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6 NEDCO, LLC

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN FRANCISCO**

10
11 NEDCO, LLC, a Wyoming limited liability
company,

12 Plaintiff,

13 v.

14 COOKIES SF LLC, a California limited
15 liability company; PARKER BERLING, an
individual; BERNER MILAM, an individual;
16 MATTHEW BARRON, an individual, and
DOES 1-10, inclusive,

17 Defendants.

18
19 COOKIES CREATIVE CONSULTING &
PROMOTIONS, INC., a California
20 corporation,

21 Nominal Defendant.

Case No.

**SHAREHOLDER DERIVATIVE AND
DIRECT COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF FOR:
(1) BREACH OF CONTRACT
(DERIVATIVE);
(2) BREACH OF THE COVENANT OF
GOOD FAITH AND FAIR DEALING
(DERIVATIVE);
(3) BREACH OF FIDUCIARY DUTY—
CARE (DERIVATIVE)
(4) BREACH OF FIDUCIARY DUTY—
LOYALTY (DERIVATIVE)
(5) AIDING AND ABETTING BREACH
OF FIDUCIARY DUTY (DERIVATIVE);
(6) DECLARATORY JUDGMENT
(DERIVATIVE);
(7) IMPOSITION OF CONSTRUCTIVE
TRUST (DERIVATIVE);
(8) REMOVAL OF DIRECTOR (CORP.
CODE § 304)**

1 Plaintiff NedCo, LLC (“NedCo”), suing derivatively on behalf of Nominal Defendant
2 Cookies Creative Consulting & Promotions, Inc. (“Cookies Creative”), hereby alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff NedCo is a Wyoming limited liability company with its principal place of
5 business in Sonoma, California. NedCo is a founding shareholder of Cookies Creative and has
6 been a shareholder at all times relevant to this Complaint.

7 2. Nominal Defendant Cookies Creative is a California corporation with its principal
8 place of business in San Francisco, California.

9 3. Defendant Cookies SF LLC (“Cookies SF”) is a California limited liability
10 company with its principal place of business in San Francisco, California.

11 4. Defendant Gilbert Milam (“Berner” or “Milam”) is an individual residing in Marin
12 County, California, and a founder and past Chief Executive Officer and member of the Board of
13 Directors of Cookies Creative.

14 5. Defendant Parker Berling (“Berling”) is an individual residing in Marin County,
15 California, the current President of Cookies Creative and a current member of the Board of
16 Directors of Cookies Creative.

17 6. Defendant Matthew Barron (“Barron”) is an individual residing in Marin County,
18 California, and a past member of the Board of Directors of Cookies Creative.

19 7. Plaintiff is unaware of the true names and capacities of defendants Does 1-10,
20 inclusive, and therefore sues these defendants by such fictitious names. Plaintiffs will amend this
21 Complaint to show the true names and capacities of such fictitiously named defendants when the
22 same have been ascertained or upon proof at trial. Plaintiffs are informed and believe and based
23 thereon allege that each of the fictitiously named defendants is legally responsible for the events
24 and damages alleged herein.

25 8. At all relevant times, unless alleged otherwise, the actually and fictitiously named
26 defendants were acting as the agents, servants, employees, joint venturers, alter egos, successors,
27 or predecessors-in-interest of the remaining defendants, and were acting within the course and
28 scope of such relationship, with the knowledge, expressed or implied, of each of the other

1 defendants.

2 **FACTUAL BACKGROUND**

3 9. NedCo owns more than 10% of the outstanding shares of Cookies Creative. NedCo
4 brings this derivative action to save Cookies Creative from the consequences of abandonment by
5 the individual Defendants, all of whom are past or present fiduciaries of Cookies Creative. The
6 individual Defendants' conduct shows both active malfeasance towards Cookies Creative and
7 disregard of fiduciary obligations that is only explainable if the individual Defendants personally
8 stand to gain from their course of conduct outlined herein. The purpose of the plot is to divert
9 millions of dollars from Cookies Creative to a separate company, Cookies SF, which is majority
10 owned by Defendant Milam.

