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Attorney for Cross-Complainant
SHELDON R. BLUM, Trustee For
The SHELDON R. BLUM TRUST

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT

Coordinated Proceedings
Special Title {Rule 1550 (b)}

) Judicial Council Coordination
Proceeding No. 4408

**ANTELOPE VALLEY GROUNDWATER
CASES**

) Santa Clara Case No. 1-05-CV-049053
Assigned to Hon. Jack Komar

Included Actions:

**CROSS-COMPLAINT OF CROSS-
COMPLAINANT SHELDON R. BLUM,
TRUSTEE FOR THE SHELDON R.
BLUM TRUST AGAINST CROSS-
DEFENDANTS WM. BOLTHOUSE
FARMS, INC., and BOLTHOUSE
PROPERTIES, LLC.**

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.

Los Angeles County Superior Court
Case No. BC 325 201

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.

Kern County Superior Court
Case No. S-1500-CV-254-348

Wm. Bolthouse Farms, Inc., v. City of
Lancaster; Diamond Farming Co. v. City of
Lancaster; Diamond Farming Co. v. City of
Palmdate Water District.

Riverside County Superior Court
Consolidated Action Nos. RIC 344 840,
RIC 344 436, RIC 344 668

AND RELATED CROSS-ACTIONS.

1 SHELDON R. BLUM, TRUSTEE For The)
SHELDON R. BLUM TRUST,)
2 Cross-Complainant,)
3 vs.)
4)
5 WM. BOLTHOUSE FARMS, INC., a)
Michigan Corporation; BOLTHOUSE)
6 PROPERTIES, LLC., a California Limited)
Company; and DOES 1 through 200,)
7 inclusive.)
8 Cross-Defendants)

9 Cross-Complainant SHELDON R. BLUM, Trustee For The SHELDON R. BLUM
10 TRUST complains against Cross-Defendants WM. BOLTHOUSE FARMS, INC.;
11 BOLTHOUSE PROPERTIES, LLC.; and DOES 1 Through 200, Inclusive, and each of them,
12 as follows:

13 **GENERAL ALLEGATIONS**

14
15 1. Cross-Complainant SHELDON R. BLUM, Trustee For The SHELDON R. BLUM
16 TRUST, (hereinafter "BLUM TRUSTEE"), is and since 1985, has been the fee owner of 120
17 acres, more or less, located on Avenue J & 70 Street East in the City of Lancaster, County of
18 Los Angeles, State of California, identified as APN: 3384-009-001, & 3384-009-006,
19 hereinafter collectively referred to as "BLUM PARCELS". The BLUM PARCELS' legal
20 description are, as follows: (001) The north half of the northwest quarter of Section 24,
21 Township 24, Township 7N, Range 11W, San Bernardino Meridian; & (006) The northeast
22 quarter of the northwest quarter of Section 24, Township 7N, Range 11W, San Bernardino
23 Meridian, except therefrom a portion described in the Map Book. The BLUM PARCELS
24 overlies percolating groundwater, the extent of which is unknown to Cross-Complainant.
25

26 2. Cross-Defendant WM. BOLTHOUSE FARMS, INC., (hereinafter "BOLTHOUSE

1 FARMS"), is and at all times herein mentioned, was a Michigan corporation authorized to do
2 business in the State of California, who Cross-Complainant is informed and believes and on
3 such information and belief alleges is privy to, assigned or transferred it's leasehold interest in
4 the BLUM PARCELS to Cross-Defendant BOLTHOUSE PROPERTIES, LLC., (hereinafter
5 "BOLTHOUSE PROPERTIES"), a California Limited Liability Company, doing business in the
6 State of California. Cross-Defendants are fee owners of 2 adjacent real properties located
7 directly across the street from Cross-Complainant's PARCELS, which also overlies percolating
8 groundwater, hereinafter referred to as the "SERRANO VALLEY RANCH" & "LADE RANCH".
9

10 3. On January 31, 1999, Cross-Complainant SHELDON R. BLUM, as Lessor, and
11 Cross-Defendant BOLTHOUSE FARMS. as Lessee, entered into a written Lease Agreement
12 in connection with the terms and conditions under which Cross-Complainant agreed to lease
13 the BLUM PARCELS to Cross- Defendant, including requiring Cross-Defendant to either
14 repair and exclusively operate the existing damaged water wells when undertaking its farming
15 operations on the BLUM PARCELS, or otherwise terminate the Lease Agreement and quickly
16 vacate the property without penalty. At all times herein mentioned, the January 31, 1999,
17 Lease Agreement established the parties intent, course of dealings, practices and
18 performances, as required to be performed by each of them under their subsequently
19 executed August 2, 2001, written Lease Agreement, concerning the same BLUM PARCELS,
20 subject matter and lease terms. A true and correct copy of the parties Lease Agreement
21 dated August 2, 2001, is attached hereto, and marked as Exhibit "A", herein.
22

23 4. At all times herein mentioned, Cross-Defendants and Cross-Complainant's subject
24 Lease Agreements expressly recognized: (a) The extensive study and debate by State,
25 County and Local Governments regarding the amount of local ground water and the impact of
26 well pumping throughout the Antelope Valley area, and that (b) The possibility exists that
27

1 future water rights to, and the amount of available water for the BLUM PARCELS, including
2 the costs thereof, may be altered by State, County and/or Local Governments. Cross-
3 Complainant and Cross-Defendants further agreed that any adverse alterations would
4 negatively affect the amount and/or cost of overlying groundwater available to Cross-
5 Defendant to pump from Cross-Complainant's water wells, for the beneficial use of the BLUM
6 PARCELS, including diminution in market value.

7
8 5. At all times herein mentioned, Cross-Defendant tacitly promised as a condition
9 subsequent covenant, to use its best efforts to avert any adverse water finding on the BLUM
10 PARCELS. In furtherance of Cross-Defendant's good faith efforts, Cross-Defendant was to
11 file with the State Board on behalf of Cross-Complaint, it's groundwater usage on the BLUM
12 PARCELS in the form provided in California Water Code Section 5002, for each calendar year
13 of extracting groundwater on the BLUM PARCELS in excess of 25 acre-feet. Cross-
14 Defendant's State Board filing and compilation of accurate records on behalf of the BLUM
15 PARCELS, was to prevent having it's farming operations adversely impacted by adjudication,
16 and provide the BLUM PARCELS with overlying water rights under the California priority
17 allocation system.

