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FILED
YOLO SUPERIOR COURT
OCT 17 2017
BY L. MENDOZA
DEPUTY

8 *Attorneys for the People of the State of California*

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10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF YOLO

12 THE PEOPLE OF THE STATE OF CALIFORNIA,) Case No. CV17-1703
13 Plaintiff,)
14 v.) COMPLAINT FOR INJUNCTIVE
RELIEF, CIVIL PENALTIES, AND
15 GREEN DREAM FARMS, INC., a California) OTHER RELIEF
corporation; CLOUD NIRVANA, a California)
16 corporation; STILLWATER TRUST, a California) (Business & Professions Code, § 17200 et
Trust; SPENCER MANNERS, individually and as an) seq.)
17 Officer of Green Dream Farms, Inc.; JOHN ROTH,)
individually and as an Officer of Cloud Nirvana, Inc.;)
18 MIKE ROTH, as Trustee of Stillwater Trust; and) *Exempt from fees per Gov. Code, § 6103*
DOES 1-50, inclusive,)
19 Defendants.)

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21
22 1. Plaintiff, the People of the State of California, by and through Jeff W. Reisig, District
23 Attorney of Yolo County, hereby allege the following upon information and belief.

24 **PARTIES**

25 2. Plaintiff is the People of the State of California. The People bring this action by and
26 through Jeff W. Reisig, District Attorney of Yolo County. The authority of the District Attorney of
27 Yolo County to bring this action is derived from statutory language of the State of California,
28 specifically Business and Professions Code section 17200 et seq.

1 3. Defendant GREEN DREAM FARMS, INC. is and at all times relevant herein was, a
2 California corporation engaged in the cultivation of cannabis in Yolo County at the location of 13500
3 County Road 100 in Woodland, California and with Assessor's Parcel Number ("APN") 027-288-
4 007 ("Parcel 1").

5 4. Defendant CLOUD NIRVANA, INC. is and at all times relevant herein was, a
6 California corporation engaged in the cultivation of cannabis in Yolo County at the location of 13500
7 County Road 100 in Woodland, California and with APN 027-280-008 ("Parcel 2").

8 5. Defendant SPENCER MANNERS is a resident of California. Defendant SPENCER
9 MANNERS was, and remains, the Chief Executive Officer, Secretary, and Chief Financial Officer,
10 of GREEN DREAM FARMS, INC. Defendant SPENCER MANNERS is an operator for the
11 commercial cannabis operation of Defendant CLOUD NIRVANA, INC. At all relevant times,
12 SPENCER MANNERS has the authority to control, and has controlled, the conduct of GREEN
13 DREAM FARMS, INC. and CLOUD NIRVANA.

14 6. Defendant JOHN ROTH is a resident of California. Defendant JOHN ROTH was,
15 and remains, the Chief Executive Officer, Secretary, and Chief Financial Officer of CLOUD
16 NIRVANA, INC.

17 7. Defendant STILLWATER TRUST is the landowner of record for Parcel 1 and Parcel
18 2. Defendant MIKE ROTH is the duly appointed Trustee for STILLWATER TRUST and is
19 considered to the property owner of Parcel 1 and Parcel 2.

20 8. DOES 1 through 50, inclusive, are persons whose names and identities are unknown
21 to the People at this time, and the People therefore sue these defendants by their fictitious names.
22 The People will seek leave to amend this Complaint to allege the true names of DOES 1 through 20
23 once they have been determined. DOES 1 through 50 participated in some or all of the acts alleged
24 herein.

25 9. The named and unnamed defendants in this action are collectively referred to as
26 "Defendants."

27 10. Allegations in this Complaint of Defendants' acts or omissions include the acts and
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1 omissions of Defendants’ officers, agents, employees, and representatives that were committed while
2 acting within the course and scope of their employment or agency on behalf of Defendants.

3 11. All Defendants at all times acted as agents of one another. With regard to the conduct
4 and omissions alleged in this Complaint, each of the Defendants ratified the actions of the other
5 Defendants.

6 JURISDICTION AND VENUE

7 12. This Court has jurisdiction over Defendants because all causes of action asserted in
8 this Complaint arise out of Defendants’ conduct in Yolo County, California.

9 13. Venue is proper in this Court under Code of Civil Procedure section 393 because the
10 causes of action alleged in this Complaint arose out of Defendants’ conduct in Yolo County,
11 California.