11 10. Milam has a history of entering into undisclosed and/or self-interested transactions
12 between Cookies Creative and entities affiliated with him. Those transactions are set forth in a
13 pending derivative suit in Los Angeles, entitled *BR CO LLC v. Milam*, et al., Los Angeles Superior
14 Court Case No. 23STCV02764 (the "Los Angeles Action"). Milam, Berling, and entities in which
15 they hold significant interests are defendants in the Los Angeles Action, in which they are accused
16 of each engaging in self-dealing acts over many years, which is one of many links between their
17 interests. This lawsuit, however, concerns itself with events that have unfolded from October
18 2025 to the present.

19 11. Absent intervention, Milam's self-dealing scheme will succeed in destroying
20 Cookies Creative, all for the benefit of himself and on information and belief his co-conspirators.
21 Cookies Creative and its other shareholders, however, will be left with a shell of a company.

22 12. Cookies Creative is a company co-founded by Milam, with Berling as its president.
23 NedCo is a founding shareholder of Cookies Creative as well. Cookies Creative's main line of
24 business is cannabis genetics along with licensing the Cookies brand for cannabis/hemp ventures
25 both in the United States and around the world. These licenses have historically generated
26 millions of dollars in revenue for Cookies Creative, and those are the revenues the individual
27 Defendants seek to divert to Cookies SF.

28 13. Cookies SF is a limited liability company historically focused in the apparel space.

1 Cookies SF was also co-founded by Milam. Milam and his affiliated entities are shareholders of
2 Cookies SF, and on information and belief, Milam owns a controlling interest in Cookies SF.
3 Milam and Berling, again, are longtime business partners and investors in the same entities related
4 to Cookies Creative and, on information and belief, Cookies SF. On information and belief,
5 Berling has a present or promised financial interest in Cookies SF.

6 14. These inherent conflicts then extend to Defendant Barron’s intertwinement with
7 Milam and Berling. Barron is the founder and managing partner of 12/12 Ventures. One of 12/12
8 Ventures’ funds is 12/12 Ventures, Fund I, LLC. The general partner of 12/12 Ventures, Fund I,
9 LLC, is 12/12 Ventures GP I, LLC (“12/12 GP”). Milam and Berling each own 17.5% of the
10 12/12 GP. As such, Milam, Berling, and Barron are business partners outside of Cookies
11 Creative. This alignment demonstrates why Milam, Berling, and Barron, as fiduciaries of Cookies
12 Creative, would act to the detriment of Cookies Creative as set forth in this Complaint.

13 15. Cookies Creative is a party to a license agreement with Cookies SF, the most recent
14 version of which is the First Amended and Restated License Agreement entered into on February
15 14, 2019, with an effective date of January 1, 2019 (the “License Agreement”). Milam signed the
16 License Agreement on behalf of Cookies Creative and on behalf of Cookies SF, with nonparty
17 Lesjai Chang as a co-signer for Cookies Creative. Milam’s dueling interests in the two companies
18 created an inherent conflict of interest that, eventually, led to the dispute that is the core of this
19 Complaint.

20 16. The License Agreement is “exclusive, worldwide, perpetual, nontransferable,
21 royalty free, and irrevocable.” It grants Cookies Creative the right to use specified trademarks and
22 trade names in connection with goods and services including clothing, home goods, accessories,
23 and personal products.

24 17. The License Agreement further gave Cookies Creative the right to sublicense,
25 without prior express approval of Cookies SF, and did not obligate Cookies Creative to pay
26 Cookies SF any royalty or other ongoing consideration. As such, the License Agreement created a
27 lucrative revenue opportunity for Cookies Creative.

