

COPY

APR 29 2014



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6 Bar No. 003269
7 Attorney for Plaintiff

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 ULTRA HEALTH, LLC, an Arizona limited) Case No.: CV2014-053115
11 liability company,) **COMPLAINT**

12 Plaintiff,) (Breach of Contract, Breach of
13 v.) Fiduciary Duty, Interference With
14) Contract, Conversion, Unjust
15) Enrichment and Accounting)

16 HEALING HEALTHCARE 3, INC., an Arizona
17 non-profit corporation; RAKESH PAHWA and
18 GEETA PAHWA, husband and wife; DAVID
19 SANCHEZ and KATHY SANCHEZ, husband
20 and wife; SCOTT ARMSTRONG, an unmarried)
21 person, and DOES I-X,)
22 Defendants.)

23 COMES NOW Plaintiff Ultra Health, LLC, by and through its attorney, undersigned,
24 and for the Complaint against Defendants herein, alleges as follows:

25 **GENERAL ALLEGATIONS**

- 26 1. Plaintiff is an Arizona limited liability company, licensed to transact business
27 and transacting business in Maricopa and Pinal County, Arizona.
28 2. Defendant Healing Healthcare 3, Inc. is an Arizona corporation, licensed to
transact business and transacting business in Maricopa and Pinal County, Arizona.

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1 attached hereto, marked for identification as Exhibit A, and is incorporated herein by this
2 reference.

3 11. The purpose and effect of the Memorandum of Understanding was to establish
4 a joint venture to develop, build, own and operate a medical marijuana dispensary, pursuant
5 to the Arizona Medical Marijuana Act ("AMMA"), in the Florence, Arizona CHAA.
6 Plaintiff has abided by the terms and conditions of the Agreement.
7

8 12. Defendant HH3 breached the terms and conditions of the Agreement in many
9 ways. Defendant HH3's breaches of the Agreement include, but are not limited to: (1)
10 failing to pay one-half of all costs of the Project on a timely and/or equal basis; (2) Failing to
11 add Plaintiff or one of Plaintiff's agents as an officer of HH3 and to maintain said position;
12 and (3) failing to take reasonable and/or necessary actions in order to secure necessary
13 approvals from the City of Florence, Arizona and/or other sources, in order to develop, build,
14 own and operate a medical marijuana dispensary in the CHAA at issue.
15

16 13. Plaintiff further alleges, upon information and belief, that Defendant HH3
17 breached paragraph 6 of the Agreement by, among other things, initiating, soliciting,
18 encouraging, directly or indirectly, or accepting an offer or proposal regarding the possibility
19 of developing a dispensary location and/or owning and operating a medical marijuana
20 dispensary in the Florence CHAA from or with another Defendant(s), third parties and/or
21 Does I-X and/or by violating the confidentiality provisions of the Agreement between
22 Plaintiff and HH3.
23

24 14. Plaintiff further alleges, upon information and belief, that Defendant HH3 has
25 entered into an agreement with another Defendant(s), third party or third parties and/or Does
26
27
28

1 I-X regarding the development of the dispensary at issue; and that said agreement does not
2 provide for the participation of Plaintiff therein, all in violation of paragraph 7 of the
3 Agreement.

4
5 15. Plaintiff is entitled to collect its reasonable attorney fees from Defendants, if
6 this matter is contested, pursuant to A.R.S. § 12-341.01.

7 WHEREFORE, Plaintiff demands relief against HH3, as follows:

8
9 1. For Plaintiff's actual damages, in an amount in excess of the minimum
10 jurisdictional requirements of this Court, in an amount to be proved a trial;

11 2. For Plaintiff's taxable court costs;

12 3. For Plaintiff's reasonable attorney fees, if this matter is contested;

13
14 4. For interest on the above at the highest rate authorized by law, from the date of
15 judgment until paid in full; and

16 5. For such other and further relief as is just and proper.

17 **SECOND CLAIM FOR RELIEF**

18 **(Breach of Fiduciary Duty Against All Defendants Except Sanchez and Armstrong)**

19
20 16. Plaintiff hereby realleges paragraphs 1-8 of its General Allegations, and
21 paragraphs 9-15 of its First Claim for Relief, as though the same were fully set forth herein.

22
23 17. By virtue of their positions as shareholders, directors, and/or officers of HH3,
24 Defendants Pahwa and Does I-X owed Plaintiff a fiduciary duty to conduct themselves and
25 to conduct the business of HH3 in a manner calculated to honor its obligations to Plaintiff,
26 pursuant to the Agreement. Defendants Rocky Pahwa, HH3 and Does I-X have and had a
27 fiduciary duty to refrain from appropriating assets, funds or opportunities which belong or
28

1 belonged to Plaintiff and/or to the joint venture between Plaintiff and HH3 for their own
2 private benefit and/or gain.

