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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY**

MOSS LANDING COMMERCIAL PARK,
LLC, a California Limited Liability Company,

Plaintiff,

v.

MUSTAFA "MIKE" WALID BITAR, *et al.*,

Defendants.

GRUPO FLOR, LLC, a California Limited
Liability Company,

Plaintiff,

v.

MOSS LANDING COMMERCIAL PARK,
LLC, *et al.*,

Defendants.

Case No.: 17CV004079

[CONSOLIDATED FOR ALL PURPOSES
WITH CASE NO. 18CV000204]

SPECIAL JURY VERDICT FORM

Trial Date: October 28, 2019

Dep't: 15

Judge: Hon. Susan J. Matcham

Action Filed: November 7, 2017

1 **JURY VERDICT FORM**

2 We, the jury in the above-entitled action, find as follows:

3 **Section I: Grupo's Contract Claims Against Moss Landing**

4 **A. Grupo's Claim for Breach of Contract Against Moss Landing**

5 *Grupo claims that Moss Landing breached one or more of Grupo's contracts with Moss*
6 *Landing for Building Nos. 2-6 and 33, 16, 18, and 19.*

7 **Question 1:** Did Grupo and Moss Landing enter into a contract?

8 Yes No

9
10 *If your answer to this question is "Yes," then answer Question 2. If your answer to this*
11 *question is "No," then skip Questions 2 to 13 and go to Question 14.*

12 **Question 2:** Did Grupo do all, or substantially all, of the significant things that the contract required
it to do?

13 Yes No

14 *If your answer to this question is "Yes," then skip Question 3 and go to Question 4. If your*
15 *answer to this question is "No," then go to Question 3.*

16 **Question 3:** Was Grupo excused from having to do all, or substantially all, of the significant things
17 that the contract required it to do?

18 Yes No

19 *If your answer to this question is "Yes," then answer Question 4. If your answer to this*
20 *question is "No," then skip Questions 4 to 13 and go to Question 14.*

21 **Question 4:** Did Moss Landing breach the contract?

22 Yes No

23 *If your answer to this question is "Yes," then answer Question 5. If your answer to this*
24 *question is "No," then skip Questions 5 to 13 and go to Question 14.*

25 **Question 5:** Was Grupo harmed by Moss Landing's conduct?

26 Yes No

27 *If your answer to this question is "Yes," then answer Question 6. If your answer to this*
28 *question is "No," then skip Questions 6 to 13 and go to Question 14.*

1 **B. Grupo's Claim for Breach of the Implied Covenant of Good Faith and Fair Dealing**
2 **Against Moss Landing**

3 *Grupo claims that Moss Landing breached the covenant of good faith and fair dealing that*
4 *was implied in its contracts with Moss Landing for Building Nos. 2-6 and 33, 16, 18, and 19.*

5 **Question 6:** Did Moss Landing unfairly interfere with Grupo's rights to receive the benefits of the
6 contract?

7 Yes No

8 *If your answer to this question is "Yes," then answer Question 7. If your answer to this*
9 *question is "No," then skip Question 7 and go to Question 8.*

10 **Question 7:** Was Grupo harmed by Moss Landing's interference?

11 Yes No

12 *Please move on to Question 8.*

13 ***

14 **C. Moss Landing's Affirmative Defense of Unclean Hands**

15 *If you answer Questions 8 and 9 with "Yes," then you cannot award contract related*
16 *damages to Grupo.*

17 **Question 8:** Did Grupo, or its agents, commit conduct that violates conscience, good faith, or
18 fairness?

19 Breach of Contract: Yes No

20 Breach of the Implied Covenant of Good Faith and Fair Dealing:

21 Yes No

22 *You must consider each claim separately in answering Question 8. If your answer to this*
23 *question is "Yes," then answer Question 9. If your answer to this question is "No," then skip*
24 *Question 9 and go to Question 10.*

25 **Question 9:** Did that conduct relate directly to the conduct concerning Grupo's claims?

