law enforcement succumbed to the same
11 temptations created by Prohibition -- enormous power and profits.

12 14. Mendocino County’s economy has relied on cannabis production for decades. The
13 U.S. Drug Enforcement Agency estimated that, for 2018, Mendocino County produced \$1 billion
14 worth of cannabis annually, while Mendocino County administrators placed the figure at \$5
15 billion. Mendocino County’s population is 90,000 -- meaning that Cannabis production per
16 capita is worth somewhere between \$12,000 to \$50,000, which translates to somewhere between
17 10 and 40 times larger than grape production; the second largest contributor to the local economy.
18

19 15. Until 1996 and California’s passage of the Compassionate Use Act aka Proposition
20 215, cannabis possession was prohibited by state and federal law despite the lack of credible
21 medical evidence to justify “dangerous drug” classification. After 1996 the cannabis industry
22 was increasingly tolerated by local law enforcement. In 2000, Mendocino County residents
23 passed “Measure G,” a local ordinance entirely devoid of legal justification purportedly
24 authorizing growers to raise up to 25 plants with no license ostensibly for “medical use only.”
25 Mendocino County set its own law enforcement policies in clear violation of state and federal
26 law.
27
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16. In 2016 Proposition 64 passed legalizing the recreational use of marijuana. As a result, Mendocino County created a permit process during 2017 that allowed “legacy” growers to come out of the shadows and grow marijuana legally subject to certain fees, conditions and taxes. It was not until 2017 that persons who were legally transporting or growing marijuana, such as the Plaintiffs herein, had the courage to come forward and complain about the seizure and theft of marijuana by law enforcement officers in the County of Mendocino -- thus placing marijuana designated solely for intrastate commerce in California into the black market and interstate commerce.

The Four Streams of Revenue/ the Criminal Enterprise

17. The “hub and spokes” criminal enterprise alleged herein had essentially four streams of revenue between 2011 and 2017 – when the events giving rise to the lawsuit occurred.

- Sheriff Allman’s “zip-tie” program wherein local growers could pay cash or check to the Sheriff as a bribe to protect against being eradicated;
- DA Eyster’s “restitution” (pay to play) policy wherein growers who were eradicated and charged with a felony could pay extortion money (often in the tens or hundreds of thousands of dollars) by cash or check through the Sheriff’s Office to avoid jail or prison by pleading to a misdemeanor;
- Mendocino County law enforcement officers, and at least two officers from the Rohnert Park Department of Public Safety, engaging in extortion by using traffic stops as a pretext to steal marijuana and cash from unsuspecting motorists along the Highway 101 corridor; and
- Select members of the Sheriff’s Office, most notably defendant Bruce Smith, and the Department of Fish & Wildlife, most notably defendant Steve White,

1 eradicated hundreds of marijuana farms and stole most of the seized marijuana. It
2 was later sold on the black market.

3 **Sheriff Allman's Zip-Tie Program (2008 - 2017)**

4
5 18. In 2007 Tom Allman took office as Sheriff and named Randy Johnson as
6 Undersheriff and Bruce Smith as head of County of Mendocino Marijuana Eradication Team aka
7 COMMET. As a result, there was an increase in eradication efforts and a related failure to
8 document how marijuana taken into custody, some of which was identified in returns of search
9 warrants, was destroyed. The Sheriff entered into one or more contracts with one or more local
10 landowners to allegedly bury marijuana that was designated for destruction pursuant to Health &
11 Safety Code section 11479. This policy and practice is, and was, inconsistent with contemporary
12 standards in law enforcement state wide and nationally. For example, the Sheriff's Office did not
13 document the chain of custody of marijuana seized from the time of the seizure to its alleged
14 burial (destruction). Other law enforcement agencies maintain a strict chain of custody up to and
15 including the marijuana being burned or otherwise destroyed at designated licensed facilities.

17 19. By 2008 Sheriff Allman implemented a "zip-tie" program that became local "law"
18 when the Mendocino County Board of Supervisors passed Ordinance 9.31 in 2008. The program
19 changed over time until it was replaced by the permit program in May 2017. On occasion, it
20 allowed for growers to purchase from the Sheriff's Office up to 99 zip-ties at \$50/plant so as to
21 become protected from seizure and prosecution by local law enforcement.

22
23 20. There were reports that some growers purchased zip-ties directly from the Sheriff
24 with cash prior to 2015. From 2015 to mid-2017 growers could purchase zip-ties from an
25 assistant to Sheriff Allman, Sue Anzilotti.

26 21. Ms. Anzilotti recently testified that her practice was to receive cash and checks
27 from persons purchasing zip-ties and provide them with a handwritten receipt. She did not enter
28

1 the payments into a computer with one exception – payments by credit card. In addition, she did
2 not keep her own record of the amount received and person who made the payment.

3 22. At the end of her shift she placed the cash and checks into a box, with related
4 receipts, and delivered it to the “fiscal” department in the Sheriff’s Office. She does not know
5 how the money was reported or deposited. Notably, before she was employed by the Sheriff’s
6 Office, she worked with Sheriff Allman’s wife, Laura Allman, for many years at a local bank
7 where she received training in money laundering.
8

9 23. Mendocino County claimed Sheriff Allman’s “zip-tie” program generated \$2.15
10 million between 2011 and 2013 according to budget reports.

11 **District Attorney Eyster’s Restitution aka Pay to Play Program (2011 to present)**

12 24. In 2011 C. David Eyster took office as the District Attorney for Mendocino
13 County. His office was short staffed and unable to meaningfully prosecute a huge backlog of
14 marijuana cases. Mr. Eyster decided to implement a new restitution (“pay to play”) program
15 citing H&S Code section 11470.2 as authority to demand fines (to be determined exclusively by
16 him) based on the number of pounds and/or plants seized from growers and presumably
17 destroyed. Some local judges referred to it as an extortion scheme.
18

19 25. Purportedly relying on Health & Safety Code §11470.2, Eyster made deals with
20 prospective criminal defendants, allowing them to pay an amount he calculated “on a napkin” in
21 exchange for misdemeanor guilty pleas and probation -- thereby avoiding felony prosecution and
22 lengthy incarceration. Although Health & Safety Code §11470.2 limits “restitution” to actual
23 enforcement costs constituting a small fraction of the sums extracted, defendants agreed to waive
24 an accounting and stipulated that the amount was “reasonable.” Allegedly tainted assets
25 including cash and assorted vehicles potentially subject to forfeiture because acquired with
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27
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1 proceeds of marijuana sales were also forfeited to the Mendocino County District Attorney as part
2 of Eyster's restitution program.

3 26. In an article appearing in the Los Angeles Times May 25, 2014, Eyster is quoted
4 as explaining ". . . it's a complex calculation that [Eyster] jots out [himself] by hand, on the back
5 of each case file." The size of the grow is not necessarily the deciding factor: in one current case
6 the defendants claimed to have records (never verified) that they were supplying 1,500 medical
7 users. One example of Eyster's Mendocino legal marijuana mirage involved Matthew Ryan
8 Anderson, charged with possession of 2,000 pounds of processed marijuana worth between \$3
9 million and \$4 million locally, a sum easily multiplied by moving it to the east coast, e.g. five
10 times that sum in New York. Anderson was allowed to pay \$100,000 in "restitution" and
11 received probation with no jail time. According to Eyster "in order to eliminate corruption,"
12 Eyster personally calculates the "restitution" for each case, calling to mind Humpty Dumpty's
13 scintillating semantic revelation:
14
15

16 When I use a word, Humpty Dumpty said, in rather a scornful tone, 'it
17 means just what I choose it to mean -- neither more nor less.' *Tennessee*
18 *Valley Authority v. Hill*, 437 U.S. 153, 171 n.18 (emphasis in original)

19 27. During a 2013 "restitution" hearing, Mendocino County Superior Court Judge
20 Clay Brennan, condemned the practice as "extortion of defendants," notwithstanding reported
21 revenue of \$3.7 million from early 2011 to May, 2014, plus \$4.4 million in cash and other assets
22 forfeited to the district attorney's and sheriff's offices seized in 2013 alone. Eyster dispenses
23 perfect justice because he personally handles every marijuana case: "The way we achieve
24 consistency is that I do it," Eyster said. "You can't pick every dandelion in the park."

25 28. In 2014 Kyle Stornetta was caught with 914 marijuana plants and 2.5 pounds of
26 processed cannabis, paid Eyster's office \$42,600 and his felony charge was reduced to a
27 misdemeanor, allowing Stornetta to walk away from a decade or more of incarceration. In 2016
28

1 Eyster explained his legal logic thus: there's a difference between lawbreakers and criminals . . .
2 lawbreakers are not fundamentally bad people -- they are decent locals who happened to grow a
3 little pot. Criminals are those causing harm to Mendocino County.

4 29. From 2015 to the present, Sue Anzilotti has been the primary person designated by
5 the Sheriff to collect the restitution money paid pursuant to the plea deals with DA Eyster. Ms.
6 Anzilotti recently testified that she followed the same procedure regarding these payments, often
7 in cash, that she used for the "zip-tie" program. She gave out handwritten receipts but did not
8 make any entries into a computer unless it was payment by credit card, nor did she keep a copy of
9 the receipts in a file. At the end of her shift she would place all of the cash and checks received,
10 and related receipts, into a box and deliver it to the Sheriff's "fiscal" office. She does not know
11 how it was reported or deposited thereafter.

12
13
14 **Highway Robbery aka Extortion**

15 30. Local law enforcement officers in Mendocino County began using traffic stops as
16 a pretext to steal marijuana soon after Tom Allman became Sheriff in 2007 - independent of
17 Rohnert Park police officers Tatum and Huffaker. When Allman was Sheriff, Rohnert Park police
18 officer Jacy Tatum worked with and was mentored by defendant Bruce Smith while they
19 participated in drug a "task force" from 2007 to 2011.

20 31. Beginning in approximately 2012 Tatum and his partner with the Rohnert Park
21 Office of Public Safety, Joseph Huffaker, became proactively involved in drug interdiction
22 activities that included traffic stops in Northern Sonoma County near Cloverdale and the Southern
23 border of Mendocino County near Hopland. Some of the cash and drugs they stole was reported
24 and documented, however, most of the marijuana seized disappeared before it could be destroyed.
25 Their success in generating income for the City of Rohnert Park, based on what they reported and
26 turned in, resulted in Tatum being named "officer of the year" in 2015.
27
28

1 32. Beginning in January 2017, soon after Proposition 64 passed, Sonoma County
2 District Attorney Jill Ravitch announced that she would no longer be prosecuting marijuana
3 offenses. Thereafter, Tatum and Huffaker (sometimes accompanied by Bruce Smith) conducted
4 most of their traffic stops in Mendocino County knowing that co-conspirators Allman, Johnson
5 and Eyster would protect them in the event a complaint was made by a motorist victim.
6

7 33. It was not until December 5, 2017 that a motorist, Plaintiff Zeke Flatten,
8 complained to Mendocino County law enforcement (Allman and Johnson), DA Eyster, the
9 Mendocino County Grand Jury and the FBI about a traffic stop in Hopland that resulted in the
10 theft of three pounds of marijuana. A series of events followed that are set forth in detail below
11 including a Section 1983 case in federal court. Flatten's federal lawsuit resulted in a number of
12 other victims of Tatum and/or Huffaker coming forward as Plaintiffs in a related lawsuit. Soon
13 thereafter both Tatum and Huffaker were criminally prosecuted by the U.S. Attorney's Office.
14

15 34. Another victim (B.L.) of Tatum and Huffaker was stopped and robbed in Hopland
16 on December 18, 2017. Tatum got this stop confused with Flatten's stop two weeks earlier
17 resulting in a press release, requested by Sheriff Allman and authored by Tatum, that
18 inadvertently exposed Allman, Johnson and Eyster as co-conspirators.
19

20 **Raids and Seizures for Personal Profit and**
21 **Benefit aka "Eradication and Burial"**

22 35. According to defendants Bruce Smith and Steve White, prior to 2017 they each
23 participated in over one thousand seizures of marijuana in Mendocino County. At least two
24 hundred of those seizures were done together, some with a warrant and some without. Their
25 custom and practice was to leave marijuana that was not ready for harvest at the site of the
26 eradication.

27 36. As to marijuana that was ready to harvest the practice was to take it off site and
28

1 place it in a dump truck at Bruce Smith's COMMET office. At a later date the seized marijuana
2 that was reported would be declared "destroyed" in a Section 11479 affidavit, however, it was
3 never documented when, where, how or by whom the seized marijuana was destroyed. Rather,
4 contrary to contemporary police practices, the County had a contract with a local landowner to
5 destroy seized marijuana by burying it on his land. The invoice submitted to the Sheriff's Office
6 for burial only includes dates, but not the amount of marijuana buried, nor the source of the
7 marijuana allegedly buried.
8

9 37. On June 18, 2021 Defendant White was deposed in the related case of *Borges v.*
10 *County of Mendocino*, Case No. 3:20-cv-04537-SI. White's testimony clearly establishes that
11 untold tons of seized cannabis acquired by White and Smith during hundreds of searches and
12 seizures were "loaded onto a dump truck" with no record of when, where, how and by whom the
13 marijuana was destroyed. There was no policy in place that required a chain of custody to be
14 maintained from the seizure of the marijuana to its alleged destruction.
15

16 38. During his July 13, 2021 deposition in a related case, Defendant Smith confirms
17 the accuracy of White's testimony that no photographs were taken nor were records made
18 documenting the destruction of the many tons of marijuana seized by Smith and White during
19 their hundreds of seizures of cannabis with warrants and hundreds more without warrants. It is
20 reasonable to infer that Sheriff Allman and District Attorney Eyster were well aware of this
21 practice and authorized it. In fact, it is implausible to assert otherwise.
22

23 39. In May 2017 the permit process commenced in Mendocino County under the
24 stewardship of the Agricultural Commissioner for the County. Then Interim Commissioner
25 Diane Curry was in charge of implementing the new program designed to allow "legacy" growers
26 in the County to come out of the shadows and cultivate cannabis legally - subject to certain
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1 conditions, fees and taxes. Plaintiffs Borges, Gurr and Knight applied and received provisional
2 permits in May 2017 with an understanding that they could commence cultivating marijuana.

3 40. By Memorial Day weekend in 2017 members of the Sheriff's Office seized and
4 eradicated marijuana from some growers who had recently obtained provisional permits. This
5 was quickly brought to the attention of Diane Curry and other local officials. As a result, the
6 Sheriff's Office agreed to cease seizures and eradication of growers with provisional permits.
7 However, this agreement did not include the California Department of Fish & Wildlife (F&W).
8

9 41. On August 10, 2017 Warden Hemphill with Fish & Wildlife, under the direction
10 and supervision of defendant Steve White, obtained a warrant to inspect and search the property
11 of Plaintiffs Borges and Gurr for evidence of illegal water diversion. This is alleged in greater
12 detail below. Defendant Bruce Smith accompanied defendant Steve White and a team of Fish
13 and Wildlife Wardens to conduct the inspection. Over 260 plants were seized and placed in a
14 dump truck at the COMMET office, yet no evidence was seized regarding suspected water
15 diversion and no criminal prosecution followed.
16

17 42. The seizure of the Borges/Gurr marijuana was reported to Diane Curry and other
18 local officials. This caused Ms. Curry to have a meeting in Sacramento with Chuck Bonham,
19 Director of Fish & Wildlife, State Senator Mike McGuire and John McCowen, a member of the
20 Mendocino County Board of Supervisors. Director Bonham said he would take steps to make
21 sure his officers did not conduct raids and seizures of marijuana grown by persons in the permit
22 process.
23

24 43. Following that meeting with Director Bonham defendant Steve White,
25 accompanied again by defendant Bruce Smith, directed a Warden to obtain a search warrant for
26 illegal water diversion as a pretext to inspect and search the property of Plaintiff William Knight
27 on September 21, 2017. This is alleged in greater detail below. During that "inspection" for
28

1 illegal water diversion 405 marijuana plants were seized along with 80 one-pound bags of
 2 processed marijuana, 36 pounds of shake, and two fifty-gallon drums of processed marijuana. No
 3 evidence was seized related to water diversion. Nearly three years later, after Knight became
 4 fully licensed by the State and to cultivate marijuana, criminal charges were filed by co-
 5 conspirator David Eyster, District Attorney for the County of Mendocino.

7 **RICO Conspiracy Liability**

8 44. Undersheriff Johnson and Sheriff Allman along with District Attorney Eyster were
 9 and are co-conspirators with Tatum and Huffaker, Defendants Smith and White and John DOES
 10 1-50 in a “hub-and-spokes” conspiracy, described by the United States Court of Appeals for the
 11 First Circuit in *U.S. v. Newton*, 326 F.3d 253, 255 (2003):

12 In a “hub-and-spokes conspiracy” a central mastermind, or “hub,” controls
 13 numerous “spokes,” or secondary co-conspirators. These co-conspirators
 14 participate in independent transactions with the individual or group of individuals
 15 at the “hub” that collectively further a single, illegal enterprise.

16 45. The U.S. Supreme Court and Courts of Appeal have employed the hub-and-spokes
 17 conspiracy doctrine many times since the seminal case of *Interstate Circuit, Inc. v. U.S.*, 306 U.S.
 18 2018 (1939) to uphold conspiracy prosecutions in antitrust and narcotics prosecutions. Beginning
 19 in 2007 when Tom Allman took over as Sheriff, Randy Johnson became Undersheriff and Bruce
 20 Smith was put in charge of COMMET, and throughout the relevant period, Undersheriff Johnson
 21 and defendant Bruce Smith oversaw the searches, seizures and alleged destruction of countless
 22 tons of cannabis by the County of Mendocino Marijuana Eradication Team (“COMMET”) and
 23 the Mendocino Major Crimes Task Force (“MMCTF”).

24 46. In *Salinas v. United States*, 522 U.S. 52, 62-63 (1997) the court rejected
 25 defendant’s claim that in order to be guilty of conspiracy to violate RICO he must have
 26 committed or agreed to commit two RICO predicate crimes himself. Instead, the Court
 27
 28

1 explained:

2 The RICO conspiracy statute, simple in formation, provides:

3 It shall be unlawful for any person to conspire to violate any of the
4 provisions of subsection (a), (b) or (c) of this section 18 U.S.C. §1962(d).

5 There is no requirement of some overt act or specific act in the statute
6 before us, unlike the general conspiracy provision applicable to federal
7 crimes, which requires that at least one of the conspirators have committed
8 an ‘act to effect the object of the conspiracy.’ 18 U.S.C. §371. The RICO
conspiracy provision, then, is even more comprehensive than the general
conspiracy offense in §371.

9 As explained in *Living Designs, Inc. v. DuPont de Nemours & Co.*, 431 F.3d 353, 361 (9th
10 Cir. 2005):

11 The elements of a civil RICO claim are as follows: ‘(1) conduct (2) of an
12 enterprise (3) through a pattern (4) of racketeering activity (known as
13 predicate acts) (5) causing injury to plaintiff’s “business or property.”’ (18
14 U.S.C. §§ 1964(c), 1962(c). * * * And there is no question that Du Pont
15 and the law firms together can constitute an ‘associated in fact’ RICO
16 enterprise) (citation omitted) ‘. . . a group or union consisting solely of
corporations or other legal entities can constitute an “association in fact”
enterprise.’ *Id.* at 361.

17 47. To be liable for participation in a conspiracy, each participant need not know the
18 exact details of the plan but must at least share the common objective of the conspiracy. *United*
19 *Steel Workers of Am. v. Phelps Dodge Corp.*, 865 F.2d 1539, 1541 (9th Cir. 1989) (en banc);
20 *Gilbrook v. City of Westminster*, 177 F.3d 839, 856 (9th Cir. 1999). Evidence of agreement
21 may be circumstantial rather than direct. *Gilbrook*, 177 F.3d at 856-57.

22 48. The conspiratorial agreement(s) need not be explicit; it is sufficient if the
23 conspirators knew or had reason to know the scope of the conspiracy and that their own benefits
24 depended on the success of the venture. *United States v. Montgomery*, 384 F.3d 1050, 1062 (9th
25 Cir. 2004). *Lacey v. Maricopa County*, 693 F.3d 913 (9th Cir. 2012) (en banc) reaffirmed
26 *Gilbrook v. City of Westminster*, 177 F.3d 839, 857-58 (9th Cir. 1999): To be liable each
27 participant in the conspiracy need not know the exact details of the plan, but must at least share
28

the common objective of the conspiracy. A defendant's knowledge of and participation in a conspiracy may be inferred from circumstantial evidence and from evidence of the defendant's actions. *Lacey v. Maricopa County* at 935. After a conspiracy is established, proof of the defendant's connection to the conspiracy must be shown . . . but the connection can be slight. *United States v. Johnson*, 297 F.3d 845, 868 (9th Cir. 2002). The character and effect of a conspiracy is not to be judged by dismembering it and viewing its separate parts, but only by looking at it as a whole. *Continental Ore v. Union Carbide Corp*, 370 U.S. 690, 699, 962 (1962).

49. Instead of pursuing the detailed description of felonies committed in Mendocino County by paramilitary perpetrators posing as federal law enforcement officers as set forth by Plaintiff Flatten (a former law enforcement officer), the Mendocino County Sheriff, Undersheriff and District Attorney stonewalled and threatened Plaintiff Flatten. Specifically, Sheriff Allman requested that Tatum cover-up the crime by issuing an exonerating press release. Instead of investigating Tatum as part of his obligation to enforce the laws against extortion, theft and impersonating law enforcement officers in Mendocino County, Sheriff Allman acted in furtherance of the conspiracy. Neither Sheriff Allman nor the Mendocino County District Attorney would investigate their co-conspirators because they had no motive to gather evidence against themselves. Allman's request for Tatum's press release and Undersheriff Johnson's threats to Flatten are clear evidence of a cover-up. The motive for the cover-up was and remains self-preservation.

PARTIES AND VENUE

PLAINTIFFS

50. Ezekial Flatten (hereinafter one of "Plaintiffs") resides in the State of Texas.

51. William Knight (hereinafter one of "Plaintiffs") is a resident of Mendocino County, California.

1 52. Ann Marie Borges and Chris Gurr (hereinafter two of the “Plaintiffs”) are
2 residents of Mendocino County, California. In August 2016 they purchased property in Ukiah,
3 California zoned AG40/agricultural use. In 2017 they formed a business entity, Goose Head
4 Valley Farms, for the purpose of legally growing medical cannabis at their 11 acres farm located
5 in Ukiah, California.
6

7 **DEFENDANTS**

8 53. Defendant Bruce Smith was employed as a Sergeant with the Mendocino County
9 Sheriff’s Office and assigned to head the County of Mendocino Marijuana Eradication Team
10 (COMMET) beginning in 2007 and continuing until January 2018. In that capacity he
11 frequently partnered with co-defendant Steve White in performing hundreds of searches and
12 seizures as a means of stealing marijuana, guns and cash. Often they used Wardens of the
13 California Department of Fish and Wildlife, under the direct supervision of Steve White, to
14 obtain search warrants using suspected water diversion as a pretext. Defendant Smith has been
15 employed as an investigator for the Lake County District Attorney’s Office since January 2018.
16 He is fishing buddies with Steve White and recently solicited Steve White to apply for a job with
17 that agency.
18

19 54. Defendant Steve White was employed by the California Department of Fish and
20 Wildlife (F&W) from 1996 until his retirement December 30, 2020. Prior to, and during, 2017
21 Defendant White supervised the Wetland Enforcement Team (WET) in Mendocino County and
22 contiguous counties. From 2016 to 2018 he did not document his law enforcement activities.
23

24 **NON-PARTY CO-CONSPIRATORS WITH DEFENDANTS**

25 55. Co-conspirators Brendan Jacy Tatum and Joseph Huffaker were police officers
26 employed by the Department of Public Safety for the City of Rohnert Park. They acted in the
27 course and scope of their employment and under color of state law at all times mentioned herein.
28

1 56. Co-conspirator Tom Allman was Sheriff of Mendocino County from January 2007
2 until he announced his retirement on December 12, 2019, one year into his fourth term in office.
3 He is now employed as a Deputy Sheriff for the Humboldt County Sheriff's Office. He acted in
4 the course and scope of his employment and under color of state law at all times mentioned herein
5 unless otherwise stated hereinbelow. In March 2018 Sheriff Tom Allman named Matthew
6 Kendall to succeed Randy Johnson as Undersheriff, and in December 2019 Allman "promoted"
7 Kendall to replace him as Sheriff.
8

9 57. Co-conspirator Randy Johnson was Undersheriff of Mendocino County from
10 January 2007 until his sudden retirement effective March 25, 2018. He acted in the course and
11 scope of his employment and under color of state law at all times mentioned herein unless
12 otherwise stated hereinbelow. When Matthew Kendall was "promoted" to Sheriff in late 2019 he
13 named Darren Brewster as the new Undersheriff.
14

15 58. Co-conspirator David Eyster was, and currently is, the District Attorney for
16 Mendocino County and he acted in the course and scope of his employment and under color of
17 state law at all times mentioned herein unless otherwise stated hereinbelow.
18

19 59. Plaintiffs do not presently know the true names and capacities of defendants
20 DOES 1 through 50, inclusive, and therefore sue them by these fictitious names. Plaintiffs are
21 informed and believe that DOES 1 through 50, and each of them, were responsible in some
22 manner for the acts or omissions alleged herein. Plaintiffs will seek leave to amend this
23 Complaint to add their true names and capacities when they have been ascertained.
24

25 60. Defendants, their co-conspirators and Does 1 through 50 conspired to achieve
26 common goals and/or acted in concert to achieve said goals, including but not limited to the thefts
27 and sales of stolen cannabis seized under color of law with and without search warrants, tax
28 evasion, money laundering and obstruction of justice to conceal the aforementioned crimes. In

1 doing the acts and omissions alleged herein said Defendants and their co-conspirators conspired
2 and/or acted in furtherance of the conspiracy to: (a) unlawfully stop and detain and/or unlawfully
3 search the property of the Plaintiffs; (b) commit robbery and extortion through a pattern of
4 racketeering activity; and (c) obstruct justice to impede or prevent discovery of evidence and
5 prosecution for the crimes committed in furtherance of the conspiracy.
6

7 61. The conduct alleged herein occurred in Mendocino County. Venue of this action
8 lies in the Superior Court in the County of Mendocino, California, where this case was originally
9 filed. The Defendants subsequently removed the case to federal court.
10

11 STATEMENT OF FACTS

12 The Flatten Robbery in Mendocino County on December 5, 2017

13 62. On December 5, 2017, Plaintiff **Ezekial Flatten** was travelling southbound on
14 Highway 101 in the County of Mendocino between the cities of Hopland and Cloverdale. He was
15 driving a rental car and transporting approximately three pounds of legal cannabis to be delivered
16 to a testing facility for use in lawful commerce.
17

18 63. At approximately 12:00 p.m., defendant Bruce Smith and co-conspirator Joseph
19 Huffaker were parked on the side of Highway 101 in an unmarked, black police SUV. As Mr.
20 Flatten passed their position, the defendants initiated a pretextual traffic stop of his vehicle
21 without reasonable suspicion to believe a crime had been committed. Instead, defendant Smith
22 and co-conspirator Huffaker stopped and searched Mr. Flatten on a hunch that he might have
23 been transporting cannabis and/or the proceeds from cannabis sales.
24

25 64. Mr. Flatten yielded to the patrol vehicle's forward-facing emergency lights and
26 pulled off of the road. The defendants contacted Flatten at the side of his vehicle. They were
27 wearing green military-style uniforms with no badges, insignia, or nametags, and were armed
28 with handguns and wearing bulletproof vests. They asked Flatten if he knew how fast he was

1 going, to which he replied, “61 or 62.” Bruce Smith countered, “You were going a little faster
2 than that,” and offered no further explanation for the traffic stop. Instead he began questioning
3 Mr. Flatten as to where he was going to and coming from. Once outside the vehicle Flatten was
4 asked if he had weapons followed by a brief pat down search. He was then asked if he had any
5 drugs, weapons or cash in the vehicle.
6

7 65. Smith and Huffaker informed Mr. Flatten that they were going to search his
8 vehicle and its contents. Without consent or other legal justification, they removed a sealed
9 cardboard box from the rear of plaintiff’s vehicle and cut it open with a knife, discovering the
10 marijuana inside. They then took pictures of Flatten, his driver’s license, and his license plate.
11

12 66. Smith and Huffaker informed Mr. Flatten that they were with the ATF,
13 commented that marijuana was taking over in California, and advised him that he may be getting
14 a letter from Washington. In less than five minutes, they had left the scene with Flatten’s cannabis
15 without ever having run his name for warrants, and without so much as issuing a citation for even
16 a traffic infraction.

