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VENTURA
SUPERIOR COURT
FILED

AUG 10 2018

MICHAEL D. PLANET
Executive Officer and Clerk

BY: _____, Deputy

Katie Deutinger

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF VENTURA**

12 H2 PARTNERS, LLC, a California limited
liability company,

13 Plaintiff,

14 vs.

15 UNITED CANNABIS CORPORATION, a
16 Colorado corporation; EARNEST
BLACKMON, an individual; JOHN WALSH,
17 an individual; and DOES 1-25, inclusive,

18 Defendants.

Case No. 56-2018-00516131-CU-FR-VTA

COMPLAINT FOR:

1. FRAUD;
2. BREACH OF CONTRACT;
3. RESCISSION;
4. INTENTIONAL MISREPRESENTATION;
5. NEGLIGENT MISREPRESENTATION;
6. BREACH OF FIDUCIARY DUTY; and
7. PROMISSORY ESTOPPEL

DEMAND FOR TRIAL BY JURY

1 Plaintiff H2 Partners, LLC (“Plaintiff,” “H2,” or “H2 Partners”) alleges the following
2 causes of action against Defendant United Cannabis Corporation (“UCANN”), Earnest “Earnie”
3 Blackmon (“Blackmon”), John Walsh (“Walsh”), and Does 1-25, inclusive, and each of them:

4 **INTRODUCTION**

5 1. This is a case involving new and promising areas of business and technology. It is
6 also a case involving some of the oldest and most unfortunate business practices: making promises
7 knowing that they cannot be kept, failing to disclose blatant and obvious conflicts of interest, and
8 outright lying to get another business’s money.

9 2. In the Spring of 2018, Defendants UCANN, and its officers, Defendants Earnie
10 Blackmon and John Walsh, needed money. Because of that, they lied to Plaintiff H2 Partners about
11 almost everything, and induced H2 Partners into providing UCANN with valuable time, money,
12 and expertise by making false promises, material misrepresentations of fact, omissions of fact, and
13 by failing to disclose blatant and obvious conflicts of interest.

14 3. Cannabidiol (“CBD”) is a naturally occurring cannabinoid constituent of hemp
15 plants. In recent years, researchers have heavily explored CBD’s use for a range of medical
16 conditions, including epilepsy, multiple sclerosis, management of the side effects of chemotherapy,
17 pain management, insomnia, anxiety, and a host of other ailments. Unlike tetrahydrocannabinol
18 (“THC”), which gets users “high” and has other psychoactive effects, CBD does not have these
19 effects. CBD is often ingested by users in the form of CBD oil tinctures. It can also be ingested by
20 sprays, vaporizers, baked goods, powders, and various other means of delivery to the human body.

21 4. Hemp and marijuana plants are related. Both have been selectively bred by humans
22 for millennia. Marijuana plants have largely been bred to enhance THC content for users to
23 experience psychoactive effects when ingesting it by smoking or other means. Hemp plants, on the
24 other hand, have been selectively bred for very different purposes, largely for industrial uses like
25 textiles, fiber and paper-making, and oil produced from seeds. So, while marijuana plants
26 generally have between 10 and 30 percent THC, hemp plants must have less than 0.3 percent THC
27 by law. Hemp plants nevertheless contain CBD and are now farmed for that purpose in addition to
28 more traditional, industrial uses.

1 5. H2 Partners is a company comprised of two members: Legendary Organics
2 Holdings, LLC and Integrated Strategic Support Services, LLC (“ISSS”). ISSS has been at the
3 forefront of developing industrial hemp products, including distributing CBD isolate, distillate,
4 and other related CBD products from industrial hemp. The two companies joined forces to create
5 H2 Partners earlier this year to form a vertically integrated business focused on CBD, from ground
6 up cultivation to creating consumer products.

7 6. On several prior occasions, ISSS had engaged a Colorado company called United
8 Cannabis Corporation (“UCANN”) to “toll” its hemp plant matter (commonly referred to as
9 “biomass”) into CBD isolate. UCANN, via its officers Blackmon and Walsh, held itself out not
10 just as an expert in the “tolling” of hemp biomass into CBD isolate, but also in the growing and
11 cultivation of hemp plants themselves. In truth, and unbeknownst to ISSS and H2 Partners,
12 UCANN had no such CBD hemp cultivation expertise. In many meetings and communications,
13 both verbally and in writing, however, UCANN’s officers expressed that they were “experts” in
14 growing, cultivating, harvesting, and processing hemp for CBD production.