28 18. Cookies Creative used the License Agreement to create a significantly lucrative

1 revenue stream for it and its shareholders. Pursuant to that License Agreement, Cookies Creative
2 sublicensed to over 150 sublicensees around the country and around the world, including
3 cultivators, manufacturers, and retail operators (“Sublicensees”), resulting in significant revenue to
4 Cookies Creative. The Sublicensees who were retail operators are referred to as “Retail
5 Sublicensees” hereinafter. These Sublicensees have paid, and absent the breaches of fiduciary
6 duty and contract outlined herein, would continue to pay, millions of dollars annually to Cookies
7 Creative. Moreover, the licenses with the Retail Sublicensees contained call options which
8 allowed the Cookies Creative to purchase the Retail Sublicensees in exchange for shares in
9 Cookies Creative. The call options in the Retail Sublicenses were valuable assets of Cookies
10 Creative until the Defendants carried out the scheme detailed herein, and either were carried on the
11 balance sheet of Cookies Creative or should have been carried on the balance sheet of Cookies
12 Creative as significant assets.

13 19. Over the past several years Cookies Creative also licensed the Cookies brand to
14 companies in the hemp space to develop products that could be sold throughout the country and
15 online (the “Hemp Licenses”). The Hemp Licenses also provided Cookies Creative with a
16 lucrative revenue stream.

17 20. Further Cookies Creative owns valuable intellectual property relating cannabis,
18 including cannabis genetics. These IP rights are not subject to any license with Cookies SF; they
19 are owned by Cookies Creative. Berling, through an entity controlled by him or acting at his
20 direction, is currently exercising actual dominion and control over the plants/genetics, even though
21 those assets belong to Cookies Creative, and refusing to allow Cookies Creative access to those
22 physical plants. This also deprives Cookies Creative of revenue and access to its valuable tangible
23 assets, all as part of the scheme to eliminate Cookies Creative as a going concern.

24 21. All told, the agreements with Retail Sublicensees, combined with Cookies
25 Creative’s valuable intellectual property, and the embedded call options enabled Cookies Creative
26 to raise funds in a 2023 Series A at a valuation of \$325 million.

27 22. Added to Cookies Creative’s solid financial base described above, Cookies
28 Creative recently obtained a judgment against a nonparty company that is also part of the

1 “Cookies” business ecosystem, Cookies Retail, LLC (“CRE”), for \$22.7 million (the CRE
2 Judgment”).

3 23. In 2025, however, Cookies Creative became a judgment debtor for a judgment of
4 roughly \$8 million in favor of another nonparty, Cole Ashbury Group LLC (“CAG”) (the “CAG
5 Judgment”). The CAG Judgment became the excuse Milam and his co-conspirators needed to get
6 rid of the License Agreement and appropriate the entire revenue stream from the License
7 Agreement (which was, of course, supposed to be irrevocable) for Cookies SF.

8 24. On information and belief, members of the Board of Directors of Cookies Creative,
9 acting at the direction of Milam, with the active participation of Berling and Barron, hatched a
10 plan to feign Cookies Creative’s insolvency with the intent of terminating the License Agreement.
11 The effect of this would be to divert license fees from Cookies Creative to Cookies SF, starving
12 Cookies Creative while enriching Milam, Cookies SF, and on information and belief, his co-
13 conspirators Berling and Barron. Milam, in particular, was aware that terminating the License
14 Agreement he signed for both entities (Cookies Creative and Cookies SF) would enrich him
15 through his substantial holdings in Cookies SF at the expense of Cookies Creative. It would also
16 remove Cookies Creative as an affiliated entity, enabling Milam to reestablish his control over all
17 Cookies IP and business relationships while cutting out the shareholders of Cookies Creative. All
18 of this is directly contrary to a Code of Conduct Milam signed in connection with the 2023 Series
19 A financing, in which he agreed to act in the best interests of Cookies Creative.

20 25. To accomplish this goal, Milam, while Chairman of the Board of Cookies Creative,
21 and leading his co-directors, laid in place a plan to abruptly terminate the license agreement.

22 26. To terminate the License Agreement, Milam needed an excuse. He found one in
23 the CAG Judgment. That Judgment was entered on July 14, 2025. On October 15, 2025, CAG
24 obtained an Assignment Order that directed, as of November 15, 2025, the Sublicensees to pay
25 their license fees not to Cookies Creative, but to CAG through its attorneys (the “CAG
26 Assignment Order”).