17 67. Co-conspirator Huffaker was an active member of the Rohnert Park Department of
18 Public Safety’s “interdiction team” headed by co-conspirator Jacy Tatum. Prior to 2017 they
19 made most of their traffic stops in Sonoma County near Cloverdale.
20

21 68. In early 2017 Sonoma County District Attorney Jill Ravitch announced that her
22 office would no longer be prosecuting marijuana offenses. Thereafter, Huffaker and Tatum made
23 most of their traffic stops in Mendocino County, near the Sonoma County border, because they
24 would be protected by Sheriff Allman, Undersheriff Johnson, and District Attorney Eyster.

25 69. Together with others, Tatum and Huffaker conspired to expand the legitimate
26 interdiction mission to one of personal financial gain, and over the years seized thousands of
27 pounds of marijuana and hundreds of thousands of dollars of currency without issuing receipts for
28

1 the seizures, without making arrests for any crimes, and without any official report of the
2 forfeitures being made. Oftentimes when arrests or reports were made, the cash and cannabis
3 seized was significantly underreported in furtherance of the conspiracy allowing the officers to
4 skim off the top of even otherwise legal interdictions.

5
6 70. In furtherance of the conspiracy, co-conspirators Tatum and Huffaker sold the
7 seized marijuana to black market vendors without declaring the proceeds as income, and engaged
8 in money laundering activities including the purchase, improvement, and sale of real property
9 with the proceeds of these illegal activities.

10 71. Co-conspirator Jacy Tatum was recognized as Rohnert Park's Officer of the Year
11 in 2015 for the substantial revenues he brought to the department. He was further recognized for
12 his interdiction efforts by the private law enforcement intelligence network known as "Desert
13 Snow," a for-profit entity specializing in interdiction training for police officers. Desert Snow
14 operates a privately maintained criminal intelligence network known as "Black Asphalt Law
15 Enforcement Network." Through the course of the conspiracy, co-conspirators Tatum and
16 Huffaker, defendant Smith, and Does 1-50 used information from Black Asphalt in determining
17 what automobiles to intercept, even though the drivers of those automobiles had committed no
18 crimes to justify a detention.
19

20 72. Defendant Smith and co-conspirator Huffaker acted under color of official right
21 and under color of state law to take the personal property of Mr. Flatten and others against their
22 will by intimidation and implied threats of force, or by obtaining the consent of their victims
23 through the wrongful use of threatened force, violence, and fear.
24

25 **The B.L. Robbery in Mendocino County on December 18, 2017**

26 73. A little less than two weeks later, on December 18, 2017, at approximately noon,
27 Jacy Tatum and another officer, while in an unmarked black SUV, stopped B. L. who was
28

1 driving a white Mercedes SUV, southbound on Highway 101, while in Mendocino County north
2 of the Sonoma-Mendocino County border. B. L. stated that the vehicle was new, and he did not
3 yet have permanent license plates. B. L. stated the officers identified themselves as ATF agents.
4 B. L. reported having approximately 23 pounds of marijuana, packaged in one-pound bags and
5 labeled with a date and type of strain that he was bringing to a dispensary lab for testing in the
6 San Francisco Bay Area. He estimated the value at \$1,000 per pound, with a total value of
7 \$23,000. He also had approximately four crates of marijuana hash that was similarly marked.
8

9
10 74. The officers told B. L. that he must choose from two options: they could either
11 seize the marijuana and let him go, or they could seize the marijuana, the hash, and take him into
12 custody. B. L. reported that he had valid paperwork, including an inventory spreadsheet for the
13 marijuana and hash. When B. L. asked for official documentation regarding the seizure, one
14 officer replied by asking if he wanted to “make a federal case out of it,” or words to that effect.
15 B. L. was able to identify co-conspirator Jacy Tatum as one of the two officers who left with the
16 marijuana.
17

18 75. B. L. was not arrested, nor was he given a citation for the marijuana or provided
19 with any other documentation related to the stop. This seizure of marijuana affected interstate
20 commerce because it was stolen and sold on the black market. Co-conspirator Tatum would later
21 confuse this stop with the stop of Flatten by co-conspirator Huffaker and defendant Smith almost
22 two weeks earlier in Mendocino County. Tatum issued a press release on February 13, 2018
23 accepting responsibility for a stop he did not make of Flatten on December 5, 2017. (See Exhibit
24 A attached) He also submitted a false police report regarding the stop. This was done to shield
25 Sheriff Allman, Undersheriff Johnson and defendant Bruce Smith from being connected to the
26 traffic stops.
27
28

The Cover-up Begins: the Press Release

76. On December 7, 2017, two days after Flatten's traffic stop, Flatten reported the robbery to local media outlets and federal and state law enforcement.

77. Perhaps Tatum, Huffaker and their co-conspirators would never have been held responsible for their crimes, but Tatum and defendant Bruce Smith made two fatal mistakes: first, on December 5, 2017, Tatum's partner in crime, Joseph Huffaker, and Defendant Smith robbed Plaintiff Ezekial Flatten of three pounds of marijuana after stopping him illegally while he was driving a white SUV in Mendocino County; second, at the behest of co-conspirator Sheriff Allman on February 13, 2018 co-conspirator Tatum published a press release purportedly exonerating Mendocino County law enforcement -- an overt act in furtherance of the conspiracy alleged herein as part of a cover-up. (See Exhibit A attached).

78. In response to Flatten's complaints to the Mendocino County Sheriff's Office and District Attorney: (1) on January 30, 2018 co-conspirator Undersheriff Randy Johnson telephoned Flatten in response to Flatten's certified mail complaint, telling Flatten "no crime was committed" and "we [Mendocino County law enforcement] will not investigate;" and (2) on February 5, 2018 District Attorney David Eyster advised Flatten that his office would not investigate Flatten's allegations.

79. On February 11, 2018, an investigative reporter, Kym Kemp, published two articles about the marijuana seizure in Mendocino County on December 5, 2017, on Kemp's "Redheaded Blackbelt" website covering news in Mendocino, Humboldt and Trinity counties. On February 13, 2018, two days after Kemp's articles appeared containing accusations against unidentified law enforcement officers in Mendocino County, Tatum issued a press release as part of the cover-up to protect corrupt Mendocino County law enforcement. It concluded; "During the time of this routine traffic stop no other agencies including the Mendocino County Sheriff's

1 Office or Hopland Tribal Police were involved or assisted in the investigation.” (See Exhibit A
2 attached).

3 80. Co-conspirator Randy Johnson continued to publish his false narrative in
4 furtherance of the RICO conspiracy and cover-up by stating to Ms. Kemp that the Mendocino
5 County Sheriff’s Department would no longer be looking into Flatten’s incident because, “our
6 investigation showed [the stop] was done by a legitimate agency.”
7

8 81. B.L. telephoned the Mendocino County Sheriff’s Department on December 19,
9 2017, i.e. the day after being stopped and robbed by Tatum in Mendocino County. B. L. reported
10 the incident to Undersheriff Randy Johnson.

11 82. When journalist Kym Kemp interviewed Co-conspirator Johnson after Tatum’s
12 fraudulent press release, Johnson falsely claimed that neither plaintiff Flatten nor B. L. had
13 reported their highway robberies in Mendocino County (on December 5 and 18, 2017
14 respectively) to the Mendocino County Sheriff’s Office. But both extortionate seizures had been
15 reported.
16

17 83. Sheriff Allman’s and Undersheriff Johnson’s false and fraudulent statements were
18 made in furtherance of the RICO conspiracy alleged herein, including agreements between co-
19 conspirators Eyster, Allman, Johnson at the hub of the conspiracy and officers Tatum, Huffaker,
20 Smith, White and DOES 1 through 50 as the spokes of the hub and spokes conspiracy. In
21 furtherance of the conspiracy officers in the field were permitted to steal cash, guns and cannabis
22 from those growing and/or transporting cannabis in Mendocino County, while the Sheriff and
23 Undersheriff would provide protection from any inquiry or investigation and the District Attorney
24 would refuse any requests to investigate the perpetrators.
25

26 84. On and before February 19, 2018, Kym Kemp interviewed co-conspirator Randy
27 Johnson concerning Flatten’s accusations. Undersheriff Johnson claimed Flatten was lying,
28

1 Flatten had more marijuana than he claimed, they had video of the entire incident, and he was
 2 retiring -- so do not contact him about this incident again. Shortly thereafter he resigned. Sheriff
 3 Allman's directions to Tatum that, "in order to clear up the confusion," Tatum issue a press
 4 release excluding Mendocino County law enforcement from any involvement in the December
 5 2017 cannabis seizures during traffic stops in Mendocino County; and Undersheriff Johnson's
 6 false and fraudulent statements to Flatten and others, including journalist Kym Kemp described
 7 and discussed hereinabove, are subsumed under the rubric in Rule 801(d)(2) based on the holding
 8 in *Bourjaily v. United States*, 483 U.S. 171 (1987).¹

10 **The Cover-up Continues: Intimidation and Threats**

11 85. Beginning in April of 2018 and continuing to the present, plaintiff Flatten has
 12 become the subject of surveillance, harassment, threats, and intimidation by agents of the
 13 defendants and/or co-conspirators whose identities are unknown at this time. On September 27,
 14 2018, Flatten discovered a GPS tracking device hardwired beneath his car's dashboard. On
 15 November 11, 2018, plaintiff received an anonymous message via social media that he was
 16 "playing with fire."

18 **The Criminal Prosecution of Co-Conspirators Tatum and Huffaker**

19 86. On March 9, 2021 FBI agent William B. Roberts filed the following Affidavit In
 20 Support of Criminal Complaint in case number 3-21-70422 MAG in the United States District
 21 Court for the Northern District of California, including felony charges against co-conspirators
 22 Tatum and Huffaker:
 23

24 **"AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT"**

25 _____
 26 ¹ The content of the out-of-court statement may be considered in determining the alleged
 27 conspiracy has been established by a preponderance of the evidence, that the defendant joined the
 28 conspiracy, and that the statement was made during the course and in furtherance of the
 conspiracy.

1 I, William B. Roberts, a Special Agent of the Federal Bureau of Investigation
 2 (“FBI”) being duly sworn, depose and state the following:

3 **I. OVERVIEW AND AGENT BACKGROUND**

4 1. I make this Affidavit in support of a three count Criminal Complaint against
 5 Brendan Jacy Tatum (“TATUM”) AND Joseph Huffaker (“HUFFAKER”) for:

- 6 a. Conspiracy to Commit Extortion Under Color of Official Right, in
 7 violation of 18 U.S.C. § 1951. TATUM and HUFFAKER, agents of the
 8 City of Rohnert Park’s Department of Public Safety (“RPDPS”),
 9 knowingly conspired between at least on or about December 5, 2017 and
 10 December 18, 2017, to obstruct, delay, and affect in any way and degree
 11 commerce and the movement of articles and commodities in commerce by
 12 extortion, by obtaining property from victims and others, with consent
 13 induced under color of official right;
- 14 b. Falsifying Records in a Federal Investigation, in violation of 18 U.S.C. §
 15 1519. Tatum, an agent of the RPDPS, knowingly falsified records with the
 16 intent to impede, obstruct, and influence the investigation and proper
 17 administration of an investigation into the lawfulness of a RPDPS patrol
 18 stop and seizure on December 5, 2017, a matter that the defendant knew
 19 and contemplated was within the jurisdiction of Federal Bureau of
 20 Investigation, a department and agency of the United States; and
- 21 c. Tax Evasion, in violation of 26 U.S.C. § 7201, such that TATUM willfully
 22 attempted to evade income taxes due and owing by him to the United
 23 States of America for the calendar year 2016, by preparing and causing to
 24 be prepared, and by signing and causing to be signed in the Northern
 25 District of California, a false and fraudulent U.S. Individual Income Tax
 26 Return, Form 1040 which was filed with the Internal Revenue Service.

27 2. The statements contained in this affidavit come from my personal observations,
 28 my training and experience, information from records and databases, and information obtained
 from other agents and witnesses. This affidavit summarizes such information in order to show
 that there is probable cause to believe that TATUM and HUFFAKER have committed the
 violations listed above. **This affidavit does not purport to set forth all of my knowledge
 about this matter, or to name all of the persons who participated in these crimes.”**

The entirety of Agent Roberts’ affidavit is attached hereto as Exhibit B and incorporated herein.

87. Agent Roberts’ affidavit contains an error in paragraph 31, by incorrectly
 identifying co-conspirator Tatum -- instead of Defendant Smith -- as participating in the

1 extortionate seizure of plaintiff Flatten's three pounds of cannabis on December 5, 2017, in
 2 Mendocino County. The last sentence of ¶31 states:

3 Although [plaintiff Flatten] did not identify Officer A as Tatum, Tatum
 4 identified himself as the officer who conducted the search through the
 5 partially false Incident/Investigation Report he prepared on February 20,
 6 2018. . .

7 It is unclear whether Tatum's false statement of participation in the December 5, 2017 extortion
 8 was believed; Smith -- not Tatum -- accompanied Huffaker during the December 5, 2017 traffic
 9 stop of Flatten. This error was corrected at page 7 (19a) of the indictment filed on September 21,
 10 2021.

11 **The Indictment of Tatum and Huffaker and Tatum's Guilty Plea**

12 88. On December 1, 2021, Tatum pled guilty to counts 1, 4 and 5 of the indictment
 13 filed September 21, 2021, which superseded and added felony charges to the criminal Complaint
 14 against Tatum and Huffaker. As shown by the Court's Criminal Minutes attached and
 15 incorporated herein along with the indictment as Exhibit C, the Court accepted Tatum's guilty
 16 pleas and set a sentencing date.

17 **Post Flatten and B. L. Highway Robberies by Mendocino Law Enforcement**

18 89. On December 22, 2017, "**Old Kai**," a legally licensed distributor of cannabis
 19 carrying 1,875 pounds of cannabis from local farms in a van, was stopped by a California
 20 Highway Patrol ("CHP") officer in Ukiah -- the Mendocino County seat of government. The
 21 CHP officer called the Mendocino County Sheriff's Office which responded to the scene and took
 22 possession of the van containing 1,875 pounds of marijuana worth nearly \$2 million. Almost
 23 immediately after the illegal seizure of its licensed and lawfully grown marijuana, lawfully in
 24 transit to a lawful processor and distributor, Old Kai retained attorney Joe Rogoway to demand
 25 the return of the marijuana.
 26
 27
 28

1 90. On December 25, 2017, attorney Rogoway sent a three page letter to Mendocino
2 County's (1) Sheriff's Office, (2) Major Crimes Task Force and the California Highway Patrol
3 ("CHP") -- incorporated in its entirety and attached hereto as Exhibit D -- demanding that the
4 seized marijuana be preserved and returned. That letter was ignored. Instead, the unlawfully
5 seized marijuana was not preserved or returned, nor were any criminal charges brought. Rather,
6 in furtherance of the conspiracy alleged herein the marijuana was stolen and sold on the black
7 market.
8

9 91. At all relevant times the **Humboldt-Trinity Collective** LLC ("HTC") was and still
10 is a limited liability company based in Woodland Hills, California, which operates a duly licensed
11 cannabis cultivation facility in the Emerald Triangle. On November 6, 2020, HTC performed an
12 emergency harvest and evacuation of personnel and the harvested cannabis due to a sudden snow
13 storm to be followed by more storms immediately, according to weather forecasts. Because the
14 harvested cannabis would be destroyed unless removed, HTC hired a licensed distributor to
15 transport the "emergency harvest," simultaneously advising the California Department of
16 Farming and Agriculture's ("CDFA") Cannabis Division of the emergency harvest and
17 transportation despite the impossibility of obtaining tags from CDFA prior to transporting the
18 "emergency harvest" to protect it.
19

20 92. On November 7, 2020, a California Highway Patrol officer stopped the licensed
21 distributor and contacted the Mendocino County Sheriff's Office, which forthwith seized the
22 entire "emergency harvest," worth approximately \$1,250,000.
23

24 93. The emergency evacuation and transportation were conducted by duly licensed
25 participants, i.e. distribution company 66 Main Group LLC (License No. C11-00003460-LIC)
26 was transporting the lawfully produced cannabis to licensed cannabis processor Herbal Relief
27 Caregivers, Inc. (License No. C12-0000250-LIC). Due to the (1) remote location of HTC's
28

1 cannabis farm that can only be reached by a 15-miles-long unpaved road with steep drop-offs --
2 extremely dangerous for travel during snow storms; (2) unavailability of all phone and internet
3 access; and (3) the sudden snowstorm, soon to be followed by more storms and hazardous travel
4 conditions, the harvest and personnel at HTC's cannabis farm had to move before HTC could
5 generate a state of California "METRC Shipping Manifest" to accompany the roughly 570
6 pounds of cannabis as typically required for transporting licensed cannabis in California. In lieu
7 of the "METRC Shipping Manifest," HTC provided the driver of 66 Main Group LLC's armored
8 transport truck carrying HTC's product with a photocopy of its license and the particulars of the
9 cannabis typically reflected on the METRC Shipping Manifest.
10

11 94. On January 22, 2021, on behalf of HTC attorney Pamela Tedeschi sent a three
12 pages letter to Mendocino County District Attorney Eyster reciting the circumstances of HTC's
13 emergency evacuation and transportation in detail and requesting return of it cannabis. Also, on
14 January 22, 2021, HTC's attorney Tedeschi sent a two pages letter to Mendocino County Sheriff
15 Sergeant Lorenzo detailing the same events stated in the letter to Eyster and reminding Sergeant
16 Lorenzo of MCSO's duty to protect the integrity of the seized cannabis in a climate controlled
17 secure environment.
18

19 95. Due to Eyster's failure and refusal to respond to Attorney Tedeschi's January 22,
20 2021, letters, HTC retained litigation counsel John Armstrong, who sent an eight page letter to
21 Eyster on March 29, 2021, which repeated the request for return and set forth all the pertinent
22 facts, including considerable additional details of the licenses and licensees involved, adding a
23 detailed discussion of California Business & Professional Code §26032 and its application by the
24 Santa Barbara County Superior Court to a similarly misguided seizure and retention of licensed
25 cannabis in transit by the Santa Barbara County Sheriff. Armstrong's 3/29/21 letter summarized
26 the Santa Barbara court's order that the Sheriff return the seized cannabis product because there
27
28

1 was no evidence that unlicensed parties were involved. Furthermore, because all parties involved
 2 were licensed cannabis businesses, Business & Professional Code §26032 created a presumption
 3 that the commercial cannabis activities were not illegal notwithstanding evidence of a regulatory
 4 violation, which denies law enforcement authority to prosecute and punish the licensed
 5 participants.
 6

7 96. Both Mendocino County Sheriff Matthew Kendall and District Attorney David
 8 Eyster ignored the letter. On May 7, 2021, HTC attorney Armstrong filed HTC's Verified Petition
 9 For Writ of Mandate To Return Unlawfully Seized Cannabis Or, Alternatively, Complaint For
 10 Damages in Mendocino County Superior Court, case no. 21cv00298, a copy of which is attached
 11 and incorporated herein as Exhibit E.
 12

13 **The Theft of Marijuana Under the Guise of Marijuana**
Eradication and Burial by Bruce Smith and Steve White.

14 **The August 10, 2017 Seizure of the Borges/Gurr Marijuana**

15 97. Plaintiff Ann Marie Borges grew up in Mendocino County. She attended high
 16 school and college in Georgia before returning to California. She went on to have a 30 years
 17 career as a real estate agent for Coldwell Banker and other companies. She is also a professional
 18 horse trainer.
 19

20 98. Plaintiff Chris Gurr grew up in Georgia. He met Ann Marie Borges when they
 21 attended high school in Georgia. He had a successful 35 years career in Atlanta, Georgia
 22 primarily related to information technology sales and business.
 23

24 99. Plaintiffs Gurr and Borges decided to partner in a business venture to become
 25 licensed to cultivate medical cannabis on a suitable farm in Mendocino County near Ukiah and
 26 outside the City limits. The business entity came to be known as Goose Head Valley Farms.
 27

28 100. Plaintiffs Gurr and Borges thoroughly reviewed the Mendocino County guidelines
 for the existing Cannabis Program and reached out to the Department of Agriculture. They also

1 attended numerous meetings featuring County and State agency representatives. This information
2 helped guide them to the eleven (11) acre farm they purchased in August 2016 on a private road
3 off Boonville Road. It was ideal because it was zoned AG40/Agricultural with an excellent well
4 listed on County records. It also was level land without erosion issues and had proper sun
5 without having to remove trees.

6
7 101. While in escrow Gurr and Borges hired Bob Franzen of Redwood Water System to
8 perform a well test. They learned the water well produced 22 gallons per minute and was dug 30
9 feet deep. Gur and Borges also consulted with three licensed cannabis farmers who visited the
10 site.

11 102. Plaintiffs' property was zoned agricultural (AG40) as opposed to residential,
12 commercial, recreational, environmental or other designated purpose. From a zoning perspective
13 the plaintiffs were desirable applicants. On May 1, 2017 plaintiffs completed their application to
14 cultivate medical cannabis. On May 4, 2017 – while accompanied by an attorney – plaintiffs met
15 with Commissioner Diane Curry and Christina Pallman of her staff. Their application to relocate
16 to a new site was approved by Commissioner Curry based on the information contained in the
17 application, documents provided, and proof of prior cultivation experience.

18
19 103. Plaintiffs were given an application receipt relating to a provisional permit signed
20 by Commissioner Curry dated May 4, 2017. It provides, in part, that; "The garden at this site is
21 considered to be in compliance, or working toward compliance, until such time as a permit is
22 issued or denied." The plaintiffs were told by Commissioner Curry they could immediately begin
23 cultivation activities; and they did.

24
25 104. During 2017 and prior to her resignation in March 2018 Commissioner Curry was
26 given broad discretion as the final decisionmaker for the County of Mendocino to interpret and
27 implement the new ordinance allowing qualified applicants to receive permits to cultivate
28

1 cannabis in the County. During that time Commissioner Curry approved permits for numerous
2 applicants, including but not limited to the plaintiffs, to immediately cultivate cannabis so long as
3 the site met zoning requirements.

