

ESTTA Tracking number: **ESTTA639045**

Filing date: **11/14/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91208923
Party	Plaintiff Mt. Eden Organics, Inc.
Correspondence Address	Matthew H. Swyers, Esq. The Trademark Company 344 Maple Avenue West, Suite 151 Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com
Submission	Testimony For Plaintiff
Filer's Name	Matthew H. Swyers
Filer's e-mail	mswyers@thetrademarkcompany.com
Signature	/Matthew H. Swyers/
Date	11/14/2014
Attachments	Notice of Filing Certified Transcript and Deposition Exhibits.pdf(223241 bytes) Certified Copy of Transcript File 1.pdf(3897159 bytes) Certified Copy of Transcript File 2.pdf(3145202 bytes) Certified Copy of Transcript File 3.pdf(2334898 bytes) Signed Declaration of Witness Form.pdf(38330 bytes) Depo Exhibits1 3 24 28 29 30 32.pdf(1279104 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Serial No. 85/631,038
For the mark: NATIVE NUTRIENTS

Mt. Eden Organics, Inc.	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91208923
	:	
Native Nutrients,	:	
	:	
Applicant.	:	

**NOTICE OF FILING CERTIFIED TRANSCRIPT OF LEE MCPHERSON
AND DEPOSITION EXHIBIT NO.'s 1, 3, 24, 28, 29, 30 and 32**

COMES NOW Opposer, Mt. Eden Organics, Inc. (“Opposer”), and pursuant to 37. C.F.R. § 2.123(F) and TBMP § 703.01(k), hereby provides notice of the filing of the certified transcript of Lee McPherson’s Trial Testimony and Deposition Exhibit No.’s 1, 3, 24, 28, 29, 30 and 32 with the Board from the deposition taken on or about May 22, 2014. Opposer’s Deposition Exhibit No.’s: 2, 4-19, 21-23, 25-27, 31 and 33 were designated “Confidential and/or Trade Secret” and will be submitted to the Board in a subsequent confidential filing. Opposer’s Deposition Exhibit No. 20 was withdrawn during the deposition.

As required by the rules, a copy of this notice along with a copy of the transcript and Deposition Exhibits No.’s 1-33 and McPherson’s signed certification page were previously forwarded to all counsel of record.

Respectfully submitted this 14th day of November, 2014.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

Matthew H. Swyers, Esq.

344 Maple Avenue West, Suite 151

Vienna, VA 22180

Tel. (800) 906-8626

Facsimile (270) 477-4574

mswyers@TheTrademarkCompany.com

Counsel for Opposer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Serial No. 85/631,038
For the mark: NATIVE NUTRIENTS

Mt. Eden Organics, Inc.	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91208923
	:	
Native Nutrients,	:	
	:	
Applicant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 14th day of November 2014, to be served, via first class mail, postage prepaid, upon:

Paulo A. de Almeida
Patel & Almeida, P.C.
16830 Ventura Blvd., Ste. 360
Encino, CA 91436

Courtesy Copy to:
paulo@patelalmeida.com

/Matthew H. Swyers/
Matthew H. Swyers

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board

Serial No. 85/631,038
For the mark: NATIVE NUTRIENTS

Mt. Eden Organics, Inc.

Opposer,

vs.

Opposition No. 91208923

Native Nutrients,

Applicant.

CERTIFIED COPY

TELEPHONIC TRIAL DEPOSITION OF LEE McPHERSON

Date: Thursday, May 22, 2014

Time: 12:00 p.m.

Location: Hartsell & Olivieri
621-A Water Street
Santa Cruz, California 95061

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

For the Opposer (by telephone):

MATTHEW H. SWYERS,
Attorney at Law
344 Maple Avenue West
Suite 151
Vienna, Virginia 22180
(800) 906-8626 X100

For the Applicant:
PATEL & ALMEIDA
BY: PAULO A. DE ALMEIDA,
Attorney at Law
16830 Ventura Boulevard
Suite 360
Encino, California 91436
(818) 380-1900

Reported By:
MELINDA NUNLEY, CSR. No. 9332
Hartsell & Olivieri
621-A Water Street
Santa Cruz, CA 95060
(831) 423-5911
(831) 423-7189 (Fax)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

EXAMINATIONS:

PAGE:

By Mr. Swyers
(Further)

6
144

By Mr. Almeida
(Further)

58
150

EXHIBITS:

Page
Marked Page
Moved
into
Evidence

1 Copy of Notice of Telephonic
Trial Deposition

6 8

2 Copy of Commercial Lease
Agreement

6 12

3 Copy of registration with
CDFA

6 14

4 Copy of Certificate of
Insurance

6 15

5 Copy of Commercial Liability
Declarations

6 15

6 Copy of receipt to Gabilan
Ag Service

6 28

7 Copy of invoice from Gabilan
Ag Service

6 28

8 Copy of invoice to McPherson
Farm & Garden

6 28

9 Copy of invoice to McPherson
Farm & Garden

6 28

10 Copy of invoice to Brendon L.

6 28

11 Copy of invoice to Brendon L.

6 28

		Page Marked	Page Moved into Evidence
1	EXHIBITS (Cont'd):		
2			
3			
4	12 Copy of invoice to McPherson Farm & Garden	6	28
5	13 Copy of Weathertop Nursery invoice	6	28
6			
7	14 Copy of UPS freight invoice	6	28
8			
9	15 Copy of The Trader invoice	6	44
10			
11	16 Copy of receipt to Roger and receipt to Sunshine	6	28
12	17 Copy of receipt to Jeff	6	28
13	18 Copy of Fed Ex order form	6	30
14	19 Copy of California Resale Certificate	6	31
15			
16	20 (Exhibit 20 was withdrawn)		
17			
18	21 Copy of banner Receipt	6	34
19			
20	22 Copy of invoice	6	35
21			
22	23 Copy of Uline receipt	6	37
23			
24	24 Copy of website contents	6	37
25			
26	25 Copy of Mendocino Garden Expo Authorization Form	6	41
27	26 Copy of two The Trader invoices	6	44
28			
29	27 Copy of Lost Coast Communications invoice	6	48
30	28 Copy of Ukiah Daily Journal article	6	46
31			
32	29 Copy of website page for ehydroponics.net	6	53

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS (Cont'd):

	Page Marked	Page Moved into Evidence
30 Copy of catalog from Hydrofarm	6	54
31 Copy of email failure notice	6	55
32 Copy of Statement and Designation by Foreign Corporation and certificates for different states	6	56
33 Copy of interrogatories	146	

1 (Deposition Exhibits 1 through 32 were marked
2 for identification.)

3 LEE McPHERSON,
4 being duly sworn by the Certified Shorthand Reporter
5 to tell the truth, the whole truth, and nothing but
6 the truth, testified as follows:

7
8 EXAMINATION BY MR. SWYERS

9 Q. Good afternoon. This is Matt H. Swyers on
10 behalf of Mt. Eden Organics. Could you please,
11 Mr. McPherson, state your name for the record?

12 A. Yes, Lee McPherson.

13 Q. And your address of record, please?

14 A. P.O. Box 478, Santa Cruz, California
15 95061.

16 Q. Have you ever been deposed before,
17 Mr. McPherson?

18 A. I have not.

19 Q. Well, allow me just to set forth some of the
20 standard rules so that this goes as smoothly as
21 possible. Of course the court reporter who is located
22 with you is recording what you and I say, and
23 especially today since I'm being joined by
24 teleconference, only one person can speak at a time.
25 All answers must be verbal, no shakes of the head,

1 nods or otherwise because the court reporter, and in
2 this instance myself, could not see what the actual
3 answer to the question is. If you do not understand a
4 question, you may ask for it to be repeated or
5 restated. If you forget a question or otherwise need
6 it restated, you can simply ask for it to be restated
7 or we can have the court reporter read the question
8 back to you. From time to time one of the lawyers may
9 object to a question. When that occurs, kindly
10 refrain from answering the question posed until you
11 are instructed by me that you should either answer the
12 question or should not answer the question. If you
13 need to take a break of course during the deposition,
14 we will do so. Please let us know if the need arises.
15 Everything pretty clear?

16 A. Yes.

17 Q. Okay. In front of you I believe there should
18 be Exhibit Number 1. Can you please take a look at
19 that for me, please?

20 A. Yes.

21 Q. Can you identify that for the record?

22 A. It's the Notice of Deposition or Telephonic
23 Trial Deposition.

24 Q. And are you here today pursuant to this
25 Notice of Deposition?

1 A. I am.

2 Q. Okay. And to the best of your knowledge, is
3 this a true and accurate copy of the Notice of
4 Deposition?

5 A. Yes.

6 MR. SWYERS: Okay. We would like to move
7 that into the record, please.

8 BY MR. SWYERS: Q. Mr. McPherson, can you
9 provide us with an overview of your education history?

10 A. Yes. I grew up in Northern California, went
11 to high school at South Fork High, and then graduated
12 there, went to university at -- here in Santa Cruz at
13 University of California Santa Cruz and graduated
14 there.

15 Q. About when did you graduate from high school?

16 A. 2004.

17 Q. Okay. And did you graduate -- yeah, I think
18 you said you graduated from Santa Cruz.

19 A. I did.

20 Q. When was that?

21 A. Two thousand -- I want to say 2009. It might
22 have been early 2010, somewhere in there.

23 Q. And as for your employment, could you kindly
24 go through your employment history since graduating
25 from UC Santa Cruz?

1 A. Yes. I worked for the university as well.
2 After I graduated high school, I worked in the
3 purchasing department of the university, Santa Cruz,
4 and that was for I believe one year -- or one summer
5 rather, and then I worked at the -- what's called the
6 TAPS office. It's the Transportation and Parking
7 Services office, and I worked there for a year as
8 well.

9 Q. Okay. Do you recall about what years those
10 were?

11 A. 2005-ish for the purchasing department and
12 for -- I think it was 2008 for the TAPS office.

13 Q. Okay. Any other employment during this time
14 period?

15 A. No.

16 Q. And anything else that's -- any other
17 employment since graduating from Santa Cruz, UC Santa
18 Cruz?

19 A. From Santa Cruz, sort of odd things I've
20 helped out with here and there but not real long-term
21 jobs, no.

22 Q. I'd like to direct your attention to your
23 company by the name of Mt. Eden Organics. Did there
24 come a time when you actually founded Mt. Eden
25 Organics?

1 A. Yes, that was in 2010.

2 Q. Okay. Why did you do so?

3 A. Well, I had an interest in starting a
4 business then and for liability reasons.

5 Q. Okay. And describe for us -- well, what was
6 the purpose of Mt. Eden Organics?

7 A. It's to market Native Nutrients Mushroom
8 Compost, the sole product that it sells.

9 Q. What is mushroom compost?

10 A. I could go into a big spiel, but it's
11 basically a soil substrate specialty fertilizer that
12 can be used as an amendment to amend soils.

13 Q. Okay. And for what purpose would someone
14 purchase this?

15 A. Hobby gardeners purchase it mostly, people
16 that want to amend their native soils to have better
17 gardens.

18 Q. You mentioned I believe the term "Native
19 Nutrients." What, if any other product, did Mt. Eden
20 Organics provide?

21 A. Currently we only provide the Native
22 Nutrients Mushroom Compost. There was some product
23 development based around dry fertilizers as well.

24 Q. From the time of its inception in 2010, what,
25 if any, other products were provided aside from the

1 Native Nutrients product?

2 A. I'm sorry. The phone was gitchy. I couldn't
3 quite catch what you said.

4 Q. Okay. I'll try it again. From the time the
5 company was founded in 2010, what, if any, other
6 products have you provided aside from Native
7 Nutrients?

8 A. None. That's our sole product, Native
9 Nutrients Mushroom Compost.

10 Q. If I may direct your attention,
11 Mr. McPherson, to Exhibit Number 2, can you identify
12 this for the record?

13 A. Yes. This is a commercial lease agreement.

14 Q. Okay. And what is the commercial lease
15 agreement for?

16 A. It's between -- I can never pronounce this
17 last name. I feel bad. I'm going to butcher it, but
18 it's between Kathleen Ucinski I think is how that is
19 pronounced. She was my landlord at a location in
20 Santa Cruz.

21 Q. If I may, looking at the lease agreement and
22 so we can record this accurately, can you spell it for
23 the record?

24 A. Yes. U-c-i-n-s-k-i.

25 Q. Thank you. Okay. And what was -- I mean

1 what was the purpose for this lease agreement?

2 A. It was to lease a -- a barn,
3 5,000-square-foot barn off of Highway 1. It was to --
4 it was our location of where we collected, processed,
5 bagged, and ultimately shipped from our Native
6 Nutrients Mushroom Compost.

7 Q. And did you actually ship product from this
8 location?

9 A. We did, yes.

10 Q. Is this a true and accurate copy of the
11 commercial lease?

12 A. Yes.

13 MR. SWYERS: Okay. We would move Exhibit 2
14 into the record as well.

15 BY MR. SWYERS: Q. I'll direct your
16 attention to a group of documents which have been
17 labeled as Exhibit 3. Can you kindly look through
18 these and tell us what these are?

19 A. Yes; these are documents from CDFA, a
20 fertilizer product database.

21 Q. Okay. And what, based upon your
22 understanding, is the CDFA?

23 A. It stands for California Department of
24 Fertilizer and Agriculture. They oversee sort of
25 labeling requirements for any product being sold in

1 California.

2 Q. Okay. And when you say "any product," let's
3 say specifically in reference to certain products like
4 fertilizers versus cars?

5 A. Could you repeat the question, please?

6 Q. Yes. You said -- I believe your testimony
7 was they oversee products in California. Are they
8 specifically relegated to specific products in
9 California?

10 A. They have different categories for different
11 products. Native Nutrients Mushroom Compost would
12 fall under a specialty fertilizer. They also have
13 pesticides, nonspecialty fertilizers, things of this
14 nature.

15 Q. Okay. And in regard to Mt. Eden Organics,
16 what do these documents show us, if anything?

17 A. They show several things. They show the
18 registration process of registering the label in the
19 State of California.

20 Q. Can you tell us -- can you tell from these
21 documents when that process was initiated?

22 A. Yes, there it is. It says December 3rd,
23 2010.

24 Q. Okay. Thank you. Now, directing your
25 attention to what hopefully is the lower right-hand

1 portion of page -- what you're looking at, you may
2 notice a series of 6 numbers beginning with 0000 and
3 then 2 numbers. Can you tell us for the record, so
4 it's clear, which page you're looking at?

5 A. Currently I'm looking at 000019.

6 Q. Thank you. And that is in Exhibit Number 3?

7 A. Yes.

8 Q. Thank you. To the best of your knowledge,
9 are these documents true and accurate copies of the
10 printouts by the CDFA concerning Mt. Eden Organics?

11 A. Yes.

12 MR. SWYERS: Okay. We will move Exhibit 3
13 into the record.

14 BY MR. SWYERS: Q. Mr. McPherson, if you
15 would kindly take a look at Exhibit 4 for me. Once
16 you have it in front of you, let me know.

17 A. It says Certificate of Insurance.

18 Q. Yes. Thank you. Can you expand upon what
19 this is for us?

20 A. A liability policy for Mt. Eden Organics
21 being insured.

22 Q. Looking at this policy, can you tell when it
23 was issued?

24 A. The effective date of endorsement is
25 11-slash-30-slash-2010.

1 Q. Okay. Why, if at all, did you feel it
2 necessary to get insurance for Mt. Eden Organics?

3 A. The -- the location that we maintain,
4 liability reasons.

5 Q. So did this go hand in hand with the
6 commercial lease agreement we've already discussed?

7 A. That's correct.

8 Q. Okay. All right. Is this a true and
9 accurate copy of the Certificate of Insurance?

10 A. Yes.

11 MR. SWYERS: Okay. We will move Exhibit 4
12 into evidence.

13 BY MR. SWYERS: Q. Direct your attention to
14 Exhibit 5, please, and this one's a little bit bigger.

15 A. Hmm-hmm.

16 Q. Can you identify for the record what Exhibit
17 5 is?

18 A. It's the commercial liability declarations.

19 Q. Okay. Does this go hand in hand with Exhibit
20 4?

21 A. Yes.

22 Q. Okay. Is this a true and accurate copy of
23 the declarations?

24 A. Yes.

25 MR. SWYERS: Okay. We will move Exhibit 5

1 into the record.

2 BY MR. SWYERS: Q. Okay. We mentioned this
3 term Native Nutrients thus far. Did there come a time
4 that you came up with that name for a product?

5 A. Yes.

6 Q. Can you tell us about that, please?

7 A. Can you rephrase the question?

8 Q. Sure. How, if at all, was the name selected?

9 A. Oh. So in 2008, early 2008 we selected the
10 name based on a 2-fold sort of reasoning. At the time
11 I thought it would be market niche to pursue domestic
12 fertilized products as there's a lot of imported
13 fertilizers and at the time there seemed like there
14 was a lot of interest in sort of made in America
15 fertilizer products, and so that was what sort of the
16 "Native" side meant, but it also meant, because we
17 were trying to amend native soil, that "Native"
18 referred to of course the soil that's already there
19 being amended as opposed to bringing in new soil which
20 sort of was the trend at the time.

21 Q. All right. And I believe you addressed this,
22 but what, if any, significance -- excuse me. What, if
23 any, significance did the term "Nutrients" have for
24 the mark?

25 A. Sorry. Say that again.

1 Q. What, if any, significance did the term
2 "Nutrients" have for the mark?

3 A. Oh, "Nutrients" being nutrients in the soil,
4 the fertilizer and the nutrients that you're putting
5 into the soil.

6 Q. Thank you. Now, at the time the name was
7 selected, what, if any, products did Mt. Eden intend
8 to use the name Native Nutrients in connection with?

9 A. Native Nutrients Mushroom Compost.

10 Q. Now, did there come a time that you made a
11 first sale of this Native Nutrients Mushroom Compost?

12 A. Yes.

13 Q. When was that?

14 A. Early 2008.

15 Q. And do you recall to whom the sale was made?

16 A. Yes. It was made to McPherson Farm & Garden,
17 Incorporated.

18 Q. Now, your last name is McPherson, correct?

19 A. That's correct.

20 Q. Okay. What, if any, relation do you have to
21 McPherson Farm & Garden?

22 A. That's my father's company.

23 Q. Okay. Do you own any part of the company?

24 A. No.

25 Q. Okay. At the time of this first sale back in

1 2008, did you receive compensation for the sale?

2 A. I did.

3 Q. Okay. Where is McPherson Farm & Garden
4 located?

5 A. Could you say again, please?

6 Q. Yes. Where is McPherson Farm & Garden
7 located?

8 A. 133 Bigfoot Meadows in Zenia, California.

9 Q. Okay. Now, did there come a time that you
10 made your next sale of goods under the Native
11 Nutrients mark?

12 A. The next sale to McPherson Farm & Garden or
13 the next sale to a different customer?

14 Q. Over all.

15 A. Over all. There was a sale in December of
16 2010 to Brendon in Santa Cruz.

17 Q. Okay. Did you make any other sales to
18 McPherson Farm & Garden?

19 A. There was. There was a couple truckloads
20 that we had sales for.

21 Q. Okay. Do you recall the dates of them?

22 A. It would be shortly thereafter, sort of
23 towards the end of 2008.

24 Q. And forgive me. Just so we're clear, you
25 just testified 2008 and I think we're in 2010. Just

1 want to make sure that our testimony is clear. Was it
2 around the time you sold to Brendon in 2010?

3 A. There's sales -- sorry. Go ahead.

4 Q. I was just trying to clarify if the record's
5 clear. Was it in 2010 or 2008, those additional sales
6 to McPherson Home & Garden -- McPherson Farm & Garden
7 occurred?

8 A. There's additional sales in 2010 as well
9 to -- around the same time as Brendon.

10 Q. Okay. And forgive me. Just continuing to
11 clarify, and Brendon was in 2010; in December of 2010;
12 is that correct?

13 A. That's correct, yes.

14 Q. Okay. Thank you. Are you familiar with --
15 well, what, if any, familiarity do you have with
16 Gardening Unlimited?

17 A. Gardening Unlimited was sort of our first
18 distributor. They're based in Santa Cruz. They are a
19 distributor for a number of stores up and down the
20 West Coast.

21 Q. And when you say "up and down the West
22 Coast," which states are you referring to?

23 A. They have shops in California, in Oregon, I
24 believe Colorado, New York, several other states.

25 Q. Okay. Did there come a time that you sold

1 any of the Native Nutrients product to Gardens
2 Unlimited?

3 A. Yes.

4 Q. Do you recall when you first made those
5 sales?

6 A. That would have been in May, May 2011.

7 Q. Okay. And -- all right. And so if you could
8 just kindly take us through the sales history from,
9 you know, maybe late 2010 to the present day of the
10 Native Nutrients product.

11 A. Okay. So you covered Brendon. We talked
12 about that, and then McPherson Farm & Garden. We
13 maintained sales to McPherson Farm & Garden,
14 Incorporated. We also sold to a chain of stores
15 called Humboldt Hydroponics. We also picked up a
16 distributor. The name escapes me at the moment,
17 Hydrofarm based in Petaluma, a nationwide distributor,
18 and we've sold to a nursery, Weathertop in
19 Laytonville, but as time went on we really wanted to
20 concentrate sales to Hydrofarm in an effort to reduce
21 the number of accounts we have to deal with.

22 Q. Let's talk about Hydrofarm. Do you recall
23 when they became your, as I believe you said,
24 nationwide distributor?

25 A. Yes. So we started talking to them mid to

1 late 2011 but it wasn't until April 2012 that they
2 picked up their first load that was delivered.

3 Q. Okay. And when you say "nationwide," what is
4 your impression as to where the products are
5 distributed through this distribution agreement?

6 A. So nationwide their boundaries extend from
7 coast to coast. I know for specific details,
8 Pennsylvania, a lot of our product goes there,
9 Florida, a lot of product goes there, Oregon.

10 Q. Okay. I'd like to take a step back and refer
11 you to multiple exhibits, if I may, specifically
12 Exhibit 6, 7, 8, 9, 10 -- in essence Exhibits 6
13 through 17, if I could for right now. Can you just
14 take a look -- take as long as you need. Take a look
15 at, you know, Exhibits 6 through 17, and when you've
16 familiarized yourself with them, can you let us know
17 what they are?

18 A. How would you like me to do that? Would you
19 like me to go individually step by step or --

20 Q. I think, you know, yes, that would work very
21 well.

22 A. So Exhibit 6 is an invoice from Gabilan Ag
23 Services. They're a third party trucking company.
24 It's to deliver mushroom compost to Mt. Eden
25 Organics.

1 Q. Right. And where, if at all, does it show
2 the term "Native Nutrients" on this receipt?

3 A. It does not show "Native Nutrients."

4 Q. Okay. Do you have any knowledge as to
5 whether or not this would have been in connection with
6 the Native Nutrients trademark?

7 A. Of course. I mean that's the only mushroom
8 compost we deal with at Mt. Eden Organics.

9 Q. Okay. What is the date, if you can read it,
10 on this invoice?

11 A. That date is a little hard to read. I
12 believe it says 12-dash-3-dash-2010.

13 Q. All right. And if I may just move you on to
14 Exhibit Number 7, take us through Exhibit 7, please.

15 A. Yes. This is an invoice from Gabilan Ag
16 Services which is a division of Keith Day Company,
17 Incorporated. Once again it's a third party trucking
18 company, and to deliver mushroom compost.

19 Q. Okay. And same question, I don't believe
20 there's any reference to "Native Nutrients" on this
21 invoice. Is there?

22 A. I don't believe so. The description I can't
23 really read, but I don't think there is.

24 Q. Okay. Can you see the date on this?

25 A. I think once again it's 12/3/2010.

1 Q. Okay. And is there some -- is there
2 handwriting on the actual top of this one?

3 A. Yes. It says --

4 Q. What does that say?

5 A. It says "received 1-slash-20-slash-11."

6 Q. Okay. And if I may direct you to Exhibit
7 Number 8, tell us what this is.

8 A. This is an invoice dated
9 10-slash-12-slash-2010 for -- it's a sales to
10 McPherson Farm & Garden from Mt. Eden Organics.

11 Q. Okay. What is an Evolution Large -- looks
12 like LGR Dehumidifier?

13 A. It's a dehumidifier we were requested to
14 carry. We tried to have a go at selling them but it
15 didn't really pan out.

16 Q. Okay. And here I believe the Native
17 Nutrients mark is mentioned; is that correct?

18 A. Say again, please?

19 Q. Native Nutrients is mention in this receipt,
20 correct?

21 A. That is correct.

22 Q. But there was no charge for this?

23 A. That is correct as well, yes.

24 Q. Referencing Exhibit 9 now, can you tell us
25 what this is?

1 A. Yes. This is a sale between Mt. Eden
2 Organics and McPherson Farm & Garden.

3 Q. And can you see the date on this one?

4 A. 12-slash-8-slash-2010.

5 Q. Okay. All right. And just moving on to
6 Exhibit Number 10, same question, what is this one?

7 A. This is a bill of sales from Mt. Eden
8 Organics, a sale from Mt. Eden Organics to Brendon L.

9 Q. Okay. And can you let us know the date on
10 this one?

11 A. It's dated 12-slash- -- I believe that's a
12 5-slash-2010.

13 Q. Okay. Now, you previously testified to
14 selling in December 2010 to someone named Brendon. Is
15 this one and the same?

16 A. This is the same, yes.

17 Q. Okay. Moving on to Exhibit Number 11,
18 please. Okay. Tell us about this one.

19 A. So this is an invoice sale to Brendon from
20 Mt. Eden Organics. It's dated
21 12-slash-16-slash-2010.

22 Q. And it's also Brendon L. Was that -- to the
23 best of your recollection, was this the same person?

24 A. This is the same person, yes.

25 Q. Thank you. Moving on to Exhibit 12, if you

1 could just identify that for me.

2 A. This is a sale from Mt. Eden Organics to
3 McPherson Farm & Garden. It's dated -- that date's
4 pretty hard, but I believe it's
5 2-slash-24-slash-2011.

6 Q. Yes. Okay. All right. So we know who that
7 is. Moving on to Exhibit Number 13, tell us about
8 this one, please.

9 A. So this is a payment slip from Weathertop
10 Nursery. I mentioned them earlier. They're located
11 in Laytonville, California.

12 Q. Okay. And again in regards to this, there's
13 no mention of any product on this. Do you have a
14 recollection as to what product this would have been
15 for?

16 A. Yes. I apologize. I thought that other
17 invoice was here as well. It's in regards to Native
18 Nutrients Mushroom Compost that was delivered around
19 that same time.

20 Q. Okay. And referencing now Exhibit 14, as we
21 move along, what's this?

22 A. So this is an invoice from UPS to Mt. Eden
23 Organics for one pallet that was moved from Mt. Eden
24 Organics to Ag Unlimited.

25 Q. Do you know -- and I'm not seeing it on the

1 invoice. Do you know where Ag Unlimited is located?

2 A. Oh, sorry, I misspoke, Gardening Unlimited.

3 Q. Forgive me, Gardening Unlimited. Do you know
4 where they're located?

5 A. They're located at El Pueblo Road, Scotts
6 Valley, California 95066.

7 Q. Okay. If I can reference you now to Exhibit
8 16.

9 A. 15 or 16?

10 Q. And actually -- I'm sorry. Exhibit 15, let
11 me actually pull that -- pull that out because I think
12 it is -- well, you can tell us though. I won't
13 testify. What is Exhibit 15?

14 A. 15 is a statement from The Trader. That's a
15 newspaper located in Humboldt County.

16 Q. Okay. Put that aside for a minute. If I may
17 reference you on to Exhibit 16, please, if you can
18 tell us what that is.

19 A. There's 2 receipts from McPherson Farm &
20 Garden to Roger dated 6- -- go ahead.

21 Q. No, please go ahead.

22 A. The one to Roger's dated 6/11/2008. The one
23 for Sunshine is 6-dash-I believe that's a 19. I
24 believe that's 2008 as well.

25 Q. Okay. And now, who were these receipts from?

1 A. They're from McPherson Farm & Garden,
2 Incorporated, and they're sales to Roger and
3 Sunshine.

4 Q. Okay. And are you familiar just, you know,
5 city, state and zip on these receipts? Do you see
6 what the city -- I think it's the city -- that's
7 listed on both of these receipts are?

8 A. Yes. The first receipt for Roger, the city
9 is Alderpoint.

10 Q. Do you know where that's located?

11 A. That is located -- hmm. It's a small town
12 located east of Garberville, California.

13 Q. It's in the State of California?

14 A. Yes, it's in California.

15 Q. Okay. And moving to the receipt that I think
16 is 362645, the one on the right.

17 A. Yes.

18 Q. Do you know what that city is?

19 A. Garberville.

20 Q. Okay. Is that in the State of California as
21 well?

22 A. That's in California as well, yes.

23 Q. Okay. And then finally if you could just
24 direct your attention to Exhibit Number 17, can you
25 tell us what this is?

1 A. That's a receipt between -- well, myself and
2 Jeff McPherson.

3 Q. Okay. Who is Jeff McPherson?

4 A. He's the sole owner of McPherson Farm &
5 Garden.

6 Q. What, if any, relationship does that
7 Mr. McPherson have to you?

8 A. That's the same McPherson, father as
9 referenced before.

10 Q. It's your dad?

11 A. Yes.

12 Q. Okay. Thank you. Referencing now
13 Exhibits -- let me make sure I get this right, 6, 7,
14 8, 9, 10, 11, 12, 13, 14, 16 and 17, are these true
15 and accurate copies of these receipts?

16 A. Yes.

17 MR. SWYERS: Okay. We'll move in these
18 exhibits into evidence. And just so the record is
19 clear, I excluded 15 for the time being. We will come
20 back to that in a few moments.

21 BY MR. SWYERS: Q. Okay. Can I now direct
22 you to Exhibit Number 18?

23 A. I have it in front of me.

24 Q. Thank you. What is this, if you know?

25 A. This is a shipping -- there's 2 things here.

1 There's a shipping receipt as well as a payment
2 receipt for shipping of a package from Mt. Eden
3 Organics to Worms Way in Bloomington, Indiana, I
4 think -- no, sorry, North State, Rhode Island or --

5 Q. It actually appears that there may be 2
6 addresses here.

7 A. Hold on.

8 Q. Can you tell what this is in -- by looking at
9 this?

10 A. This is a sample I sent to a company I was
11 hoping would pick us up as a distributor.

12 Q. Okay. Did they pay for that sample?

13 A. Could you repeat the question?

14 Q. Did they pay for the sample?

15 A. No, I don't think they did.

16 Q. Okay. So the receipt -- the receipt we see
17 on this is for the Fed Ex bill?

18 A. Exactly.

19 Q. Okay. But you did ship a sample to -- well,
20 where do you recall shipping a sample to?

21 A. Yeah, it's a long time ago, but it's to
22 Natalie Quinn at Worms Way, 7854 North State, Rhode
23 Island 37. There were several companies at that time
24 that I was sending samples to to generate interest for
25 different distributors.

1 Q. Is it possible that "RI" doesn't mean Rhode
2 Island and in fact this was Bloomington, Indiana,
3 looking at this "RI," maybe indicated by "route" or
4 something like that, "37"?

5 A. That's entirely possible, yes.

6 Q. Okay. But it was either Indiana or Rhode
7 Island; is that correct?

8 A. That's correct, yeah.

9 Q. And can you tell us the date, looking at
10 this?

11 A. Yes, 6-slash-2-slash-2011.

12 Q. Okay. To the best of your knowledge, is this
13 a true and accurate copy of both the Fed Ex order form
14 as well as the Fed Ex office receipt?

15 A. Yes.

16 MR. SWYERS: We move Exhibit 18 into the
17 record as well.

18 BY MR. SWYERS: Q. Directing your attention
19 to Exhibit 19, if I may.

20 A. Yes.

21 Q. What is this?

22 A. So this is a resale -- a California resale
23 certificate.

24 Q. What is it -- what's the purpose of it?

25 A. So for -- so for a manufacturer to not charge

1 retail tax to a consumer, they have to supply a
2 California resale certificate showing that they will
3 be buying these goods and reselling them to an end
4 consumer.

5 Q. And can you see a date on this?

6 A. The date is 5-slash-5-2011.

7 Q. Okay. Is this a true and accurate copy of
8 the California resale certificate?

9 A. Yes, and this is for Gardening Unlimited.

10 MR. SWYERS: Okay. And so we will move
11 Exhibit 19 into the record as well.

12 Allow me to pause here for a brief moment.
13 Can we go off the record?

14 (A discussion was held off the record.)

15 MR. SWYERS: Back on the record, please.

16 BY MR. SWYERS: Q. All right.

17 Mr. McPherson, did there come a time that you applied
18 to register the Native Nutrients trademark with the
19 U.S. Patent Trademark Office?

20 A. Yes, there was.

21 Q. Okay. Do you recall when that was?

22 A. Mid 2012 or late 2012.

23 Q. Okay. Now, did you file the application
24 yourself?

25 A. No.

1 Q. Okay. Who did?

2 A. Your office.

3 Q. Okay. Can we agree that you provided the
4 relevant information to be filed for the application?

5 A. Yes.

6 Q. Okay. Now, do you recall the date of
7 alleged first -- first use, excuse me, in the
8 application?

9 A. I believe it's March 2011.

10 Q. And sitting here today, do you recall how you
11 came by that date?

12 A. That was the -- what I believed was our first
13 sales at the time.

14 Q. All right. Today we've talked about other
15 sales, and you know, since going through this
16 trademark process, has anything changed in regard to,
17 you know, your knowledge of trademark law and first
18 use and your first sale date?

19 A. Yes. I'm new to all this paperwork and I've
20 learned a lot in terms of what classifies as first
21 sales and priority of use and things like that.

22 Q. Okay. At the time that, you know, the
23 application was filed with the patent trademark
24 office, what, if any, intent did you have to defraud
25 the U.S. Patent and Trademark Office?

1 A. None.

2 Q. And are you aware of the current status of
3 your application?

4 A. Yes. I believe it's suspended.

5 Q. Do you know why?

6 A. Because of this conflict.

7 Q. Okay. All right. Going back to our
8 exhibits, please, if I could direct your attention to
9 Exhibit Number 20.

10 A. Yes.

11 Q. What are we looking at here?

12 A. This is Native Nutrients LLC, their label for
13 their product.

14 Q. This is not yours, right?

15 A. That is correct.

16 Q. Okay. This is the applicant's in this
17 matter?

18 A. Yes.

19 Q. Okay. Directing your attention to Exhibit
20 Number 21, can you tell us what that is?

21 A. This is an invoice from -- I believe the
22 company is called bannerbuzz.com. It's an invoice
23 from them to Mt. Eden Organics.

24 Q. And what is it an invoice for?

25 A. It's an invoice for signs. They're I think

1 about 5-by-5 canvas plastic signs.

2 Q. And what would you use signs for?

3 A. These were signs we had made up to distribute
4 to retail locations that they could post and advertise
5 our product.

6 Q. Okay. Can you see an invoice on this date --
7 excuse me, a date on this invoice? My apologies.

8 A. Hmm-hmm. Order date Friday, the 3rd of June,
9 2012.

10 Q. And the -- what hopefully is the third page
11 of the exhibit which has the Bates stamp number at the
12 bottom right at the corner 0000- -- 4 zeros and then
13 an -82? Can you tell us what that is?

14 A. Yeah, sorry. It's just taking me a minute to
15 find it. Could you repeat the question?

16 Q. Absolutely. Referencing the page Number
17 000082, which hopefully is part of Exhibit -- the
18 third page of Exhibit 21, can you tell us what that
19 is?

20 A. That's the banner proof that was submitted
21 for those signs.

22 Q. Okay. And is this a true and accurate copy
23 of the banner proof as well as invoice for that -- for
24 those signs?

25 A. Yes, it is.

1 MR. SWYERS: Okay. We will move 21 into
2 evidence as well.

3 BY MR. SWYERS: Q. Moving on to Exhibit
4 Number 22, if I may, kindly take a look at Exhibit
5 Number 22 and tell us what that is.

6 A. It's an invoice for labels, 4-inch-by-6-inch
7 labels.

8 Q. Do you know what these labels would have
9 displayed?

10 A. Yes, our product label.

11 Q. And just for the record, what is your product
12 label?

13 A. The Native Nutrients Mushroom Compost
14 trademark, logo, ingredients.

15 Q. Okay. And can you identify or locate a date
16 on this?

17 A. I can, yes. The date received,
18 2011-dash-1-dash-09.

19 Q. Okay. And to the best of your knowledge, is
20 Exhibit 22 a true and accurate copy of these receipts?

21 A. Yes.

22 MR. SWYERS: Okay. We'd move 22 into
23 evidence.

24 BY MR. SWYERS: Q. Moving along to Exhibit
25 Number 23, kindly let me know when you have that in

1 front of you.

2 A. I have that in front of me now.

3 Q. What is Exhibit Number 23?

4 A. 23 is an invoice from a company called Uline.
5 It's an invoice from Uline to Mt. Eden Organics,
6 Incorporated.

7 Q. If you're familiar with Uline, what does
8 Uline provide?

9 A. Uline provides pallet wrap, tape, pallet
10 covers. There's a piece of cardboard that goes
11 between a pallet and what you put on top of the
12 pallet. They provide that, mostly packaging
13 materials.