18
19 6. Cross-Defendants BOLTHOUSE FARMS and BOLTHOUSE PROPERTIES, and
20 each of them, conspired and agreed among themselves, to frustrate and deprive Cross-
21 Complainant of his overlying groundwater allocation rights, as well as the commercial benefits
22 and water well capital improvements Cross-Complainant was to receive under the Lease
23 Agreement. In furtherance of the conspiracy, Cross-Defendants' engaged in a pattern of
24 defaults and breaches of the Lease Agreement, as herein alleged, including assigning /
25 transferring Cross-Defendant BOLTHOUSE FARMS, interest in the BLUM PARCELS lease to
26 Cross-Defendant BOLTHOUSE PROPERTIES in violation of the restriction on transfer, for the

1 purpose of taking unfair advantage over Cross-Complainant, become unjustly enriched, and to
2 unfairly manipulate the California priority water allocation system, resulting in the insufficiency
3 and/or failure of Cross-Defendant's consideration under the Lease Agreement.

4 7. At all times herein mentioned, and in furtherance of the conspiracy, Cross-
5 Defendant BOLTHOUSE FARMS concealed and suppressed from Cross-Complainant that on
6 January 25, 2001, Cross-Defendant filed in the Superior Court of California, Riverside County,
7 bearing Case No. RIC 353840, a Quiet Title Action, which by Second Amended Complaint to
8 Quiet Title filed in Riverside County Superior Court on November 14, 2003, & again on
9 December 3, 2003, bearing Case No. RIC 344436, identified Cross-Complainant, the legal
10 description and APN of the BLUM PARCELS. Cross-Defendant'S prayer for judgment
11 includes a Court Order adjudicating it's alleged superior and/or coequal water rights overlying
12 the BLUM PARCELS' leased properties.

13 8. Despite Cross-Defendants' knowledge of Cross-Complainant's true identity,
14 capacity and whereabouts, and that Cross-Complainant is a Person "Claiming Any Legal or
15 Equitable Right, Title or Interest in the PROPERTIES described in the Complaint Adverse To
16 Plaintiff's Title", Cross-Defendant BOLTHOUSE FARMS wrongfully alleged that Plaintiff is
17 ignorant of such Person's true name and capacity. Cross-Defendant further failed to notify or
18 serve Cross-Complainant with any Complaint, including the subject verified Second Amended
19 Complaint to Quiet Title, notwithstanding under a mandatory duty to do so, pursuant to Code
20 of Civil Procedure §§ 761.020; 762.010; 762.060 (b); 379; 389; 474; & 583.210.

21 9. Cross-Defendants, and each of them, further concealed and suppressed from
22 Cross-Complainant that on or about January 2, 2007, Cross-Defendant BOLTHOUSE
23 PROPERTIES filed an unverified Cross-Complaint to Quiet Title / Appurtenant Rights;
24 Declaratory Relief, et seq, in the Santa Clara County Superior Court, bearing Case No.:

1 105CV049053, as well as in the Los Angeles County Superior Court. The Cross-Complaint of
2 BOLTHOUSE PROPERTIES wrongfully alleges a superior appurtenant right and/or other
3 water rights to pump and reasonably use groundwater on the "Properties" at issue in the
4 lawsuit, including the BLUM PARCELS. Cross-Defendant's prayer for judgment includes a
5 Court Order groundwater right determination consistent with it's adverse allegations.

6 10. Despite Cross-Defendant BOLTHOUSE PROPERTIES, knowledge of Cross-
7 Complainant's true name, capacity and whereabouts, and that any assignment or transfer of
8 the Exhibit "A" Lease Agreement was undertaken without Cross-Complainant's knowledge,
9 consent or waiver, in default of the lease, Cross-Defendant obtained possession of the BLUM
10 PARCELS and wrongfully alleges it owns the water rights. Cross-Complaint further states that
11 it is ignorant of Cross-Complainant's true name and capacity and thereby failed to serve
12 Cross-Complainant with it's Cross-Complaint, notwithstanding under a mandatory duty to do
13 so, pursuant to Code of Civil Procedure §§ 761.020; 762.010; 762.060(b); 379; 389; & 474.

14 11. Cross-Complainant is ignorant of the true names and capacities, whether
15 individual, corporate or otherwise, of Cross-Defendants named herein as DOES 1 through
16 200, inclusive, and therefore sues these Cross-Defendants by such fictitious names. Cross-
17 Complainant will amend this Cross-Complaint to allege their true names and capacities when
18 ascertained. Cross-Complainant is informed and believes and thereon alleges that each of
19 the fictitiously named Cross-Defendants is claiming an interest in the right to extract overlying
20 groundwater adverse to the property interests of Cross-Complainant, and/or are otherwise in
21 some manner responsible to Cross-Complainant for doing the acts and things, herein alleged.

22 12. Cross-Complainant is informed and believes and on such information and belief
23 alleges that at all times herein mentioned, each of the Cross-Defendants named herein as
24 Does 1 through 15, inclusive, was the agent and employee of each of the remaining Cross-
25

1 Defendants, and was at all times herein mentioned acting within the course and scope of such
2 agency and employment.

3 **FIRST CAUSE OF ACTION**
(Breach of Written Lease Agreement)

4 13. Cross-Complainant refers to and incorporates by reference, each and every
5 allegation which is made in Paragraphs 1. through 12, as though fully set forth hereat.

6 14. On August 2, 2001, Cross-Complainant/Lessor, BLUM TRUSTEE entered into a
7 written Lease Agreement with Cross-Defendant/Lesee BOLTHOUSE FARMS, in which Cross-
8 Defendant agreed to undertake it's farming operations on the BLUM PARCELS, utilizing the
9 repaired water wells. The lease term was to commence on January 1, 2002, up through
10 December 31, 2003, at the reduced rent rate of \$125.00, per acre per year, for a total
11 combined 2 year rent sum of \$30,000.00, payable in advance. The Lease Agreement further
12 provided that in the event that Cross-Defendant was not in default of any terms, conditions, or
13 covenants, Cross-Defendant had the right to extend the Lease Agreement under 2 options,
14 each for an additional 2 years, at the increased rental rate of \$36,000.00, for the calendar
15 years of 2004 and 2005, and \$42,000.00, for the calendar years of 2006 and 2007.

16
17 15. Consistent with the same terms, prior dealings and performances of the January
18 31, 1999, Lease Agreement, the August 2, 2001, Lease Agreement was also subject to Cross-
19 Defendant WM. BOLTHOUSE FARMS, INC., delivering to Cross-Complainant a complete
20 written list of all tests and studies to be performed on the damaged water wells, together with
21 written conformed copies of the results thereof, after completion. In the event that the findings
22 contained within the water well tests and studies performed were unacceptable to Cross-
23 Defendant, Cross-Defendant reserved the right to terminate the Lease Agreement without
24 penalty, provided that Cross-Defendant delivers Notice of Disapproval to Cross-Complainant
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1 within 15 days from Cross-Complainant's written acceptance of the Lease Agreement. Upon
2 Cross-Complainant's timely receipt of Cross-Defendant's Disapproval, Cross-Complainant
3 was required to return to Cross-Defendant the advanced rental sum of \$30,000.00, and
4 thereafter Cross-Defendant was to recap and seal the water wells from access and vacate the
5 BLUM PARCELS, forthwith.