27 27. In October 2025, shortly after the CAG Assignment Order issued, Cookies
28 Creative, acting through Berling, purported to terminate several Retail Sublicenses for purported

1 nonpayment of license fees. The terminations made little sense from Cookies Creative’s
2 perspective, because an active licensee will either pay Cookies Creative or, if not, will continue to
3 accrue a collectible amount payable to Cookies Creative. A terminated licensee, on the other
4 hand, would stop accruing such payables to Cookies Creative. On information and belief, this was
5 a first step towards redirecting revenue from Cookies Creative to Cookies SF at the overall
6 direction of Milam.

7 28. On November 2, 2025, Milam resigned from the Board of Cookies Creative. Three
8 days later, on November 5, 2025, Cookies SF, acting at Milam’s direction, sent Cookies Creative a
9 termination notice stating that Cookies SF “understands” that Cookies Creative is insolvent, and
10 terminating the License Agreement (the “Termination Notice”).

11 29. The claim of insolvency and Termination Notice were flawed in multiple respects.
12 First, the Termination Notice purported to rely in part on Cookies Creative’s own financial
13 statements, to which Milam had access as a Board member. Milam thereby used Cookies
14 Creative’s information that he obtained as its fiduciary to help Cookies SF to the detriment of
15 Cookies Creative.

16 30. Second, Milam, Berling, and Barron were aware that CAG had approached
17 Cookies Creative directly and made clear that it would negotiate with Cookies Creative so that
18 Cookies Creative could continue to operate in parallel with the CAG Judgment being paid. The
19 three individual Defendants were aware of this because CAG in fact approached the three of them
20 directly. Milam, Berling, and Barron did not meaningfully pursue these conversations with CAG,
21 even though that by itself would have directly benefited Cookies Creative. The decision is
22 inexplicable absent the aforementioned scheme.

23 31. Third, Cookies Creative had the ability to collect monies from certain investors in
24 an amount that would have exceeded the judgment, because certain investors, including a 12/12
25 investment entity controlled by Barron, had been issued shares in Cookies Creative for which they
26 owed monies to Cookies Creative but had not paid. Specifically, in 2023, Cookies Creative closed
27 a Series A preferred financing. Three of the investors in that financing were issued shares for
28 which they had not put fully paid as of October 2025. Among them was a 12/12 Ventures entity,

1 which was issued \$5 million worth of preferred stock in the 2023 Series A, but did not transfer the
2 \$5 million to Cookies Creative. Two other investors account for an additional \$6 million owed to
3 Cookies Creative, in that those two other investors were issued shares worth \$6 million but did not
4 pay that amount due to Cookies Creative in exchange therefor. Despite these monies being due
5 and owing to Cookies Creative, Milam, Berner, and Barron made no effort to secure them for the
6 Company. In Barron’s case, the omission is egregious given his fiduciary duties, but also
7 predictable given that he, Milam, and Berling are partners 12/12 GP.

8 32. Fourth, the Termination Notice ignored that Cookies Creative was at the time a
9 judgment creditor under the CRE Judgment. The CRE Judgment was entered on July 16, 2025.
10 That award grew out of an effort by CRE to divert funds from Cookies Creative that is similar to
11 the effort Cookies SF is making here. In brief, CRE would develop licensed retail cannabis stores,
12 and each store would enter into a license with Cookies Creative to brand the store and goods sold
13 therein. CRE began to improperly withhold fees under those licenses with retail operators, and
14 Cookies Creative pursued an arbitration for the damages caused by that and by CRE’s improper
15 use of Cookies Creative IP. Cookies Creative prevailed at arbitration, was awarded \$22.7 million,
16 and confirmed that award as a the CRE Judgment. The CRE Judgment was a valuable asset on
17 Cookies Creative’s books as of the date of the Termination Notice.