14 Q. What would -- or excuse me. What would
15 Mt. Eden Organics use these products for?

16 A. These products are used in our packaging of
17 our product.

18 Q. Okay. And again so the record's clear, what
19 products are those?

20 A. Native Nutrients Mushroom Compost.

21 Q. Okay. And can you see a date or state for
22 the record what the date of this invoice is?

23 A. Yes. The order date is 12-slash-1-slash-10,
24 and the date shipped is the same.

25 Q. Okay. And to the best of your knowledge --

1 I'm sorry. To the best of your knowledge, is this a
2 true and accurate copy of that invoice?

3 A. Yes.

4 MR. SWYERS: Okay. We will move that into
5 evidence as well.

6 BY MR. SWYERS: Q. How, if at all, does
7 Mt. Eden Organics market its product under the Native
8 Nutrients trademark?

9 A. We maintain a website. We go to trade shows.
10 We've had radio air time. We've done advertising in
11 magazines. We've used Google and Facebook
12 pay-per-click ads.

13 Q. Okay. I'd like to direct your attention to
14 Exhibit Number 24, if I could.

15 A. It's in front of me now.

16 Q. Thank you. Can you identify this for the
17 record?

18 A. This is a printout of Mt. Eden Organics'
19 website.

20 Q. Okay. Is this a true and accurate copy of
21 the website?

22 A. This is.

23 MR. SWYERS: And thank you. We will move 24
24 into the evidence.

25 BY MR. SWYERS: Q. Did there come a time

1 when you registered mtedenorganics.com?

2 A. Yes.

3 Q. Okay. And for the record, can you actually
4 spell that URL?

5 A. Spell the URL?

6 Q. Yes, sir.

7 A. M-t-e-d-e-n-o-r-g-a-n-i-c-s.com.

8 Q. Thank you. And do you have a recollection of
9 when you registered that domain name?

10 A. Yes. That was late 2010.

11 Q. What is the purpose of the website?

12 A. To generate interest in the product, to list
13 our different retail stores so that customers could
14 find us in their local shops, to create a dialogue
15 between end users and Mt. Eden Organics, and to
16 basically create general awareness of us.

17 Q. Do you recall when you first posted a website
18 to mtedenorganics.com?

19 A. Could you repeat the question again?

20 Q. Sure. Do you know when you first posted web
21 pages or a website to the domain name?

22 A. Hmm-hmm. That would have been late 2010. I
23 think it's October.

24 Q. Okay. Since October 2010 has Native
25 Nutrients been featured on the website?

1 A. Yes, it went up when we first put up the
2 website and stayed up since.

3 Q. Has it been on the website continuously since
4 that time?

5 A. Yes.

6 Q. You've mentioned you have distributors for
7 the product. In turning to the -- well, the
8 Bates-stamped pages -96 and -97, it would appear that
9 the locations for the store or where you can get the
10 product are in California. Would you agree with me?

11 A. So you're looking at 000095 and -96?

12 Q. Actually I'm sorry. It starts on -95, so it
13 would be -95, -96 and -97. That is correct.

14 A. So yeah, but --

15 Q. Okay. My question is does this list all the
16 locations where distributors distribute the product?

17 A. No. In fact there's more listed on our
18 website today.

19 Q. All right. Thank you. You mentioned trade
20 shows. What, if any, trade shows did Mt. Eden
21 Organics attend?

22 A. So we've attended -- oftentimes in this
23 industry they're called vendor days, and those are
24 days when vendors such as Mt. Eden Organics come to
25 store fronts and interact with the end customer/user

1 explaining the product, giving samples, those sorts of
2 things. We've attended one by the name of Mendocino
3 Greenhouse and Garden Expo. That's in Ukiah,
4 California. We attended one in Humboldt County. The
5 name escapes me. I think it's Humboldt Expo. We
6 attended one in Hayfork, California, that's called
7 Growing Wild. It's a store front. Bayside, and
8 that's in Eureka, California. There's a store in -- I
9 think it's Blue Lake called Humboldt Nutrients. We
10 attended one there. There's one in Oregon called
11 Paradise Supply or Paradise Hydro. We attended one
12 there. There's quite a long list.

13 Q. Okay. Let's start, if I may, and I'll
14 reference you to Exhibit Number 25.

15 A. It's in front of me.

16 Q. Thank you. Can you identify this for the
17 record?

18 A. This is a receipt from Mendocino Greenhouse
19 and Garden Supply in reference to the Mendocino Garden
20 Expo, and that's held in Ukiah, California.

21 Q. Okay. Is this the Mendocino Garden Expo you
22 referenced a moment ago in your testimony?

23 A. Yes.

24 Q. Okay. And is there a date on this?

25 A. The expo is May 12th, 2012, but the

1 receipt -- I believe it says May 2nd, 2012, I believe,
2 but that day is a little difficult to read.

3 Q. Okay. And if I haven't asked you already, is
4 this a true and accurate copy of this authorization
5 form and receipt?

6 A. Yes.

7 MR. SWYERS: Okay. We'll move Exhibit 25
8 into evidence.

9 BY MR. SWYERS: Q. You mentioned Humboldt
10 County as -- you know, do you have any recollection as
11 to when that vendor day or trade show may have
12 occurred?

13 A. I do. I believe it's April -- I want -- I
14 mean I want to say it's mid -- mid April is when they
15 usually have it.

16 Q. Okay. Do you recall what year?

17 A. In the same year, so 2012.

18 Q. 2012, and how about the Growing Wild in --
19 was it Hayfork, California?

20 A. That's Hayfork, California, yes. That one
21 I'm not sure which date exactly. It was really hot,
22 so I would assume it's more towards August,
23 September.

24 Q. Okay. Of what year?

25 A. 2012.

1 Q. And what about in -- I think you mentioned
2 Stateside in Eureka, California?

3 A. That's Bayside, bay as in the ocean, bay.

4 Q. Okay. Sorry.

5 A. No worries.

6 Q. Do you recall when that was?

7 A. There was 2 different ones we attended there,
8 2 different vendor days. One was earlier in the year.
9 That would have been -- both were in 2012. One would
10 have been in -- I want to say June or so, and then the
11 other one would have been later on in the year; I want
12 to say maybe around September.

13 Q. Okay. And I hope I got this correct,
14 Paradise Hydro in Oregon?

15 A. Yes, that's correct. I'm not sure if it's
16 Paradise Hydro or Paradise Supply. That's in Grant's
17 Pass.

18 Q. Okay. Is that in Oregon?

19 A. That's in Oregon.

20 Q. Do you recall when that trade show was?

21 A. Yeah, that was -- I remember it clearly
22 because it was on my birthday. It was on May 17th
23 last year.

24 Q. May 17th of 2013?

25 A. Yes.

1 Q. All right. You also mentioned magazines. If
2 I can direct your attention now to Exhibit 15, my
3 apologies for having it out of order, but then also
4 Exhibit 26.

5 A. Okay. Yup.

6 Q. Let me know when those are in front of you.

7 A. So I have Exhibit 15 and 26 in front of me
8 now.

9 Q. Okay. Starting with Exhibit 26, which should
10 be a 2-page exhibit with the numbers -86 and -87 on
11 them.

12 A. Yes.

13 Q. Okay. Can you tell us what those are?

14 A. Those are invoices from The Trader to
15 Mt. Eden Organics. The 2 invoices here, one is for a
16 full-page ad in their 4-slash-24-slash-12 issue, so
17 April 24th, 2012.

18 Q. Okay. And what is the other one for, -87?

19 A. -87 is for -- it's an invoice from The Trader
20 to Mt. Eden Organics for a half-page ad dated
21 6/19/2012.

22 Q. And now just directing your attention over to
23 Exhibit 15, can you please tell us what that is?

24 A. This is a statement for -- showing I owe them
25 money, saying -- saying The Trader, and I forgot to

1 pay a bill by 30 days.

2 Q. Okay. Are these, Exhibit 26 and Exhibit 15,
3 true and accurate copies of statements or invoices
4 from The Trader?

5 A. Yes.

6 MR. SWYERS: Okay. We'd like to move
7 Exhibits 26 and 15 into the record.

8 BY MR. SWYERS: Q. Mr. McPherson, what is
9 The Trader?

10 A. The Trader is a magazine or sort of
11 newspaper. It's -- I believe it's distributed up into
12 Oregon as well but it's mostly based in Northern
13 California. It's -- I mean I think it gets its name
14 because if you have something like a used car, you can
15 put it in that paper and someone can look at it and
16 buy it, so it's much like classified, a classified ad.
17 For whatever reason though, a lot of people in this
18 industry advertise in The Trader.

19 Q. And -- okay. So how frequently have you
20 advertised in The Trader?

21 A. For -- for a while we were consistently
22 there. We always had either half-page or full-page
23 ads. We began to sort of question the payoff for the
24 amount of expense, and so we eventually decided not to
25 have the ads in there.

1 Q. Okay. Do you have a recollection as to when
2 you first advertised in The Trader? And you may look
3 at Exhibit 15 or Exhibit 26 if that will refresh your
4 recollection.

5 A. Yeah, so around April 2012.

6 Q. Do you have a recollection as to when you
7 stopped advertising in The Trader?

8 A. I believe it's about 3 or 4 months later.

9 Q. It was brief?

10 A. It was brief, yes.

11 Q. Had -- or has Mt. Eden Organics advertised in
12 any other magazines?

13 A. We had our picture in the Ukiah newspaper
14 for going to an expo, but I'm not sure that counts as
15 advertising as we did not pay for it.

16 Q. Well, as you mentioned it, may I direct your
17 attention to Exhibit Number 28, skipping one ahead?

18 A. It's in front of me right now.

19 Q. All right. Is this the picture you're
20 speaking about?

21 A. Yes.

22 Q. Is there a picture of you on this?

23 A. Yeah.

24 Q. So describe where we will see you,

25 Mr. McPherson.

1 A. Say again, please.

2 Q. Describe for us where we will see you on this
3 page.

4 A. I'm the goofy-looking one on the right --

5 Q. Okay.

6 A. -- and holding the bag of Native Nutrients
7 Mushroom Compost.

8 Q. Okay. And you know, flipping I guess over,
9 can we see what the date is on the Ukiah Daily
10 Journal?

11 A. Yes, the date is May 15, 2012.

12 Q. Where is Mendocino County?

13 A. Mendocino County is located in Northern
14 California just below Humboldt County, which is where
15 Garberville and Alderpoint is located.

16 Q. Okay. Do you know the distribution of the
17 Ukiah Daily Journal?

18 A. You know, I do not.

19 Q. Okay. Is -- is this a true and accurate copy
20 of the page that you appeared in in the Ukiah Journal
21 that day?

22 A. Yes.

23 MR. SWYERS: I'd like to move Exhibit Number
24 28 into evidence.

25 BY MR. SWYERS: Q. Now, you mentioned a

1 moment ago radio advertising. Tell us about that, if
2 you will.

3 A. So we advertised -- when I say "we" I mean
4 Mt. Eden Organics advertised through Lost Coast
5 Communications, Incorporated. They own several radio
6 stations in the Humboldt County area. We -- I think
7 the original sort of launch of our radio ads were
8 5-slash-31-slash-2012, and --

9 Q. How long did they go on for?

10 A. Not very long. We -- as well with the radio
11 ads, we didn't really find that they returned the
12 amount of expense that we were putting into them.

13 Q. Well, do you know what radio stations they
14 were broadcast on?

15 A. Yes. I believe KSLG was definitely one of
16 them. I'm not sure if they broadcasted them on the
17 other ones or not, but I am sure that KSLG had it.

18 Q. What do you know about KSLG Radio? Do you
19 know where it's located?

20 A. It's located in Eureka I believe. It may be
21 in Fortuna, which is a small town near Eureka, but in
22 that general area.

23 Q. Okay. Is this an FM band or AM band?

24 A. An FM band.

25 Q. Okay. And referencing Exhibit Number 27,

1 please, let me know when that's in front of you.

2 A. 27's in front of me now.

3 Q. Can you tell us what Exhibit 27 is?

4 A. It's an invoice from Lost Coast
5 Communications, Incorporated, to Mt. Eden Organics for
6 services of playing an ad on the radio.

7 Q. Okay. Is this a true and accurate copy of
8 that invoice?

9 A. Yes.

10 MR. SWYERS: We'll move this into evidence as
11 well.

12 BY MR. SWYERS: Q. Aside from radio
13 advertising through Lost Coast Communications, has
14 Mt. Eden Organics had any other radio or television
15 ads?

16 A. No, I do not believe so.

17 Q. You mentioned Google as well. Can you tell
18 me about that? What types of advertising have you
19 done with Google?

20 A. Yeah, I'm not sure the term for it. I think
21 it's click-per-ad or ad-per-click, the ad words. They
22 -- we tried advertising through that as well where we
23 would have our website up and in the Google search
24 engine you pay a certain amount of money and they put
25 a little picture of your product in the corner and

1 people can click on it and it directs you to the
2 website.

3 Q. How did that work out?

4 A. It was an interesting experiment. It was
5 educational, but once again I felt the costs weren't
6 really worth the return.

7 Q. Do you have a recollection as to when your
8 Google ad words account -- or when you were
9 advertising with Google?

10 A. That would have been in I believe early
11 2012.

12 Q. And you know, like the other advertising, how
13 long did it last; do you know?

14 A. Oh, not long at all. It was very brief,
15 several weeks at most.

16 Q. Okay. Now, you mentioned it was a -- a
17 learning experience. Were you the person in charge of
18 the Google ad words account?

19 A. Yes.

20 Q. Okay. Did you limit the geographic scope at
21 all in reference to where the ad showed?

22 A. You know, I'm not sure. I don't recall.

23 Q. Okay. So you don't recall limiting that;
24 would that be a fair statement?

25 A. Yeah, that would be a fair statement.

1 Q. I believe the last thing that you did mention
2 was also a Facebook. Can you tell us about that?

3 A. Facebook's similar. It's -- in the way that
4 it puts a picture and a little maybe description. I
5 can't recall that either, but it's -- somehow it puts
6 a little ad of your product in other people's Facebook
7 feed, and they click on it and are then directed to
8 your Facebook page as opposed to website.

9 Q. Ah, so this is an actual page Facebook ad,
10 not a Facebook company page?

11 A. Exactly, yeah, but the 2 work hand in hand.
12 The ad's directed to the Facebook page.

13 Q. Do you have a company page for Mt. Eden
14 Organics on Facebook?

15 A. Say that again, please.

16 Q. Does Mt. Eden Organics have a company page on
17 Facebook?

18 A. Yes.

19 Q. Okay. Do you have a recollection as to when
20 that was posted?

21 A. I believe it was early 2012 I think.

22 Q. Okay. Do you have a recollection when the
23 ads were purchased?

24 A. Around that same time. They would have been
25 very close in time; that's for sure.

1 Q. How long did the ads run for; do you know?

2 A. The Facebook ads?

3 Q. Correct.

4 A. Not long. Once again it would be a couple
5 weeks at most.

6 Q. Mr. McPherson, how do consumers -- well, how
7 did consumers originally purchase goods bearing the
8 Native Nutrients trademark?

9 A. I'm not sure I understand your question.

10 Q. How did they actually get the physical
11 product?

12 A. Oh. So we don't encourage resale sales, so
13 we don't like selling to the end customer. We prefer
14 to sell to a distributor who then sells to a retail
15 store who then sells to a customer, so that would be
16 our sort of channel of product. It would be first the
17 distributor, then the retail store, and then the end
18 consumer. There is a rare case where, instead of
19 going through the distributor, it goes from us to the
20 retail store directly and then the end consumer.

21 Q. So referencing you had these vendor days that
22 you talked about. How would that fit into the mix?

23 A. So vendor days are an opportunity for vendors
24 such as Mt. Eden Organics to come to retail stores and
25 communicate directly with the end user, and they'll --

1 you know, some people, they answer questions or they
2 give small talks. What we often did was we brought
3 along some samples of our product and we gave out
4 samples for free, and we brought sometimes some seeds
5 for kids to plant and take home a small plant to take
6 home.

7 Q. Okay. Has there come a time in which Native
8 Nutrients products were offered on other people's
9 websites?

10 A. Yes.

11 Q. Can I reference you, please, to Exhibit
12 Number 29?

13 A. It's in front of me now.

14 Q. Can you identify what this is?

15 A. It's a printout of a website called
16 ehydroponics.net, if I read that correctly.

17 Q. Okay. Are you familiar with this website?

18 A. I'm not too familiar.

19 Q. Are you aware that your product has been
20 offered for sale on this website?

21 A. I am aware of that, yes.

22 Q. Okay. Do you have any recollection as to
23 when your products first were offered for sale on this
24 website?

25 A. Well, I'm not sure. They would be getting

1 our product from our distributor, so it would be April
2 2012, somewhere in there.

3 Q. All right. And referencing again Exhibit
4 Number 29, is this a true and accurate copy of the web
5 page at their website offering your product for sale?

6 A. Yes.

7 MR. SWYERS: We'll move into evidence Exhibit
8 29.

9 BY MR. SWYERS: Q. Can I reference now,
10 please -- or kindly look at Exhibit 30.

11 A. Yes.

12 Q. All right. Can you identify for us what this
13 is?

14 A. This is a -- I believe it's a photocopy of
15 the catalog from Hydrofarm:

16 Q. Okay. And Hydrofarm I believe was previously
17 mentioned in your testimony, correct?

18 A. That is correct. They are our distributor.

19 Q. Thank you. Do you know the distribution of
20 the catalog, of which this is a page of, for
21 hydrofarm.com?

22 A. That would be nationwide. They distribute to
23 all their retail stores.

24 Q. Okay. Does Hydro- -- pardon me. Is Exhibit
25 30 a true and accurate copy -- excuse me, a true and

1 accurate copy of this page?

2 A. Yes.

3 MR. SWYERS: We would like to move in Exhibit
4 30 as well.

5 BY MR. SWYERS: Q. Mr. McPherson, I'd like
6 to now direct you to Exhibit Number 31, if I may. Let
7 me know when it's in front of you.

8 A. It's in front of me now.

9 Q. Can you identify what this is, please?

10 A. So this is a failure to deliver notice from I
11 believe it's Mailer Daemon something. It's the email
12 that gets bounced back when email's not correct.

13 Q. In this email is there any stream that you
14 can tell there was at some point an email that was
15 working?

16 A. Yes. So this -- well, this is a response to
17 an email that I sent out. I had written out sort of a
18 follow-up email to retail stores that I had visited,
19 and this was one of the emails that I had written to
20 follow up with a retail store owner.

21 Q. Can you tell us the date of that?

22 A. I could tell you the email was bounced back
23 on January 10th, 2011.

24 Q. And is this a true and accurate copy of the
25 email stream?

1 A. Yes.

2 MR. SWYERS: Okay. I'd like to kindly move
3 in Exhibit 31.

4 BY MR. SWYERS: Q. And referencing now to
5 the group of documents that we have labeled Exhibit
6 32, can you kindly look through Exhibit 32 and let me
7 know when you're finished? Identify the same.

8 A. Yeah, I've looked through them.

9 Q. Okay. What -- what are Exhibit 32 generally
10 speaking?

11 A. The first page is a Statement and Designation
12 by Foreign Corporation. The second is a registered
13 product -- how would I say that? Registration for
14 Rhode Island Department of Environmental Management.
15 The third is Oregon's Department of Agriculture
16 Registration Certificate. The next one is State of
17 New York Department of Agriculture and Markets
18 Certificate Notice. The final one here is State of
19 Maine Department of Agriculture Certificate of
20 Registration.

21 Q. Okay. Why are these relevant?

22 A. So in the agricultural industry, much like
23 California has the CDFA registration process, every
24 state has their own unique registration process for a
25 specialty fertilizer, so Mt. Eden Organics is required

1 to notify every state that we would like to sell our
2 goods in their state and explain what the product
3 is.

4 Q. And so how do these relate to that process?

5 A. These are returned completed certificates, so
6 they're the final sort of stamp of approval that
7 Mt. Eden Organics is able to sell Native Nutrients
8 Mushroom Compost in these states.

9 Q. Are these true and accurate copies of these
10 documents?

11 A. Yes.

12 MR. SWYERS: We'll move Exhibit Number 32
13 into the record.

14 BY MR. SWYERS: Q. We've discussed your
15 attending trade shows or vendor days. Has there
16 come a time that you've ever seen the applicant at any
17 of these vendor or trade shows?

18 A. Can you rephrase the question, please?

19 Q. Of course. The applicant whose trademark is
20 at issue today, had there ever come a time that you'd
21 seen them at one of these trade shows?

22 A. Yes.

23 Q. Tell us about that.

24 A. Well, in the Humboldt trade show, I believe
25 her name is Tasha Sparks from the applicant. She was

1 assigned a booth right next to us, and that would have
2 been April of 2012.

3 Q. Okay. And lastly, have you ever been made --
4 excuse me. Have you ever been made aware of confusion
5 between your and the applicant's trademarks?

6 A. Yes.

7 Q. Tell us about that.

8 A. So the first one that comes to mind is a man
9 by the name of Joshua. He's an owner of Phoenix
10 Organics. He mentioned to me that he saw our new
11 product. He of course was referring to the
12 applicant's product. We've had -- there's small sort
13 of anecdotal. People have called up asking about our
14 kelp fertilizer, which would be in reference to the
15 applicant's product. We attended another vendor days
16 at Paradise Supply where the applicant's business was
17 also in attendance and we had people that were
18 wondering if we were somehow connected.

19 MR. SWYERS: Okay. Thank you. Allow me just
20 to look at my notes for a minute. I believe that I am
21 finished. Can we go off the record for a minute?

22 MR. ALMEIDA: Sure.

23 MR. SWYERS: Thank you.

24 (A discussion was held off the record.)

25 MR. SWYERS: All right. Back on the record,

1 please. Mr. McPherson, at this juncture I have
2 nothing further. I'm sure that Opposing Counsel has a
3 few questions for you. Once again may we kindly go
4 off the record?

5 (A discussion was held off the record.)

6 EXAMINATION BY MR. ALMEIDA

7 Q. All right. Are you aware that you are
8 testifying under oath today just as if you were in
9 open court?

10 A. Yes.

11 Q. Okay. So you know that you're supposed to
12 testify truthfully to everything that you say?

13 A. Yes.

14 Q. All right. Okay. You testified that you
15 formed the company Mt. Eden Organics in 2010; is that
16 correct?

17 A. That's correct.

18 Q. Okay. When did you incorporate Mt. Eden
19 Organics?

20 A. 2010.

21 Q. Okay. Do you know when in 2010?

22 A. I believe it was June, maybe July it was
23 incorporated.

24 Q. Okay. Are you sure it wasn't August 3rd,
25 2010?

1 A. Yeah, it could be August 3rd, 2010.

2 Q. Okay. Are you the sole shareholder of
3 Mt. Eden Organics or are there other shareholders?

4 A. I am the sole shareholder.

5 Q. Okay. Do you have any employees at Mt. Eden
6 Organics?

7 A. No.

8 Q. Okay. So the company was not formed until
9 August 3rd, 2010; is that correct?

10 A. Can you repeat the question?

11 Q. The company Mt. Eden Organics, Incorporated,
12 was not formed until August 3rd, 2010; is that
13 correct?

14 A. It was not incorporated until -- yes.

15 Q. Were you conducting business under the name
16 Mt. Eden Organics prior to August 3rd, 2010?

17 A. And you mean sales?

18 Q. Were you selling fertilizer products under
19 the company name -- using the company name Mt. Eden
20 Organics prior to August 3rd, 2010?

21 A. I do not believe so.

22 Q. Okay. You had testified that your first sale
23 of Native Nutrients products was prior to August 3rd,
24 2010, correct?

25 A. That is correct.

1 Q. But you were not doing business as Mt. Eden
2 Organics prior to August 3rd, 2010? I can rephrase.
3 Were you selling Native Nutrients products using the
4 company name Mt. Eden Organics prior to August 3rd,
5 2010?

6 A. I do not believe so. If it was, it would be
7 right around that same time.

8 Q. What was your company called prior to August
9 3rd, 2010?

10 A. You're referring to a d.b.a.?

11 Q. Well, what did you call your company prior to
12 August 3rd of 2010? Let me rephrase. Did you call --
13 did you refer to your company as Mt. Eden Organics to
14 consumers prior to August 3rd, 2010?

15 A. In that case, yes.

16 Q. Okay. Were you transacting business in your
17 personal name before August 3rd, 2010?

18 A. Was I -- can you repeat the question?

19 Q. So were you transacting business in your
20 personal name prior to August 3rd, 2010, or did you
21 conduct all business using the name Mt. Eden Organics?

22 A. It would have been under my personal name.

23 Q. Okay. So did you write checks to any vendors
24 of services relating to Native Nutrients, for example
25 for marketing expenses or to purchase product

1 packaging?

2 A. Could you repeat the question?

3 Q. Did you write any checks to others related to
4 your sales of Native Nutrients products prior to
5 August 3rd, 2010?

6 A. No.

7 Q. You did not write any checks to anyone
8 relating to Native Nutrients products before August
9 3rd, 2010?

10 A. I did not write any checks, no.

11 Q. Did you have any contracts with retailers or
12 wholesalers or distributors prior to August 3rd, 2010?

13 A. McPherson Farm & Garden would have been the
14 only one.

15 Q. And were you personally a party to those
16 contracts or were you conducting business under
17 Mt. Eden Organics?

18 A. Can you rephrase it?

19 Q. Were you personally a party to any contracts
20 with retailers, wholesalers or distributors relating
21 to the sale of Native Nutrients prior to August 3rd,
22 2010?

23 A. So me personally?

24 Q. Yes.

25 A. Yes.

1 Q. So is it fair to say that you used the
2 trademark Native Nutrients prior to August 3rd, 2010?
3 Let me rephrase. Did you personally use the trademark
4 Native Nutrients prior to August 3rd, 2010?

5 A. Yes.

6 Q. Okay. So the company Mt. Eden Organics,
7 Inc., could not have used the trademark prior to
8 August 3rd, 2010, because the company did not -- the
9 corporation did not exist; is that correct?

10 A. Could you rephrase that?

11 Q. Yes. Is it possible that the corporation
12 Mt. Eden Organics, Inc., used the trademark Native
13 Nutrients prior to August 3rd, 2010?

14 A. I apologize. I'm still not quite getting it,
15 so say it one more time.

16 Q. You testified that the corporation, Mt. Eden
17 Organics, Inc., did not exist until August 3rd,
18 2010 -- 2010; is that correct?

19 A. That's correct.

20 Q. Is it possible that that corporation used the
21 trademark Native Nutrients prior to August 3rd, 2010?

22 A. You mean instead of me personally?

23 Q. That's correct.

24 A. No, I don't think so.

25 Q. Is there -- did you ever execute an

1 assignment of trademark rights from yourself to
2 Mt. Eden Organics, Incorporated?

3 A. No.

4 Q. Are you the opposer in this opposition
5 proceeding?

6 A. Can you rephrase that?

7 Q. Are you personally, Lee McPherson, the
8 opposer in this opposition proceeding?

9 A. As opposed to Mt. Eden?

10 Q. Are you, Lee McPherson, the plaintiff, the
11 opposer in this opposition proceeding, or is the
12 opposer Mt. Eden Organics, Incorporated?

13 A. The opposer is Mt. Eden Organics,
14 Incorporated.

15 Q. Thank you. So if Mt. Eden Organics,
16 Incorporated, did not exist until August 3rd, 2010,
17 Mt. Eden Organics, Inc., could not have sold any
18 Native Nutrients products prior to August 3rd, 2010;
19 is that correct?

20 A. I think that logic follows, yeah.

21 Q. Thank you. You testified that your first
22 sale of Native Nutrients fertilizer products was in
23 June of 2008; is that correct?

24 A. Yes.

25 Q. Did you personally sell the products in June

1 of 2010 -- 2008, or did Mt. Eden Organics,
2 Incorporated, sell the Native Nutrients product in two
3 thousand -- June of 2008?

4 A. Me personally.

5 Q. What is the first sale date listed in your
6 trademark application, Serial Number 85760914, for the
7 mark Native Nutrients?

8 A. March 2011.

9 Q. Did you list March 21st, 2011, as the first
10 sale date in the application?

11 A. Yes.

12 Q. Was your first sale of Native Nutrients
13 products on March 21st, 2011?

14 A. Can you rephrase the question, please?

15 Q. Was your first sale of Native Nutrients
16 products on March 21st, 2011?

17 A. My first sale as personal or my first sale as
18 Mt. Eden Organics? I'm confused.

19 Q. I will clarify. Did Mt. Eden Organics,
20 Incorporated, first sell Native Nutrients products on
21 March of 2011 -- March 21st, 2011?

22 A. No.

23 Q. When was the first date that Mt. Eden
24 Organics, Incorporated, sold a Native Nutrients brand
25 product?

1 A. In June 2008.

2 Q. So are you testifying that Mt. Eden Organics,
3 Incorporated, first sold Native Nutrients products in
4 June of 2008?

5 A. As opposed to -- you mean the difference
6 between the personal and Mt. Eden Organics?

7 Q. What was the first sale -- the first date
8 that Mt. Eden Organics, Incorporated, the opposer in
9 this proceeding, sold Native Nutrients brand products?

10 MR. SWYERS: Mr. Swyers?

11 MR. ALMEIDA: Is he on the line?

12 THE WITNESS: Matthew Swyers?

13 MR. SWYERS: Yes, I'm here of course.

14 THE WITNESS: I guess the terminology I'm
15 getting confused is between me personally and Mt. Eden
16 Organics, Incorporated. Is there a difference between
17 that I'm not understanding?

18 MR. SWYERS: Yeah, if I may, Mr. Almeida,
19 I'll address it.

20 Answer the questions to of course the best of
21 your ability, and if you have, you know, a question,
22 it's probably best to actually address it to
23 Mr. Almeida at this juncture.

24 THE WITNESS: Oh, okay.

25 MR. SWYERS: So just try to answer them to

1 the best of your ability, and you know, allow
2 Mr. Almeida to keep asking the questions.

3 THE WITNESS: All right.

4 MR. SWYERS: To be fair to you, Mr. Almeida,
5 I think that's fair, right?

6 MR. ALMEIDA: Yeah, that's fine. Thank
7 you.

8 BY MR. ALMEIDA: Q. When was the date
9 Mt. Eden Organics, Incorporated, first sold Native
10 Nutrients products?

11 A. I suppose December 2010.

12 Q. So you have testified that you first sold
13 products on -- in June of 2008 and that Mt. Eden
14 Organics, Inc., first sold Native Nutrients products
15 in December of 2010; is that correct?

16 A. That's correct.

17 Q. Why did you indicate that your first sale of
18 Native Nutrients products was March 21st, 2011, in
19 your trademark application?

20 A. Well, I suppose, as you can see, there's a
21 lot of confusion as to figuring out that exact date.
22 I'm not as well versed in terms of the logistic side
23 of deciding that date. I try to just offer up
24 whatever I have and keep everybody informed as I sort
25 of figure it out as well.

1 Q. Are you testifying that you don't know
2 whether the opposer's first sale date was in June of
3 2008 or in December of 2010 or March 21st, 2011?

4 MR. SWYERS: I'll object. I don't think -- I
5 think that mischaracterizes the testimony of the
6 witness. I think he was merely making a statement
7 that he doesn't understand trademark law as well as
8 maybe some of the other people do here.

9 MR. ALMEIDA: I'll rephrase.

10 BY MR. ALMEIDA: Q. Did you testify -- did
11 you just testify that you were confused as to your
12 first sale date of Native Nutrients products?

13 MR. SWYERS: I'll object again. I think that
14 mischaracterizes his testimony. I don't think that he
15 said that he was confused as to the first date of
16 sale. I think there's confusion as to maybe legally
17 what constitutes the first date of sale.

18 BY MR. ALMEIDA: Q. Did the opposer sell any
19 Native Nutrients products in June of 2008?

20 A. Is that question directed at me?

21 Q. Yes. Did the opposer sell any Native
22 Nutrients products in two thousand -- June of 2008?

23 A. In "opposer" you're referring to Mt. Eden
24 Organics, Incorporated?

25 Q. Yes.

1 A. No, I suppose that would be me personally.

2 Q. Did the opposer sell any products in December
3 of 2010?

4 A. Yes.

5 Q. Was that the opposer's first sale date for
6 Native Nutrients brand products?

7 A. Yes.

8 Q. Why did the opposer list March 21st, 2011, as
9 its first sale date of Native Nutrients products in
10 its trademark application for Native Nutrients?

11 A. Because I believed at the time that that was
12 our first sale.

13 Q. Why did you believe that your first sale was
14 March 21st, 2011, if your first sale was in December
15 of 2010?

16 A. Well, until previous to here, I thought my
17 first sale was 2008, but you know, it's not my area of
18 expertise to navigate trademark law.

19 Q. Is it fair to say that you're not sure
20 whether the opposer's first use date was in June 2008,
21 December 2010, or March 21st, 2011?

22 A. No, it was --

23 MR. SWYERS: I'll object because I think
24 you're asking him to form a legal conclusion. I
25 believe the testimony is clear as to who used what

1 when and where. Whether or not it legally qualifies
2 as use, that's not an ultimate issue for this witness
3 to decide.

4 MR. ALMEIDA: I am not asking the witness to
5 assert a legal conclusion or to determine a legal
6 conclusion. I'm asking the witness to tell me when he
7 thinks his first sale date was. The witness has
8 testified to 3 first sale dates and I'm asking the
9 witness to clarify which was his actual first sale
10 date upon which the opposer intends to rely based on
11 his personal knowledge.

12 MR. SWYERS: All right. In that regard,
13 asked and answered. He's asked and answered this
14 question multiple times, so you know, if we want to
15 continue to try to rehash it, I'm going to object. I
16 believe he's clearly testified as to when Mt. Eden's
17 first use and sale could have been, when his
18 individual first use sale, you know, could have been.
19 No, I would, you know, just state the objection this
20 has been asked and answered.

21 MR. ALMEIDA: Did the witness testify that
22 its first sale could have been December 2010, or did
23 the witness testify that his first sale was in
24 December of 2010?

25 MR. SWYERS: Are you addressing that --

1 MR. ALMEIDA: Yeah, this question is for Lee.

2 BY MR. ALMEIDA: Q. Lee, is this correct,
3 that your first sale could have been in December of
4 2010, and it could have been on March 21st, 2011? Are
5 you testifying that both of those dates are your first
6 sale dates of Native Nutrients products?

7 A. Our first sale date was December 2010 for
8 Mt. Eden Organics.

9 Q. If your first sale date was December 2010,
10 why did you list March 21st, 2011, as your first sale
11 date in the Native Nutrients application?

12 MR. SWYERS: And again I'll object on the
13 grounds that this has clearly been asked and answered,
14 but the witness may answer if he would like.

15 THE WITNESS: Like I said before, there's
16 just a matter of confusion in navigating the trademark
17 laws that I didn't understand.

18 BY MR. ALMEIDA: Q. Did you take payment for
19 a Native Nutrients product on -- on or around December
20 of 2010?

21 A. Yes.

22 Q. Was that the first time you took payment for
23 the sale of a Native Nutrients product?

24 A. Me personally or me, Mt. Eden Organics?

25 Q. Mt. Eden Organics.

1 A. Yes.

2 Q. Did Mt. Eden Organics take payment for the
3 sale of a Native Nutrients product on March 21st,
4 2011?

5 A. Yes.

6 Q. Did the opposer, Mt. Eden Organics,
7 Incorporated, take payment for the first time for the
8 sale of Native Nutrients products on March 21st, 2011?

9 A. Could you repeat that, please?

10 Q. Did the opposer first sell Native Nutrients
11 products on March 21st, 2011?

12 MR. SWYERS: Again I'm going to object as
13 asked and answered. I believe the witness has clearly
14 testified otherwise to your question 3 or 4 times now.
15 If the witness wants to reanswer this again, he can.

16 MR. ALMEIDA: Thank you.

17 BY MR. ALMEIDA: Q. Is the date that you
18 asserted in your trademark application of March 21st,
19 2011, a false first use date for Native Nutrients
20 products?

21 A. Can you ask that question again for me,
22 please?

23 Q. Is it false that the opposer's first sale of
24 Native Nutrients products occurred on March 21st,
25 2011?

1 MR. SWYERS: Objection again to asked and
2 answered.

3 MR. ALMEIDA: I -- is it possible to go back
4 and see if I asked that question earlier in the
5 transcript?

6 MR. SWYERS: Well, the answer has been
7 provided 2 or 3 times in 3 or 4 different ways you've
8 asked him.

9 MR. ALMEIDA: No, no, no. I'm asking the
10 witness if the date in his trademark application is
11 false. I did not ask him that question previously.

12 MR. SWYERS: You've asked him when the -- you
13 know, the date of first sale was. His answer was
14 December 2010, and then you go back and ask him, you
15 know, "well, why is it in your trademark application
16 as such-and-such" --

17 MR. ALMEIDA: But this is a different
18 question.

19 MR. SWYERS: -- and he answered you "because
20 I didn't understand certain things about trademark
21 law," and then you come back and you ask the exact
22 same question again slightly different a couple
23 minutes later.