4 105. Beginning on or about June 20, 2017 Sue Anzilotti, a coworker of defendant Bruce
5 Smith in the Sheriff's Office, contacted defendant Steve White of the California Department of
6 Fish and Wildlife (F&W) on behalf of "concerned homeowners" who lived adjacent to Plaintiffs'
7 property. Anzilotti made false allegations that the water source for Plaintiffs' approved
8 cultivation site was not approved for use in commercial cultivation operations. In furtherance of
9 the conspiracy alleged herein Defendant White decided to use a false allegation of water
10 diversion as a pretext to obtain a warrant and seize the plaintiffs' property.

11 106. During July 2017 Commissioner Curry contacted F&W agents and requested an
12 opportunity to meet with them on the Gurr/Borges property in order to better understand the
13 requirements relating to creeks located near cannabis farms. On July 25, 2017 two F&W
14 employees came to the Gurr/Borges property unannounced, and without prior notice, after
15 cancelling appointments scheduled through Commissioner Curry. Without performing any tests,
16 they purportedly concluded it was likely water was being diverted from the creek and sent a letter
17 to Commissioner Curry stating that they suspected water diversion. At that time Gurr and Borges
18 offered to turn off the well and purchase water for irrigation while this issue was further
19 investigated.

20 107. On or about July 26, 2017, Gurr and Borges hired a hydrologist, Donald G.
21 McEdwards, to take samples from the well and the creek in order to perform an extensive
22 hydrology study to determine whether the well contained creek water. The samples were
23 provided to Alpha Labs in Ukiah. Plaintiffs were advised the results would be available on or
24 about August 10, 2017.

1 108. On August 10, 2017 at approximately 10:30 a.m. a convoy of F&W vehicles,
2 under the direction and supervision of defendant Steve White, arrived at Plaintiffs' property and
3 agents, with guns pointed, immediately placed the Plaintiffs in handcuffs. They were
4 accompanied by defendant Bruce Smith. Smith took the plaintiffs into temporary custody,
5 searched their home, and prevented them from observing the seizure of marijuana plants and the
6 destruction of equipment relating to their farming operation. Plaintiffs informed defendant White
7 they had an application receipt/provisional permit from the County and were in full compliance
8 with all County regulations. They also informed defendant White that they were awaiting a
9 report from Alpha Labs for tests of the creek water and the well water. Defendants Steve White
10 and members of his team, without any evidence, claimed they believed water was being diverted
11 from the nearby creek and proceeded to cut down and eradicate marijuana. The garden was within
12 County guidelines and took up approximately one quarter acre on the 11 acres farm.

13
14
15 109. During the August 10, 2017 search F&W Warden Mason Hemphill, Warden Ryan
16 Stephenson, Warden Wyatt Cole and other Wardens, under the direction and supervision of
17 defendant White, searched the property. Hemphill executed a return on search warrant declaring
18 that he took custody and possession of 163 living marijuana plants and 98 living marijuana plants
19 and guns. Borges and Gurr were never prosecuted for any crime related to the seizure of their
20 marijuana plants and it was soon determined that water was not being diverted from a local creek
21 to their well.
22

23 110. Borges and Gurr brought an action in federal court over one year ago seeking, in
24 part, the return of the plants. Defendant White now claims that he and defendant Smith put the
25 plants taken from the Borges/Gurr farm into a dump truck at the COMMET office. According to
26 defendant Smith the plants were later taken on an unknown date by an unknown person to be
27
28

1 buried. There are no documents reflecting the chain of custody of the marijuana plants after they
2 were seized, nor does any evidence exist to confirm they were buried.

3 **The September 21, 2017 Seizure of William Knight's**
4 **Marijuana and Guns by Defendants Smith and White.**

5 111. Plaintiff William Knight was born in 1960 and raised in Napa, California. As a
6 teenager he worked with his father, a contractor, building bridges, dams, septic systems and other
7 major projects.

8 112. In 1977 Mr. Knight joined the Local 180 Carpenter's Union in Vallejo, California.
9 For the next 6 years he worked for the Northern California Roofing Company headquartered in
10 Vallejo. Beginning in 1983 he was employed by the Chevron Research Group in Richmond,
11 California building research grids for a pilot plant.

12 113. In 1990 Mr. Knight moved to Mendocino County and worked building houses for
13 Affordable Homes located in Ukiah, California. In 1992 he obtained his Contractor's License
14 and was hired by Fetzer Vineyards to perform various tasks.

15 114. Beginning in 1999 and continuing to the present plaintiff Knight has been self-
16 employed as a contractor building and remodeling houses.

17 115. Beginning in 2015, as a means of supplementing his income, he began growing
18 marijuana as part of the 9.31 (zip-tie) program. In order to qualify his property was inspected by
19 Undersheriff Randy Johnson – a nearby neighbor who also resided in Potter Valley along
20 Highway 20. Plaintiff Knight was required to fence the area and comply with other requirements
21 which included paying a \$50/plant zip tie fee for each plant. He paid cash to Sheriff Allman in
22 2015 and 2016 to grow 99 plants and received handwritten receipts from Sue Anzilotti.

23 116. Beginning in 2017 Mendocino County implemented a new program to allow
24 qualified residents to obtain "provisional permits" to legally grow marijuana. This provisional
25

1 permit program was implemented through the County Department of Agriculture and headed by
2 Diane Curry, the Interim Commissioner of the Department of Agriculture. Mr. Knight applied for
3 and was issued a provisional permit in May 2017 by Ms. Curry to legally grow marijuana, subject
4 to certain conditions. Because of his participation in the program he stopped paying zip-tie fees
5 to the Sheriff's Office.

6
7 117. Plaintiff Knight fully cooperated with the County Department of Agriculture and
8 related agencies including the California Department of Fish and Wildlife and the Mendocino
9 County Sheriff's Office. At the request of Undersheriff Randy Johnson, Mr. Knight moved his
10 garden in 2017 so that it was clearly visible from Highway 20. Prior to the September 21, 2017
11 raid by defendants Bruce Smith and Steve White, Mr. Knight had not been informed by Randy
12 Johnson or any government agency that he was out of compliance with any conditions related to
13 his marijuana operation.

14
15 118. On September 15, 2017 Warden Ryan Stephenson of F&W, under the supervision
16 and direction of defendant Steve White, obtained a search warrant to inspect William Knight's
17 property under the pretext that he was illegally diverting water. The County Department of
18 Agriculture and Undersheriff Randy Johnson were aware that spring water on the property had
19 been used to irrigate the garden since 2015. Plaintiff Knight, in coordination with Diane Curry,
20 was in the process of having it inspected and approved by the appropriate agencies.

21
22 119. On September 21, 2017 at 8:00 am defendant Steve White, his subordinate Ryan
23 Stephenson and other members of F&W, together with defendant Bruce Smith and members of
24 County of Mendocino Marijuana Enforcement Team, arrived at William Knight's property
25 located at 7800 Highway 20 in Ukiah.

26
27 120. Defendants Smith and White, and others under their supervision, proceeded to
28 "eradicate" 405 mature and ready for harvest marijuana plants. In addition, Ryan Stephenson

1 reported taking into evidence 80 one pound bags of processed marijuana, a cardboard container of
2 processed marijuana, 36 pounds of shake, two fifty gallon drums of processed marijuana, a paper
3 bag of processed marijuana, a shotgun, a revolver, a cell phone, a Samsung cellular device and
4 two electronic scales.

5
6 121. Mr. Knight and his nephew, Javier Sandoval, were arrested, taken into custody and
7 booked into the Mendocino County jail. Under California law there was a three years statute of
8 limitations to prosecute for alleged violations of Section 11358 of the Health and Safety Code.

9 122. The return of search warrant was filed with the court on September 28, 2017. The
10 return identified the seized property referred to above as all property taken by Ryan Stephenson.
11 A Declaration of Destruction of Marijuana pursuant to Health and Safety Code 11479, signed by
12 Ryan Stephenson, stated that the gross weight of the controlled substance (marijuana) seized was
13 1,321 pounds.
14

15 123. Stephenson's declaration also states "all marijuana in excess of ten (10) pounds, as
16 described above, except the random and representative evidentiary samples, was destroyed
17 pursuant to Health and Safety Code 11479. Prior to destruction, pictures of all seized marijuana,
18 whether individually or in bulk, were taken and are being retained as evidence."

19 124. Plaintiff William Knight has information and believes that over 1,321 pounds of
20 the marijuana referred to above was not destroyed and that no reliable evidence exists to prove
21 that it was. Rather, in furtherance of the racketeering conspiracy alleged herein, the marijuana
22 was stolen and sold by Defendants Smith and/or White.
23

24 125. In late 2019 Mr. Knight became licensed to grow marijuana by the State of
25 California. Beginning in 2020 Mr. Knight has grown marijuana on his property with the
26 knowledge and consent of the County of Mendocino and the State of California
27
28

126. On or about September 15, 2020, co-conspirator Mendocino County District Attorney David Eyster initiated criminal prosecution of Plaintiff William Knight in violation of 18 U.S.C. §1512(b)(1) which provides in pertinent part:

(b) Whoever knowingly uses intimidation, threatens or corruptly persuades another person, or attempts to do so...with intent to (1) influence, delay, or prevent the testimony of any person in an official proceeding; shall be fined or imprisoned not more than 20 years, or both.

The term “official proceeding” defined in 18 U.S.C. §1512(a)(1)(A) includes in pertinent part:

a proceeding before a judge or court of the United States, a United States magistrate judge...or a Federal grand jury. An “official proceeding” need not be pending or about to be instituted at the time of the offense; and the testimony or the record, document, or other object need not be admissible in evidence or free of a claim of privilege, as provided in 18 U.S.C. §1512(f).

127. On information and belief, in furtherance of the conspiracy alleged herein, co-conspirator David Eyster intended to intimidate and threaten William Knight to influence, delay or prevent the testimony of William Knight in an official proceedings, including but not limited to the FBI and Federal grand jury investigations into Mendocino County.

The Rip-off of Andres Rondon in October 2018

128. On October 21, 2018, defendants’ RICO co-conspirators perpetrated another variation of their extortion and thefts of lawfully possessed cannabis in Mendocino County, specifically at 12850 Pine Avenue, Potter Valley, California. Andres Rondon operated a cannabis growing operation at that location through Skunkworx Pharms, LLC pursuant to licenses granted by the state of California and Mendocino County in full compliance with all applicable state and local laws.

129. The robbers, dressed in paramilitary garb, descended on 12850 Pine Avenue at approximately 7:10 a.m. and Mr. Rondon contacted the Mendocino County Sheriff’s office to report the robbery in progress, requesting emergency dispatch to apprehend the invaders. During

1 the phone call Rondon advised the Mendocino County Sheriff's Office that his farm was a legal
2 cannabis cultivation operation licensed by Mendocino County. Approximately two hours passed
3 before deputies arrived. Upon arrival they ignored the reported robbery, challenged the credibility
4 of the witnesses, and declined to pursue the perpetrators.

5
6 130. Several hours after departing Rondon's farm the MCSO deputies returned with a
7 search warrant based on an affidavit signed by co-conspirator Darren Brewster, who eventually
8 replaced Matt Kendall as Mendocino County Undersheriff in January of 2020. Brewster's
9 affidavit falsely claimed that: (1) after checking it was determined that the farm was not licensed
10 or registered for cannabis cultivation; (2) it "was obvious" to affiant Brewster (who was then
11 Special Agent Supervisor) that "the owner of this property is in violation of state law without
12 being part of the counties (sic) permitting process." Brewster's false statements were made
13 intentionally and in furtherance of the RICO conspiracy alleged against defendants Smith, White
14 and their co-conspirators.

15
16 131. The search warrant obtained by then Special Agent Supervisor Brewster falsely
17 identified the site as 12805 Pine Avenue, instead of the actual location at 12850 Pine Avenue.
18 When the MCSO deputies returned with the phony warrant they stripped off and seized the buds -
19 - which were ready for harvest, placing the marketable crop worth roughly \$350,000 in plastic
20 bags and removing them. The deputies also destroyed the plants and other valuable property and
21 equipment, causing another \$350,000 to \$400,000 in damages. The deputies also seized various
22 other items from Rondon's home including cell phones, permits and other valuable items.

23
24 132. After the raid on October 21, 2018, Rondon hired counsel to contact the Sheriff's
25 Office by phone, letter and e-mail to discuss the raid, identify the persons involved and secure
26 return of Rondon's property. The Sheriff's Office ignored these contacts until several weeks
27 later, when Rondon's attorney made a written request for a copy of the incident report, to which
28

1 the Sheriff's Office responded that the report was being withheld as part of an ongoing
 2 investigation. Rondon filed suit October 8, 2020, in this Court, case no. 4:20-cv-07013-DMR by
 3 a Verified Complaint, a copy of which is attached, containing a more detailed account of the
 4 events summarized herein. (Exhibit F attached)

5 STATEMENT OF DAMAGES

6
 7 133. As a result of defendants' conduct, plaintiffs sustained damages to their businesses
 8 and property in an amount to be determined according to proof.

9 134. As a result of defendants' conduct, plaintiffs sustained and will continue to sustain
 10 future damages to their businesses and property in an amount determined according to proof.

11 135. Plaintiffs have retained private counsel to represent them in this matter and are
 12 entitled to an award of attorneys' fees and triple their actual damages.

13 FIRST CAUSE OF ACTION 14 [18 USC §§ 1962(c) and (d)] – RICO as Against 15 Defendants BRUCE SMITH, STEVE WHITE and Does 1-50]

16 136. Plaintiffs hereby incorporate paragraphs 1 through 135 as though set forth in
 17 full.

18 137. Plaintiffs allege causes of action against all defendants including Bruce Smith and
 19 Steve White based on 18 USC § 1962(c) and (d) for conducting and conspiring to conduct,
 20 respectively, the affairs of an enterprise through a pattern of racketeering activity by which
 21 Plaintiffs have been injured in their businesses and properties.

22 138. The "enterprise" (18 USC 1961(4)) through which defendants and their co-
 23 conspirators conducted their racketeering activities is the association-in-fact which includes the
 24 Offices of the Mendocino County Sheriff and District Attorney.

25 139. The numerous predicate crimes committed by defendants and their co-conspirators
 26 causing injuries to plaintiffs and others include: (1) extortion (18 USC 1951(b)(2)); (2)
 27
 28

1 obstruction of justice (18 USC 1512(b)(1)); (3) money laundering (18 USC 1956 (a)(1)(A)(i)
 2 and(a)(1)(B)(i)); and (4) money laundering by tax fraud (26 USC 7206) and evasion (26 USC
 3 7201 and 18 USC 1956(a)(1)(A)(ii)).

4 140. The numerous predicate crimes committed by defendants and their co-conspirators
 5 causing injuries to plaintiffs and others also include California state law crimes: (1) grand larceny
 6 (Cal. Penal Code § 487); and (2) extortion (Cal. Penal Code § 518) incorporated by 18 U.S.C. §
 7 1961(1)(A) into actionable "racketeering activity," i.e. ". . . any act or threat involving . . . robbery
 8 . . . extortion . . . which is chargeable under State law and punishable by imprisonment for more
 9 than one year."

10 141. On information and belief Defendants Bruce Smith and Steve White and their co-
 11 conspirators conducted financial transactions with the proceeds of extortion with intent to
 12 promote their continuing racketeering and with the intent to violate 26 USC 7201 and/or 7206 by
 13 filing false and fraudulent income tax returns omitting the income from their robberies and
 14 extortionate seizures of cash and proceeds of the cannabis sold after acquiring it by theft and
 15 extortion.

16 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

17 **PRAYER**

- 18 1. For treble damages, costs, and reasonable attorneys' fees pursuant 18 USC
 19 1964(c);
 20
 21 2. For such other relief as the Court may deem proper.

22 **JURY TRIAL DEMAND**

23 Plaintiffs hereby request a jury trial on all issues so triable.
 24
 25
 26
 27
 28

1 Dated: January 3, 2022

SCOTT LAW FIRM

2
3
4 By: /s/John Houston Scott
John Houston Scott
Attorneys for Plaintiffs EZEKIAL
5 FLATTEN, WILLIAM KNIGHT,
6 CHRIS GURR and ANN MARIE BORGES
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INDEX TO EXHIBITS

Exhibit A is a true and correct copy of Rohnert Park Department of Public Safety Police and Fire Service Press Release dated February 13, 2018.

Exhibit B is a true and correct copy of Agent William B. Roberts affidavit dated March 9, 2021.

Exhibit C is a true and correct copy of the Indictment in *U.S. v. Brendan Jacy Tatum & Joseph Huffaker*, Case No. CR 21-0374 filed on September 21, 2021.

Exhibit D is a true and correct copy of Old Kai Demand for Return of Property and Preservation of Evidence dated December 25, 2017.

Exhibit E is a true and correct copy of Verified Petition for Writ of Mandate to Return Unlawfully Seized Legal Cannabis in *Humboldt-Trinity collective LLC, v. Mendocino County Sheriff Matthew Kendall, et al.*, Case No. 21CV00298 filed on May 7, 2021.

Exhibit F is a true and correct copy of Complaint in *Andres Rondon, et al., v. Mendocino County, et al.*, Case No. 3:40-cv-07013-DMR filed on October 8, 2020.

Exhibit A



ROHNERT PARK DEPARTMENT OF PUBLIC SAFETY POLICE AND FIRE SERVICES

Brian Masterson, Director

PRESS RELEASE

Traffic Stop leads to Cannabis Possession

For Immediate Release

Issue Date: 02/13/2018

Time: 2:20 PM

Case Number: RPK 17-5373

Contact: Sergeant J. Tatum

584-2600

Hours Available: 0700-1700

Commander J. Taylor

584-2600

ROHNERT PARK, CA – During the month of December 2017 members of the Rohnert Park Department of Public Safety conducted a traffic enforcement stop on a white SUV vehicle in the area of the Sonoma / Mendocino County line.

During the traffic stop the officers became suspicious of the driver's behavior and his cargo. Throughout the cargo and seating area of the SUV the officers noticed several large cardboard boxes that were partially being covered by a blanket. The officers also smelled a very strong odor of cannabis within the vehicle. The driver was questioned about possessing cannabis and told the officers he was driving "samples" for several people he knew.

During the Officers investigation it was determined that the driver was transporting a large amount of processed cannabis bud along with concentrated cannabis outside of the state and federal guidelines for possessing and transporting cannabis. The driver stated he was delivering several one pound "samples" of cannabis to a facility in The Santa Cruz County area. The driver could not produce any type of documentation which showed he was lawfully conducting legal cannabis possession or transportation.

In an attempt to identify the owners of the cannabis the driver possessed, the officers asked several questions of the driver to aid in their investigation of the lawful possession. The driver refused to provide any information regarding how he obtained the cannabis and the legitimate business the cannabis originated from.

The officers explained to the driver that based on their investigation they believed he was involved in illegal black market cannabis and acting unlawfully. Based on the lack of documentation and the driver's unwillingness to cooperate with the officer's questions, the processed cannabis was seized and booked into evidence.

During the time of this routine traffic stop no other agencies including the Mendocino County Sheriff's Office or Hopland Tribal Police were involved or assisted with the investigation.

End..

Exhibit B

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, William B. Roberts, a Special Agent of the Federal Bureau of Investigation (“FBI”),
being duly sworn, depose and state the following:

I. OVERVIEW AND AGENT BACKGROUND

1. I make this Affidavit in support of a three count Criminal Complaint against
Brendon Jacy Tatum (“TATUM”) and Joseph Huffaker (“HUFFAKER”) for:

- a. Conspiracy to Commit Extortion Under Color of Official Right, in violation of
18 U.S.C. § 1951. TATUM and HUFFAKER, agents of the City of Rohnert
Park’s Department of Public Safety (“RPDPS”), knowingly conspired
between at least on or about December 5, 2017 and December 18, 2017, to
obstruct, delay, and affect in any way and degree commerce and the
movement of articles and commodities in commerce by extortion, by
obtaining property from victims and others, with consent induced under color
of official right;
- b. Falsifying Records in a Federal Investigation, in violation of 18 U.S.C.
§ 1519. TATUM, an agent of the RPDPS, knowingly falsified records with
the intent to impede, obstruct, and influence the investigation and proper
administration of an investigation into the lawfulness of a RPDPS patrol stop
and seizure on December 5, 2017, a matter that the defendant knew and
contemplated was within the jurisdiction of Federal Bureau of Investigation, a
department and agency of the United States; and
- c. Tax Evasion, in violation of 26 U.S.C. § 7201, such that TATUM willfully
attempted to evade income taxes due and owing by him to the United States of
America for the calendar year 2016, by preparing and causing to be prepared,
and by signing and causing to be signed in the Northern District of California,

a false and fraudulent U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service.

For the reasons set forth below, I believe there is probable cause to believe that TATUM and HUFFAKER committed the foregoing violations of federal law.

2. The statements contained in this affidavit come from my personal observations, my training and experience, information from records and databases, and information obtained from other agents and witnesses. This affidavit summarizes such information in order to show that there is probable cause to believe that TATUM and HUFFAKER have committed the violations listed above. This affidavit does not purport to set forth all of my knowledge about this matter, or to name all of the persons who participated in these crimes.

3. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been employed since March 2018. I am assigned to the San Francisco Field Division. As part of my duties, I investigate possible violations of federal criminal law, including public corruption and civil rights violations, as well as assist in numerous investigations related to financial crimes, healthcare fraud, counterterrorism, and counterintelligence cases.

II. APPLICABLE LAW

4. Title 18, United States Code, Section 1951 provides in pertinent part:

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than 20 years, or both.

(b) As used in this section –

(2) The term extortion means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

5. Title 18, United States Code, Section 1519 provides in pertinent part:

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with intent to impede, obstruct, or influence the investigation or proper administration of any

matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or in contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

6. Title 26, United States Code, Section 7201 provides:

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

III. FACTS ESTABLISHING PROBABLE CAUSE

7. TATUM and HUFFAKER were Rohnert Park Department of Public Safety police officers, assigned to drug interdiction work. From August 2016 to December 2017, TATUM, acting as a uniformed police officer, extorted marijuana and cash from drivers on Highway 101 under color of official right, threatening to arrest drivers if they contested his seizures of their property, which he then kept for himself without reporting or checking into evidence. In December 2017, TATUM and HUFFAKER, after their drug interdiction work ended, falsely impersonated agents of the Bureau of Alcohol, Tobacco, Firearms and Explosives, and similarly extorted drivers for the same purposes. With respects to the acts alleged herein, TATUM extorted at least \$3,700 in cash and 60 pounds of marijuana with a value of at least \$85,000, and HUFFAKER conspired with TATUM in extorting at least portion of the marijuana. After the FBI investigation into their conduct became public, TATUM falsified a police report to cover his tracks. Additionally, TATUM evaded his income taxes, failing to report at least \$443,059 in cash deposits for the tax year 2016, for which there is probable cause to believe were derived from his extortion scheme.

A. Background and Summary

8. The City of Rohnert Park is a city located in Sonoma County, California. RPDPS is a department of the City of Rohnert Park. RPDPS consists of a Police Services Patrol Division and Fire Services Division.

9. TATUM was employed with RPDPS between 2003 and 2018. HUFFAKER was employed with RPDPS between 2012 and 2019. Between July 2015 and August 20, 2017, and again after February 4, 2018, TATUM was a Public Safety Sergeant in the Police Services Patrol Division. RPDPS Public Safety Officers, regardless of what division they were assigned, were able to work overtime shifts in either in the Police Services Patrol Division or the Fire Services Division.

10. The interdiction team operated between at least 2014 through approximately 2017. TATUM and HUFFAKER were members of that interdiction team and participated in the activities of the team at various times between 2015 and the end of 2016. In 2016, the team was headed by TATUM and was overseen by Commander J.T., who reported to the RPDPS Chief, B.M. The interdiction team conducted traffic stops on vehicles in an effort to seize illegal drugs and its operations were in addition to the team members' normal duties. As such, the time spent on interdiction operations was considered overtime and interdiction team members were required to notate their time sheets accordingly. The interdiction team began operating within the Rohnert Park city limits. At some point thereafter, the interdiction team began operating along U.S. Highway 101 from Rohnert Park to points near Cloverdale, California, a city located approximately 40 miles north of Rohnert Park, and even in Mendocino County near the Sonoma border. The interdiction team's operations were subject to the same policies and procedures in place for RPDPS in general, including policies and procedures relating to body camera usage, property and evidence packaging and destruction, asset seizure and forfeiture, and report writing, among others.

11. The interdiction team's operations were terminated in approximately January 2017, due in part to changes in the law on marijuana prompting the District Attorney to decline to prosecute marijuana cases. TATUM, HUFFAKER and the other interdiction team officers were informed that the interdiction team's operations were terminated.

12. RPDPS reported that it began using body-worn cameras between 2015 and mid-2016. Use of body-worn cameras and the policies and procedures that were in place applied to

all of RPDPS, including the interdiction team. Under those policies and procedures, body-worn cameras were required to be worn and activated when officers came into contact with citizens in the performance of their official duties. The body-worn camera was required to be activated and not be terminated until the contact had entirely concluded. Where the body-worn camera was not activated or was terminated prior to contact entirely concluding, the officer was required to document the reasons for doing so. All digital media from body-worn cameras was required to be downloaded at the end of the officer's shift and securely stored.