26 Breach of Contract: Yes No

27 Breach of the Implied Covenant of Good Faith and Fair Dealing:

28 Yes No

You must consider each claim separately in answering Question 9.

1
2 Please move on to Question 10.

3 ***

4 **D. Grupo's Request for Damages**

5 If you answered "Yes" to Questions 8 and 9, then do not answer Questions 10 to 13, and
6 please move on to Question 14.

7 **Question 10:** Should any damages be awarded to Grupo?

8 Yes _____ No _____

9 If your answer to this question is "Yes," then answer Question 11. If your answer to this
10 question is "No," then skip Questions 11 to 13 and go to Question 14.

11 **Question 11:** Could Grupo have avoided the harm caused by the breach with reasonable effort?

12 Yes _____ No _____

13 If your answer to this Question is "Yes," then, in considering your answer to Question 12,
14 reduce the amount of damages that should be awarded to Grupo that Grupo could have avoided with
15 reasonable effort.

16 Please move on to Question 12.

17 **Question 12:** What is the amount, if any, of damages that should be awarded to Grupo?

18 \$ _____

19 Please move on to Question 13.

20 **Question 13:** Should prejudgment interest be awarded to Grupo, and if so, what was the date on
21 which Grupo's loss was incurred?

22 Yes _____ No _____ Date: _____

23 Please move on to Question 14.

24
25 ***

1 **Section II: Grupo's Claims against Moss Landing Commercial Park,**
2 **Nader Agha, and Norm Morales**

3 **A. Grupo's Claim for Intentional Interference with Contractual Relations**

4 **Question 14:** Was there at least one contract between Grupo and one or more of its
5 cultivators/growers/subtenants?

6 Yes No

7 *If your answer to this question is "Yes," then answer Question 15. If your answer to this*
8 *question is "No," then skip Questions 15 to 29 and go to Question 30.*

9 **Question 15:** Did Moss Landing, Nader Agha, and/or Norm Morales know of that contract or
10 relationship?

11 Moss Landing: Yes No

12 Nader Agha: Yes No

13 Norm Morales: Yes No

14 *You must consider each party separately in answering Question 15. Only answer Question*
15 *18 with respect to any party for whom you selected "Yes" in this question. If you answered "No"*
16 *for every party in this question, then skip Questions 16 to 29 and move on to Question 30.*

17 **Question 16:** Did Moss Landing, Nader Agha, and/or Norm Morales's conduct prevent performance
18 under that contract or make it more expensive or difficult to perform under that contract?

18 Moss Landing: Yes No

19 Nader Agha: Yes No

20 Norm Morales: Yes No

21 *You must consider each party separately in answering Question 16. Only answer Question*
22 *17 with respect to any party for whom you selected "Yes" in this question. If you answered "No"*
23 *for every party in this question, then skip Questions 17 to 29 and move on to Question 30.*

24 **Question 17:** Did Moss Landing, Nader Agha, and/or Norm Morales intend to disrupt the
25 performance of that contract, or know that disruption of performance of that contract was certain or
26 substantially certain to occur?

26 Moss Landing: Yes No

27 Nader Agha: Yes No

28 Norm Morales: Yes No

1
2 You must consider each party separately in answering Question 17. Only answer Question
3 18 with respect to any party for whom you selected "Yes" in this question. If you answered "No"
4 for every party in this question, then skip Questions 18 to 29 and move on to Question 30.

4 **Question 18:** Was Grupo harmed by Moss Landing's conduct?

5 Yes No

6 If your answer to this question is "Yes," then answer Question 19. If your answer to this
7 question is "No," then skip Question 19 to 29 and go to Question 30.

8 **Question 19:** Was Moss Landing, Nader Agha, or Norm Morales's conduct a substantial factor in
9 causing Grupo's harm?

10 Moss Landing: Yes No
11 Nader Agha: Yes No
12 Norm Morales: Yes No

13 You must consider each party separately in answering Question 19. If your answer to this
14 question is "Yes," then answer Question 20. If your answer to this question is "No," then skip
15 Question 20 to 29 and go to Question 30.