24 MR. ALMEIDA: No, I did not ask the question
25 "was opposer's first asserted use date of March 21st,

1 2011, false?" I did not ask that question previously.
2 I previously asked the witness when he first sold his
3 products. Now I am asking whether the date of use
4 listed in the application is false. The witness must
5 answer the question. I have not --

6 MR. SWYERS: Fair enough. If that's what you
7 want to ask now --

8 MR. ALMEIDA: The witness must answer the
9 question.

10 MR. SWYERS: -- you know, go ahead. It's
11 technically the same. The witness may answer the
12 question if you'd like.

13 BY MR. ALMEIDA: Q. Is the asserted first
14 use date of March 21st, 2011, for Native Nutrients
15 products as listed in the application false?

16 A. That's correct. It was in December 2010.

17 Q. Why did you list a false first use date in
18 your trademark application?

19 MR. SWYERS: I will object on
20 mischaracterization of the trademark application. As
21 probably Opposing Counsel is aware, trademark
22 applications state per se "as used as early as." It
23 includes dates that could have been prior to that, so
24 again this is the same question that you've actually
25 asked before which is "why did you put down this date,

1 you know, previously?" At this juncture this is
2 becoming badgering of the witness. You've asked the
3 question. Asked and answered.

4 MR. ALMEIDA: Does Opposing Counsel have an
5 objection?

6 MR. SWYERS: Yes, asked and answered. His
7 answer previously to this question in other iterations
8 was "because I didn't understand the subtleties of
9 trademark law." He said that point blank.

10 MR. ALMEIDA: I previously asked whether the
11 opposer listed a false first use date in its
12 application. Now I'm asking why he listed a false
13 first use date in the application. It's a different
14 question.

15 MR. SWYERS: But it's all the same question
16 surrounding this same issue which is, you know, "when
17 was your first date of use?" and he's already answered
18 this.

19 MR. ALMEIDA: I am permitted to ask different
20 questions. I cannot ask the same question twice, but
21 I am permitted to ask different questions. I am now
22 inquiring into the reason why the opposer chose the
23 first use date, not whether the first use date is
24 correct. These are different questions.

25 MR. SWYERS: Well, again I'll say it's asked

1 and answered, you know, 20 times over at this
2 juncture, but again if Mr. McPherson wants to answer
3 it for the fifth or sixth time, Mr. McPherson, please
4 go ahead and answer the opposing counsel's question.

5 THE WITNESS: Could you repeat the question?

6 BY MR. ALMEIDA: Q. Why did you list a first
7 use date in the application that was false?

8 A. So it comes down to not understanding the
9 trademark laws.

10 Q. Regardless of the trademark laws, do you
11 have personal knowledge of when you first sold Native
12 Nutrients products?

13 A. When Mt. Eden Organics sold products or when
14 I personally sold products?

15 Q. When Mt. Eden Organics first sold products.
16 Do you have personal knowledge about your first sale?

17 A. Yes.

18 Q. When did you learn that your first sale was
19 actually prior to March 21st, 2011?

20 A. I don't remember.

21 Q. Did you become aware that your first sale
22 date for Native Nutrients products was prior to March
23 21st, 2011, during this proceeding? I'll rephrase.

24 Did you become aware during this proceeding that your
25 first sale of Native Nutrients products was prior to

1 March 21st, 2011?

2 A. When you say "proceeding," do you mean --

3 Q. This opposition proceeding.

4 A. This deposition or this sort of court
5 involvement?

6 Q. Okay. The opposer filed this opposition on
7 January 18th, 2013; is that correct?

8 A. The opposer --

9 Q. Mt. Eden Organics, Incorporated.

10 A. Filed?

11 Q. This opposition --

12 A. Hmm-hmm.

13 Q. -- on January 18th, 2013; is that correct?

14 A. Yes.

15 Q. Did you become aware that your first sale of
16 Native Nutrients products was prior to March 21st,
17 2011, during this proceeding or before this
18 proceeding, meaning after you filed the notice of
19 opposition or before you filed the notice of
20 opposition?

21 A. Oh, after I filed the notice of opposition.

22 Q. Do you recall responding to a series of
23 questions which the applicant sent to you called
24 interrogatories?

25 A. I recall them, yes.

1 Q. Were you aware that your first sale of Native
2 Nutrients products was before March 21st, 2011, before
3 or after you received the interrogatories?

4 MR. SWYERS: I apologize, Mr. Almeida. Can I
5 just interject? I was confused by the question. Are
6 you speaking about Applicant's interrogatories
7 opposing?

8 MR. ALMEIDA: That's fine. I'll withdraw the
9 question.

10 MR. SWYERS: That's fine. I just myself was
11 confused, so thank you.

12 MR. ALMEIDA: Right. I'll rephrase.

13 BY MR. ALMEIDA: Q. Do you recall when you
14 received interrogatories from the applicant relating
15 to Native Nutrients?

16 A. I recall receiving them, yes. I don't
17 remember the date on which I received them.

18 Q. Do you recall whether the date was on or
19 around August of 2013?

20 A. I remember there was 2 sets of
21 interrogatories as well.

22 Q. I am referring to the first set of
23 interrogatories. Do you recall that the first set --
24 do you recall responding to the first set around
25 August of 2013?

1 A. That sounds about right.

2 Q. Did you learn that your first sale date was
3 prior to March 21st, 2011, before you answered the
4 interrogatories or after you answered the
5 interrogatories?

6 MR. SWYERS: I'll object to the form of the
7 question.

8 MR. ALMEIDA: Okay. How --

9 MR. SWYERS: And if --

10 MR. ALMEIDA: What caused you --

11 MR. SWYERS: The objection specifically is --

12 MR. ALMEIDA: Withdrawn, withdrawn.

13 MR. SWYERS: No, but here's my objection if
14 you don't mind, and forgive me. Before, after or
15 during this response, you see what I'm saying? If you
16 ask if it was before and after -- or during I think,
17 then I think it's proper.

18 MR. ALMEIDA: Okay, your objection is noted.
19 I've withdrawn the question.

20 BY MR. ALMEIDA: Q. Mr. McPherson, what
21 caused you to change your position that your first use
22 date was on March 21st, 2011, to June of 2008?

23 A. During the discovery period, the discovery of
24 more invoices, a better understanding of the terms in
25 the trademark forms.

1 Q. When did you discover more invoices?

2 A. I'm not really sure. I don't recall.

3 Q. Are -- all of the invoices in the exhibits
4 that you have viewed today, were those invoices in
5 your possession when you filed the notice of
6 opposition?

7 A. Yes.

8 Q. If all of these invoices were in your
9 possession, did you discover more invoices? I'll
10 rephrase. How could you discover more invoices if all
11 of the invoices were already in your possession when
12 you filed the notice of opposition?

13 A. I just hadn't looked back as far as I thought
14 I had.

15 Q. But all of the invoices were in your
16 possession; you just hadn't seen them; is that
17 correct?

18 A. That's correct.

19 Q. Are you aware that on March 12th, 2013, the
20 applicant proposed an early and formal exchange of
21 documents regarding the parties earliest first sale
22 dates prior to the commencement of formal discovery in
23 this opposition?

24 MR. SWYERS: I'll object and instruct the
25 witness not to answer on the grounds of relevance.

1 MR. ALMEIDA: There's no objection based on
2 relevance in a deposition. How is that --

3 MR. SWYERS: Actually in trial deposition
4 relevance is actually a very recognized concession --
5 or objection, so again objection as to relevance, not
6 to answer the question.

7 MR. ALMEIDA: The information goes to the
8 opposer's awareness of his first sale date.

9 MR. SWYERS: That was actually in the course
10 and scope of potential settlement discussions which is
11 protected by Rule 408 and which is absolutely
12 prohibited from coming into evidence at trial.

13 MR. ALMEIDA: That was not a protected
14 settlement discussion. The applicant requested
15 informal discovery on March 12th, 2013. That was not
16 protected by Rule 408. I'm asking about Mr. Lee's
17 awareness of Applicant's request to exchange discovery
18 informally. That has nothing to do with settlement.

19 MR. SWYERS: Yeah, I'll keep my objection for
20 relevance, and it's late. I'll withdraw my
21 instruction not to answer. If Mr. McPherson was aware
22 of that, he can answer.

23 BY MR. ALMEIDA: Q. Okay. Mr. McPherson,
24 were you aware than on March 12th, 2013, that
25 Applicant proposed an early informal exchange in

1 documents regarding the parties' earliest sale dates
2 of Native Nutrients products prior to the commencement
3 of formal discovery?

4 A. I remember being somewhat notified of that,
5 yes.

6 Q. Did you decline that offer to informally
7 exchange documents?

8 MR. SWYERS: At that juncture I am going to
9 object on relevance. I don't see what this has to do
10 with anything.

11 MR. ALMEIDA: It does. It goes to the
12 applicant's awareness of its first sale date.

13 MR. SWYERS: You know, okay. I'll give
14 the -- I'll keep the objection in place.

15 MR. ALMEIDA: Your objection is noted.

16 MR. SWYERS: You can answer.

17 THE WITNESS: I'm sorry. Could you repeat
18 the question?

19 BY MR. ALMEIDA: Q. Why did you decline
20 Applicant's offer to informally exchange documents
21 regarding the parties' earliest first sales of Native
22 Nutrients prior to the commencement of formal
23 discovery?

24 A. You know, it was a while ago. Ultimately my
25 default for anything I don't understand is no, and I

1 didn't understand it as well as I should have.

2 Q. At the time you declined Applicant's offer to
3 exchange discovery informally, were you in possession
4 of the invoices which are part of these exhibits in
5 front of you?

6 A. I'm confused. Can you rephrase the question?

7 Q. Did you have invoices regarding your earliest
8 sales of Native Nutrients products in your possession
9 at the time you declined Applicant's offer to
10 informally exchange documents?

11 A. They were in Mt. Eden Organics' possession.
12 Whether or not I was aware of them, I'm not sure. I
13 don't recall.

14 Q. When was the first time you sold Native
15 Nutrients products outside of California?

16 A. Can you be more specific?

17 Q. When was the first time you sold a Native
18 Nutrients brand fertilizer to a customer located
19 outside of California?

20 A. We have a distributor, Garden Unlimited, that
21 we sold to in May of 2011 and they have shops that are
22 in Oregon and California, Colorado and, like I said
23 before, I believe New York, couple other places.

24 Q. You previously testified that your first sale
25 date was -- no, withdraw -- I'll withdraw it. Are you

1 aware that your trademark application lists a first
2 sale date in interstate commerce of March 21st, 2011?

3 A. March 21st, 2011?

4 Q. Are you aware that your first -- that your
5 trademark application lists a first sale date in
6 interstate commerce of Native Nutrients products on
7 March 21st, 2011?

8 A. I'll -- I mean sure.

9 Q. And are you now testifying that your first
10 sale of Native Nutrients products outside of
11 California was in May of 2011?

12 MR. SWYERS: Objection, you know, it
13 mischaracterizes the witness' testimony through direct
14 and otherwise.

15 MR. ALMEIDA: Wait, wait, wait. That is not
16 an objection. I'm cross-examining the witness. If I
17 elicit different information from the witness than the
18 witness gave on direct, that's perfectly relevant and
19 I'm permitted to inquire about that.

20 MR. SWYERS: You may answer the question if
21 you like.

22 THE WITNESS: Yeah, so go ahead and ask it
23 again.

24 BY MR. ALMEIDA: Q. Are you aware that the
25 first sale date listed in your application in

1 interstate commerce was March 21st, 2011?

2 A. Yes.

3 Q. But are you now testifying that your first
4 sale of Native Nutrients products outside of
5 California was on -- was in May of 2011?

6 A. Yeah, I guess I don't quite understand the
7 difference between interstate and within the state,
8 intrastate.

9 Q. I'm not asking about the difference between
10 interstate commerce and other sales. I am asking
11 you --

12 MR. SWYERS: Well, actually you did. You
13 actually asked him in interstate commerce, so yeah.

14 MR. ALMEIDA: I will rephrase.

15 BY MR. ALMEIDA: Q. Was your first sale of
16 Native Nutrients products outside of California in May
17 of 2011?

18 A. Yes.

19 Q. Thank you. All right. I'd like to direct
20 the witness' attention to invoice -- or sorry, Exhibit
21 Number 6.

22 A. It's in front of me.

23 Q. Did you write this invoice with your hand?

24 A. No.

25 Q. Who wrote this invoice?

1 A. There's a signature in the bottom lower left
2 I believe, and there's a name underneath it, but I
3 can't make it out, Jim something.

4 Q. Do the words "Native Nutrients" appear
5 anywhere on this document?

6 A. No.

7 Q. Did you ever sell Native Nutrients products
8 directly to any customers, end users?

9 A. Yes.

10 Q. What was the name of your first customer?

11 A. I believe that's Brendon L.

12 Q. Did you previously testify that your first
13 customer was your father, Jeff McPherson?

14 A. Is there an invoice that's earlier than that
15 one that I was looking at?

16 Q. Please answer the question. Did you
17 previously testify that your first sale of Native
18 Nutrients products was to your father, Jeff McPherson?

19 A. So the first sale, yeah, I found it now.
20 That's dated 12/1/2010. That would be to McPherson
21 Farm & Garden.

22 Q. So are you now testifying that your first
23 sale of Native Nutrients products was on December 1st,
24 2010, to McPherson Farm & Garden?

25 A. Yeah, that's correct.

1 Q. How much product did you sell to McPherson
2 Farm & Garden on December 1st, 2010?

3 A. One cubic yard.

4 Q. Did you sell directly to your father, Jeff
5 McPherson, or did you sell to another person at that
6 company?

7 A. Directly to Jeff McPherson.

8 Q. Is McPherson Farm & Garden a corporation?

9 A. It's incorporated, yes.

10 Q. When was McPherson Farm & Garden
11 incorporated?

12 A. I don't know. There might be -- I don't
13 know.

14 Q. So your first sale of Native Nutrients
15 product on December 1st, 2010, was directly to your
16 father, Jeff McPherson?

17 A. He's the one that paid for it.

18 Q. Did you ship the product to your father
19 directly?

20 A. I don't believe so.

21 Q. How did you deliver the product to your
22 father?

23 A. I don't recall.

24 Q. Do you recall whether he picked up the
25 product from your office or home or whether you

1 shipped the product to him?

2 A. Yeah, that's what I don't recall.

3 Q. All right. So you are testifying that you
4 cannot recall how you shipped your first sale of
5 Native Nutrients product to your father on December
6 1st, 2010?

7 A. It says "will pick up" on the invoice so I
8 would venture a guess that it was picked up, but I do
9 not recall specifically.

10 Q. Did Jeff McPherson pay you for this product
11 sold on December 1st, 2010?

12 A. Yes.

13 Q. How much did he pay you for this product?

14 A. The invoice says \$10.

15 Q. How much do you normally sell this amount of
16 Native Nutrients product for to your other customers?

17 A. \$25.

18 Q. \$25 for how much product?

19 A. One cubic yard. There is a difference
20 between selling it to a retail store and selling it to
21 an end user which is the \$25, so there is an expected
22 markup.

23 Q. So you normally sell the product for \$25 for
24 one cubic yard?

25 A. To the end user, not to a retail store.

1 Q. And do you normally sell Native Nutrients
2 product at a rate -- a price of \$9 for one cubic yard
3 to retail stores?

4 A. At that time we did.

5 Q. In 2010 did you sell Native Nutrients
6 products to any other customers other than your father
7 at the price of \$9 per cubic yard?

8 A. Can you be more specific about "customer"?

9 Q. Did you sell Native Nutrients products in
10 2010 to any customers other than your father at the
11 price of \$9 per cubic yard?

12 A. I don't believe we sold it to any other
13 retail stores at that time.

14 Q. So to clarify, you did not sell Native
15 Nutrients products to any other retail stores around
16 December 1st, 2010?

17 A. That's correct.

18 Q. Is it true that you only sold to end users
19 of -- of Native Nutrients products and your father in
20 2010 and no others?

21 A. I'd have to look through the files, but
22 according to all the invoices here, that's correct.

23 Q. So McPherson Farm & Garden was the only
24 retail store you sold Native Nutrients products to in
25 2010?

1 A. Like I said, according to the invoices here.
2 I'd have to check in our file base, but yeah.

3 Q. You do not remember, based on your personal
4 knowledge, based on your memory, whether you sold to
5 any other retail stores other than your father's in
6 2010?

7 A. That's correct. I do not remember selling to
8 any other retail stores.

9 Q. Thank you. How many end users did you sell
10 Native Nutrients products to in 2010?

11 A. How many end users? Could you repeat the
12 question?

13 Q. How many individual consumers, excluding
14 retail stores, did you sell Native Nutrients products
15 to in 2010?

16 A. So Brendon where there's an invoice here for
17 him, and that I recall at the moment, that was all.

18 Q. What is Brendon's last name?

19 A. It's in here as "L." I don't recall his last
20 name unfortunately.

21 Q. How did you meet Brendon?

22 A. He was introduced to me via a friend. We
23 played -- the friend and I played darts together.

24 Q. What is the name of the friend who introduced
25 you to Brendon?

1 A. Matthew. Do you want a last name as well?

2 Q. Please. What is Matthew's last name?

3 A. Branch, like branch like on a tree.

4 Q. Do you have contact information for Brendon?

5 A. I may have supplied it somewhere along the
6 way. At this point I do not. It might be something I
7 could dig up perhaps.

8 Q. Do you have Brendon's email address?

9 A. Not with me today.

10 Q. I'd like to direct your -- the witness'
11 attention to invoice -- sorry, Exhibit Number 10. How
12 did you transmit this invoice to Brendon L.?

13 A. He picked up the compost in person.

14 Q. Did you hand him a printed copy of the
15 invoice?

16 A. I don't recall. That was a while ago.

17 Q. You can't recall whether you handed Brendon
18 L. a copy of the invoice as shown in Exhibit 10?

19 A. No, I can't recall.

20 Q. Did you email the invoice as shown in Exhibit
21 10 to Brendon?

22 A. No.

23 Q. Did you ever give Brendon a copy of this
24 invoice as shown in Exhibit 10 in any way?

25 A. I don't recall. I believe so. I would have

1 seen him because he came twice.

2 Q. Do you normally give your customers a copy of
3 your invoice when you make a sale of Native Nutrients
4 products?

5 A. It's rare to sell to end consumers. When we
6 sell to retail stores, we have to.

7 Q. But when you sell to individual consumers, do
8 you normally supply a printed invoice?

9 A. He's one of the few that we sold to that was
10 an end user. There's no real normal.

11 Q. Was Brendon L. the only individual you sold
12 Native Nutrients products to in 2010?

13 A. I think you asked that before, and according
14 to these invoices I have here, yes, and I don't recall
15 anyone else.

16 Q. Did you sell to any individuals in 2009?

17 A. I don't recall.

18 Q. Do you recall selling to any individuals in
19 2008?

20 A. I don't recall.

21 Q. You previously testified that you personally
22 sold Native Nutrients products to consumers in 2008.
23 Is it now your testimony that you don't recall whether
24 you sold Native Nutrients products to end consumers in
25 2008?

1 MR. SWYERS: I'm going to object to again the
2 form of the question, and again this is -- you know,
3 you're using terminology like "consumer" and then, you
4 know, "individuals" and then "corporations" or
5 whatever, and then also you're going back between him
6 being an individual and then him Mt. Eden Organics.
7 You know, again you're mischaracterizing testimony
8 here.

9 MR. ALMEIDA: Okay. I'll rephrase the
10 question.

11 BY MR. ALMEIDA: Q. You previously testified
12 that you sold Native Nutrients products to customers
13 in 2008. Is it now your testimony that you never sold
14 Native Nutrients products to individual consumers in
15 2008?

16 A. Could you --

17 MR. SWYERS: I'm going to object to the form
18 of the question because -- and also it
19 mischaracterizes the testimony. I don't believe he
20 ever testified that he sold to individual consumers as
21 you're now defining it. He sold to Mt. Eden -- or
22 excuse me, McPherson Farm & Garden, but you're
23 mischaracterizing the testimony here.

24 BY MR. ALMEIDA: Q. Is Jeff McPherson an
25 individual customer of yours?

1 A. Are you referring to Jeff McPherson as owner
2 of McPherson Farm & Garden or Jeff McPherson as an
3 individual?

4 Q. I'm referring to Jeff McPherson as an
5 individual. Is Jeff McPherson a customer of yours?

6 A. We sold to McPherson Farm & Garden, so I
7 suppose the answer to that would be no, but I am
8 confuse on the question.

9 Q. Did you sell Native Nutrients products to
10 Jeff McPherson in 2008?

11 MR. SWYERS: Object to the form of the
12 question. Personally or to his company?

13 MR. ALMEIDA: It's not a -- the question is
14 clear.

15 BY MR. ALMEIDA: Q.. Mr. McPherson, did you
16 sell Native Nutrients production to your father, Jeff
17 McPherson, in 2008?

18 MR. SWYERS: As an individual or as a
19 corporation? I'm just simply asking for
20 clarification.

21 MR. ALMEIDA: As an individual.

22 MR. SWYERS: Thank you.

23 THE WITNESS: So I guess the answer to that
24 would be I sold to McPherson Farm & Garden,
25 Incorporated, not an individual, although once again

1 I'm confused as to the definition between individual
2 and corporation.

3 MR. ALMEIDA: Thank you.

4 BY MR. ALMEIDA: Q. How did Brendon pay you
5 for your Native Nutrients products?

6 A. In cash.

7 Q. Do you have any record of a sale to Brendon
8 L. other than Exhibit 10 invoice?

9 A. I don't think so.

10 Q. Did you ever sell Native Nutrients products
11 to Brendon L. after 2010?

12 A. Don't think so. I don't recall, but I don't
13 think so.

14 Q. Have you ever spoken to Brendon L. since
15 2010?

16 A. I don't think so. Once again I don't recall,
17 but I don't think so.

18 Q. Have you ever spoken to Brendon L. on the
19 telephone?

20 A. I think I did speak to him on the telephone
21 around that time.

22 Q. How did Brendon L. place the order for your
23 Native Nutrients products?

24 A. He asked me verbally in person.

25 Q. Did he call you before he came to pick up the

1 Native Nutrients products?

2 A. Maybe. I don't recall.

3 Q. When was the invoice in Exhibit 10 created?

4 A. When was the invoice created?

5 Q. Yes.

6 A. Right around 12/5/2010, my assumption is that
7 day.

8 Q. When you created the invoice in Exhibit 10,
9 where did you store the file that you created?

10 A. I'm not sure I understand the question.

11 Q. Is the invoice in Exhibit 10 stored
12 electronically in any form on any computer in your
13 possession?

14 A. Yes, it would be in our computer.

15 Q. What computer program did you use to generate
16 the invoice in Exhibit 10?

17 A. No, we run our accounting in QuickBooks.

18 Q. Did you generate other invoices using
19 QuickBooks for sales of Native Nutrients products in
20 2010?

21 A. Yes.

22 Q. Are you currently in possession of other
23 invoices for sales of Native Nutrients products dated
24 2010?

25 A. Can you rephrase the question?

1 Q. Yes. Are you currently in possession of
2 invoices dated in 2010 for sales of Native Nutrients
3 products which you created using QuickBooks?

4 A. Are you referring to these invoices here?

5 Q. Do you possess other invoices that you
6 created in 2010 using QuickBooks for the sale of
7 Native Nutrients products?

8 A. If I understand your question correctly, then
9 yes.

10 Q. So you possess other invoices that you
11 created using QuickBooks for sales of Native Nutrients
12 products dated 2010?

13 MR. SWYERS: I'm going to object as to the
14 form of the question because it's confusing. Are you
15 talking those that have not been like provided or
16 those that are sitting in front of you right now?

17 MR. ALMEIDA: I'll withdraw the question.

18 BY MR. ALMEIDA: Q. Did individual consumers
19 in 2010 normally pay for your product using cash?

20 A. Once again it's -- there's no real normal. I
21 mean it was just a -- a pretty rare occurrence.

22 Q. Did you receive any checks for sales of
23 Native Nutrients products in 2010 from any customer?

24 A. I don't recall. I don't have that
25 information in front of me.

1 Q. Did all of your customers in 2010 pay you in
2 cash?

3 A. I understand the question. I just -- I don't
4 have that information in front of me and I don't
5 recall.

6 Q. Do you recall ever receiving a check from any
7 customer in 2010 to purchase Native Nutrients
8 products?

9 A. I mean I can guess, but I don't have that
10 information in front of me. I don't remember.

11 Q. Have you ever exchanged any email with
12 Brendon?

13 MR. SWYERS: Object, asked and answered. You
14 can answer it again if you would like.

15 MR. ALMEIDA: Otherwise you can answer the
16 question. The objection is in the record.

17 THE WITNESS: I don't recall if I
18 communicated with him by email.

19 BY MR. ALMEIDA: Q. Have you ever met
20 Sunshine Tresador?

21 A. I believe so, but I'm not 100 percent sure.

22 Q. Did you ever sell a product to Sunshine
23 Tresador?

24 A. No.

25 Q. Did you ever sell a Native Nutrients product

1 to Sunshine Tresador?

2 A. No.

3 Q. Did you ever sell a Native Nutrients product
4 to Roger Paul?

5 A. Me personally, no.

6 Q. Did your company -- I'm sorry. Did the
7 opposer ever sell a Native Nutrients product to Roger
8 Paul?

9 A. Those are customers of McPherson Farm &
10 Garden, so I do not believe so.

11 Q. When you sold Native Nutrients products to
12 McPherson Farm & Garden, were the products labeled
13 Native Nutrients?

14 A. I don't recall.

15 Q. Did you personally affix the trademark Native
16 Nutrients to your products before you sold them to
17 McPherson Farm & Garden?

18 A. I don't recall, but I do not think so.

19 Q. Did you ever apply labels showing Native
20 Nutrients on your fertilizer products?

21 A. Yes.

22 Q. Did you apply the labels on the products
23 personally?

24 A. I have before, yes.

25 Q. Did you apply the labels to the products

1 before you sold them to McPherson Farm & Garden or
2 after?

3 A. Yeah, that's what I'm having trouble
4 recalling. I don't think so.

5 Q. At what point did the products -- I'm sorry.
6 I'll rephrase. At what point during the chain of
7 distribution did you apply the trademark Native
8 Nutrients to the product?

9 A. Can you rephrase the question, please?

10 Q. Did Jeff McPherson apply the Native Nutrients
11 trademark to the products after he purchased the
12 products from you?

13 A. No.

14 Q. At what point did you apply the Native
15 Nutrients labels to the packaging starting from the
16 point when you bagged the product and ending at the
17 point when the product was sold by McPherson Farm &
18 Garden to the end consumer?

19 A. We affix the labels -- or rather I affix the
20 labels before the compost is placed in the bags.

21 Q. When you shipped the bags to McPherson Farm &
22 Garden, did the bags bear the Native Nutrients label?

23 A. Yes.

24 Q. Did you just testify that the bags did not
25 bear the Native Nutrients label when you sold them to

1 your -- before you sold them to your father?

2 A. Can you rephrase the question, please?

3 Q. Did you just testify earlier today that the
4 products were not labeled Native Nutrients before you
5 sold them to your father?

6 A. Yeah, I think the confusion's arising -- are
7 you referring to in general or in that first sale?

8 Q. Did you testify earlier today that the --
9 that your Native Nutrients products did not bear a
10 label Native Nutrients before you sold the products to
11 McPherson Farm & Garden?

12 A. So the products when they go out have the
13 label affixed to them before they start bagging, so
14 they would be on the bag before they're filled. When
15 you're asking about the first one, that's the one I'm
16 not sure. I don't recall.

17 Q. Are the bags filled before you sell them to
18 the -- before -- I'm sorry. Were the bags filled with
19 the product before you sold them to McPherson Farm &
20 Garden?

21 MR. SWYERS: In what time frame are we
22 speaking?

23 BY MR. ALMEIDA: Q. In 2008 did you ship
24 bags full of Native Nutrients products to McPherson
25 Farm & Garden?

1 A. No.

2 Q. How was the fertilizer packaged when you
3 shipped it to McPherson Farm & Garden?

4 A. As the invoice says, it was a load of
5 compost.

6 Q. Did the compost come in a bag or a bucket or
7 a box?

8 A. So are you referring to the 2008 or the 2010?

9 Q. In 2008 in what types of containers did you
10 ship Native Nutrients products to McPherson Farm &
11 Garden?

12 A. Bulk, so it would be -- it wouldn't be in any
13 container.

14 Q. Can you please explain how the product is
15 sold without being inside a container?

16 A. Yeah. It's a compost so you can have it
17 delivered in a truckload fashion and people can load
18 it up with a shovel.

19 Q. So the product is dumped into the back of a
20 truck and shipped by truck?

21 A. In 2008 it was, yes.

22 Q. And you shipped the Native Nutrients product
23 to McPherson Farm & Garden in 2008 in this manner, in
24 the back of a truck?

25 A. Yes.

1 Q. And you have never shipped the product to
2 McPherson Farm & Garden in a bag labeled Native
3 Nutrients in 2008?

4 A. In 2008, no.

5 Q. In 2010 when you sold Native Nutrients
6 products to Brendon, did you sell the compost in the
7 back of a truck or did you sell Brendon bags filled
8 with Native Nutrients products?

9 A. It was a combination of the 2, of them
10 both.

11 Q. Did you sell Brendon a bag full of compost
12 with a label attached to the bag reading "Native
13 Nutrients"?

14 A. Yes.

15 Q. After you sold compost to your father in
16 2008, when were the products placed in bags? I'll
17 rephrase. Was the Native Nutrients product placed in
18 bags after you shipped the compost to McPherson Farm &
19 Garden in 2008?

20 A. Yes.

21 Q. Who placed the compost in the bags?

22 A. Myself.

23 Q. Did you travel to McPherson Farm & Garden in
24 Zenia, California, and bag the compost?

25 A. Are you referring to in 2008?

1 Q. In 2008 did you travel to McPherson Farm &
2 Garden in Zenia, California, and bag the compost which
3 you -- and bag the Native Nutrients compost?

4 A. No.

5 Q. Who placed the compost in bags in 2008 after
6 you sold the product to McPherson Farm & Garden?

7 A. I'm confused by the question.

8 Q. Who physically filled up bags with compost
9 and labeled the bags Native Nutrients after you
10 shipped the compost to your father in 2008?

11 A. Nobody. It was sold in -- sold in bulk as
12 well in 2008.

13 Q. Are you testifying that McPherson Farm &
14 Garden sold compost in bulk in 2008 to customers, but
15 the compost was not sold in bags?

16 A. I'm confused.

17 Q. Was the product -- was the Native Nutrients
18 product sold by McPherson -- McPherson Farm & Garden
19 to consumers in bags in 2008 or was the product sold
20 to consumers as compost and not in bags?

21 A. It was sold in bulk, as in not in bags.

22 Q. How did you -- how did you label the bulk
23 product with the trademark Native Nutrients in 2008?

24 A. I'm confused by the question.

25 Q. Is it possible to label bulk sales of Native

1 Nutrients products that are not sold in bags?

2 A. It is possible, yes.

3 Q. How did you label bulk compost with the
4 trademark Native Nutrients?

5 A. I don't recall, but I mean that's -- that's
6 at the McPherson Farm & Garden end. They could simply
7 affix a sign that said "Native Nutrients Mushroom
8 Compost," but I'm not sure.

9 Q. To the best of your knowledge, did McPherson
10 Farm & Garden erect a sign labeled Native Nutrients
11 and place the sign near the compost for sale in 2008?

12 A. I'm not sure. I would guess no, but I wasn't
13 there. I don't know.

14 Q. Do you know if McPherson Farm & Garden sold
15 Native Nutrients products in bags in 2008 to
16 consumers?

17 A. They did not.

18 Q. Do you have any knowledge as to how the
19 Native Nutrients product was labeled Native Nutrients
20 at the McPherson Farm & Garden store in 2008?

21 A. I don't have any knowledge about it. Like I
22 said, there could have been a sign, something like
23 that.

24 Q. Did you provide your father with any
25 instructions as to how to label the Native Nutrients

1 product at his store in 2008?

2 A. I never gave him any instructions, no.

3 Q. If the product that you sold to McPherson
4 Farm & Garden in 2008 was not labeled Native
5 Nutrients, what is the basis for your belief that you
6 first sold Native Nutrients products in 2008?

7 A. That's what -- that's what we all called it.
8 I mean that's what the product was.

9 Q. But the product was not labeled Native
10 Nutrients when you shipped it to McPherson Farm &
11 Garden in 2008, correct?

12 A. On the -- in the product label affixed to the
13 product, no.

14 Q. And to the best of your knowledge, the
15 product was not sold in the store with a label Native
16 Nutrients?

17 A. To the best of my knowledge. I'm not sure.
18 You know, it could have been he had signs up. It
19 could have been when people came in, he pointed to it
20 and said "Native Nutrients." I'm not sure how sales
21 happened at McPherson Farm & Garden.

22 Q. When you sold Native Nutrients products to
23 Brendon, did you apply the Native Nutrients label to
24 the bags?

25 A. Yes.

1 Q. Did any other people assist you with affixing
2 the Native Nutrients label to the bags which you sold
3 to Brendon in 2010?

4 A. Yes.

5 Q. Who assisted you with labeling the bags that
6 you sold to Brendon L. in 2010?

7 A. There's different people that had helped at
8 different times. My brother, Chris McPherson, he
9 helped. Matthew Branch who I mentioned earlier, he
10 had helped. A couple of friends from college just
11 kind of showed up sometimes and would give a hand or
12 at least observe me doing it. The landlord probably
13 observed me doing it. I think Brendon had a friend
14 that came down the day he came down. He probably
15 observed me doing it.

16 Q. To clarify, Brendon had a friend who may have
17 witnessed you labeling the bags Native Nutrients
18 before you sold those bags to Brendon?

19 A. No, it would have been at the same time.

20 Q. What was the name of Brendon's friend?

21 A. I don't recall unfortunately. I could
22 describe him but that's about it.

23 Q. How old is Brendon approximately?

24 A. He's a little older than I am, or at least he
25 was at the time, so I assume he still is obviously.

1 I'm 29, so I would put him maybe at 33, 34, but I'm
2 pretty bad at guessing people's age.

3 Q. Did Brendon tell you where he was from, where
4 he lived?

5 A. I want to say L.A., but I mean that's such a
6 long time ago, I don't recall. Oh, but he lived in
7 Santa Cruz.

8 Q. How did you learn that Brendon lived in Santa
9 Cruz?

10 A. I think he mentioned it.

11 Q. How much did Brendon pay for the Native
12 Nutrients products that he purchased from you?

13 A. So in 12/5/2010 he paid \$50 for 2 cubic
14 yards.

15 Q. You testified that you rarely sell to
16 individual consumers. Why did you sell to Brendon L.?

17 A. He was a friend of a friend. We were
18 relatively -- I don't know. I'm not sure.

19 Q. What color was Brendon's hair?

20 A. I think it was brown, if I remember
21 correctly.

22 Q. Do you remember what color eyes he had?

23 A. No, unfortunately, I do not recall.

24 Q. Do you recall what he was wearing that day?

25 A. That's a hard one. No, I can't recall.

1 Q. Do you recall what type of car he drove?

2 A. If I recall correctly, there was a I think
3 blue van I want to say at least one of the times, the
4 other time maybe a truck.

5 Q. Did you ask him to come back later in
6 December to purchase more Native Nutrients products or
7 did he ask you if he could purchase more products from
8 you?

9 A. I don't recall.

10 Q. Did he call you on the telephone to arrange
11 the second sale on December 16th, 2010?

12 A. Don't recall that either.

13 Q. Did he arrive at your place of business
14 unannounced when he came for the second -- to purchase
15 the second round of Native Nutrients products?

16 A. No, I think -- I mean he definitely wasn't
17 unannounced.

18 Q. Did you arrange the sale by telephone prior
19 to his arrival at your place of business to pick up
20 the products?

21 A. I don't recall, but I mean that would make
22 sense, but I don't recall.

23 Q. Do you recall negotiating the price for the
24 second sale of Native Nutrients products to Brendon L.
25 on December 16th, 2010?

1 A. I'm sorry. Could you repeat the question?

2 Q. Do you recall discussing the price to be paid
3 by Brendon to you for the Native Nutrients products
4 sold on December 16th, 2010?

5 A. Yeah, I recall us talking about it.

6 Q. Did you talk about the price before he
7 arrived at your place of business to pick up the
8 products?

9 A. I remember us talking about it when he was
10 there for sure, but I can't remember if we talked
11 about it beforehand. I assume we talked about it
12 mostly once he got there.

13 Q. And did you hand him this printed invoice
14 dated December 16th, 2010, after the sale or before
15 the sale?

16 A. It would have been after the sale.

17 Q. So you handed Brendon this invoice dated
18 December 16th, 2010, after he gave you the cash for
19 the product?

20 A. Like I said, I don't really recall in terms
21 of handing it to him at that time or not.

22 Q. But you did hand him a printed copy of this
23 invoice?

24 A. Like I said before, I'm not really sure. I
25 think so, but I can't recall.

Lee McPherson

1 Q. Did you fax him a copy of the invoice dated
2 December 16th, 2010?

3 A. No.

4 Q. Did you email him a copy of the invoice dated
5 December 16th, 2010?

6 A. No, I wouldn't have emailed it either.

7 Q. When did you print out the invoice dated
8 December 16th, 2010, at your place of business before
9 handing it to Brendon L.?