6 16. It was further agreed between the parties, and as part of their prior lease course of
7 dealings, and performances, that in the event Cross-Defendant failed to deliver any Notice of
8 Disapproval of the Condition of the Water Wells to Cross-Complainant within 15 days of
9 Cross-Complainant's lease execution, Cross-Defendant acquiesced and agreed to repair the
10 damaged water wells within the 5 months of "Early Possession", without Cross-Complainant's
11 equitable contribution, and thereby timely commence it's farming operations by January 1,
12 2002.

13 17. Under the terms of the lease, Cross-Defendant was further prohibited from
14 Subleasing, Assigning, Transferring, or hypothecating the Lease without first obtaining Cross-
15 Complainant's written consent, and without being in default. As a further condition and
16 restriction, evidence of the Sublessee's, Assignee's and/or Transferee's adequate financial
17 resources and fitness in all respects was also required to be furnished to Cross-Complainant,
18 for his evaluation, satisfaction and approval.

19 18. The Lease Agreement further provides that in the event of Cross-Defendant's
20 default in any covenant, condition or promise to be performed, Cross-Complainant shall have
21 the right, with or without resuming possession of the premises or terminating the Lease, to sue
22 for and recover all rents and other sums, including damages at any time and from time to time
23 accruing thereunder, and that each and every right or remedy shall be cumulative and not
24 exclusive. Similarly, no waiver by Lessor of any default or breach by Lessee of any of it's
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1 obligations under the lease shall be deemed to be a waiver of any subsequent or continuing
2 breach of the same or similar nature.

3 19. Cross-Defendant further agreed that Cross-Complainant/Lessor, as an attorney at
4 law, shall recover his reasonable attorney fees and other expenses, as additional rent,
5 whether personally performed or otherwise incurred by Cross-Complainant in enforcing any of
6 the provisions of the Lease and/or in any action or proceeding in which Cross-Complainant is
7 successful by reason of the default of Cross-Defendant, and/or by anyone holding under
8 Cross-Defendant BOLTHOUSE FARMS or otherwise incurred by Cross-Complainant by
9 reason of any action to which Cross-Complainant shall be a party or involved.

10
11 20. Cross-Complainant has performed all conditions, covenants, and promises
12 required on his part to be performed in accordance with the terms and conditions of the Lease
13 Agreement, including providing Cross-Defendant with 5 months of 'Early Possession' on the
14 BLUM PARCELS, for the sole and exclusive purpose for Cross-Defendant to engage in water
15 well tests and studies, and undertake all water well repair work for the operational and
16 beneficial use on the BLUM PARCELS by January 1, 2002.

17
18 21. Pursuant to the terms and conditions of the Lease, the parties prior course of
19 dealings and performances, Cross-Defendant acquiesced and agreed to accept the condition
20 of the water wells, and undertake all water well repair work without equitable contribution.
21 Cross-Defendant further failed to provide to Cross-Complainant any water well test results, as
22 well as notify Cross-Complainant of any reports unacceptable and/or otherwise written Notice
23 of Disapproval of the condition or findings of the water wells, despite under a duty to do so,
24 resulting in a waiver of the condition and/or finding, manifesting acceptance.

25
26 22. On or about May 17, 2004, and without Cross-Complainant's knowledge or
27 waiver of Cross-Defendant BOLTHOUSE FARMS ongoing defaults and breaches, as herein

1 alleged, Cross-Defendant wrongfully induced Complainant to accept Cross-Defendant's
2 proposed Modification of Lease Agreement, which discounted rent for the combined 2006-
3 2007, years to the total sum of \$38,000.00, in lieu of the previously agreed \$42,000.00, and
4 which extended the lease term for an additional 2 years from January 1, 2008, up through
5 December 31, 2009, in the discounted rent sum of \$42,000.00, in lieu of the standard
6 \$6,000.00, rent increase every 2 years, or \$48,000.00. A true and correct copy of the
7 Modification of Lease Agreement is attached hereto, and marked as Exhibit "B".

8
9 23. Without Cross-Complainant's knowledge or waiver, from and continuing after
10 August, 2001, up to present date, Cross-Defendant BOLTHOUSE FARMS continuously
11 engaged in a wrongful pattern and practice of defaults and breaches under the Lease
12 Agreement and extensions thereof, including without limitation, failing and refusing to:
13 (1) Provide Cross-Complainant with a complete list of all water well tests and studies to be
14 performed, in addition to conformed copies of the results thereof, including the Rottman
15 Drilling Company water well Inspection & Video Report dated July 16, 2001, which were
16 ordered by, and in the possession of Cross-Defendant BOLTHOUSE FARMS prior to the
17 parties executing the August 2, 2001, Lease Agreement. (2) Deliver to Cross-Complainant
18 within 15 days from Cross-Complainant executing the Lease Agreement, a written Notice of
19 Disapproval of the condition or findings of the water wells, and/or otherwise written Notice that
20 the condition of the well findings were unacceptable, and thereby terminate the Lease
21 Agreement without penalty. (3) Repair the damaged water wells on the BLUM PARCELS, and
22 thereby exclusively operate them for cultivating and harvesting it's crops. (4) Acquire in bad
23 faith, 5 months of "Early Possession" for the concealed and suppressed purpose of
24 commencing the Permit and/or Licensing Application and construction process of installing an
25 underground water pipeline system designed to import water from Cross-Defendant's
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1 SERRANO VALLEY RANCH & LADE RANCH water wells onto BLUM PARCELS. (5) Secure
2 with the State Board groundwater priority allocation rights in the name of Cross-Defendants' in
3 lieu of Cross-Complainant, so that it can adversely acquire and claim all rights to the
4 groundwater beneficially used on the BLUM PARCELS, and thereby unfairly manipulate the
5 California priority water allocation adjudication system. (6) Deliver to Cross-Complainant an
6 email Excel Spreadsheet, dated August 24, 2007, entitled "Blum Ranch Water Usage", which
7 Cross-Defendant BOLTHOUSE FARMS' Legal Manager represented to be the estimated
8 Yearly Total Water Gallons beneficial used on the BLUM PARCELS to date, in the total sum
9 of 626,122,696.50. Cross-Defendants' representative further warranted to Cross-Complainant
10 that said evidentiary document is acceptable to the State Board and further assured Cross-
11 Complainant BLUM TRUSTEE that he would acquire the above-described quantity of
12 allocated groundwater pumping rights, which is inconsistent and contrary to Cross-Defendants
13 pending litigation Quiet Title claims. (7) Failing to establish utilities, meters and/or other
14 business fixtures on the BLUM PARCELS, to document and verify the quantity of pumped
15 groundwater beneficial used in cultivating it's harvest on the BLUM PARCELS. (8) Adversely
16 claim in pending litigation an overlying water right, easement / appurtenant rights, and/or other
17 superior or coequal water right on the BLUM PARCELS, including the right to pump and/or
18 import groundwater, and the quantity beneficially used on Cross-Complainant's PARCELS.
19 (9) Notify or serve Cross-Complainant with it's verified Complaint, First & Second Amended
20 Complaints and/or Cross-Complaint, including subjecting Cross-Complainant to 'extrinsic
21 fraud'. (10) Entering into Sublease Agreements, Assignment Agreements and/or Transfer
22 Agreements without Cross-Complainant's knowledge, consent or waiver in connection with
23 the BLUM PARCELS with other farmers and Cross-Defendant BOLTHOUSE PROPERTIES,
24 so as to take unfair advantage over Cross-Complainant, and become unjustly enriched.
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1 (11) Inducing Cross-Complainant to execute a May 17, 2004, Modification to Lease
2 Agreement while in default, so as to acquire rent reductions for the calendar years of 2004,
3 through 2009, as well as lease extensions for an additional 2 year term commencing on 1/1/08
4 through 12/31/09. (12) Causing excessive flooding, wetland water waste and a nuisance to
5 exist from the release, discharge and/or accumulation of groundwater or other substance on
6 the BLUM PARCELS, which is not in conformity with good agriculture farming operations.

