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County of Mendocino

By: 
J. Lozano
Deputy Clerk

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **IN AND FOR THE COUNTY OF MENDOCINO**

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

21 Plaintiffs,

22 v.

23 BRUCE SMITH, STEVE WHITE and DOES
24 1-50, inclusive.

25 Defendants.

Case No: 21CV00588

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

INTRODUCTION

1. Although RICO (18 United States Code sections 1961 – 1968) is a federal statutory scheme, it is well settled that state courts have concurrent jurisdiction with federal courts over alleged violations of the civil provisions of RICO. *Cianci v Superior Court*, 40 Cal. 3d 903, 910-916 (1985). The elements of a civil RICO claim include (1) conduct that harms plaintiff's business or property; (2) in connection with an enterprise that affects interstate commerce; and (3) a pattern of racketeering activity. *Gervase v Superior Court*, 31 Cal. App. 4th 1218, 1228-1234 (1995)

2. RICO applies to both private and government entities generally and includes law enforcement activities. *Diaz v Gates*, 420 F.3d 897 (9th Cir. 2005) (en banc); *U.S. v Thompson*, 685 F. 2d 993 (6th Cir. 1982) (en banc). It is one of few civil remedies available for citizens to challenge government corruption. In this case, the government officials responsible for acting as the checks and balances on corrupt police practices authorized, encouraged and/or condoned those activities.

3. In Mendocino County certain corrupt law enforcement officers are above the law because the Sheriff's Office and the District Attorney's Office have given officers the green light to steal marijuana, guns and cash under color of law. At least some of the local judges have been willfully blind to unlawful conduct by local law enforcement that is common knowledge among many in the community. According to Wikipedia Mendocino County has a population of less than 90,000 residents, and one-third of the local economy centers around marijuana.

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

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 – Sheriff of Mendocino County, Randy Johnson – Undersheriff
14 of Mendocino County, David Eyster – District Attorney of Mendocino County, and Rohnert Park
15 police officers Jacy Tatum and Joseph Huffaker conducted and conspired to conduct the affairs of
16 the Mendocino County District Attorney’s Office and Sheriff’s Office through a pattern of
17 racketeering activity including hundreds of acts of extortion, theft and robbery of marijuana, guns
18 and cash, obstruction of justice, money laundering and tax evasion. In the guise of enforcing the
19 law defendants and their co-conspirators extorted tons of marijuana, stole millions of dollars and
20 hundreds of guns and laundered the proceeds, committing tax evasion and structuring currency
21 transactions to evade detection. They obtained hundreds of search warrants and destroyed and
22 impounded some of the marijuana, cash and guns to maintain the façade that they were enforcing
23 the law to conceal their ongoing pattern of racketeering activity.
24
25

26 BACKGROUND

27 9. Mendocino, Trinity and Humboldt Counties have been known for more than half a
28 century as “the emerald triangle” for the production of cannabis. Thousands of tons of cannabis

1 are produced every year in that emerald triangle and in recent years that translates to billions of
2 dollars in sales proceeds. Power tends to corrupt; absolute power tends to corrupt absolutely.
3 Like law enforcement communities around the United States during the roaring 1920's, most
4 famously Cook County, Illinois, Mendocino County law enforcement succumbed to the same
5 temptations created by Prohibition -- enormous power and profits.

6
7 10. On information and belief co-conspirator Tom Allman's family members have
8 been cannabis growers in Humboldt County for decades. Co-conspirator Undersheriff Randy
9 Johnson's brother and father were raided by the DEA in 2012 and 500 cannabis plants were
10 seized from their property located next door to Randy's residence in Mendocino County. But no
11 charges were ever filed. On January 30, 2014 in Smith County, Texas co-conspirator Jacy
12 Tatum's brother-in-law was arrested while transporting \$1.2 million worth of cannabis to Florida.
13 On information and belief Jacy Tatum provided the funds for bail, defense counsel and assisted in
14 arranging release and a sentence of probation.
15

16 11. As detailed herein Tatum has been charged with three felonies including
17 Conspiracy to Commit Extortion Under Claim of Official Right (18 U.S.C. §1951), Tax Evasion
18 (26 U.S.C. §7201), and Falsifying Records in a Federal Investigation (18 U.S.C. §1519). His
19 fellow former Rohnert Park Police Officer Joseph Huffaker has been charged with Conspiracy to
20 Commit Extortion Under Claim of Official Right (18 U.S.C. §371) along with Tatum. Based on
21 details included in the Affidavit of FBI Special Agent William B. Roberts filed March 9, 2021, in
22 U.S. District Court for the Northern District of California it is apparent that Tatum and Huffaker
23 are co-operating as witnesses for the United States government's investigation of law
24 enforcement corruption in Mendocino County which investigation has included grand jury
25 proceedings from at least as early as 2018 and continuing to the present.
26
27
28

1 12. According to FBI Agent Roberts' affidavit, IRS agents have obtained bank records
2 of accounts controlled by Tatum and his wife which establish cash deposits of \$443,059 in 2016
3 alone -- above and beyond the combined \$158,000 non-cash legitimate income Tatum and his
4 wife reported on their 2016 income tax returns. The cash deposits were all made in amounts
5 below \$10,000 to evade the Currency Transaction Reports required by 31 U.S.C. §5313 -- "a
6 common method of narcotics traffickers, money launderers, and income tax evaders as they seek
7 to avoid scrutiny of law enforcement for conducting voluminous amounts of cash transactions,"
8 according to Agent Roberts' affidavit, which also notes that the IRS agents reviewed records of
9 seven (7) bank accounts controlled by Tatum and his wife for the period January 1, 2013, through
10 September 30, 2019.

12 13. On information and belief including purchasing a \$2 million home using a
13 nominee name, for years 2013, 2014, 2015 and 2017 Tatum obtained millions more from his
14 extortionate appropriation of millions of dollars of cannabis and cash while pretending to be
15 enforcing the law -- much of it in Mendocino County.

17 14. Perhaps Tatum, Huffaker and their co-conspirators would never have been held
18 responsible for their crimes, but Tatum and defendant Bruce Smith made 2 fatal mistakes: first,
19 on December 5, 2017, Tatum's partner in crime, Joseph Huffaker, and Defendant Smith robbed
20 Plaintiff Ezekial Flatten of three (3) pounds of marijuana after stopping him illegally while he
21 was driving a white SUV in Mendocino County; second, at the behest of co-conspirator
22 Mendocino County Sheriff Allman on February 13, 2018 Tatum published a press release
23 purportedly exonerating Mendocino County law enforcement -- an overt act in furtherance of the
24 conspiracy alleged herein as part of a cover-up.