10 A. Well, it's electronically stored, but to
11 print it out before handing to him, I don't recall if
12 I handed it to him or not, so I don't recall when I
13 would have printed it out.

14 Q. So you do not recall whether you provided a
15 copy of this invoice to Brendon L.?

16 A. Like I said, I believe so, but I can't
17 recall.

18 Q. How much of the Native Nutrients product that
19 you sold to Brendon L. on December 16th, 2010, was in
20 bags and how much of the product was compost not in
21 bags?

22 A. I'd say about half and half.

23 Q. Where in Brendon L.'s vehicle did you place
24 the bags of Native Nutrients products?

25 A. In the back.

1 Q. Did you place the bags on top of the compost?

2 A. No, it was kind of unusual. He showed up
3 with -- with trash bins, like the plastic bins to fill
4 up, and so those were set in there, and then next to
5 them were the bags.

6 Q. The first time you sold products to Brendon
7 L. on December 5th, 2010, did you hand Brendon L. a
8 copy of the invoice as shown in Exhibit 10?

9 A. Yeah, once again I can't recall if I handed
10 it to him or not.

11 Q. Do you recall printing out the invoice as
12 shown in Exhibit 10 at any time around the time of the
13 sale?

14 A. I don't recall.

15 Q. Do you recall transmitting the invoice in
16 Exhibit 10 to Brendon L. by email or fax?

17 A. It was not faxed for sure, and no, not
18 emailed either.

19 Q. Did you provide Brendon L. with any receipt
20 for the sales of Native Nutrients products on December
21 5th, 2010, and December 16th, 2010?

22 A. Well, that's exactly it. I don't recall.

23 Q. Did Brendon L. ask you for a receipt for
24 sales of the Native Nutrients products on December
25 5th, 2010, and December 16th, 2010?

1 A. I don't recall if he asked me for one
2 specifically either.

3 Q. So he paid you the cash and picked up the
4 product and never asked you for a receipt and you
5 never provided him with a receipt or a copy of the
6 invoice?

7 A. Well, like I said, I don't recall. It's
8 entirely possible, but it's -- I don't remember.

9 Q. Do you normally provide receipts to your
10 customers when they purchase your products?

11 A. You asked that before. There isn't really a
12 normal in this case because it's a unique
13 occurrence.

14 Q. When you sell to retail stores and
15 wholesalers, do you normally provide a receipt for
16 their purchase of your Native Nutrients products?

17 A. It's a different situation selling to retail
18 stores. They require invoices.

19 Q. Have you ever met any of the individuals that
20 comprise the partnership of the applicant?

21 A. Who are the individuals that comprise the --

22 Q. That would be Tasha Sparks, Matt Matts, and
23 Kirk, and I can't recall the last name. Did you meet
24 any of those individuals? Kirk Sparks. I'm sorry.

25 A. The first one you mentioned, Matt Matts, I do

1 not recall ever meeting him, and so if I have, I have
2 no memory of it. The second person Kirk Sparks I
3 talked to on the phone very briefly one time, and the
4 last name you named Tasha Sparks I've met on a couple
5 occasions.

6 Q. Where did you meet Tasha Sparks?

7 A. I met her at Humboldt, the expo. I forget
8 the name of it off the top of my head. I also met her
9 at the Bayside expo.

10 Q. Did you ever see Tasha Sparks or Kirk Sparks
11 at any trade shows in 2010?

12 A. In 2010? If I did, I don't remember it.

13 Q. Did you attend any trade shows and showcase
14 your Native Nutrients product in 2010?

15 A. No.

16 Q. Did you attend any trade shows and promote
17 your Native Nutrients product in 2009?

18 A. No.

19 Q. Did you sell any Native Nutrients products to
20 any customers in 2009?

21 A. I don't have that information in front of me
22 at the moment. I don't recall.

23 Q. Do you recall selling Native Nutrients
24 products continually since 2008?

25 A. Up till the present day?

1 Q. Yes.

2 A. I mean we still sell it, yes.

3 Q. But you can't recall whether you sold Native
4 Nutrients products in 2009?

5 A. In that specific year, no.

6 Q. When did you first become aware of the
7 applicant's Native Nutrients products?

8 A. Right around the time that I filed for the
9 trademark I believe.

10 Q. So you never saw the applicant's Native
11 Nutrients products in 2010?

12 A. That's correct. I never saw them in 2010.

13 Q. And you never saw their products in 2011?

14 A. That's correct.

15 Q. Did you ever deliver free samples of Native
16 Nutrients products to Jeff McPherson?

17 A. Deliver?

18 Q. Did you ever provide samples of -- free
19 samples of Native Nutrients products to Jeff
20 McPherson?

21 A. Are you talking the individual or the --

22 Q. Let's start with Jeff McPherson, the
23 individual.

24 A. I'm going to be confused on a lot of these
25 questions. The distinction between Jeff McPherson and

1 McPherson Farm & Garden is rather vague to me.

2 Q. I will specify who I'm referring to in each
3 question. Did you ever provide free samples of Native
4 Nutrients product to your father, Jeff McPherson, the
5 individual?

6 MR. SWYERS: As an individual? Let me just
7 step in because we're getting into the corporate issue
8 here. You say "the individual." That's not -- I mean
9 are you asking as an individual or in his
10 representative capacity from -- you know, for
11 McPherson Farm & Garden?

12 MR. ALMEIDA: What's the difference? He's a
13 person. I want to know whether he provided the
14 product to his father, the person.

15 THE WITNESS: Yeah, I'm just -- I guess where
16 my confusion lies is I'm not sure -- when I hand
17 something to Jeff McPherson, am I handing it to him as
18 an individual or am I handing it to --

19 BY MR. ALMEIDA: Q. That's what I'm asking.
20 Did you ever hand -- or did you ever provide Native
21 Nutrients free samples to Jeff McPherson as an
22 individual in his personal capacity?

23 A. And I guess more my confusion --

24 MR. SWYERS: And if I may, now I'm going to
25 object, and just because -- and forgive me.

1 MR. ALMEIDA: It's a clear question. I don't
2 understand what the confusion is. I'm asking if he
3 provided products to his father.

4 MR. SWYERS: As an individual -- and again --
5 well, it does seem in essence to opine as to whether
6 or not the moment he handed the sample to
7 Mr. McPherson whether or not he was acting in his
8 corporate responsibility --

9 MR. ALMEIDA: That's not what I asked. I
10 asked --

11 MR. SWYERS: Fine. Let me finish. Excuse
12 me. I can make a record. Thank you. And I think the
13 confusion -- I'm confused by it and I think the
14 witness is confused about it -- you know, is you're
15 asking him to sort of opine if it was him individually
16 or, you know, in a corporate capacity, and if you want
17 to do that, I think that's fine, but ask it more
18 directly because I'm confused as to what you're asking
19 myself.

20 MR. ALMEIDA: I am not referring to Jeff
21 McPherson as a corporation.

22 BY MR. ALMEIDA: Q. Is Jeff McPherson an
23 individual? This is a question for the witness. Is
24 Jeff McPherson an individual person?

25 A. He is a person, yes.

1 Q. Did you ever provide Native Nutrients free
2 samples to Jeff McPherson, the individual person?

3 A. So can you give me an example of when that
4 would happen I guess? Maybe that will clear up my
5 confusion.

6 MR. ALMEIDA: I'm going to direct the
7 witness' attention to Exhibit Number 8.

8 BY MR. ALMEIDA: Q. On October 12th, 2010,
9 you provided free samples of Native Nutrients Mushroom
10 Compost to McPherson Farm & Garden; is that correct?

11 A. That is correct, yes.

12 Q. Okay. Let's start there. Why did you
13 provide free samples of Native Nutrients products to
14 McPherson Farm & Garden?

15 A. So that he can sample them to his customers,
16 and so that, as a business owner, he could understand
17 the product.

18 Q. You testified earlier that you provided free
19 samples to businesses to generate interest in the
20 product. Did you feel that you had to generate your
21 father's interest in your product?

22 MR. SWYERS: Again I'll -- well, as a
23 business owner or as an individual?

24 BY MR. ALMEIDA: Q. Okay. You testified
25 that you provided free samples to businesses of Native

1 Nutrients products. Did you feel that you needed to
2 generate McPherson Farm & Garden's interest in your
3 products?

4 A. Him and his customers or specifically him?

5 Q. His business, McPherson Farm & Garden.

6 A. Yeah, I would -- I sent them so that it would
7 generate interest, of course.

8 Q. In total how much -- how much did you provide
9 in the way of free samples of Native Nutrients
10 products to McPherson Farm & Garden?

11 A. That's a hard question to answer just from
12 the fact that I've given it to his customers, to him.
13 I've given it to other retail stores. Are you looking
14 for a -- a unit of measurement specifically?

15 Q. You can estimate.

16 A. And over the course of the entire Mt. Eden
17 Organics business or --

18 Q. Between 2008 and the end of 2010,
19 approximately how much in total of Native Nutrients
20 product did you provide to McPherson Farm & Garden for
21 free?

22 A. For free. So this invoice refers to 12 --
23 they're about quart-size Zip Lock bags. There's also
24 probably different times we sent both bulk and sort of
25 samples in those small bags. If I had to guess, maybe

1 1 to 2 yards total.

2 Q. Do you have any personal knowledge as to
3 whether he actually provided samples of Native
4 Nutrients products to his customers?

5 A. Could you repeat the question again?

6 Q. Do you know if McPherson Farm & Garden
7 provided free samples of Native Nutrients products to
8 customers?

9 A. Oh, yes.

10 Q. What is the basis for your knowledge that
11 McPherson Farm & Garden provided free samples of
12 Native Nutrients products to customers?

13 A. He's told me so.

14 Q. When you say "he" are you referring to Lee
15 McPherson -- I'm sorry, Jeff McPherson?

16 A. I'm referring to Jeff McPherson; that's
17 correct.

18 Q. Jeff McPherson has told you that McPherson
19 Farm & Garden provided free samples of Native
20 Nutrients products to customers?

21 A. Hmm-hmm, this is correct. There's also been
22 customers that have called me in reference to the free
23 samples they received from him, "him" being Jeff
24 McPherson.

25 Q. And approximately when did this happen?

1 A. I don't recall. It was a long time ago.

2 Q. Was there -- was there ever a time when you
3 began selling Native Nutrients products to McPherson
4 Farm & Garden in bags with the label Native Nutrients
5 on the bags?

6 A. Yes.

7 Q. At what time did you begin selling Native
8 Nutrients products to McPherson Farm & Garden in bags
9 labeled Native Nutrients?

10 A. So I don't have all the invoices in front of
11 me here. The one for 2/24/2011 definitely was in
12 bags, and that's -- that's Exhibit 12, but as opposed
13 to -- and of course you're referring to sales, not
14 free samples with the label attached?

15 Q. That's correct, sales.

16 A. Yeah, so that would be -- I mean like I said,
17 I don't have any other invoices in front of me, but
18 2/24/2011 is here and that one definitely was in
19 bags.

20 Q. I'm going to direct you to -- the witness to
21 Exhibit 17.

22 A. Yes, I found it now. It's in front of me.

23 Q. What is this document?

24 A. That's a receipt from Mt. Eden -- or not
25 Mt. Eden, rather myself to Jeff McPherson.

1 Q. Did you handwrite this receipt?

2 A. I did.

3 Q. At what location did you handwrite this
4 receipt?

5 A. Santa Cruz I believe.

6 Q. Was this piece of paper torn from a book of
7 receipts?

8 A. Yes.

9 Q. Was the book of receipts in your possession
10 in Santa Cruz when you tore this receipt from the
11 book?

12 A. It's a long time ago. I don't remember. I
13 mean when I tore the receipt out, yeah, I had it in my
14 hand.

15 MR. ALMEIDA: Okay. I'm going to direct the
16 witness to Exhibit Number 16.

17 MR. SWYERS: Forgive me. Was that 15?

18 MR. ALMEIDA: 16, sorry. 16.

19 MR. SWYERS: Okay. Thank you.

20 THE WITNESS: Yeah, it's in front of me
21 now.

22 BY MR. ALMEIDA: Q. Did you handwrite these
23 receipts?

24 A. No.

25 Q. Who handwrote these receipts?

1 A. I would assume Jeff McPherson. It looks like
2 his handwriting.

3 Q. Who tore these receipts from the book where
4 the receipts came from?

5 A. I'm not sure.

6 Q. Did these -- were these receipts torn from
7 the same book as the receipt as shown in Exhibit
8 Number 17?

9 A. I don't know.

10 Q. Is it possible that Exhibit -- the invoice in
11 Exhibit 17 and the -- sorry. I will rephrase.

12 MR. SWYERS: Object as to the form of the
13 question as to "possible."

14 MR. ALMEIDA: I will rephrase.

15 BY MR. ALMEIDA: Q. Do you know if the
16 receipt in Exhibit 17 was torn from the same book as
17 the receipts as shown in Exhibit 16?

18 A. I do not know and do not recall.

19 Q. Do you have any knowledge of the volume of
20 sales of Native Nutrients products from McPherson Farm
21 & Garden to consumers in 2008?

22 A. In 2008 I have the knowledge of the receipts
23 here in front of me. That's 7 yards.

24 Q. Are you aware of any sales from -- of Native
25 Nutrients products by McPherson Farm & Garden to

1 consumers in 2008 other than the 3 invoices in front
2 of you?

3 A. Is there a third?

4 Q. The receipts in Exhibit 16 and 17.

5 A. Can you rephrase the question?

6 Q. Are you aware of any sales of Native
7 Nutrients products from McPherson Farm & Garden to the
8 public in 2008 other than the sales as shown in
9 Exhibit 16 and 17?

10 A. Only 16 is showing that, and I do know that I
11 want to say one or both of these people have picked up
12 more compost after this, but I mean my knowledge of
13 it's really limited.

14 Q. Do you have any knowledge of the total gross
15 revenue earned by McPherson Farm & Garden from sales
16 of Native Nutrients products in 2008?

17 A. No, no, I wouldn't know that information.

18 Q. What was your total gross revenue from sales
19 of Native Nutrients products to McPherson Farm &
20 Garden in 2008?

21 A. I don't have an exact figure in front of me,
22 but it would be pretty small. It would be -- what was
23 this for, \$300? So less than \$1,000 for sure.

24 Q. So you estimate that you sold less than
25 \$1,000 worth of Native Nutrients products to McPherson

1 Farm & Garden in 2008?.

2 A. From what I can remember, yeah.

3 Q. What was your total gross revenue for sales
4 of Native Nutrients products in 2010?

5 A. I don't have that in front of me either.

6 Q. Can you estimate your total gross revenue
7 gained from sales of Native Nutrients products in
8 2010?

9 A. I mean it would be a guess. It would be a
10 pretty rough estimate. It wouldn't be much, probably
11 under \$1,000 again, but I really don't know without
12 having the numbers in front of me.

13 Q. Do you recall stating in an interrogatory
14 response in this proceeding that your total revenue in
15 2010 was \$11,000?

16 A. That's correct. There's -- there's other
17 products there besides Native Nutrients which is
18 generating that revenue.

19 Q. What are the names of some of the other
20 products that you sold in 2010 that generated revenue?

21 A. It's the Evolution LGR dehumidifier.

22 Q. Did you testify earlier today that your only
23 product was Native Nutrients fertilizer?

24 A. That's our only product that we manufacture.
25 The LGR dehumidifiers are -- like I said, it was a --

1 we thought about taking them on as a product as a
2 distributor, resale, wholesale situation. It didn't
3 really work out.

4 Q. Can you estimate your total gross revenue
5 from sales of the Evolution dehumidifier product in
6 2010?

7 A. I think that's our only invoice from it, so
8 it's right there, \$11,279.52.

9 Q. Do you recall stating in an interrogatory
10 response in this proceeding that your total gross
11 sales revenue for Native Nutrients products in 2010
12 was \$11,000?

13 A. That was a rough ballpark estimate, and like
14 I said, it's not going to be much more than just what
15 the Evolution LGRs are. I don't know about splitting
16 the hairs on the specific numbers because I don't have
17 the numbers in front of me, but --

18 Q. Is the Evolution dehumidifier a Native
19 Nutrients product?

20 A. No, it's not.

21 Q. But you answered in your interrogatory
22 response that your gross sales revenue for Native
23 Nutrients products was \$11,000 in 2010?

24 A. Wait. Can you rephrase -- or repeat the
25 question, please?

1 Q. Okay. Why did you state in your
2 interrogatory response that your total gross sales
3 revenue for Native Nutrients products in 2010 was
4 \$11,000 if you are now stating that you sold less than
5 \$1,000 worth of Native Nutrients products in 2010?

6 A. I see the confusion. I'm not sure you can
7 include that LGR dehumidifier. It's not really a
8 Native Nutrients product. I may have misunderstood
9 that question. I'm not really sure.

10 Q. What was your total gross sales revenue for
11 Native Nutrients products in 2011?

12 A. It should be there. Once again I think it's
13 a ballpark number there. I don't have it in front of
14 me.

15 Q. Can you estimate the total gross revenue for
16 sales of Native Nutrients product in 2011?

17 A. It's going to be a stab in the dark. I mean
18 I really don't have a good estimate. Without having
19 the numbers in front of me, it's just going to be me
20 picking numbers.

21 Q. You don't keep a record of your total revenue
22 for sales of Native Nutrients products on an annual
23 basis?

24 A. We do. Like I said, we process everything
25 through QuickBooks. I would have that information. I

1 just don't have it in front of me.

2 Q. So you possess this information in your
3 QuickBooks computer system, but you did not provide
4 this information in response to the interrogatory?

5 A. Is it there in the interrogatory? I believe
6 I put that information in there.

7 Q. Do you possess electronic documents stating
8 your annual gross revenue for sales of Native
9 Nutrients documents on a computer at your place of
10 business?

11 A. Yes, I do.

12 Q. Why didn't you provide those documents in
13 discovery in this case?

14 MR. SWYERS: I'm going to object. This is a
15 trial deposition. This is not a motion for discovery
16 or other issues.

17 MR. ALMEIDA: No, this goes to -- this goes
18 to --

19 MR. SWYERS: We wanted it -- yes, excuse
20 me.

21 MR. ALMEIDA: No, this goes to Opposer's
22 withholding of documents. If Opposer possesses
23 documents that it did not produce in discovery,
24 documents regarding its total annual gross revenue,
25 Applicant is entitled to have those documents, and

1 Opposer has apparently withheld the documents in
2 discovery.

3 MR. SWYERS: Well, if I may, and let me be
4 heard, please, as well, Mr. Thompson. Please don't
5 speak over me and allow me to make my record, if I
6 may. Time for a discovery dispute whether these
7 documents were or were not produced was prior to file
8 periods opening, as you're well aware, so accordingly
9 the issue of whether or not -- you know, whether or
10 not they should or shouldn't have been provided should
11 have been properly brought to -- or excuse me, should
12 have been brought up by you during a motion to compel
13 or otherwise. To badger the witness at this juncture
14 as to whether or not they should or should not have
15 been produced is not relevant to these incident
16 proceedings at this juncture.

17 BY MR. ALMEIDA: Q. Okay. What were your
18 total advertising and marketing expenses for Native
19 Nutrients products in 2008?

20 A. I believe that was a question in
21 interrogatories as well. Had I known to bring these
22 figures with me, I would happily have complied.
23 It's -- what I stated in the interrogatories is
24 correct on both the total revenue as well as the total
25 cost for expenses.

1 Q. Thank you. I'm asking you what was -- what
2 were your estimated total expenses for sales of Native
3 Nutrients products in 2008 according to your memory?

4 A. That's a complicated question that if I don't
5 have the list of expenses in front of me, I can't
6 calculate that for you.

7 Q. Did you pay any third parties to advertise
8 Native Nutrients products in 2008?

9 A. 2008, I do not believe so, no.

10 Q. Did you pay third parties to advertise Native
11 Nutrients products in 2009?

12 A. I don't think so, no.

13 Q. Did you pay any third parties to advertise
14 Native Nutrients products in 2010?

15 A. There was, as stated before, I think the
16 Google click-per-ad things, the website. There might
17 be a few expenses in there, not very much.

18 Q. You testified earlier today that you used the
19 Google pay-per-click advertising in 2012, but did you
20 use the Google pay-per-click advertising in 2010?

21 A. Oh, sorry. No, I misunderstood. That's
22 2012.

23 Q. So you did not pay Google for pay-per-click
24 advertising in 2010?

25 A. I'm trying to remember, but I believe the

1 answer to that is no.

2 Q. Did you advertise in any magazines or
3 newspapers, and I mean advertise Native Nutrients
4 products, in 2010?

5 A. The only thing that I can think of that we
6 spent on advertising would be on the website, but I'm
7 blanking on when that date was, so I assume no,
8 nothing in 2010.

9 Q. Did you advertise Native Nutrients products
10 on the Internet in any way in 2010?

11 A. I don't think so. I don't think so.

12 Q. Is it fair to say that you did not advertise
13 Native Nutrients products at all in 2010?

14 A. I was looking for an invoice for those labels
15 that we printed because we also printed stickers, and
16 I was wondering if that was in the end of 2010 or the
17 beginning of 2011.. I'm not sure which. I know it's
18 close to that cutoff point and I just don't want to
19 answer incorrectly.

20 MR. SWYERS: Looks like they're in Exhibit
21 maybe 21 or 22.

22 MR. ALMEIDA: This is a question for the
23 witness, not for Opposer's Counsel.

24 MR. SWYERS: Well, he's just trying to
25 refresh his recollection for your question. I'm not

1 allowed to assist. I'm just figuring out what the
2 exhibits are.

3 THE WITNESS: That's not it either actually.
4 Thank you though. So it's 1-dash-9-dash-2011 is the
5 date on those. So I think that would -- I think
6 you're correct in your assumption that we did not pay
7 for advertising in 2010.

8 BY MR. ALMEIDA: Q. My question was did you
9 advertise Native Nutrients products at all in 2010?

10 A. We would have had -- I mean I was talking
11 about it. I was talking to my friends about it,
12 mostly verbally. Obviously customers could find us,
13 so there was -- it depends on where you're drawing the
14 line on advertising.

15 Q. Did you advertise on the Internet in 2010?

16 A. Once again I would have to check that
17 specific date because I know I think it's really close
18 to that 2010 end point, but I assume -- I assume no at
19 the moment.

20 Q. Did you advertise on the Internet in 2009,
21 advertise Native Nutrients products?

22 A. No.

23 Q. Did you advertise Native Nutrients products
24 on the Internet in 2008?

25 A. No.

1 Q. Did you pay for any advertising of Native
2 Nutrients products between 2008 and 2010?

3 A. Including 2010?

4 Q. Including all of 2010.

5 A. Yeah, that's that part that I can't quite
6 recall, whether it's the end of 2010 or the beginning
7 of 2011. I mean it's just such a close cutoff there I
8 don't want to answer incorrectly. If it was 2010, it
9 would be in December. It would be very much the end
10 of 2010.

11 Q. Are you testifying that you made stickers and
12 distributed stickers in 2010 bearing the Native
13 Nutrients trademark?

14 A. In December 2010?

15 Q. Between 2008 and 2010.

16 A. Yeah, I mean it's such a close cutoff in
17 there. You know, we had those stickers printed
18 like -- it was either the first week of 2011 or the
19 last week in December.

20 Q. Approximately how much did it cost to make
21 some stickers bearing Native Nutrients?

22 A. For the actual printing, not much. My time
23 is the only real expense that there would be in
24 there.

25 Q. Did you print the stickers on a home computer

1 or did you pay a third party to make the stickers?

2 A. We printed them on home computers. We also
3 printed them with a company by the name of UPrinting I
4 believe it is.

5 Q. Do you recall approximately how much you paid
6 this company to make stickers in 2010?

7 A. Not much.

8 Q. Would this be under \$100?

9 A. Definitely under \$200.

10 Q. So would you say that your marketing expenses
11 between 2008 and 2010 were under \$200?

12 A. I mean I would like to, but once again I
13 don't have that number in front of me. I would say
14 that, yeah, I'm not sure.

15 Q. Between 2008 and 2010 did you have any
16 marketing expenses other than the printing of
17 stickers?

18 A. Perhaps printing of business cards, just
19 miscellaneous stuff. There shouldn't be any huge
20 expenses in there either way.

21 Q. When did you print -- first print business
22 cards?

23 A. I'm not sure. Once again it would be
24 towards -- I'm not sure.

25 Q. How much money did you spend on printing

1 business cards?

2 A. Very little, maybe like \$30 at the most.

3 Q. You stated in an interrogatory response that
4 your total marketing expenses over the last 4 years
5 ranged between \$60,000 and \$80,000 for Native
6 Nutrients products. Is that estimated range correct?

7 A. Could you remind me of the range?

8 Q. In an interrogatory you stated that your
9 total marketing expenses over the last 4 years for
10 Native Nutrients products ranged between 60,000 and
11 \$80,000.

12 A. Hmm-hmm.

13 Q. Is that range --

14 MR. SWYERS: Objection, that mischaracterizes
15 the interrogatory answer. That's not what it says.
16 Allow me to read the interrogatory answer so the
17 record is clear since evidently Opposing Counsel's not
18 going to do it. The answer actually says "however --"
19 this is in answer to Interrogatory Number 27.

20 "However, since inception of the use of the trademark,
21 Owner estimates that it has expended \$20,000 in
22 addition to time and effort in the marketing of this
23 trademark estimated to be in the range of 60- to
24 \$80,000 plus incidental expenses." That's what it
25 actually says.

1 BY MR. ALMEIDA: Q. What were your total
2 market expenses from the inception of the use of
3 Native Nutrients to the present?

4 A. Once again I mean I need those numbers in
5 front of me in order to give you an accurate number.

6 Q. Is the range that you stated in response to
7 Interrogatory Number 27 which your Counsel just read
8 to you correct? And that range was 60- to \$80,000
9 plus other incidental expenses.

10 MR. SWYERS: Again that mischaracterizes what
11 the interrogatory says. Do you need me to explain
12 what it says? The expenditure on marketing was
13 \$20,000, an estimated \$20,000. That's what the
14 interrogatory answer says. You keep mischaracterizing
15 this. The 60- to \$80,000 is additional estimated time
16 and effort in marketing itself, in other words
17 whatever that happens to be, but the actual
18 expenditure of money, according to the interrogatory
19 answer, is \$20,000 approximately. That's what it
20 says.

21 BY MR. ALMEIDA: Q. Okay. So you don't have
22 any recollection of what your total estimated
23 marketing expenses were from the inception of your use
24 of Native Nutrients to the present from your memory?

25 A. From my memory, I know that number's

1 accurate. When I figured that number, I was in front
2 of my documents and I could generate that, but that
3 sounds pretty close to being right.

4 Q. What documents were you relying on in
5 formulating your answer to Interrogatory Number 27?

6 A. Different expenses throughout the year,
7 expenses such as printing labels, banners.

8 Q. Are all of those documents that you relied
9 upon here in front of you in these exhibits?

10 A. No. I was unaware I needed them.

11 Q. Did you spend most of your marketing budget
12 in 2012 and 2013 -- no, withdraw the question.

13 Withdraw the question. During which years did you
14 spend the majority of the marketing expenses that you
15 say that you had from the inception of the Native
16 Nutrients -- use of the Native Nutrients mark to the
17 present?

18 A. The biggest year probably being -- biggest
19 couple years, 2012 was definitely a big year. That's
20 when we were trying different advertising, and 2011.

21 Q. You stated in an interrogatory response, and
22 this is a response to Interrogatory Number 28 in your
23 first set of responses to Applicant's first set of
24 requests, that "all 26,253 cubic foot bags sold bore
25 the Native Nutrients label thereon," and in this

1 interrogatory you stated that all Native Nutrients
2 products you sold bore the Native Nutrients mark.

3 MR. SWYERS: Objection, that's not what it
4 says. That's not the interrogatory. Counsel again
5 mischaracterizes his own interrogatory to change
6 testimony. What the interrogatory says "any of the
7 Native Nutrients products sold by you in the last 4
8 years for cash," not the whole time. Counsel needs to
9 read his own interrogatory.

10 BY MR. ALMEIDA: Q. Is it true that all
11 Native Nutrients product you sold within the last 4
12 years bore the Native Nutrients label on the product?

13 A. There may have been here and there
14 something -- there may have been a small amount that
15 didn't have it on this product, but the majority of it
16 definitely did.

17 Q. Did you ever have a distribution or a
18 distributorship agreement with McPherson Farm &
19 Garden? Let me rephrase. Did you ever have a written
20 distribution or distributorship agreement with
21 McPherson Farm & Garden?

22 A. As a distributor or a retail sale store?

23 Q. I'll rephrase. Did you ever have a written
24 agreement with McPherson Farm & Garden relating to the
25 sale of Native Nutrients products to the public?

1 A. We had sent them invoices. We have their
2 certificate -- California resale license. Is there a
3 specific form you're looking for?

4 Q. No, I'm just asking if you had any written
5 agreement with McPherson Farm & Garden which governs
6 their sale of your Native Nutrients products.

7 A. Limiting what they can and can't do with it?

8 Q. Any written agreement concerning their sale
9 of your Native Nutrients products at their store.

10 A. Yeah, I believe we have their California
11 resale certificate saying that they're purchasing
12 mushroom compost from us. Other than that --

13 MR. SWYERS: If I may interject for one moment?
14 Not an objection, just we -- my direct was an hour and
15 a half. So far cross-examination's been 2-and-a-half
16 hours, so we're 4 hours on the record as of this
17 point. Can we go off -- well, we can go off -- let's
18 go off the record about 2 seconds, if we may.

19 MR. ALMEIDA: Yeah, that's fine.

20 MR. SWYERS: Okay.

21 (A recess was taken.)

22 BY MR. ALMEIDA: Q. Did you ever apply for a
23 license with the California Department of Food and
24 Agriculture to sell Native Nutrients products --

25 A. Yes.

1 Q. -- in California?

2 A. Yes.

3 Q. When did you apply for this license?

4 A. December 2010.

5 Q. Do you recall the date you submitted your
6 application for this license?

7 A. The exact date?

8 Q. Yes. I believe there's an Exhibit 3 that
9 contains the date.

10 A. December 3rd, 2010.

11 Q. Is there a date on Exhibit 3 of December
12 22nd, 2014?

13 A. On Exhibit 3 still?

14 Q. This should be on the same exhibit.

15 A. You'll have to be more specific. I'm not
16 quite finding it.

17 Q. One second. I'm just trying to find the
18 exhibit. Do you have Exhibit 3 in front of you?

19 A. Yes.

20 Q. Did you submit the application on December
21 28th, 2010, or December 3rd, 2010?

22 A. So the CDFA works that you apply for a
23 license for Mt. Eden Organics as well as Native
24 Nutrients. There is a label that's submitted on
25 December 2008 and an online portal that's created on

1 December 3rd, 2010.

2 Q. So what exactly did you create on that
3 website on December 3rd? It was just a portal; is
4 that what you're saying?

5 A. That's -- yeah, so it's you fill out who you
6 are, your location. I'm not sure exactly all the
7 questions they ask you. I'm not sure if they ask you
8 anything that would pertain to Native Nutrients before
9 that, but the -- the Native Nutrients label was
10 submitted December 28th, 2010.

11 Q. Is -- and the application's not complete
12 until you submit the label; is that correct?

13 A. It's hard to say if that's an application
14 whether it's complete or not. Yeah, it takes a long
15 time for that process to happen, for them to approve
16 the label.

17 Q. So you did not submit a label to the CDEA
18 until December 22nd, 2014; is that correct?

19 A. Two thousand -- I don't see where
20 you're seeing that.

21 Q. I'm sorry, December 22nd, 2010. You did not
22 submit a label to the CDEA until December 22nd, 2010;
23 is that correct?

24 A. Yeah, that's correct, the label as it's seen
25 there. I'm not sure if there's another part earlier

1 in that application that asks you what the product is.
2 I'm assuming not, but I'm not sure if there is, but
3 the original label was submitted December like you're
4 saying.

5 Q. December 22nd, 2010?

6 A. That number's really hard for me to read, but
7 yeah, I think that's two thousand -- or 22. I believe
8 that's a 22, yes.

9 Q. Thank you. And did you obtain the license
10 from the CDFA to sell Native Nutrients?

11 A. Yes, we currently have that license.

12 Q. When did you obtain the license
13 approximately?

14 A. I believe February, February 2011, and on
15 here you can see that when it was revised, it was
16 shortly thereafter.

17 Q. So you obtained your license to sell Native
18 Nutrients products in California in February of 2011?

19 A. That's correct. There is a difference
20 between bulk and bagged compost, sort of by volume and
21 by weight, CDFA -- if you sell individual packages
22 under a certain amount.

23 Q. Is your license still in force?

24 A. Yes.

25 Q. As of today?

1 A. I hope so, yes.

2 Q. Okay. Did you file a Statement and
3 Designation by Foreign Corporation relating to your
4 company Mt. Eden Organics, Incorporated, in the state
5 of Delaware on August 8th, 2010? And I can direct the
6 witness to Exhibit 32.

7 A. Thank you. Yes.

8 Q. You filed this document in Delaware?

9 A. It was filed for me.

10 Q. Was this document filed on August 8th, 2010?

11 A. Yes.

12 Q. Have you ever sold any Native Nutrients
13 products in Delaware?

14 A. No.

15 Q. Did you file applications to sell Native
16 Nutrients in any other states -- I'm sorry. I'll
17 rephrase. Did you file applications for licensure to
18 sell Native Nutrients products in any states other
19 than California in 2010?

20 A. Could you repeat that question, please?

21 Q. Okay. Did you file applications for
22 licensure to sell Native Nutrients products in any
23 states other than California and Delaware in 2010?

24 A. No.

25 Q. In 2010 were you licensed to sell Native

1 Nutrients products in any state in the United States?

2 A. That question's hard to answer because the
3 way that our product is, you are licensed to sell it,
4 but in order to sell it and make specific claims,
5 you'd have to have it registered, so the answer is
6 sort of I suppose.

7 Q. Okay. Did you possess any licensure relating
8 to Native Nutrients issued by any state in the United
9 States in 2010?

10 A. We would have been able to sell it in
11 California, yes.

12 Q. Well, respectfully, the question was did you
13 possess any licensure issued by any state relating to
14 Native Nutrients in 2010?

15 A. Hmm-hmm.

16 Q. Did you possess a license?

17 A. You would be required to, but no, we did not
18 possess one.

19 Q. Okay. When was the last time you sold Native
20 Nutrients products?

21 A. Once again I don't have numbers in front of
22 me, but last week, maybe the week before.

23 MR. ALMEIDA: And that is all I have. No
24 further questions.

25 MR. SWYERS: All right. I have a few,

1 Mr. McPherson.

2 FURTHER EXAMINATION BY MR. SWYERS

3 Q. Mr. McPherson, there was previous testimony
4 about your use of the Native Nutrients trademark as an
5 individual and then use of the Native Nutrients
6 trademark by Mt. Eden Organics. When it was used by
7 you as an individual, did you control the quality of
8 the product?

9 A. Can you elaborate on that question?

10 MR. ALMEIDA: Objection, that is a legal
11 conclusion and the witness cannot testify to a legal
12 conclusion.

13 MR. SWYERS: Thank you.

14 BY MR. SWYERS: Q. And you can answer the
15 question when I rephrase it. The -- who controlled
16 the product, Native Nutrients, in 2008?

17 A. Myself.

18 Q. Okay. And who was, you know, responsible for
19 the use of the trademark in connection with the
20 product in 2008? Was it you?

21 A. It would have been myself.

22 Q. Okay. And now getting to the ownership of
23 Mt. Eden Organics, who is the owner of Mt. Eden
24 Organics?

25 A. Myself.

1 MR. SWYERS: Okay.

2 MR. ALMEIDA: Objection, is the question who
3 is the owner? How does somebody own a corporation?
4 Is the question is he the sole shareholder?

5 MR. SWYERS: Very well..

6 BY MR. SWYERS: Q. Who is the sole
7 shareholder of the corporation, Mr. McPherson?

8 A. I hold 100 percent shares.

9 Q. I'm sorry. What was your answer?

10 A. I own 100 percent shares.

11 Q. Okay. And when a decision needs to be made
12 on behalf of Mt. Eden Organics, who makes those
13 decisions?

14 A. Myself.

15 Q. Okay. And so accordingly would it be fair to
16 say that you control the use of the Native Nutrients
17 trademark for Mt. Eden Organics?

18 A. Yes.

19 Q. Okay. And you also control in essence the
20 quality of the product for Mt. Eden Organics?

21 A. Yes.

22 MR. SWYERS: Okay.

23 MR. ALMEIDA: Is that all?

24 MR. SWYERS: I'm checking my notes one
25 second. It is not all.

1 MR. ALMEIDA: I'm sorry. Go ahead.

2 BY MR. SWYERS: Q. You've been testifying
3 now I guess for an hour and a half on direct and then
4 Opposing Counsel cross-examined you for about
5 2-and-a-half hours. Referring back to the direct exam
6 when you and I were speaking, is everything truthful
7 and honest to the best of your ability today?

8 A. Can you repeat that?

9 Q. Sure. Did you testify truthfully and
10 honestly and to the best of your knowledge when you
11 and I were talking about what we talked about?