12 LEGAL BACKGROUND

13 14. Counties, under their traditional land use and police powers, are authorized to regulate
14 cannabis cultivation within their jurisdictions. (See Cal. Const., art. XI, § 7.)

15 15. California statutory law explicitly recognizes the authority of counties to regulate
16 cannabis cultivation. For example, Proposition 64—a recently passed initiative relating to
17 cannabis—expressly recognizes the ability of local authorities to regulate cannabis activities. (See
18 Bus. & Prof. Code, § 26200 [Division 10 of the Business and Professions Code, the Medicinal and
19 Adult-Use Cannabis Regulation and Safety Act, “shall not be interpreted to supersede or limit the
20 authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed
21 under this division, including, but not limited to, local zoning and land use requirements, business
22 license requirements. . . .”].)

23 16. Consistent with the California Constitution and state law, Yolo County (the “County”)
24 adopted, on March 22, 2016, an ordinance governing cannabis cultivation within its jurisdiction.

25 17. The County amended its cannabis ordinance in October 25, 2016, and under the
26 October 25, 2016 amendment, and still today, cannabis cultivation in the County is prohibited unless
27 it falls within one of two exceptions.
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1 18. The first exception is for “qualified patients.” To come within the exception, a person
2 must, among other things, grow cannabis exclusively for his or her personal medical use, and have
3 cannabis plants that occupy no more than 100 square feet. (Yolo County Code, §5-20.04(A)(1).)

4 19. The second exception is for growers who are growing between 1,000 square feet and
5 43,560 square feet of medicinal cannabis and who must, among other things, meet the permit
6 requirements of two separate regulatory entities.

7 20. The first set of permit requirements come from the Central Valley Regional Water
8 Quality Control Board (“Water Quality Control Board”). Under their rules cannabis cultivator
9 applicants must have submitted to them by October 11, 2016, a Notice of Intent to comply with their
10 Water Quality Control Board order governing cannabis cultivation (“Order R5-2015-0113”).

11 21. The second set of requirements come from the County of Yolo, which requires
12 growers to have both a simple county business license and a special permit, in the form of an
13 operator ID from the Agricultural Commissioner’s Cannabis Task Force, to grow cannabis for
14 medical purposes only. (Yolo County Code, §§ 5-20.04(A)(2) and 5-20.07(G)(2).)

15 22. The Yolo County Cannabis Task Force (“Task Force”)—consists of representatives
16 from the County Department of Agriculture, the County District Attorney’s Office, the County
17 Sheriff’s Office, the County Community Services Department, and the Esparto Fire Department—
18 coordinates to implement the County’s cannabis ordinance in the County.

19 23. Before receiving a business license to cultivate cannabis, applicants must submit an
20 application to the Task Force and also receive the Task Force’s approval before cultivating cannabis
21 for medicinal purposes only. Task Force representatives review the permit application for, among
22 other things, completeness and they conduct a site inspection before issuing a permit and allowing
23 business licenses to be issued.

24 24. The County’s permitting process for medicinal-cannabis cultivators requires, among
25 other things, that cultivators pay permitting fees, allow for sample collection for laboratory analysis
26 of their plants, allow for site inspections and testing to protect human health and the environment,
27 and participate in a track-and-trace program intended to ensure that cannabis grown in the County is
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1 compliant with the county code and traceable from planting until retail purchase. (Yolo County
2 Code, § 5-20.04(A)(2)(a).) The track-and-trace program monitors permitted cultivators' cannabis
3 plants throughout the production chain—from initial cultivation to market-ready product sold to
4 medical cannabis related businesses—and ensures that cannabis grown in Yolo County complies
5 with local and state laws and promotes public health and safety.

6 25. The County's cannabis ordinance holds liable owners, tenants, and cultivators who
7 cause or allow a property to be used for cannabis cultivation in violation of the ordinance. (Yolo
8 County Code, § 5-20.07.)

9 **GENERAL ALLEGATIONS**

10 26. Defendants own and operate a commercial cannabis grow on Parcels 1 and 2.

11 27. On or around February 8, 2017, Defendants submitted a Notice of Intent to the Water
12 Quality Control Board for Tier 3 coverage under R5-2015-0113 for Parcel 1 and Parcel 2.

13 28. On or around February 17, 2017, the Water Quality Control Board issued a Notice of
14 Applicability to Defendants for Tier 3 coverage under R5-2015-0113 for Parcel 1 and Parcel 2.