7 (13) Creating and maintaining an inherently dangerous and hazardous condition and nuisance
8 to exist, likely to cause serious bodily injury and/or death, by continuously failing and refusing
9 to recap, secure and/or seal the abandoned water wells on the BLUM PARCELS in conformity
10 with the California Water Code and Regulations.
11

12 24. Based on the foregoing, and immediately upon Cross-Complainant first acquiring
13 knowledge of the same, on September 1, 2007, October 5, 2007, and October 17, 2007,
14 Cross-Complainant caused a Notice of Default Under Lease Agreement to be delivered to
15 Cross-Defendants. Within said Notice, Cross-Complainant also requested that Cross-
16 Defendants provide Cross-Complainant with any and all water well reports, including the
17 Rottman Drilling Co., July 16, 2001, Inspection & Video Report; Cross-Defendant's
18 groundwater usage business records relative to the BLUM PARCELS; copies of any and all
19 Sublease Agreements, Assignment Agreements, Transferee Agreements, and the like; a
20 statement of all sums of money or other consideration or value collected as rent from others
21 utilizing the BLUM PARCELS under said Agreements, in addition to confirmation pictures that
22 steel plates have been welded to the well openings of the damaged water wells on BLUM
23 PARCELS to prevent public access.
24

25 25. Notwithstanding Cross-Complainant's demand on Cross-Defendants, to cure
26 their aforementioned defaults and breaches, and to deliver to Cross-Complainant the above-

1 stated documents and data, Cross-Defendants have failed and refused and still continue to
2 fail and refuse to do so.

3 26. As a result of Cross-Defendant's continuous and ongoing defaults and breach of
4 the Lease Agreement and extensions thereof, Cross-Complainant has been damaged in an
5 amount of the cost of repairing the BLUM PARCELS damaged water wells, according to proof.

6 27. As a further result of Cross-Defendant's continuous and ongoing defaults and of
7 Cross-Defendant's insufficiency and/or failure of consideration, Cross-Complainant has been
8 damaged in the difference between any and all monetary amounts and/or reasonable
9 commercial value Cross-Defendants received under any and all Sublease Agreements,
10 Assignment Agreements and/or Transferee Agreements concerning the BLUM PARCELS,
11 and the amount of rent paid by Cross-Defendant BOLTHOUSE FARMS to Cross-
12 Complainant, according to proof.

13 28. As a further result of Cross-Defendant BOLTHOUSE FARMS continuous and
14 ongoing defaults and breach of the Lease Agreement dated August 2, 2001, and lease
15 extensions commencing on January 1, 2004, January 1, 2006, and January 1, 2008, Cross-
16 Complainant has been damaged in a sum representing the difference between the amount of
17 rent paid by Cross-Defendant to Cross-Complainant and the reasonable commercial rental
18 value of the PARCELS consisting of 3 operational water wells, according to proof;

19 29. As a further result of Cross-Defendant's defaults and breach, and of Cross-
20 Defendant's insufficiency and/or failure of consideration, Cross-Defendants unjustly profited
21 are unjustly enriched from wrongfully and adversely engaging in it's farming operations on
22 Cross-Complainant's PARCELS, and therefore, Cross-Complainant requests an accounting
23 given the complex nature of the issues, and has been damaged in an amount not less than
24 10% of the gross yearly profits or other valuable consideration received by Cross-Defendants
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1 BOLTHOUSE FARMS and BOLTHOUSE PROPERTIES and/or any other Sublessees,
2 Assignees and/or Transferees, less a reasonable sum for proper business expenditures and
3 deductions, arising from their beneficial use on the BLUM PARCELS, according to proof.

4 30. As a further result of Cross-Defendant's continuous defaults and breach of the
5 Lease Agreement, Cross-Complainant has suffered damages in an amount representing the
6 diminution in market value of the BLUM PARCELS, according to proof.

7 31. As a further result of Cross-Defendant's ongoing defaults and breach of the Lease
8 Agreement, Cross-Complainant has suffered damages in an amount representing the
9 reasonable value of possessing over six million gallons of overlying water rights beneficially
10 used on the BLUM PARCELS, during the calendar years of 2002, up through and including
11 2009, based on the California priority water allocation system, according to proof.

12 32. As a further result of Cross-Defendant's defaults and breaches, and as a
13 consequence of the inadequacy of damages, Cross-Complainant requests Specific
14 Performance of Cross-Defendant BOLTHOUSE FARMS to immediately repair at it's expense
15 the damaged water wells, and thereafter exclusively operate and use the same to cultivate it's
16 harvest on Cross-Complainant's PARCELS; remove any and all underground water pipelines
17 from the BLUM PARCELS, and cease and desisted from importing water; provide and
18 allocate to Cross-Complainant it's groundwater usage for the account of the BLUM PARCELS
19 with the State Board.

20 33. As a further result of Cross-Defendant's continuous and ongoing defaults and
21 breach of the Lease Agreement, and failure and refusals to cooperate and/or communicate
22 with Cross-Complainant in order to ascertain the true facts and aforementioned data and
23 documentation, Cross-Complainant has been compelled to expend his economic resource
24 time and may retain other attorneys, and will continue to do so, in order to enforce the terms,
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1 covenants and conditions of the lease and obligations of Cross-Defendant BOLTHOUSE
2 FARMS. Based on the foregoing, Cross-Complainant has incurred attorney fees, expert
3 witness fees, costs and expenses, according to proof.

4 **SECOND CAUSE OF ACTION**

5 (Breach of Implied Covenant of Good Faith & Fair Dealing)

6 34. Cross-Complainant refers to and incorporates by reference each and every
7 allegation made in Paragraphs 1. through 33, as thought fully set forth hereat.