13. Under RPDPS policies and procedures, all interdictions resulting in the seizure of narcotics and or other property or evidence, including cash, were required to be submitted to property/evidence and documented by an Evidence/Property Report and/or an Incident/Investigation Report, whether the activity related to a felony or misdemeanor. In cases where a narcotics seizure was made, but the subject disclaimed ownership of the narcotics, the seized narcotics nevertheless were required to be submitted to property/evidence; in such instances, RPDPS records systems referred to the narcotics "as found property." RPDPS generated case numbers sequentially regardless of the type of case. Those case numbers were used as a reference for other official documents, including Evidence/Property Reports, Chain of Custody documents, and Incident/Investigation Reports, among other things. Names associated with an Incident/Investigation Report were input in the RPDPS computer system and the date and time and user that inputs that data was reflected in the system. In addition, when a user was filling in the Incident/Investigation Report fields, such information was captured in the system as "audit details," which captured the name of the user inputting the data and date and time of input into the fields. There were no "audit details" in the system for Evidence/Property Reports prior to February 2018.

14. In 2016, in addition to being in charge of the interdiction team, TATUM also supervised Asset Forfeiture. Commander J.T. was the Commander in charge of asset forfeiture. RPDPS had an asset forfeiture manual and policy that officers were required to follow. For seizure of cash, the Asset Forfeiture Manual required that the owner be provided with a notice of

forfeiture. All cash seized was required to be booked into evidence with a currency envelope, with a total of the amount of cash, and a list of denominations. The currency was to be counted in the presence of two officers who were required to sign to verify the amount prior to the money being booked into the Evidence/Property room. A photocopy of the currency envelope was required to be attached to the police report.

15. At all relevant times, the destruction of narcotics seized by RPDPS required a destruction order signed by a judge in Sonoma County. Once ordered for destruction, the procedure in place was to take the narcotics to an incinerator operated by Covanta Stanislaus, located in Crows Landing, California. A property technician and a sworn officer would transport the items, provide Covanta with an inventory of items to be incinerated, and witness the destruction. After destruction, Covanta provided proof of destruction, and the chain of custody for the evidence/property was updated by RPDPS property staff to include notes regarding the date and time of destruction.

16. During the course of the interdiction team's operations, TATUM occasionally submitted statistics relating to the seizures, including the date of the interdiction, the officers involved, the amount of drugs and cash seized, and the corresponding case number. While heading the interdiction team, TATUM reportedly received national awards, seized over 4,000 pounds of marijuana, 20 firearms, a dozen vehicles, and over \$4,000,000.

17. The RPDPS interdiction team did not operate in conjunction with or in cooperation with any federal agencies, such as the United States Drug Enforcement Administration or the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") in relation to drug interdiction. While other local law enforcement agencies conducted their own interdictions, RPDPS had no contracts or memoranda of understanding with other local law enforcement to coordinate interdiction efforts. Sonoma County Sheriff's Office reported in early 2018 that it did not assist RPDPS with the destruction of marijuana.

18. During the course of the operations of the interdiction team, on numerous occasions between at least August 2016 and December 2017, TATUM and others seized money,

marijuana, and other property from individuals that they stopped along Highway 101, without arresting these individuals, without providing a citation or asset forfeiture notice to the individuals, without filing an Incident/Investigation Report, without filing a Property/Evidence Report, without submitting the currency, marijuana and other property into the custody of the property department, without submitting the necessary asset forfeiture documents to the City of Rohnert Park, and without filing an application for a destruction order.

19. Between on or about December 5, 2017 and December 18, 2017, TATUM and HUFFAKER, conspired to extort significant quantities of marijuana from owners with consent that was induced through color of official right, declaring to the owners that they would seize their property, and at times threatening to arrest and charge the victims, while never in fact submitting the property to RPDPS or documenting the stop or seizure.

20. On or about February 20, 2018, after learning that Victim 5 had reported to numerous agencies, including the FBI and ATF, that his marijuana was seized by unidentified police claiming to be agents with the ATF on December 5, 2017, TATUM knowingly prepared a false Incident/Investigation Report in relation to the stop of Victim 5 (E.F.). TATUM prepared the false Incident/Investigation Report to influence the matter that he had reason to believe the FBI and the ATF were investigating. TATUM's actions to influence the investigation into the undocumented stop and seizure of marijuana on December 5, 2017, a matter that TATUM knew or at least contemplated was within the jurisdiction of the FBI and ATF, departments and agencies of the United States, in violation of Title 18, United States Code, Section 1519, are set forth in more detail in Count Three below.

21. On April 15, 2017, TATUM filed a 2016 Form 1040, U.S. Individual Income Tax Return ("Form 1040") reporting gross wages in the amount of \$128,992 and \$29,722 in gross wages for his wife, and taxable income in the amount of \$85,420. The reported wages reconciled with his salary from the RPDPS and were not paid in cash. Investigation by the Internal Revenue Service, Criminal Investigation ("IRS-CI") identified cash deposits into TATUM and his wife, K.T.'s, bank accounts in 2016 in the amount of \$296,514. Additional

cash deposits totaling \$99,710 were made into an account in the name of TATUM's mother and stepfather. None of the cash deposits exceeded \$10,000. Also in 2016, TATUM used cash to purchase cashier's checks that he then used to purchase a boat. Combined, IRS-CI, identified cash receipts totaling \$443,059. TATUM did not provide evidence of the above-described cash receipts to his tax return preparer for his 2016 tax return, which was filed for both TATUM and his wife jointly. Accordingly, TATUM willfully attempted to evade income taxes due and owing to the United States of America for the calendar year 2016, in violation of Title 26 United States Code, Section § 7201, as set forth in detail below.

B. Interdiction Team Traffic Stops and Seizures With Body-Worn Camera Videos, But No Documentation of the Stop or Seizure

22. During the course of this investigation, the investigative team reviewed all body-worn camera videos for TATUM and HUFFAKER between approximately July 7, 2016 and March 18, 2018. During that review, agents identified a number of instances that included TATUM and other RPDPS officers, in which there was body-worn camera footage documenting an interdiction team police stop and marijuana was seized or cash and marijuana were seized, but for which there was no Incident/Investigation Report, no Evidence/Property Report, no Destruction Order, or any other documentation relating to the stop.

August 25, 2016 Stop

23. For example, on August 25, 2016, TATUM and another RPDPS officer from the interdiction team (Officer 1), while on duty and on patrol, stopped Victim 1 (S.D.) on Highway 101 near Cloverdale, California. TATUM's body-worn camera recorded a portion of this incident. Victim 1 was driving a rental vehicle. During the course of the stop, which was recorded in part on TATUM's body-worn camera, TATUM and Officer 1 discovered approximately \$3,700 in cash, as well as roughly 14 pounds of marijuana in the vehicle. The marijuana had been carefully wrapped and vacuum sealed and stored in a large plastic bin. Victim 1 stated that he was transporting the marijuana for another person and that the cash was his that he earned through driving a taxi. TATUM asked Victim 1 what kind of marijuana it was.

Victim 1 stated he did not have paperwork for the marijuana. TATUM informed Victim 1 they were seizing the cash and the 14 pounds of marijuana. As Victim 1 was explaining the money was for a gift for his wife, TATUM told Victim 1 “there is no such thing as easy money.” Victim 1 provided Officer 1 with his identification, which had his address on it. Shortly after that, it appears that TATUM turned off his body-worn camera. Victim 1 reported that TATUM took the cash and marijuana, and placed it in the police vehicle. Victim 1 reported that he asked TATUM if he [Victim 1] could have any proof that he was stopped, and TATUM responded “you can have your freedom today,” or words to that effect. Victim 1 also stated that the marijuana was purchased for \$1,600 per pound, for a total purchase price of approximately \$22,400.

24. Victim 1 was not arrested, he was not given any paperwork related to the seizure of the cash, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop. He was not given an opportunity to contest the seizure of the cash or marijuana. The FBI reviewed all documentation produced by RPDPS related to police stops by TATUM and Officer 1 during this timeframe, as well as documentation for a stop in relation to Victim 1, and there are no reports memorializing the RPDPS stop, the seizure, or that either the cash or the 14 pounds of marijuana seized from Victim 1 were submitted into property/evidence, even as found property. No Incident/Investigation Report, Evidence/Property Report, or Destruction Order was prepared for this incident. Subsequent investigation relating to this stop by RPDPS has revealed that no documentation exists in its records relating to this stop or this victim, with the exception of the body-worn camera recording and an entry of a license plate associated with Victim 1 on an Event Chronology log.

September 2, 2016 Stop

25. On or about September 2, 2016, TATUM and Officer 1, while on duty and in a police vehicle, stopped Victim 2 (T.M.) on Highway 101 near Cloverdale, California. During the course of the stop, which was recorded in part on TATUM’s body-worn camera, TATUM and Officer 1 discovered roughly 15 pounds of marijuana in the vehicle. The marijuana was in

individually wrapped clear bags stored in a large dark green plastic bag. Shortly after the discovery of the marijuana, TATUM's body-worn camera recording ends. However, according to Victim 2, following the discovery of the marijuana, TATUM told him that TATUM and Officer 1 could either "take him or take the marijuana." Victim 2 reported that he did not give consent for the search and that he had a medical marijuana card. Victim 2 stated that TATUM and Officer 1 took the marijuana and that it had a value at the time of approximately \$2,000 per pound, with a total value of approximately \$30,000.

26. Victim 2 was not arrested, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop. He was not given an opportunity to contest the seizure of the marijuana. The FBI reviewed all documentation produced by RPDPS related to police stops by TATUM and Officer 1 during this timeframe, as well as documentation for a stop in relation to Victim 2, and there are no reports memorializing the RPDPS stop, the seizure, or that the marijuana seized from Victim 2 was submitted into property/evidence, even as found property. No Incident/Investigation Report, Evidence/Property Report, or Destruction Order was prepared for this incident. Subsequent investigation relating to this stop by RPDPS has revealed that no documentation exists in its records relating to this stop or this victim, with the exception of the body-worn camera recording.

October 4, 2016 Stop

27. On October 4, 2016, TATUM and Officer 2, while on duty and in a police vehicle on patrol, stopped Victim 3 (J.D.) near Cloverdale. Victim 3 was a passenger in a rental vehicle. During the course of the stop, which was recorded in part on TATUM's body-worn camera, TATUM and Officer 2 discovered roughly six pounds of marijuana stored in a carbon-lined bag in the vehicle. After discovering six pounds of marijuana in Victim's 3's vehicle, TATUM and Officer 2 gave Victim 3 an ultimatum: A, give him a citation have him appear in court for possession of marijuana and it gets destroyed; or B, TATUM and Officer 2 still book the marijuana in and it still gets destroyed. Victim 3 consented to allow TATUM and Officer 2 to

seize the marijuana and not contest the seizure, in order to avoid an arrest and charges. Officer 2 obtained Victim 3's identification which contained his address and told Victim 3 that if he came back to contest the seizure, they had his identification and address and could send a report to the DA to file charges against him. Shortly after this exchange, the body worn camera was terminated. However, according to Victim 3, he told TATUM and Officer 2 that he may come in with the appropriate paperwork the next day in an attempt to reclaim his marijuana. Officer 2 responded that Victim 3 should not bother because the marijuana would already be destroyed by then. Victim 3 reported that TATUM and Officer 2 seized the marijuana and put it in their police vehicle. Victim 3 estimated that the value of the marijuana at a medical marijuana dispensary was \$2,500 per pound at that time and that he had paid half that amount for it. Thus, the value was at least \$7,500.

28. Victim 3 was not arrested, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop. He was not given an opportunity to contest the seizure of the marijuana. The FBI reviewed all documentation produced by RPDPS related to police stops by TATUM and Officer 2 during this timeframe, as well as documentation for a stop in relation to Victim 3, and there are no reports memorializing the RPDPS stop, the seizure, or that the marijuana seized from Victim 3 was submitted into property/evidence, even as found property. No Incident/Investigation Report, Evidence/Property Report, or Destruction Order was prepared for this incident. Subsequent investigation relating to this stop by RPDPS has revealed that no documentation exists in their records relating to this stop or this victim, with the exception of the body-worn camera recording.

October 25, 2016 Stop

29. On or about October 25, 2016, TATUM and Officer 2, while on duty and in a police vehicle on patrol, stopped Victim 4 (D.P.) near Cloverdale, California. Victim 4 was driving a rental vehicle. During the course of the stop, which was recorded in part on TATUM's body-worn camera, before searching the vehicle, TATUM asked if Victim 4 had any money.

TATUM and Officer 2 then searched the vehicle and discovered marijuana in a shipping box containing another box wrapped as a birthday present. Officer 2 told Victim 4 that Victim 4 would not go to jail and TATUM declared that Officer 2 and TATUM would seize the marijuana, which TATUM estimated was approximately two-and-a-half to five pounds in weight, destroy it, and let Victim 4 go. Victim 4 claimed that he did not know that the marijuana was inside the box. Before the incident with Victim 4 was completed, TATUM's body-worn camera recording ends. However, according to Victim 4, TATUM and Officer 2 seized the marijuana and put it in their police vehicle.

30. Victim 4 was not arrested, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop. The FBI reviewed all documentation produced by RPDPS related to police stops by TATUM and Officer 2 during this timeframe, as well as documentation for a stop in relation to Victim 4, and there are no reports memorializing the RPDPS stop, the seizure, or that the marijuana seized from Victim 4 was submitted into property/evidence, even as found property. No Incident/Investigation Report, Evidence/Property Report, or Destruction Order was prepared for this incident. Subsequent investigation relating to this stop by RPDPS has revealed that no documentation exists in their records relating to this stop or this victim, with the exception of the body-worn camera recording.

C. Post-Interdiction Team Stops and Seizures Without Body Worn Camera Videos and Impersonating ATF

December 5, 2017 Stop

31. Almost a year after the interdiction team's operations were terminated in roughly January 2017, on or about December 5, 2017, at approximately noon, two individuals, who were later identified as TATUM and HUFFAKER, conducted a traffic stop of Victim 5 (E.F.). As set forth below, at the time of the stop, TATUM and HUFFAKER were driving an unmarked black SUV. Victim 5 recalled TATUM and HUFFAKER wearing tactical style clothing with patches indicating "police" but no badges identifying them as RPDPS officers or reflecting any other law

enforcement department or agency. At the time of the stop, Victim 5 was driving a rented white KIA SUV, on Highway 101 southbound, while in Mendocino County, near the Sonoma-Mendocino County border. The location of the stop was in Mendocino County near the Sonoma County border. This stop was not recorded by a body-worn camera, but Victim 5 remembered the stop. Victim 5 reported that Officer A (TATUM) searched the vehicle. Although Victim 5 did not identify Officer A as TATUM, TATUM identified himself as the officer who conducted the search through the partially false Incident/Investigation Report he prepared on February 20, 2018, as discussed below.

32. During the search, in a cardboard box, Officer A (TATUM) found three sealed one-pound bags of marijuana. Officer B, who Victim 5 later identified as HUFFAKER, had Victim 5's identification and asked if his address was current. I interviewed Victim 5 and during the interview I showed him a series of four unmarked photographs of individuals. Victim 5 positively identified the photograph of HUFFAKER as Officer B. Officer B (HUFFAKER) told Victim 5 that the officers were with the ATF. As set forth above, ATF had no interdiction operations with RPDPS, including TATUM and HUFFAKER. Victim 5 reported that Officer A (TATUM) took the marijuana and put it in the black SUV and then told Officer B (HUFFAKER) to take a picture of Victim 5's license plate and driver's license. Victim 5 reported that as the officers left in the black SUV, Officer B (Huffaker) told him that he may be getting a letter from Washington. Victim 5 reported that the marijuana was valued at \$1,000 per pound. Thus, the total value for the marijuana was at least \$3,000 total.

33. Victim 5 was not arrested, he was not given a citation for the marijuana, he was not provided with a card or any other documentation that related to the stop. RPDPS found no record of the stop or any records reflecting that the marijuana was submitted into property/evidence, even as found property. No RPDPS Incident/Investigation Report was prepared, with the exception of the falsified Incident/Investigation Report, as discussed below.

December 18, 2017 Stop

34. A little less than two weeks later, or about December 18, 2017, at approximately noon, TATUM and another officer, while in an unmarked black SUV and without police uniform identifying themselves as RPDPS, stopped Victim 6 (B.L.), who was driving a white Mercedes SUV, southbound on Highway 101, while in Mendocino County, near the Sonoma-Mendocino County border. Victim 6 stated that the vehicle was new at the time and did not yet have permanent license plates. This stop was not recorded by a body-worn camera. Victim 6 reported the officers identified themselves as ATF agents. Victim 6 reported having approximately 23 pounds of marijuana, packaged in one-pound bags and labeled with a date and type of strain that he was bringing to a dispensary lab for testing in the San Francisco Bay Area. He estimated the value at \$1,000 per pound, with a total value of \$23,000. He also had approximately four crates of marijuana hash that was similarly marked. Victim 6 reported that the officers told him that he had two options: they could either seize the marijuana and let him go, or they could seize the marijuana, the hash, and take him into the station. Victim 6 reported that he had valid paperwork, including an inventory spreadsheet for the marijuana and hash. When Victim 6 asked for official documentation regarding the seizure, one officer replied by asking if Victim 6 wanted to “make a federal case out of it,” or words to that effect. Victim 6 reported that TATUM and the other officer left with the marijuana. Victim 6 identified one officer from the incident – TATUM.

35. Victim 6 was not arrested, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop.

36. Each of these seizures of marijuana affected interstate commerce.

D. Falsified Police Report to Conceal Scheme

37. On December 19, 2017, at 3:22 p.m., an Event Chronology reflects a request from TATUM to dispatch for a case number related to “found property.” RPDPS dispatch accordingly generated case number 170005373. Chain of custody documents, using that case number, show TATUM physically submitted two separate items, each described at 15 pounds of

marijuana, to Evidence/Property on December 19, 2017 at approximately 3:31 p.m. However, an Evidence/Property Report indicates two 15-pound boxes of marijuana were submitted on December 18, 2017, to Property as “Found – for Destruction.” The Report indicates it was collected by HUFFAKER on December 18, 2017.

38. The FBI reviewed the two boxes that were stored in RPDPS’s Evidence/Property room associated with 170005373. The boxes contained loose dried marijuana bud. No containers of concentrated marijuana hash or any individually bagged marijuana were in the boxes. Victim 6 was shown pictures of the cardboard boxes and its contents and did not recognize the boxes and advised that he would never package loose marijuana in a cardboard box as doing so is unhygienic. Even though the evidence I viewed was not consistent with what was seized from Victim 6, I believe case number 170005373 was generated for Victim 6’s stop based on the timing and sequencing as captured by the Event Chronology, Chain of Custody, and Property/Evidence Report.

39. As discussed above, case number 17-0005373 was generated on December 19, 2017, at 3:23 p.m. No Incident/Investigation Report was created using that case number until February 20, 2018.

40. On or about February 11, 2018, an investigative reporter, Kym Kemp, published two articles about the events related to the seizure of marijuana from Victim 5 on a website called “Redheaded Blackbelt” that covers news stories in Mendocino, Humboldt and Trinity counties. One article was entitled, “Outraged: One Man’s Two Month Quest from the FBI to the ATF to Expose What He Says Are Corrupt Police Officers in Mendocino.” The other article was entitled “Former Undercover Officer Involved in Developing Cannabis Products Accuses Hopland Tribal Police Chief of Theft, Corruption, and Civil Rights Violations.” In these articles, Kemp reported that Victim 1 stated that he had been robbed of three pounds of marijuana by two unidentified officers without uniforms and believed it may have been the Hopland Tribal Police or the Mendocino County Sheriff’s Office. Both articles state that Victim 5 had contacted and

been contacted by the FBI. Both articles also state the ATF began an investigation into the matter after being contact by Victim 1.

41. Prior to February 13, 2018, TATUM told Commander J.T. that there was a female reporter up north writing articles linking a stop to the Mendocino County Sheriff's office and the Hopland Tribal police. TATUM clarified that it was actually an interdiction stop conducted by RPDPS and that he wanted to correctly identify the law enforcement agency responsible for the stop and asked J.T. if he could issue a press release. Commander J.T. agreed that it was appropriate.

42. On or about February 13, 2018, TATUM issued a press release from RPDPS claiming responsibility for the stop of a white SUV in December 2017 near the Sonoma-Mendocino border and stating it was a lawful stop that was done by RPDPS officers.

43. It was not until on or about February 20, 2018, after the news articles described above reported federal investigation into the seizure from Victim 5, that TATUM wrote an Incident/Investigation Report regarding Victim 5's traffic stop and seizure, which occurred on December 5, 2017. Rather than pull a new case number on February 20, 2018, TATUM used an existing case number, 17-0005373, to document Victim 5's stop. As discussed, above case number 17-0005373 was originally generated on December 19, 2017, related to Victim 5's stop.

44. Although TATUM identified Victim 5 in the "offender" section of the report, TATUM's narrative recounted facts specific to Victim 6's traffic stop. For example, TATUM reported that he stopped Victim 5 in a Mercedes SUV, not a KIA SUV. TATUM reported that the Mercedes did not have a license plate, when in fact the KIA that Victim 5 was driving did have a license plate, and TATUM asked HUFFAKER to take a photo of it. TATUM reported that Victim 5 had a "homemade excellent spreadsheet," when in fact it was Victim 6 that showed TATUM a spreadsheet documenting the marijuana in the vehicle. TATUM also reported that Victim 5 was in the possession of "approximately 30 pounds [of marijuana that] was located along with several hundred containers of concentrated marijuana hash," when Victim 5 actually

reported having only three pounds of marijuana. In fact, this description and quantity was more closely aligned with what was located in Victim 6's vehicle.

45. Based on these facts, there is probable cause to believe that TATUM falsified a report for the undocumented stop and seizure of marijuana from Victim 5 in order to conceal his and HUFFAKER's actions during the stop and deflect negative media attention. As a result, there is probable cause to believe that he falsified a record or document with the intent to impede, obstruct, and influence the investigation and proper administration of a matter that he knew was within the jurisdiction of the FBI and ATF.

E. TATUM's Evasion of Income Taxes

46. Special Agents of the IRS-CI conducted an investigation of the federal income tax liability of TATUM for the calendar year 2016. As part of this investigation, agents examined TATUM's joint 2016 tax return, interviewed third persons having knowledge of the taxpayer's financial condition, and reviewed relevant financial records. Based on this investigation, I learned from the IRS-CI Special Agents that TATUM omitted taxable income from his tax return for the calendar year 2016 and took affirmative acts to evade and defeat tax due and owing. By omitting taxable income from the tax return, the tax due and owing was understated, and the correct amount of tax was not reported to the IRS.

47. As part of the investigation, IRS-CI Special Agents reviewed and analyzed the following bank accounts from January 1, 2013 through September 30, 2019:¹

- a. Wells Fargo Account ending -4069, held in the name of Brendon TATUM;
- b. Wells Fargo Account ending -2740, held in the name of Brendon TATUM;
- c. Wells Fargo Account ending -7872, held in the name of Brendon TATUM and E.S. (TATUM's child or step-child);
- d. Redwood Credit Union Account ending -7926, held in the name of K.T. (TATUM's wife);

¹ Bank records for Wells Fargo Account ending -2740 ended in January 2017.

- e. Wells Fargo Account ending -2509, held in the name of K.T.;
- f. Wells Fargo Accounting ending -6792, held in the name of K.T.;
- g. Bank of America account ending -3562, held in the name of TATUM's mother and stepfather.

48. For the 2016 tax year, the IRS-CI Special Agents' analysis identified a total of \$396,224 in cash deposits made in bank accounts controlled by TATUM and/or his wife, and his mother and stepfather's account. Specifically, in the 2016 calendar year, the IRS-CI Special Agents' analysis found that TATUM made cash deposits into his accounts in the amount of \$118,770. During that same time, cash deposits in the amount of \$177,744 were made into his wife's accounts. Additionally, in 2016, cash deposits of \$99,710 were made into an account in the name of his mother and stepfather. None of the above-described cash deposits exceeded \$10,000. Of these cash deposits into TATUM and his wife's bank accounts in 2016, there were eight, same-day or consecutive-day cash deposits not exceeding \$10,000, totaling \$159,900.

49. By structuring the deposits below \$10,000, TATUM and his wife were able to avoid the filing of a Currency Transaction Report (hereinafter "CTR"). Pursuant to 31 U.S.C. § 5313, and regulations thereunder, including 31 C.F.R. §§ 103.22, 103.27, and 103.28, domestic financial institutions are generally required to prepare and submit CTRs to report transactions involving over \$10,000 in currency every time they occur at the bank. Based on my conversations with IRS-CI Special Agents, I know that "structuring" of currency into bank accounts in amounts under \$10,000 is a common method of narcotics traffickers, money launderers, and income tax evaders as they seek to avoid scrutiny of law enforcement for conducting voluminous amounts of cash transactions.