26 15. But Tatum's press release confused and conflated the details of the robbery of
27 Flatten on December 5, 2017, with another similar cannabis robbery on December 18, 2017, in
28

1 Mendocino County when 30 pounds of cannabis was stolen by Tatum and another officer from a
2 different victim -- also driving a white SUV.

3 16. Flatten immediately complained of the theft, via certified mail, to the Mendocino
4 County Sheriff's office, District Attorney's office and Mendocino County Grand Jury. He was
5 interviewed by the FBI on December 11, 2017. In response to Flatten's complaints to the
6 Mendocino County Sheriff's Office and District Attorney, (1) on January 30, 2018 co-conspirator
7 Undersheriff Randy Johnson telephoned Flatten in response to Flatten's certified mail complaint,
8 telling Flatten "no crime was committed" and "we [Mendocino County law enforcement] will not
9 investigate;" and (2) on February 5, 2018 District Attorney ("DA") co-conspirator David Eyster
10 advised Flatten that the DA's office would not investigate Flatten's allegations.
11

12 17. On February 11, 2018, an investigative reporter, Kym Kemp, published two
13 articles about the marijuana seizure in Mendocino County on December 5, 2017, on Kemp's
14 "Redheaded Blackbelt" website covering news in Mendocino, Humboldt and Trinity counties.
15 Two days after Kemp's articles appeared containing accusations against unidentified law
16 enforcement officers in Mendocino County, Tatum issued the press release as part of the cover-up
17 to protect corrupt Mendocino County law enforcement, claiming it was a lawful stop by Rohnert
18 Park police officers.
19

20 18. Flatten was formerly a police officer and the first among hundreds of victims of
21 Mendocino County's corrupt cannabis law enforcement cabal to publicly accuse law enforcement
22 officers of stealing his cannabis. On information and belief, Flatten's life has been threatened by
23 co-conspirator Tatum and defendant Smith; a GPS device was installed in Flatten's automobile in
24 Texas. On and before February 19, 2018, Kym Kemp interviewed co-conspirator Randy Johnson
25 concerning Flatten's accusations. Undersheriff Johnson claimed Flatten was lying, Flatten had
26
27
28

1 more marijuana than he claimed, they had video of the entire incident, and he was retiring -- so do
2 not contact him about this incident again. Shortly thereafter he resigned.

3 19. Undersheriff Johnson and Sheriff Allman along with District Attorney Eyster were
4 and are co-conspirators with Tatum and Huffaker, Defendants Smith and White and John DOES
5 1-50 in a "hub-and-spokes" conspiracy, described by the United States Court of Appeals for the
6 First Circuit in *U.S. v. Newton*, 326 F.3d 253, 255 (2003):

7
8 In a "hub-and-spokes conspiracy" a central mastermind, or "hub," controls
9 numerous "spokes," or secondary co-conspirators. These co-conspirators
10 participate in independent transactions with the individual or group of individuals
11 at the "hub" that collectively further a single, illegal enterprise.

12 20. The U.S. Supreme Court and Courts of Appeal have employed the hub-and-spokes
13 conspiracy doctrine many times since the seminal case of *Interstate Circuit, Inc. v. U.S.*, 306 U.S.
14 218 (1939) to uphold conspiracy prosecutions in antitrust and narcotics prosecutions. Beginning
15 in 2007 when Tom Allman took over as Sheriff, Johnson became Undersheriff and Bruce Smith
16 was put in charge of COMMET, and throughout the relevant period, Undersheriff Johnson
17 oversaw the searches and seizures of many tons of cannabis by the County of Mendocino
18 Marijuana Eradication Team ("COMMET") and the Mendocino Major Crimes Task Force
19 ("MMCTF").

20 21. From 2007 through 2011 Defendant Smith worked with and mentored co-
21 conspirator Tatum on a "task force" of which both were members or participants. Defendants
22 Smith and White recently testified that each has participated in one thousand (1,000) searches and
23 seizures. Defendant White was in charge of the Wetlands Enforcement Team ("WET") of the
24 California Department of Fish and Wildlife (CDFW) which participated with COMMET, led by
25 defendant Smith, in hundreds of cannabis seizures. Although Smith and White have testified that
26 the vast majority of the many tons of seized cannabis was destroyed, there is no credible evidence
27 that the bulk of the seized cannabis was actually destroyed.
28

1 22. On November 16, 2018, Plaintiff Ezekial Flatten sued the City of Rohnert Park,
2 Jacy Tatum, Joseph Huffaker and others in U.S. District Court for the Northern District of
3 California, case no. 3:18-cv-06964. Only after Plaintiff Flatten filed that Complaint did seven (7)
4 other victims file suit -- on August 16, 2019 -- in the same U.S. District Court, case no. 3:19-cv-
5 05058, alleging they were victims of extortion by Tatum, Huffaker, the City of Rohnert Park and
6 others. The names and details of those events are provided hereinbelow. The City of Rohnert
7 Park settled the cases to avoid any discovery of higher-ranking co-conspirators by paying those
8 plaintiffs roughly \$2 million.

10 23. On December 22, 2017, "Old Kai," a legally licensed distributor of cannabis
11 carrying 1,875 pounds of cannabis from local farms in a van, was stopped by California Highway
12 Patrol ("CHP") officers in Ukiah -- the Mendocino County seat of government. CHP called in
13 COMMET, supervised by Defendant Smith, which took possession of the 1,875 pounds worth
14 nearly \$2 million. Like most of the many tons of cannabis seized by COMMET team members
15 and other law enforcement officers in contiguous jurisdictions conducting so-called "Marijuana
16 interdiction" or "eradication efforts" during the decade from 2007 through 2017, the seized
17 cannabis has disappeared with no records proving it was destroyed. On information and belief,
18 these defendants and/or their co-conspirators have sold tons of seized cannabis as well as
19 hundreds of guns. They have also stolen millions of dollars in cash. They have filed false and
20 fraudulent income tax returns, committed money laundering and filed false reports to conceal
21 those crimes. Hundreds of these seizures were purportedly authorized by search warrants sought
22 and obtained by members of COMMET or WET with the blessing and rubber stamp of the
23 District Attorney's Office and local judges.