3 18. The course of conduct of Defendants, beginning in February, 2014, if not
4 before that time, evidences a disregard of the fiduciary duty of Defendants to Plaintiff by: (1)
5 managing HH3 in a way which is reasonably calculated to expel Plaintiff from the joint
6 venture; (2) failure to invest funds in the joint venture and/or to reimburse Plaintiff for
7 HH3's share of the joint venture expenses; (3) failing to maximize the chances of obtaining
8 approval from the City of Florence, Arizona for HH3 to open a medical marijuana
9 dispensary at or near River Bottom Grill, 2501 N. Pinal Parkway, Florence Arizona; (4)
10 conspiring with each other and/or with third parties in an attempt to exclude Plaintiff from
11 participating in the Florence, Arizona CHAA dispensary; (5) upon information and belief,
12 failing to hold necessary corporate meetings; and (6) failure and refusal to disclose
13 information to Plaintiff about HH3 and about actions proposed for future consideration
14 and/or action by HH3.
15

16 WHEREFORE, Plaintiff demands relief against all Defendants, individually and
17 jointly and severally, as follows:
18

19 1. For Plaintiff's actual damages, in an amount in excess of the minimum
20 jurisdictional requirements of this Court, in an amount to be proved a trial;
21

22 2. For Plaintiff's taxable court costs;
23

24 3. For interest on the above at the highest rate authorized by law, from the date of
25 judgment until paid in full; and
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27 4. For such other and further relief as is just and proper.
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THIRD CLAIM FOR RELIEF

**(Interference with Contract Against Defendants Rocky Pahwa, Armstrong,
Sanchez and Does I-X)**

19. Plaintiff hereby realleges paragraphs 1-8 of its General Allegations, paragraphs 9-15 of its First Claim for Relief, and paragraphs 16-18 of its Second Claim for Relief, as though the same were fully set forth herein.

20. Plaintiff had an Agreement or business expectancy with Defendant HH3.

21. Defendants Rocky Pahwa, Scott Armstrong, Sanchez and/or Does I-X knew about the Agreement and/or business expectancy of Plaintiff.

22. Defendant Rocky Pahwa, Defendant Scott Armstrong, Defendants Sanchez and/or Does I-X intentionally interfered with Plaintiff's contractual relationship or business expectancy with Defendant HH3 which caused or contributed to HH3's breach or termination of the Agreement or expectancy to be realized by Plaintiff.

23. Defendants Rocky Pahwa's, Armstrong's, Sanchez' and Does I-X's conduct were improper.

24. Plaintiff suffered monetary damage and loss of its business reputation, as the result of the breach or termination of the Agreement or the business expectancy to be realized by Plaintiff with HH3.

WHEREFORE, Plaintiffs demands relief against Defendants Rocky Pahwa, Armstrong, Sanchez and Does I-X, individually, jointly and severally, as follows:

1 28. Said Defendants converted Plaintiff's monies and/or information to the
2 detriment of and damage to Plaintiff.

3 29. As the result of the above named Defendants' conversion, Plaintiff has been
4 damaged in an amount to be proven at trial, but in an amount not less than the minimum
5 jurisdictional requirements of this Court.
6

7 30. Defendants' conduct was gross, wanton, willful and malicious, and
8 accordingly, they are individually and jointly and severally liable to Plaintiff for punitive
9 damages.
10

11 WHEREFORE, Plaintiff demands relief against Defendants individually and jointly
12 and severally, as follows:

13 1. For its actual damages, in an amount to be proved at trial in an amount in
14 excess of the minimum jurisdictional requirement of this Court, the exact amount of which
15 to be determined by the trier of fact at the time of trial.
16

17 2. For exemplary and punitive damages,

18 3. For Plaintiff's taxable court costs incurred herein.
19

20 4. For interest on the above at the highest rate authorized by law, from the date of
21 judgment until paid in full; and
22

23 5. For such other and further relief as is just and proper.
24

FIFTH CLAIM FOR RELIEF

25 ***(Quantum Meruit/Unjust Enrichment Against Defendants HH3, Pahwa and Does I-X)***

26 31. Plaintiffs hereby realleges paragraphs 1-8 of its General Allegations,
27 paragraphs 9-15 of its First Claim for Relief, paragraphs 16-18 of its Second Claim for
28

1 Relief, paragraphs 19-24 of its Third Claim for Relief, and paragraphs 25-30 of its Fourth
2 Claim for Relief as though the same were fully set forth herein.

3 32. Defendants HH3, Pahwa and Does I-X have been benefitted and enriched, and
4 continue to benefit and be enriched from the funds, advice and/or actions they received from
5 Plaintiff and/or Plaintiff's agents.

7 33. If said Defendants are permitted to retain all benefits of the funds and advice
8 they received and/or from the actions taken by Plaintiff to benefit said Defendants,
9 Defendants will be unjustly enriched at the expense of Plaintiff which has suffered a loss of
10 income and/or assets as the direct result of said Defendants' enrichment.