12 A. Yes.

13 Q. Now, you have a copy with you of your
14 interrogatory answers; is that correct?

15 A. That's correct.

16 MR. SWYERS: Okay. Can you please place
17 those in front of you? And for the purposes of
18 identification at a minimum, I'm going to ask the
19 court reporter to mark these as Exhibit Number 33.
20 And forgive me. Be my eyes and ears when the court
21 reporter's done marking.

22 THE REPORTER: Okay. Just one second. I'm
23 done.

24 (Deposition Exhibit 33 was marked for
25 identification.)

1 MR. SWYERS: Thank you.

2 BY MR. SWYERS: Q. Okay. If I could direct
3 your attention to -- forgive me one second -- page 10
4 of your interrogatory answers and specifically
5 Interrogatory Number 25, let me know when you get
6 there.

7 A. Number 25 you said?

8 Q. Yes. Can you read for us Interrogatory
9 Number 25 as well as the answer?

10 A. "State the dollar amount of your --" "your"
11 in emphasis "-- gross sales for Native Nutrients
12 products for each year within the last 4 years.
13 Answer: Two thousand --"

14 Q. Sorry. What are the answers?

15 A. The answer is "2013 at 39,000 to date. 2012
16 at 7900 to date --" oh, sorry. Not "to date." "2011
17 at 69,000, 2010 at 11,000."

18 Q. And just go back and read for me one more
19 time 2012. How much was that in 2012?

20 A. 79,000.

21 Q. Okay. I believe Counsel asked you about 2010
22 and that is there may have been other products aside
23 from Native Nutrients products sold in that regard
24 which got you that figure, so that is accurate,
25 correct?

1 A. That's accurate.

2 Q. Okay. Is there any basis for the confusion
3 as to why you would have thought you sold \$11,000 in
4 products for Native Nutrients products when answering
5 these interrogatories?

6 A. Yeah, I thought that was just gross sales for
7 Mt. Eden for that year. I didn't realize it only
8 pertained to Native Nutrients.

9 Q. Okay. But it still doesn't changed your
10 other testimony in regard to sales that occurred in
11 2010; is that correct?

12 A. Could you repeat that question?

13 Q. But your testimony in regard to actual sales
14 in 2010 would remain, correct?

15 A. I'm not sure I quite understand your
16 question.

17 Q. You've previously testified to other sales in
18 the year 2010. This interrogatory doesn't change your
19 testimony today, correct?

20 A. That's correct.

21 Q. Okay. Now, looking at 2013, it says "\$39,000
22 to date." If you would be so kind, scroll all the way
23 down to the last page. Can you see when we -- well,
24 when we signed these interrogatories, when they were
25 submitted to Opposing Counsel?

1 A. 16th day of September 2013.

2 Q. Okay. And so accordingly that would have
3 been to date through that time frame, correct?

4 A. That's correct.

5 Q. Okay. And so is it, you know, your testimony
6 today that these sales figures, aside from the
7 adjustment for 2010, are accurate?

8 A. Yes.

9 MR. SWYERS: Okay. Since we used them to
10 refresh the witness' recollection, I think we'll go
11 ahead and attach 33 so that the board has it just in
12 case, as well as possibly for a prior consistent
13 statement.

14 Let me just check my notes. Yes.

15 BY MR. SWYERS: Q. You testified previously
16 that you launched your website in either late
17 October -- excuse me, late 2010 or early 2011. Do you
18 recall that testimony?

19 A. I do.

20 Q. Okay. And that's still accurate, correct?

21 A. Could you repeat the question?

22 Q. Is that -- your testimony is still accurate;
23 you launched the website in late 2010 or early 2011?

24 A. That's accurate, yes.

25 MR. SWYERS: One second. I think that's my

1 last question. Let me just look through a few things.
2 All right. At this juncture I have nothing further.
3 Opposing Counsel may have follow-ups.

4 FURTHER EXAMINATION BY MR. ALMEIDA

5 Q. You just testified that you controlled the
6 Native Nutrients products; is that correct?

7 A. That's correct.

8 Q. You testified earlier today that you never
9 labeled the products with the mark Native Nutrients
10 before you provided them to McPherson Farm & Garden;
11 is that correct?

12 A. Could you reframe that, please, or --

13 Q. You testified earlier today that you never
14 labeled your products Native Nutrients before you
15 provided them to McPherson Farm & Garden in 2008; is
16 that correct?

17 A. Oh, in 2008, that's correct.

18 Q. And you testified that you have no personal
19 knowledge as to whether your father labeled the
20 products with the mark Native Nutrients at the
21 McPherson Farm & Garden store in 2008; is that
22 correct?

23 A. That's correct.

24 Q. And you testified that you have no personal
25 knowledge as to whether your father sold Native

1 Nutrients products at the McPherson Farm & Garden
2 store in 2008; is that correct?

3 A. Could you reframe that, please?

4 Q. You testified that you have no personal
5 knowledge as to whether your father actually sold
6 Native Nutrients products to consumers at his
7 McPherson Farm & Garden store in 2008; is that
8 correct?

9 A. I don't believe I testified that.

10 Q. Do you have personal knowledge of sales that
11 your father made in 2008?

12 A. I guess I'm not understanding "personal
13 knowledge."

14 Q. Were you present when your father made sales
15 to consumers of Native Nutrients products in 2008?

16 A. Was I standing there when the transaction
17 happened? No.

18 Q. Correct. Thank you. Did you ever see your
19 dad label the products with the mark Native Nutrients
20 at his store before he sold the products to consumers
21 in 2008?

22 A. No.

23 Q. Did you ever give your father instructions as
24 to how to label the Native Nutrients products which
25 were to be sold at his store in 2008?

1 A. I don't recall ever giving him instructions,
2 no.

3 Q. Did you ever provide instructions to your
4 father as to what price he should sell the Native
5 Nutrients products for in 2008?

6 A. I think we talked about it to find a certain
7 amount of profit in it for him. I don't remember the
8 specifics of our conversation, but we discussed the
9 price he would pay to me as well as what he'd have to
10 figure out for his profit margin.

11 Q. Do you have any idea what price he charged
12 when he sold Native Nutrients products to consumers in
13 2008 at the McPherson Farm & Garden store?

14 A. I think it's in one of these invoices.

15 Q. Well, I'd like to ask you from your memory.
16 Do you have any idea what he charged generally for
17 sales of Native Nutrients products in 2008?

18 A. About \$50 a yard.

19 Q. Did you instruct him to sell the product at
20 that price?

21 A. It's difficult to instruct your father to do
22 anything, but we definitely talked about it.

23 Q. Do you have a licensing agreement with
24 McPherson Farm & Garden?

25 A. You asked that before. We have the

1 California retail certificate from them and that's all
2 I am aware of at the time.

3 Q. So you have no written agreement pertaining
4 to quality control of Native Nutrients products with
5 your father?

6 A. Could you rephrase that?

7 Q. You have no written agreement with your
8 father governing the quality control of the Native
9 Nutrients products sold at the McPherson Farm & Garden
10 store?

11 A. I suppose there's a verbal agreement. By
12 "quality control" you mean mixing my product with
13 something else?

14 Q. You have no written agreement that governs
15 the quality of the product or the price that McPherson
16 Farm & Garden must sell the product; is that correct?

17 A. In 2008 you're referring to?

18 Q. In -- that's right, in 2008.

19 A. I don't believe so.

20 Q. Did you ever enter into a written agreement
21 with your father governing the quality control of the
22 Native Nutrients products sold at the McPherson Farm &
23 Garden store?

24 A. Could you repeat the question?

25 Q. Did you ever enter into a written agreement

1 with your father that pertains to the quality control
2 of the Native Nutrients products sold at the McPherson
3 Farm & Garden store?

4 A. There's the California state resale
5 certificate, but that's -- there may be something that
6 was formulated later on, but I can't recall of
7 anything at the moment.

8 Q. Have you ever seen a Native Nutrients product
9 in a bag with a label stating "Native Nutrients" on
10 the shelf in the McPherson Farm & Garden store during
11 the years 2008, 2009 or 2010?

12 A. Maybe at the very end of 2010, but that would
13 have been the only time.

14 Q. So you cannot conclusively state that you saw
15 with your own eyes a bag of fertilizer labeled Native
16 Nutrients on the shelf at the McPherson Farm & Garden
17 store at any time from 2008 through 2010? And I'm
18 asking you from your memory.

19 A. No, I don't recall seeing.

20 MR. ALMEIDA: I have no further questions.

21 MR. SWYERS: I think we are done then. Thank
22 you everyone for coming. Let's go off the record.

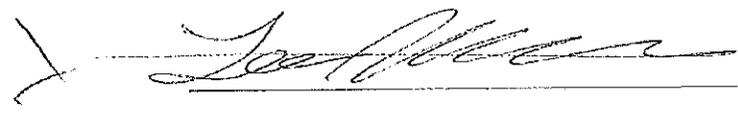
23 (The deposition was concluded at 4:55 p.m.)
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DECLARATION OF WITNESS

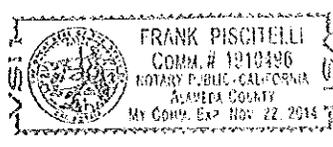
I, LEE McPHERSON, declare under penalty of perjury that I have reviewed the foregoing transcript; that I have made any corrections, additions, or deletions in my testimony that I deemed necessary; and that the foregoing is a true and correct transcript of my testimony in this matter.

Dated this 13th day of JUNE,
2014, at Berkley, CA.



LEE McPHERSON

State of California, County of ALAMEDA
Subscribed and sworn to (or-affirmed) before me
on this 13th day of JUNE, 2014.
by LEE ROBIN McPHERSON
proved to me on the basis of satisfactory evidence to
be the person(s) who appeared before me.
Signature: Frank Piscitelli



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, MELINDA NUNLEY, a Certified Shorthand Reporter, License No. 9332, do hereby certify:

That I am the reporter who reported the above and foregoing proceedings; that said proceedings were taken down by me in shorthand at the time and place therein named and were thereafter transcribed; and the same is a true, and correct and complete transcript of the said proceedings to the best of my ability.

I further certify that I am not of counsel or attorney for any of the parties hereto, or in any way interested in the events of this cause, and that I am not related to any party hereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name on this 30th day of May, 2014.

Melinda Nunley
MELINDA NUNLEY
Certified Shorthand Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HARTSELL & OLIVIERI
CERTIFIED SHORTHAND REPORTERS
621-A Water Street
Santa Cruz, CA 95060
(831) 423-5911

June 5, 2014
Lee McPherson
Mt. Eden Organics, Inc.
P.O. Box 478
Santa Cruz, CA 95061

Re: Mt. Eden Organics, Inc. vs. Native Nutrients

Deposition Date: May 22, 2014

Dear Mr. McPherson:

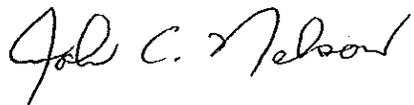
The transcript of your deposition taken in the above matter has been prepared. If you are represented by an attorney and wish to read and sign the transcript, you should contact your counsel.

You may also review your transcript in our office, which is located at 621-A Water Street in Santa Cruz, California. Our office is open weekdays 9:00 A.M. to 5:00 P.M.

The transcript will be available in our office for review for 30 days from the date of this letter, unless counsel have stipulated to another method.

After the 30-day period, the transcript will be sealed and sent for safekeeping to the attorney who noticed the deposition.

If you have any questions; please feel free to call our office, (831) 423-5911.

Sincerely, 

Job Production

cc: Counsel

A	50:9 69:9	age 107:2	83:15,24 84:14	147:15
\$1,000 123:23,25	132:22 135:17	ago 29:21 40:22	84:15 92:9,11	answered 69:13
124:11 126:5	148:13	47:1 81:24	92:24 93:13,15	69:13,20 70:13
\$10 87:14	ad 43:16,20 44:16	90:16 107:6	93:21 94:3,4	71:13 72:2,19
\$100 133:8	48:6,21 49:8,18	120:1 121:12	96:17,18 97:15	74:3,6,17 75:1
\$11,000 124:15	49:21 50:6,9	agree 32:3 39:10	97:19 100:23	78:3,4 97:13
125:12,23 126:4	ad's 50:12	agreement 3:12	115:12,19 116:1	125:21
148:3	ad-per-click	11:13,15,21	116:9,20,22	answering 7:10
\$11,279.52 125:8	48:21	12:1 15:6 21:5	117:6,8,24	148:4
\$20,000 134:21	addition 134:22	137:18,20,24	121:15,18,22	answers 6:25
135:13,13,19	additional 19:5,8	138:5,8 152:23	122:14,15	146:14 147:4,14
\$200 133:9,11	135:15	153:3,7,11,14	127:17,21	apologies 34:7
\$25 87:17,18,21	additions 155:7	153:20,25	128:17 130:22	43:3
87:23	address 6:13	agricultural	131:8 135:1,21	apologize 25:16
\$30 134:2	65:19,22 90:8	55:22	137:10 138:19	62:14 77:4
\$300 123:23	addressed 16:21	Agriculture 12:24	138:22 143:23	apparently 128:1
\$39,000 148:21	addresses 29:6	55:15,17,19	144:10 145:2,23	Appeal 1:2
\$50 107:13 152:18	addressing 69:25	138:24	146:1 150:4	appear 39:8 85:4
\$60,000 134:5	adjustment 149:7	Ah 50:9	154:20	appeared 46:20
\$80,000 134:5,11	ads 37:12 44:23	ahead 19:3 26:20	amend 10:12,16	appears 29:5
134:24 135:8,15	44:25 47:7,11	26:21 45:17	16:17	applicant 1:9 2:9
\$9 88:2,7,11	48:15 50:23	73:10 75:4	amended 16:19	56:16,19,25
A.M 157:14	51:1,2	83:22 146:1	amendment 10:12	76:23 77:14
ability 65:21 66:1	advertise 34:4	149:11	America 16:14	79:20 80:14,25
146:7 156:12	44:18 129:7,10	air 37:10	amount 44:24	112:20 127:25
able 56:7 143:10	129:13 130:2,3	Alderpoint 27:9	47:12 48:24	applicant's 33:16
absolutely 34:16	130:9,12 131:9	46:15	87:15 137:14	57:5,12,15,16
80:11	131:15,20,21,23	alleged 32:7	141:22 147:10	77:6 80:17
account 49:8,18	advertised 44:20	allow 6:19 31:12	152:7	81:12,20 82:2,9
accounting 95:17	45:2,11 47:3,4	57:19 66:1	anecdotal 57:13	114:7,10 136:23
accounts 20:21	advertising 37:10	128:5 134:16	annual 126:22	application 31:23
accurate 8:3	45:7,15 47:1	allowed 131:1	127:8,24	32:4,8,23 33:3
12:10 14:9 15:9	48:13,18,22	Almeida 2:10,10	answer 7:3,11,12	64:6,10 66:19
15:22 28:15	49:9,12 128:18	3:4 57:22 58:6	52:1 65:20,25	68:10 70:11
30:13 31:7	129:19,20,24	65:11,18,23	70:14 72:6,13	71:18 72:10,15
34:22 35:20	130:6 131:7,14	66:2,4,6,8 67:9	73:5,8,11 74:7	73:4,15,18,20
37:2,20 41:4	132:1 136:20	67:10,18 69:4	75:2,4 79:25	74:12,13 75:7
44:3 46:19 48:7	affix 98:15 99:19	69:21 70:1,2,18	80:6,21,22	83:1,5,25 139:6
53:4,25 54:1,24	99:19 104:7	71:16,17 72:3,9	81:16 83:20	139:20 140:13
56:9 135:5	affixed 100:13	72:17,24 73:8	85:16 93:7,23	141:1
136:1 147:24	105:12	73:13 74:4,10	97:14,15 118:11	application's
148:1 149:7,20	affixing 106:1	74:19 75:6 77:4	130:1,19 132:8	140:11
149:22,24	afternoon 6:9	77:8,12,13 78:8	134:15,16,18,19	applications
accurately 11:22	Ag 3:18,19 21:22	78:10,12,18,20	135:14,19 136:5	73:22 142:15,17
acting 116:7	22:15 25:24	80:1,7,13,23	143:2,5 144:14	142:21
actual 7:2 23:2	26:1	81:11,15,19	145:9 147:9,13	applied 31:17

<p>apply 98:19,22,25 99:7,10,14 105:23 138:22 139:3,22 approval 56:6 approve 140:15 approximately 106:23 118:19 119:25 132:20 133:5 135:19 141:13 April 21:1 41:13 41:14 43:17 45:5 53:1 57:2 area 47:6,22 68:17 arises 7:14 arising 100:6 arrange 108:10 108:18 arrival 108:19 arrive 108:13 arrived 109:7 article 4:23 aside 10:25 11:6 26:16 48:12 147:22 149:6 asked 41:3 69:13 69:13,20 70:13 71:13 72:1,4,8 72:12 73:2,25 74:2,3,6,10,25 84:13 91:13 94:24 97:13 112:1,4,11 116:9,10 147:21 152:25 asking 57:13 66:2 68:24 69:4,6,8 72:9 73:3 74:12 80:16 84:9,10 93:19 100:15 115:9,19 116:2 116:15,18 129:1 138:4 154:18 asks 141:1</p>	<p>assert 69:5 asserted 71:18 72:25 73:13 assigned 57:1 assignment 63:1 assist 106:1 131:1 assisted 106:5 assume 41:22 106:25 109:11 122:1 130:7 131:18,18 assuming 141:2 assumption 95:6 131:6 attach 149:11 attached 102:12 120:14 attend 39:21 113:13,16 attendance 57:17 attended 39:22 40:2,4,6,10,11 42:7 57:15 attending 56:15 attention 9:22 11:10 12:16 13:25 15:13 27:24 30:18 33:8,19 37:13 43:2,22 45:17 84:20 90:11 117:7 147:3 attorney 2:4,11 156:14 157:11 157:18 August 41:22 58:24 59:1,9,12 59:16,20,23 60:2,4,8,12,14 60:17,20 61:5,8 61:12,21 62:2,4 62:8,13,17,21 63:16,18 77:19 77:25 142:5,10 authorization 4:19 41:4</p>	<p>available 157:15 Avenue 2:4 aware 33:2 52:19 52:21 57:4 58:7 73:21 75:21,24 76:15 77:1 79:19 80:21,24 82:12 83:1,4,24 114:6 122:24 123:6 128:8 153:2 awareness 38:16 80:8,17 81:12</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 7:8 17:25 21:10 28:20 31:15 33:7 54:12,22 57:25 72:3,14,21 79:13 92:5 101:19,24 102:7 108:5 110:25 146:5 147:18 bad 11:17 107:2 badger 128:13 badgering 74:2 bag 46:6 100:14 101:6 102:2,11 102:12,24 103:2 103:3 154:9,15 bagged 12:5 99:16 141:20 bagging 100:13 bags 99:20,21,22 99:24 100:17,18 100:24 102:7,16 102:18,21 103:5 103:8,9,15,19 103:20,21 104:1 104:15 105:24 106:2,5,17,18 110:20,21,24 111:1,5 118:23 118:25 120:4,5 120:8,12,19</p>	<p>136:24 ballpark 125:13 126:13 band 47:23,23,24 banner 4:14 34:20,23 bannerbuzz.com 33:22 banners 136:7 barn 12:2,3 base 89:2 based 10:23 12:21 16:10 19:18 20:17 44:12 69:10 80:1 89:3 89:4 basically 10:11 38:16 basis 105:5 119:10 126:23 148:2 Bates 34:11 Bates-stamped 39:8 bay 42:3,3 Bayside 40:7 42:3 113:9 bear 99:22,25 100:9 bearing 51:7 132:12,21 becoming 74:2 began 44:23 120:3 beginning 14:2 130:17 132:6 behalf 6:10 145:12 belief 105:5 believe 7:17 9:4 10:18 13:6 16:21 19:24 20:23 22:12,19 22:22 23:16 24:11 25:4 26:23,24 32:9</p>	<p>33:4,21 41:1,1 41:13 44:11 45:8 47:15,20 48:16 49:10 50:1,21 53:14 53:16 54:11 56:24 57:20 58:22 59:21 60:6 68:13,25 69:16 71:13 82:23 85:2,11 86:20 88:12 90:25 92:19 97:21 98:10 110:16 114:9 121:5 127:5 128:20 129:9,25 133:4 138:10 139:8 141:7,14 147:21 151:9 153:19 believed 32:12 68:11 best 8:2 14:8 24:23 30:12 35:19 36:25 37:1 65:20,22 66:1 104:9 105:14,17 146:7 146:10 156:12 better 10:16 78:24 big 10:10 136:19 Bigfoot 18:8 bigger 15:14 biggest 136:18,18 bill 24:7 29:17 44:1 bins 111:3,3 birthday 42:22 bit 15:14 blank 74:9 blanking 130:7 Bloomington 29:3 30:2 blue 40:9 108:3</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

board 1:2 149:11	brother 106:8	143:11 153:1	154:5 156:4	130:18 131:17
book 121:6,9,11 122:3,7,16	brought 52:2,4 128:11,12	154:4 157:14	certificates 5:7 56:5	132:7,16 136:3
booth 57:1	brown 107:20	call 60:11,12 94:25 108:10	Certified 6:4 156:5,23 157:1	coast 4:21 19:20 19:22 21:7,7 47:4 48:4,13
bore 136:24 137:2 137:12	bucket 101:6	157:19	certify 156:6,13	collected 12:4
bottom 34:12 85:1	budget 136:11	called 9:5 20:15 33:22 36:4 39:23 40:6,9,10	chain 20:14 99:6	college 106:10
Boulevard 2:11	bulk 101:12 103:11,14,21,22	52:15 57:13	change 78:21 137:5 148:18	color 107:19,22
bounced 54:12,22	103:25 104:3	60:8 76:23	changed 32:16 148:9	Colorado 19:24 82:22
boundaries 21:6	118:24 141:20	105:7 119:22	channel 51:16	combination 102:9
box 6:14 101:7 157:6	business 10:4 57:16 59:15	canvas 34:1	charge 23:22 30:25 49:17	come 9:24 16:3 17:10 18:9 19:25 28:19 31:17 37:25 39:24 51:24 52:7 56:16,20 72:21 101:6 108:5
branch 90:3,3 106:9	60:1,16,19,21	capacity 115:10 115:22 116:16	charged 152:11 152:16	comes 57:8 75:8
brand 64:24 65:9 68:6 82:18	61:16 108:13,19	car 44:14 108:1	check 89:2 97:6 131:16 149:14	coming 80:12 154:22
break 7:13	109:7 110:8	cardboard 36:10	checking 145:24	commencement 79:22 81:2,22
Brendon 3:23,24 18:16 19:2,9,11 20:11 24:8,14 24:19,22 85:11 89:16,21,25 90:4,12,17,21 90:23 91:11 94:4,7,11,14,18 94:22 97:12 102:6,7,11 105:23 106:3,6 106:13,16,18,23 107:3,8,11,16 108:24 109:3,17 110:9,15,19,23 111:6,7,16,19 111:23	117:16,23 118:5 118:17 127:10 133:18,21 134:1	cards 133:18,22 134:1	checks 60:23 61:3 61:7,10 96:22	commerce 83:2,6 84:1,10,13
Brendon's 89:18 90:8 106:20 107:19	businesses 117:19 117:25	carry 23:14	chose 74:22	commercial 3:11 3:16 11:13,14 12:11 15:6,18
brief 31:12 45:9 45:10 49:14	butcher 11:17	cars 13:4	Chris 106:8	communicate 51:25
briefly 113:3	buy 44:16	case 51:18 60:15 112:12 127:13 149:12	city 27:5,6,6,8,18	communicated 97:18
bring 128:21	buying 31:3	cash 94:6 96:19 97:2 109:18 112:3 137:8	claims 143:4	Communications 4:22 47:5 48:5 48:13
bringing 16:19	<hr/> C <hr/>	catalog 5:4 53:15 53:20	clarification 93:20	companies 29:23
broadcast 47:14	C 2:1	catch 11:3	clarify 19:4,11 64:19 69:9 88:14 106:16	company 9:23 11:5 17:22,23 21:23 22:16,18 29:10 33:22 36:4 50:10,13 50:16 58:15 59:8,11,19,19 60:4,8,11,13
broadcasted 47:16	CA 2:18 157:2,6	categories 13:10	classified 44:16 44:16	
	calculate 129:6	cause 156:15	classifies 32:20	
	California 1:20 2:12 4:12 6:14 8:10,13 12:23 13:1,7,9,19 18:8 19:23 25:11 26:6 27:12,13 27:14,20,22 30:22 31:2,8 39:10 40:4,6,8 40:20 41:19,20 42:2 44:13 46:14 55:23 82:15,19,22 83:11 84:5,16 102:24 103:2 138:2,10,23 139:1 141:18 142:19,23	caused 78:10,21	clear 7:15 14:4 18:24 19:1,5 28:19 36:18 68:25 93:14 116:1 117:4 134:17	
		cc 157:24	clearly 42:21 69:16 70:13 71:13	
		CDFA 3:13 12:19 12:22 14:10 55:23 139:22 140:17,22 141:10,21	click 49:1 50:7	
		certain 13:3 48:24 72:20 141:22 152:6	click-per-ad 48:21 129:16	
		certificate 3:14 4:12 14:17 15:9 30:23 31:2,8 55:16,18,19 138:2,11 153:1	close 50:25	

62:6,8 86:6 93:12 98:6 133:3,6 142:4 compel 128:12 compensation 18:1 complete 140:11 140:14 156:11 completed 56:5 complicated 129:4 complied 128:22 compost 10:8,9,22 11:9 12:6 13:11 17:9,11 21:24 22:8,18 25:18 35:13 36:20 46:7 56:8 90:13 99:20 101:5,6 101:16 102:6,11 102:15,18,21,24 103:2,3,5,8,10 103:14,15,20 104:3,8,11 110:20 111:1 117:10 123:12 138:12 141:20 comprise 112:20 112:21 computer 95:12 95:14,15 127:3 127:9 132:25 computers 133:2 concentrate 20:20 concerning 14:10 138:8 concession 80:4 concluded 154:23 conclusion 68:24 69:5,6 144:11 144:12 conclusively 154:14 conduct 60:21 conducting 59:15 61:16	conflict 33:6 confuse 93:8 confused 64:18 65:15 67:11,15 77:5,11 82:6 94:1 103:7,16 103:24 114:24 116:13,14,18 confusing 96:14 confusion 57:4 66:21 67:16 70:16 115:16,23 116:2,13 117:5 126:6 148:2 confusion's 100:6 connected 57:18 connection 17:8 22:5 144:19 consistent 149:12 consistently 44:21 constitutes 67:17 consumer 31:1,4 51:18,20 92:3 99:18 consumers 51:6,7 60:14 89:13 91:5,7,22,24 92:14,20 96:18 103:19,20 104:16 107:16 122:21 123:1 151:6,15,20 152:12 Conf'd 4:1 5:1 contact 90:4 157:12 container 101:13 101:15 containers 101:9 contains 139:9 contents 4:17 continually 113:24 continue 69:15 continuing 19:10 continuously 39:3	contracts 61:11 61:16,19 control 144:7 145:16,19 153:4 153:8,12,21 154:1 controlled 144:15 150:5 conversation 152:8 copies 14:9 28:15 44:3 56:9 copy 3:10,11,13 3:14,16,17,19 3:20,22,23,24 4:3,5,6,7,8,10 4:11,12,14,15 4:16,17,18,20 4:21,23,24 5:4,5 5:6,8 8:3 12:10 15:9,22 30:13 31:7 34:22 35:20 37:2,20 41:4 46:19 48:7 53:4,25 54:1,24 90:14,18,23 91:2 109:22 110:1,4,15 111:8 112:5 146:13 corner 34:12 48:25 corporate 115:7 116:8,16 corporation 5:7 55:12 62:9,11 62:16,20 86:8 93:19 94:2 116:21 142:3 145:3,7 corporations 92:4 correct 15:7 17:18,19 19:12 19:13 23:17,20 23:21,23 30:7,8 33:15 39:13	42:13,15 51:3 53:17,18 54:12 58:16,17 59:9 59:13,24,25 62:9,18,19,23 63:19,23 66:15 66:16 70:2 73:16 74:24 76:7,13 79:17 79:18 85:25 88:17,22 89:7 105:11 114:12 114:14 117:10 117:11 119:17 119:21 120:15 124:16 128:24 131:6 134:6 135:8 140:12,18 140:23,24 141:19 146:14 146:15 147:25 148:11,14,19,20 149:3,4,20 150:6,7,11,16 150:17,22,23 151:2,8,18 153:16 155:9 156:11 corrections 155:7 correctly 52:16 96:8 107:21 108:2 cost 128:25 132:20 costs 49:5 counsel 58:2 73:21 74:4 130:23 135:7 137:4,8 146:4 147:21 148:25 150:3 156:13 157:12,16,24 counsel's 75:4 134:17 counts 45:14 County 26:15	40:4 41:10 46:12,13,14 47:6 couple 18:19 51:4 72:22 82:23 106:10 113:4 136:19 course 6:21 7:13 16:18 22:7 56:19 57:11 65:13,20 80:9 118:7,16 120:13 court 6:21 7:1,7 58:9 76:4 146:19,20 covered 20:11 covers 36:10 create 38:14,16 140:2 created 95:3,4,8,9 96:3,6,11 139:25 cross-examinati... 138:15 cross-examined 146:4 cross-examining 83:16 Cruz 1:20 2:18 6:14 8:12,13,18 8:25 9:3,17,18 9:19 11:20 18:16 19:18 107:7,9 121:5 121:10 157:2,6 157:13 CSR 2:17 cubic 86:3 87:19 87:24 88:2,7,11 107:13 136:24 current 33:2 currently 10:21 14:5 95:22 96:1 141:11 customer 18:13 51:13,15 82:18
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

85:10,13 88:8 92:25 93:5 96:23 97:7 customer/user 39:25 customers 38:13 85:8 87:16 88:6 88:10 91:2 92:12 97:1 98:9 103:14 112:10 113:20 117:15 118:4,12 119:4 119:8,12,20,22 131:12 cutoff 130:18 132:7,16	78:22 80:8 81:12 82:25 83:2,5,25 130:7 131:5,17 139:5 139:7,9,11 147:15,16,16 148:22 149:3 157:8,16 date's 25:3 dated 23:8 24:11 24:20 25:3 26:20,22 43:20 85:20 95:23 96:2,12 109:14 109:17 110:1,4 110:7 155:14 dates 18:21 69:8 70:5,6 73:23 79:22 81:1 day 20:9 22:16 41:2,11 46:21 95:7 106:14 107:24 113:25 149:1 155:14 156:18 days 39:23,24 42:8 44:1 51:21 51:23 56:15 57:15 157:16 DE 2:10 deal 20:21 22:8 Dear 157:9 December 13:22 18:15 19:11 24:14 66:11,15 67:3 68:2,14,21 69:22,24 70:3,7 70:9,19 72:14 73:16 85:23 86:2,15 87:5,11 88:16 108:6,11 108:25 109:4,14 109:18 110:2,5 110:8,19 111:7 111:20,21,24,25 132:9,14,19	139:4,10,11,20 139:21,25 140:1 140:3,10,18,21 140:22 141:3,5 decide 69:3 decided 44:24 deciding 66:23 decision 145:11 decisions 145:13 DECLARATION 155:2 declarations 3:16 15:18,23 declare 155:5 decline 81:6,19 declined 82:2,9 deemed 155:8 default 81:25 defining 92:21 definitely 47:15 108:16 120:11 120:18 133:9 136:19 137:16 152:22 definition 94:1 defraud 32:24 dehumidifier 23:12,13 124:21 125:5,18 126:7 dehumidifiers 124:25 Delaware 142:5,8 142:13,23 deletions 155:8 deliver 21:24 22:18 54:10 86:21 114:15,17 delivered 21:2 25:18 101:17 department 9:3 9:11 12:23 55:14,15,17,19 138:23 depends 131:13 deposed 6:16 deposition 1:14	3:10 6:1 7:13,22 7:23,25 8:4 76:4 80:2,3 127:15 146:24 154:23 157:8,10,18 describe 10:5 45:24 46:2 106:22 description 22:22 50:4 Designation 5:6 55:11 142:3 details 21:7 determine 69:5 development 10:23 dialogue 38:14 difference 65:5,16 84:7,9 87:19 115:12 141:19 different 5:7 13:10,10 18:13 29:25 38:13 42:7,8 72:7,17 72:22 74:13,19 74:21,24 83:17 106:7,8 112:17 118:24 136:6,20 difficult 41:2 152:21 dig 90:7 direct 9:22 11:10 12:15 15:13 23:6 27:24 28:21 33:8 37:13 43:2 45:16 54:6 83:13,18 84:19 90:10 117:6 120:20 121:15 138:14 142:5 146:3,5 147:2 directed 50:7,12 67:20 directing 13:24 30:18 33:19	43:22 directly 51:20,25 85:8 86:4,7,15 86:19 116:18 directs 49:1 discover 79:1,9,10 discovery 78:23 78:23 79:22 80:15,17 81:3 81:23 82:3 127:13,15,23 128:2,6 discussed 15:6 56:14 152:8 discussing 109:2 discussion 31:14 57:24 58:5 80:14 discussions 80:10 displayed 35:9 dispute 128:6 distinction 114:25 distribute 34:3 39:16 53:22 distributed 21:5 44:11 132:12 distribution 21:5 46:16 53:19 99:7 137:17,20 distributor 19:18 19:19 20:16,17 20:24 29:11 51:14,17,19 53:1,18 82:20 125:2 137:22 distributors 29:25 39:6,16 61:12,20 distributorship 137:18,20 division 22:16 document 85:5 120:23 142:8,10 documents 12:16 12:19 13:16,21 14:9 55:5 56:10
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

D

D 3:1
d.b.a 60:10
dad 28:10 151:19
Daemon 54:11
Daily 4:23 46:9
46:17
dark 126:17
darts 89:23
database 12:20
date 1:17 14:24
22:9,11,24 24:3
24:9 30:9 31:5,6
32:6,11,18 34:6
34:7,8 35:15,17
36:21,22,23,24
40:24 41:21
46:9,11 54:21
64:5,10,23 65:7
66:8,21,23 67:2
67:12,15,17
68:5,9,20 69:7
69:10 70:7,9,11
71:17,19 72:10
72:13,25 73:3
73:14,17,25
74:11,13,17,23
74:23 75:7,22
77:17,18 78:2