18 33. Fifth, Cookies SF had no need to terminate the License Agreement, and
19 unreasonably exercised a discretionary power to harm Cookies Creative. The License Agreement
20 was not generating revenue to Cookies SF, because it has no royalties payable to Cookies SF.
21 Thus, the Assignment Order obtained by CAG did not change anything with respect to Cookies
22 SF. Second, while the License Agreement gives Cookies SF the option to terminate the License
23 Agreement upon an insolvency, Cookies SF was not contractually obligated to terminate the
24 License Agreement. Milam, with the cooperation of Berling and Barron, made a discretionary
25 decision to harm Cookies Creative even though keeping the License Agreement in place would
26 have resulted in no harm to Cookies SF.

27 34. Milam, Berling, and Barron deliberately ignored all of these facts.

28 35. In addition, in mid-November, Barron traveled to Canada to meet with Summit

1 North, which is, on information and belief, a new financial backer of and investor in Cookies SF.
2 Barron was already making a backup plan in conjunction with his business partners Milam and
3 Berling.

4 36. Then, on information and belief, on or about November 18, an email issued from
5 Berling's Cookies Creative email account stating that Cookies Creative could only continue to
6 license to the Retail Sublicensees through the end of the month, and directing them that a new
7 license would have to be entered into with Cookies SF. This is not the action of a fiduciary who is
8 duty-bound to protect the company they serve, but the conduct of a conflicted insider determined
9 to make sure his new venture (in this case, Cookies SF operating with licensing revenue that
10 should flow to Cookies Creative) succeeded. A true fiduciary would have fought back against
11 Cookies SF's wrongful termination of the License Agreement rather than promptly acquiesced.

12 37. Shortly after that November 18, 2025, email from Berling's Cookies Creative
13 account, an email issued from a Cookies SF employee to Retail Sublicensees in an attempt to get
14 the Retail Sublicensees to sign new license agreements with Cookies SF. The email was sent by
15 Crystal Millican, who until shortly before sending the email had been a long-time employee of
16 Cookies Creative and Berling's right hand in management.

17 38. On November 17, 2025, Barron resigned from the Board of Directors of Cookies
18 Creative. Cookies SF then used Barron's resignation as a procedural pretext to falsely claim that
19 Cookies Creative could not cure its insolvency, because it lacked a Board quorum. Barron, by
20 virtue of a Voting Rights Agreement has a right to appoint a preferred director, and "fix" this
21 purported lack of quorum (even though no such deficiency exists under Cookies Creative's
22 governance documents), but has refused to do so. This, too, was part of the plan, because feigning
23 governance paralysis would help the scheme succeed. In fact, on information and belief, other
24 investors in Cookies Creative have stated that if Barron were to appoint an outside director, they
25 would put in additional funds to assist in satisfying the CAG Judgment and protecting Cookies
26 Creative. None of this fits with the plans of Milam, Berling, and Barron, however, who prefer to
27 gut Cookies Creative.

28 39. Berling, however, remains on the Board of Cookies Creative. For his misconduct,

1 this Complaint seeks his removal as a director.

2 40. On December 9, 2025, Cookies SF filed a Demand for Arbitration against Cookies
3 Creative, seeking a declaration that Cookies SF validly terminated the License Agreement and that
4 Cookies Creative is required to recognize that so-called fact. On information and belief, the
5 arbitration was intended to be sham worked out between Milam and Berling wherein Cookies
6 Creative would simply lay down without offering any real defense, giving Milam and Cookies SF
7 a declaratory judgment that the License Agreement was lawfully terminated when in fact it was
8 not. Berling purportedly controls Cookies Creative’s defense to that arbitration, leading to the
9 conclusion that the defense will be a Potemkin defense.

10 41. Following the improper termination, which was itself designed to deprive Cookies
11 Creative of cash, Milam and Berling have cooperated in attempting to convert unsecured debts and
12 liabilities into secured debt, including most significantly the \$23 million judgment, in favor of
13 service providers. In one egregious case, Berling signed an Acknowledgment of Assignment of
14 Judgment, even though that law firm’s claimed amount owed is less than 1/3 of the amount of the
15 Judgment. The Notice of Assignment sheds no light on the decision-making process, except that
16 Berling takes individual responsibility for the assignment. On information and belief, Berling is
17 aware that this will do nothing but harm Cookies Creative’s defense of the arbitration brought by
18 Cookies SF (to the extent Berling intends to mount one at all), because it strips yet another asset
19 from the balance sheet. More importantly, Berling could not assign that judgment if in fact
20 Cookies Creative were insolvent, because to do so could open Cookies Creative to claims of
21 fraudulent transfer. Again, the conduct of the individual Defendants here can only be understood
22 if they stand to gain via Cookies SF while harming Cookies Creative.