15 7. Employees of UCANN eventually met with H2 Partners and fraudulently
16 convinced H2 to enter into a joint venture with it to grow 600 acres of industrial hemp from hemp
17 seed. Within a few weeks of entering into the joint venture with UCANN, it became clear to H2
18 that UCANN had no idea what it was doing and had never planted industrial hemp intended for
19 CBD production. Later, H2 Partners further discovered that UCANN had hired an incompetent
20 farmer who also had never planted industrial hemp for the production of CBD, and that the farmer
21 overplanted the fields and did not even understand that he needed to weed fields planted with
22 hemp seed for CBD production. Although UCANN represented that the farmer was an expert in
23 farming hemp, he actually only had experience in farming hemp for fiber crops, a very different
24 expertise from farming hemp for CBD.

25 8. UCANN then tried to blame the failure of seeds to germinate not on its own
26 incompetence but on a hailstorm that, in fact, had virtually nothing to do with the failure of seeds
27 to germinate. Making matters worse, it turned out that the incompetent farmer had been selected
28 not on his qualifications (such as they were), but based on an undisclosed partnership with

1 UCANN's CFO, Defendant John Walsh. It turned out that Walsh had a preferential financial
2 interest in the farming of the hemp completely separate from the joint venture's, but neither he nor
3 UCANN ever bothered to disclose this conflict to H2 Partners or in public filings with the SEC
4 and UCANN's shareholders.

5 9. And that was only the tip of the iceberg to UCANN's—and particularly Walsh's—
6 misconduct. H2 recently discovered, based on UCANN's own public filings, that UCANN,
7 through Defendant Walsh, flat out lied to H2 about the amount of money it had spent on the
8 proposed business of the joint venture prior to H2 Partners agreeing to join the business. That
9 lie—that UCANN had spent hundreds of thousands of dollars and thus had its own “skin in the
10 game”—induced H2 to spend over \$650,000 in funds to support the business on the (false)
11 understanding that H2 was merely evening up its investment with that of UCANN's. When Walsh
12 and others at UCANN were confronted with their fraud and lies, they could only hem and haw,
13 and could offer no *coherent* explanation of what they had done and why they had lied.

14 10. In late July 2018, UCANN's CEO, Defendant Earnie Blackmon, agreed to a
15 meeting with H2 in Moorpark, California. H2 asked that UCANN to simply refund the money that
16 it had invested in the joint venture. In exchange, H2 was prepared to drop the issues, and for both
17 parties to go their separate ways. Blackmon agreed to H2's proposal. However, UCANN reneged
18 on that very generous arrangement, almost immediately after Blackmon left Moorpark. It turned
19 out that Blackmon's promise to repay H2 was just another in the long pattern of UCANN lies and
20 deceit discussed below.

21 11. By this action, H2 seeks to make itself whole, by recouping all of its investments
22 into the joint venture, by recouping its lost profits, which total *at least* \$16 million (based on the
23 results of another hemp planting venture in the same area during this same planting season), and
24 by having UCANN and the other Defendants punished in an amount sufficient to deter them from
25 engaging in further unlawful, malicious, and fraudulent conduct of the type here.

26 JURISDICTION AND VENUE

27 12. Jurisdiction is proper in the Superior Court of the State of California for the County
28 of Ventura pursuant to Code of Civil Procedure section 410.10. Venue is proper in Ventura County,

1 California pursuant to sections 392 et seq. of the Code of Civil Procedure (i.e., Part 2, Title 4,
2 Chapter 1 of the Code of Civil Procedure).

3 **THE PARTIES**

4 13. Plaintiff H2 Partners, LLC is a citizen of both the States of California and of
5 Colorado. It is a limited liability company (“LLC”) organized under the laws of the State of
6 California, with members who are California and Colorado citizens. *See Johnson v. Columbia*
7 *Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006); *Article Americold Realty Tr. v.*
8 *Conagra Foods, Inc.*, 136 S.Ct. 1012, 1015 (2016). H2’s principal place of business is in Newbury
9 Park, California

10 14. Defendant United Cannabis Corporation (“UCANN”) is a citizen of the State of
11 Colorado: on information and belief, it is a corporation with its principal place of business in
12 Golden, Colorado and it is incorporated under the laws of the State of Colorado.

13 15. On information and belief, Defendant Earnest “Earnie” Blackmon is a citizen of the
14 State of Colorado. On information and belief, Blackmon is the Board Chairman and Chief
15 Executive Officer (“CEO”) of UCANN.

16 16. On information and belief, Defendant John Walsh is a citizen of the State of
17 Colorado. On information and belief, Walsh is the Chief Financial Officer (“CFO”) of UCANN.

18 17. H2 is ignorant of the true names and capacities of Defendants Does 1 through 25
19 and therefore sues these Defendants by such fictitious names. H2 will amend this Complaint to
20 allege these Defendants’ true names and capacities when ascertained. On information and belief,
21 each of these Defendants is responsible and liable in some manner for the events alleged herein
22 and damages caused thereby. On information and belief, Defendants, and each of them, conspired
23 with each other in doing all that is alleged herein, making the actions of any Defendant attributable
24 to all Defendants. On information and belief, at all times relevant hereto, Defendants, and each of
25 them, were agents of one another and in doing the things alleged in this Complaint were acting in
26 concert and within the course and scope of such agency and with the knowledge and consent of
27 each other.