<p>79:21 81:1,7,20 82:10 127:7,9 127:12,22,23,24 127:25 128:1,7 136:2,4,8 doing 60:1 106:12 106:13,15 dollar 147:10 domain 38:9,21 domestic 16:11 drawing 131:13 drove 108:1 dry 10:23 duly 6:4 dumped 101:19</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E 2:1,1 3:1 earlier 25:10 42:8 72:4 85:14 100:3,8 106:9 117:18 124:22 129:18 140:25 150:8,13 earliest 79:21 81:1,21 82:7 early 8:22 16:9 17:14 49:10 50:21 73:22 79:20 80:25 149:17,23 earned 123:15 ears 146:20 east 27:12 Eden 1:5 6:10 9:23,24 10:6,19 13:15 14:10,20 15:2 17:7 21:24 22:8 23:10 24:1 24:7,8,20 25:2 25:22,23 29:2 33:23 36:5,15 37:7,18 38:15 39:20,24 43:15 43:20 45:11 47:4 48:5,14</p>	<p>50:13,16 51:24 55:25 56:7 58:15,18 59:3,5 59:11,16,19 60:1,4,13,21 61:17 62:6,12 62:16 63:2,9,12 63:13,15,17 64:1,18,19,23 65:2,6,8,15 66:9 66:13 67:23 70:8,24,25 71:2 71:6 75:13,15 76:9 82:11 92:6 92:21 118:16 120:24,25 139:23 142:4 144:6,23,23 145:12,17,20 148:7 157:5,7 Eden's 69:16 education 8:9 educational 49:5 effective 14:24 effort 20:20 134:22 135:16 ehydroponics.net 4:25 52:16 either 7:11 30:6 44:22 50:5 108:12 110:6 111:18 112:2 124:5 131:3 132:18 133:20 149:16 EI 26:5 elaborate 144:9 electronic 127:7 electronically 95:12 110:10 elicit 83:17 email 5:5 54:11 54:13,14,17,18 54:22,25 90:8 90:20 97:11,18 110:4 111:16</p>	<p>email's 54:12 emailed 110:6 111:18 emails 54:19 emphasis 147:11 employees 59:5 employment 8:23 8:24 9:13,17 Encino 2:12 encourage 51:12 endorsement 14:24 engine 48:24 enter 153:20,25 entire 118:16 entirely 30:5 112:8 entitled 127:25 Environmental 55:14 erect 104:10 escapes 20:16 40:5 especially 6:23 essence 21:12 116:5 145:19 estimate 118:15 123:24 124:6,10 125:4,13 126:15 126:18 estimated 129:2 134:6,23 135:13 135:15,22 estimates 134:21 Eureka 40:8 42:2 47:20,21 events 156:15 eventually 44:24 everybody 66:24 evidence 3:8 4:2 5:3 15:12 28:18 35:2,23 37:5,24 41:8 46:24 48:10 53:7 80:12 evidently 134:17</p>	<p>Evolution 23:11 124:21 125:5,15 125:18 Ex 4:11 29:17 30:13,14 exact 66:21 72:21 123:21 139:7 exactly 29:18 41:21 50:11 111:22 140:2,6 exam 146:5 EXAMINATION 6:8 58:6 144:2 150:4 EXAMINATIO... 3:2 example 60:24 117:3 exchange 79:20 80:17,25 81:7 81:20 82:3,10 exchanged 97:11 excluded 28:19 excluding 89:13 excuse 16:22 32:7 34:7 36:14 53:25 57:4 92:22 116:11 127:19 128:11 149:17 execute 62:25 exhibit 4:13 7:18 11:11 12:13,17 14:6,12,15 15:11,14,16,19 15:25 21:12,22 22:14,14 23:6 23:24 24:6,17 24:25 25:7,20 26:7,10,13,17 27:24 28:22 30:16,19 31:11 33:9,19 34:11 34:17,18 35:3,4 35:20,24 36:3 37:14 40:14</p>	<p>41:7 43:2,4,7,9 43:10,23 44:2,2 45:3,3,17 46:23 47:25 48:3 52:11 53:3,7,10 53:24 54:3,6 55:3,5,6,9 56:12 84:20 90:11,18 90:20,24 94:8 95:3,8,11,16 111:8,12,16 117:7 120:12,21 121:16 122:7,10 122:11,16,17 123:4,9 130:20 139:8,11,13,14 139:18,18 142:6 146:19,24 exhibits 3:7 4:1 5:1 6:1 21:11,12 21:15 28:13,18 33:8 44:7 79:3 82:4 131:2 136:9 exist 62:9,17 63:16 expand 14:18 expected 87:21 expended 134:21 expenditure 135:12,18 expense 44:24 47:12 132:23 expenses 60:25 128:18,25 129:2 129:5,17 133:10 133:16,20 134:4 134:9,24 135:2 135:9,23 136:6 136:7,14 experience 49:17 experiment 49:4 expertise 68:18 explain 56:2 101:14 135:11 explaining 40:1</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>expo 4:19 40:3,5 40:20,21,25 45:14 113:7,9 extend 21:6 eyes 107:22 146:20 154:15</p> <hr/> <p style="text-align: center;">F</p> <p>Facebook 37:11 50:2,6,8,9,10,12 50:14,17 51:2 Facebook's 50:3 fact 30:2 39:17 118:12 failure 5:5 54:10 fair 49:24,25 62:1 66:4,5 68:19 73:6 130:12 145:15 fall 13:12 false 71:19,23 72:11 73:1,4,15 73:17 74:11,12 75:7 familiar 19:14 27:4 36:7 52:17 52:18 familiarity 19:15 familiarized 21:16 far 16:3 79:13 138:15 Farm 3:21,22 4:4 17:16,21 18:3,6 18:12,18 19:6 20:12,13 23:10 24:2 25:3 26:19 27:1 28:4 61:13 85:21,24 86:2,8 86:10 88:23 92:22 93:2,6,24 98:9,12,17 99:1 99:17,21 100:11 100:19,25 101:3 101:10,23 102:2 102:18,23 103:1</p>	<p>103:6,13,18 104:6,10,14,20 105:4,10,21 115:1,11 117:10 117:14 118:2,5 118:10,20 119:6 119:11,19 120:4 120:8 122:20,25 123:7,15,19 124:1 137:18,21 137:24 138:5 150:10,15,21 151:1,7 152:13 152:24 153:9,16 153:22 154:3,10 154:16 fashion 101:17 father 28:8 85:13 85:18 86:4,16 86:18,22 87:5 88:6,10,19 93:16 100:1,5 102:15 103:10 104:24 115:4,14 116:3 150:19,25 151:5,11,14,23 152:4,21 153:5 153:8,21 154:1 father's 17:22 89:5 117:21 fax 2:19 110:1 111:16 faxed 111:17 featured 38:25 February 141:14 141:14,18 Fed 4:11 29:17 30:13,14 feed 50:7 feel 11:17 15:1 117:20 118:1 157:19 felt 49:5 fertilized 16:12 fertilizer 10:11 12:20,24 13:12</p>	<p>16:15 17:4 55:25 57:14 59:18 63:22 82:18 98:20 101:2 124:23 154:15 fertilizers 10:23 13:4,13 16:13 fifth 75:3 figure 66:25 123:21 147:24 152:10 figured 136:1 figures 128:22 149:6 figuring 66:21 131:1 file 31:23 89:2 95:9 128:7 142:2,15,17,21 filed 32:4,23 76:6 76:10,18,19,21 79:5,12 114:8 142:8,9,10 files 88:21 fill 111:3 140:5 filled 100:14,17 100:18 102:7 103:8 final 55:18 56:6 finally 27:23 find 34:15 38:14 47:11 131:12 139:17 152:6 finding 139:16 fine 66:6 77:8,10 116:11,17 138:19 finish 116:11 finished 55:7 57:21 first 17:11,25 19:17 20:4 21:2 27:8 32:7,7,12 32:17,18,20 38:17,20 39:1</p>	<p>45:2 51:16 52:23 55:11 57:8 59:22 63:21 64:5,9,12 64:15,17,17,20 64:23 65:3,7,7 66:9,12,14,17 67:2,12,15,17 68:5,9,12,13,14 68:17,20 69:7,8 69:9,17,18,22 69:23 70:3,5,7,9 70:10,22 71:7 71:10,19,23 72:13,25 73:2 73:13,17 74:11 74:13,17,23,23 75:6,11,15,16 75:18,21,25 76:15 77:1,22 77:23,24 78:2 78:21 79:21 80:8 81:12,21 82:14,17,24 83:1,4,5,9,25 84:3,15 85:10 85:12,17,19,22 86:14 87:4 100:7,15 105:6 111:6 112:25 114:6 132:18 133:21 136:23 136:23 fit 51:22 flipping 46:8 Florida 21:9 FM 47:23,24 follow 54:20 follow-up 54:18 follow-ups 150:3 follows 6:6 63:20 Food 138:23 foot 136:24 force 141:23 foregoing 155:6,9 156:8</p>	<p>Foreign 5:6 55:12 142:3 forget 7:5 113:7 forgive 18:24 19:10 26:3 78:14 115:25 121:17 146:20 147:3 forgot 43:25 Fork 8:11 form 4:11,19 30:13 41:5 68:24 78:6 92:2 92:17 93:11 95:12 96:14 122:12 138:3 formal 79:20,22 81:3,22 formed 58:15 59:8,12 forms 78:25 formulated 154:6 formulating 136:5 forth 6:19 Fortuna 47:21 found 85:19 120:22 founded 9:24 11:5 frame 100:21 149:3 free 52:4 114:15 114:18 115:3,21 117:1,9,13,18 117:25 118:9,21 118:22 119:7,11 119:19,22 120:14 157:19 freight 4:6 frequently 44:19 Friday 34:8 friend 89:22,23 89:24 106:13,16 106:20 107:17 107:17 friends 106:10</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>131:11 front 7:17 14:16 28:23 36:1,2 37:15 40:7,15 43:6,7 45:18 48:1,2 52:13 54:7,8 82:5 84:22 96:16,25 97:4,10 113:21 120:10,17,22 121:20 122:23 123:1,21 124:5 124:12 125:17 126:13,19 127:1 129:5 133:13 135:5 136:1,9 139:18 143:21 146:17 fronts 39:25 full 100:24 102:11 full-page 43:16 44:22 further 3:3,5 58:2 143:24 144:2 150:2,4 154:20 156:13</p> <hr/> <p style="text-align: center;">G</p> <p>Gabilan 3:17,19 21:22 22:15 gained 124:7 Garberville 27:12 27:19 46:15 Garden 3:21,22 4:4,18 17:16,21 18:3,6,12,18 19:6,6 20:12,13 23:10 24:2 25:3 26:20 27:1 28:5 40:3,19,19,21 61:13 82:20 85:21,24 86:2,8 86:10 88:23 92:22 93:2,6,24 98:10,12,17 99:1,18,22</p>	<p>100:11,20,25 101:3,11,23 102:2,19,23 103:2,6,14,18 104:6,10,14,20 105:4,11,21 115:1,11 117:10 117:14 118:5,10 118:20 119:6,11 119:19 120:4,8 122:21,25 123:7 123:15,20 124:1 137:19,21,24 138:5 150:10,15 150:21 151:1,7 152:13,24 153:9 153:16,23 154:3 154:10,16 Garden's 118:2 gardeners 10:15 Gardening 19:16 19:17 26:2,3 31:9 gardens 10:17 20:1 general 38:16 47:22 100:7 generally 55:9 152:16 generate 29:24 38:12 95:15,18 117:19,20 118:2 118:7 136:2 generated 124:20 generating 124:18 geographic 49:20 getting 52:25 62:14 65:15 115:7 144:22 gitchy 11:2 give 52:2 81:13 90:23 91:2 106:11 117:3 135:5 151:23 given 118:12,13 giving 40:1 152:1</p>	<p>go 8:24 10:10 15:5,19 19:3 21:19 23:14 26:20,21 31:13 37:9 47:9 57:21 58:3 72:3,14 73:10 75:4 83:22 100:12 138:17,17,18 146:1 147:18 149:10 154:22 goes 6:20 21:8,9 36:10 51:19 80:7 81:11 127:17,17,21 going 11:17 32:15 33:7 45:14 51:19 69:15 71:12 81:8 92:1 92:5,17 96:13 114:24 115:24 117:6 120:20 121:15 125:14 126:17,19 127:14 134:18 146:18 good 6:9 126:18 goods 18:10 31:3 51:7 56:2 goofy-looking 46:4 Google 37:11 48:17,19,23 49:8,9,18 129:16,19,20,23 governing 153:8 153:21 governs 138:5 153:14 graduate 8:15,17 graduated 8:11 8:13,18 9:2 graduating 8:24 9:17 Grant's 42:16 Greenhouse 40:3</p>	<p>40:18 grew 8:10 gross 123:14,18 124:3,6 125:4 125:10,22 126:2 126:10,15 127:8 127:24 147:11 148:6 grounds 70:13 79:25 group 12:16 55:5 Growing 40:7 41:18 guess 46:8 65:14 84:6 87:8 93:23 97:9 104:12 115:15,23 117:4 118:25 124:9 146:3 151:12 guessing 107:2</p> <hr/> <p style="text-align: center;">H</p> <p>H 2:3 6:9 hair 107:19 hairs 125:16 half 110:22,22 138:15 146:3 half-page 43:20 44:22 hand 15:5,5,19,19 50:11,11 84:23 90:14 106:11 109:13,22 111:7 115:16,20 121:14 handed 90:17 109:17 110:12 111:9 116:6 handing 109:21 110:9,11 115:17 115:18 handwrite 121:1 121:3,22 handwriting 23:2 122:2 handwrote</p>	<p>121:25 happen 117:4 119:25 140:15 happened 105:21 151:17 happens 135:17 happily 128:22 hard 22:11 25:4 107:25 118:11 140:13 141:6 143:2 Hartsell 1:19 2:17 157:1 Hayfork 40:6 41:19,20 head 6:25 113:8 heard 128:4 held 31:14 40:20 57:24 58:5 helped 9:20 106:7 106:9,10 hereto 156:14,16 hereunto 156:17 high 8:11,11,15 9:2 Highway 12:3 history 8:9,24 20:8 hmm 27:11 Hmm-hmm 15:15 34:8 38:22 76:12 119:21 134:12 143:15 Hobby 10:15 hold 29:7 145:8 holding 46:6 home 19:6 52:5,6 86:25 132:25 133:2 honest 146:7 honestly 146:10 hope 42:13 142:1 hopefully 13:25 34:10,17 hoping 29:11 hot 41:21</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>hour 138:14 146:3</p> <p>hours 138:16,16 146:5</p> <p>huge 133:19</p> <p>Humboldt 20:15 26:15 40:4,5,9 41:9 46:14 47:6 56:24 113:7</p> <p>Hydro 40:11 42:14,16 53:24</p> <p>Hydrofarm 5:4 20:17,20,22 53:15,16</p> <p>hydrofarm.com 53:21</p> <p>Hydroponics 20:15</p> <hr/> <p style="text-align: center;">I</p> <p>idea 152:11,16</p> <p>identification 6:2 146:18,25</p> <p>identify 7:21 11:11 15:16 25:1 35:15 37:16 40:16 52:14 53:12 54:9 55:7</p> <p>imported 16:12</p> <p>impression 21:4</p> <p>inception 10:24 134:20 135:2,23 136:15</p> <p>incident 128:15</p> <p>incidental 134:24 135:9</p> <p>include 126:7</p> <p>includes 73:23</p> <p>Including 132:3,4</p> <p>incorporate 58:18</p> <p>incorporated 17:17 20:14 22:17 27:2 36:6 47:5 48:5 58:23 59:11,14 63:2</p>	<p>63:12,14,16 64:2,20,24 65:3 65:8,16 66:9 67:24 71:7 76:9 86:9,11 93:25 142:4</p> <p>incorrectly 130:19 132:8</p> <p>Indiana 29:3 30:2 30:6</p> <p>indicate 66:17</p> <p>indicated 30:3</p> <p>individual 69:18 89:13 91:7,11 92:6,14,20,25 93:3,5,18,21,25 94:1 96:18 107:16 114:21 114:23 115:5,6 115:8,9,18,22 116:4,23,24 117:2,23 141:21 144:5,7</p> <p>individually 21:19 116:15</p> <p>individuals 91:16 91:18 92:4 112:19,21,24</p> <p>industry 39:23 44:18 55:22</p> <p>informal 80:15,25</p> <p>informally 80:18 81:6,20 82:3,10</p> <p>information 32:4 80:7 83:17 90:4 96:25 97:4,10 113:21 123:17 126:25 127:2,4 127:6</p> <p>informed 66:24</p> <p>ingredients 35:14</p> <p>initiated 13:21</p> <p>inquire 83:19</p> <p>inquiring 74:22</p> <p>inside 101:15</p> <p>instance 7:2</p>	<p>instruct 79:24 152:19,21</p> <p>instructed 7:11</p> <p>instruction 80:21</p> <p>instructions 104:25 105:2 151:23 152:1,3</p> <p>insurance 3:15 14:17 15:2,9</p> <p>insured 14:21</p> <p>intend 17:7</p> <p>intends 69:10</p> <p>intent 32:24</p> <p>interact 39:25</p> <p>interest 10:3 16:14 29:24 38:12 117:19,21 118:2,7</p> <p>interested 156:15</p> <p>interesting 49:4</p> <p>interject 77:5 138:13</p> <p>Internet 130:10 131:15,20,24</p> <p>interrogatories 5:8 76:24 77:3,6 77:14,21,23 78:4,5 128:21 128:23 148:5,24</p> <p>interrogatory 124:13 125:9,21 126:2 127:4,5 134:3,8,15,16 134:19 135:7,11 135:14,18 136:5 136:21,22 137:1 137:4,5,6,9 146:14 147:4,5 147:8 148:18</p> <p>interstate 83:2,6 84:1,7,10,13</p> <p>intrastate 84:8</p> <p>introduced 89:22 89:24</p> <p>invoice 3:19,20,22 3:23,24 4:3,5,6</p>	<p>4:7,15,22 21:22 22:10,15,21 23:8 24:19 25:17,22 26:1 33:21,22,24,25 34:6,7,23 35:6 36:4,5,22 37:2 43:19 48:4,8 84:20,23,25 85:14 87:7,14 89:16 90:11,12 90:15,18,20,24 91:3,8 94:8 95:3 95:4,8,11,16 101:4 109:13,17 109:23 110:1,4 110:7,15 111:8 111:11,15 112:6 118:22 122:10 125:7 130:14</p> <p>invoices 4:20 43:14,15 44:3 78:24 79:1,3,4,8 79:9,10,11,15 82:4,7 88:22 89:1 91:14 95:18,23 96:2,4 96:5,10 112:18 120:10,17 123:1 138:1 152:14</p> <p>involvement 76:5</p> <p>Island 29:4,23 30:2,7 55:14</p> <p>issue 43:16 56:20 69:2 74:16 115:7 128:9</p> <p>issued 14:23 143:8,13</p> <p>issues 127:16</p> <p>iterations 74:7</p> <hr/> <p style="text-align: center;">J</p> <p>January 54:23 76:7,13</p> <p>Jeff 4:10 28:2,3 85:13,18 86:4,7</p>	<p>86:16 87:10 92:24 93:1,2,4,5 93:10,16 99:10 114:16,19,22,25 115:4,17,21 116:20,22,24 117:2 119:15,16 119:18,23 120:25 122:1</p> <p>Jim 85:3</p> <p>Job 157:23</p> <p>jobs 9:21</p> <p>joined 6:23</p> <p>Joshua 57:9</p> <p>Journal 4:23 46:10,17,20</p> <p>July 58:22</p> <p>junction 58:1 65:23 74:1 75:2 81:8 128:13,16 150:2</p> <p>June 34:8 42:10 58:22 63:23,25 64:3 65:1,4 66:13 67:2,19 67:22 68:20 78:22 157:4</p> <hr/> <p style="text-align: center;">K</p> <p>Kathleen 11:18</p> <p>keep 66:2,24 80:19 81:14 126:21 135:14</p> <p>Keith 22:16</p> <p>kelp 57:14</p> <p>kids 52:5</p> <p>kind 106:11 111:2 148:22</p> <p>kindly 7:9 8:23 12:17 14:15 20:8 35:4,25 53:10 55:2,6 58:3</p> <p>Kirk 112:23,24 113:2,10</p> <p>know 7:14 14:16</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

20:9 21:7,15,16 21:20 24:9 25:6 25:25 26:1,3 27:4,10,18 28:24 32:15,17 32:22 33:5 35:8 35:25 38:20 41:10 43:6 46:8 46:16,18 47:13 47:18,19 48:1 49:12,13,22 51:1 52:1 53:19 54:7 55:7 58:11 58:21 65:21 66:1 67:1 68:17 69:14,18,19 72:13,15 73:10 74:1,16 75:1 81:13,24 83:12 86:12,13 92:2,4 92:7 104:13,14 105:18 107:18 115:10,13 116:14,16 119:6 122:9,15,18 123:10,17 124:11 125:15 128:9 130:17 131:17 132:17 135:25 144:18 147:5 149:5 knowledge 8:2 14:8 22:4 30:12 32:17 35:19 36:25 37:1 69:11 75:11,16 89:4 104:9,18 104:21 105:14 105:17 119:2,10 122:19,22 123:12,14 146:10 150:19 150:25 151:5,10 151:13 known 128:21 KSLG 47:15,17	47:18 <hr/> L L 3:23,24 24:8,22 85:11 89:19 90:12,18 91:11 94:8,11,14,18 94:22 106:6 107:16 108:24 110:9,15,19,23 111:7,7,16,19 111:23 L.A 107:5 label 13:18 33:12 35:10,12 99:22 99:25 100:10,13 102:12 103:22 103:25 104:3,25 105:12,15,23 106:2 120:4,14 136:25 137:12 139:24 140:9,12 140:16,17,22,24 141:3 151:19,24 154:9 labeled 12:17 55:5 98:12 100:4 102:2 103:9 104:10,19 105:4,9 120:9 150:9,14,19 154:15 labeling 12:25 106:5,17 labels 35:6,7,8 98:19,22,25 99:15,19,20 130:14 136:7 Lake 40:9 landlord 11:19 106:12 Large 23:11 lastly 57:3 late 20:9 21:1 31:22 38:10,22 80:20 149:16,17	149:23 launch 47:7 launched 149:16 149:23 law 2:4,11 32:17 67:7 68:18 72:21 74:9 laws 70:17 75:9 75:10 lawyers 7:8 Laytonville 20:19 25:11 learn 75:18 78:2 107:8 learned 32:20 learning 49:17 lease 3:11 11:13 11:14,21 12:1,2 12:11 15:6 Lee 1:14 6:3,12 63:7,10 70:1,2 119:14 155:5,21 157:5 Lee's 80:16 left 85:1 legal 68:24 69:5,5 144:10,11 legally 67:16 69:1 let's 13:2 20:22 40:13 114:22 117:12 138:17 154:22 letter 157:16 LGR 23:12 124:21,25 126:7 LGRs 125:15 liability 3:16 10:4 14:20 15:4,18 license 138:2,23 139:3,6,23 141:9,11,12,17 141:23 143:16 156:6 licensed 142:25 143:3 licensing 152:23	licensure 142:17 142:22 143:7,13 lies 115:16 limit 49:20 limited 123:13 limiting 49:23 138:7 line 65:11 131:14 list 38:12 39:15 40:12 64:9 68:8 70:10 73:17 75:6 129:5 listed 27:7 39:17 64:5 73:4,15 74:11,12 83:25 lists 83:1,5 little 15:14 22:11 41:2 48:25 50:4 50:6 106:24 134:2 lived 107:4,6,8 LLC 33:12 load 21:2 101:4 101:17 local 38:14 locate 35:15 located 6:21 18:4 18:7 25:10 26:1 26:4,5,15 27:10 27:11,12 46:13 46:15 47:19,20 82:18 157:13 location 1:19 11:19 12:4,8 15:3 121:3 140:6 locations 34:4 39:9,16 Lock 118:23 logic 63:20 logistic 66:22 logo 35:14 long 21:14 29:21 40:12 47:9,10 49:13,14 51:1,4 107:6 120:1	121:12 140:14 long-term 9:20 look 7:18 12:17 14:15 21:14,14 35:4 44:15 45:2 53:10 55:6 57:20 88:21 150:1 looked 55:8 79:13 looking 11:21 14:1,4,5,22 29:8 30:3,9 33:11 39:11 85:15 118:13 130:14 138:3 148:21 looks 23:11 122:1 130:20 Lost 4:21 47:4 48:4,13 lot 16:12,14 21:8 21:9 32:20 44:17 66:21 114:24 lower 13:25 85:1 <hr/> M M-t-e-d-e-n-o-r... 38:7 magazine 44:10 magazines 37:11 43:1 45:12 130:2 Mailer 54:11 Maine 55:19 maintain 15:3 37:9 maintained 20:13 majority 136:14 137:15 making 67:6 man 57:8 Management 55:14 manner 101:23 manufacture 124:24
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

manufacturer 30:25	Matts 112:22,25	153:15,22 154:2	merely 67:6	48:10 53:7 54:3
Maple 2:4	McPHERSON	154:10,16 155:5	met 97:19 112:19	55:2 56:12
March 32:9 64:8	1:14 3:20,22 4:3	155:21 157:5,9	113:4,7,8	moved 3:7 4:1 5:2
64:9,13,16,21	6:3,11,12,17 8:8	Meadows 18:8	method 157:16	25:23
64:21 66:18	11:11 14:14	mean 11:25 22:7	mid 20:25 31:22	moving 24:5,17
67:3 68:8,14,21	17:16,18,21	30:1 41:14	41:14,14	24:25 25:7
70:4,10 71:3,8	18:3,6,12,18	44:13 47:3	mind 57:8 78:14	27:15 35:3,24
71:11,18,24	19:6,6 20:12,13	59:17 62:22	minimum 146:18	Mt 1:5 6:10 9:23
72:25 73:14	23:10 24:2 25:3	65:5 76:2 83:8	minute 26:16	9:24 10:6,19
75:19,22 76:1	26:19 27:1 28:2	96:21 97:9	34:14 57:20,21	13:15 14:10,20
76:16 77:2 78:3	28:3,4,7,8 31:17	104:5 105:8	minutes 72:23	15:2 17:7 21:24
78:22 79:19	44:8 45:25 51:6	107:5 108:16,21	miscellaneous	22:8 23:10 24:1
80:15,24 83:2,3	54:5 58:1 61:13	114:2 115:8	133:19	24:7,8,20 25:2
83:7 84:1	63:7,10 75:2,3	120:16 121:13	mischaracteriz...	25:22,23 29:2
margin 152:10	78:20 80:21,23	123:12 124:9	73:20	33:23 36:5,15
mark 1:4 16:24	85:13,18,20,24	126:17 130:3	mischaracterizes	37:7,18 38:15
17:2 18:11	86:1,5,7,8,10,16	131:10 132:7,16	67:5,14 83:13	39:20,24 43:15
23:17 64:7	87:10 88:23	133:12 135:4	92:19 134:14	43:20 45:11
136:16 137:2	92:22,24 93:1,2	153:12	135:10 137:5	47:4 48:5,14
146:19 150:9,20	93:2,4,5,6,10,15	meaning 76:18	mischaracterizi...	50:13,16 51:24
151:19	93:17,24 98:9	meant 16:16,16	92:7,23 135:14	55:25 56:7
marked 3:7 4:1	98:12,17 99:1	measurement	misspoke 26:2	58:15,18 59:3,5
5:2 6:1 146:24	99:10,17,21	118:14	misunderstood	59:11,16,19
market 10:7	100:11,19,24	meet 89:21	126:8 129:21	60:1,4,13,21
16:11 37:7	101:3,10,23	112:23 113:6	mix 51:22	61:17 62:6,12
135:2	102:2,18,23	meeting 113:1	mixing 153:12	62:16 63:2,9,12
marketing 60:25	103:1,6,13,18	MELINDA 2:17	moment 20:16	63:13,15,17
128:18 133:10	103:18 104:6,9	156:5,23	31:12 40:22	64:1,18,19,23
133:16 134:4,9	104:14,20 105:3	memory 89:4	47:1 89:17	65:2,6,8,15 66:9
134:22 135:12	105:10,21 106:8	113:2 129:3	113:22 116:6	66:13 67:23
135:16,23	114:16,20,22,25	135:24,25	131:19 138:13	69:16 70:8,24
136:11,14	115:1,4,11,17	152:15 154:18	154:7	70:25 71:2,6
Markets 55:17	115:21 116:7,21	Mendocino 4:18	moments 28:20	75:13,15 76:9
marking 146:21	116:22,24 117:2	40:2,18,19,21	money 43:25	82:11 92:6,21
markup 87:22	117:10,14 118:2	46:12,13	48:24 133:25	118:16 120:24
materials 36:13	118:5,10,20	mention 23:19	135:18	120:25 139:23
Matt 6:9 112:22	119:6,11,15,15	25:13 50:1	months 45:8	142:4 144:6,23
112:25	119:16,18,18,24	mentioned 10:18	motion 127:15	144:23 145:12
matter 33:17	120:3,8,25	16:2 23:17	128:12	145:17,20 148:7
70:16 155:10	122:1,20,25	25:10 39:6,19	move 8:6 12:13	157:5,7
157:11	123:7,15,19,25	41:9 42:1 43:1	14:12 15:11,25	mtedenorganics...
Matthew 2:3	137:18,21,24	45:16 46:25	22:13 25:21	38:1,18
65:12 90:1	138:5 144:1,3	48:17 49:16	28:17 30:16	multiple 21:11
106:9	145:7 150:10,15	53:17 57:10	31:10 35:1,22	69:14
Matthew's 90:2	150:21 151:1,7	106:9 107:10	37:4,23 41:7	mushroom 10:7,9
	152:13,24 153:9	112:25	44:6 46:23	10:22 11:9 12:6

13:11 17:9,11 21:24 22:7,18 25:18 35:13 36:20 46:7 56:8 104:7 117:9 138:12	64:24 65:3,9 66:9,14,18 67:12,19,21 68:6,9,10 70:6 70:11,19,23 71:3,8,10,19,24 73:14 75:11,22 75:25 76:16 77:1,15 81:2,21 82:8,14,17 83:6 83:10 84:4,16 85:4,7,17,23 86:14 87:5,16 88:1,5,9,14,19 88:24 89:10,14 91:3,12,22,24 92:12,14 93:9 93:16 94:5,10 94:23 95:1,19 95:23 96:2,7,11 96:23 97:7,25 98:3,7,11,13,15 98:19 99:7,10 99:14,22,25 100:4,9,10,24 101:10,22 102:2 102:5,8,12,17 103:3,9,17,23 103:25 104:4,7 104:10,15,19,19 104:25 105:4,6 105:9,15,20,22 105:23 106:2,17 107:11 108:6,15 108:24 109:3 110:18,24 111:20,24 112:16 113:14 113:17,19,23 114:3,7,10,15 114:19 115:3,20 117:1,9,13,25 118:9,19 119:3 119:7,12,19 120:3,4,7,9 122:20,24 123:6	123:16,19,25 124:4,7,17,23 125:11,18,22 126:3,5,8,11,16 126:22 127:8 128:18 129:2,8 129:10,14 130:3 130:9,13 131:9 131:21,23 132:1 132:12,21 134:5 134:10 135:3,24 136:15,16,25 137:1,2,7,11,12 137:25 138:6,9 138:24 139:23 140:8,9 141:10 141:17 142:12 142:15,18,22,25 143:8,14,19 144:4,5,16 145:16 147:11 147:23 148:4,8 150:6,9,14,20 150:25 151:6,15 151:19,24 152:4 152:12,17 153:4 153:8,22 154:2 154:8,9,15 157:7	114:12,13 150:8 150:13 new 16:19 19:24 32:19 55:17 57:10 82:23 newspaper 26:15 44:11 45:13 newspapers 130:3 niche 16:11 nods 7:1 nonspecialty 13:13 normal 91:10 96:20 112:12 normally 87:15 87:23 88:1 91:2 91:8 96:19 112:9,15 North 29:4,22 Northern 8:10 44:12 46:13 noted 78:18 81:15 notes 57:20 145:24 149:14 notice 3:10 5:5 7:22,25 8:3 14:2 54:10 55:18 76:18,19,21 79:5,12 noticed 157:18 notified 81:4 notify 56:1 number 7:18 11:11 14:6 19:19 20:21 22:14 23:7 24:6 24:17 25:7 27:24 28:22 33:9,20 34:11 34:16 35:4,5,25 36:3 37:14 40:14 45:17 46:23 47:25 52:12 53:4 54:6 56:12 64:6 84:21 90:11	117:7 121:16 122:8 126:13 133:13 134:19 135:5,7 136:1,5 136:22 146:19 147:5,7,9 number's 135:25 141:6 numbers 14:2,3 43:10 124:12 125:16,17 126:19,20 135:4 143:21 NUNLEY 2:17 156:5,23 nursery 4:5 20:18 25:10 nutrients 1:4,8 10:7,19,22 11:1 11:7,9 12:6 13:11 16:3,23 17:2,3,3,4,8,9 17:11 18:11 20:1,10 22:2,3,6 22:20 23:17,19 25:18 31:18 33:12 35:13 36:20 37:8 38:25 40:9 46:6 51:8 52:8 56:7 59:23 60:3,24 61:4,8,21 62:2,4 62:13,21 63:18 63:22 64:2,7,12 64:15,20,24 65:3,9 66:10,14 66:18 67:12,19 67:22 68:6,9,10 70:6,11,19,23 71:3,8,10,19,24 73:14 75:12,22 75:25 76:16 77:2,15 81:2,22 82:8,15,18 83:6 83:10 84:4,16 85:4,7,18,23
N				
N 2:1 3:1 name 6:11 9:23 11:17 16:4,8,10 17:6,8,18 20:16 38:9,21 40:2,5 44:13 56:25 57:9 59:15,19 59:19 60:4,17 60:20,21,22 85:2,10 89:18 89:20,24 90:1,2 106:20 112:23 113:4,8 133:3 156:18 named 24:14 113:4 156:10 names 124:19 Natalie 29:22 nationwide 20:17 20:24 21:3,6 53:22 native 1:4,8 10:7 10:16,18,21 11:1,6,8 12:5 13:11 16:3,16 16:17,17 17:8,9 17:11 18:10 20:1,10 22:2,3,6 22:20 23:16,19 25:17 31:18 33:12 35:13 36:20 37:7 38:24 46:6 51:8 52:7 56:7 59:23 60:3,24 61:4,8 61:21 62:2,4,12 62:21 63:18,22 64:2,7,12,15,20				