15 29. On or around February 9, 2017, Defendants CLOUD NIRVANA, INC. and JOHN
16 ROTH submitted an application to the Task Force for a County permit to cultivate cannabis in Yolo
17 County. On or around February 14, 2017, Defendants GREEN DREAM FARMS, INC. and
18 SPENCER MANNERS submitted an application to the Task Force for a County permit to cultivate
19 cannabis in Yolo County.

20 30. Defendants did not seek nor have they yet received a business license to lawfully
21 grow cannabis in the County. The County was and still may be prepared under certain conditions to
22 permit Defendants' cannabis grows.

23 31. On or around June 23, 2017, Task Force representatives conducted a site inspection of
24 Parcel 1 and Parcel 2 to assist Defendants in meeting the requirements to become a lawful cannabis
25 cultivator. During the site inspection, Task Force representatives observed unpermitted trailers on
26 the site, which were being used for living quarters, and that there was no gate to the fence
27 surrounding the cultivation site, in violation of Yolo County Code section 5-20.-05(A)(3).
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1 32. Defendants disregarded the County's requests and did not comply with County law.

2 33. On or around July 26, 2017, the Task Force referred Defendants to the Yolo County
3 District Attorney's Office for alleged violations of County law.

4 34. On or around September 1, 2017, the District Attorney's Office met with Defendants
5 SPENCER MANNERS and JOHN ROTH to discuss the alleged violations. The alleged violations
6 included Defendants' failure to: (1) erect a proper fence around their cultivation site(s), in violation
7 of Yolo County Code section 5-20.05(A)(3); (2) timely pay applicable cannabis cultivation fees, in
8 violation of Yolo County Code section 5-20.04(A)(2)(a)(2); and (3) remove unpermitted trailers from
9 the Parcels, one of which was being used as unlawful living quarters, in violation of Yolo County
10 Code section 8-2.1013. Defendants were informed by the District Attorney's Office to correct the
11 violations and comply with all applicable County laws. Defendants agreed to Task Force code
12 enforcement officer reinspect the Parcels for compliance. Defendants were also informed that the
13 trailers found on the Parcels could not be used for living quarters or other habitation.

14 35. Again, Defendants disregarded the County's requests and did not make the necessary
15 changes on their Parcels to comply with County law. On or around September 5, 2017, Task Force
16 representatives conducted a second site inspection. During this site inspection, Task Force
17 representatives observed that Defendants had removed the trailer to just beyond the cultivation area
18 and unlawfully hooked the trailer up to electricity and water. Task Force code enforcement officers
19 also discovered Defendants' failure to correct the fencing issues.

20 36. Defendants even went one step further. On or around October 4, 2017, Task Force
21 code enforcement officers visited the Parcels to take measurements of Defendants' canopy for
22 compliance with the 43,560 square feet requirement under County law. During this site visit, the
23 code enforcement officers discovered Defendants' unlawful cannabis operation in one of the
24 buildings onsite. These cannabis plants were not stamped and tagged for the County's track-and-
25 trace program. The code enforcement officers checked their records and discovered that Defendants
26 had not disclosed the indoor cannabis grow to the Task Force.

27 37. Despite not having a business license to cultivate cannabis, and despite being
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1 previously warned that it is unlawful to have a large, commercial-scale cannabis grow without a
2 business license, Defendants continued to operate an unpermitted cannabis cultivation site without
3 seeking a business license.

4 38. The Defendants have not come into compliance with necessary permit and legal
5 requirements.

6 39. On October 5, 2017 the County Code Enforcement Officer posted Parcels 1 and 2
7 with a Notice to Abate the illegal cannabis, seeking destruction of the illegal crop, fines and
8 penalties.

9 40. Defendants, to this day, are cultivating nearly 3,700 cannabis plants on the Property in
10 violation of Yolo County Code section 5-20.01 et seq.

11 41. Unlike permitted cannabis plants, Defendants' cannabis plants are not sufficiently
12 tracked to ensure that they are used for permitted uses only—that is, for medicinal use within
13 California.

14 42. Unlike permitted cannabis grows, Defendants did not receive a business license for
15 their grow with the Yolo County Department of Agriculture before cultivating the amount of
16 cannabis they planted.

17 43. Unlike permitted cannabis grows, Defendants' cannabis plants have not been tested to
18 ensure against excessive and harmful pesticide use.

19 44. Unlike permitted cannabis grows, Defendants have not paid all permitting fees that all
20 legal medicinal cannabis cultivators are required to pay for the amount of cannabis they planted.