26 **PARTIES AND VENUE**
27 **PLAINTIFFS**

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

25. William Knight (hereafter one of “Plaintiffs”) is a resident of Mendocino County, California.

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

DEFENDANTS

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

28. Defendant Steve White was employed by the California Department of Fish and Wildlife (CDFW) from 1996 until his retirement December 30, 2020. Defendant White supervised the Wetland Enforcement Team (WET) in Mendocino County and contiguous counties. From 2016 to 2018 he did not document his law enforcement activities.

NON-PARTY CO-CONSPIRATORS WITH DEFENDANTS

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

30. Co-conspirator Tom Allman was Sheriff of Mendocino County from January 2007 until he announced his retirement on December 12, 2019, one year into his fourth term in office. He is now employed as a Deputy Sheriff for the Humboldt County Sheriff's Office. He acted in the course and scope of his employment and under color of state law at all times mentioned herein unless otherwise stated hereinbelow.

31. Co-conspirator Randy Johnson was Undersheriff of Mendocino County from January 2007 until his sudden retirement effective March 25, 2018. He acted in the course and scope of his employment and under color of state law at all times mentioned herein unless otherwise stated hereinbelow.

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

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

34. In doing the acts and/or omissions alleged herein, defendants, their co-conspirators and each of them acted under color of authority and/or under color of state law, and, in concert with each other.

35. Defendants, their co-conspirators and Does 1 through 50 conspired to achieve common goals and/or acted in concert to achieve said goals, including but not limited to the thefts and sales of stolen cannabis seized under color of law with and without search warrants, tax evasion, money laundering and obstruction of justice to conceal the aforementioned crimes. In doing the acts and omissions alleged herein said Defendants and their co-conspirators conspired and/or acted in furtherance of the conspiracy to: (a) unlawfully stop and detain and/or unlawfully search the property of the Plaintiffs; (b) commit robbery and extortion through a pattern of racketeering activity; and (c) obstruct justice to impede or prevent discovery of evidence and prosecution for the crimes committed in furtherance of the conspiracy.

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

37. The conduct alleged herein occurred in Mendocino County. Venue of this action lies in the Superior Court in the County of Mendocino, California.

STATEMENT OF FACTS

Highway Robbery Under the Guise of Drug Interdiction by Law Enforcement

38. On November 25, 2015, **Brian Payne** was traveling southbound on Highway 101 just south of Cloverdale, carrying with him five pounds of lawfully possessed cannabis, when without legal justification he was stopped by an unknown police vehicle. Mr. Payne was directed by an unidentified officer (John Doe 1) to continue to drive down the highway and to pull off at the Asti Exit, a remote and secluded portion of the roadway. Mr. Payne complied, and stopped at the bottom of the off-ramp. He was contacted at the door of his vehicle by John Doe 1 who

1 informed him that he had been pulled over for riding the fog line, which was not true, and is not a
2 violation of California's Vehicle Code.

3 39. John Doe 1 immediately directed Mr. Payne to exit his vehicle and began
4 searching the vehicle without consent or other legal justification, despite Mr. Payne's
5 protestations. Once the officer was inside Mr. Payne's vehicle, Mr. Payne informed the officer
6 that he had five pounds of cannabis in his bag. The officer then removed the bag from Mr.
7 Payne's truck and informed him that he would be confiscating the marijuana, this despite Mr.
8 Payne being a lawful medical marijuana patient, lawfully possessing the cannabis. The officer
9 then told Mr. Payne to get back in his truck and leave. Mr. Payne protested that what was
10 happening was not right. The officer then threatened to arrest Mr. Payne for felony marijuana
11 sales if he didn't leave, so Mr. Payne got back in his vehicle and left the scene.
12

13 40. Once back on the road, Mr. Payne realized that the officer had kept his driver's
14 license, and that he had never identified himself or said what agency he was working for. Upon
15 this realization, Mr. Payne pulled off the roadway and dialed 911 to report that he had been
16 robbed. The 911 operator was able to confirm that officers from the Rohnert Park Department of
17 Public Safety were performing interdiction operations in the area.
18

19 41. The officer failed to issue a receipt for any seized property and issued no citation
20 for any crime or traffic infraction to Mr. Payne.
21

22 42. On or about December 1, 2015, at approximately 11:00 a.m. plaintiff **Jesse**
23 **Schwartz** was a passenger in a car driven by Evan Jones travelling northbound on Highway 101.
24 For no legal reason co-conspirator Tatum, accompanied by another officer, initiated a traffic stop
25 near Cloverdale. Tatum was in uniform and driving a marked police vehicle. Jesse Schwartz was
26 ordered to step out of the car and was handcuffed. Tatum then searched the car without consent
27 or legal justification. While searching the trunk he discovered a small box containing \$55,000
28

1 that belonged to Schwartz. Tatum took the money and told Schwartz he had two options: (1) he
2 could be arrested, taken to jail and then attempt to get the money back or (2) he could deny it was
3 his money and avoid arrest, jail and legal proceedings. Schwartz was coerced into signing a
4 "disclaimer" form prepared by Tatum and was given a citation to appear in court at a later date.
5 Tatum kept the \$55,000.
6

7 43. Approximately two or three days later, Tatum came to Schwartz's home without a
8 warrant or legal cause and persuaded his roommate to allow him to search Schwartz's room while
9 Schwartz was away. Later that day Schwartz was informed that his storage locker had also been
10 searched by Rohnert Park police, also without a warrant or legal cause. None of his belongings
11 were seized or damaged.
12

13 44. Approximately three months later Jesse Schwartz appeared at the Superior Court
14 for the County of Sonoma on the day and time indicated on the citation. The District Attorney's
15 office had rejected his case for lack of sufficient evidence of a crime. His money was never
16 returned.
17

18 45. In December of 2015, **Joshua Surratt** was travelling southbound on Highway 101
19 in the area of the Mendocino-Sonoma County line. He was travelling with twenty-six pounds of
20 legal cannabis being delivered to a medical marijuana dispensary in Santa Cruz. As Mr. Surratt
21 approached Cloverdale, he noticed a Rohnert Park Patrol Vehicle parked on the shoulder of the
22 northbound part of the highway. As Mr. Surratt passed, the patrol vehicle darted out across the
23 highway median and pulled alongside Mr. Surratt's vehicle. The patrol vehicle stayed alongside
24 Mr. Surratt's vehicle for a considerable distance, then dropped behind him and initiated a traffic
25 stop unsupported by legal cause. Mr. Surratt yielded to the patrol vehicle and pulled off the side
26 of the road.
27
28