28

GENERAL ALLEGATIONS

H2 Partners and UCANN Enter Into a Joint Venture

1
2
3 18. H2 Partners and UCANN agreed in the Spring of 2018 to form a joint venture to
4 grow, cultivate, and harvest industrial hemp and convert the biomass obtained from the industrial
5 hemp crop into CBD isolate, distillate, and other related CBD products. Prior to agreeing to enter
6 into the joint venture, UCANN had represented that that it had expertise and competence in
7 growing and farming industrial hemp crop for purposes of CBD. These representations were false.
8 But for those representations, H2 Partners would have never agreed to enter into any type of
9 relationship with UCANN.

10 19. A binding Letter of Intent signed by both parties on May 8, 2018 reflects the
11 general terms of the agreement. Furthermore, by operation of law, a joint venture was formed
12 when the parties agreed by words and conduct to share in the profits and losses of a jointly
13 managed business.

14 20. H2 Partners' primary role in the joint venture was to distribute and sell the final
15 CBD products. UCANN's primary role was to arrange the planting, cultivating, and harvesting of
16 six hundred (600) acres of hemp crops in Colorado. Additionally, UCANN was to transport the
17 harvested industrial hemp crop (the "Biomass") to UCANN's Colorado extraction facility, and
18 through UCANN's extraction process convert the Biomass into CBD isolate and other products
19 that H2 Partners and UCANN agreed to create at the time of processing.

20 21. Regarding the share of profits and losses from the sale of products, the Letter of
21 Intent specified that if the Biomass used to manufacture the CBD products came from the 600 acre
22 joint venture cultivation, the net profits from the sale of the CBD products by H2 would be split
23 evenly between H2 and UCANN.

24 22. Regarding costs and expenses, the Letter of Intent specified that all expenses and
25 installment costs reflected in an attached Cultivation and Funding Calendar would be borne
26 equally by the parties and that each partner would make an initial capital contribution of \$650,000
27 to the joint venture. Additionally, per the Cultivation and Funding Calendar, each party was
28 required to make periodic capital contributions during the growing season.

1 23. The Letter of Intent acknowledged that H2 Partners had *already* previously in good
2 faith advanced funds to the joint venture equal to 25% of the \$700,000 (i.e., \$175,000) budgeted
3 for industrial hemp seeds from one purveyor, HGH Seed, Inc.

4 24. The Letter of Intent specified that it was binding and that it “reflects the intention
5 of the parties, and shall give rise to a legally binding and enforceable obligation by the parties as
6 respects the matters set forth herein.”

7 **UCANN’s False Representations of Expenditures Coerce H2 Partners to Invest \$650,000**

8 25. In April 2018, UCANN’s CFO, Defendant John Walsh, represented to H2 Partners
9 that UCANN had actually spent \$394,788 towards the business of the joint venture, and attached a
10 schedule of costs reflecting that amount. On information and belief, UCANN had not actually
11 spent this money at the time, and UCANN and Walsh knew that UCANN had not done so.

12 26. By early May, documents UCANN shared with H2 reflected approximately
13 \$440,000 in costs advanced by UCANN towards the business of the joint venture. On information
14 and belief, UCANN had not actually spent this money at the time, and UCANN knew that it had
15 not done so.

16 27. On information and belief, UCANN lied about the money it had spent towards the
17 business of the proposed joint venture to induce H2 Partners to front money for the business and to
18 join the venture as a joint venture partner. By representing that it had spent roughly \$440,000,
19 UCANN falsely induced H2 into believing that H2 had “skin in the game” and, accordingly, was
20 confident in the business of the proposed joint venture. But for these and other material
21 misrepresentations, H2 would have never agreed to go forward with the joint venture, much less
22 agreed to advance over \$650,000 to UCANN to fund the joint venture.

23 28. On May 6, 2018, UCANN’s Chief Operating Officer, Chad Ruby, told H2 Partners
24 that UCANN needed to make a seed payment of \$125,000 first thing the next day. As a result,
25 UCANN’s representations coerced H2 Partners into doing right by its putative “partner” in the
26 joint venture and investing another \$125,000 to pay for additional seed beyond what the initial
27 \$175,000 seed payment reflected in the Letter of Intent. This pattern of submitting false
28 documentation and demanding additional payment for seed and other business expenses continued

1 for months. By the time H2 Partners learned the truth, H2 Partners was out \$650,000 and had
2 foregone firm opportunities to fund the growing of hemp elsewhere during the 2018 growing
3 season, whereby H2 could have made *at least* \$16 million in profits (and potentially many times
4 that depending on how H2 distributed the CBD products).