8 35. At all times herein mentioned, Cross-Defendant BOLTHOUSE FARMS engaged
9 in a ongoing pattern and practice of bad faith, prejudicial misconduct and unfair dealings with
10 Cross-Complainant, in conscious disregard and in gross indifference to Cross-Complainant's
11 rights, title and interests in and to the BLUM PARCELS, and in breach of the implied
12 covenant of good faith and fair dealing.

13 36. At all times herein mentioned, Cross-Defendant's acts and omissions were
14 undertaken for the wrongful ulterior motive to claim superior and paramount overlying water
15 rights on the BLUM PARCELS adverse to Cross-Complainant, including to claim an
16 easement/appurtenant rights and/or other groundwater rights to pump and import groundwater
17 on Cross-Complainant's PARCELS adverse to Cross-Complainant, and thereby unfairly
18 manipulate the California priority water allocation system. Cross-Defendant BOLTHOUSE
19 FARMS' Second Amended Quiet Title action & Cross-Defendant BOLTHOUSE PROPERTIES
20 Cross-Complaint were also filed and have been pursued in bad faith, consistent with unfair
21 dealings, wrongful ulterior motives, which constituted an abuse of process, and unjust
22 enrichment practices adverse to Cross-Complainant BLUM TRUSTEE, including suppressing
23 and concealing the subject litigation from Cross-Complainant and/or serve him with any
24 pleadings. Cross-Defendants actions were also calculated to prevent Cross-Complainant
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1 from acquiring knowledge of it's lease defaults and breaches, impede Cross-Complainant from
2 exercising his legal rights and remedies and obtaining just and reasonable compensation from
3 Cross-Defendants, including averting the termination of the Lease Agreement, and/or rejecting
4 the May 17, 2004, Modification of Lease Agreement, and require Cross-Defendants to quickly
5 vacate the property.

6 **THIRD CAUSE OF ACTION**
7 (Breach of Implied In-Fact Contract)

8 37. Cross-Complainant refers to an incorporates by reference each and every
9 allegation made in Paragraphs 1 through 36, as though full set forth hereat.

10 38. At all times herein mentioned Cross-Defendant knew or should have known under
11 the terms of the parties August 2, 2001, Lease Agreement, and as established via the parties
12 prior course of dealings, practices and performances under the executed January 31, 1999,
13 written Lease Agreement, that its failure or refusal to timely deliver to Lessor a list of water
14 well tests and studies to be performed and/or performed, including the findings thereof, and/or
15 Lessee's Notice of Disapproval or unacceptance of the conditions or findings of the damaged
16 water wells within 15 days of Lessor executing the August 2, 2001, Lease Agreement shall be
17 unequivocally construed as a waiver of a condition subsequent, and/or Lessee's manifesting
18 unconditional acquiescence and/or implied acceptance of the condition of the damaged water
19 wells, requiring Cross-Defendant BOLTHOUSE FARMS to repair the same without Cross-
20 Complainant's equitable contribution. Based on the foregoing, Cross-Defendant promised
21 within the 5 months of 'Early Possession' to repair and exclusive operation Cross-
22 Complainant's water wells on the BLUM PARCELS, and thereafter allocate the subject
23 overlying water rights to Cross-Complainant.
24
25

26 39. At all times herein mentioned, Cross-Defendant knew or should have known under

1 the terms and conditions of the parties lease, and as established via their prior intent, course
2 of dealings, practices and performances that Cross-Defendant's timely Notice of Disapproval
3 of the condition or findings of the damaged water wells resulting from it's decision not to repair
4 the damaged water wells, would immediately cause a termination of the Lease Agreement
5 requiring Cross-Defendant to quickly vacate the BLUM PARCELS, without penalty. Cross-
6 Defendant further implicitly understood and agreed that proposing to Cross-Complainant an
7 equitable repair cost contribution was it's exclusive remedy to revive the Lease Agreement
8 under a Modification of Lease Agreement.
9

10 40. At all times herein mentioned, Cross-Defendant knew or should have known that it
11 is a default and breach of the Lease Agreement to import water without Cross-Complainant's
12 knowledge and consent, via any underground pipeline system onto Cross-Complainant's
13 PARCELS from it's adjacent properties, and/or to seek an adjudication of water rights through
14 judicial litigation action adverse and superior and/or coequal to Cross-Complainant's
15 groundwater rights on the BLUM PARCELS, by reason of it's farming activities.
16

17 41. At all times herein mentioned, Cross-Defendants knew or should have known that
18 importing water onto the BLUM PARCELS was never an express or implied term, nor a paid
19 for option under the terms and conditions of the parties Lease Agreement and/or extensions
20 thereof, but rather wrongful conduct, intended to circumvent, thwart or frustrate the intent of
21 the parties, Cross-Complainant's commercial expectation interests, constitutes insufficiency
22 and/or lack of consideration, and is a default and breach of the Lease Agreement.
23

24 42. At all times herein mentioned, Cross-Defendant BOLTHOUSE FARMS knew or
25 should have known from Cross-Defendant's prior delivery of it's Notice of Disapproval and
26 Termination of the January 31, 1999, Lease Agreement delivered to Cross-Complainant on
27 February 26, 1999, and again on March 15, 1999, that Cross-Complainant would only agree
28

1 to enter into a Lease Agreement with Cross-Defendant under a "General/Limited Partnership"
2 or otherwise a "Joint Venture" business relationship. Cross-Defendant further knew or should
3 have known and agreed that under the terms of the above-described Lessor/Lessee business
4 relationship, Cross-Defendant agreed to obtain possession of the BLUM PARCELS for a
5 period of 6 years Rent Free, during which Cross-Complainant pays all real estate taxes, in
6 consideration for Cross-Complainant receiving at least 10% of the farming operations gross
7 profits for each calendar year Cross-Defendant's engages in farming operations on Cross-
8 Complainant's PARCELS, less a reasonable sum for Cross-Defendant's business deductions
9 and associated costs for well repairs, farming, and the like.
10

11 **FOURTH CAUSE OF ACTION**
12 (Fraud & Deceit / Intentional Misrepresentation)

13 43. Cross-Complainant refers to and incorporates by reference each and every
14 allegation which is made in Paragraphs 1 through 12, as though fully set forth hereat.

15 44. During the negotiations of the Lease Agreement Cross-Defendant WM.
16 BOLHOUSE FARMS, INC., with the intent to defraud and deceive Cross-Complainant BLUM
17 TRUSTEE, and with the intent to induce Cross-Complainant to enter into a Lease Agreement,
18 represented to Cross-Complainant through their agents and representatives on the telephone
19 and in person at the site of BLUM PARCELS, that Cross-Defendant BOLHOUSE FARMS
20 requests to enter into a Lease Agreement with Cross-Complainant under the same terms,
21 subject matter, conditions, course of dealings and performances as the January 31, 1999,
22 Lease Agreement, except for the amount of rent.
23

24 45. Cross-Defendant BOLHOUSE FARMS further represented to Cross-Complainant
25 that Cross-Defendant will inspect and test the condition of the damaged water wells, as well
26 as deliver prior and post confirmed tests and study results to Cross-Complainant, and/or
27

1 waive inspection and testing, and repair the same for farming use on the BLUM PARCELS, or
2 otherwise if unacceptable, provide Cross-Complainant within 15 days of lease execution a
3 Notice of Disapproval of the condition or findings of the damaged water wells, terminate the
4 Lease Agreement, seal the open water wells from access, and quickly vacate the BLUM
5 PARCELS, without penalty.