1 46. Sergeant Tatum and Officer Huffaker got out of the police cruiser and contacted
2 Mr. Surratt at his vehicle, immediately accusing Mr. Surratt of having cannabis in his vehicle.
3 When Mr. Surratt advised that he did not, the officers became increasingly aggressive, asking Mr.
4 Surratt if he was calling them liars. The officers removed Mr. Surratt from his vehicle and placed
5 him in handcuffs. Then for the first time the officers asked him for his license and proof of
6 insurance. Already handcuffed, Mr. Surratt told Tatum that the officer could retrieve his driver's
7 license from his wallet located in his pants pocket. Mr. Surratt volunteered to get his insurance
8 paperwork from his glove compartment, but Tatum told him no, that the officers would retrieve it.
9 Mr. Surratt protested, saying that he did not give consent for the officers to enter his vehicle.
10

11 47. While Tatum guarded Mr. Surratt, Officer Huffaker entered his vehicle and opened
12 the glove box, retrieving the insurance paperwork. Huffaker continued searching about the
13 interior of the vehicle, in the center console and under the seats. He then exited the vehicle
14 finding nothing of interest and shrugged his shoulders at Sergeant Tatum as if to say, "I guess
15 there's nothing here." Tatum became angry and began yelling at Mr. Surratt, demanding to know
16 where the money or marijuana was. Mr. Surratt did not reply.
17

18 48. On the back of Mr. Surratt's pickup truck was a camper top with tinted windows.
19 The officers began trying to peer through the dark glass but could not see anything. They
20 demanded to know what Mr. Surratt had in the back of his truck. Mr. Surratt informed them that it
21 was not marijuana and offered to retrieve the contents for them. Sergeant Tatum replied that that
22 would not be necessary, as he opened the back of the truck without consent or legal justification.
23

24 49. Tatum began unloading the contents of Mr. Surratt's truck bed onto the side of the
25 road as Mr. Surratt protested the intrusion more. Ultimately Sergeant Tatum discovered a bin
26 filled with twenty-six pounds of cannabis. Mr. Surratt then explained that he was lawfully
27 transporting the cannabis, and that he was in possession of all the required paperwork. Tatum told
28

1 him his paperwork was invalid. Mr. Surratt said that he didn't think a judge would see it that way.
2 In response, Tatum became enraged and told Mr. Surratt that he had two options: The officers
3 could seize his truck, his belongings, and his marijuana and arrest him for felonies, or Mr. Surratt
4 could surrender the cannabis and the officers would be on their way.

5
6 50. Mr. Surratt answered, "Obviously option B, if you put it like that." Tatum then
7 moved very close to Mr. Surratt's face and said, "You don't tell anyone about this either. Not
8 your lawyer, not the collective where the herb is going, no one. If we don't hear from you, you
9 won't hear from us. If your lawyer comes calling asking around the department or anything like
10 that, we will come up to your property in Ukiah. I bet we could find some more felonies if we
11 came up there, huh?"

12
13 51. Officer Huffaker then pulled out Mr. Surratt's driver's license and took a picture
14 of it with his phone, then took a picture of Mr. Surratt's license plate. Tatum repeated, "Do you
15 understand me? We don't hear from you, you don't hear from us."

16 52. The officers then unhandcuffed Mr. Surratt and began to pull away, leaving Mr.
17 Surratt and the contents of his vehicle on the side of road, but then stopped as Huffaker rolled
18 down his window and asked Mr. Surratt "What strains are in here?"

19
20 53. On October 3, 2016, **Jason Harre** was traveling southbound on Highway 101
21 north of the Mendocino-Sonoma County line, lawfully transporting thirty-four pounds of medical
22 cannabis to a medical collective in Los Angeles when a police SUV pulled next to his vehicle and
23 began following him. The patrol vehicle continued to follow Mr. Harre into Sonoma County,
24 through the town of Cloverdale, ultimately initiating a traffic stop without legal justification at the
25 Asti Exit, a remote and secluded portion of the roadway. Mr. Harre yielded to the traffic stop.
26 Officer Huffaker and Sergeant Tatum got out of the patrol vehicle and contacted Mr. Harre at the
27 side of his vehicle. The officers were dressed in commando-like uniforms wearing tactical vests
28

1 marked "ATF" with chest holsters for their firearms. The officers advised Mr. Harre that he had
2 not been maintaining his lane, ordered him out of his vehicle, and began peppering him with
3 questions about whether he was transporting marijuana.

4 54. Mr. Harre denied that he was transporting marijuana. He admitted, however, that
5 his driver's license had been suspended for failure to pay a traffic ticket. The officers then told
6 Mr. Harre that they would probably have to tow his truck. They again asked what they would find
7 in his vehicle if they searched it. Mr. Harre then acknowledged that he was carrying legal
8 cannabis, and that he had documentation for the cannabis in his vehicle.

9 55. The officers placed Mr. Harre in handcuffs and began to search the vehicle,
10 locating the thirty-four pounds of medical cannabis. The officers told Mr. Harre that they found
11 no documentation for the cannabis, so Mr. Harre asked them to call the dispensary to confirm the
12 delivery. Sergeant Tatum phoned the dispensary and confirmed the delivery. Mr. Harre's phone
13 then rang, and Sergeant Tatum answered. The caller was the dispensary's lawyer who confirmed
14 the validity of the shipment.

15 56. Despite this information, the officers continued interrogating Mr. Harre asking him
16 questions about the techniques he used to grow the cannabis, what strains he was transporting,
17 and other questions which Mr. Harre believed would only be relevant to a broker of marijuana
18 looking to sell another person's product. The officers took Mr. Harre's cannabis and confiscated
19 \$7,000 in cash, providing no receipts for either. Mr. Harre was released with a citation to appear
20 in court.

21 57. Officer Huffaker and Sergeant Tatum submitted the case to the Sonoma County
22 District Attorney for prosecution, but it was rejected for lack of sufficient evidence. Mr. Harre's
23 property was never returned.