86:14 87:5,16 88:1,5,9,15,19 88:24 89:10,14 91:3,12,22,24 92:12,14 93:9 93:16 94:5,10 94:23 95:1,19 95:23 96:2,7,11 96:23 97:7,25 98:3,7,11,13,16 98:20 99:8,10 99:15,22,25 100:4,9,10,24 101:10,22 102:3 102:5,8,13,17 103:3,9,17,23 104:1,4,7,10,15 104:19,19,25 105:5,6,10,16 105:20,22,23 106:2,17 107:12 108:6,15,24 109:3 110:18,24 111:20,24 112:16 113:14 113:17,19,23 114:4,7,11,16 114:19 115:4,21 117:1,9,13 118:1,9,19 119:4,7,12,20 120:3,4,8,9 122:20,25 123:7 123:16,19,25 124:4,7,17,23 125:11,19,23 126:3,5,8,11,16 126:22 127:9 128:19 129:3,8 129:11,14 130:3 130:9,13 131:9 131:21,23 132:2 132:13,21 134:6 134:10 135:3,24 136:16,16,25 137:1,2,7,11,12	137:25 138:6,9 138:24 139:24 140:8,9 141:10 141:18 142:12 142:16,18,22 143:1,8,14,20 144:4,5,16 145:16 147:11 147:23 148:4,8 150:6,9,14,20 151:1,6,15,19 151:24 152:5,12 152:17 153:4,9 153:22 154:2,8 154:9,16 157:7	O oath 58:8 object 7:9 67:4,13 68:23 69:15 70:12 71:12 73:19 78:6 79:24 81:9 92:1 92:17 93:11 96:13 97:13 115:25 122:12 127:14 objection 69:19 72:1 74:5 78:11 78:13,18 80:1,5 80:5,19 81:14 81:15 83:12,16 97:16 134:14 137:3 138:14 144:10 145:2 observe 106:12 observed 106:13 106:15 obtain 141:9,12 obtained 141:17 obviously 106:25 131:12 occasions 113:5 occurred 19:7 41:12 71:24 148:10	occurrence 96:21 112:13 occurs 7:9 ocean 42:3 October 38:23,24 117:8 149:17 odd 9:19 offer 66:23 81:6 81:20 82:2,9 offered 52:8,20 52:23 offering 53:5 office 1:1 9:6,7,12 30:14 31:19 32:2,24,25 86:25 157:13,14 157:15,20 oftentimes 39:22 oh 16:9 17:3 26:2 49:14 51:12 65:24 76:21 107:6 119:9 129:21 147:16 150:17 okay 7:17 8:2,6 8:17 9:9,13 10:2 10:5,13 11:4,14 11:25 12:13,21 13:2,15,24 14:12 15:1,8,11 15:19,22,25 16:2 17:20,23 17:25 18:3,9,17 18:21 19:10,14 19:25 20:7,11 21:3,10 22:4,9 22:19,24 23:1,6 23:11,16 24:5,9 24:13,17,18 25:6,12,20 26:7 26:16,25 27:4 27:15,20,23 28:3,12,17,21 29:12,16,19 30:6,12 31:7,10 31:21,23 32:1,3	32:6,22 33:7,16 33:19 34:6,22 35:1,15,19,22 36:18,21,25 37:4,13,20 38:3 38:24 39:15 40:13,21,24 41:3,7,16,24 42:4,13,18 43:5 43:9,13,18 44:2 44:6,19 45:1 46:5,8,16,19 47:23,25 48:7 49:16,20,23 50:19,22 52:7 52:17,22 53:16 53:24 55:2,9,21 57:3,19 58:11 58:14,18,21,24 59:2,5,8,22 60:16,23 62:6 65:24 76:6 78:8 78:18 80:23 81:13 92:9 117:12,24 121:15,19 126:1 128:17 135:21 138:20 142:2,21 143:7,19 144:18 144:22 145:1,11 145:15,19,22 146:16,22 147:2 147:21 148:2,9 148:21 149:2,5 149:9,20 old 106:23 older 106:24 Olivieri 1:19 2:17 157:1 once 14:15 22:17 22:25 49:5 51:4 58:3 93:25 94:16 96:20 109:12 111:9 126:12 131:16 133:12,23 135:4	143:21 one's 15:14 ones 42:7 47:17 online 139:25 open 58:9 157:14 opening 128:8 opine 116:5,15 opportunity 51:23 opposed 16:19 50:8 63:9 65:5 120:12 opposer 1:6 2:2 63:4,8,11,12,13 65:8 67:18,21 67:23 68:2,8 69:10 71:6,10 74:11,22 76:6,8 98:7 127:22 128:1 opposer's 67:2 68:5,20 71:23 72:25 80:8 127:21 130:23 opposing 58:2 73:21 74:4 75:4 77:7 134:17 146:4 148:25 150:3 opposition 1:7 63:4,8,11 76:3,6 76:11,19,20,21 79:6,12,23 order 4:11 30:13 34:8 36:23 43:3 94:22 135:5 143:4 Oregon 19:23 21:9 40:10 42:14,18,19 44:12 82:22 Oregon's 55:15 Organics 1:5 6:10 9:23,25 10:6,20 13:15 14:10,20 15:2 21:25 22:8
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>23:10 24:2,8,8 24:20 25:2,23 25:24 29:3 33:23 36:5,15 37:7,18 38:15 39:21,24 43:15 43:20 45:11 47:4 48:5,14 50:14,16 51:24 55:25 56:7 57:10 58:15,19 59:3,6,11,16,20 60:2,4,13,21 61:17 62:6,12 62:17 63:2,12 63:13,15,17 64:1,18,19,24 65:2,6,8,16 66:9 66:14 67:24 70:8,24,25 71:2 71:6 75:13,15 76:9 82:11 92:6 118:17 139:23 142:4 144:6,23 144:24 145:12 145:17,20 157:5 157:7 original 47:7 141:3 originally 51:7 outside 82:15,19 83:10 84:4,16 oversee 12:24 13:7 overview 8:9 owe 43:24 owner 28:4 54:20 57:9 93:1 117:16,23 134:21 144:23 145:3 ownership 144:22</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 2:1,1 p.m 1:18 154:23</p>	<p>157:14 P.O 6:14 157:6 package 29:2 packaged 101:2 packages 141:21 packaging 36:12 36:16 61:1 99:15 page 3:2,7,7 4:1,1 4:24 5:1,1 14:1 14:4 34:10,16 34:18 46:3,20 50:8,9,10,12,13 50:16 53:5,20 54:1 55:11 147:3 148:23 pages 38:21 39:8 paid 86:17 107:13 109:2 112:3 133:5 pallet 25:23 36:9 36:9,11,12 pan 23:15 paper 44:15 121:6 paperwork 32:19 Paradise 40:11,11 42:14,16,16 57:16 pardon 53:24 Parking 9:6 part 17:23 34:17 82:4 132:5 140:25 parties 79:21 81:1 81:21 129:7,10 129:13 156:14 partnership 112:20 party 21:23 22:17 61:15,19 133:1 156:16 Pass 42:17 PATEL 2:10 patent 1:1 31:19 32:23,25 Paul 98:4,8</p>	<p>PAULO 2:10 pause 31:12 pay 29:12,14 44:1 45:15 48:24 87:10,13 94:4 96:19 97:1 107:11 129:7,10 129:13,23 131:6 132:1 133:1 152:9 pay-per-click 37:12 129:19,20 129:23 payment 25:9 29:1 70:18,22 71:2,7 payoff 44:23 penalty 155:5 Pennsylvania 21:8 people 10:15 44:17 49:1 52:1 57:13,17 67:8 101:17 105:19 106:1,7 123:11 people's 50:6 52:8 107:2 percent 97:21 145:8,10 perfectly 83:18 period 9:14 78:23 157:17 periods 128:8 perjury 155:6 permitted 74:19 74:21 83:19 person 6:24 24:23 24:24 49:17 86:5 90:13 94:24 113:2 115:13,14 116:24,25 117:2 personal 60:17,20 60:22 64:17 65:6 69:11 75:11,16 89:3</p>	<p>115:22 119:2 150:18,24 151:4 151:10,12 personally 61:15 61:19,23 62:3 62:22 63:7,25 64:4 65:15 68:1 70:24 75:14 91:21 93:12 98:5,15,23 pertain 140:8 pertained 148:8 pertaining 153:3 pertains 154:1 pesticides 13:13 Petaluma 20:17 Phoenix 57:9 phone 11:2 113:3 photocopy 53:14 physical 51:10 physically 103:8 pick 29:11 87:7 94:25 108:19 109:7 picked 20:15 21:2 86:24 87:8 90:13 112:3 123:11 picking 126:20 picture 45:13,19 45:22 48:25 50:4 piece 36:10 121:6 place 81:14 94:22 104:11 108:13 108:19 109:7 110:8,23 111:1 127:9 146:16 156:9 placed 99:20 102:16,17,21 103:5 places 82:23 plaintiff 63:10 plant 52:5,5 plastic 34:1 111:3</p>	<p>played 89:23,23 playing 48:6 please 6:10,13 7:14,18,19 8:7 13:5 15:14 16:6 18:5 22:14 23:18 24:18 25:8 26:17,21 31:15 33:8 43:23 46:1 48:1 50:15 52:11 53:10 54:9 56:18 58:1 64:14 71:9,22 75:3 85:16 90:2 99:9 100:2 101:14 125:25 128:4,4 142:20 146:16 150:12 151:3 157:19 plus 134:24 135:9 point 54:14 74:9 90:6 99:5,6,14 99:16,17 130:18 131:18 138:17 pointed 105:19 policy 14:20,22 portal 139:25 140:3 portion 14:1 posed 7:10 position 78:21 possess 96:5,10 127:2,7 143:7 143:13,16,18 possesses 127:22 possession 79:5,9 79:11,16 82:3,8 82:11 95:13,22 96:1 121:9 possible 6:21 30:1 30:5 62:11,20 72:3 103:25 104:2 112:8 122:10,13 possibly 149:12</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>post 34:4 posted 38:17,20 50:20 potential 80:10 prefer 51:13 prepared 157:11 present 20:9 113:25 135:3,24 136:17 151:14 pretty 7:15 25:4 96:21 107:2 123:22 124:10 136:3 previous 68:16 144:3 previously 24:13 53:16 72:11 73:1,2 74:1,7,10 82:24 85:12,17 91:21 92:11 148:17 149:15 price 88:2,7,11 108:23 109:2,6 152:4,9,11,20 153:15 print 110:7,11 132:25 133:21 133:21 printed 90:14 91:8 109:13,22 110:13 130:15 130:15 132:17 133:2,3 printing 111:11 132:22 133:16 133:18,25 136:7 printout 37:18 52:15 printouts 14:10 prior 59:16,20,23 60:2,4,8,11,14 60:20 61:4,12 61:21 62:2,4,7 62:13,21 63:18 73:23 75:19,22 75:25 76:16</p>	<p>78:3 79:22 81:2 81:22 108:18 128:7 149:12 priority 32:21 probably 65:22 73:21 106:12,14 118:24 124:10 136:18 proceeding 63:5,8 63:11 65:9 75:23,24 76:2,3 76:17,18 124:14 125:10 proceedings 128:16 156:8,8 156:12 process 13:18,21 32:16 55:23,24 56:4 126:24 140:15 processed 12:4 produce 127:23 produced 128:7 128:15 product 10:8,19 10:22 11:1,8 12:7,20,25 13:2 16:4 20:1,10 21:8,9 25:13,14 33:13 34:5 35:10,11 36:17 37:7 38:12 39:7 39:10,16 40:1 48:25 50:6 51:11,16 52:3 52:19 53:1,5 55:13 56:2 57:11,12,15 60:25 64:2,25 70:19,23 71:3 86:1,15,18,21 86:25 87:1,5,10 87:13,16,18,23 88:2 96:19 97:22,25 98:3,7 99:8,16,17</p>	<p>100:19 101:14 101:19,22 102:1 102:17 103:6,17 103:18,19,23 104:19 105:1,3 105:8,9,12,13 105:15 109:19 110:18,20 112:4 113:14,17 115:4 115:14 117:17 117:20,21 118:20 124:23 124:24 125:1,5 125:19 126:8,16 137:11,12,15 141:1 143:3 144:8,16,20 145:20 152:19 153:12,15,16 154:8 production 93:16 157:23 products 10:25 11:6 13:3,7,8,11 16:12,15 17:7 21:4 36:15,16 36:19 52:8,23 59:18,23 60:3 61:4,8 63:18,22 63:25 64:13,16 64:20 65:3,9 66:10,13,14,18 67:12,19,22 68:2,6,9 70:6 71:8,11,20,24 73:3,15 75:12 75:13,14,15,22 75:25 76:16 77:2 81:2 82:8 82:15 83:6,10 84:4,16 85:7,18 85:23 88:6,9,15 88:19,24 89:10 89:14 91:4,12 91:22,24 92:12 92:14 93:9 94:5</p>	<p>94:10,23 95:1 95:19,23 96:3,7 96:12,23 97:8 98:11,12,16,20 98:22,25 99:5 99:11,12 100:4 100:9,10,12,24 101:10 102:6,8 102:16 104:1,15 105:6,22 107:12 108:6,7,15,20 108:24 109:3,8 110:24 111:6,20 111:24 112:10 112:16 113:19 113:24 114:4,7 114:11,13,16,19 116:3 117:13 118:1,3,10 119:4,7,12,20 120:3,8 122:20 122:25 123:7,16 123:19,25 124:4 124:7,17,20 125:11,23 126:3 126:5,11,22 128:19 129:3,8 129:11,14 130:4 130:9,13 131:9 131:21,23 132:2 134:6,10 137:2 137:7,25 138:6 138:9,24 141:18 142:13,18,22 143:1,20 147:12 147:22,23 148:4 148:4 150:6,9 150:14,20 151:1 151:6,15,19,20 151:24 152:5,12 152:17 153:4,9 153:22 154:2 profit 152:7,10 program 95:15 prohibited 80:12 promote 113:16</p>	<p>pronounce 11:16 pronounced 11:19 proof 34:20,23 proper 78:17 properly 128:11 proposed 79:20 80:25 protected 80:11 80:13,16 provide 8:9 10:20 10:21 36:8,12 104:24 111:19 112:9,15 114:18 115:3,20 117:1 117:13 118:8,20 127:3,12 152:3 provided 10:25 11:6 32:3 72:7 96:15 110:14 112:5 115:13 116:3 117:9,18 117:25 119:3,7 119:11,19 128:10 150:10 150:15 provides 36:9 public 123:8 137:25 Pueblo 26:5 pull 26:11,11 purchase 10:14 10:15 51:7 60:25 97:7 108:6,7,14 112:10,16 purchased 50:23 99:11 107:12 purchasing 9:3,11 138:11 purpose 10:6,13 12:1 30:24 38:11 purposes 146:17 pursuant 7:24 pursue 16:11</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>put 26:16 36:11 39:1 44:15 48:24 73:25 107:1 127:6 puts 50:4,5 putting 17:4 47:12</p> <hr/> <p style="text-align: center;">Q</p> <p>qualifies 69:1 quality 144:7 145:20 153:4,8 153:12,15,21 154:1 quart-size 118:23 question 7:3,4,5,7 7:9,10,12,12 13:5 16:7 22:19 24:6 29:13 34:15 38:19 39:15 44:23 51:9 56:18 59:10 60:18 61:2 64:14 65:21 67:20 69:14 70:1 71:14,21 72:4 72:11,18,22,24 73:1,5,9,12,24 74:3,7,14,15,20 75:4,5 77:5,9 78:7,19 80:6 81:18 82:6 83:20 85:16 89:12 92:2,10 92:18 93:8,12 93:13 95:10,25 96:8,14,17 97:3 97:16 99:9 100:2 103:7,24 109:1 115:3 116:1,23 118:11 119:5 122:13 123:5 125:25 126:9 128:20 129:4 130:22,25</p>	<p>131:8 136:12,13 142:20 143:12 144:9,15 145:2 145:4 148:12,16 149:21 150:1 153:24 question's 143:2 questions 52:1 58:3 65:20 66:2 74:20,21,24 76:23 114:25 140:7 143:24 154:20 157:19 QuickBooks 95:17,19 96:3,6 96:11 126:25 127:3 Quinn 29:22 quite 11:3 40:12 62:14 84:6 132:5 139:16 148:15</p> <hr/> <p style="text-align: center;">R</p> <p>R 2:1 radio 37:10 47:1 47:5,7,10,13,18 48:6,12,14 range 134:6,7,13 134:23 135:6,8 ranged 134:5,10 rare 51:18 91:5 96:21 rarely 107:15 rate 88:2 read 7:7 22:9,11 22:23 41:2 52:16 134:16 135:7 137:9 141:6 147:8,18 157:11 reading 102:12 real 9:20 91:10 96:20 132:23 realize 148:7 really 20:19 22:23</p>	<p>23:15 41:21 47:11 49:6 79:2 109:20,24 112:11 123:13 124:11 125:3 126:7,9,18 131:17 141:6 reanswer 71:15 reason 44:17 74:22 reasoning 16:10 reasons 10:4 15:4 recall 9:9 17:15 18:21 20:4,22 29:20 31:21 32:6,10 38:17 41:16 42:6,20 49:22,23 50:5 76:22,25 77:13 77:16,18,23,24 79:2 82:13 86:23,24 87:2,4 87:9 89:17,19 90:16,17,19,25 91:14,17,18,20 91:23 94:12,16 95:2 96:24 97:5 97:6,17 98:14 98:18 100:16 104:5 106:21 107:6,23,24,25 108:1,2,9,12,21 108:22,23 109:2 109:5,20,25 110:11,12,14,17 111:9,11,14,15 111:22 112:1,7 112:23 113:1,22 113:23 114:3 120:1 122:18 124:13 125:9 132:6 133:5 139:5 149:18 152:1 154:6,19 recalling 99:4 receipt 3:17 4:8,9</p>	<p>4:10,14,16 22:2 23:19 27:8,15 28:1 29:1,2,16 29:16 30:14 40:18 41:1,5 111:19,23 112:4 112:5,15 120:24 121:1,4,10,13 122:7,16 receipts 26:19,25 27:5,7 28:15 35:20 112:9 121:7,9,23,25 122:3,4,6,17,22 123:4 receive 18:1 96:22 received 23:5 35:17 77:3,14 77:17 119:23 receiving 77:16 97:6 recess 138:21 recognized 80:4 recollection 24:23 25:14 38:8 41:10 45:1,4,6 49:7 50:19,22 52:22 130:25 135:22 149:10 record 6:11,13 7:21 8:7 11:12 11:22,23 12:14 14:3,13 15:16 16:1 28:18 30:17 31:11,13 31:14,15 35:11 36:22 37:17 38:3 40:17 44:7 56:13 57:21,24 57:25 58:4,5 94:7 97:16 116:12 126:21 128:5 134:17 138:16,18 154:22 record's 19:4</p>	<p>36:18 recording 6:22 reduce 20:20 refer 21:10 60:13 reference 13:3 22:20 26:7,17 40:14,19 49:21 52:11 53:9 57:14 119:22 referenced 28:9 40:22 referencing 23:24 25:20 28:12 34:16 47:25 51:21 53:3 55:4 referred 16:18 referring 19:22 57:11 60:10 67:23 77:22 93:1,4 96:4 100:7 101:8 102:25 115:2 116:20 119:14 119:16 120:13 146:5 153:17 refers 118:22 refrain 7:10 reframe 150:12 151:3 refresh 45:3 130:25 149:10 regard 13:15 32:16 69:12 147:23 148:10 148:13 regarding 79:21 81:1,21 82:7 127:24 Regardless 75:10 regards 25:12,17 register 31:18 registered 38:1,9 55:12 143:5 registering 13:18 registration 3:13 13:18 55:13,16</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>55:20,23,24 rehash 69:15 relate 56:4 related 61:3 156:16 relating 60:24 61:8,20 77:14 137:24 142:3 143:7,13 relation 17:20 relationship 28:6 relatively 107:18 relegated 13:8 relevance 79:25 80:2,4,5,20 81:9 relevant 32:4 55:21 83:18 128:15 relied 136:8 rely 69:10 relying 136:4 remain 148:14 remember 42:21 75:20 77:17,20 81:4 89:3,7 97:10 107:20,22 109:9,10 112:8 113:12 121:12 124:2 129:25 152:7 remind 134:7 repeat 13:5 29:13 34:15 38:19 59:10 60:18 61:2 71:9 75:5 81:17 89:11 109:1 119:5 125:24 142:20 146:8 148:12 149:21 153:24 repeated 7:4 rephrase 16:7 56:18 60:2,12 61:18 62:3,10 63:6 64:14 67:9 75:23 77:12</p>	<p>79:10 82:6 84:14 92:9 95:25 99:6,9 100:2 102:17 122:11,14 123:5 125:24 137:19 137:23 142:17 144:15 153:6 reported 2:16 156:7 reporter 6:4,21 7:1,7 146:19,22 156:6,7,23 reporter's 146:21 REPORTERS 157:1 representative 115:10 represented 157:11 request 80:17 requested 23:13 80:14 requests 136:24 require 112:18 required 55:25 143:17 requirements 12:25 resale 4:12 30:22 30:22 31:2,8 51:12 125:2 138:2,11 154:4 reselling 31:3 respectfully 143:12 responding 76:22 77:24 response 54:16 78:15 124:14 125:10,22 126:2 127:4 134:3 135:6 136:21,22 responses 136:23 responsibility 116:8</p>	<p>responsible 144:18 restated 7:5,6,6 retail 31:1 34:4 38:13 51:14,17 51:20,24 53:23 54:18,20 87:20 87:25 88:3,13 88:15,24 89:5,8 89:14 91:6 112:14,17 118:13 137:22 153:1 retailers 61:11,20 return 49:6 returned 47:11 56:5 revenue 123:15 123:18 124:3,6 124:14,18,20 125:4,11,22 126:3,10,15,21 127:8,24 128:24 review 157:13,16 reviewed 155:6 revised 141:15 Rhode 29:4,22 30:1,6 55:14 RI 30:1,3 right 15:8 16:21 20:7 21:13 22:1 22:13 24:5 25:6 27:16 28:13 31:16 32:14 33:7,14 34:12 39:19 43:1 45:18,19 46:4 53:3,12 57:1,25 58:7,14 60:7 66:3,5 69:12 77:12 78:1 84:19 87:3 95:6 96:16 114:8 125:8 136:3 143:25 150:2 153:18</p>	<p>right-hand 13:25 rights 63:1 Road 26:5 Roger 4:8 26:20 27:2,8 98:4,7 Roger's 26:22 rough 124:10 125:13 round 108:15 route 30:3 Rule 80:11,16 rules 6:20 run 51:1 95:17</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>s 2:1 110:23 safekeeping 157:18 sale 17:11,15,25 18:1,10,12,13 18:15 24:1,8,19 25:2 32:18 52:20,23 53:5 59:22 61:21 63:22 64:5,10 64:12,15,17,17 65:7 66:17 67:2 67:12,16,17 68:5,9,12,13,14 68:17 69:7,8,9 69:17,18,22,23 70:3,6,7,9,10,23 71:3,8,23 72:13 75:16,18,21,25 76:15 77:1 78:2 79:21 80:8 81:1 81:12 82:24 83:2,5,10,25 84:4,15 85:17 85:19,23 86:14 87:4 91:3 94:7 96:6 100:7 104:11 108:11 108:18,24 109:14,15,16 111:13 137:22</p>	<p>137:25 138:6,8 sales 18:17,20 19:3,5,8 20:5,8 20:13,20 23:9 24:7 27:2 32:13 32:15,21 51:12 59:17 61:4 81:21 82:8 84:10 95:19,23 96:2,11,22 103:25 105:20 111:20,24 120:13,15 122:20,24 123:6 123:8,15,18 124:3,7 125:5 125:11,22 126:2 126:10,16,22 127:8 129:2 147:11 148:6,10 148:13,17 149:6 151:10,14 152:17 sample 29:10,12 29:14,19,20 116:6 117:15 samples 29:24 40:1 52:3,4 114:15,18,19 115:3,21 117:2 117:9,13,19,25 118:9,25 119:3 119:7,11,19,23 120:14 Santa 1:20 2:18 6:14 8:12,13,18 8:25 9:3,17,17 9:19 11:20 18:16 19:18 107:7,8 121:5 121:10 157:2,6 157:13 saw 57:10 114:10 114:12,13 154:14 saying 43:25,25</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

78:15 138:11	91:16 93:9,16	101:10	sir 38:6	153:9,22 154:2
140:4 141:4	94:10 97:22,25	shipped 12:5	sitting 32:10	sole 10:8 11:8
says 13:22 14:17	98:3,7 100:17	36:24 87:1,4	96:16	28:4 59:2,4
22:12 23:3,5	102:6,7,11	99:21 101:3,20	situation 112:17	145:4,6
41:1 87:7,14	107:15,16	101:22 102:1,18	125:2	somebody 145:3
101:4 134:15,18	112:14 113:19	103:10 105:10	sixth 75:3	somewhat 81:4
134:25 135:11	114:2 138:24	shipping 28:25	skipping 45:17	sorry 11:2 16:25
135:12,14,20	141:10,17,21	29:1,2,20	slightly 72:22	19:3 26:2,10
137:4,6 148:21	142:15,18,22,25	shops 19:23 38:14	slip 25:9	29:4 34:14 37:1
school 8:11,15 9:2	143:3,4,10	82:21	small 27:11 47:21	39:12 42:4
scope 49:20 80:10	152:4,19 153:16	shorthand 6:4	52:2,5 57:12	81:17 84:20
Scotts 26:5	selling 23:14	156:5,9,23	118:25 123:22	90:11 98:6 99:5
scroll 148:22	24:14 51:13	157:1	137:14	100:18 109:1
se 73:22	59:18 60:3	shortly 18:22	smoothly 6:20	112:24 119:15
sealed 157:17	87:20,20 89:7	141:16	soil 10:11 16:17	121:18 122:11
search 48:23	91:18 112:17	shovel 101:18	16:18,19 17:3,5	129:21 140:21
second 55:12	113:23 120:3,7	show 13:16,17,17	soils 10:12,16	142:16 145:9
108:11,14,15,24	sells 10:8 51:14	22:1,3 41:11	sold 12:25 19:2,25	146:1 147:14,16
113:2 139:17	51:15	42:20 56:24	20:14,18 63:17	sort 9:19 12:24
145:25 146:22	sending 29:24	showcase 113:13	64:24 65:3,9	16:10,14,15,20
147:3 149:25	sense 108:22	showed 49:21	66:9,12,14 73:2	18:22 19:17
seconds 138:18	sent 29:10 54:17	106:11 111:2	75:11,13,14,15	44:10,23 47:7
see 7:2 22:24 24:3	76:23 118:6,24	showing 31:2	82:14,17,21	51:16 54:17
27:5 29:16 31:5	138:1 157:18	43:24 98:19	87:11 88:12,18	56:6 57:12
34:6 36:21	September 41:23	123:10	88:24 89:4 91:9	66:24 76:4
45:24 46:2,9	42:12 149:1	shown 90:18,20	91:11,22,24	116:15 118:24
66:20 72:4	Serial 1:3 64:6	90:24 111:8,12	92:12,13,20,21	141:20 143:6
78:15 81:9	series 14:2 76:22	122:7,17 123:8	93:6,24 98:11	sorts 40:1
113:10 126:6	Service 3:18,19	shows 37:9 39:20	98:16 99:1,17	sounds 78:1 136:3
140:19 141:15	services 9:7 21:23	39:20 56:15,17	99:25 100:1,5	South 8:11
148:23 151:18	22:16 48:6	56:21 113:11,13	100:10,19	Sparks 56:25
seeds 52:4	60:24	113:16	101:15 102:5,15	112:22,24 113:2
seeing 25:25	set 6:19 77:22,23	side 16:16 66:22	103:6,11,11,14	113:4,6,10,10
140:20 154:19	77:24 111:4	sign 104:7,10,11	103:15,18,19,21	speak 6:24 94:20
seen 56:16,21	136:23,23	104:22 157:11	104:1,14 105:3	128:5
79:16 91:1	sets 77:20	signature 85:1	105:6,15,22	speaking 45:20
140:24 154:8	settlement 80:10	signed 148:24	106:2,6,18	55:10 77:6
selected 16:8,9	80:14,18	significance 16:22	109:4 110:19	100:22 146:6
17:7	shakes 6:25	16:23 17:1	111:6 114:3	specialty 10:11
sell 51:14 56:1,7	shareholder 59:2	signs 33:25 34:1,2	123:24 124:20	13:12 55:25
63:25 64:2,20	59:4 145:4,7	34:3,21,24	126:4 136:24	specific 13:8 21:7
67:18,21 68:2	shareholders 59:3	105:18	137:2,7,11	82:16 88:8
71:10 85:7 86:1	shares 145:8,10	similar 50:3	142:12 143:19	114:5 125:16
86:4,5 87:15,23	shelf 154:10,16	simply 7:6 93:19	147:23 148:3	131:17 138:3
88:1,5,9,14 89:9	ship 12:7 29:19	104:6	150:25 151:5,20	139:15 143:4
89:14 91:5,6,7	86:18 100:23	Sincerely 157:21	151:25 152:12	specifically 13:3,8

21:11 78:11 87:9 112:2 118:4,14 147:4 specifics 152:8 specify 115:2 spell 11:22 38:4,5 spend 133:25 136:11,14 spent 130:6 spiel 10:10 splitting 125:15 spoken 94:14,18 stab 126:17 stamp 34:11 56:6 standard 6:20 standing 151:16 stands 12:23 start 40:13 100:13 114:22 117:12 started 20:25 starting 10:3 43:9 99:15 starts 39:12 state 6:11 13:19 27:5,13,20 29:4 29:22 36:21 55:16,18,24 56:1,2 69:19 73:22 84:7 126:1 142:4 143:1,8,13 147:10 154:4,14 stated 128:23 129:15 134:3,8 135:6 136:21 137:1 statement 5:6 26:14 43:24 49:24,25 55:11 67:6 142:2 149:13 statements 44:3 states 1:1 5:7 19:22,24 56:8 142:16,18,23 143:1,9	Stateside 42:2 stating 124:13 125:9 126:4 127:7 154:9 stations 47:6,13 status 33:2 stayed 39:2 step 21:10,19,19 115:7 stickers 130:15 132:11,12,17,21 132:25 133:1,6 133:17 stipulated 157:16 stopped 45:7 store 39:9,25 40:7 40:8 51:15,17 51:20 54:20 87:20,25 88:24 95:9 104:20 105:1,15 137:22 138:9 150:21 151:2,7,20,25 152:13 153:10 153:23 154:3,10 154:17 stored 95:11 110:10 stores 19:19 20:14 38:13 51:24 53:23 54:18 88:3,13,15 89:5 89:8,14 91:6 112:14,18 118:13 stream 54:13,25 Street 1:19 2:18 157:2,13 stuff 133:19 submit 139:20 140:12,17,22 submitted 34:20 139:5,24 140:10 141:3 148:25 subscribed 156:18	substrate 10:11 subtleties 74:8 such-and-such 72:16 Suite 2:5,12 summer 9:4 Sunshine 4:9 26:23 27:3 97:20,22 98:1 supplied 90:5 supply 31:1 40:11 40:19 42:16 57:16 91:8 suppose 66:11,20 68:1 93:7 143:6 153:11 supposed 58:11 sure 16:8 19:1 28:13 38:20 41:21 42:15 45:14 47:16,17 48:20 49:22 50:25 51:9 52:25 57:22 58:2,24 68:19 79:2 82:12 83:8 95:10 97:21 100:16 104:8,12 105:17,20 107:18 109:10 109:24 111:17 115:16 122:5 123:23 126:6,9 130:17 133:14 133:23,24 140:6 140:7,25 141:2 146:9 148:15 surrounding 74:16 suspended 33:4 sworn 6:4 Swyers 2:3 3:3 6:8,9 8:6,8 12:13,15 14:12 14:14 15:11,13 15:25 16:2	28:17,21 30:16 30:18 31:10,15 31:16 35:1,3,22 35:24 37:4,6,23 37:25 41:7,9 44:6,8 46:23,25 48:10,12 53:7,9 54:3,5 55:2,4 56:12,14 57:19 57:23,25 65:10 65:10,12,13,18 65:25 66:4 67:4 67:13 68:23 69:12,25 70:12 71:12 72:1,6,12 72:19 73:6,10 73:19 74:6,15 74:25 77:4,10 78:6,9,11,13 79:24 80:3,9,19 81:8,13,16 83:12,20 84:12 92:1,17 93:11 93:18,22 96:13 97:13 100:21 115:6,24 116:4 116:11 117:22 121:17,19 122:12 127:14 127:19 128:3 130:20,24 134:14 135:10 137:3 138:13,20 143:25 144:2,13 144:14 145:1,5 145:6,22,24 146:2,16 147:1 147:2 149:9,15 149:25 154:21 system 127:3	52:5 70:18 71:2 71:7 taken 138:21 156:9 157:10 takes 140:14 talk 20:22 109:6 talked 20:11 32:14 51:22 109:10,11 113:3 146:11 152:6,22 talking 20:25 96:15 109:5,9 114:21 131:10 131:11 146:11 talks 52:2 tape 36:9 TAPS 9:6,12 Tasha 56:25 112:22 113:4,6 113:10 tax 31:1 technically 73:11 teleconference 6:24 telephone 2:2 94:19,20 108:10 108:18 Telephonic 1:14 3:10 7:22 television 48:14 tell 6:5 12:18 13:20,20 14:3 14:22 16:6 23:7 23:24 24:18 25:7 26:12,18 27:25 29:8 30:9 33:20 34:13,18 35:5 43:13,23 47:1 48:3,17 50:2 54:14,21 54:22 56:23 57:7 69:6 107:3 term 10:18 16:3 16:23 17:1 22:2 48:20 terminology
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

65:14 92:3 terms 32:20 66:22 78:24 109:20 testified 6:6 18:25 24:13 58:14 59:22 62:16 63:21 66:12 69:8,16 71:14 82:24 91:21 92:11,20 107:15 117:18,24 129:18 148:17 149:15 150:5,8 150:13,18,24 151:4,9 testify 26:13 58:12 67:10,11 69:21,23 85:12 85:17 99:24 100:3,8 124:22 144:11 146:9 testifying 58:8 65:2 67:1 70:5 83:9 84:3 85:22 87:3 103:13 132:11 146:2 testimony 13:6 19:1 40:22 53:17 67:5,14 68:25 83:13 91:23 92:7,13 92:19,23 137:6 144:3 148:10,13 148:19 149:5,18 149:22 155:8,10 thank 11:25 13:24 14:6,8,18 17:6 19:14 24:25 28:12,24 37:16 37:23 38:8 39:19 40:16 53:19 57:19,23 63:15,21 66:6 71:16 77:11 84:19 89:9 93:22 94:3	116:12 121:19 129:1 131:4 141:9 142:7 144:13 147:1 151:18 154:21 thereon 136:25 thing 50:1 130:5 things 9:19 13:13 13:17 28:25 32:21 40:2 72:20 129:16 150:1 think 8:17 9:12 11:18 18:25 21:20 22:23,25 26:11 27:6,15 29:4,15 33:25 38:23 40:5,9 42:1 44:13 47:6 48:20 50:21 62:24 63:20 66:5 67:4,5,6,13 67:14,16 68:23 78:16,17 91:13 94:9,12,13,16 94:17,20 98:18 99:4 100:6 106:13 107:10 107:20 108:2,16 109:25 116:12 116:13,17 125:7 126:12 129:12 129:15 130:5,11 130:11 131:5,5 131:17 141:7 149:10,25 152:6 152:14 154:21 thinks 69:7 third 21:23 22:17 34:10,18 55:15 123:3 129:7,10 129:13 133:1 Thompson 128:4 thought 16:11 25:16 68:16 79:13 125:1	148:3,6 thousand 8:21 64:3 67:22 140:19 141:7 147:13 Thursday 1:17 till 113:25 time 1:18 6:24 7:8 7:8 9:13,24 10:24 11:4 16:3 16:10,13,20 17:6,10,25 18:9 19:2,9,25 20:19 25:19 28:19 29:21,23 31:17 32:13,22 37:10 37:25 39:4 50:24,25 52:7 56:16,20 60:7 62:15 68:11 70:22 71:7 75:3 82:2,9,14,17 88:4,13 94:21 100:21 106:19 106:25 107:6 108:4 109:21 111:6,12,12 113:3 114:8 120:1,2,7 121:12 128:6 132:22 134:22 135:15 137:8 140:15 143:19 147:19 149:3 153:2 154:13,17 156:9 times 69:14 71:14 72:7 75:1 106:8 108:3 118:24 today 6:23 7:24 32:10,14 39:18 56:20 58:8 79:4 90:9 100:3,8 124:22 129:18 141:25 146:7 148:19 149:6	150:8,13 told 119:13,18 top 23:2 36:11 111:1 113:8 tore 121:10,13 122:3 torn 121:6 122:6 122:16 total 118:8,19 119:1 123:14,18 124:3,6,14 125:4,10 126:2 126:10,15,21 127:24 128:18 128:24,24 129:2 134:4,9 135:1 135:22 town 27:11 47:21 trade 37:9 39:19 39:20 41:11 42:20 56:15,17 56:21,24 113:11 113:13,16 trademark 1:1,2 22:6 31:18,19 32:16,17,23,25 35:14 37:8 51:8 56:19 62:2,3,7 62:12,21 63:1 64:6 66:19 67:7 68:10,18 70:16 71:18 72:10,15 72:20 73:18,20 73:21 74:9 75:9 75:10 78:25 83:1,5 98:15 99:7,11 103:23 104:4 114:9 132:13 134:20 134:23 144:4,6 144:19 145:17 trademarks 57:5 Trader 4:7,20 26:14 43:14,19 43:25 44:4,9,10 44:18,20 45:2,7	transacting 60:16 60:19 transaction 151:16 transcribed 156:10 transcript 72:5 155:6,9 156:11 157:10,11,13,15 157:17 transmit 90:12 transmitting 111:15 Transportation 9:6 trash 111:3 travel 102:23 103:1 tree 90:3 trend 16:20 Tresador 97:20 97:23 98:1 trial 1:2,14 3:10 7:23 80:3,12 127:15 tried 23:14 48:22 trouble 99:3 truck 101:20,20 101:24 102:7 108:4 trucking 21:23 22:17 truckload 101:17 truckloads 18:19 true 8:3 12:10 14:9 15:8,22 28:14 30:13 31:7 34:22 35:20 37:2,20 41:4 44:3 46:19 48:7 53:4,25,25 54:24 56:9 88:18 137:10 155:9 156:11 truth 6:5,5,6 truthful 146:6
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

truthfully 58:12 146:9 try 11:4 65:25 66:23 69:15 trying 16:17 19:4 129:25 130:24 136:20 139:17 turning 39:7 twice 74:20 91:1 two 4:20 8:21 64:2 67:22 140:19 141:7 147:13 type 108:1 types 48:18 101:9	89:20 106:21 107:23 unique 55:24 112:12 unit 118:14 United 1:1 143:1 143:8 university 8:12,13 9:1,3 Unlimited 19:16 19:17 20:2 25:24 26:1,2,3 31:9 82:20 unusual 111:2 UPrinting 133:3 UPS 4:6 25:22 URL 38:4,5 use 17:8 32:7,18 32:21 34:2 36:15 62:3 68:20 69:2,17 69:18 71:19 72:25 73:3,14 73:17 74:11,13 74:17,23,23 75:7 78:21 95:15 129:20 134:20 135:2,23 136:16 144:4,5 144:19 145:16 user 51:25 87:21 87:25 91:10 users 38:15 85:8 88:18 89:9,11 usually 41:15	51:23 60:23 Ventura 2:11 venture 87:8 verbal 6:25 153:11 verbally 94:24 131:12 versed 66:22 versus 13:4 Vienna 2:5 viewed 79:4 Virginia 2:5 visited 54:18 volume 122:19 141:20 vs 1:7 157:7	32:14 37:10,10 37:11 39:22 40:2 56:14 57:12 wearing 107:24 Weathertop 4:5 20:18 25:9 web 38:20 53:4 website 4:17,24 37:9,19,21 38:11,17,21,25 39:2,3,18 48:23 49:2 50:8 52:15 52:17,20,24 53:5 129:16 130:6 140:3 149:16,23 websites 52:9 week 132:18,19 143:22,22 weekdays 157:14 weeks 49:15 51:5 weight 141:21 went 8:10,12 20:19 39:1 weren't 49:5 West 2:4 19:20,21 WHEREOF 156:17 wholesale 125:2 wholesalers 61:12 61:20 112:15 Wild 40:7 41:18 wish 157:11 withdraw 77:8 80:20 82:25,25 96:17 136:12,13 withdrawn 4:13 78:12,12,19 withheld 128:1 withholding 127:22 witness 65:12,14 65:24 66:3 67:6 69:2,4,6,7,9,21 69:23 70:14,15	71:13,15 72:10 73:2,4,8,11 74:2 75:5 79:25 81:17 83:13,16 83:17,18,22 84:20 90:10 93:23 97:17 115:15 116:14 116:23 117:7 120:20 121:16 121:20 128:13 130:23 131:3 142:6 144:11 149:10 155:2 156:17 witnessed 106:17 wondering 57:18 130:16 words 48:21 49:8 49:18 85:4 135:16 work 21:20 49:3 50:11 125:3 worked 9:1,2,5,7 working 54:15 works 139:22 Worms 29:3,22 worries 42:5 worth 49:6 123:25 126:5 wouldn't 101:12 110:6 123:17 124:10 wrap 36:9 write 60:23 61:3,7 61:10 84:23 written 54:17,19 137:19,23 138:4 138:8 153:3,7 153:14,20,25 wrote 84:25
U		W		X
U-c-i-n-s-k-i 11:24 U.S 31:19 32:25 UC 8:25 9:17 Ucinski 11:18 Ukiah 4:23 40:3 40:20 45:13 46:9,17,20 Uline 4:16 36:4,5 36:7,8,9 ultimate 69:2 ultimately 12:5 81:24 unannounced 108:14,17 unaware 136:10 underneath 85:2 understand 7:3 51:9 67:7 70:17 72:20 74:8 81:25 82:1 84:6 95:10 96:8 97:3 116:2 117:16 148:15 understanding 12:22 65:17 75:8 78:24 151:12 unfortunately	V	vague 115:1 Valley 26:6 van 108:3 vehicle 110:23 vendor 39:23 41:11 42:8 51:21,23 56:15 56:17 57:15 vendors 39:24	wait 83:15,15,15 125:24 want 8:21 10:16 19:1 41:13,14 42:10,11 69:14 73:7 90:1 107:5 108:3 115:13 116:16 123:11 130:18 132:8 wanted 20:19 127:19 wants 71:15 75:2 wasn't 21:1 58:24 104:12 108:16 Water 1:19 2:18 157:2,13 way 29:3,22 50:3 90:6,24 118:9 130:10 133:20 143:3 148:22 156:14 ways 72:7 we'll 28:17 41:7 48:10 53:7 56:12 149:10 we're 18:24,25 115:7 138:16 we've 15:6 20:18	X 3:1 X100 2:6