16 ***

17 **B. Moss Landing, Nader Agha, and Norm Morales's Affirmative Defense of Privilege to**
18 **Protect a Legitimate Financial Interest**

19 If you answer Questions 20 to 23 with "Yes," then you cannot award damages to Grupo.

20 **Question 20:** Did Moss Landing, Nader Agha, or Norm Morales have a legitimate financial interest
21 in the contractual relations because it was the landlord for the commercial real property involved and
22 being responsible for utilities?

22 Moss Landing: Yes No
23 Nader Agha: Yes No
24 Norm Morales: Yes No

25 You must consider each party separately in answering Question 20. Only answer Question
26 21 with respect to any party for whom you selected "Yes" in this question. If your answer to this
27 question is "No," then skip Questions 21 to 23 and go to Question 24.

1 Question 21: Did Moss Landing, Nader Agha, or Norm Morales act only to protect their own
2 financial interest?

3 Moss Landing: Yes No
4 Nader Agha: Yes No
5 Norm Morales: Yes No

6 *You must consider each party separately in answering Question 21. Only answer Question*
7 *22 with respect to any party for whom you selected "Yes" in this question. If your answer to this*
8 *question is "No," then skip Questions 22 to 23 and go to Question 24.*

9 Question 22: Did Moss Landing, Nader Agha, or Norm Morales act reasonably and in good faith to
10 protect it?

11 Moss Landing: Yes No
12 Nader Agha: Yes No
13 Norm Morales: Yes No

14 *You must consider each party separately in answering Question 22. Only answer Question*
15 *23 with respect to any party for whom you selected "Yes" in this question. If your answer to this*
16 *question is "No," then skip Questions 23 and go to Question 24.*

17 Question 23: Did Moss Landing, Nader Agha, or Norm Morales use appropriate means to protect it?

18 Moss Landing: Yes No
19 Nader Agha: Yes No
20 Norm Morales: Yes No

21 *You must consider each party separately in answering Question 23. Please move on to*
22 *Question 24.*

23 ***

24 **C. Moss Landing, Nader Agha, and Norm Morales's**
25 **Affirmative Defense of Unclean Hands**

26 *If you answer Questions 24 to 25 with "Yes," then you cannot award damages to Grupo.*

27 Question 24: Did Grupo, or its agents, commit conduct that violates conscience, good faith, or
28 fairness?

Yes No

If your answer to this question is "Yes," then answer Question 25. If your answer to this

1 question is "No," then skip Question 25 and go to Question 26.

2 Question 25: Did that conduct relate directly to the conduct concerning Grupo's intentional
3 interference with contractual relations claim?

4 Yes No

5 Please move on to Question 26.

6 ***

7 **D. Grupo's Request for Damages**

8 Question 26: Should any damages be awarded to Grupo?

9 Yes No

10
11 *If your answer to this question is "Yes," then answer Question 27. If your answer to this
12 question is "No," then skip Questions 27 to 29 and go to Question 30.*

13 Question 27: Could Grupo have avoided the harm caused by the breach with reasonable effort?

14 Yes No

15 *If your answer to this Question is "Yes," then, in considering your answer to Question 28,
16 reduce the amount of damages, if any, that should be awarded to Grupo that Grupo could have
17 avoided with reasonable effort.*

18 Please move on to Question 28.

19 Question 28: What is the amount, if any, of damages that should be awarded to Grupo?

20 \$ _____.

21 *If you awarded any amount in damages, go to Question 29. If not, go to Question 30.*

22 Question 29: Should prejudgment interest be awarded to Grupo, and if so, what was the date on
23 which Grupo's loss was incurred?