1 58. On October 18, 2016, **Jacob Ford** was driving southbound on Highway 101 near
2 the Sonoma-Mendocino County line carrying twenty-three pounds of legal cannabis. Just north of
3 Cloverdale, Mr. Ford began being followed by a Rohnert Park Department of Public Safety Patrol
4 SUV. He was pulled over at the Asti Exit for an expired registration. Sergeant Tatum and Officer
5 Christopher Snyder approached Mr. Ford's vehicle and immediately asked if he was in possession
6 of cannabis. Mr. Ford acknowledged that he was in possession of legal cannabis, that it was
7 secured and properly marked and barcoded in compliance with state law.

9 59. The officers then ordered Mr. Ford out of his vehicle and began asking him
10 questions about what strains of marijuana were in his possession. The officers then told him he
11 had a choice: he could surrender the cannabis and he would be free to go on his way, or they
12 would arrest him for a felony. Mr. Ford protested that what the officers were doing was wrong
13 and stated that he would rather go to court than lose the cannabis. As a result, Mr. Ford was
14 arrested and cited for felony sales, transportation, and conspiracy. Mr. Ford was cited to appear in
15 court on February 17th. The officers searched his vehicle without legal justification and
16 confiscated the marijuana.

18 60. Mr. Ford immediately contacted his attorney in an attempt to reclaim the stolen
19 cannabis. Mr. Ford's attorney contacted the Rohnert Park Department of Public Safety and
20 demanded the cannabis be preserved, but according to the Department, the cannabis had already
21 been destroyed, notwithstanding the fact that Mr. Ford's court date had not yet arrived, and no
22 disclaimer of ownership had been signed.

24 61. On February 17, 2017, Mr. Ford appeared in Sonoma County Superior Court, but
25 there was no record of his arrest before the court, and no report had been received by the
26 prosecutor's office. His property was never returned.

1 62. On December 8, 2016, **Sean Haar** was travelling southbound on Highway 101
2 between Cloverdale and Geyserville at approximately 1:00 pm., lawfully transporting
3 230 pounds of legal, medical cannabis. It was raining, and Mr. Haar's cruise control was
4 set to the speed limit. About this time Mr. Haar noticed an unmarked police vehicle
5 behind him which activated it's forward facing lights and initiated a traffic stop without
6 legal justification. Mr. Haar yielded to the patrol vehicle's lights and pulled off the side of
7 the road. Inside the patrol vehicle were Sgt. Tatum and another unidentified officer. Both
8 were dressed in plainclothes but wore ballistic vests and had guns visible on their belts as
9 they approached both sides of Mr. Haar's vehicle simultaneously. The officers informed
10 Mr. Haar that they had stopped him for speeding, and Mr. Haar told them that they were
11 mistaken. The officers requested Mr. Haar's license, registration, and insurance which he
12 provided without delay.
13

14 63. The officers ordered Mr. Haar out of his vehicle in the rain and informed
15 him that they were part of a drug interdiction team looking for cash and contraband, and
16 that they had reason to believe Mr. Haar was carrying both. They asked Mr. Haar for
17 consent to search his vehicle, which Mr. Haar declined to give. Mr. Haar disagreed that
18 he had done anything to warrant the detention and that he certainly hadn't been speeding.
19 The officers told Mr. Haar that it was only their intent to interdict illegal cannabis, and
20 that they were not going to take legitimate "medicine." They told Mr. Haar that they
21 really didn't want to have to arrest him, and that he should simply consent to the search.
22

23 64. At this point Mr. Haar was getting soaked in the rain and given the
24 assurances of the officers that they were not concerned with legitimate medical
25 marijuana, agreed that the officers could search his vehicle. The officers then demanded
26 that Mr. Haar unlock his iphone and allow them to search its contents, or he would be
27
28

1 arrested and taken to jail. Mr. Haar acquiesced to their demands, and one officer began
2 searching through Mr. Haar's phone while Sgt. Tatum began searching through Mr.
3 Haar's vehicle.

4 65. Sgt. Tatum discovered the cannabis in the covered back of Mr. Haar's
5 pickup truck. The officers asked for Mr. Haar's medical paperwork, which he provided.
6 The officers returned Mr. Haar's phone, confiscated his cannabis despite being provided
7 legal documentation, issued Mr. Haar a citation for possession of more than an ounce of
8 cannabis, and drove away. Believing he had been robbed, Mr. Haar opened his phone to
9 call his attorney, and found that the phone's screen open to photos of his girlfriend in a
10 state of undress. Mr. Haar contacted the City of Rohnert Park and the Sonoma County
11 courthouse, but no one had any record of him being issued a citation.
12

13 66. On September 6, 2016, **Terence McGilbra** was travelling southbound on
14 Highway 101 just outside of Cloverdale. He was the president of a medical marijuana
15 collective with approximately 200 members and was lawfully transporting fifteen
16 pounds of medical cannabis as part of a legal delivery service associated with the
17 collective. Shortly before arriving at the Asti Exit, a black police SUV pulled alongside
18 Mr. McGilbra's vehicle and two uniformed officers began staring at him. They matched
19 speed alongside Mr. McGilbra's vehicle for some time, and Mr. McGilbra began to feel
20 uncomfortable and slowed his speed. The patrol vehicle slowed down with him, and then
21 dropped behind him and initiated a traffic stop without any legal justification.
22

23 67. Sgt. Tatum and another officer got out of the patrol vehicle and contacted
24 Mr. McGilbra at the side of his vehicle. They asked for his license, which Mr. McGilbra
25 provided, and told him they had stopped him for speeding. Mr. McGilbra explained that
26 the officers were mistaken. The officers then asked whether there was anything in Mr.
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1 McGilbra's car they should know about. Mr. McGilbra responded that there was not. The
2 officers then ordered Mr. McGilbra out of his vehicle and commanded him to sit on the
3 gravel shoulder in front of his car. He complied. The officers then requested consent to
4 search Mr. McGilbra's vehicle. Mr. McGilbra declined. The officers responded that they
5 could "get the dogs" if he refused to consent, and then ultimately told Mr. McGilbra that
6 they were going to search his vehicle anyway.
7

8 68. Sgt. Tatum opened the trunk of Mr. McGilbra's vehicle and discovered the
9 cannabis inside. The other officer approached Mr. McGilbra and said, "Terence, I
10 thought you said you didn't have anything. We can take you, or we can take the bag."
11 Mr. McGilbra was taken aback by the officer's comments and believed he may have
12 misheard him. "What?" asked Mr. McGilbra. "We can take you, or we can take the bag," the
13 officer stated again.
14