21 45. As of the date of this Complaint, Defendants have never attempted to obtain a
22 business license to cultivate all of the medicinal cannabis they have planted in Yolo County.

23 46. Defendants are knowingly and flagrantly violating Yolo County law, and engaging in
24 conduct that poses a danger to the public health and safety, and a particular danger to those who use
25 Defendants' cannabis for medicinal purposes.

26 47. Defendants intend to harvest the cannabis plants on the Parcels 1 and 2, and release
27 the unregulated cannabis product into state, local, and interstate commerce.
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1 48. Defendants have harvested at least some of the cannabis plants on the Parcels 1 and 2,
2 and have released the cannabis product into state, local, and interstate commerce.

3 49. Unless enjoined by this Court, Defendants will continue to cultivate cannabis on
4 Parcels 1 and 2, and release their cannabis product into state, local, and interstate commerce, in
5 violation of state, federal, and local laws.

6 **FIRST CAUSE OF ACTION**

7 **(Violations of Unfair Competitions Law; Against all Defendants)**

8 **(Bus. & Prof. Code, § 17200 et seq.)**

9 50. The People restate and incorporate all previous paragraphs.

10 51. Section 17200 of the Business and Professions Code prohibits unfair competition—
11 meaning any unlawful, unfair, or fraudulent business act or practice; any unfair, deceptive, untrue, or
12 misleading advertising; and any act prohibited under Business and Professions Code section 17500.

13 52. Within four years of the date of commencement of this action, Defendants engaged in
14 unlawful acts, omissions, and practices that constitute unfair competition within the meaning of
15 Business and Professions Code sections 17200 through 17208—including but not limited to the acts
16 or omissions and practices alleged in this Complaint and the following acts below:

- 17 a. Engaged in the business of cultivating commercial medicinal cannabis without a
18 business license, in violation of Yolo County Code section 5-20 et seq.
- 19 b. Failed to acquire a business license from Yolo County before cultivating cannabis,
20 in violation of Yolo County Code section 5-20.07(G)(1).
- 21 c. Failed to enroll and participate in the track-and-trace program for cannabis
22 cultivation for all cannabis plants and product, and pay any associated fees, in
23 violation of Yolo County Code section 5-20.04(A)(2)(a)(2).

24 53. Unless enjoined by order of the Court, Defendants may or will continue in the course
25 of conduct as alleged in this Complaint.

26 54. Each and every separate unlawful act, and each and very separate cannabis plant
27 grown in violation of County code, constitutes an unlawful or unfair business practice. Each day that
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1 Defendants engaged in each separate unlawful act, omission, or practice is a separate and distinct
2 violation of Business and Professions Code section 17200.

3 55. Based on the above, the People request injunctive relief against Defendants under
4 Business and Professions Code section 17203, and civil penalties against Defendants under Business
5 and Professions Code section 17206, as set forth in the People's prayer for relief.

6 **PRAYER**

7 WHEREFORE, the People respectfully request the following relief:

8 1. That Defendants and their successors, agents, representatives, employees, and assigns
9 be temporarily restrained, preliminary enjoined, and finally permanently enjoined from engaging in
10 unfair competition as defined in Business and Professions Code section 17200, including, but not
11 limited to, the acts alleged in this Complaint on Parcels 1 through 5;

12 2. That the Court assess a civil penalty of TWO THOUSAND FIVE HUNDRED
13 DOLLARS (\$2,500) against Defendants for each violation of Business and Professions Code section
14 17200, in an amount according to proof, but no less than TWO MILLION FIVE HUNDRED
15 THOUSAND DOLLARS (\$2,500,000);

16 3. That the People recover their costs of suit, including costs of investigation;

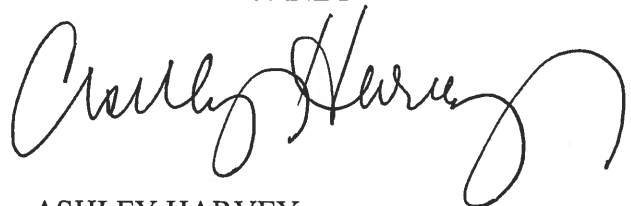
17 4. That the People receive all other relief to which they are legally entitled; and

18 5. That the Court award such other relief that it deems just, proper, and equitable.

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20 Dated: October 17, 2017

Respectfully submitted,

21 JEFF W. REISIG
22 DISTRICT ATTORNEY

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25 ASHLEY HARVEY
26 Deputy District Attorney