50. An example of TATUM's overt efforts to structure his cash deposits happened on March 22, 2017, when TATUM attempted to deposit over \$10,000 into his Wells Fargo Account ending -4069 at the Wells Fargo Rohnert Park, California branch. TATUM then took back \$1,000 and only deposited \$9,380 in currency. Based on interviews with the Wells Fargo Anti-Money Laundering Unit and the teller who conducted the transaction, it is apparent that TATUM

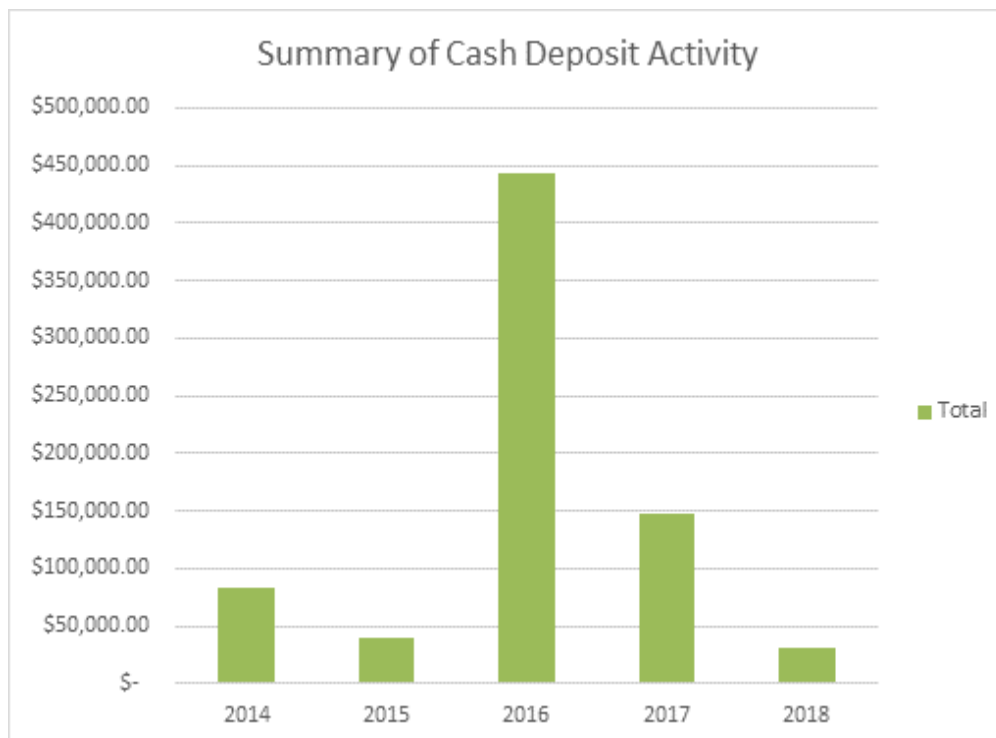
took back the \$1,000 in an attempt to avoid the filing of a CTR. The teller who received the cash from TATUM logged the following information into the Wells Fargo internal system immediately after TATUM came into the branch and deposited only \$9,380 in cash:

CUSTOMER CAME IN WITH TENTHOUND (sic) THREE HUNDRED EIGHTY IN CASH AND STRUCTURED IT DOWN TO NINE THOUSAND THREE HUNDRED EIGHT BY ASKING FOR MONEY BACK NOT SURE IF HE MENT (sic) TO STRUCTURE IT BUT ORIGINAL AMOUNT WAS OVER TEN THOUSAND.

51. In addition to the analysis of TATUM, his wife, and his mother's bank accounts, IRS-CI Special Agents reviewed sales documents related to TATUM's purchase of a Duckworth 30 Offshore fishing boat to identify additional sources of cash that were received by TATUM but not deposited into one of the above-listed bank accounts. Sales records revealed that TATUM purchased the fishing boat on November 10, 2016 for a total price of \$218,234.61. TATUM used a total of \$46,835 in cashier's checks the purchase of which were not found in a review of financial records of known bank accounts for TATUM, his wife, and mother. I know from my training and experience that cashier's checks can be purchased with cash, and as a result, there is probable cause to believe that the boat was purchased with cashier's checks that were purchased with cash that was not previously deposited into TATUM's bank accounts.

52. The below chart summarizes IRS-CI Special Agents' analysis for the 2016 tax year showing cash deposits into TATUM's, his wife's and his mother's bank accounts, as well as the use of cash that was never deposited into a bank to purchase his boat in 2016. In summary, the cash deposits into TATUM's, his wife's, and his mother's bank accounts, along with the cash used to purchase the fishing boat, totaled \$443,059.²

² The IRS-CI Special Agents identified a total of \$12,920 of cash withdrawals from the above identified bank accounts in 2016. These cash withdrawals were assumed to be re-deposited by TATUM. Therefore, to be conservative, the total cash deposits into TATUM's bank accounts was decreased by \$12,920 in any additional tax due and owing computations provided by IRS-CI Special Agents.



53. As shown in the above chart, the cash deposits into these bank accounts increased significantly from 2015 through 2017, which is the time period when TATUM and others were taking marijuana (and in at least one instance, cash) from drivers without booking the seized items into evidence. Notably, the cash deposits decreased significantly after TATUM resigned from the Rohnert Park Police Department in June 2018.

54. On April 15, 2017, TATUM and his wife filed a joint Form 1040 income tax return for the calendar year 2016. This return was submitted electronically by their tax return preparer from Petaluma, California.

55. A review of TATUM's 2016 tax return showed no reported gross receipts commensurate with a cash intensive business that was depicted by the regular and continuous deposits into TATUM's bank accounts. Other than TATUM's and his wife's gross wages of \$128,992 and \$29,722 respectively (which were not paid in the form of cash), TATUM reported only \$9,700 of gross receipts on his 2016 tax return.³ TATUM reported on his tax return that

³ Less than \$100 of taxable interest and dividends were reported on the 2016 tax return. A taxable refund, credit, or offset of state and local income tax of \$19,066 was also reported on the 2016 tax return.

these gross receipts were associated with TATUM's barbeque business and guide service business, which he has owned since at least 2013 through 2018. Between 2013 and 2018, TATUM has never reported over \$10,000 in gross receipts for either business. TATUM did not provide evidence of the cash receipts totaling \$443,059 to his tax return preparer for his 2016 tax return, which was filed for both TATUM and his wife jointly. Based on the unreported cash receipts of \$443,059, TATUM owes an additional \$146,701 to the IRS for the 2016 tax year. He previously reported a \$2,033 refund for the 2016 year.

56. Based on the above information and the bank account and tax return analysis provided to me by IRS-CI Special Agents, there is probable cause to believe that TATUM did unlawfully and willfully attempt to evade and defeat the income taxes due and owing by him to the United States of America for the calendar year 2016.

IV. CONCLUSION

57. Based upon the information contained within this Affidavit, I submit that there is probable cause to believe that Brendon Jacy TATUM and Joseph HUFFAKER conspired to commit extortion under color of official right, in violation of 18 U.S.C. § 1951. In addition, I submit that there is probable cause to believe that Brendon Jacy TATUM engaged in falsifying records in a federal investigation, in violation of 18 U.S.C. § 1519, and tax evasion, in violation of 26 U.S.C. § 7201.

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V. REQUEST FOR SEALING

58. Because this investigation is ongoing, disclosure of the Complaint, Affidavit, and other related filings will jeopardize the progress of the investigation by apprising TATUM and HUFFAKER's associates of the existence of the charges and provide them with an opportunity to destroy evidence, change patterns of behavior, notify confederates, or flee from prosecution. Accordingly, I request that the Complaint, Affidavit, and other related filings be filed under seal until further Order of this Court.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

Respectfully submitted,

William Bradford Roberts
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me on March 9, 2021.



HON. HONORABLE SALLIE KIM
United States Magistrate Judge

Exhibit C

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

FILED

Sep 21 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

UNITED STATES OF AMERICA,

V.

BRENDAN JACY TATUM
and
JOSEPH HUFFAKER

CR 21-0374 MMC

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 1951 – Conspiracy to Commit Extortion Under Color of Official Right;
18 U.S.C. § 1951 – Extortion Under Color of Official Right;
18 U.S.C. § 1519 – Falsifying Records in a Federal Investigation;
26 U.S.C. § 7201 – Tax Evasion;
18 U.S.C. §§ 924(d)(1), 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Forfeiture;
18 U.S.C. § 2 – Aiding and Abetting

A true bill.

/s/ Foreperson of the Grand Jury

Foreman

Filed in open court this 21st day of

September, 2021.

Sallie Kim

Magistrate Judge Sallie Kim

M. Jack
Clerk

Bail, \$ No Process

STEPHANIE M. HINDS (CABN 154284)
Acting United States Attorney

FILED

Sep 21 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 21-0374 MMC
)	
Plaintiff,	)	<u>VIOLATIONS:</u>
	)	18 U.S.C. § 1951 – Conspiracy to Commit Extortion
v.	)	Under Color of Official Right;
	)	18 U.S.C. § 1951 –Extortion Under Color of Official
BRENDAN JACY TATUM and	)	Right;
JOSEPH HUFFAKER,	)	18 U.S.C. § 1519 – Falsifying Records in a Federal
	)	Investigation;
Defendants.	)	26 U.S.C. § 7201 – Tax Evasion;
	)	18 U.S.C. §§ 924(d)(1), 981(a)(1)(C) and 28 U.S.C.
	)	§ 2461(c) – Forfeiture; 18 U.S.C. § 2 – Aiding and
	)	Abetting
	)	SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this Indictment:

1. The City of Rohnert Park was a city located in Sonoma County, California, in the Northern District of California. The Rohnert Park Department of Public Safety (“RPDPS”) was a department of the City of Rohnert Park. RPDPS consisted of a Police Services Patrol Division and Fire Services Division.

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INDICTMENT

2. BRENDAN JACY TATUM (“TATUM”) was employed with RPDPS between 2003 and 2018. Between July 2015 and August 20, 2017, and again after February 4, 2018, TATUM was a Public Safety Sergeant in the Police Services Patrol Division. Between August 20, 2017 and February 4, 2018, TATUM was assigned to the Fire Services Division.

3. JOSEPH HUFFAKER (“HUFFAKER”) was employed as an officer with RPDPS between in or about 2012 and in or about 2019.

4. RPDPS had an “interdiction team,” which operated between at least in or about 2014 through in or about 2017. The RPDPS interdiction team conducted traffic stops on vehicles in an effort to seize illegal drugs and its operations were in addition to the team members’ normal duties. As such, the time spent on interdiction operations was considered overtime and interdiction team members were required to notate their time sheets accordingly.

5. TATUM and HUFFAKER were members of the RPDPS interdiction team and participated in the activities of the team at various times between 2015 and the end of 2016. In 2016, the team was headed by TATUM. In 2016, in addition to being in charge of the RPDPS interdiction team, TATUM also supervised RPDPS’s Asset Forfeiture. The RPDPS interdiction team did not operate in conjunction with or in cooperation with any federal agencies, such as the United States Drug Enforcement Administration or the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) in relation to drug interdiction.

6. The RPDPS interdiction team’s operations were subject to the same policies and procedures in place for RPDPS in general, including policies and procedures relating to body camera usage, property and evidence packaging and destruction, asset seizure and forfeiture, and report writing, among others.

7. RPDPS reported that it began using body-worn cameras between 2015 and mid-2016. Use of body-worn cameras and the policies and procedures that were in place applied to all of RPDPS, including the interdiction team. Under those policies and procedures, body-worn cameras were required to be worn and activated when officers came into contact with citizens in the performance of their official duties. The body-worn camera was required to be activated and not be terminated until the contact had entirely concluded. Where the body-worn camera was not activated or was terminated prior

1 to contact entirely concluding, the officer was required to document the reasons for doing so. All digital
2 media from body-worn cameras was required to be downloaded at the end of the officer's shift and
3 securely stored.

4 8. Under RPDPS policies and procedures, all interdictions resulting in the seizure of
5 narcotics and or other property or evidence, including cash, were required to be submitted to
6 property/evidence and documented by an Evidence/Property Report and/or an Incident/Investigation
7 Report, whether the activity related to a felony or misdemeanor. In cases where a narcotics seizure was
8 made, but the subject disclaimed ownership of the narcotics, the seized narcotics nevertheless were
9 required to be submitted to property/evidence; in such instances, RPDPS records systems referred to the
10 narcotics "as found property." RPDPS generated case numbers sequentially regardless of the type of
11 case. Those case numbers were used as a reference for other official documents, including
12 Evidence/Property Reports, Chain of Custody documents, Incident/Investigation Reports, and
13 Destruction Orders, among other things. Names associated with an Incident/Investigation Report were
14 input in the RPDPS computer system and the date and time and user that inputted that data was reflected
15 in the system. In addition, when a user was filling in the Incident/Investigation Report fields, such
16 information was captured in the system as "audit details," which captured the name of the user inputting
17 the data and date and time of input into the fields.

18 9. RPDPS had an asset forfeiture manual and policy that officers were required to follow.
19 For seizures of cash, the Asset Forfeiture Manual required that the owner be provided with a notice of
20 forfeiture. All cash seized was required to be booked into evidence with a currency envelope, with a
21 total of the amount of cash, and a list of denominations. The currency was to be counted in the presence
22 of two officers who were required to sign to verify the amount prior to the money being booked into the
23 Evidence/Property room. A photocopy of the currency envelope was required to be attached to the
24 police report.

25 10. At all relevant times, the destruction of narcotics seized by RPDPS required a destruction
26 order signed by a judge in Sonoma County. Once ordered for destruction, the procedure in place was to
27 take the narcotics to an incinerator operated by Covanta Stanislaus, located in Crows Landing,
28 California. A property technician and a sworn officer would transport the items, provide Covanta with

1 an inventory of items to be incinerated, and witness the destruction. After destruction, Covanta provided
2 proof of destruction, and the chain of custody for the evidence/property was updated by RPDPS property
3 staff to include notes regarding the date and time of destruction. Alternate means of destruction was not
4 authorized.

5 11. The RPDPS interdiction team's operations were terminated in approximately January
6 2017 and TATUM, HUFFAKER, and the other interdiction team officers were informed that the
7 interdiction team's operations were terminated.

8 The Scheme and Conspiracy to Extort Under Color of Official Right

9 12. TATUM and HUFFAKER devised and executed a scheme to unlawfully extort under
10 color of official right property from individuals on which they conducted traffic stops on United States
11 Route 101. As part of the scheme, during the existence of the interdiction team TATUM acted alone.
12 After termination of the interdiction team, in 2017, TATUM conspired with HUFFAKER to extort
13 property under color of official right, claiming to be ATF agents, threatening to arrest drivers if they
14 contested seizures of their property during these traffic stops, and then TATUM and HUFFAKER seized
15 their property, specifically marijuana, without reporting or checking the seized property into evidence,
16 or documenting or reporting the stop and seizure.

17 13. Specifically, in 2016, during the RPDPS interdiction team operations, TATUM, who at
18 the time was an RPDPS Sergeant and head of the interdiction team, devised a plan and scheme to extort
19 marijuana, and other property, under color of official right from numerous individuals he stopped with
20 other interdiction team officers. TATUM did so by demanding marijuana and other property from
21 individuals during traffic stops and, telling the property owners that he would let them go without an
22 arrest or other formal process for their marijuana possession if they did not challenge the seizure of their
23 property. Once he seized the property, TATUM would let them go without arresting or charging these
24 individuals, without providing a citation with a notation of the property seized or asset forfeiture notice
25 to the individuals, without filing an Incident/Investigation Report, without filing a Property/Evidence
26 Report, including Found Property, without submitting the marijuana and other property into the custody
27 of the property department, without submitting the necessary asset forfeiture documents to the City of
28 //

1 Rohnert Park, and without filing an application for a destruction order. For example, using the color of
2 official right, and the method set forth above:

3 a. On August 25, 2016, TATUM and another RPDPS officer from the interdiction
4 team (Officer 1), while on duty and on patrol, stopped Victim 1 (S.D.) on Highway 101
5 near Cloverdale, California and TATUM extorted approximately \$3,700 in cash, as well
6 as roughly 14 pounds of marijuana;

7 b. On or about September 2, 2016, TATUM and Officer 1, while on duty and in a
8 police vehicle, stopped Victim 2 (T.M.) on Highway 101 near Cloverdale, California and
9 TATUM extorted approximately 15 pounds of marijuana;

10 c. On October 4, 2016, TATUM and Officer 2, while on duty and in a police vehicle
11 on patrol, stopped Victim 3 (J.D.) near Cloverdale and TATUM extorted approximately
12 six pounds of marijuana;

13 d. On or about October 5, 2016, TATUM and Officer 2, while on duty and in a
14 police vehicle on patrol, stopped Victim 4 (D.P.) near Cloverdale, California and
15 TATUM extorted approximately two-and-a-half pounds of marijuana;

16 e. On or about December 6, 2016, TATUM and HUFFAKER, while on duty and in
17 a police vehicle, stopped Victim 5 (J.K.) near Cloverdale and TATUM extorted
18 approximately 20 pounds of marijuana; and

19 f. On or about December 30, 2016, TATUM and HUFFAKER, while on duty and in
20 a police vehicle, stopped Victim 6 (M.E.) near Cloverdale and TATUM extorted
21 approximately 2 pounds of marijuana.

22 In each of these stops, at least one officer activated his body-worn camera.

23 14. Between at least on or about December 5, 2017 and December 18, 2017, TATUM and
24 HUFFAKER extorted significant quantities of marijuana from owners with consent that was induced
25 through color of official right, declaring to the owners that they would seize their property, and at times
26 threatening to arrest and charge the victims, while never in fact submitting the property to RPDPS or
27 documenting the stop or seizure. In these instances, the officers were not on duty, did not have body-
28

worn cameras, were not in uniform and wore no indicia that they were from RPDPS, claimed to be ATF agents, and did not use a marked RPDPS police vehicle.

COUNT ONE: (18 U.S.C. § 1951 – Conspiracy to Commit Extortion Under Color of Official Right)

15. The factual allegations in Paragraphs 1 through 14 are re-alleged and incorporated as if fully set forth herein.

16. Beginning at a date unknown, but by at least on or about December 5, 2017 and continuing to a date unknown, but to at least on or about December 18, 2017 in the Northern District of California and elsewhere, the defendants,

BRENDAN JACY TATUM and
JOSEPH HUFFAKER,

did knowingly conspire to obstruct, delay, and affect in any way and degree commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, section 1951; that is, defendants obtained property not due defendants or his office, from victims and others, with consent induced under color of official right.

The Conspiracy to Extort

17. After termination of the interdiction team's operations, between at least on or about December 5, 2017 and on or about December 18, 2017, TATUM and HUFFAKER, both while off-duty, and under color of official right, conspired to seize marijuana, and other property from numerous individuals they stopped, without arresting or charging these individuals, without providing a citation or asset forfeiture notice to the individuals, without filing an Incident/Investigation Report, without filing a Property/Evidence Report, without submitting the marijuana and other property into the custody of the property department, without submitting the necessary asset forfeiture documents to the City of Rohnert Park, and without filing an application for a destruction order.

The Manner and Means

18. The defendants carried out their conspiracy to extort alleged herein in the following manner and means, among others:

- a. Using their position as public officials to seize things of value from their victims with the intent to convert them to their own use;
- b. Obtaining consent to seize things of value from their victims in exchange for official action or inaction, specifically not charging or arresting their victims;
- c. Not following official policies and procedures, including by not documenting their vehicle stops in which they seized things of value from their victims;
- d. Converting property seized when acting as public officials to their own use;
- e. Taking steps to hide, conceal, and cover up their activities, including falsifying police reports, and omitting references to these undocumented stops in reporting RPDPS interdiction team seizure statistics;
- f. Falsely impersonating officers of an agency of the United States, such as the ATF; and
- g. Concealing the seizures and their value, by selling the goods (namely marijuana) for cash and not reporting the amounts received.

Overt Acts

19. In furtherance of the conspiracy, and to carry out its objects, TATUM, HUFFAKER, and others committed or caused to be committed the following overt acts, among others, in the Northern District of California and elsewhere:

- a. On or about December 5, 2017, HUFFAKER and another individual conducted a traffic stop on Victim 7 in the Northern District of California;
- b. During the December 5, 2017 stop of Victim 7, HUFFAKER falsely claimed to be an ATF agent;
- c. During the December 5, 2017 stop of Victim 7, HUFFAKER threatened to arrest Victim 7 if he did not consent to the seizure of three pounds of marijuana that he possessed;
- d. During the December 5, 2017, stop of Victim 7 HUFFAKER seized those three pounds of marijuana while failing to provide a citation or any other documentation related to the stop that would allow Victim 7 to contest the seizure;

e. On or about December 18, 2017, TATUM and HUFFAKER conducted a traffic stop on Victim 8 in the Northern District of California;

f. During the December 18, 2017 stop of Victim 8, TATUM and HUFFAKER falsely claimed to be ATF agents;

g. During the December 18, 2017 stop of Victim 8, TATUM and HUFFAKER threatened to arrest Victim 2 if he did not consent to the seizure of at least 23 pounds of marijuana that he possessed. Two California Highway Patrol (“CHP”) officers drove up and observed part of the stop;

h. During the December 18, 2017 stop of Victim 8, TATUM and HUFFACKER seized those 23 pounds of marijuana while failing to provide a citation or any other documentation related to the stop that would allow Victim 8 to contest the seizure. Neither TATUM nor HUFFAKER submitted any records reflecting the stop or the marijuana seized;

i. Having been observed by two CHP officers during their stop on December 18, 2017, on or about December 19, 2017, TATUM and HUFFAKER submitted an Evidence/Property Report that indicated two 15-pound boxes of marijuana were submitted as “Found – for Destruction.” The Report indicated that this property was collected by HUFFAKER on December 18, 2017. The 23 pounds of packaged and labeled marijuana seized on December 18, 2017 was taken by the defendants and 30 pounds of loose marijuana was submitted as “found property”; and

j. Between December 5, 2017 and February 20, 2018, TATUM and HUFFAKER took steps to hide, conceal, and cover up their activities, including by falsifying police reports.

All in violation of Title 18, United States Code, Section 1951.

COUNT TWO: (18 U.S.C. §§ 1951 and 2 – Extortion Under Color of Official Right)

20. The factual allegations in Paragraphs 1 through 19 are re-alleged and incorporated as if fully set forth herein.

21. On or about December 5, 2017, in the Northern District of California and elsewhere, the defendant

JOSEPH HUFFAKER

did knowingly obstruct, delay, and affect in any way and degree commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, Section 1951; that is, defendant obtained property not due defendant or his office, from Victim 7 (E.F.), with consent induced under color of official right.

All in violation of Title 18, United States Code, Sections 1951 and 2.

COUNT THREE: (18 U.S.C. §§ 1951 and 2 – Extortion Under Color of Official Right)

22. The factual allegations in Paragraphs 1 through 21 are re-alleged and incorporated as if fully set forth herein.

23. On or about December 18, 2017, in the Northern District of California and elsewhere, the defendants,

BRENDAN JACY TATUM and
JOSEPH HUFFAKER,

did knowingly obstruct, delay, and affect in any way and degree commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, Section 1951; that is, defendants obtained property not due defendants or his office, from Victim 8 (B.L.) and others, with consent induced under color of official right.

All in violation of Title 18, United States Code, Sections 1951 and 2.

COUNT FOUR: (18 U.S.C. §§ 1519 and 2 – Falsifying Records in a Federal Investigation)

24. On or about February 20, 2018, in the Northern District of California, and elsewhere, the defendant

BRENDAN JACY TATUM

knowingly concealed, covered up, falsified, and made false entries in Rohnert Park Department of Public Safety reports with the intent to impede, obstruct, and influence the investigation and proper administration of matters within the jurisdiction of the United States Department of Justice and the Federal Bureau of Investigation, and in relation to and contemplation of such matters, to wit, the

defendant used a case number and property report created on December 19, 2017 to make a false police report relating to an undocumented RPDPS vehicle stop and seizure on December 5, 2017, which was reported in the press on February 11, 2018.

All in violation of Title 18, United States Code, Sections 1519 and 2.

COUNT FIVE: (26 U.S.C. § 7201 – Tax Evasion)

25. From in or about January 2016 through in or about April 2017, in the Northern District of California and elsewhere, the defendant

BRENDAN JACY TATUM

a resident of Santa Rosa, California, willfully attempted to evade and defeat income tax due and owing by him to the United States of America for the calendar year 2016, by committing the following affirmative acts, among others:

(a) preparing and causing to be prepared, and signing and causing to be signed, a false and fraudulent U.S. Individual Income Tax Return, Form 1040, which was submitted to the Internal Revenue Service. On that form, TATUM reported and caused to be reported that his taxable income for the calendar year 2016 was \$85,420 and that the tax due and owing for the calendar year 2016 was \$12,890. In fact, as TATUM knew, his taxable income for the calendar year 2016 was greater than the amount reported on the tax return, and as TATUM knew and a result of such additional taxable income, there was substantial tax due and owing to the United States of America;

(b) concealing money by making cash deposits below \$10,000 into his own account and the bank accounts controlled by his family members, for a total of \$396,224 in cash deposits made in increments under \$10,000; and

(c) using cash in the amount of \$46,835 to purchase cashier's checks for the purchase of a Duckworth 30 Offshore fishing boat.

All in violation of Title 26, United States Code, Section 7201.