15 69. Mr. McGilbra knew he was being robbed. "Take the bag," he said. The officers
16 loaded the cannabis in their patrol vehicle and drove away, leaving Mr. McGilbra on the side
17 of the road. During this encounter, at least one of the officers had their body-worn camera
18 running, which captured these events.
19

20 70. On December 29, 2016, **Huedell Freeman** was traveling southbound on Highway
21 101 near Cloverdale transporting 47 pounds of legal cannabis. He was subjected to a pre-textual
22 traffic stop by Brendan Jacy Tatum and Joseph Huffaker. After confirming that the marijuana
23 was being lawfully transported to the Higher Path dispensary in southern California, Tatum and
24 Huffaker took possession of the marijuana and issued a citation to Freeman for possession of
25 marijuana. Freeman was notified before his first court appearance that the marijuana had been
26 destroyed though a destruction order was never filed. Mr. Freeman's case was filed in U.S.
27 District Court for the Northern District of California. Mr. Freeman received several hundred
28

1 thousand dollars as a settlement from the City of Rohnert Park. *Freeman v. City of Rohnert Park*,
2 Case No. 18-cv-7661 HSG.

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

7
8 72. At approximately 12:00 p.m., defendant Bruce Smith and co-conspirator Joseph
9 Huffaker were parked on the side of Highway 101 in an unmarked, black police SUV. As Mr.
10 Flatten passed their position, the defendants initiated a pretextual traffic stop of his vehicle
11 without reasonable suspicion to believe a crime had been committed. Instead, defendants intended
12 to stop and search Mr. Flatten on a hunch that he might have been transporting cannabis and/or
13 the proceeds from cannabis sales.

14
15 73. Mr. Flatten yielded to the patrol vehicle's forward-facing emergency lights and
16 pulled off of the road. The defendants contacted plaintiff at the side of his vehicle. They were
17 wearing green military-style uniforms with no badges, insignia, or nametags, and were armed
18 with handguns and wearing bulletproof vests. They asked plaintiff if he knew how fast he was
19 going, to which he replied, "61 or 62." Bruce Smith countered, "You were going a little faster
20 than that," and offered no further explanation for the traffic stop. Instead he began questioning
21 Mr. Flatten as to where he was going to and coming from. Once outside the vehicle Flatten was
22 asked if he had weapons followed by a brief pat down search. He was then asked if he had any
23 drugs, weapons or cash in the vehicle.

24
25 74. Smith and Huffaker informed Mr. Flatten that they were going to search his
26 vehicle and its contents. Without consent or other legal justification, the defendants removed a
27 sealed cardboard box from the rear of plaintiff's vehicle and cut it open with a knife, discovering
28

1 the marijuana inside. The officers then took pictures of plaintiff, plaintiff's driver's license, and
2 his license plate.

3 75. Smith and Huffaker informed Mr. Flatten that they were with the ATF,
4 commented that marijuana was taking over in California, and advised him that he may be getting
5 a letter from Washington. In less than five minutes, they had left the scene with Mr. Flatten's
6 cannabis without ever having run his name for wants and warrants, and without so much as
7 issuing a citation for even a traffic infraction.

8 76. Co-conspirator Huffaker was, at the time of these events, a member of a drug
9 interdiction task force (hereinafter "Task Force"), and as such participated in numerous traffic
10 stops along the 101 corridor ostensibly for the purposes of narcotics enforcement.

11 77. The Task Force's most active members were co-conspirators Tatum and Huffaker.
12 At its inception, Rohnert Park's use of the Task Force was designed to buttress the small
13 department's failing budget through the seizure of cash believed to be associated with narcotics
14 transactions. Between 2016 and 2017, the Rohnert Park Department of Public safety kept \$1.2
15 million in seized funds for its own use.

16 78. Together with others, Tatum and Huffaker conspired to expand the legitimate
17 interdiction mission to one of person financial gain, and over the years seized thousands of
18 pounds of marijuana and hundreds of thousands of dollars of currency without issuing receipts for
19 the seizures, without making arrests for any crimes, and without any official report of the
20 forfeitures being made. Oftentimes when arrests or reports were made, the cash and cannabis
21 seized was significantly underreported in furtherance of the conspiracy allowing the officers to
22 skim off the top of even otherwise legal interdictions.

23 79. In furtherance of the conspiracy, co-conspirators Tatum and Huffaker sold the
24 seized marijuana to black market vendors without declaring the proceeds as income, and engaged
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1 in money laundering activities through the purchase, improvement, and sale of real property with
2 the proceeds of these illegal activities.

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

13 81. Working in concert with other officers from Rohnert Park and from outside
14 agencies, Smith and Huffaker acted under color of official right and under color of state law to
15 take the personal property of Mr. Flatten and others against their will by intimidation and implied
16 threats of force, or by obtaining the consent of their victims through the wrongful use of
17 threatened force, violence, and fear.
18

19 82. On December 7, 2017, two days after Flatten's traffic stop, Flatten reported the
20 robbery to local media outlets and federal and state law enforcement. On February 11, 2018, an
21 article appeared on a Mendocino County journalist's blog reporting on Mr. Flatten's story. Two
22 days after that publication, Defendant Tatum issued a press release from his department
23 attempting to explain the traffic stop (which he mistakenly believed himself to have been a part
24 of), and clarifying that "no other agencies including the Mendocino County Sheriff's Office or
25 Hopland Tribal Police were involved..."
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1 83. These interdictions became so lucrative to the officers involved that the conspiracy
2 required protection from outside scrutiny. Thus, when plaintiff came forward publicly, co-
3 conspirator Tom Allman contacted co-conspirator Tatum to quash plaintiff's accusations by
4 issuing a press release. But Tatum's statement to the press was too hastily contrived, and his
5 involvement in the illegal seizures too prolific. As a result his press release defended *the wrong*
6 *illegal seizure*, and instead of diffusing the scrutiny plaintiff's allegations had brought, it
7 confirmed the existence of a more expansive, continuing criminal conspiracy.
8

9 84. Following the bogus press release, an internal investigation was launched at the
10 Rohnert Park Department of Public Safety. Shortly thereafter, co-conspirator Tatum resigned
11 from the force, co-conspirator Huffaker was placed on administrative leave, and the Director of
12 the Department announced his retirement.
13

14 85. Mr. Flatten's statements to the press became a matter of public concern and were
15 reported on widely across California and the nation.