6 46. Cross-Defendant further represented to Cross-Complainant that he shall benefit
7 from Cross-Defendant BOLTHOUSE FARMS tenancy and capital improvements from the
8 repaired water wells on the BLUM PARCELS, by Cross-Defendant pumping overlying
9 groundwater from the water wells on the BLUM PARCELS, and thereby undertake all
10 necessary steps to enhance Cross-Complainant's overlying groundwater allocation rights from
11 Cross-Defendant's farming operation under the California priority allocation water system,
12 resulting in an increase of market value for the BLUM PARCELS.

14 47. At all times herein mentioned, Cross-Complainant's reliance on Cross-
15 Defendant's and their agents and representations were justified, as he believed implicitly in
16 their integrity and truthfulness and reposed absolute trust and confidence in each of them, as
17 professional farmers and real estate brokers, and in Cross-Defendant's superior knowledge,
18 expertise and skills in cultivating and irrigating it's harvest, utilizing 'state of the art' techniques
19 and water well repair methods on the BLUM PARCELS.

21 48. At all times herein mentioned, Cross-Complainant was never aware of any facts
22 that made him suspicious of the veracity of Cross-Defendant's representations based on the
23 parties prior history, course of dealings and performances on these same issues and subject
24 matter. Cross-Defendant's acts and omissions were calculated to induce Cross-Complainant
25 to take no action based on Cross-Defendant's assurances to Cross-Complainant that the
26 BLUM PARCELS and Cross-Complainant's overlying water rights are being fully protected

1 and enhanced through Cross-Defendant's farming efforts. Cross-Defendant's fraudulent acts
2 and omissions were further calculated to avoid lease termination, Cross-Complainant's
3 awareness of it's lease defaults and pending litigation actions; to refrain from visiting and/or
4 inspecting the BLUM PARCELS; and prevent Cross-Complainant from knowing that Cross-
5 Defendants were wrongfully importing groundwater and/or otherwise claiming ownership water
6 rights adverse to the rights, title and interests of Cross-Complainant.

7
8 49. These representations were false, and Cross-Defendant knew them to be false at
9 the time Cross-Defendant made them, and at all times herein mentioned. These
10 representations, promises and suppressions were calculated to misrepresent, and conceal
11 material facts and deceive Cross-Complainant into entering into the above-described August
12 2, 2001, Lease Agreement and extensions thereof, as well as the May 17, 2004, Modification
13 of Lease Agreement. Cross-Defendant's acts and omissions as herein alleged, were also
14 calculated to cause Cross-Complainant to reasonably and justifiably rely and operate under
15 the belief that Cross-Defendant had either waived its inspection and accepted the condition or
16 findings of the damaged water wells either through inspection or within a water well repair
17 report, and therefore utilize the 5 months of Early Possession to repair the existing damaged
18 water wells for the beneficial use of the BLUM PARCELS, allocated to Cross-Complainant.

19
20 50. Had the true facts been fully disclosed to Cross-Complainant and not concealed
21 and suppressed, including without limitation, (1) That the findings of the July 16, 2001,
22 Inspection & Video Report were in existence and in the possession of Cross-Defendant prior
23 to executing the Lease Agreement and/or that Cross-Defendant intentionally elected to waive
24 water well inspections and tests and proceed to circumvent Cross-Complainant's commercial
25 expectation interests. (2) That in lieu of repairing Cross-Complainant's water wells while in
26 Early Possession, Cross-Defendant's fraudulently procured and secured without Cross-

1 Complainant's knowledge, consent or waiver, Excavating Permits & other Licensing
2 Approvals, and thereby commenced the construction of an underground pipeline system
3 under 70 Street East and Avenue J, which was used to import groundwater pumped from
4 Cross-Defendant's adjacent properties adverse to Cross-Complainant's property and overlying
5 groundwater rights. (3) Entering into Sublease, Assignment and/or Transfer Agreements with
6 others, including Cross-Defendant BOLTHOUSE PROPERTIES, while in default and breach
7 of the lease so as to secure secret and unjust profits and enrichment. (4) Filing Superior
8 Court pending actions for illegitimate ulterior motives, constituting an abuse of the court's
9 process and extrinsic fraud against Cross-Complainant, so as to take unfair advantage over
10 Cross-Complainant and deny Cross-Complainant due process and/or just compensation.
11 (5) Wrongfully claim overlying / easements / appurtenant rights and/or other superior or
12 coequal water rights on Cross-Complainant's PARCELS; (6) Unfairly manipulate and
13 appropriate to Cross-Defendant BOLTHOUSE FARMS and BOLTHOUSE PROPERTIES
14 credit and account, overlying groundwater rights on Cross-Complainant's PARCELS, in lieu of
15 Cross-Complainant, and either fail to either file for the benefit of the BLUM PARCELS, and/or
16 to wrongfully file a "Notice of Extraction and Diversion of Water" during the lease term adverse
17 to and to the exclusion of Cross-Complainant. (7) Failing to establish utilities, meters and/or
18 other business fixtures on the BLUM PARCELS to properly document and verify the quantity
19 of pumped groundwater beneficially used in cultivating and harvesting on the BLUM
20 PARCELS. (8) Wrongfully induce Cross-Complainant to execute a May 17, 2004, Modification
21 to Lease Agreement while in default, so as to acquire rent reductions for the calendar years
22 2004, through 2009, as well as lease extensions for an additional 2 year term commencing on
23 1/1/08, through 12/31/09. (9) Causing excessive flooding, wetland water waste and a
24 nuisance to exist from the release, discharge and/or accumulation of groundwater or other
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1 substances on the BLUM PARCELS, which is not in conformity to good agriculture farming
2 operations. (10) Create and maintain an inherently dangerous, hazardous and nuisance
3 condition to exist, which was likely to cause bodily harm and/or death, by continuously failing
4 and refusing to recap, secure, and/or seal the abandoned water wells from public access, in
5 conformity with the California Water Code and Regulations.