24 Yes No Date: _____

25 Please move on to Question 30.

1 **Section III: Moss Landing's Claims Against Mike Bitar and Grupo**

2 **A. Moss Landing's Claim for Intentional Misrepresentation Against Mike Bitar**

3 **Question 30: Did Mike Bitar make a false representation to Moss Landing?**

4 Yes No

5
6 *If your answer to this question is "Yes," then answer Question 31. If your answer to this question is "No," then skip Questions 31 to 35 and go to Question 36.*

7 **Question 31: Did Mike Bitar know that representation was false, or did he make the representation recklessly and without regard for its truth?**

8
9 Yes No

10 *If your answer to this question is "Yes," then answer Question 32. If your answer to this question is "No," then skip Questions 32 to 35 and go to Question 36.*

11
12 **Question 32: Did Mike Bitar intend for Moss Landing to rely on that representation?**

13 Yes No

14 *If your answer to this question is "Yes," then answer Question 33. If your answer to this question is "No," then skip Questions 35 to 37 and go to Question 38.*

15
16 **Question 33: Did Moss Landing reasonably rely on that representation?**

17 Yes No

18 *If your answer to this question is "Yes," then answer Question 34. If your answer to this question is "No," then skip Questions 36 to 37 and go to Question 38.*

19
20 **Question 34: Was Moss Landing harmed by Grupo's conduct?**

21 Yes No

22 *If your answer to this question is "Yes," then answer Question 35. If your answer to this question is "No," then skip Questions 37 and go to Question 38.*

23
24 **Question 35: Was Moss Landing's reliance on Mike Bitar's false representation of fact a substantial factor in causing harm to Moss Landing?**

25
26 Yes No

27 *Please move on to Question 36.*

28 ***

1 **B. Moss Landing's Claim for Fraudulent Concealment Against Mike Bitar**

2 Question 36: Was Mike Bitar and Moss Landing in a fiduciary relationship; and did Mike Bitar
3 intentionally fail to disclose certain facts to Moss Landing?

4 Yes No

5 OR

6 Did Mike Bitar disclose some facts to Moss Landing but intentionally failed to disclose other
7 facts, making the disclosure deceptive?

8 Yes No

9 *If your answer to either option for this question is "Yes," then answer Question 37. If your*
10 *answer to both options for this question is "No," then skip Questions 37 to 40 and go to Question*
11 *41.*

12 Question 37: Did Mike Bitar intend to deceive Moss Landing by concealing those facts?

13 Yes No

14 *If your answer to this question is "Yes," then answer Question 38. If your answer to this*
15 *question is "No," then skip Questions 38 to 40 and go to Question 41.*

16 Question 38: If the omitted information had been disclosed to Moss Landing, would Moss Landing
17 reasonably have behaved differently?

18 Yes No

19 *If your answer to this question is "Yes," then answer Question 39. If your answer to this*
20 *question is "No," then skip Questions 39 to 40 and go to Question 41.*

21 Question 39: Was Moss Landing harmed?

22 Yes No

23 *If your answer to this question is "Yes," then answer Question 40. If your answer to this*
24 *question is "No," then skip Question 40 and go to Question 41.*

25 Question 40: Was Mike Bitar's concealment of those facts a substantial factor in causing Moss
26 Landing's harm?

27 Yes No

28 Go to Question 41.

1 **C. Moss Landing's Claim for Breach of Fiduciary Duty Against Mike Bitar**

2 Question 41: Was Mike Bitar acting as the real estate broker for Moss Landing?

3 Yes No

4 *If your answer to this question is "Yes," then answer Question 42. If your answer to this*
5 *question is "No," then skip Questions 42 to 45 and go to Question 46.*

6 Question 42: Did Mike Bitar knowingly act against Moss Landing's interests in connection with
7 Grupo's leases at the park?