12 34. There is no justification for this enrichment and loss of income and/or assets
13 and Defendants should not be permitted to benefit from the funds, advice and actions of
14 Plaintiff and Plaintiff's agents, without compensating Plaintiff.

16 35. Plaintiff is entitled to recover damages from said Defendants in a reasonable
17 amount to be determined at the time of trial and any continuing damages.

19 WHEREFORE, Plaintiff requests judgment against Defendants HH3, Pahwa and Does
20 I-X, individually and jointly and severally, as follows:

21 1. For Plaintiff's actual damages, in an amount in excess of the minimum
22 jurisdictional requirements of this Court, in an amount to be proved a trial

24 2. For Plaintiff's taxable court costs;

25 3. For interest on the above at the highest rate authorized by law, from the date of
26 judgment until paid in full; and

27 4. For such other and further relief as is just and proper.
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SIXTH CLAIM FOR RELIEF

(Accounting)

36. Plaintiff hereby realleges paragraphs 1-8 of its General Allegations, paragraphs 9-15 of its First Claim for Relief, paragraphs 16-18 of its Second Claim for Relief, paragraphs 19-24 of its Third Claim for Relief, paragraphs 25-30 of its Fourth Claim for Relief and paragraphs 31-35 of its Fifth Claim for Relief as though the same were fully set forth herein.

37. Plaintiff is entitled to an accounting of all of the financial affairs of Defendant HH3, with regard to the Agreement and with regard to all activities taken, directly or indirectly, by all Defendants, with regard to the CHAA at issue.

38. Plaintiff demand for an accounting arises out of the Agreement and/or their business relationship with Defendant HH3.

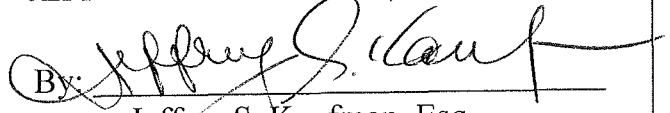
39. Plaintiff is entitled to collect its reasonable attorney fees and accruing costs, if this cause of action is contested, and its accrued and accruing costs.

WHEREFORE, Plaintiff demands relief against all Defendants, jointly and severally, as follows:

1. An accounting of all financial affairs and actions of HH3;
2. For Plaintiff's taxable court costs;
3. For Plaintiff's reasonable attorney fees, if this matter is contested;
4. For interest on the above at the highest rate authorized by law, from the date of judgment until paid in full; and
5. For such other and further relief as is just and proper.

Dated this 25th day of April, 2014.

JEFFREY S. KAUFMAN, LTD.

By: 

Jeffrey S. Kaufman, Esq.
5725 N. Scottsdale Road, Ste. 190
Scottsdale, AZ 85250
Attorney for Plaintiff

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VERIFICATION

STATE OF ARIZONA }
County of Maricopa } ss.

Duke Rodriguez being first duly sworn upon his oath, deposes and states:

- 1. That he is a Member of Plaintiff in the above entitled action;
- 2. That he has read the foregoing Complaint and knows the contents thereof, and

that the matters and things contained therein are true and correct to the best of his knowledge, information and belief.

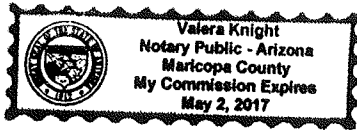
[Signature]
Duke Rodriguez

SUBSCRIBED AND SWORN to before me this 25th day of April, 2014, by Duke Rodriguez.

[Signature]
Notary Public

My Commission Expires:

May 2, 2017



JEFFREY S. KAUFMAN, ESQ.
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6 Bar No. 003269
7 Attorney for Plaintiff

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 ULTRA HEALTH, LLC, an Arizona limited liability company,) Case No.:

) **CERTIFICATE REGARDING**
) **COMPULSORY ARBITRATION**

11 Plaintiff,)

) CV2014-053115

12 vs.)

13 HEALING HEALTHCARE 3, INC., an Arizona)
14 non-profit corporation; RAKESH PAHWA and)
15 GEETA PAHWA, husband and wife; DAVID)
16 SANCHEZ and KATHY SANCHEZ, husband)
17 and wife; SCOTT ARMSTRONG, an unmarried)
18 person, and DOES I-X,)

19 Defendants.)

20 The undersigned certifies that this action is not subject to compulsory arbitration
21 pursuant to the Uniform Rules of Procedure for Arbitration and Local Rule 3.10 for the
22 reason that the amount of money in controversy is greater than \$50,000.00 and because
23 Plaintiff is seeking equitable relief.

24 Dated this 28th day of April, 2014.

25 JEFFREY S. KAUFMAN, LTD.

26 By: _____

27 Jeffrey S. Kaufman, Esq.
28 5725 N. Scottsdale Road, Ste. 190
Scottsdale, AZ 85250
Attorney for Plaintiff

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