16 86. Beginning in April of 2018 and continuing to the time of this filing, plaintiff has
17 become the subject of surveillance, harassment, threats, and intimidation by agents of the
18 defendants and/or co-conspirators whose identities are unknown at this time. On September 27,
19 2018, plaintiff discovered a GPS tracking device hardwired beneath his car's dashboard. On
20 November 11, 2018, plaintiff received an anonymous message via social media that he was
21 "playing with fire."
22

23 87. On March 9, 2021 FBI agent William B. Roberts filed the following Affidavit In
24 Support of Criminal Complaint in case number 3-21-70422 MAG in the United States District
25 Court for the Northern District of California, including felony charges against co-conspirators
26 Tatum and Huffaker:
27
28

1 **“AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

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

4 **I. OVERVIEW AND AGENT BACKGROUND**

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

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

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

35 The entirety of Agent Roberts affidavit is attached hereto as Exhibit A and incorporated
36 herein.

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1 93. While in escrow the plaintiffs hired Bob Franzen of Redwood Water System to
2 perform a well test. They learned the water well produced 22 GPM and was dug 30 feet deep.
3 The plaintiffs also consulted with three licensed cannabis farmers who visited the site.

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

11 95. Plaintiffs were given an application receipt relating to a provisional permit signed
12 by Commissioner Curry dated May 4, 2017. It provides, in part, that; “The garden at this site is
13 considered to be in compliance, or working toward compliance, until such time as a permit is
14 issued or denied.” The plaintiffs were told by Commissioner Curry they could immediately begin
15 cultivation activities; and they did.

16 96. During 2017 and prior to her resignation in March 2018 Commissioner Curry was
17 given broad discretion as the final decisionmaker for the County of Mendocino to interpret and
18 implement the new ordinance allowing qualified applicants to receive permits to cultivate
19 cannabis in the County. During that time Commissioner Curry approved permits for numerous
20 applicants, including but not limited to the plaintiffs, to immediately cultivate cannabis so long as
21 the site met zoning requirements.

22 97. Beginning on or about June 20, 2017 Sue Anzilotti, a colleague of defendant Bruce
23 Smith, contacted defendant Steve White of the California Department of Fish and Wildlife
24 (CDFW) on behalf of “concerned homeowners” who lived adjacent to Plaintiffs’ property.

1 Anzilotti made false allegations that the water source for Plaintiffs' approved cultivation site was
2 not approved for use in commercial cultivation operations. In furtherance of the conspiracy
3 alleged herein Defendant White decided to use a false allegation of water diversion as a pretext to
4 obtain a warrant and seize the plaintiffs' property.

5
6 98. During July 2017 Commissioner Curry contacted CDFW agents and requested an
7 opportunity to meet with them on the Gurr/Borges property in order to better understand the
8 requirements relating to creeks located near cannabis farms. On July 25, 2017 two CDFW
9 employees came to the Gurr/Borges property unannounced, and without prior notice, after
10 cancelling appointments scheduled through Commissioner Curry. Without performing any tests,
11 they purportedly concluded it was likely water was being diverted from the creek and sent a letter
12 to Commissioner Curry stating that they suspected water diversion. At that time the Plaintiffs
13 Gurr and Borges offered to turn off the well and purchase water for irrigation while this issue was
14 further investigated.

15
16 99. On or about July 26, 2017, Plaintiffs hired a hydrologist, Donald G. McEdwards,
17 to take samples from the well and the creek in order to perform an extensive hydrology study to
18 determine whether the well contained creek water. The samples were provided to Alpha Labs in
19 Ukiah. Plaintiffs were advised the results would be available on or about August 10, 2017.

20
21 100. On August 10, 2017 at approximately 10:30 a.m. a convoy of CDFW vehicles,
22 under the direction and supervision of defendant Bruce Smith, arrived at Plaintiffs' property and
23 agents, with guns pointed, immediately placed the Plaintiffs in handcuffs. They were
24 accompanied by defendant Bruce Smith. Smith took the plaintiffs into temporary custody,
25 searched their home, and prevented them from observing the seizure of marijuana plants and the
26 destruction of equipment relating to their farming operation. Plaintiffs informed defendant White
27 they had an application receipt/provisional permit from the County and were in full compliance
28

1 with all County regulations. They also informed defendant White that they were awaiting a
2 report from Alpha Labs for tests of the creek water and the well water. The CDFW/WET team,
3 without any evidence, claimed they believed the water was being diverted from the nearby creek
4 and proceeded to cutdown and eradicate marijuana, i.e., 100 plants growing indoors under a hoop
5 and 171 plants growing outdoors in an approved location of 10,000 square feet. The garden was
6 within County guidelines and took up approximately one quarter acre on the 11 acres farm.
7 During the August 10, 2017 search CDFW Warden Mason Hemphill, Warden Ryan Stephenson,
8 Warden Wyatt Cole and other Wardens, under the direction and supervision of defendant White,
9 searched the property. Hemphill executed a return on search warrant declaring that he took
10 custody and possession of 163 living marijuana plants and 98 living marijuana plants and guns.
11 This is a list of guns taken by CDFW on 8/10/2017: Ruger LCP .380 pistol, Marlin 30-30
12 w/scope, Browning A5 12 gauge, and S&W Model 36 .38 cal.
13
14

15 101. Plaintiffs Borges and Gurr brought an action in federal court 1 year ago seeking, in
16 part, the return of the plants and guns. Defendant White now claims that he and defendant Smith
17 put the plants into a dump truck at the COMMET office. According to defendant Smith the
18 plants were later taken to an undisclosed location. There are no documents reflecting the chain of
19 custody of the plants after they were seized. The guns are still unaccounted for and reportedly in
20 the possession or control of the District Attorney's office.
21

22 **The September 21, 2017 Seizure of William Knight's Marijuana and Guns by**
23 **Defendants Smith and White**

24 102. Plaintiff William Knight was born in 1960 and raised in Napa, California. As a
25 teenager he worked with his father, a contractor, building bridges, dams, septic systems and other
26 major projects.

27 103. In 1977 Mr. Knight joined the Local 180 Carpenter's Union in Vallejo, California.
28 For the next 6 years he worked for the Northern California Roofing Company headquartered in

1 Vallejo. Beginning in 1983 he was employed by the Chevron Research Group in Richmond,
2 California building research grids for a pilot plant.