23 42. Finally, Cookies SF has now communicated with the licensee of the Hemp License
24 directing it, too, not to pay Cookies Creative and instead to pay Cookies SF.

25 43. All told, Milam and his co-conspirators are out to level Cookies Creative to the
26 ground, leaving its other shareholders with nothing. Were Milam, Berling, and Barron acting in
27 the commercially rational interests of Cookies Creative and themselves as shareholders, without
28 divided and diverted loyalty, these events never would have happened. Instead, Milam, while

1 holding dual fiduciary status, and his co-conspirators Berling and Barron, while owing what
2 should have been undivided fiduciary obligation to Cookies Creative, opted to declare insolvency
3 despite the CRE Judgment, refused to negotiate with CAG (which itself has an interest in Cookies
4 Creative’s survival) and attempt to kill Cookies Creative, while directly enriching Cookies SF by
5 diverting the licensing revenue directly to it. Worse yet, all three knew of the tens of millions of
6 dollars that had gone into enhancing the License Agreement over the years, and took this course of
7 conduct anyway. And, finally, Berling’s actions as described above with respect to the
8 plants/genetics that Cookies Creative owns leave no doubt that the individual Defendants are
9 executing a synchronized plan to starve Cookies Creative of all revenue and assets by terminating
10 the License Agreement and cutting off access to Cookies Creative’s plants/genetics in one fell
11 swoop.

12 44. By undertaking this course, each acted against their own purported interest in
13 Cookies Creative in a way that can only be understood when the layers of conflicts here are seen
14 clearly and it becomes apparent that each of Milam, Berling, and Barron have more to gain from
15 Cookies SF’s success than they do by Cookies Creative’s failure. Rational directors with true
16 undivided loyalty would never have acted in this way. Of course, that would preserve Cookies
17 Creative for all its shareholders, rather than letting Milam, Berling, and Barron to sacrifice
18 Cookies Creative and benefit from holdings in Cookies SF.

19 45. NedCo brings this action to protect Cookies Creative from Milam’s pillaging, aided
20 and abetted by his long-time business partners Berling and Barron.

21 **DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS**

22 46. NedCo is and has at all times relevant hereto been a shareholder of Cookies
23 Creative.

24 47. Cookies’ Creative’s current Board consists of two directors, Berling and nonparty
25 Lesjai Chang (“Chang”). Demand on the Board would be futile because Berling comprises half
26 the Board, has directly participated in the wrongdoing herein, including cooperating with Milam in
27 terminating the License Agreement in exchange for a present or future financial benefit from
28 Cookies SF, and refusing to allow Cookies Creative access to the plants containing Cookies

1 Creative’s intellectual property. As such, Berling faces a substantial likelihood of liability in this
2 case and/or is receiving and will receive a material personal benefit from the misconduct alleged
3 herein.

4 48. In the alternative, Berling is dominated and controlled by Milam, who also faces a
5 substantial likelihood of liability for betraying his fiduciary duties to Cookies Creative and its
6 investors—all of whom have enriched Milam by their investment—and is receiving and will
7 receive a material personal benefit from his misconduct alleged herein. Specifically, Milam has in
8 the past boasted that his investors (including Berling) let him do whatever he wants and has stated
9 in Forbes magazine that they let him “do whatever he wants.” Moreover, Berling and Milam have
10 a long history of self-dealing, such as cooperating in entering into related party transactions
11 without proper disclosures or approvals, including with 12/12 Ventures affiliated entities,
12 negotiating side deals relating to Cookies’ contracts for their own personal benefit, and using
13 Cookies resources to support lavish, celebrity-style, lives. Both Milam and Berling are co-
14 defendants in the Los Angeles Action to boot, and thus have legally aligned interests. Berling will
15 not act against Milam.