5 **UCANN Delays and Refuses to Provide H2 Partners With Documentation and**
6 **Information Necessary for The Proper Functioning of the Joint Venture**

7 29. On May 9, 2018, a day after the binding Letter of Intent was executed, H2's Brian
8 Newberry asked UCANN to send copies of any licenses they obtained for processing and growing,
9 in addition to any other documentation from the State of Colorado relating to hemp agricultural
10 compliance. Newberry requested that they be sent by the next day at the latest so that H2 could
11 begin preparing final documents for the joint venture and making arrangements to insure the
12 crops. Walsh responded that UCANN did not yet have the requested documentation, but that
13 UCANN would send a complete package once all the certifications were issued.

14 30. On June 21, 2018, H2's Patrick Spillane emailed UCANN a request for several
15 outstanding deliverables. These included: (a) documentation of the funds expended by UCANN
16 towards the cultivation joint venture; (b) copies of all Colorado Department of Agriculture issued
17 licenses for all lands approved for and under hemp cultivation by the joint-venture; (c) copies of
18 all agreements with landowners, farmers, and growers associated with the joint venture; and (d) an
19 updated cash flow for the joint venture. Spillane noted that Walsh had previously provided H2
20 Partners with a schedule of expenses supposedly incurred by UCANN through April 26, 2018, but
21 never provided copies of the 18 corresponding itemized expenses or invoices, nor copies of
22 canceled checks or other proof of remittance. Spillane stated that other than the funding of seed
23 purchases in April and May, H2 Partners had received no follow-up communication on other joint
24 venture expenses, capital requirements, and the like.

25 31. Walsh responded and outright refused to provide the information to UCANN's joint
26 venture partner, H2, in a timely fashion.

27 32. A week later, on June 28, 2018, Spillane followed up on Walsh's refusal, reminding
28 Walsh that this was information H2 had been requesting since the inception of the joint venture.

1 Spillane explained that H2 had a board meeting scheduled for July 2, 2018, and having the
2 information before the meeting was crucial. Spillane explained that receipt of the requested
3 information was imperative in attempting to place crop insurance on the joint ventures' activities
4 and that the lack of this information prevented coverage for supposed hailstorm damage from the
5 previous week (discussed below).

6 33. On June 29, 2018, a few days after members of H2 Partners had flown to Colorado
7 (discussed further below), Walsh finally relented and began to share some of the requested
8 information through a "Dropbox" folder, claiming that he would populate it with the documents
9 requested by Spillane. However, the folder's contents grew slowly, and often only included draft
10 or unsigned versions of agreements and leases. By the time representatives of H2 and UCANN
11 met on July 20, 2018 to discuss many issues between the parties, all the requested documentation
12 was *still* not in the Dropbox folder.

13 **A Colorado Hailstorm Covers Acres of Hemp Fields**
14 **and Uncovers UCANN's Self-Dealing and Incompetence**

15 34. On June 19, 2018, UCANN's Chief Executive Officer, Earnie Blackmon texted
16 H2's Newberry and Spillane that, due to severe hailstorms the night before, an entire hemp field
17 was lost, requiring replanting of the field with additional seeds. Blackmon confirmed that the
18 fields were flooded, but that they would not know until later in the week how the crop fared.

19 35. Blackmon later advised that the hail destroyed 130 acres of crop, and 200 acres
20 were 5 inches under water, leaving 200 acres still growing and 100 acres to plant in the coming
21 weekend. Blackmon's message to H2 Partners translated to a 50% crop loss.

22 36. H2 Partners advised Blackmon that Shaun Crawford, a Colorado expert in hemp
23 farming and a member of ISSS (one of the constituent members of H2), was to inspect the
24 damaged fields. H2 advised that Crawford and others at H2 would visit the fields the coming
25 Monday, June 25, to view the supposed damage.

26 37. Blackmon responded that UCANN would need to know by the next day if they
27 were going to replant, which would cost an additional \$250,000 in seed. On June 21, 2018,
28 Blackmon urged H2 Partners to commit to replanting the supposedly damaged fields. Before

1 making such a commitment, however, H2 requested that Blackmon provide a formal assessment of
2 the damage, including: (a) what was lost to hail and what was lost to flood; (b) how many acres;
3 (c) where the replacement seed would come from; (d) what seed would be replanted; (e) how
4 much it would cost; and (f) other information relevant to assessing damage. Blackmon stated that
5 the acres damaged by hail were a total loss and needed a complete rework.

6 38. H2 Partners responded that if such damage had occurred, it was Blackmon's
7 responsibility as CEO of UCANN to communicate to all joint venture partners in writing the
8 extent of the damage, recommend corrective actions (and corresponding expenses), and provide
9 sufficient notice for a collaborative decision to be made by all concerned parties. H2 explained
10 that the type of decision Blackmon was urging was not one to be made overnight and without
11 adequate input from the entirety of H2 Partners. H2 further advised that any action taken by
12 UCANN without partnership agreement would be at UCANN's expense and for the benefit of the
13 partnership.