FORFEITURE ALLEGATION: (18 U.S.C. §§ 924(d)(1), 981(a)(1)(C) and 28 U.S.C. § 2461(c))

26. The allegations contained Paragraphs 1 through 25 of this Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the

provisions of Title 18, United States Code, Sections 924(d)(1), 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

27. Upon conviction for the offenses alleged in Counts One, Two, and Three of this Indictment, the defendants,

BRENDAN JACY TATUM and
JOSEPH HUFFAKER,

shall forfeit to the United States pursuant to 18 U.S.C. §§ 924(d)(1), 981(a)(1)(C) and 28 U.S.C. § 2461(c) any firearm or ammunition involved in or used in that violation, and all property, real or personal, constituting or derived from proceeds the defendant obtained, directly and indirectly, as the result of that violation, including, but not limited to, the following:

- a. Money Judgment: a sum of money equal to the total gross proceeds obtained as a result of the offense; and
 - b. any firearm or ammunition involved in or used in that violation.
28. If any of the property described above, as a result of any act or omission of the defendant:
- a. cannot be located upon the exercise of due diligence;
 - b. has been transferred, or sold to, or deposited with, a third party;
 - c. has been placed beyond the jurisdiction of the court;
 - d. has been substantially diminished in value; or
 - e. has been commingled with other property that cannot be divided without difficulty,

any and all interest the defendant has in other property shall be vested in the United States and forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

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1 All pursuant to Title 18, United States Code, Sections 924(d)(1), 981(a)(1)(C), Title 28, United
2 States Code, Section 2461(c), and Rule 32.2 of the Federal Rules of Criminal Procedure.

3 DATED: 9/21/21

A TRUE BILL.

4 /s/

5
6 FOREPERSON

7 STEPHANIE M. HINDS
8 Acting United States Attorney

9 /s/ Cynthia Frey

10 CYNTHIA FREY
11 Assistant United States Attorney
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DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

18 U.S.C. § 1951 – Conspiracy to Commit Extortion Under Color of Official Right;
 18 U.S.C. § 1951 – Extortion Under Color of Official Right;
 18 U.S.C. §§ 924(d)(1), 981(a)(1)(C) and 28 U.S.C. § 2461(c) – Forfeiture; 18 U.S.C. § 2 – Aiding and Abetting

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: Please see attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

JOSEPH HUFFAKER

DISTRICT COURT NUMBER

CR 21-0374 MMC

FILED

Sep 21 2021

SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI and IRS

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW
DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE
CASE NO.

☒ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

3-21-70422 MAG

Name and Office of Person
Furnishing Information on this form **Stephanie M. Hinds**

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.
Attorney (if assigned) **Cynthia Frey, AUSA**

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) ☒ If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

Bail Amount:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments:

**PENALTY SHEET ATTACHMENT
JOSEPH HUFFAKER**

Count 1: 18 U.S.C. § 1951 – Conspiracy to Commit Extortion Under Color of Official Right

Maximum Penalties: (1) 20 years imprisonment; (2) Maximum of 3 years of supervised release; (3) \$250,000 fine; (4) \$100 Special Assessment

Count 2: 18 U.S.C. § 1951 – Extortion Under Color of Official Right

Maximum Penalties: (1) 20 years imprisonment; (2) Maximum of 3 years of supervised release; (3) \$250,000 fine; (4) \$100 Special Assessment

Count 3: 18 U.S.C. § 1951 – Extortion Under Color of Official Right

Maximum Penalties: (1) 20 years imprisonment; (2) Maximum of 3 years of supervised release; (3) \$250,000 fine; (4) \$100 Special Assessment

Forfeiture: 18 U.S.C. §§ 924(d)(1), 981(a)(1)(C) and 28 U.S.C. § 2461(c)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

18 U.S.C. § 1951 – Conspiracy to Commit Extortion Under Color of Official Right;
 18 U.S.C. § 1951 – Extortion Under Color of Official Right;
 18 U.S.C. § 1519 – Falsifying Records in a Federal Investigation;
 26 U.S.C. § 7201 – Tax Evasion;
 18 U.S.C. §§ 924(d)(1), 981(a)(1)(C) and 28 U.S.C. § 2461 (c) – Forfeiture; 18 U.S.C. § 2 – Aiding and Abetting

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: Please see attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

BRENDAN JACY TATUM

DISTRICT COURT NUMBER

CR 21-0374 MMC

FILED

Sep 21 2021

SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) ☒ If not detained give date any prior summons was served on above charges **▶** _____
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District) _____

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges
- If answer to (6) is "Yes", show name of institution _____

Has detainer been filed? ☐ Yes } If "Yes" give date filed
☐ No } _____

DATE OF ARREST **▶** _____
 Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY **▶** _____
 Month/Day/Year

☐ This report amends AO 257 previously submitted

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI and IRS

☐ person is awaiting trial in another Federal or State Court, give name of court _____

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District _____

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW
 DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE
 CASE NO.

☒ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

3-21-70422 MAG

Name and Office of Person
 Furnishing Information on this form **Stephanie M. Hinds**

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.
 Attorney (if assigned) **Cynthia Frey, AUSA**

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: _____

Bail Amount: _____

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments: _____

**PENALTY SHEET ATTACHMENT
BRENDAN JACY TATUM**

Count 1: 18 U.S.C. § 1951 – Conspiracy to Commit Extortion Under Color of Official Right

Maximum Penalties: (1) 20 years imprisonment; (2) Maximum of 3 years of supervised release; (3) \$250,000 fine; (4) \$100 Special Assessment

Count 3: 18 U.S.C. § 1951 – Extortion Under Color of Official Right

Maximum Penalties: (1) 20 years imprisonment; (2) Maximum of 3 years of supervised release; (3) \$250,000 fine; (4) \$100 Special Assessment

Count 4: 18 U.S.C. § 1519 – Falsifying Records in a Federal Investigation

Maximum Penalties: (1) 20 years imprisonment; (2) Maximum of 3 years of supervised release; (3) \$250,000 fine; (4) \$100 Special Assessment

Count 5: 26 U.S.C. § 7201 – Tax Evasion

Maximum Penalties: (1) 5 years imprisonment; (2) Maximum of 3 years of supervised release; (3) \$100,000 fine; (4) \$100 Special Assessment

Forfeiture: 18 U.S.C. §§ 924(d)(1), 981(a)(1)(C) and 28 U.S.C. § 2461(c)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRIMINAL MINUTES

Date: December 1, 2021

Time: 4:25 – 5:05

Judge: MAXINE M. CHESNEY

= 30 minutes

Case No.: 21-cr-00374-MMC- **Case Name:** UNITED STATES v. Brendan Jacy Tatum

1

Attorney for Plaintiff: Cynthia Frey

Attorney for Defendant: Stuart Hanlon

Deputy Clerk: Tracy Geiger

Court Reporter: Ana Dub

PROCEEDINGS

Change of Plea – held.

Defendant plead guilty to Counts One, Four, and Five of Indictment.

Plea agreement filed under seal with the Court.

Court accepted the guilty pleas.

CASE CONTINUED TO: March 9, 2022 at 2:15 pm for Sentencing

Exhibit D



December 25, 2017

**Demand for Preservation of Evidence and Notice of Compliance with
Applicable Laws**

(CCP § 2023.030)
(Mendocino County Code §6.26 *et. seq.*)

To: The California Highway Patrol, State of California
The County of Mendocino including The Mendocino County Sheriff's Office
The Mendocino Major Crimes Task Force
All Other Agencies and Individuals Involved in this Matter (Does 1-100 Inclusive)

PLEASE TAKE NOTICE THAT OLD KAI DISTRIBUTION DEMANDS THE IMMEDIATE RETURN OF ALL PROPERTY SEIZED BY LAW ENFORCEMENT ON DECEMBER 22, 2017. IF THE PROPERTY IS NOT IMMEDIATELY RETURNED, OLD KAI DISTRIBUTION HEREIN PROVIDES NOTICE THAT ALL EVIDENCE CURRENTLY IN THE POSSESSION OF LAW ENFORCEMENT BE PRESERVED AND PROTECTED FROM SPOILIATION. (CCP§ 2023.030; MCC §6.26 *et. seq.*)

Old Kai Distribution is a permitted cannabis distributor (Lic. No. 3002) pursuant to Mendocino County Code §6.36. As defined by §6.36.010: "A Cannabis Business Facilities License" means a revocable, limited-term grant of permission to operate a cannabis processing, manufacturing, testing, retail/dispensing, distribution and/or microbusiness within the County." (emphasis added).

Here, an Old Kai Distribution vehicle was stopped in the County of Mendocino on December 22, 2017, by Officer Ogden (Badge No. 21589) of the California Highway Patrol. During the course of the stop, detention, and initial investigation, the driver of the vehicle provided Officer Ogden with the Distribution License (No. 3002) issued by the County of Mendocino effective December 19, 2017. Additional law enforcement agents from other agencies, as well as members of the Mendocino Major Crimes Task Force (MMCTF) were also present and assisted in the investigation.

The Distribution Business Facilities License issued to Old Kai by the County of Mendocino pursuant to Ordinance No. 4393 (Mendocino County Code §6.36) allows for Old Kai to transport medical cannabis as part of the distribution activities allowed under both the Medical Marijuana Program Act (MMPA; SB 420) and the Medicinal and Adult Use of Cannabis Regulation and Safety Act (MAUCRSA; SB 94). These permitted activities explicitly contemplate the

transportation of cannabis from permitted cultivators to the distribution facility for testing and transportation from the distribution facility to permitted manufacturers and retailers.

This is precisely what was occurring on December 22, 2017 when Officer Ogden stopped the Old Kai Distribution vehicle, yet both the driver and passenger of that vehicle were cited for Unlawful Transportation (HS 11360) and Unlawful Possession for Sale (HS 11359). The vehicle and all of the vehicle's contents were then taken into law enforcement custody (Citation No. DS48837).

It is incomprehensible that this has occurred. Old Kai was operating pursuant to a valid license duly issued by the County of Mendocino at the time of the stop. No crime has occurred in this matter and the continued retention of the lawful property is contrary to state and local law.

Old Kai Demands that the vehicle and its contents be immediately returned.

In the event that the vehicle and its contents are not immediately returned, Old Kai Distribution will seek all remedies allowed by law, including the complete reimbursement for the value of all goods seized by law enforcement in the event of spoliation or destruction.

Further, the Government has a duty to preserve evidence which arises out of both Amendments VI and XIV to the United States Constitution. This matter involves the likelihood of civil litigation in the event that the Old Kai Distribution vehicle and its contents are not promptly returned. This means that Health and Safety Code §11479 does not shield the government from sanctions if the government fails to preserve the vehicle and cannabis which are currently in law enforcement possession.

Under federal law, "a litigant is under a duty to preserve evidence which it knows or reasonably should know is relevant to the action." *In re Napster, Inc. Copyright Litig.*, 462 F. Supp. 2d 1060, 1067 (N.D. Cal. 2006). The duty attaches "from the moment that litigation is reasonably anticipated." *Apple Inc. v. Samsung Electronics Co., Ltd.*, 881 F. Supp. 2d 1132, 1136 (N.D. Cal. 2012). Generally, a government agency has a reasonable anticipation of litigation when it is on notice of a credible probability that it will become involved in litigation. Old Kai is providing that notice here.

Where a party has violated its duty to preserve evidence and engaged in spoliation, courts have the inherent power to impose sanctions. *See Sherman v. Rinchem Co., Inc.*, 687 F.3d 996, 1006 (8th Cir. 2012) (citations omitted). Sanctions may include the following: monetary sanctions, an adverse inference jury instruction, striking claims or defenses, exclusion of evidence, and default or dismissal.

California law echoes Federal Law on this issue. Once the duty to preserve attaches, California's Discovery Act, as with federal law, provides a number of sanctions where there is intentional destruction of evidence. *See Cedars-Sinai*, 18 Cal.4th at 12 ("The sanctions under Code of Civil Procedure section 2023[.030] are potent."). Court ordered sanctions may include the following: (1) monetary sanctions; (2) contempt sanctions; (3) issue sanctions ordering that designated facts be taken as established or precluding the offending party from supporting or opposing designated claims or defenses; (4) evidence sanctions prohibiting the offending party from introducing designated matters into evidence; and (5) terminating sanctions that include striking part or all of

the pleadings, dismissing part or all of the action, or granting a default judgment against the offending party. Cal. Civ. P. Code § 2023.030.

This document provides the notice described above. However, it is Old Kai's hope that this matter will be resolved quickly with the immediate return of all seized property and the abandonment of any criminal accusations levied against the driver and passenger whom received citations.

Please contact my office no later than Wednesday, December 27th, 2017 to arrange for the return of the vehicle and its contents. This matter will escalate if I do not receive a response from you by the aforementioned date.

Very Truly Yours,

Rogoway Law Group

_____/S/_____
Joe Rogoway, Esq.
Attorney for Old Kai Distribution

Exhibit E

ELECTRONICALLY FILED
5/7/2021 3:18 PM
Superior Court of California
County of Mendocino

John Armstrong, Bar No. 183912
Armstrong Law Group
23232 Peralta Drive, Suite 102
Laguna Hills, CA 92653
Tel. 949-942-6069
john@armstronglaw.group

By: 
J. Lozano
Deputy Clerk

MENDOCINO COUNTY SUPERIOR COURT OF AND FOR
THE STATE OF CALIFORNIA

HUMBOLDT-TRINITY COLLECTIVE
LLC,

Plaintiff,

versus.

MENDOCINO COUNTY SHERIFF
MATTHEW KENDALL, AN
INDIVIDUAL; MENDOCINO COUNTY
SHERIFF'S DEPARTMENT; COUNTY
OF MENDOCINO, AND DOES 1-10,

Defendants.

Case No.: 21CV00298

**VERIFIED PETITION FOR WRIT OF
MANDATE TO RETURN
UNLAWFULLY SEIZED LEGAL
CANNABIS OR, ALTERNATIVELY,
COMPLAINT FOR DAMAGES FOR
THE FAIR MARKET VALUE OF THE
CANNABIS IF DAMAGED OR
DESTROYED**

**TO: THE CLERK OF THE ABOVE-ENTITLED COURT; THE DISTRICT
ATTORNEY FOR THE COUNTY OF APPLICABLE COUNTY; AND THE
APPLICABLE POLICE DEPARTMENT:**

**NOW COMES PETITIONER AND PLAINTIFF, HUMBOLDT-TRINITY
COLLECTIVE, LLC (hereafter "HTC"), who says as follows in support of its
Petition and Complaint for the return of its seized cannabis, or, alternatively, if
Defendants have damaged or destroyed HTC's cannabis, for the fair market value of
such seized cannabis, as against Defendants MENDOCINO COUNTY SHERIFF**

**VERIFIED PETITION FOR WRIT OF MANDATE TO RETURN UNLAWFULLY SEIZED LEGAL CANNABIS
OR, ALTERNATIVELY, COMPLAINT FOR DAMAGES FOR THE FAIR MARKET VALUE OF THE
CANNABIS IF DAMAGED OR DESTROYED - 1**

PAMELA TEDESCHI
Attorney at Law
1112-C Montana Avenue, No. 126
Santa Monica, California 90403
Landline: (310) 395-8111
Cell: (310) 387-8333
p_tedeschi@msn.com

Total Pages Transmitted: 4

DATE: January 22, 2021

TO: DAVID EYSTER
Mendocino County District Attorney

Via Facsimile: (707) 472-0945

FROM: Pamela Tedeschi
Attorney for Humboldt Trinity Collective

RE: Task Force Report MC20-0137

Please find transmitted herewith a 3-page letter sent to your attention concerning a topic of great importance to my client, Humboldt Trinity Collective.

My office will seek to schedule a telephone conference at a time convenient with your calendar to discuss further.

Thank you in advance for your attention to this important matter. Do not hesitate to contact my office should you have any comments or questions.

Very truly yours,



PAMELA TEDESCHI
Attorney for Humboldt Trinity Collective

PAMELA TEDESCHI
Attorney at Law
1112-C Montana Avenue, No. 126
Santa Monica, California 90403
Landline: (310) 395-8111
Cell: (310) 387-8333
p_tedeschi@msn.com

January 22, 2021

David Eyster
Mendocino County District Attorney
100 N. State Street
No. 10
Ukiah, CA 95482

VIA FACSIMILE: (707) 472-0945

Re: Task Force Control No. MC20-0137

Dear Mr. Eyster:

Please be advised my office represents Humboldt Trinity Collective (“HTC”), a CDFA licensed cannabis farm, License No. CCL-18-0003659.

On November 6, 2020, HTC had to implement an emergency evacuation of their cannabis harvest, implemented by a licensed distributor, and subsequently seized on November 7, 2020 by Mendocino Major Crimes Task Force (“Task Force”). My office wishes to speak with you regarding these circumstances, set forth in greater detail below for your information and review.

The emergency evacuation of HTC’s harvest on November 6, 2020 was due to a sudden snow storm, with more storms imminently forecasted. HTC employees reported unsafe passage to/from HTC’s licensed facility when a foot of snow and black ice created unsafe conditions. HTC’s facility is a remote mountain farm that can only be reached by a 15 mile unpaved access road with steep drop-offs. Due to road conditions, HTC’s employees were extremely concerned about becoming stranded, especially since cell and internet services are unavailable in the mountain area where HTC’s facility is located. Employee safety had to be preeminent and an emergency evacuation was implemented without delay. HTC’s cannabis harvest was already underway and is why the harvest could be evacuated in a timely manner. It consisted of @ 395 lbs. of un-trimmed big-leaf off-stem cannabis flowers and @ 175 lbs. of trim, an approximate weight total of 570 lbs.

Significantly, HTC’s emergency evacuation was undertaken by a chain of *licensed* participants. The transport was conducted by a licensed distribution company, 66 Main Group LLC (License No. C11-0000460-LIC) and was to be delivered to a licensed processor, Herbal Relief Center (License No. C12-0000250-LIC).

January 22, 2021
David Eyster
Mendocino County District Attorney
Page 2

Due to these exigent circumstances, the lack of cell and internet services for efficient communications and the limited personnel at the HTC facility, HTC could not generate a METRC Shipping Manifest to accompany its evacuated cannabis product. In lieu of this document, HTC provided the driver for 66 Main Group LLC a photo-copy of its provisional license and a document entitled 'Shipping Manifest' that set forth with particularity its cannabis product by varietal and weight.

On November 7, 2020, 66 Main Group LLC's armored vehicle that was transporting HTC's evacuated cannabis harvest, was detained by Garberville CHP. Once CHP became aware the armored vehicle contained cannabis product, they contacted Mendocino's Task Force to assist and take possession of it. We are informed and believe HTC's cannabis harvest is currently held by the Task Force.

We further believe the Task Force has seen copies of HTC's provisional license and its temporary Shipping Manifest that accompanied HTC's evacuated cannabis product. 66 Main Group LLC's driver reports he immediately provided law enforcement with consent to search his cell phone and to review its text messages, which specifically included these HTC documents.

Please be advised that HTC's new owner, Jeremias Cuartas, contacted CDFA Enforcement within 24 hours to report the emergency evacuation of its cannabis product. Following this unforeseen exigency, Mr. Cuartas immediately took all affirmative steps necessary to correct inadequate procedures that only became apparent during the emergency evacuation. It cannot be underestimated the difficulties this situation presented without cell or internet services available for efficient real-time communications.

HTC seeks the return of its cannabis product without delay. If there was a criminal court action, the path would be clear. However, a criminal complaint does not appear advisable since there is no evidence of criminal intent or purpose. As a result, my office seeks to learn if your Office can suggest a procedure that will facilitate the return of HTC's cannabis product without the necessity of a special court proceeding to seek return by court order.

Please know that until such a return can be officiated, the Task Force has been duly notified of its responsibility to maintain the integrity of HTC's cannabis product - to store and protect it in a climate and temperature controlled environment to prevent its degradation, destruction, and/or diminishment.

January 22, 2021

David Eyster

Mendocino County District Attorney

Page 3

Thank you, Mr. Eyster, in advance for your attention to this important matter. I look forward to speaking with you.

Very truly yours,

A handwritten signature in dark ink, consisting of several overlapping loops and a long horizontal stroke, positioned above a horizontal line.

PAMELA TEDESCHI

Attorney for Humboldt Trinity Collective

HP LASERJET 3150
PRINTER/FAX/COPIER/SCANNER

SEND CONFIRMATION REPORT FOR
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JAN-22-21 2:24PM

JOB	START TIME	USAGE	PHONE NUMBER/ADDRESS	TYPE	PAGES	MODE	STATUS
592	1/22 2:22PM	1'56"	7074720945	SEND.....	4/ 4	EC144	COMPLETED.....

TOTAL 1'56" PAGES SENT: 4 PAGES PRINTED: 0

PAMELA TEDESCHI
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Santa Monica, California 90403
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Cell: (310) 387-8333
p_tedeschi@msn.com

Total Pages Transmitted: 4

DATE: January 22, 2021
TO: DAVID EYSTER Via Facsimile: (707) 472-0945
Mendocino County District Attorney
FROM: Pamela Tedeschi
Attorney for Humboldt Trinity Collective
RE: Task Force Report MC20-0137

Please find transmitted herewith a 3-page letter sent to your attention concerning a topic of great importance to my client, Humboldt Trinity Collective.

My office will seek to schedule a telephone conference at a time convenient with your calendar to discuss further.

Thank you in advance for your attention to this important matter. Do not hesitate to contact my office should you have any comments or questions.

Very truly yours,



PAMELA TEDESCHI
Attorney for Humboldt Trinity Collective

The information contained in this facsimile is intended only for the private and confidential use of the designated recipient. This message may contain attorney-client communications. As such the contents of this facsimile is privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication error, please notify us immediately by telephone and return the original message to sender by mail.

HTC000006

PAMELA TEDESCHI
Attorney at Law
1112-C Montana Avenue, No. 126
Santa Monica, California 90403
Landline: (310) 395-8111
Cell: (310) 387-8333
p_tedeschi@msn.com

Total Pages Transmitted: 3

DATE: January 22, 2021

TO: Sergeant Dustin Lorenzo Via Facsimile: (707) 463-4760

FROM: Pamela Tedeschi
Attorney for Humboldt Trinity Collective

RE: Task Force Report MC20-0137

Please find transmitted here a 2-page letter sent to your attention to provide notice that Humboldt Trinity Collective ("HTC") will be seeking return of its cannabis produce from your agency through special court proceeding and court order. As such, the transmitted letter provides notice to protect the integrity of the cannabis product in the possession of your agency, which must be stored in a climate controlled and temperature controlled environment to prevent its degradation, destruction and/or diminishment.

Do not hesitate to contact my office should you have any comments or questions.

Sincerely,



PAMELA TEDESCHI
Attorney for Humboldt Trinity Collective

PAMELA TEDESCHI
Attorney at Law
1112-C Montana Avenue, No. 126
Santa Monica, California 90403
Landline: (310) 395-8111
Cell: (310) 387-8333
p_tedeschi@msn.com

January 22, 2021

Sergeant Dustin Lorenzo
Mendocino Major Crimes Task Force
951 Low Gap Road
Ukiah, CA 95482

VIA FACSIMILE (707) 463-4760

Re: Task Force Report MC20-0137

Dear Sergeant Lorenzo:

Please be advised my office represents Humboldt Trinity Collective (“HTC”), a CDFA licensed cannabis Humboldt farm, License No. CCL-18-0003659.

On November 6, 2020, HTC implemented an emergency evacuation of its annual cannabis harvest due to a sudden snow storm, with more forecasted, that created unsafe passage for HTC employees. The harvest consisted of un-trimmed big-leaf off-stem cannabis flower with a total gross weight of 570.6 lbs.

HTC’s evacuation plan involved a chain of licensed participants. The cannabis product transport was conducted by a licensed distribution company, 66 Main Group LLC (License No. C11-0000460-LIC) and was to be delivered to a licensed processor, Herbal Relief Center (License No. C12-0000250-LIC).

Due to the imminent time constraints imposed by the exigent evacuation, and the fact there is no cell or internet service available at HTC’s remote farm facility, HTC’s new owner Jeremias Cuartas, was unable to generate a METRC Shipping Manifest to accompany HTC’s evacuated cannabis product. In lieu of this document, the driver for 66 Main Group LLC was provided a photo-copy of HTC’s provisional license and a draft document entitled ‘Shipping Manifest’ that set forth with particularity the transported cannabis product by varietal and weight.

On November 7, 2020, 66 Main Group LLC’s armored vehicle containing HTC’s evacuated cannabis harvest was detained by Garberville CHP, who in turn, contacted your Task Force to assist and take possession of the cannabis product seized. As a result, we believe your Task Force currently has possession of HTC’s cannabis product.

January 22, 2021
Sergeant Dustin Lorenzo
Mendocino Major Crimes Task Force
Page 2

We are informed and believe Garberville CHP and/or your Task Force has reviewed HTC's provisional license and its temporary Shipping Manifest that accompanied its evacuated cannabis product. 66 Main Group LLC's driver reports he immediately provided consent for law enforcement to access and review his cell phone's text messages which included these documents.

Please be advised, Mr. Cuartas contacted CDFA Enforcement within 24 hours to report the emergency evacuation of its cannabis product. Following this unforeseen exigency, Mr. Cuartas immediately took all affirmative steps necessary to correct inadequate procedures that only became apparent during the emergency evacuation. It cannot be underestimated the unavailability of cell or internet service in the area where HTC's facility is located that prevented efficient real-time communications.

HTC is in the process of seeking the return of its cannabis product by special court proceeding and order. Until such a return can be officiated, your Task Force is responsible to protect the integrity of the cannabis product in its possession which must be stored in a climate controlled and temperature controlled environment to prevent its degradation, destruction, and/or its diminishment.