8 Yes No

9 *If your answer to this question is "Yes," then answer Question 43. If your answer to this*
10 *question is "No," then skip Questions 43 to 45 and go to Question 46.*

11 Question 43: Did Moss Landing give its informed consent to Mike Bitar's conduct?

12 Yes No

13 *If your answer to this question is "Yes," then skip Questions 44 to 45 and go to Question 46.*
14 *If your answer to this question is "No," then answer Question 44.*

15 Question 44: Was Moss Landing harmed?

16 Yes No

17 *If your answer to this question is "Yes," then answer Question 45. If your answer to this*
18 *question is "No," then skip Question 45 and go to Question 46.*

19 Question 45: Was Mike Bitar's conduct a substantial fact in causing Moss Landing's harm?

20 Yes No

21 *Go to Question 46.*

22 ***

23 **D. Moss Landing's Claims Against Grupo**

24 *Only answer Questions 46 to 53 if you found Mike Bitar liable for at least one of the three*
25 *claims above.*

26 *i. Authorization/Direction*

27 Question 46: Was Mike Bitar the agent or employee of Grupo at the time that he engaged in the
28 conduct in the claim?

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Intentional Misrepresentation: Yes No _____
Concealment: Yes No _____
Breach of Fiduciary Duty: Yes No _____

You must consider each claim separately in answering Question 46. Only answer Question 47 with respect to any claim for which you selected "Yes" in this question. If your answer to this question is "No" for all claims, then skip Question 47 and go to Question 48.

Question 47: Was Mike Bitar acting within the scope of his agency or employment with Group at the time he made the false representations of fact to Moss Landing?

Intentional Misrepresentation: Yes No _____
Concealment: Yes No _____
Breach of Fiduciary Duty: Yes No _____

Please go to Question 48.

ii. Aiding and Abetting

Question 48: Did Grupo know that Mike Bitar was going to commit the conduct in the claim?

Intentional Misrepresentation: Yes No _____
Concealment: Yes No _____
Breach of Fiduciary Duty: Yes No _____

You must consider each claim separately in answering Question 48. Only answer Question 49 with respect to any claim for which you selected "Yes" in this question. If your answer to this question is "No" for all claims, then skip Questions 49 to 50 and go to Question 51.

Question 49: Did Grupo give substantial assistance or encouragement to Mike Bitar's conduct?

Intentional Misrepresentation: Yes No _____
Concealment: Yes No _____
Breach of Fiduciary Duty: Yes No _____

You must consider each claim separately in answering Question 49. Only answer Question 50 with respect to any claim for which you selected "Yes" in this question. If your answer to this question is "No" for all claims, then skip Question 50 and go to Question 51.

1 Question 50: Was Grupo's conduct a substantial factor in causing harm to Moss Landing?

2 Intentional Misrepresentation: Yes No

3 Concealment: Yes No

4 Breach of Fiduciary Duty: Yes No

5
6 *You must consider each claim separately in answering Question 50. Please go to Question 51.*

7 *iii. Ratification*

8
9 Question 51: Was Mike Bitar not authorized to act on behalf of Grupo, but nonetheless purported to act on behalf of Grupo?

10 Intentional Misrepresentation: Yes No

11 Concealment: Yes No

12 Breach of Fiduciary Duty: Yes No

13
14 *You must consider each claim separately in answering Question 51. Only answer Question 52 with respect to any claim for which you selected "Yes" in this question. If your answer to this question is "No" for all claims, then skip Questions 52 to 53 and go to Question 54.*

15
16 Question 52: Did Grupo learn of Mike Bitar's unauthorized conduct, and all of the material facts involved in the unauthorized transaction, after that transaction occurred?

17
18 Intentional Misrepresentation: Yes No

19 Concealment: Yes No

20 Breach of Fiduciary Duty: Yes No

21
22 *You must consider each claim separately in answering Question 52. Only answer Question 53 with respect to any claim for which you selected "Yes" in this question. If your answer to this question is "No" for all claims, then skip Question 53 and go to Question 54.*

23
24 Question 53: Did Grupo then approve of Mike Bitar's conduct with respect to those leases?