14 39. Blackmon responded by reiterating that the field was a total loss and that, if
15 replanting were to occur, waiting until after H2 Partners visited the fields the next week would be
16 too late. Blackmon stated that either H2 split the cost for additional seeds for the damaged acreage,
17 or that H2 and UCANN only farm 500 acres together. Blackmon further stated that if UCANN
18 bought the seeds necessary for replanting, they would be UCANN's seeds, and not for the benefit
19 of the joint venture. These types of threats were clear breaches of fiduciary duty.

20 40. H2 advised that Blackmon's threats did not qualify as partnership communications
21 as they neglected certain members of H2 Partners. H2 further advised that H2 personnel was
22 flying out to inspect the field personally, and that UCANN was not authorized to do any planting
23 before then. H2 further explained that due to Walsh's abject refusal to provide requested
24 underlying information in a timely fashion, H2 had been unable to place crop insurance before the
25 hailstorm. This caused serious harm to the joint venture's business (assuming that the crops had in
26 fact been damaged by the hail).

27 41. Blackmon responded by suggesting that H2 and UCANN terminate the joint
28 venture. Specifically, Blackmon stated: "Why don't we just give you your money back and call it a

1 day . . . As your managing partner I'm telling you what needs to happen to be successful. Time is
2 critical." H2 responded that they were committed to the success of the joint venture.

3 42. On June 25 and 26, 2018, H2 Partners toured the supposedly damaged fields and
4 UCANN's facilities in Colorado. While visiting, H2 learned, for the first time, that:

- 5 (a) The 100+ acres that were allegedly lost to hail was not damaged by the hailstorm,
6 *because the seeds had not yet sprouted from the soil* by the time of the hailstorm.
- 7 (b) The Chief Farmer hired by UCANN, Matt Yocam, was inexperienced in growing hemp
8 to convert into CBD products. Instead, his only area of supposed competence was how
9 to grow hemp *for hemp fiber products*, a very different art from growing hemp for
10 CBD.
- 11 (c) That Walsh, UCANN's CFO, is a 40% partner in NEC Agri Services, with another
12 partner being Yocam. NEC Agri Services' Yocam owns approximately 100 acres used
13 by the joint venture. This explained why UCANN would hire the incompetent Yocam
14 as Chief Farmer. UCANN had no explanation for why it never disclosed this obvious
15 conflict to H2 Partners or in public filings with the SEC and UCANN's shareholders.
- 16 (d) Yocam planted 5000 seeds per acre when it is customary to plant 1500 seeds per acre,
17 resulting not only in wasted seed, but decreasing the likelihood of successful
18 germination of the seeds. Furthermore, Yocam planted these 5000 seeds per acre on his
19 own 100 acres, i.e., he (incompetently) tried to favor his own acres over the acres of the
20 joint venture.
- 21 (e) Yocam assigned to another farmer the task of planting the remaining 400 acres he was
22 hired to plant. Additionally, the seeding machine used by this farmer malfunctioned
23 throughout the process, and UCANN made no efforts to remediate the harm of the
24 malfunctioning, nor inform H2 Partners.
- 25 (f) The 100+ acres that were allegedly lost to hail was on land leased by the joint venture
26 but assigned to Yocam and Walsh's NEC Agri Services entity, and not assigned to the
27 joint venture, even though the joint venture had directly leased the land.
- 28 (g) UCANN never hired people to weed and maintain the fields, a necessary condition to
successful seed germination and industrial hemp CBD plant growth. Yocam apparently
did not understand that, unlike hemp farming for fiber products, hemp farming for
CBD required weeding and constant maintenance and care. Indeed, documentation
Walsh shared with H2 Partners in the preceding months expressly budgeted for the
hiring of people for weeding and crop maintenance.
- (h) Although planting was supposed to begin in May, it appeared that planting had not
begun until mid-to-late June. In fact, UCANN did not file for State of Colorado
Department of Agriculture industrial hemp permits on the land actually cultivated until
June 13, 2018, very late in the season for seed-based hemp cultivation.
- (i) On the supposedly damaged fields, Yocam had used a strain of seed with *only a 10%
germination rate*—not the HGH, Inc. seed largely paid for by H2 Partners in the joint
venture agreement. Typically, seeds have a germination rate of at least 80%.
- (j) In addition to the incompetent Yocam, UCANN also hired a "Chief Grower" who was
not experienced in growing outdoors, but instead primarily specialized in indoor

1 growing. Further, the Chief Grower admitted to H2 Partners that he had never stepped
2 foot on the land that had been planted.

3 (k) H2 learned that 25% of the HGH, Inc. seed purchased by H2 Partners was not planted
4 at all—instead, UCANN held onto it apparently for its own use—and that it was now
5 too late in the season to plant it.