Thank you in advance for your immediate attention to this important matter. Do not hesitate to contact my office should you have any comments or questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'PAMELA TEDESCHI', enclosed within a large, loopy oval shape.

PAMELA TEDESCHI
Attorney for
Humboldt Trinity Collective

JOB	START TIME	USAGE	PHONE NUMBER/ADDRESS	TYPE	PAGES	MODE	STATUS
591	1/22 10:55AM	1'07"	17074634760	SEND	3/ 3	EC144	COMPLETED

TOTAL 1'07" PAGES SENT: 3 PAGES PRINTED: 0

PAMELA TEDESCHI
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1112 C. Montana Avenue, No. 126
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p_tedeschi@msn.com

Total Pages Transmitted: 3

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FROM: Pamela Tedeschi
Attorney for Humboldt Trinity Collective
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Do not hesitate to contact my office should you have any comments or questions.

Sincerely,



PAMELA TEDESCHI
Attorney for Humboldt Trinity Collective

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MATTHEW KENDALL, AN INDIVIDUAL; MENDOCINO COUNTY SHERIFF'S DEPARTMENT; COUNTY OF MENDOCINO; AND DOES 1-10.

THE PARTIES

1. Petitioner/Plaintiff HTC is a limited liability company whose corporate headquarters are based in Woodland Hills, Los Angeles County, California, who operates a duly licensed cannabis cultivation facility in Mendocino County, California.
2. Defendant Mendocino County Sheriff Matthew Kendall is an individual who resides in Mendocino County and is a public figure presently holding the office of Sheriff for Mendocino County.
3. Mendocino County Sheriff's Department is a division of the County of Mendocino who presently has custody and control over HTC's seized cannabis flower and trim.
4. Mendocino County is the County of the State of California who has supervisory control over its Sheriff's Department.
5. The Parties fictitiously named as "Does 1-10" are Parties who HTC does not presently know the true names or capacities of but will amend this Petition and Complaint upon ascertain of same.
6. Each Defendant is and was in some capacity the agent or representative of each other Defendant, and substantially and knowingly aided and abetted or ratified the wrongful conduct of each other Defendant for the wrongs being asserted in this Pleading.

VERIFIED PETITION FOR WRIT OF MANDATE TO RETURN UNLAWFULLY SEIZED LEGAL CANNABIS OR, ALTERNATIVELY, COMPLAINT FOR DAMAGES FOR THE FAIR MARKET VALUE OF THE CANNABIS IF DAMAGED OR DESTROYED - 2

VENUE AND JURISDICTION

7. The value of HTC's claims against Defendants and each of them exceed \$1,250,000 and HTC is seeking injunctive/declaratory relief against each defendant in excess of the limited superior courts of California, requiring that this action be filed in the Superior Court.
8. Venue is proper in the Mendocino County Superior Court in that every Defendant resides, does business, and committed the wrongful acts and omissions complained of in Mendocino County, California.

FACTS GIVING RISE TO RELIEF AGAINST ALL DEFENDANTS

9. HTC is a California licensed cannabis cultivator, whose license is and was at all relevant times in good standing with the California Department of Farming and Agriculture's Cannabis Division. See <https://aca6.accela.com/calcannabis/Cap/CapDetail.aspx?Module=Licenses&TabName=Licenses&capID1=DUB20&capID2=00000&capID3=001QK&agencyCode=CALCANNABIS&IsToShowInspection=>.
10. On November 6, 2020, HTC had to implement an emergency evacuation of their cannabis harvest due to a sudden snow storm with more storms imminently forecasted for which the cannabis could not be left on the mountain area where it was being harvested, and so HTC hired a licensed distributor to move its "emergency" harvest and also contacted the CDFA that it needed to move its recently harvested cannabis crop to avoid its

1 destruction, despite not being able to get METRC tags from CDFA before
2 having to move the crop for its protection.
3

4 11. Thereafter, Garberville California Highway Patrol stopped the licensed
5 distributor and upon finding that the distributor lacked METRC tags for the
6 cannabis, had its Mendocino County Sheriff's Major Crimes Task Force
7 seized the entire crop from the distributor on November 7, 2020.
8

9 12. HTC's cannabis farm is in a remote mountain location that can only be
10 reached by a 15-mile unpaved access road with steep drop-offs, which due to
11 poor weather conditions, was extremely hazardous for travel during adverse
12 weather conditions like snow and ice.
13
14

15 13. Due to road conditions, HTC's employees were extremely concerned about
16 becoming stranded, especially since cell and internet services are
17 unavailable in the mountain area where HTC's facility is located. For safety
18 reasons, HTC's farm had to be evacuated to protect both HTC's and its
19 licensed cannabis crop quickly. HTC's cannabis harvest was already
20 underway and is why the harvest could be evacuated in a timely manner. It
21 consisted of about 395 lbs. of un-trimmed big-leaf off-stem cannabis flowers
22 and about 175lbs. of "trim," with an approximate weight total of 570 lbs.
23
24
25
26
27

1 14. Significantly, HTC's emergency evacuation was undertaken by a chain of
2 licensed participants. The transport was conducted by a licensed distribution
3 company, namely, 66 Main Group LLC (License No. C11-0000460-LIC)
4 and was to be delivered to a licensed processor, Herbal Relief Center
5 (License No. C12-0000250-LIC).
6
7

8 15. Due to these exigent circumstances, the lack of cell and internet services for
9 efficient communications and the limited personnel at the HTC facility, HTC
10 could not generate a METRC Shipping Manifest to accompany its evacuated
11 cannabis product, and was in communication with CDFA about this
12 problem, which could not get resolved fast enough to secure METRC tags
13 (the California cannabis license tags normally required for moving lawfully
14 produced cannabis from location to another) before having to move the crop
15 to avoid its destruction.
16
17
18

19 16. In lieu of this document, HTC provided the driver for 66 Main Group LLC a
20 photocopy of its provisional license and a document entitled 'Shipping
21 Manifest' that set forth with particularity its cannabis product by varietal and
22 weight.
23
24

25 17. On November 7, 2020, Garberville CHP stopped and detained 66 Main
26 Group LLC's armored vehicle that was transporting HTC's evacuated
27

cannabis harvest. Regarding 66 Main Group's license, it has a California cannabis distribution license that allows transportation. See

<https://online.bcc.ca.gov/bcc/customization/bcc/cap/licenseSearch.aspx>:

C11-0000460-LIC	Cannabis - Distributor License	sebastian Maldonado	66 MAIN GROUP, LLC : Delta Boyz : Email- isletoncali@hotmail.com : Phone- 5107257240	Limited Liability Company	Active	06/22/2019	06/22/2019	06/21/2021	BOTH
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18. Once CHP became aware the licensed armored vehicle had cultivated cannabis, they contacted Mendocino County Sheriff's Major Crime's Task Force to assist and take possession, custody, and control of HTC's cannabis, even though they were presented with a shipping manifest showing that: (1) The distributor picked the cultivated cannabis up from a licensed cannabis cultivator (HTC); (2) was being transported by a licensed cannabis transporter (66 Main Group); and (3) were delivering the cannabis to a licensed cannabis processor (Herbal Relief Caregivers, Inc. [Microbusiness License No. C12-0000250-LIC:

License Number	License Type	Business Owner	Business Contact Information	Business Structure	Status	Status Date	Issue Date	Expiration Date	Activities	Adult-Use/Medical
C12-0000250-LIC	Cannabis - Microbusiness	HENRIK SARGSYAN	HERBAL RELIEF CAREGIVERS,	Corporation	Active	02/02/2021	08/23/2019	08/22/2021	Retailer, Level 1 Manufacturer,	BOTH

VERIFIED PETITION FOR WRIT OF MANDATE TO RETURN UNLAWFULLY SEIZED LEGAL CANNABIS OR, ALTERNATIVELY, COMPLAINT FOR DAMAGES FOR THE FAIR MARKET VALUE OF THE CANNABIS IF DAMAGED OR DESTROYED - 6

1 siness
License

INC :
Email-
henriksa
rgsyang@
gmail.co
m :
Phone-
8184344
000

Distribut
or,
Cultivato
r (less
than 10K
sq ft)

5 19. See

6 <https://online.bcc.ca.gov/bcc/customization/bcc/cap/licenseSearch.aspx>).

8 20. The licensed, armored transporter, 66 Main Group, LLC reported to HTC

9 that it provided both the CHP and Mendocino County's Major Crimes Task
10 Force HTC's shipping manifest, including both HTC's and its own cannabis
11 licensing information at the time of the seizure.

13 21. HTC's new owner, Jeremias Cuartas, contacted CDFA Enforcement within

14 24 hours to report the emergency evacuation of its cannabis product once he
15 was able to get down the mountain from HTC's licensed cannabis farm to do
16 so. Following this unforeseen exigency, Mr. Cuartas immediately took all
17 affirmative steps necessary to correct inadequate procedures that only
18 became apparent during the emergency evacuation. It cannot be
19 underestimated the difficulties this situation presented without cell or
20 internet services available for efficient real-time communications.

22 22. To date, as you know, Mendocino County has filed neither a criminal case

23 nor a civil forfeiture action, likely because there is a lack of good cause to

24 VERIFIED PETITION FOR WRIT OF MANDATE TO RETURN UNLAWFULLY SEIZED LEGAL CANNABIS
25 OR, ALTERNATIVELY, COMPLAINT FOR DAMAGES FOR THE FAIR MARKET VALUE OF THE
26 CANNABIS IF DAMAGED OR DESTROYED - 7

1 file either a civil action and much less cause to file a criminal action based
2 on the facts, which we have no doubt that the Mendocino County Sheriffs
3 have investigated by now, and should have also confirmed by now with the
4 CDFA that HTC did in fact contact of the need to take emergency steps to
5 protect its cannabis crop to only have it seized by law enforcement.
6
7

8 23. Before filing this suit HTC's attorneys corresponded with the Mendocino
9 County District Attorney, David Eyster, requesting the informal release of
10 HTC's cannabis however Mr. Eyseter never responded to this requests,
11 prompting this Petition and Complaint. See attached Ex. A.
12
13

14 24. Additionally, because HTC's cannabis may have been lost, damaged, or
15 destroyed, HTC alternatively seeks a damage remedy, and so has filed a
16 Claim with the County of Mendocino. To such end, HTC filed a
17 Government Claim under the Government Claims Act within six (6) months
18 of such seizure, a true and correct copy is attached Exhibit B.
19
20

21 **REQUESTED RELIEF FOR FACTS PLED IN THIS VERIFIED**
22 **PETITION AND COMPLAINT**
23

24 25. Because HTC was and is a licensed cannabis cultivator that made an
25 emergency move its cannabis when it was seized by the Mendocino County
26
27

28 VERIFIED PETITION FOR WRIT OF MANDATE TO RETURN UNLAWFULLY SEIZED LEGAL CANNABIS
OR, ALTERNATIVELY, COMPLAINT FOR DAMAGES FOR THE FAIR MARKET VALUE OF THE
CANNABIS IF DAMAGED OR DESTROYED - 8

1 Sheriff, and was not involved in the illegal or “black market” movement of its
2 cannabis, it is entitled to have its cannabis returned forthwith.

3
4 26. Because Defendants could have ascertained from the California Department
5 of Farming and Agriculture’s Cannabis Division that HTC’s cannabis was not
6 illegally grown or being illegally moved, Defendants seizure of HTC’s
7 cannabis was not lawful, wrongful, and so is required to be returned.

8
9 27. Alternatively, if Defendants have lost, damaged, or destroyed HTC’s
10 cannabis, HTC is entitled to the fair market value of its unlawfully seized
11 legal cannabis as Defendants and each of them would have engaged in an
12 illegal and unlawful and unconstitutional “takings” of HTC’s lawful property
13 without due compensation.

14
15 28. HTC believes that the value of its seized cannabis is over \$1,250,000 or such
16 other amount as may be proved at time of trial.

17 **REQUEST FOR RELIEF**

18
19 29. Based on the facts pled in this Petition and Complaint, Petitioner and
20 Complainant HTC seeks the following remedies:

21 30. A Writ of Mandate Ordering the Mendocino County Sheriff to return HTC’s
22 cannabis to HTC to be picked up from the Sheriff by a licensed cannabis
23 transporter; or, alternatively,
24
25
26
27

28 VERIFIED PETITION FOR WRIT OF MANDATE TO RETURN UNLAWFULLY SEIZED LEGAL CANNABIS
OR, ALTERNATIVELY, COMPLAINT FOR DAMAGES FOR THE FAIR MARKET VALUE OF THE
CANNABIS IF DAMAGED OR DESTROYED - 9

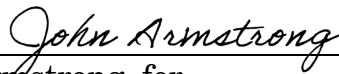
HTC000018

1 31. Or, alternatively, if HTC's cannabis has been lost, damaged, or destroyed, for
2 money damages of not less than \$1,250,000, plus legally accrued prejudgment
3 at the legal rate thereon;
4

5 32. For costs of suit;

6 33. For such other and further relief as the Court deems appropriate upon all the
7 evidence admitted at trial.
8

9 Dated this Seventh Day of May, 2021.

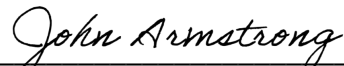
10 
11 _____
12 John Armstrong, for
13 Petitioner/Plaintiff HUMBOLDT-
14 TRINITY COLLECTIVE, LLC
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28 VERIFIED PETITION FOR WRIT OF MANDATE TO RETURN UNLAWFULLY SEIZED LEGAL CANNABIS
OR, ALTERNATIVELY, COMPLAINT FOR DAMAGES FOR THE FAIR MARKET VALUE OF THE
CANNABIS IF DAMAGED OR DESTROYED - 10

VERIFICATION

I, John R. Armstrong, verify this Petition and Complaint for my client as my client does reside in the same County as my law Office. I further verify that the attached Exhibits are true and correct copies of what each exhibit purports to be, and that I will have my client file verifications regarding all facts of which they have personal knowledge before time of hearing on this Petition, and that I have personal knowledge of my letter supporting this Petition. I further declare that I signed this petition/complaint on May 7, 2021 at my office in Laguna Hills, Orange County, California, and that the verified information is true and correct and of my own personal knowledge or of facts which I believe to be true after a reasonable and diligent investigation of the facts being asserted in this Petition and Complaint.

May 7, 2021



John Armstrong, declarant

VERIFIED PETITION FOR WRIT OF MANDATE TO RETURN UNLAWFULLY SEIZED LEGAL CANNABIS
OR, ALTERNATIVELY, COMPLAINT FOR DAMAGES FOR THE FAIR MARKET VALUE OF THE
CANNABIS IF DAMAGED OR DESTROYED - 11

EXHIBIT A

ARMSTRONG LAW GROUP



Strong Representation

23232 PERALTA DRIVE
SUITE 102
LAGUNA HILLS, CA 92653
TEL. (949) 942-6069
EMAIL:
John@ArmstrongLawGroup.Co

March 29, 2021

**Re: Cdfa License No. CCL-18-0003659
Humboldt Trinity Collective's Final
Informal Demand for Return of Its 575lbs
of Seized Raw Cannabis Reflected in
Mendocino County's Major Crimes Task
Force Task Report Bearing Control No.
MC20-0137**

**Hon. C. David Eyster
Mendocino County District Attorney
100 N. State Street
No. 10
Ukiah, CA 95482
Phone Number: (707) 463-4211
Fax Number: (707) 472-0945
Email: eysterd@co.mendocino.ca.us**

Dear Mr. Eyster:

Please be advised that my firm represents HTC, whose legally cultivated cannabis was seized by your Sheriffs on November 7, 2020.

As you know, my client's former counsel, Pamela Tedeschi, attorney-at-law, wrote you on January 22, 2021 making the same request for the return of my client's improperly seized cannabis, which received no response.

Because the cannabis seized consists of nearly an entire lawful harvest by my client, HTC, it needs a response from your office whether this matter can be resolved informally without court intervention or not.

While I am sure you have more pressing matters, HTC employs a significant number of people working in your County and all their jobs and the continued viability of HTC is at risk the longer that this matter is delayed.

Tuesday, March 30, 2021

To: Hon. C. David Eyster

Mendocino County District Attorney

Page 2 of 8

Re: *HTC's Demand for Release of Its 575lbs of Licensed Cultivated Raw Cannabis Under Mendocino County Major Crimes Task Force No. MC20-0137*

Accordingly, if we cannot get a response from you to work this matter out informally, my client will have no choice but to initiate legal proceedings for the return of its cannabis.

Regarding informal resolution, my client has no objection to the Sheriff's Office photographing and videotaping HTC's seized cannabis, and HTC will stipulate that your Sheriffs seized HTC's cannabis and to the amounts of cannabis seized. With this information, there is no longer a continuing need for the Sheriff's Office to keep the cannabis in its possession as "evidence" based on the foregoing stipulations.

While the basic facts were cogently set out Ms. Tedeschi's January 22, 2021 letter, I am providing them here again to refresh your recollection of the events that led to the seizure of my client's lawfully produced cannabis. I will start with the undisputable fact that HTC is a California licensed cannabis cultivator, whose license is and was at all relevant times in good standing with the California Department of Farming and Agriculture's Cannabis Division. See

<https://aca6.accela.com/calcannabis/Cap/CapDetail.aspx?Module=Licenses&TabName=Licenses&capID1=DUB20&capID2=00000&capID3=001QK&agencyCode=CALCANNABIS&IsToShowInspection=>

In sum, what the facts below show is that there is no illegal cannabis activity, but perhaps a minor, hyper-technical violation of applicable cannabis regulations that the California Department of Farming & Agriculture, the entity responsible for overseeing licensed cannabis cultivators, was made aware of by HTC out of fear that adverse weather conditions were going to destroy its crop, and its efforts to protect its endangered from destruction led to its seizure for technically not having all the required METRC tags by its licensed transporter/distributor at the time of seizure by your Sheriffs.

The Facts

On November 6, 2020, HTC had to implement an emergency evacuation of their cannabis harvest due to a sudden snow storm with more storms imminently forecasted for which the cannabis could not be left on the mountain area where it was being harvested, and so HTC hired a licensed

Tuesday, March 30, 2021

To: Hon. C. David Eyster

Mendocino County District Attorney

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Re: *HTC's Demand for Release of Its 575lbs of Licensed Cultivated Raw Cannabis Under Mendocino County Major Crimes Task Force No. MC20-0137*

distributor to move its “emergency” harvest and also contacted the CDFA that it needed to move its recently harvested cannabis crop to avoid its destruction, despite not being able to get METRC tags from CDFA before having to move the crop for its protection.

Thereafter, Garberville California Highway Patrol stopped the licensed distributor and upon finding that the distributor lacked METRC tags for the cannabis, had its Mendocino County Sheriff’s Major Crimes Task Force seized the entire crop from the distributor on November 7, 2020.

Please be advised that HTC's cannabis farm is in a remote mountain location that can only be reached by a 15-mile unpaved access road with steep drop-offs, which due to poor weather conditions, was extremely hazardous for travel during adverse weather conditions like snow and ice.

Due to road conditions, HTC's employees were extremely concerned about becoming stranded, especially since cell and internet services are unavailable in the mountain area where HTC's facility is located. For safety reasons, HTC’s farm had to be evacuated to protect both HTC’s and its licensed cannabis crop quickly.

HTC's cannabis harvest was already underway and is why the harvest could be evacuated in a timely manner. It consisted of about 395 lbs. of un-trimmed big-leaf off-stem cannabis flowers and about 175lbs. of “trim,” with an approximate weight total of 570 lbs.

Significantly, HTC's emergency evacuation was undertaken by a chain of licensed participants. The transport was conducted by a licensed distribution company, namely, 66 Main Group LLC (License No. C11-0000460-LIC) and was to be delivered to a licensed processor, Herbal Relief Center (License No. C12-0000250-LIC).

Due to these exigent circumstances, the lack of cell and internet services for efficient communications and the limited personnel at the HTC facility, HTC could not generate a METRC Shipping Manifest to accompany its evacuated cannabis product, and was in communication with CDFA about this problem, which could not get resolved fast enough to secure METRC tags before having to move the crop to avoid its destruction.

Tuesday, March 30, 2021

To: Hon. C. David Eyster

Mendocino County District Attorney

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Re: *HTC's Demand for Release of Its 575lbs of Licensed Cultivated Raw Cannabis Under Mendocino County Major Crimes Task Force No. MC20-0137*

In lieu of this document, HTC provided the driver for 66 Main Group LLC a photocopy of its provisional license and a document entitled 'Shipping Manifest' that set forth with particularity its cannabis product by varietal and weight.

On November 7, 2020, Garberville CHP stopped and detained 66 Main Group LLC's armored vehicle that was transporting HTC's evacuated cannabis harvest. Regarding 66 Main Group's license, it has a California cannabis distribution license that allows transportation. See

<https://online.bcc.ca.gov/bcc/customization/bcc/cap/licenseSearch.aspx>:

C11-0000460-LIC	Cannabis - Distributor License	sebastian Maldonado	66 MAIN GROUP, LLC : Delta Boyz : Email- isletoncali@hotmail.com : Phone- 5107257240	Limited Liability Company	Active	06/22/2019	06/22/2019	06/21/2021	BOTH
-----------------	--------------------------------	---------------------	--	---------------------------	--------	------------	------------	------------	------

Once CHP became aware the licensed armored vehicle had cultivated cannabis, they contacted Mendocino County Sheriff's Major Crime's Task Force to assist and take possession, custody, and control of HTC's cannabis, even though they were presented with a shipping manifest showing that:

(1) The distributor picked the cultivated cannabis up from a licensed cannabis cultivator (HTC); (2) was being transported by a licensed cannabis transporter (66 Main Group); and (3) were delivering the cannabis to a licensed cannabis processor (Herbal Relief Caregivers, Inc. [Microbusiness License No. C12-0000250-LIC

License Number	License Type	Business Owner	Business Contact Information	Business Structure	Status	Status Date	Issue Date	Expiration Date	Activities	Adult-Use/Medical
C12-0000250-LIC	Cannabis - Microbusiness License	HENRIK SARGSYAN	HERBAL RELIEF CAREGIVERS, INC : Email- henriksargyan@gmail.com : Phone- 8184344000	Corporation	Active	02/02/2021	08/23/2019	08/22/2021	Retailer, Level 1 Manufacturer, Distributor, Cultivator (less than 10K sq ft)	BOTH

See

<https://online.bcc.ca.gov/bcc/customization/bcc/cap/licenseSearch.aspx>

).¹

¹ Ms. Tedeschi correctly identified the cannabis license number of the business who was to receive HTC's cultivated cannabis but incorrectly identified its business name as "Herbal

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To: Hon. C. David Eyster

Mendocino County District Attorney

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Re: *HTC's Demand for Release of Its 575lbs of Licensed Cultivated Raw Cannabis Under Mendocino County Major Crimes Task Force No. MC20-0137*

Thus, unless you are aware of a different disposition of HTC's 575lbs of seized cannabis, the Mendocino Sheriff's Office should still have HTC's cannabis. The licensed, armored transporter, 66 Main Group, LLC reported to HTC that it provided both the CHP and Mendocino County's Major Crimes Task Force HTC's shipping manifest, including both HTC's and its own cannabis licensing information at the time of the seizure.

HTC's new owner, Jeremias Cuartas, contacted CDFA Enforcement within 24 hours to report the emergency evacuation of its cannabis product once he was able to get down the mountain from HTC's licensed cannabis farm to do so. Following this unforeseen exigency, Mr. Cuartas immediately took all affirmative steps necessary to correct inadequate procedures that only became apparent during the emergency evacuation. It cannot be underestimated the difficulties this situation presented without cell or internet services available for efficient real-time communications.

To date, as you know, Mendocino County has filed neither a criminal case nor a civil forfeiture action, likely because there is a lack of good cause to file either a civil action and much less cause to file a criminal action based on the facts, which we have no doubt that the Mendocino County Sheriffs have investigated by now, and should have also confirmed by now with the CDFA that HTC did in fact contact of the need to take emergency steps to protect its cannabis crop to only have it seized by law enforcement.

Accordingly, HTC needs its cannabis returned as soon as possible, as it is perishable crop, and delay substantially reduces the value of its lost crop.

The Law

Here, HTC committed no crime. It gave its lawfully grown cannabis to a licensed distributor, to take to another licensed cannabis processor. Hence, there is absence of any "black market" activity as the California Bureau of Cannabis Control notes that all cannabis licensees may do business with each other but may not do business with "unlicensed persons"—that is, persons that do not have a cannabis license.

Relief Center." By now, we are sure that your Sheriffs have fully investigated this and confirmed the validity of all cannabis licenses, which are all public records.

HTC000025

Tuesday, March 30, 2021

To: Hon. C. David Eyster

Mendocino County District Attorney

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Re: ***HTC's Demand for Release of Its 575lbs of Licensed Cultivated Raw Cannabis Under Mendocino County Major Crimes Task Force No. MC20-0137***

Whereas here, all the commercial cannabis activity is between licensed parties, any technical violation of cannabis regulations is governed by the California Bureau of Cannabis Control and by the California Department of Farming Agricultural, Cannabis Division, when cannabis cultivation is involved.

Notably, California's Bureau of Cannabis Control ("BCC") expressly provides that licensed distributors may transport cannabis for other cannabis licenses: "**A distributor (Type 11) licensee is responsible for transporting cannabis goods between licensees**, arranging for testing of cannabis goods, and conducting the quality assurance review of cannabis goods to ensure compliance with all packaging and labeling requirements...."