25 Intentional Misrepresentation: Yes No

26 Concealment: Yes No

27 Breach of Fiduciary Duty: Yes No

28 *Please go to Question 54.*

1 ***

2 **E. Mike Bitar and Grupo's Affirmative Defense of Ratification**

3 *If you answer Questions 54 to 55 with "Yes," then even though you found in favor of Moss*
4 *Landing's claims, you cannot award damages to Moss Landing with respect to that claim.*

5 Question 54: Did Moss Landing have full knowledge of the facts?

6 Yes No

7 *If your answer to this question is "Yes," then answer Question 55. If your answer to this*
8 *question is "No," then skip Question 55 and go to Question 56.*

9 Question 55: After having full knowledge of the facts, did Moss Landing adopt the contract by
10 subsequent conduct?

11 Yes No

12 *Please move on to Question 56.*

13 ***

14 **F. Mike Bitar and Grupo's Affirmative Defense of Unclean Hands**

15 *If you answer Questions 56 to 57 with "Yes," then even though you found in favor of Moss*
16 *Landing's claims, you cannot award damages to Moss Landing with respect to that claim.*

17 Question 56: Did Moss Landing, or its agents, commit conduct that violates conscience, good faith,
18 or fairness?

19 Yes No

20 *If your answer to this question is "Yes," please answer Question 57. If your answer to this*
21 *question is "No", then skip Question 57 and go to Question 58.*

22 Question 57: Did that conduct relate directly to the conduct concerning Moss Landing's claims?

23 Yes No

24 *Please move on to Question 58.*

25 ***

1 **G. Moss Landing's Request for Damages**

2 Question 58: Should any damages be awarded to Moss Landing?

3 Yes _____ No _____

4 *If your answer to this question is "Yes," then answer Question 59. If your answer to this*
5 *question is "No," then skip Questions 59 to 61 and go to Question 62.*

6 Question 59: Could Moss Landing have avoided the harm caused by the breach with reasonable
7 effort?

8 Yes _____ No _____

9 *If your answer to this Question is "Yes," then, in considering your answer to Question 60,*
10 *reduce the amount of damages, if any, that should be awarded to Moss Landing that Moss Landing*
11 *could have avoided with reasonable effort. Please move on to Question 60.*

12 Question 60: What are the damages, if any, that Moss Landing should be awarded from the
13 following defendants?

14 Mike Bitar: \$ _____

15 Grupo: \$ _____

16 *Please move on to Question 61*

17 Question 61: Should prejudgment interest be awarded to Moss Landing, and if so, what was the date
18 on which Moss Landing's loss was incurred?

19 Yes _____ No _____ Date: _____

20 *Please move on to Question 62.*

21 ***

22 **Section IV: Moss Landing's Claim for Unjust Enrichment and Request for Restitution**

23 *You should only answer the following questions if your answer to Question 1 was "No." If*
24 *your answer to Question 1 was "Yes," then skip Questions 62 to 63 and sign and date the verdict*
25 *form.*

26 Question 62: Did Mike Bitar's misconduct cause him and/or Grupo to receive a benefit that it would
27 not otherwise have obtained under the cultivation agreements with its
28 cultivators/growers/subtenants?

Yes _____ No _____

If your answer to Question 62 is "Yes," then please answer Question 63. If your answer to

1 Question 62 is "No," then please sign and date the form below.

2 Question 63: What is the amount of the benefit that Grupo actually received under the cultivation
3 agreements with its cultivators/growers/subtenants, minus Grupo's expenses incurred under its
4 master leases with Moss Landing and its performance under the cultivation agreements, that Grupo
5 would not have achieved except for Mike Bitar's misconduct?

6 \$ _____

7 Please move to Question 64.

8 Question 64: Should prejudgment interest be awarded to Moss Landing, and if so, what was the date
9 on which Moss Landing's loss was incurred?

10 Yes _____ No _____ Date: _____

11 ***

12
13 Please have the Presiding Juror sign and date the lines below to confirm that this verdict form
14 represents the jury's verdict in this case.

15 Signed: Juror #9
16 Presiding Juror

17 Dated: 11-15-19

18 After the verdict form has been signed and dated, please notify the bailiff or clerk that you
19 are ready to present your verdict in the courtroom.

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