6 51. On or about August 24, 2007, Cross-Defendant BOLTHOUSE FARMS' Legal
7 Manager further delivered to Cross-Complainant an email Excel Spreadsheet entitled "Blum
8 Ranch Water Usage", which Cross-Defendant's agent/employee represented to be the
9 estimated Yearly Total Water Gallons beneficial used on the BLUM PARCELS in the total sum
10 of 626,122,696.50. Cross-Defendant's authorized agent/employee warranted to Cross-
11 Complainant that said evidentiary document is acceptable to the State Board and assured
12 Cross-Complainant that Cross-Complainant would acquire the above-described quantity of
13 allocated groundwater pumping rights representing the calendar years 2002, up through and
14 including 2007, which was false and untrue, and inconsistent and contrary to it's pending
15 litigation quiet title claims.
16

17 52. On August 2, 2007, October 5, 2007, and again on October 17, 2007, Cross-
18 Complainant requested from Cross-Defendants to provide Cross-Complainant with the
19 Rottman Drilling Co., July 16, 2001, Inspection & Video Report, and any and all other reports,
20 water well repair costs; water usage Business Records, and water metered documents which
21 identifies the nature and extent of groundwater beneficially used on the BLUM PARCELS;
22 Copies of any and all Sublease Agreements, Assignment Agreements, Transferee
23 Agreements, together with a statement of all sums of money collected as rent on the property,
24 to which Cross-Complainant is entitled as the rightful owner of the PARCELS; an Accounting
25 of the profits, monies or other valuable consideration received for cultivating and harvesting
26

1 crops on Cross-Complainant's PARCELS, given the complex nature of the issues, as well as
2 confirmation pictures that a steel plate has been welded to the damaged well openings which
3 is to secure any access.

4 53. Cross-Defendants have failed and refused, and still continue to fail and refuse to
5 comply with Cross-Complainant's request despite his entitlement to said documentation,
6 information and data.

7 54. As a proximate result of Cross-Defendants' ongoing fraud and deceit as herein
8 alleged, and of the wrongful manner in which Cross-Defendants' have acquired possession
9 and become unjustly enriched from the methods in which they have engaged in it's farming
10 operations on the BLUM PARCELS, Cross-Defendants holds all monies or other consideration
11 of value recovered from it's cultivated harvest on the BLUM PARCELS as a Constructive
12 Trustee for Cross-Complainant's benefit and account, less a reasonable sum for proper
13 business expenditures and deductions associated thereto. Cross-Complainant does not know
14 the true and correct amount of all sums owing and therefore an accounting is necessary to
15 determine this amount and that said documentation and information is within the exclusive
16 control of Cross-Defendants.
17

18 55. As a further proximate result of Cross-Defendant's ongoing fraudulent conduct as
19 herein alleged, Cross-Complainant has been damaged in an amount of the cost of repairing
20 Cross-Complainant's damaged water wells, according to proof.

21 56. As a further proximate result of Cross-Defendant's ongoing fraudulent conduct as
22 herein alleged, Cross-Complainant has been damaged in an amount representing the
23 difference between any and all monetary amounts and/or other reasonable commercial value
24 Cross-Defendants received under any and all Sublease Agreements, Assignment Agreements
25 and/or Transferee Agreements, including from Cross-Defendant BOLTHOUSE PROPERTIES
26

1 relative to the BLUM PARCELS, and the amount of Cross-Defendant BOLTHOUSE FARMS
2 rental payments to Cross-Complainant, according to proof.

3 57. As a further proximate result of Cross-Defendants ongoing fraud and deceit as
4 herein alleged, Cross-Complainant has been damaged in a sum representing the difference
5 between Cross-Defendant's rental payments to Cross-Complainant for leasing the PARCELS,
6 and the reasonable commercial rental value of the PARCELS, with operational water wells,
7 according to proof.

8 58. As a further proximate result of Cross-Defendant's ongoing fraud and deceit
9 as herein alleged, Cross-Complainant has suffered a diminution in market value of the
10 PARCELS, without operational water wells, according to proof.

11 59. As a further proximate result of Cross-Defendant's continuous and ongoing fraud
12 and deceit as herein alleged, Cross-Complainant has suffered damages in the reasonable
13 value of allocating and possessing over six million gallons of overlying groundwater for the
14 beneficial use of the PARCELS during the calendar years 2002, up through and including
15 2009, based on the California priority water allocation system, according to proof.

16 60. As a further proximate result of Cross-Defendant's ongoing fraud and deceit as
17 herein alleged, Cross-Complainant has suffered and continues to suffer mental and emotional
18 distress as reasonably expected, and thereby sustained injury to his nervous system and
19 person and thereby has suffered general damages, according to proof.

20 61. As a further proximate result of Cross-Defendant's ongoing fraud and deceit as
21 herein alleged, and Cross-Defendants ongoing failure and refusal to cooperate or
22 communicate with Cross-Complainant in order to ascertain the true facts and aforementioned
23 documentation, Cross-Complainant has been compelled to expend his attorney economic
24 resource time and may have to retain other attorneys, and will continue to do so in order to
25

1 enforce the terms, conditions and obligations of Cross-Defendants BOLTHOUSE FARMS and
2 BOLTHOUSE PROPERTIES under the Lease Agreement and extensions. Based on the
3 foregoing, Cross-Complainant has incurred reasonable attorney fees, costs and expenses,
4 according to proof.

5 62. In engaging in the aforementioned conduct described above, Cross-Defendants
6 BOLTHOUSE FARMS and BOLTHOUSE PROPERTIES acted maliciously, willfully with the
7 intention of taking unfair advantage and injuring Cross-Complainant, depriving Cross-
8 Complainant of his commercial expectation interest, and groundwater rights, title, and
9 interests in and to the BLUM PARCELS. Cross-Defendants conduct is equivalent to
10 despicable conduct that subjected Cross-Complainant to cruel and unjust hardships, so as to
11 justify the award of exemplary and punitive damages against Cross-Defendant BOLTHOUSE
12 FARMS and BOLTHOUSE PROPERTIES.
13

14 **SIXTH CAUSE OF ACTION**
15 **(Suppression of Fact)**

16 63. Cross-Complainant refers to and incorporates by reference each and every
17 allegation which is made in Paragraphs 1 through 12, and Paragraphs 44 through 62, as
18 though fully set forth hereat.

19 64. The concealment, suppressions and failure to disclose material facts by Cross-
20 Defendants BOLHOUSE FARMS and BOLTOUSE PROPERTIES were undertaken with the
21 intent to induce Cross-Complainant to act in the manner herein alleged, in reliance thereon.

22 65. Cross-Complainant, at the time these failures to disclose and suppressions of
23 material facts occurred, and at the time Cross-Complainant took the actions herein
24 alleged, was ignorant of the existence of the true facts that Cross-Defendants concealed,
25 suppressed and failed to disclose. If Cross-Complainant had been aware of the existence of
26

1 the true facts not disclosed by Cross-Defendants, Cross-Complainant would not have taken
2 such actions, as herein alleged.

3 **SEVENTH CAUSE OF ACTION**
4 **(Promise Made Without Intention to Perform)**

5 66. Cross-Complainant refers to and incorporates by reference each and every
6 allegation which is made in Paragraphs 1 through 12, and Paragraphs 44 through 65, as
7 though fully set forth hereat.