6 (l) Blackmon, UCANN's CEO, was on vacation during the primary planting period in the
7 week preceding and the week of the hailstorm. Blackmon failed at all levels to protect
8 and ensure the success of the joint venture and to ensure the substantial investment and
9 the expected multimillions of dollars in profits.

10 43. On July 3, 2018, Spillane emailed UCANN and H2 advising that several pieces of
11 information were *still* missing from Walsh's Dropbox. Spillane further stated that, based on (i) H2
12 Partners' inspection of the fields the week prior, (ii) recently discovered information, (iii)
13 additional field observations by Shaun Crawford, and (iv) several discussions with Walsh over the
14 preceding two days, it had become clear that H2 and UCANN needed to meet and work through
15 the joint venture's next steps, develop a revised cultivation budget, and assess the viability of the
16 current farming program, its staffing, and activities necessary to achieve a successful harvest.

17 44. Spillane suggested that Blackmon and Walsh meet H2 Partners in Moorpark,
18 California, on July 11 or 12, as Blackmon was on holiday again during that present week. On July
19 5, 2018, Walsh responded that, because UCANN's field employees were not going to have any
20 time available to meet and update Walsh with an estimate of remaining costs to harvest the various
21 fields until the end of the next week, the earliest practicable meeting date would be after July 16,
22 2018.

23 **Blackmon And H2 Partners Agree To Terminate The Joint Venture, But UCANN Reneges**

24 45. On Friday, July 20, 2018, Blackmon met with H2 Partners in Moorpark, California
25 to discuss the joint venture. As memorialized in an email sent by Spillane to Blackmon and
26 UCANN, Blackmon and H2 reached a verbal Mutual Termination Agreement at the meeting
27 whereby H2 and UCANN would mutually terminate the joint venture agreement as outlined in the
28 binding Letter of Intent. In exchange, UCANN would immediately refund H2 Partners' \$650,000
investment. Blackmon committed to providing H2 with a repayment schedule early the following
week. The Mutual Termination Agreement was based on a desire to avoid litigation over the many

1 issues reviewed at the meeting that morning and was in the interests of allowing both H2 Partners
2 and UCANN to proceed independently without the distraction of litigation.

3 46. On Monday, July 23, 2018, UCANN's General Counsel responded to Spillane's
4 email on behalf of Blackmon and UCANN. Although he was not present at the July 20, 2018
5 meeting, he purported to deny that Blackman had agreed to repay H2's \$650,000, claiming instead
6 that UCANN had suffered its own damages as a direct consequence of being induced to perform.

7 47. Spillane promptly responded to the General Counsel, stating that H2 looked
8 forward to receiving Blackmon's promised repayment schedule for remittance of the \$650,000
9 investment.

10 48. After waiting until the end of the week, UCANN responded on July 27, 2018 to
11 Spillane by arguing that no definitive agreement had ever been reached by the parties of the joint
12 venture, and that under his reading of the Letter of Intent, instead of paying H2 Partners back its
13 \$650,000, UCANN would elect to provide H2 Partners with 25% of equivalent industrial hemp
14 seeds paid with the amounts advanced by H2 Partners. UCANN stated that the decision to not pay
15 back H2 was made after UCANN conferred internally and with the benefit of counsel.

16 49. Further attempts to resolve the parties' dispute were met with further lies by
17 UCANN. H2 has thus concluded that the only way to deal with UCANN is by this suit.¹

18 50. On information and belief, UCANN officers not yet named as defendants in this
19 complaint were involved in the preceding allegations. H2 Partners will amend this complaint and
20 personally serve these individuals upon acquiring sufficient information.

21
22
23
24
25
26 ¹ By saying that no agreement had ever been reached, UCANN's General Counsel
27 effectively repudiated the Letter of Intent, and the arbitration and venue clause therein.
28 Furthermore, given the extensive fraud committed by UCANN in inducing H2 to sign the Letter of
Intent, the arbitration clause is not enforceable because it was fraudulently induced.

1 **FIRST CAUSE OF ACTION**

2 **Fraud**

3 **(Against all Defendants)**

4 51. H2 Partners realleges and incorporates by reference the preceding allegations of
5 this Complaint.

6 52. Defendants, and each of them, did intentionally conceal the true facts from or
7 otherwise intentionally make misrepresentations to H2 Partners to induce H2 Partners to enter into
8 a joint venture with it for the express purpose of benefiting themselves, notwithstanding the
9 financial detriment they knew would befall H2 Partners.

10 53. H2 did in fact reasonably rely on Defendants' misrepresentations and omissions to
11 its detriment.

12 54. As a result of the foregoing, Plaintiff has been damaged in an amount to be
13 determined according to proof at trial.