<https://bcc.ca.gov/licensees/distributors.html> [bold added].

This is consistent with the Legislature's enactment of MAUCURSA, which expressly makes it unlawful to arrest or institute criminal or civil forfeiture proceedings against licensed cannabis operators, in that existence of a valid cannabis license is prima facie evidence that that the commercial cannabis activities were legal, and any violation must be first addressed by the applicable cannabis regulatory authority who may only seek the aid of law enforcement upon a determination of an egregious or per se violation of existing cannabis laws and regulations.

Hence, Business and Professions Code, § 26032, which provides as follows:

(a) The actions of a licensee, its employees, and its agents are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law if they are all of the following:

(1) Permitted pursuant to a state license.

(2) Permitted pursuant to a local authorization, license, or permit issued by the local jurisdiction, if any.

Tuesday, March 30, 2021

To: Hon. C. David Eyster

Mendocino County District Attorney

Page 7 of 8

Re: ***HTC's Demand for Release of Its 575lbs of Licensed Cultivated Raw Cannabis Under Mendocino County Major Crimes Task Force No. MC20-0137***

(3) Conducted in accordance with the requirements of this division and regulations adopted pursuant to this division.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and, if required by the applicable local ordinances, a local license or permit, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

[Emphasis added for emphasis.]

For example, I recently handled a matter for licensed cannabis oil manufacturer, who used a licensed cannabis distributor to transport its cannabis to another licensed cannabis distributor, which transporter stopped at a licensed cannabis cultivator's farm to have the licensed distributor/buyer examine the cannabis at the farm before completing the sale.

An "anonymous tip" to the Santa Barbara Sheriff's Office resulted in the seizure of all my client's cannabis oil (different client than here), resulting in emergency, ex parte motions for the return of the improperly seized cannabis. The Santa Barbara Superior Court conducted a trial on the propriety of the continued seizure and retention of my client's cannabis oil, despite no criminal charges being filed and only a civil forfeiture action filed against the cannabis cultivator over cash seized during the same raid.

The Superior Court *ordered* the Sheriff to return my client's cannabis oil because there was no evidence that there was any attempt to sell the cannabis to an unlicensed person and because *all* the parties involved in the transaction *were licensed cannabis businesses*, which created a presumption that the commercial cannabis activities were not illegal or a violation of California's Controlled Substances Act, despite the evidence

Tuesday, March 30, 2021

To: Hon. C. David Eyster

Mendocino County District Attorney

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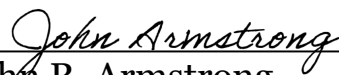
Re: ***HTC's Demand for Release of Its 575lbs of Licensed Cultivated Raw Cannabis Under Mendocino County Major Crimes Task Force No. MC20-0137***

that one or more cannabis *regulatory* violations had occurred. (Copy attached.)

In sum, the Superior Court has determined that even if there is a technical regulatory violation by a *licensed* cannabis operator, that is for the cannabis regulatory agencies to decide and to punish, *not* law enforcement, as commercial cannabis activities are legal for licensed cannabis operators to participate in.

Accordingly, if I do not get a response from your office by this Friday, please be advised that I will be forced to initiate formal legal proceedings against Mendocino County to secure a court order for the return of my client's cannabis—a result that I hope to avoid.

Sincerely,


John R. Armstrong,
Principal
Armstrong Law Group
A professional law corporation

jra

EXHIBIT B**CLAIM AGAINST THE COUNTY OF MENDOCINO**

(Government Code Section 910 et seq.)

Submit claim in person or mail to:

Executive Office - Risk Management

501 Low Gap Road Rm. 1010

Ukiah, CA 95482

☒ New Claim
☐ Amended Claim

* = REQUIRED

Rev. 11/19/18

1.* Claimant's Name and Home Address

Humboldt Trinity Collective, 22817 VENTURA BL

WOODLAND HILLS CA 91364

City	State	Zip
Home	Cell	Work

Phone

2.* Send Official Notices and Correspondence to

John Armstrong, 23232 PERALATA DR. # 102

Laguna Hills CA 92653

City	State	Zip
Home	Cell	Work

Phone 949-942-6066

3. Claimant Vehicle License Plate #, VIN, Make, Model, Mileage, and Year**4.* Date of Incident**

11/7/20

5. Time of Incident**6.* Address and/or Description of Incident Location**

GARBARVILLE HWY PATROL

7.* Basis of Claim. State in detail all facts and circumstances of the incident. Identify all persons, entities, property, and County departments involved. State why you believe the County is responsible for the alleged injury, property damage, or loss.

WRONGFUL SEIZURE OF LAWFULLY GROWN CANNABIS BEING MOVED TO SECURE THE CANNABIS FROM LOSS

395 lbs. of un-trimmed big-leaf off-stem cannabis flowers and about 175lbs. of "trim," with an approximate weight total of 570 lbs.

Names of Involved County Employees and/or Departments, if known:

Mendocino County Sheriff's Office; Mendocino County District Attorney's Office

8.* Description of Claimant's injury, property damage, or loss:

LOSS OF 570LBS OF LEGAL CANNABIS

9.* Amount of Claimant's property damage or loss and method of computation. Attach supporting documentation.**ITEMS**

570 LBS \$ 1,250,000

\$

\$

\$

TOTAL AMOUNT \$ 1,250,000Court Jurisdiction: ☐ Limited (up to \$25,000)☒ Unlimited (over \$25,000)**10. Witness Names (if any)**

Mendocino County Sheriff's Major Crimes Task Force

Address

951 Low Gap Road, Ukiah CA

Phone

(707) 463-4085

11. Law Enforcement Information

Was local law enforcement contacted?



Yes



No

If yes, Report #

(Attach copy of report if available)

Section 72 of the Penal Code states: "Every person who, with intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, city, or district board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is punishable either by imprisonment in the county jail for a period of not more than one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both such imprisonment and fine."

12.*

Signature of Claimant or Representative

john Armstrong

Print Name

05/07/2021

Date

Attorney

Relationship to Claimant

HTC000029

A COMPLETED CLAIM FORM AND SUPPORTING DOCUMENTATION MUST BE SUBMITTED TO THE MENDOCINO COUNTY EXECUTIVE OFFICE – RISK MANAGEMENT BY U.S. MAIL OR IN PERSON AT 501 LOW GAP ROAD RM. 1010, UKIAH CA 95482.

INSTRUCTIONS FOR FILING A CLAIM

Failure to complete all required sections of the Claim form will delay the processing of your claim and may result in the return or denial of your claim. * = Required.

1. ***Claimant's Name, Home Address, and Telephone:** State the full name, mailing address, and telephone numbers of the person claiming personal injury, damage, or loss.
2. *** Official Notices and Correspondence:** Provide the name, mailing address, and telephone numbers of the person to whom all official notices and other correspondence should be sent, if other than claimant. This official contact person can be the claimant or a representative of the claimant. If this section is completed, all official notices and correspondence will be sent to the person listed.
3. **Claimant Vehicle License Plate Number, Vehicle Identification Number (VIN), Make, Model, Mileage, and Year:** Please provide identifying information for the vehicle driven by the claimant or in which the claimant was a passenger.
4. ***Date of Incident:** State the exact month, day, and year of the incident giving rise to the claim.
5. **Time of Incident:** State the exact time, including A.M. or P.M., of the incident giving rise to the claim.
6. ***Address and/or Description of Incident Location:** Include the exact street address or intersection and city where the incident occurred.
7. ***Basis of Claim:** State in detail all facts supporting your claim, including all facts and circumstances of the incident, all alleged injuries, property damage and loss, all persons entities, property and County departments involved, and why you believe the County is responsible for the alleged injury, property damage, or loss. Provide names of involved County employees and/or departments who allegedly caused the injury or property damage.
8. *** Description of Injury, Property Damage, or Loss:** Provide in full detail a description of the injury, property damage, or loss that allegedly resulted from the incident.
9. *** Amount of Loss and Method of Computation:** State the total amount of money you claim in damages. Provide a breakdown of each item of damages and how that amount was computed. You may include future, anticipated expenses or losses. Please attach copies of all bills, receipts and repair estimates. If the claim involves property damage, please provide two repair estimates. Government Code Section 910 provides that if the claim is for less than \$10,000, the claimant must state the total amount claimed and the basis of computation. If the claim exceeds \$10,000, no dollar amount need be provided, but the claimant must indicate the applicable court jurisdiction. Limited civil jurisdiction cases are those involving damages under \$25,000; unlimited civil jurisdiction cases are those involving damages of \$25,000 or more.
10. **Witnesses:** State the names, addresses, and telephone numbers of any persons who witnesses the incident. Attach a list of additional names if necessary.
11. **Law Enforcement Information:** State whether or not local law enforcement was contacted by checking the corresponding box. If Law enforcement was contacted, please state the report number and attach a copy of the report, if available.
12. *** Signature of Claimant or Representative:** Sign and date the claim form. Print name of signatory and relationship to claimant. The claim must be signed by the claimant or by the official representative of the claimant.

Claims will be deemed filed on the date of actual receipt at the Executive Office – Risk Management or the date deposited in the U.S. mail in a sealed envelope, properly addressed, with postage paid.

Subject to certain exceptions, claimants have only six (6) months from the date that notice of denial is personally delivered or deposited in the mail to file a court action on said denied claim (Government Code Section 945.6).

A claimant may seek the advice of an attorney of claimant's choice in connection with any action on said claim. If claimant desires to consult an attorney, claimant should do so immediately.

Acceptance of any claim by the Executive Office – Risk Management does not prejudice the rights of the Board of Supervisors to reject or deny any claim determined by the Board to be insufficient or not a proper claim against this governmental agency.

For information about the status of your claim, please contact **Risk Management** at 707-463-4441.

JOHN R. ARMSTRONG
ARMSTRONG LAW GROUP
23232 PERALTA DRIVE SUITE 102
LAGUNA HILLS, CA 92653



U.S. POSTAGE
\$0.55
FCM LETTER
92654 0000
Date of sale
05/07/21
06 2SSK
930310507104526
11487066

..... FOLD HERE

Executive Office-Risk Management
501 Gap Road Room 1010
Ukiah, California 95482

Exhibit F

Arthur R. Angel, SBN 214611
1305 N. Poinsettia Place
Los Angeles, CA 90046
Phone: (323) 656-9085
Fax: (323) 417-4704
arthurangel@sbcglobal.net

Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**ANDRES RONDON and SKUNKWORX
PHARMS, LLC**

Plaintiffs,

vs.

**MENDOCINO COUNTY, CALIFORNIA;
MATT KENDALL, THOMAS ALLMAN,
DARREN BREWSTER; JAMES WELLS;
DOES 1-10**

Defendants

Case No.:

**VERIFIED COMPLAINT FOR
DAMAGES AND INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

Plaintiff for his Complaint against Defendants alleges as follows:

JURISDICTION AND VENUE

1. This action arises under 42 U.S.C. §1983. Jurisdiction is conferred by virtue of 28 U.S.C. §§ 1331 and 1343.

2. The conduct alleged herein occurred in Mendocino County, State of California.

Accordingly, venue of this action lies in this court.

PARTIES

3. Plaintiff Andres Rondon is an individual and resides in California.

1 4. Plaintiff Skunkworx Pharms, LLC, is a California limited liability company owned by
2 Plaintiff Rondon which operated a farm in Mendocino County where the wrongful actions that
3 gave rise to this action occurred.

4
5 5. Defendant Mendocino County is a public entity organized under the laws of
6 the State of California and operates the Mendocino County Sheriff's Office, the
7 employer of all other defendants. It is liable under the doctrine of respondeat superior
8 for torts committed by its subordinates. It also has direct liability under the decision
9 in *Monnell v. Dept. of Social Services*.

10
11 6. Defendant Matt Kendall is the current sheriff of Mendocino County and succeeded
12 defendant Thomas Allman in that office. He is the policy maker for the sheriff's department
13 and for Mendocino County with regard to the actions and policies of the sheriff's department.
14 He is sued in his official capacity.

15
16 7. Defendant Thomas Allman was the Sheriff of Mendocino County at the time of the
17 events that gave rise to this lawsuit. He was the chief policymaker and decision-maker for the
18 sheriff's office and for Mendocino County with regard to the actions and policies of the
19 sheriff's office. He also was responsible for the training, supervision, discipline and oversight
20 of the Mendocino County deputy sheriffs involved in the wrongful actions against plaintiff
21 and in other similar wrongful actions against other individuals. He oversaw and approved
22 their wrongful actions and is responsible for the actions taken by his subordinates. He acted in
23 the course and scope of his employment, and under color of state law, at all times mentioned
24 herein. He is sued in both his individual and official capacity. He resigned as sheriff
25
26 sometime after the events described herein.
27
28

1 8. Defendant Darren Brewster is a Mendocino County deputy sheriff. He acted in the
2 course and scope of his employment, and under color of state law, at all times mentioned
3 herein. He is sued in both his official capacity and his individual capacity

4
5 9. Defendant James Wells is a Mendocino County deputy sheriff. He acted in the course
6 and scope of his employment, and under color of state law, at all times mentioned herein. He
7 is sued in both his official capacity and his individual capacity

8 10. Plaintiff does not presently know the true names and capacities of defendants DOES 1
9 through 10, inclusive, and therefore sues them by these fictitious names. Plaintiff is informed
10 and believes that DOES 1 through 10, and each of them, were responsible in some manner
11 for the wrongful acts or omissions alleged herein, including participating in the unlawful
12 seizure and destruction of plaintiffs' property, and false averments to obtain a search warrant
13 that was obtained on false pretenses and efforts to conceal the wrongful actions alleged
14 herein. Plaintiffs sought to identify the true names of all individuals who participated in the
15 wrongful conduct alleged herein before filing suit, but defendants have declined to divulge
16 that information. Plaintiffs will seek leave to amend this Complaint to add their true names
17 and capacities when they have been ascertained.
18
19

20 21 **STATEMENT OF FACTS**

22 11. At times material herein Plaintiff Andres Rondon operated a farm in Potter Valley, in
23 Mendocino County, located at 12850 Pine Ave., Potter Valley, California through an LLC
24 owned solely by him and operating under the name Skunkworkx Pharms, LLC. At all times
25 material herein Plaintiffs were duly licensed as a cannabis cultivator by the state of California,
26 registered as a lawful cultivator with Mendocino County, and were in full legal compliance with
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1 applicable state and county licensing, registration, and certification requirements for the
2 cultivation activities conducted.

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4 12. On Sunday October 21, 2018 at about 7:10 am, Plaintiff Rondon, who was in southern
5 California at the time with his wife, received a phone call from one of his employees at the farm
6 in Potter Valley who reported that there were some robbers at the farm, wearing dark tactical or
7 combat garb. Plaintiff Rondon immediately called the Mendocino County Sheriffs Office,
8 advised of the report of a robbery in progress and passed along what the employees had reported.
9 He requested that Mendocino sheriffs be immediately dispatched to the farm to apprehend the
10 robbers. Plaintiff Rondon noted that the farm was a legally licensed cannabis cultivation
11 operation that was registered with Mendocino County.
12

13 13. Instead of responding immediately, the Mendocino Sheriffs office took approximately two
14 hours before deputies went to the farm in Potter Valley. When they arrived, they showed little
15 interest in the reported robbery or the perpetrators and seemed more interested in impugning the
16 credibility of the robbery report and the employees who were at the farm. A vehicle brought by
17 the robbers was left at the farm and the deputies displayed little interest in it or in following up
18 an employee's report about a robber who had fled the scene or in apprehending that robber.
19

20 14. The Mendocino deputies departed from the farm and returned several hours later with a
21 search warrant. During that interval, the Mendocino Sheriffs Office, acting without probable
22 cause or even reasonable suspicion, had obtained the search warrant by means of a sworn
23 affidavit, signed by defendant Brewster as special agent supervisor, that falsely asserted: a) that
24 there had been a check and it had been determined that the farm was not licensed or registered
25 for cannabis cultivation activities; and b) that it "was obvious" to affiant Brewster that "the
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owner to this property is in violation of state law without being part of the counties (sic) permitting process.”

15. Both of these were demonstrable falsehoods. Moreover, inasmuch as a) Plaintiffs’ licensure and registration with Mendocino County were both readily verifiable through the applicable on-line databases; and b) Plaintiff Rondon had directly advised Mendocino deputies that the farm was in compliance with applicable legal requirements, the false statements made in the affidavit to obtain the search warrant seem to have been made intentionally or with reckless disregard for the truth of the statements that were made under oath and under penalty of perjury.

16. Additionally, the search warrant that was signed by Mendocino County Superior Court Judge Jeanine B. Nadel authorized a search of 12805 Pine Ave., Potter Valley, California but Plaintiffs’ property, where the sheriff’s deputies had gone previously and where they returned, ostensibly in execution of the search warrant, was 12850 Pine Ave, not 12805.

17. When the deputies returned to 12850 Pine. Ave., they brought a wood- chipper. They pulled off the cannabis buds and took them away in plastic trash bags and destroyed the 350 growing cannabis plants that were ready to be harvested the next day by running them through the wood- chipper. These actions damaged plaintiffs by approximately \$350,000-\$400,000. The deputies also destroyed plant cuttings for the next crop that were worth an additional \$15,000.

18. The deputies also destroyed eight light deprivation gardens, coverings and lighting equipment, damages of approximately \$50,000. These destructions also damaged plaintiffs’ ability to conduct their lawful business and deprived them of the next crop cycle and caused other business disruption damages of approximately \$350,000.

19. The deputies also seized and removed various items of plaintiffs' personal property from the residence, including cell phones, permits and other papers and other items, the value of which will be determined at trial.

18. Plaintiffs do not know what happened regarding the robbers but believe at least one was apprehended.

19. On information and belief, there have been a number of unlawful and unofficial raids of cannabis cultivators in Mendocino County by individuals dressing and acting like law enforcement personnel and indications that law enforcement officers from Mendocino County and neighboring towns have participated in such raids and have themselves trafficked in cannabis seized through such raids.

20. After the raid, plaintiffs retained legal counsel who attempted to contact the sheriff's office by phone, letter, and email to discuss the raid, identify the individuals involved, and to obtain return of plaintiffs' personal property. The sheriff's office ignored those communications. Additionally, several weeks after the raid counsel for plaintiff made a written request to the Mendocino County Records Department for a copy of the incident report on the 10/21/18 raid. The response was that the report could not be provided because it was part of an open law enforcement investigation. Plaintiffs are not aware of any valid factual or legal basis for a continuing criminal investigation concerning them.

21. Defendants maintained the pretense that they were continuing to conduct a criminal investigation of plaintiff Rondon to give their conduct a surface law enforcement legitimacy, to help block any outside investigation and discovery of details concerning the wrongful raid described above, and to frighten and intimidate plaintiff Rondon.

STATEMENT OF DAMAGES

22. As a result of the wrongful actions complained of herein, Plaintiffs have suffered economic and consequential damage, business interruption, and lost income.

23. In addition to the direct economic damage noted above, plaintiff Rondon has also sustained and will continue to suffer general damages including fear, anxiety, humiliation, and emotional distress, the reasonable value of which is \$400,000.

24. Plaintiffs are also seeking exemplary damages from the individual defendants as noted below.

FIRST CAUSE OF ACTION

42 USC §1983-Unlawful Seizure -All defendants

25. Preceding paragraphs are incorporated.

26. Defendants unlawfully seized plaintiffs' property in violation of constitutional rights secured by the Fourteenth Amendment to the U.S. Constitution and by the California Constitution, for which 42 USC §1983 provides a remedy, and proximately caused plaintiffs the damages enumerated above. There is clearly established law recognizing that defendants' conduct violates constitutional rights. Plaintiffs' cannabis cultivation was entirely lawful under California law and the cannabis seized and/or destroyed was their property under California law. Beyond that, defendants' conduct irreparably damaged plaintiff's lawful business and prevented him from engaging in a lawful business, a violation of Plaintiffs' liberty interests. Defendants also seized and destroyed plaintiffs' personal property.

27. Defendants Brewster, Wells, and other Mendocino County deputies to be identified through discovery, actively participated in the unlawful raid, seizure and destruction of plaintiffs' property, including the obtaining and execution of a search warrant with false statements under

1 oath and concealment of the true facts from the judge who signed the search warrant. The fact
2 that they seized permits at the property after having represented under oath that the cannabis
3 cultivation was without permit further demonstrates that defendants' seizure activities were
4 wrongful and known to be so.

5
6 28. Defendant Allman authorized, condoned, approved, and/or ratified the unlawful seizure of
7 plaintiffs' property. He also participated in a cover up of said unlawful activity and further
8 aggravated the wrong and the cover up through an unfounded and phony putative continuing law
9 enforcement investigation of plaintiff Rondon. Defendant Allman was the chief policymaker for
10 the county with respect to the sheriff department actions at issue and as such his actions and
11 inactions were, or were equivalent to, official policy of Mendocino County.

12
13 29. Defendant Mendocino County has a history and a custom and practice of conducting such
14 unlawful raids and unlawful seizures and also of covering up the unlawful conduct and
15 intimidating those who might challenge such conduct.

16
17 30. The wrongful conduct by defendants Brewster, Wells, and Allman was committed
18 intentionally or with a reckless or callous disregard for plaintiffs' rights, warranting a substantial
19 award of punitive damages, which plaintiffs seek. Defendants obtained a search warrant under
20 false pretenses and with false averments under oath. They also have sought to conceal their
21 wrongful conduct and insulate it from outside scrutiny. Insofar as their wrongful actions
22 extended beyond normal and proper law enforcement behavior, they should be accountable for
23 their actions in their individual capacities as well as their official capacities.

24
25 WHEREFORE, Plaintiffs seek relief as set forth below.

26
27 **SECOND CAUSE OF ACTION**

28 42 USC §1983-Violation of procedural due process -All defendants

31. Preceding paragraphs are incorporated.

32. Defendants deprived plaintiffs of property without due process, in violation of rights secured by the Fifth and Fourteenth Amendments to the U.S. Constitution, and 42 USC §1983, and thereby caused the damages enumerated herein. They obtained an invalid search warrant through false averments under oath and ignored plaintiffs' readily-verifiable status as a legally compliant cannabis cultivator. They did not notify plaintiff Rondon of what they were doing, on a Sunday, and deprived him of any opportunity to contest the unlawful seizure or destruction of his property by destroying plaintiffs' equipment and personal property on the spot, as well as the cannabis with the wood chipper that was brought for the purpose. That destruction also belies any argument the defendants were engaged in any legitimate law enforcement investigation. They did not seize and preserve evidence for any intended criminal proceeding but destroyed that evidence. The defendants have not returned plaintiff's property or compensated him for the property that was destroyed. They also never advised him that he was no longer the subject of a criminal investigation.

WHEREFORE, Plaintiffs seek relief as set forth below.

THIRD CAUSE OF ACTION

42 USC §1983-Failure to properly supervise, train and discipline

Defendants Mendocino County, Allman and Kendall

33. Previous paragraphs are incorporated.

33. Defendants Mendocino County and Allman and Kendall, as the county's sheriff, had a duty to adequately train, supervise and discipline their sheriff's deputies so as to protect members of

1 the public, including plaintiffs, and ensure that they carried out their law enforcement duties
2 lawfully and in compliance with Constitutional and other legal protections.

3
4 34. Said defendants allowed and supported not only the unlawful raid against plaintiffs but
5 many others as well. They did not teach or enforce due regard for the constitutional rights of
6 those who were subjected to unlawful raids or prohibit or detect intentionally and recklessly false
7 sworn averments being used to cloak unlawful conduct with putative legitimacy. They breached
8 and were indifferent to such duties and thereby caused the damages to plaintiffs complained of
9 herein. They also have endangered other members of the public and have not taken remedial
10 steps so as to prevent future repetitions of the kind of unlawful conduct that was directed against
11 plaintiffs.
12

13 WHEREFORE, Plaintiffs seek relief as set forth below.
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16 PRAYER FOR RELIEF

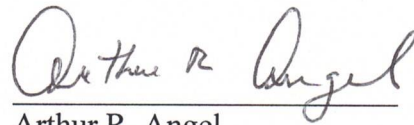
17 WHEREFORE, plaintiffs pray for relief as follows:

- 18 1. Judgment in their favor on all causes of action.
- 19 2. Compensatory damages as proven.
- 20 3. Punitive damages against each of the individual defendants in an amount sufficient to
21 achieve the law's objectives of punishment and deterrence.
- 22 4. Pre and post judgment interest as allowed by law.
- 23 5. Costs and reasonable attorney's fees, under 42 USC §1988.
- 24 6. Appropriate injunctive relief to prevent and deter future unlawful seizures and raids and
25 further violations of the constitutional rights of plaintiffs and others and to require proper
26 supervision and training to further achieve those objectives.
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1 7. Such other relief to which plaintiffs may be entitled.

2 JURY TRIAL DEMANDED

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4 DATE 10/8/20

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7 Arthur R. Angel
8 Attorney for Plaintiffs
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VERIFICATION

I, Andres Rondon, plaintiff in this action, have read the foregoing complaint and I am familiar with the contents thereof. The facts stated in the complaint are true and correct. Executed in Granada Hills _____, California under penalty of perjury under the laws of the State of California, on the
_6th_____ day of _October_____, 2020.

Rondon _____

____Andres T.

Andres Rondon