8 67. Cross-Complainant, at the time these promises were made and at the time that
9 Cross-Complainant took the actions herein alleged, was ignorant of Cross-Defendants secret
10 intention not to perform and Cross-Complainant could not, in the exercise of reasonable
11 diligence have discovered Cross-Defendant's secret intention and therefore acted reasonably
12 in relying on Cross-Defendant's promises and assurances. If Cross-Complainant had known
13 of the actual intention of the Cross-Defendants, Cross-Complainant would not have acted in
14 reliance on Cross-Defendant's promises and assurances and taken such action, as herein
15 alleged.
16

17 **EIGHTH CAUSE OF ACTION**
18 **(Abuse of Process)**

19 68. Cross-Complainant refers to and incorporates by reference, each and every
20 allegation which is made in Paragraphs 1 through 12; 23, 36, 50, and 54 through 62, as
21 though fully set forth hereat.

22 69. Cross-Defendants BOLTHOUSE FARMS and BOLTHOUSE PROPERTIES
23 conspired among themselves to misuse and abuse the Superior Court of California, Riverside
24 County, Los Angeles County and Santa Clara County court system for illegitimate ulterior
25 motives, by filing but never serving Cross-Complainant with Cross-Defendant BOLTHOUSE
26 FARMS' verified Second Amended Complaint to Quiet Title and/or Cross-Defendant

1 BOLTHOUSE PROPERTIES unverified Cross-Complaint to Quiet Title against Cross-
2 Complainant and the BLUM PARCELS, despite their awareness that Cross-Complainant is an
3 adverse indispensable party requiring his compulsory joinder, which was not authorized in the
4 regular course of the proceedings.

5 70. The ulterior purpose and motivation of Cross-Defendants in so misusing and
6 abusing the court's process in the aforementioned described manner was to obtain collateral
7 unfair advantage over Cross-Complainant and the BLUM PARCELS, as alleged herein;
8 fraudulently claim and seek Court adjudication of overlying / easement / appurtenant water
9 right and/or other superior or coequal water rights to pump for the beneficial use of the BLUM
10 PARCELS; deny and deprive Cross-Complainant of due process; prevent him from exercising
11 his legal rights and remedies; obtaining just compensation against Cross-Defendants,
12 undertake a continuous pattern and practice to become unjustly enriched by their acts and
13 omissions; and to unfairly manipulate the California priority water allocation system.

14 WHEREFORE, Cross-Complainant prays judgment against Cross-Defendants WM.
15 BOLTHOUSE FARMS, INC., BOLTHOUSE PROPERTIES, LLC., and each of them, and all
16 others holding under them under the Lease Agreement, as follows:
17

18 1. For the production of all documentation and data to accurately verify and
19 obtain an accounting of all monies or other valuable consideration received from it's farming
20 operations on Cross-Complainant's PARCELS, in addition to an accounting on all monies and
21 other valuable consideration received in connection with any and all Sublease, Assignment
22 and/or Transfer Agreements entered into with others concerning the BLUM PARCELS;
23

24 2. For damages in the amount of all monies or other valuable consideration
25 received by Cross-Defendant found owing to Cross-Complainant, according to proof;
26

27 3. For damages in the amount of all profits, monies, consideration or other
28

1 value received by Cross-Defendants BOLTHOUSE FARMS and BOLTHOUSE PROPERTIES
2 and all other Sublessees, Assignees, and Transferees, as gross yearly profits, less a
3 reasonable sum for proper business expenditures and deductions, for each calendar year
4 Cross-Defendant's cultivated and harvested on Cross-Complainant's PARCELS, as a
5 Constructive Trustee for Cross-Complainant's benefit and account, according to proof;

6 4. For damages in a sum representing the difference between Cross-Defendant's
7 rental payments to Cross-Complainant for leasing the BLUM PARCELS, and the reasonable
8 commercial rental value of the PARCELS, with 3 operational water wells, according to proof;

9 5. For damages in a sum of at least 10% of Cross-Defendant's gross yearly
10 farming profits, monies, or other valuable consideration received, less a reasonable sum for
11 proper business expenditures and deductions, for each calendar year Cross-Defendants
12 BOLTHOUSE FARMS, BOLTHOUSE PROPERTIES, and any other Sublessees, Assignees
13 and/or Transferees, obtained arising from their beneficial use of Cross-Complainant's
14 PARCELS, according to proof;

15 6. For damages in the amount of the diminution in market value of the BLUM
16 PARCELS, as a consequence of Cross-Defendant's acts and omissions, according to proof;

17 7. For damages in the amount of the reasonable value of allocating and
18 possessing over six million gallons of groundwater rights for the beneficial use of Cross-
19 Complainant's PARCELS, from 2002, up through present date, based on the California priority
20 water allocation system, according to proof;

21 8. For damages in an amount representing the difference between any and all
22 monetary amounts, consideration and/or reasonable commercial value Cross-Defendants
23 BOLTHOUSE FARMS, BOLTHOUSE PROPERTIES, and all others holding under received
24 under any and all Sublease Agreements, Assignment Agreements and Transferee
25

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1 Agreements concerning the PARCELS, and the amount Cross-Defendant paid to Cross-
2 Complainant for rent, according to proof;

3 9. For damages in the amount of the cost of repairing Cross-Complainant's 3
4 damaged water wells, according to proof;

5 10. For damages in such further sums as may be sustained and as are
6 ascertained before final judgment in this action;

7 11. For Specific Performance of Cross-Defendant BOLTHOUSE FARMS to
8 immediately repair at it's expense the damaged water wells, and thereafter exclusively
9 operate and use the same to cultivate and irrigate it's harvest on Cross-Complainant's
10 PARCELS, in addition to removing all underground water pipelines associated with importing
11 water onto Cross-Complainant's PARCELS, and timely file for each calendar year a "Notice of
12 Extraction and Diversion of Water" with the State Board in compliance with California Water
13 Code, Section 5001, so that the BLUM PARCELS can receive full and accurate priority water
14 allocation rights for the calendar years 2002, up through and including 2009;

15 12. For general damages, according to proof;

16 13. For damages for mental and emotional distress, according to proof;

17 14. For special damages, according to proof;

18 15. For a judgment for Cross-Complainant for all available remedies, to secure and
19 protect Cross-Complainant's PARCELS and continuing water rights;

20 16. For exemplary and punitive damages;

21 17. For an award of reasonable attorneys' fees and costs of suit;

22 18. For interest at the legal rate on all monies or other valuable consideration
23 found owing to Cross-Complainant;

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19. For such other relief as the court deems proper and just.

DATED: December 18, 2007

LAW OFFICES OF SHELDON R. BLUM

By: 

SHELDON R. BLUM, Esq.
Attorney for SHELDON R. BLUM, Trustee
For The SHELDON R. BLUM TRUST

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