14 55. The acts of Defendants, and each of them, alleged herein were done intentionally,
15 maliciously, despicably, oppressively and with the deliberate intent of defrauding H2 Partners for
16 the express purpose of benefiting themselves from the detriment they knew they were causing to
17 H2 Partners such that H2 Partners is entitled to recover exemplary and punitive damages against
18 Defendants and each of them.

19 **SECOND CAUSE OF ACTION**

20 **Breach of Contract**

21 **(Against UCANN)**

22 56. H2 Partners realleges and incorporates by reference the preceding allegations of
23 this Complaint.

24 57. H2 Partners performed all obligations required of it under the terms of the binding
25 Letter of Intent.

26 58. UCANN breached the binding Letter of Intent by not providing Plaintiff with
27 required information in a timely manner, by failing to perform its obligations in good faith to
28 finalize a long form agreement, by failing to perform its obligations in good faith to timely arrange

1 the planting, cultivation, harvesting, and storage of six hundred (600) acres of industrial hemp
2 crops, by engaging in self-dealing, and by encumbering the CBD products that were to be
3 delivered to H2 Partners at a reasonable price.

4 59. UCANN breached the binding Letter of Intent, and the covenant of good faith and
5 fair dealing set out therein, by failing or refusing to repay H2 Partners' \$650,000 in contributions
6 to the joint venture after its CEO, Earnest Blackmon, agreed to make the repayment.

7 60. In doing all that is alleged herein, UCANN breached the covenant of good faith and
8 fair dealing implied in the binding Letter of Intent by depriving Plaintiff of the intended benefit of
9 its bargain with respect to the binding Letter of Intent.

10 61. As a result of the foregoing, H2 Partners has been damaged in an amount to be
11 determined according to proof at trial.

12 **THIRD CAUSE OF ACTION**

13 **Rescission**

14 **(Against UCANN)**

15 62. H2 Partners realleges and incorporates by reference the preceding allegations of
16 this Complaint.

17 63. To the extent that H2 Partners entered into a joint venture by operation of law
18 and/or through the binding Letter of Intent, it did so based upon intentional misrepresentations,
19 fraudulent concealment of material facts, and negligent misrepresentations by UCANN. If the
20 Court determines that H2 are in fact still in a joint venture with UCANN, then H2 Partners are
21 entitled to rescission based on fraud, negligent misrepresentation, mistake of fact, material breach
22 of contract and/or failure of consideration, each of which provides a separate and independent
23 basis for full rescission and for the return of all consideration provided to UCANN.

24 64. Accordingly, Plaintiffs seek rescission of the contract pursuant to California Civil
25 Code § 1689.

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FOURTH CAUSE OF ACTION

Intentional Misrepresentation

(Against all Defendants)

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4 65. H2 Partners realleges and incorporates by reference the preceding allegations of
5 this Complaint.

6 66. Defendants, and each of them, made several representations to H2 Partners
7 regarding the costs UCANN had expended in pursuit of the joint venture, the need for additional
8 funds from H2 Partners to purchase additional seed, and the need for replanting of fields allegedly
9 damaged by weather. Defendants, and each of them, further omitted crucial facts related to the
10 planting, cultivation, and harvesting activities of the joint venture and of the conflicts of interest of
11 Defendant Walsh. Defendants made several additional promises.

12 67. H2 Partners is informed and believes, and based thereon alleges, that Defendants
13 knew that these representations were false when made or made the representations recklessly and
14 without regard for their truth. H2 Partners is informed and believes, and based thereon alleges, that
15 Defendants knew that they were required to disclose certain facts but knowingly chose not to.

16 68. Defendants intended for H2 Partners to rely on these representations and omissions.
17 H2 Partners did reasonably rely on the representations and omissions to its detriment.

18 69. H2 Partners was harmed by Defendants' false representations and omissions in an
19 amount that will be proven at trial.

20 70. In committing the conduct alleged above, Defendants acted intentionally,
21 maliciously and oppressively, with a willful and conscious disregard of H2 Partners' rights, so as
22 to constitute oppression, fraud or malice under the law. Accordingly, H2 Partners is entitled to
23 recover punitive and exemplary damages in an amount sufficient to punish Defendants and to
24 deter similar conduct in the future.

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1 **FIFTH CAUSE OF ACTION**

2 **Negligent Misrepresentation**

3 **(Against all Defendants)**

4 71. H2 Partners realleges and incorporates by reference the preceding allegations of
5 this Complaint.

6 72. Defendants, and each of them, made several representations to H2 Partners
7 regarding the costs UCANN had expended in pursuit of the joint venture, the need for additional
8 funds from H2 Partners to purchase additional seed, and the need for replanting of fields allegedly
9 damaged by weather. Defendants, each of them, further omitted crucial facts related to the
10 planting, cultivation, and harvesting activities of the joint venture and of the conflicts of interest of
11 Defendant Walsh. Defendants made several additional promises.