16 49. Berling is also unable to effectively control Cookies Creative’s defense and
17 prosecution of affirmative claims in the arbitration filed by Cookies SF. He has worked hand in
18 glove with Milam for years, is dominated and controlled by Milam, and has conceded as much in
19 other litigation. For this reason, NedCo has standing to maintain these claims.

20 50. Since half the two-person Board is unable to impartially consider a demand for
21 action, NedCo brings this as a derivative claim to protect Cookies Creative. Plaintiff has
22 nonetheless provided a true copy of this Complaint to the Board of Cookies Creative prior to
23 filing.

24 **FIRST CAUSE OF ACTION**

25 **(For Breach of Contract against Cookies SF—Derivative)**

26 51. Plaintiff realleges the allegations of each preceding paragraph as though fully set
27 forth herein.

28 52. The License Agreement is a valid and binding contract between Cookies Creative

1 and Cookies SF.

2 53. Cookies Creative has substantially performed all of its material obligations under
3 the License Agreement.

4 54. Cookies SF's purported termination of the License Agreement is a breach of the
5 License Agreement, including because Cookies Creative is not insolvent.

6 55. As direct and proximate result of Cookies SF's breach, Cookies Creative has
7 suffered and will continue to suffer damages in an amount according to proof.

8 56. Further, unless Cookies SF is enjoined from continuing to act as if the License
9 Agreement has been terminated, Cookies Creative will suffer irreparable harm by virtue of the fact
10 Cookies Creative will continue to be starved of licensing revenue. As such, Plaintiff requests that
11 the Court enter a preliminary injunction requiring license fees to be paid directly to Cookies
12 Creative during the pendency of this litigation, or in the alternative that such fees be held in
13 escrow.

14 **SECOND CAUSE OF ACTION**

15 **(For Breach of the Covenant of Good Faith and Fair Dealing against Cookies SF—
16 Derivative)**

17 57. Plaintiff realleges the allegations of each preceding paragraph as though fully set
18 forth herein.

19 58. The License Agreement is a valid and binding contract between Cookies Creative
20 and Cookies SF. Implied in every contract is a covenant of good faith and fair dealing, under
21 which neither party may do anything which will injure the right of the other to receive the benefits
22 of the agreement.

23 59. Cookies Creative has substantially performed all of its material obligations under
24 the License Agreement.

25 60. Cookies SF's purported termination of the License Agreement is a breach of the
26 License Agreement, including because Cookies Creative is not insolvent.

27 61. Moreover, the License Agreement gave Cookies SF the discretion to terminate
28 even in the case of actual insolvency. Milam, acting as a faithless fiduciary, purported to exercise

1 that termination right in bad faith to create a revenue stream for his company, Cookies SF, to the
2 detriment of Cookies Creative. Cookies SF exercised its purported discretion in bad faith to
3 deprive Cookies Creative of the benefits of the License Agreement.

4 62. As direct and proximate result of Cookies SF’s breach, Cookies Creative has
5 suffered and will continue to suffer damages in an amount according to proof.

6 **THIRD CAUSE OF ACTION**

7 **(For Breach of Fiduciary Duty of Care Against Milam, Berling, and Barron—Derivative)**

8 63. Plaintiff realleges the allegations of each preceding paragraph as though fully set
9 forth herein.

10 64. Each of Milam, Berling, and Barron owed Cookies Creative fiduciary duties of care
11 as directors, and Milam and Berling further owed such fiduciary duties as officers.

12 65. By hatching the plot to feign Cookies Creative’s insolvency, Milam, Berling, and
13 Barron breached those duties. They breached their duty of care by, among other things, rebuffing
14 CAG’s efforts to negotiate the CAG Judgment and by ignoring the CRE Judgment, and failing to
15 collect monies owed from investors while issuing those investors shares.

16 66. As a direct and proximate result of Defendants’ breaches of fiduciary duty, Cookies
17 Creative has suffered damages in an amount according to proof.