3 104. In 1990 Mr. Knight moved to Mendocino County and worked building houses for
4 Affordable Homes located in Ukiah, California. In 1992 he obtained his Contractor's License
5 and was hired by Fetzer Vineyards to perform various tasks.
6

7 105. Beginning in 1999 and continuing to the present Mr. Knight has been self-
8 employed as a contractor building and remodeling houses.

9 106. Beginning in 2015, as a means of supplementing his income, he began legally
10 growing marijuana in Mendocino County as part of the 9.31 (zip-tie) program. In order to qualify
11 his property was inspected by Under Sheriff Randy Johnson – a nearby neighbor who also resided
12 in Potter Valley along Highway 20. He was required to fence the area and comply with other
13 requirements which included paying a \$25/plant zip tie fee for each plant. He grew 99 plants and
14 made annual payments to the Sheriff's Office of approximately \$2,500 in 2015 and 2016 to
15 participate in the program.
16

17 107. Beginning in 2017 Mendocino County implemented a new program to allow
18 qualified residents to obtain "provisional permits" to legally grow marijuana. This provisional
19 permit program was implemented through the County Department of Agriculture and headed by
20 Diane Curry, the Interim Commissioner of the Department of Agriculture. Mr. Knight applied for
21 and was issued a provisional permit in May of 2017 by Ms. Curry to legally grow marijuana,
22 subject to many conditions. Because of his participation in the program he stopped paying zip-tie
23 fees to the Sheriff's Office.
24

25 108. Mr. Knight fully cooperated with the County Department of Agriculture and
26 related agencies including the Department of Fish and Wildlife and the Sheriff's Office. At the
27 request of Under Sheriff Randy Johnson, Mr. Knight moved his garden in 2017 so that it was
28

1 clearly visible from Highway 20. Prior to the September 21, 2017 raid by defendants Bruce Smith
2 and Steve White, Mr. Knight had not been informed by Randy Johnson or any government
3 agency that he was out of compliance with any conditions related to his marijuana operation.

4 109. On September 15, 2017 Warden Ryan Stephenson of CDFW/WET, under the
5 supervision and direction of defendant Steve White, obtained a search warrant to search William
6 Knight's property under the pretext that he was illegally diverting water. The County Department
7 of Agriculture and Undersheriff Randy Johnson were aware that spring water on the property had
8 been used to irrigate the garden since 2015. Mr. Knight, in coordination with Diane Curry, was in
9 the process of having it inspected and approved by the appropriate agencies.

10 110. On September 21, 2017 at 8:00 am defendant Steve White, his subordinate Ryan
11 Stephenson and other members of the Watershed Enforcement Team (WET) together with
12 defendant Bruce Smith and other members of County of Mendocino Marijuana Enforcement
13 Team (COMMET) arrived at William Knight's property located at 7800 Highway 20 in Ukiah.

14 111. Defendants and their co-conspirators proceeded to "eradicate" 405 mature and
15 ready for harvest marijuana plants. In addition, Ryan Stephenson reported taking into evidence
16 80 one pound bags of processed marijuana, a cardboard container of processed marijuana, 36
17 pounds of shake, two fifty gallon drums of processed marijuana, a paper bag of processed
18 marijuana, a shotgun, a revolver, a cell phone, a Samsung cellular device and two electronic
19 scales.

20 112. Mr. Knight and his nephew, Javier Sandoval, were arrested, taken into custody and
21 booked into the Mendocino County jail. Under California law there was a 3 years statute of
22 limitations to prosecute for alleged violations of Section 11358 of the Health and Safety Code.

23 113. The return of search warrant was filed with court on September 28, 2017. The
24 return identified the seized property referred to above as all property taken by Ryan Stephenson.

1 A Declaration of Destruction of Marijuana pursuant to Health and Safety Code 11479, signed by
2 Ryan Stephenson, stated that the gross weight of the controlled substance (marijuana) seized was
3 1,321 pounds.

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

8 115. Plaintiff William Knight has information and believes that over 1,321 pounds of
9 the marijuana referred to above was not destroyed and that no reliable evidence exists to prove
10 that it was. Rather, in furtherance of the racketeering conspiracy alleged herein, the marijuana
11 was stolen and sold by Defendants and/or their co-conspirators.
12

13 116. In late 2019 Mr. Knight became licensed to grow marijuana by the State of
14 California. Beginning in 2020 Mr. Knight has grown marijuana on his property with the
15 knowledge and consent of the County of Mendocino and the State of California
16

17 117. On or about September 15, 2020, co-conspirator Mendocino County District
18 Attorney David Eyster initiated criminal prosecution of Plaintiff William Knight in violation of
19 18 U.S.C. §1512(b)(1) which provides a pertinent part:
20

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

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

25 a proceeding before a judge or court of the United States, a United States
26 magistrate judge...or a Federal grand jury. An "official proceeding" need not be
27 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
28 a claim of privilege, as provided in 18 U.S.C. §1512(f).

118. 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 Federal grand jury investigation into Mendocino County identified in the affidavit of FBI Special Agent William B. Roberts filed in the U.S. District Court for the Northern District of California dated March 9, 2021, in case no. 3-21-cv-70422-MAG.

STATEMENT OF DAMAGES

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

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

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

FIRST CAUSE OF ACTION
[18 USC §§ 1962(c) and (d)] – RICO AS AGAINST
DEFENDANTS BRUCE SMITH, STEVE WHITE AND DOES 1-50]

122. Plaintiffs hereby incorporates paragraphs 1 through 123 as though set forth in full.

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

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

125. The numerous predicate crimes committed by defendants and their co-conspirators causing injuries to plaintiffs and others include: (1) extortion (18 USC 1951(b)(2)); (2) obstruction of justice (18 USC 1512(b)(1)); (3) money laundering (18 USC 1956 (a)(1)(A)(i) and (a)(1)(B)(i)); and (4) money laundering by tax fraud (26 USC 7206) and evasion (26 USC 7201 and 18 USC 1956(a)(1)(A)(ii)).

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

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

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

PRAYER

1. For treble damages, costs, and reasonable attorneys' fees pursuant 18 USC 1964(c);

2. For such other relief as the Court may deem proper.


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JURY TRIAL DEMAND

Plaintiffs hereby request a jury trial on all issues so triable.

Dated: August 9, 2021

SCOTT LAW FIRM

By: 
John Houston Scott
Attorneys for Plaintiffs EZEKIAL
FLATTEN, WILLIAM KNIGHT,
CHRIS GURR and ANN MARIE BORGES