12 73. Defendants made these representations negligently, without reasonable regard for
13 the truth of the representations, with the intent to induce H2 Partners' reliance.

14 74. H2 Partners reasonably relied on the false representations to its detriment.

15 75. H2 Partners was harmed by Defendants' false representations and omissions in an
16 amount that will be proven at trial.

17 **SIXTH CAUSE OF ACTION**

18 **Breach of Fiduciary Duty**

19 **(Against UCANN)**

20 76. H2 Partners realleges and incorporates by reference the preceding allegations of
21 this Complaint.

22 77. As a partner to the joint venture with H2 Partners, UCANN owed fiduciary duties
23 to H2 Partners, including, but not limited to, duties of care, loyalty and good faith. As H2 Partners'
24 fiduciary, UCANN was obligated to act in the best interests of H2 Partners and to put the joint
25 venture's interests before its own.

26 78. Nevertheless, rather than looking out for the joint venture's best interests, UCANN
27 used joint venture resources for its own benefit. UCANN breached its fiduciary duties by, among
28 other things:

- 1 (a) Falsifying expenses and costs incurred by UCANN for the benefit of the joint
2 venture as a means of coercing H2 Partners to invest;
- 3 (b) Hiring incompetent individuals to be in charge of the planting, cultivation, and
4 harvesting activities of the joint venture;
- 5 (c) Falsely blaming crop failures on weather rather than on the incompetence of
6 persons it hired; and
- 7 (d) Partnering with the same incompetent individuals to double-dip in the joint
8 venture's investment, and not disclosing this partnership prior to H2 Partners'
9 funding of the joint venture.

10 79. As the direct and proximate result of those breaches of fiduciary duties, H2
11 Partners has been damaged in a sum not yet ascertainable but which will be determined according
12 to proof at the time of trial.

13 80. H2 Partners is also entitled to punitive damages against UCANN in that UCANN
14 engaged in prohibited self-dealing, fraudulently concealed its actions from H2 Partners, and
15 generally abused the trust and confidence placed in it by H2 Partners. UCANN acted in willful and
16 conscious disregard of the rights and interests of H2 Partners and with the deliberate intent of
17 defrauding H2 Partners for the express purpose of benefiting itself. The amount of punitive
18 damages is to be determined by the jury at the time of trial.

19 **SEVENTH CAUSE OF ACTION**

20 **Promissory Estoppel**

21 **(Against UCANN and Blackmon)**

22 81. H2 Partners realleges and incorporates by reference the preceding allegations of
23 this Complaint.

24 82. UCANN and Blackmon made clear and unambiguous promises to H2 Partners,
25 including without limitation Blackmon's promise July 20, 2018, on behalf of all Defendants, that
26 the full debt owed by Defendants to H2 Partners would be paid in installments and repaid in full.

27 83. H2 Partners relied upon UCANN and Blackmon's promises to its substantial
28 detriment or injury.

1 84. H2 Partners reliance upon UCANN and Blackmon’s promises was reasonable and
2 foreseeable.

3 85. It would be unjust and inequitable to allow UCANN and Blackmon to avoid the
4 enforcement of the promises it made to H2 Partners and/or to avoid the obligations they assumed
5 and have not performed.

6 86. As a direct and proximate result of UCANN and Blackmon’s conduct, H2 Partners
7 has been damaged by its foreseeable reliance on UCANN and Blackmon’s promises, and UCANN
8 and Blackmon have been unjustly enriched by H2 Partners’ foreseeable reliance on UCANN and
9 Blackmon’s promises.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, H2 Partners, LLC prays for judgment to be entered in its favor and against
12 Defendants as follows:

- 13 1. For general and special damages in an amount to be proven at trial, but not less
14 than \$16,650,000;
- 15 2. For punitive and exemplary damages in an amount to be determined at trial, in an
16 amount sufficient to deter Defendants and others from engaging in such misconduct
17 in the future, and in the maximum amount permissible under the respective
18 Constitutions of the United States and the State of California;
- 19 3. For pre-judgment and post-judgment interest at the maximum legal rate;
- 20 4. For reasonable attorneys’ fees allowable by law;
- 21 5. For costs of suit; and
- 22 6. Such other relief as this Court deems just and proper.

23 DATED: August 10, 2018

KINSELLA WEITZMAN ISER
KUMP & ALDISERT LLP

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25
26 By: Jonathan P. Steinsapir
Jonathan P. Steinsapir
27 Attorneys for Plaintiff H2 Partners, LLC
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DEMAND FOR JURY TRIAL

Plaintiff H2 Partners, LLC hereby demands a trial by jury on all issues so triable.

DATED: August 10, 2018

Respectfully Submitted:

KINSELLA WEITZMAN ISER
KUMP & ALDISERT LLP

By: Jonathan P. Steinsapir
Jonathan P. Steinsapir
Attorneys for Plaintiff H2 Partners, LLC

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