18 67. The individual Defendants acted with fraud, malice, and/or oppression, and with
19 willful and conscious disregard of the rights of Cookies Creative and its shareholders. As such
20 Plaintiff requests an award of punitive damages against the individual Defendants.

21 **FOURTH CAUSE OF ACTION**

22 **(For Breach of Fiduciary Duty of Loyalty Against Milam, Berling, and Barron—Derivative)**

23 68. Plaintiff realleges the allegations of each preceding paragraph as though fully set
24 forth herein.

25 69. Each of Milam, Berling, and Barron owed Cookies Creative fiduciary duties of
26 loyalty as directors, and Milam and Berling further owed such fiduciary duties as officers.

27 70. By hatching the plot to feign Cookies Creative’s insolvency, Milam, Berling, and
28 Barron breached those duties. They breached their duty of loyalty by, among other things,

1 working actively with Milam, under his control, and cooperating with Milam against Cookies
2 Creative’s interests as he terminated the license on behalf of Cookies SF and thereafter. Berling is
3 further breaching his duties by exercising dominion and control over Cookies Creative’s IP as
4 alleged above, all to the detriment of Cookies Creative.

5 71. As a direct and proximate result of Defendants’ breaches of fiduciary duty, Cookies
6 Creative has suffered damages in an amount according to proof.

7 72. The individual Defendants acted with fraud, malice, and/or oppression, and with
8 willful and conscious disregard of the rights of Cookies Creative and its shareholders. As such
9 Plaintiff requests an award of punitive damages against the individual Defendants.

10 **FIFTH CAUSE OF ACTION**

11 **(For Aiding and Abetting Breach of Fiduciary Duty, against Cookies SF and DOES 1-10—
12 Derivative)**

13 73. Plaintiff realleges the allegations of each preceding paragraph as though fully set
14 forth herein.

15 74. Cookies SF and DOES 1-10 were aware of Milam’s, Berling’s, and Barron’s
16 fiduciary duties to Cookies Creative.

17 75. Cookies SF, acting through Milam, aided and abetted Milam’s, Berling’s, and
18 Barron’s breaches of fiduciary duties owed to Cookies Creative, by substantially assisting them in
19 their breaches, and is liable for the harm caused by those breaches. DOES 1-10 likewise aiding
20 and abetted Milam’s, Berling’s, and Barron’s breaches of fiduciary duties owed to Cookies
21 Creative, by substantially assisting them in their breaches and are liable for the harm caused by
22 those breaches.

23 76. As a direct and proximate result of Cookies SF’s and DOES 1-10 aiding and
24 abetting breaches of fiduciary duty, Cookies Creative has suffered damages in an amount
25 according to proof.

26 77. Cookies SF and DOES 1-10 acted with fraud, malice, and/or oppression, and with
27 willful and conscious disregard of the rights of Cookies Creative and its shareholders. As such
28 Plaintiff requests an award of punitive damages against Cookies SF and DOES 1-10.

1 from seeking reelection.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays for judgment against Defendants and Does 1-10, and each
4 of them, as follows:

- 5 1. For general and compensatory damages in an amount according to proof;
- 6 2. For punitive damages;
- 7 3. For an order imposing a constructive trust on all monies Cookies SF has received
8 by virtue of its improper termination of the License Agreement;
- 9 4. For a declaration that the License Agreement remains in full force and effect and
10 Cookies SF had no basis to terminate it;
- 11 5. For preliminary and permanent injunctive relief directing the Sublicensees to pay
12 license fees to Cookies Creative pursuant to the terms of the License Agreement, or such other
13 injunctive relief as is appropriate to protect Cookies Creative and its shareholders;
- 14 6. For an order removing Berling as a director and barring him from reelection.
- 15 7. For costs of suit herein; and
- 16 8. For such other and further relief as the Court deems just and proper.

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18 DATED: February 17, 2026

SAWYER & LABAR LLP

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20 By: 
21 Adrian Sawyer
22 Attorneys for Plaintiff
23 NEDCO, LLC
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