Y	000019 14:5	13 4:5 25:7 28:14	2-fold 16:10	2010 8:22 10:1,24
yard 86:3 87:19	000082 34:17	133 18:8	2-page 43:10	11:5 13:23
87:24 88:2,7,11	000095 39:11	14 3:13 4:6 25:20	2-slash-24-slash...	18:16,25 19:2,5
152:18	1	28:14	25:5	19:8,11,11 20:9
yards 107:14	1 3:10 6:1 7:18	144 3:3	2/24/2011 120:11	24:14 38:10,22
119:1 122:23	12:3 119:1	146 5:8	120:18	38:24 58:15,20
yeah 8:17 29:21	1-dash-9-dash-...	15 3:15,16 4:7	20 4:13,13 33:9	58:21,25 59:1,9
30:8 34:14	131:4	26:9,10,13,14	75:1 155:15	59:12,16,20,24
39:14 42:21	1-slash-20-slash...	28:19 43:2,7,23	2004 8:16	60:2,5,9,12,14
45:5,23 48:20	23:5	44:2,7 45:3	2005-ish 9:11	60:17,20 61:5,9
49:25 50:11	10 3:23 21:12	46:11 121:17	2008 9:12 16:9,9	61:12,22 62:2,4
55:8 59:1 63:20	24:6 28:14	150 3:5	17:14 18:1,23	62:8,13,18,18
65:18 66:6 70:1	90:11,18,21,24	151 2:5	18:25 19:5	62:21 63:16,18
80:19 83:22	94:8 95:3,8,11	16 4:8 26:8,9,17	26:24 63:23	64:1 66:11,15
84:6,13 85:19	95:16 111:8,12	28:14 121:16,18	64:1,3 65:1,4	67:3 68:3,15,21
85:25 87:2 89:2	111:16 147:3	121:18 122:17	66:13 67:3,19	69:22,24 70:4,7
99:3 100:6	10-slash-12-slas...	123:4,9,10	67:22 68:17,20	70:9,20 72:14
101:16 109:5	23:9	16830 2:11	78:22 91:19,22	73:16 85:24
111:9 115:15	100 97:21 145:8	16th 108:11,25	91:25 92:13,15	86:2,15 87:6,11
118:6 120:16	145:10	109:4,14,18	93:10,17 100:23	88:5,10,16,20
121:13,20 124:2	10th 54:23	110:2,5,8,19	101:8,9,21,23	88:25 89:6,10
132:5,16 133:14	11 3:24 24:17	111:21,25 149:1	102:3,4,16,19	89:15 91:12
138:10,19 140:5	28:14	17 4:10 21:13,15	102:25 103:1,5	94:11,15 95:20
140:14,24 141:7	11-slash-30-slas...	27:24 28:14	103:10,12,14,19	95:24 96:2,6,12
148:6	14:25	120:21 122:8,11	103:23 104:11	96:19,23 97:1,7
year 9:4,7 41:16	11,000 147:17	122:16 123:4,9	104:15,20 105:1	101:8 102:5
41:17,24 42:8	12 3:12 4:3 24:25	17th 42:22,24	105:4,6,11	106:3,6 108:11
42:11,23 114:5	28:14 118:22	18 4:11 28:22	113:24 118:18	108:25 109:4,14
136:6,18,19	120:12	30:16	122:21,22 123:1	109:18 110:2,5
147:12 148:7,18	12-dash-3-dash...	18th 76:7,13	123:8,16,20	110:8,19 111:7
years 9:9 134:4,9	22:12	19 4:12 26:23	124:1 128:19	111:21,21,25,25
136:13,19 137:8	12-slash 24:11	30:19 31:11	129:3,8,9	113:11,12,14
137:12 147:12	12-slash-1-slash...	1st 85:23 86:2,15	131:24 132:2,15	114:11,12 117:8
154:11	36:23	87:6,11 88:16	133:11,15	118:18 124:4,8
York 19:24 55:17	12-slash-16-slas...	2	139:25 144:16	124:15,20 125:6
82:23	24:21	2 3:11 11:11	144:20 150:15	125:11,23 126:3
Yup 43:5	12-slash-8-slash...	12:13 14:3	150:17,21 151:2	126:5 129:14,20
Z	24:4	26:19 28:25	151:7,11,15,21	129:24 130:4,8
Zenia 18:8 102:24	12/1/2010 85:20	29:5 42:7,8	151:25 152:5,13	130:10,13,16
103:2	12/3/2010 22:25	43:15 50:11	152:17 153:17	131:7,9,15,18
zeros 34:12	12/5/2010 95:6	72:7 77:20	153:18 154:11	132:2,3,4,6,8,10
zip 27:5 118:23	107:13	102:9 107:13	154:17	132:12,14,15
0	12:00 1:18	119:1 138:18	2009 8:21 91:16	133:6,11,15
0000 14:2 34:12	12th 40:25 79:19	2-and-a-half	113:17,20 114:4	139:4,10,21,21
	80:15,24 117:8	138:15 146:5	129:11 131:20	140:1,10,21,22
			154:11	141:5 142:5,10

142:19,23,25 143:9,14 147:17 147:21 148:11 148:14,18 149:7 149:17,23 154:11,12,17 2011 20:6 21:1 32:9 54:23 64:8 64:9,13,16,21 64:21 66:18 67:3 68:8,14,21 70:4,10 71:4,8 71:11,19,25 73:1,14 75:19 75:23 76:1,17 77:2 78:3,22 82:21 83:2,3,7 83:11 84:1,5,17 114:13 126:11 126:16 130:17 132:7,18 136:20 141:14,18 147:16 149:17 149:23 2011-dash-1-da... 35:18 2012 21:1 31:22 31:22 34:9 40:25 41:1,17 41:18,25 42:9 43:17 45:5 46:11 49:11 50:21 53:2 57:2 129:19,22 136:12,19 147:15,19,19 2013 42:24 76:7 76:13 77:19,25 79:19 80:15,24 136:12 147:15 148:21 149:1 2014 1:17 139:12 140:18 156:18 157:4,8 21 4:14 33:20 34:18 35:1	130:21 21st 64:9,13,16,21 66:18 67:3 68:8 68:14,21 70:4 70:10 71:3,8,11 71:18,24 72:25 73:14 75:19,23 76:1,16 77:2 78:3,22 83:2,3,7 84:1 22 1:17 4:15 35:4 35:5,20,22 130:21 141:7,8 157:8 22180 2:5 22nd 139:12 140:18,21,22 141:5 23 4:16 35:25 36:3,4 24 4:17 37:14,23 24th 43:17 25 4:18 40:14 41:7 147:5,7,9 26 4:20 43:4,7,9 44:2,7 45:3 26,253 136:24 27 4:21 47:25 48:3 134:19 135:7 136:5 27's 48:2 28 3:18,19,21,22 3:23,24 4:4,5,6 4:9,10,23 45:17 46:24 136:22 28th 139:21 140:10 29 4:24 52:12 53:4,8 107:1 2nd 41:1 <hr/> 3 3 3:13 12:17 14:6 14:12 45:8 69:8 71:14 72:7,7 123:1 139:8,11	139:13,18 30 4:11 5:4 44:1 53:10,25 54:4 157:16 30-day 157:17 30th 156:18 31 4:12 5:5 54:6 55:3 32 5:6 6:1 55:6,6 55:9 56:12 142:6 33 5:8 107:1 146:19,24 149:11 34 4:14 107:1 344 2:4 35 4:15 360 2:12 362645 27:16 37 4:16,17 29:23 30:4 380-1900 2:13 39,000 147:15 3rd 13:22 34:8 58:24 59:1,9,12 59:16,20,23 60:2,4,9,12,14 60:17,20 61:5,9 61:12,21 62:2,4 62:8,13,17,21 63:16,18 139:10 139:21 140:1,3 <hr/> 4 4 3:14 14:15 15:11,20 34:12 45:8 71:14 72:7 134:4,9 137:7 137:11 138:16 147:12 4-inch-by-6-inch 35:6 4-slash-24-slash... 43:16 4:55 154:23 408 80:11,16	41 4:19 423-5911 2:19 157:3,20 423-7189 2:19 44 4:7,20 46 4:23 478 6:14 157:6 48 4:22 <hr/> 5 5 3:16 15:14,17,25 157:4 5-by-5 34:1 5-slash-2010 24:12 5-slash-31-slash... 47:8 5-slash-5-2011 31:6 5,000-square-foot 12:3 5:00 157:14 53 4:25 54 5:4 55 5:5 56 5:7 58 3:4 5th 111:7,21,25 <hr/> 6 6 3:3,10,12,13,15 3:16,17,18,19 3:21,22,23,24 4:4,5,6,7,9,10 4:11,12,14,15 4:16,17,19,20 4:22,23,25 5:4,5 5:7 14:2 21:12 21:12,15,22 26:20 28:13 84:21 6-dash-I 26:23 6-slash-2-slash-... 30:11 6/11/2008 26:22 6/19/2012 43:21	60 134:23 135:8 135:15 60,000 134:10 621-A 1:19 2:18 157:2,13 69,000 147:17 <hr/> 7 7 3:19 21:12 22:14,14 28:13 122:23 7854 29:22 79,000 147:20 7900 147:16 <hr/> 8 8 3:10,20 21:12 23:7 28:14 117:7 800 2:6 818 2:13 82 34:13 831 2:19,19 157:3 157:20 85/631,038 1:3 85760914 64:6 86 43:10 87 43:10,18,19 8th 142:5,10 <hr/> 9 9 3:22 21:12 23:24 28:14 9:00 157:14 906-8626 2:6 91208923 1:7 91436 2:12 9332 2:17 156:6 95 39:12,13 95060 2:18 157:2 95061 1:20 6:15 157:6 95066 26:6 96 39:8,11,13 97 39:8,13
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

DECLARATION OF WITNESS

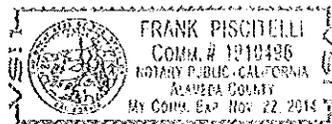
I, LEE McPHERSON, declare under penalty of perjury that I have reviewed the foregoing transcript; that I have made any corrections, additions, or deletions in my testimony that I deemed necessary; and that the foregoing is a true and correct transcript of my testimony in this matter.

Dated this 13th day of JUNE, 2014, at Berkeley, CA.

[Handwritten signature of Lee McPherson]

LEE MCPHERSON

State of California, County of ALAMEDA
Subscribed and sworn to (or affirmed) before me
on this 13th day of JUNE, 2014
by LEE ROBIN MCPHERSON
proved to me on the basis of satisfactory evidence to
be the person(s) who appeared before me.
Signature: [Handwritten Signature]



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board

Serial No. 85/631,038
For the mark: NATIVE NUTRIENTS

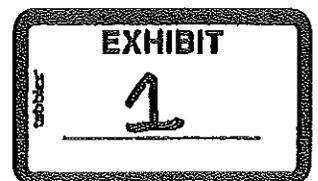
Mt. Eden Organics, Inc.	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91208923
	:	
Native Nutrients,	:	
	:	
Applicant.	:	

NOTICE OF TELEPHONIC TRIAL DEPOSITION

COMES NOW Opposer, Mt. Eden Organics, Inc. (hereinafter "Opposer"), by and through counsel, The Trademark Company, PLLC, in accordance with 37 C.F.R. § 2.124 and § 703.02(a) of the TBMP hereby notes the telephonic trial deposition¹ as set forth below:

Name of Witness:	Mr. Lee McPherson
Address:	Mt. Eden Organics, Inc. PO Box 478 Santa Cruz, CA 95061
Officer To Administer Deposition:	Hartsell and Olivieri Court Reporters 621-A Water Street Santa Cruz, CA 95060 (831) 423-5911
Date and Time of Deposition:	May 22, 2014 at 12:00 p.m. local time
Place of Deposition:	Hartsell and Olivieri Court Reporters 621-A Water Street Santa Cruz, CA 95060

¹ Counsel for Mt. Eden Organics, Inc. will attend via teleconference. The witness will be in attendance at the Place of Deposition.



DATED this 19th day of May, 2014.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

Matthew H. Swyers, Esquire

344 Maple Avenue West, Suite 151

Vienna, VA 22180

Telephone (800) 906-8626 x100

Facsimile (270) 477-4574

mswyers@TheTheTrademarkCompany.com

Attorney for Opposer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board

Serial No. 85/631,038
For the mark: NATIVE NUTRIENTS

Mt. Eden Organics, Inc.	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91208923
	:	
Native Nutrients,	:	
	:	
Applicant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 19th day of May 2014, to
be served, via first class mail, postage prepaid, upon:

Paulo A. de Almeida
Patel & Almeida, P.C.
16830 Ventura Blvd., Ste. 360
Encino, CA 91436

Courtesy Copy to:
paulo@patelalmeida.com

/Matthew H. Swyers/
Matthew H. Swyers



Feed, Fertilizer and Livestock Drugs
Regulatory Services Division of Inspection Services

Firm Name	MT EDEN ORGANICS
License ID #	103124
Product Name	NATIVE NUTRIENTS MUSHROOM COMPOST 1.7- 1.29-1.65
Type of Fertilizing Material	Specialty Fertilizer
Is this an Organic Input Material (OIM)?	No

Registration ID#	103715
Status	Data/Revisions Required

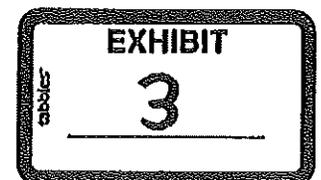
Guaranteed Analysis(%)	
Primary Nutrient	
Total Nitrogen (N)	1.7
Available Phosphoric Acid (P2O5)	1.29
Soluble Potash (K2O)	1.65
Secondary Nutrient	
Calcium (Ca)	
Magnesium (Mg)	
Sulfur (S)	

Guaranteed Analysis(%)
Micro Nutrient
Boron (B)
Chlorine (Cl)
Cobalt (Co)
Copper (Cu)
Iron (Fe)
Manganese (Mn)
Molybdenum (Mo)
Sodium (Na)
Zinc (Zn)

Heavy Metals (ppm)
Analysis
Arsenic (As)
Cadmium (Cd)
Cobalt (Co)
Copper (Cu)
Lead (Pb)
Mercury (Hg)
Molybdenum (Mo)
Nickel (Ni)
Selenium (Se)

Legend:

BDL - Below Detection Level
ND - None Detected



000023

HP MediaSmart
Photo

X
5
-

Download from Print
Receipt Type: Firm Data
01/17/2010

Last loaded file:
Checked by John
Buyer/Project: 01/17/2010

Sub: Country

FIRM:
 Firm Name: NET EDDON ORGANICS
 Firm Phone Number: (818) 252-5555
 Fax Number:
 Federal Identification Number:
 Country: United States
 State/Province: CA
 City/Town/Village: San Dimas
 Zip/Postal Code: 91768
 Is the mailing address the same as the physical address?
 Country: United States
 State/Province: CA
 City/Town/Village: San Dimas
 Zip/Postal Code: 91768
 Firm Name: NET EDDON ORGANICS
 Firm Phone Number: (818) 252-5555
 Fax Number:
 Federal Identification Number:
 Country: United States
 State/Province: CA
 City/Town/Village: San Dimas
 Zip/Postal Code: 91768
 Is the mailing address the same as the physical address?
 Country: United States
 State/Province: CA
 City/Town/Village: San Dimas
 Zip/Postal Code: 91768

ADD FIRM/ORGANIZATION

ADD FIRM/ORGANIZATION

ADD FIRM/ORGANIZATION

Firm Name: NET EDDON ORGANICS
 Firm Phone Number: (818) 252-5555
 Fax Number:
 Federal Identification Number:
 Country: United States
 State/Province: CA
 City/Town/Village: San Dimas
 Zip/Postal Code: 91768
 Is the mailing address the same as the physical address?
 Country: United States
 State/Province: CA
 City/Town/Village: San Dimas
 Zip/Postal Code: 91768



HP MediaSmart

www.hp.com

FILE NAME	DESCRIPTION	DATE	TIME	STATUS
LETTER & LABEL	NATIVE NUTRIENTS MUSHROOM COMPOST 7-1-2014-1.65 002311 LETTERS.tif	Feb 26, 2011	1:07:57	application/pdf
updated compost test	composttest02-15-11.tif	Feb 15, 2011	02:49	application/pdf
original labels REVISED FOR 002311 LETTER	NativeNutrientsLabel7-1-2014-1.65.tif	Feb 15, 2011	02:49	image/jpeg
Original Label Submitted	Native Nutrients Mushroom Compost 1.34.1-1.3- Original Label Submitted -c.tif	Dec 2, 2010	09:00	application/pdf
Soil test done on mushroom compost	Mushroomcompost.tif	Dec 2, 2010	05:27	application/pdf
Soil test done on mushroom compost	Mushroomcompost.tif	Dec 2, 2010	05:27	application/pdf
Soil test done on mushroom compost	Mushroomcompost.tif	Dec 2, 2010	05:27	application/pdf

Order | Settings | Control | View | Print

Copyright © 2011 Hewlett-Packard Development Company, L.P.
All rights reserved.
HP, the HP logo, and the HP MediaSmart logo are trademarks of Hewlett-Packard Development Company, L.P.

Report problems to:
hp.support@hp.com



Recent Fertilizing Materials Registration
Type

Enter and complete all required fields (highlighted in red). To submit for processing, click the **REGISTER** button. After submitting from the Firm main page, please click the **Process Cart** button for further payment processing.

Firm: **MT ESEN ORGANICS**

Change by: **Lee McPherson**

Product Renewal:

Renewal Selection: **Renew No Change**

Product Data

License Requirement

Do you have a license for each business and Yes
plant location you receive from the California
Select the number 1= Gardenall Other
for your product

Firm ID: 100029

License: 100206-Fertilizing Materials-272 High way 1

License ID: 100204

Product Analysis and Guarantee(s)

Is there a Guarantee Yes
/No/Yes?

Are there any slow No
releasing phosphorus?
Is the product for Yes
organic food and
crop production?

Is Nitrogen, Phosphorus, Yes
and Potassium (NPK)
Guaranteed?
Any limiting material No
or Synthetic Guarantees
Are there any non-hazard No
pest ingredients?

Product Name, Label, Review, Other

Product Name: **SHED NATIVE NUTRIENTS-MUSHROOM COMPOST 1.7-1.2-1.65**

Product Name: **SHED NATIVE NUTRIENTS-MUSHROOM COMPOST 1.7-1.2-1.65**

Product Name: **SHED NATIVE NUTRIENTS-MUSHROOM COMPOST 1.7-1.2-1.65**

Upload Electronic Copy (click to select - Synapse)
Electronic Copy Selected. Upload of electronic copy of label is required for application to be complete.

Product Name: **SHED NATIVE NUTRIENTS-MUSHROOM COMPOST 1.7-1.2-1.65**

NPK Percentages Total

Estimated Nitrogen (N)	1.7	Standard Deviation	
Estimated Phosphorus (P)	1.2	Calcium (Ca)	
Estimated Potassium (K)	1.65	Sulfur (S)	
Estimated Nitrogen (N)		Sulfur (S)	
Estimated Phosphorus (P)		Sulfur (S)	
Estimated Potassium (K)		Sulfur (S)	



HP MediaSmart
Photo

Does this product fit
into your business
and/or workflow?
Product (PK, P, or M) or
Type (S, P, or M)

Is the Product Sold/Yes
in Packages of 1000?
(S, P, or M)

File Schedule

Type: Original Input National Registration

Period: 2012-2013

Fee Due \$ 100

Fee Due \$ 100

Renewal Amount Due: \$200.00

Total Due \$ 400.00

Payment Type: Check

Start Date: Dec 31, 2012

Deliverment Date: May 1, 2012

There are no pending items

Status: Registered

Serial N

Renewal Suspension N

Attachments

Thumbnail



File Description

File Name

Created By

Attachment Date

File Size

Content Type

Dec 12, 2012

1,102,700

image/jpeg

Lee McPherson

RegisteredMediaSmartPhoto.jpg

non-dm-bid

Jun 12, 2012

955,467

application/pdf

Lee McPherson

NATIVE NUMERALS 2012-2013 NATIONAL REGISTRATION

Letter log for past 1000 products

Jun 4, 2012

25,326

application/pdf

Lee McPherson

COMPLETE LIST OF SUPPLIERS

complete list of suppliers

Jun 4, 2012

27,200

application/pdf

Lee McPherson

COMPLETE LIST OF SUPPLIERS

complete list of suppliers

Jun 4, 2012

24,000

application/pdf

Lee McPherson

COMPLETE LIST OF SUPPLIERS

complete list of suppliers

Jun 1, 2012

98,090

application/pdf

Lee McPherson

NATIVE NUMERALS 2012-2013 NATIONAL REGISTRATION

Letter to FBI

Mar 20, 2012

47,000

application/pdf

David

NATIVE NUMERALS 2012-2013 NATIONAL REGISTRATION

Notice to FBI

David

NATIVE NUMERALS 2012-2013 NATIONAL REGISTRATION

Notice to FBI



Mt. Eden Organics

Home Products About Us Contact Recipes + Tips Mt. Eden Organics Blog

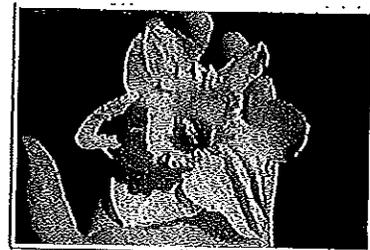
Welcome to Mt. Eden Organics

We are a small, family run wholesale business focused on supplying the very best in indoor and outdoor agricultural needs. Born in 2010, Mt. Eden Organics is the brainchild of Lee McPherson. Lee is dedicated to promoting permaculture, sustainable agriculture and environmental wellbeing.

Where to find Native Nutrients Mushroom Compost

CALIFORNIA

McKinleyville
NHS McKinleyville Store
1580 Nursery Way Suite Q
McKinleyville, CA 95519
(707) 839-9998



Arcata
NHS Arcata Store
639 6th St.
Arcata CA 95521
(707) 826-9998

Eureka
NHS Eureka Store
60 W 4th St.
Eureka, CA 95501
(707) 444-9999



000095

Fortuna
NHS Fortuna Store
357 Main St.
Fortuna, CA 95540
(707) 725-5550

Carlotta
Swain's Flat Outpost
20300 CA HWY 36
Carlotta, CA 95528
(707) 777-3385

Garberville
Humboldt Hydroponics
2010 Tunnel Road
Redway, CA 95560
(707) 923-1402

New Harris General Store
5720 Bell Springs Road
Garberville, CA 95542
(707) 923-7072

Laytonville
Weathertop Nursery
44901 Harmon Dr
Laytonville, CA 95454
(707) 984-6385

Ukiah
Mendocino Greenhouse and Garden Supply
960 East School Way
Redwood Valley, CA 95470
(707) 485-0668

San Francisco
Grow Your Own Hydroponic & Garden Supply
3401 Taraval Street
San Francisco, CA 94116
(415) 731-2115

Santa Cruz
Santa Cruz Hydroponics WEST
815 Almar Avenue Suite K
Santa Cruz, CA 95060
(831) 466-9000

000096

9/23/13

Mt. Eden Organics - Home

Santa Cruz Hydroponics EAST
4000 Cordelia Lane
Soquel, CA 95073
(831) 475-9900

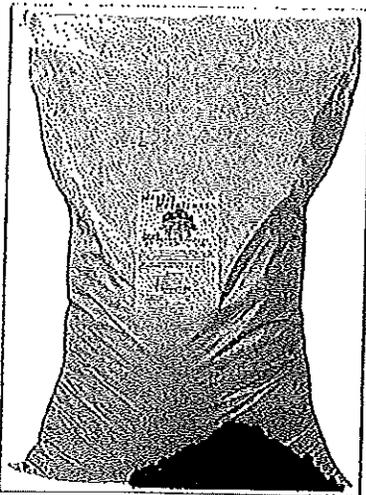
Santa Cruz Hydroponics NORTH
5980 Highway 9
Felton, CA 95018
(831) 335-9990

000097

Mt. Eden Organics

[Home](#) [Products](#) [About Us](#) [Contact](#) [Recipes + Tips](#) [Mt. Eden Organics Blog](#)

Native Nutrients Mushroom Compost



Using the power of mushrooms, Native Nutrients Mushroom Compost has the boost many soils on the market lack. A premium grade soil amendment, it produces stronger, faster, and healthier growth in plants. Native Nutrients is subject to a unique process promoting the development of unrivaled biodiversity, microbial blooms, and beneficial bacteria.

Made from safe and sustainable materials, Native Nutrients Mushroom Compost is pH Neutral and easily mixes with other soils and fertilizers. It boasts a calcium content of over 9% which is essential in combating root and bud rot, nutrient uptake and promotes strong, healthy growth.

It is peat moss based, maintains high trace mineral contents, is fully composted, and will not burn plants with its specially formulated NPK. It greatly increases the retention of water and nutrients, and is full of beneficial life to serve as an ideal inoculum for actively aerated compost teas.

Native Nutrients Mushroom Compost is great for indoor and outdoor use, and maintains no odors. Use as mulch by applying a 2" layer covering all the bare soil surrounding your plant(s); Apply as a soil amendment mixing into your potting soil as needed; or add a pH adjuster such as cottonseed meal, coco coir or rice hulls for an excellent potting soil. Bagged in small batches to ensure consistency and quality, we are proud to provide you with a product that is sure to radically enhance your garden.

Benefits:

000098

- Over 9% Calcium to grow strong, healthy plants and prevent root and bud rot
- Carefully crafted N-P-K that won't burn plants when mixed 1 to 1 or less with your native soil
- High in trace Mineral
- Not wood based and therefore does not leach nitrogen
- Sustainable and responsibly sourced
- Fully Composted (not slimy and smelly as many other mushroom composts can be)
- Increases water retention up to 70%
- Encourages long term soil developments
- pH neutral
- Easily mixed
- Odorless
- Excellent source of aged, quality humus
- Multi-purpose; Can be used as a soil amendment, mulch and fertilizer.

How to use Native Nutrients Mushroom Compost

Spring: Mix Native Nutrients Mushroom Compost with your native soil or potting soil to revitalize and feed your young plants.

Native Nutrients Mushroom Compost is designed to recondition depleted soils as many potting soils on the market contain filler like wood chips, we hope to nourish your plants and bring your soil to life. We recommend mixing our mushroom compost one to four with a potting soil or your native soil then adding an amendment such as worm castings and rice hulls for an extra kick.

Summer: In these gloriously hot summers we need to keep our plants as well watered and feed as possible - we can cover the basics. Use Native Nutrients Mushroom Compost as a mulch to lock in moisture and feed your plants.

Top feed around your plants 1 - 2 inches thick once a week and water in well.

Check our our Recipes + Tips page for our awesome Mushroom Compost Tea recipe!

Mt. Eden Organics - Heal your soil, heal our Earth

000099

Mt. Eden Organics

[Home](#) [Products](#) [About Us](#) [Contact](#) [Recipes + Tips](#) [Mt. Eden Organics Blog](#)

About Mt. Eden Organics



Mt. Eden Organics is a local family business started in 2010 with the intention of changing agricultural, farming and gardening practices for the better. We are Lee and Rose and we employ the years of knowledge and experience from generations before us to excel in what we do. We have long been supporters of organic and eco-friendly gardening and are excited to bring you products that have a transformative effect on how you garden and the plants you produce.

The freedom, joy, and satisfaction that come from growing your own food, herbs, and flowers are often over-looked. At Mt. Eden Organics, we believe that a garden is crucial to independence, sustainability, and wellbeing. Our mission is to promote the importance of gardening in self-sufficiency for our generation and future. We draw on years of advanced organic gardening to create simple,

high-quality, ingredients for your garden.

Our company is not just about what we can sell but what we can give. Please sign up for our newsletter and visit our website and Facebook page to hear about the exciting projects we are working on in the community. With your support we can make a difference and together we can grow communities.

- Lee and Rose

000100

9/23/13

About Us - Mt. Eden Organics

Mt. Eden Organics - Heal your soil, heal our Earth

Mt. Eden Organics

[Home](#) [Products](#) [About Us](#) [Contact](#) [Recipes + Tips](#) [Mt. Eden Organics Blog](#)

Say Hello! We'd love to hear your questions and feedback:

Name *

<input type="text"/>	<input type="text"/>
First	Last

Email *

Phone Number

Comment *

How would you like us to get back to you?

Phone

Email

SUBMIT

000102

9/23/13

Contact - Mt. Eden Organics

Mt. Eden Organics - Heal your soil, heal our Earth

000103

Mt. Eden Organics

[Home](#) [Products](#) [About Us](#) [Contact](#) [Recipes + Tips](#) [Mt. Eden Organics Blog](#)

Recipes

Native Nutrients Mushroom Compost Tea

If you love compost tea you will be head over heels for our Mushroom Compost Tea. Using the unique life in our compost, we've discovered a way to work wonders in your garden.

Supplies needed:

- 2 - 5 gallon buckets
- 1 gallon mature compost
- 1 aquarium pump
- 1 gang valve (to divide the air supply into several streams)
- 4 gallons of water
- 3 feet + of aquarium hose
- unsulfured molasses

First we will set up the brewing bucket: Attach 3 separate pieces of hose at least 12" long to the gang valve.

Place the gang valve onto the bucket and make sure the hoses reach the bottom of the bucket.

000104

Now that the bucket is set up it is time to start adding ingredients:

Add the water, filling the bucket to within 6 inches of the top. (If you are using water from a public

water source, run the pump and bubble air through the water for at least an hour before adding the water to the compost. This allows any chlorine to evaporate. Chlorine can kill beneficial organisms in the tea.)

Add 1 ounce of unsulfured molasses to provide a food source for the beneficial microorganisms.

Turn on the aquarium pump and let the mixture brew for 2-3 days. Stir the brew occasionally to help mix the compost and separate the microorganisms from the solid compost particles.

After brewing the mixture, you need to strain the tea. Use cheesecloth and strain the tea/compost mixture into another bucket. (You can put the compost solids back into the compost pile or in the garden.)

The tea should smell sweet and earthy. If it smells bad, do not use it on your plants, but dump the mixture back into your compost pile. Apply the compost tea to your flower and vegetable plants immediately. The beneficial microbes will begin to die shortly after the air source is removed.

You can sprinkle the compost tea onto the foliage and the soil around each plant. The tea will provide nutrients and an energy boost to your garden plants. You can apply compost tea every two weeks to your garden.

Sit back and enjoy your garden growing around you!

Mt. Eden Organics - Heal your soil, heal our Earth

000105

ORIGENAL



Bill Mabey/Black Oak Media

These netizens attracted much attention at the Garden Organics booth at the Mendocino Garden Expo on Saturday. Mushroom Compost at the Mendocino Garden Expo on Saturday. Organics attracted much attention at the Garden Organics booth at the Mendocino Garden Expo on Saturday. Organics attracted much attention at the Garden Organics booth at the Mendocino Garden Expo on Saturday.



Stephens says, "Surprisingly, less than 10 percent of our customers are aged 65 and older. We are going to try to get people to know their mushrooms better. We are going to try to get people to know their mushrooms better. We are going to try to get people to know their mushrooms better."

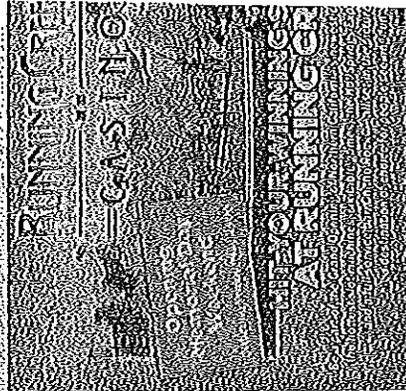
...and we'll take care of 2 months rent.
New residents will receive 2 months free rent, plus a complimentary
flat-screen TV and an iPad for a favorite family member.
Mountain View offers senior living lifestyles to help moms and
and actively.

Visit us for a personal tour to take advantage of these limited-in

Mountain View Senior Living and Memory Care Center
1345 S. Dora St., Ukiah, CA 95482
(707) 462-6212



www.mountainviewcare.com Prestige Senior Living



Visit our website at www.mountainviewcare.com
Email us at info@mountainviewcare.com

The Ukiah DAILY JOURNAL

Mendocino County's
local newspaper

May 15, 2012

Mother's Day

Wicket Solball
Action
Page A-3

SUNDAY



000030

GROWING MEDIA

HUMBOLDT NUTRIENTS

HUMBOLDT EARTH



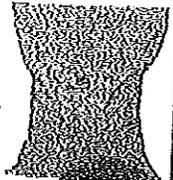
This is the most advanced and most effective nutrient system available for hydroponics. It is a complete, balanced, and highly available nutrient system that provides all the essential elements for plant growth. It is formulated for use in all types of hydroponic systems, including ebb and flow, drip, and flood. It is also suitable for use in soil-based systems. It is the most advanced and most effective nutrient system available for hydroponics.



PKTS	Per 10 Gallons	Price
FOR NORTHERN CALIFORNIA		\$16.95 - 23.95
FOR SOUTHERN CALIFORNIA		16.95 - 23.95
FOR COLORADO		16.95 - 23.95
FOR TEXAS		16.95 - 23.95
FOR FLORIDA		16.95 - 23.95
FOR PENNSYLVANIA		16.95 - 23.95
PKTS	Per 5 Gallons	
FOR NORTHERN CALIFORNIA		\$7.95 - 11.95
FOR SOUTHERN CALIFORNIA		7.95 - 11.95
FOR COLORADO		7.95 - 11.95
FOR TEXAS		7.95 - 11.95
FOR FLORIDA		7.95 - 11.95
FOR PENNSYLVANIA		7.95 - 11.95

MUSHROOM COMPOST

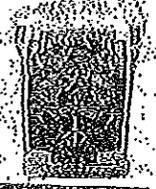
This is the most advanced and most effective nutrient system available for hydroponics. It is a complete, balanced, and highly available nutrient system that provides all the essential elements for plant growth. It is formulated for use in all types of hydroponic systems, including ebb and flow, drip, and flood. It is also suitable for use in soil-based systems. It is the most advanced and most effective nutrient system available for hydroponics.



PKTS	Per 10 Gallons	Price
FOR NORTHERN CALIFORNIA		\$16.95 - 23.95

HUMBOLDT MIX

This is the most advanced and most effective nutrient system available for hydroponics. It is a complete, balanced, and highly available nutrient system that provides all the essential elements for plant growth. It is formulated for use in all types of hydroponic systems, including ebb and flow, drip, and flood. It is also suitable for use in soil-based systems. It is the most advanced and most effective nutrient system available for hydroponics.



PKTS	Per 10 Gallons	Price
FOR NORTHERN CALIFORNIA		\$16.95 - 23.95
FOR SOUTHERN CALIFORNIA		16.95 - 23.95
FOR COLORADO		16.95 - 23.95
FOR TEXAS		16.95 - 23.95
FOR FLORIDA		16.95 - 23.95
FOR PENNSYLVANIA		16.95 - 23.95
PKTS	Per 5 Gallons	
FOR NORTHERN CALIFORNIA		\$7.95 - 11.95
FOR SOUTHERN CALIFORNIA		7.95 - 11.95
FOR COLORADO		7.95 - 11.95
FOR TEXAS		7.95 - 11.95
FOR FLORIDA		7.95 - 11.95
FOR PENNSYLVANIA		7.95 - 11.95

HydroOrganics

AMAZON BLOOM

This is the most advanced and most effective nutrient system available for hydroponics. It is a complete, balanced, and highly available nutrient system that provides all the essential elements for plant growth. It is formulated for use in all types of hydroponic systems, including ebb and flow, drip, and flood. It is also suitable for use in soil-based systems. It is the most advanced and most effective nutrient system available for hydroponics.



PKTS	Per 10 Gallons	Price
FOR NORTHERN CALIFORNIA		\$16.95 - 23.95
FOR SOUTHERN CALIFORNIA		16.95 - 23.95
FOR COLORADO		16.95 - 23.95
FOR TEXAS		16.95 - 23.95
FOR FLORIDA		16.95 - 23.95
FOR PENNSYLVANIA		16.95 - 23.95



33-12156

ENDORSED - FILED
IN THE OFFICE OF THE CLERK OF THE COURT
OF THE STATE OF CALIFORNIA

AUG 03 2010

STATEMENT AND DESIGNATION
BY FOREIGN CORPORATION

ML Credit Options Inc.

(Name of Corporation)

(A corporation organized and existing under the laws of Delaware makes the following statement and designation.)

1. The address of its principal executive office is 328 15th Street, Santa Cruz, CA 95060

2. The address of its principal office in the State of California is 328 15th Street, Santa Cruz, CA 95060

DESIGNATION OF AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA

3. (Use this paragraph if the process agent is a natural person.)

Leo McPherson, a natural person residing in the State of California, whose complete street address is 328 15th Street, Santa Cruz, CA 95060

is designated as agent upon whom process directed to this corporation may be served within the State of California, in the manner provided by law.

4. (Use this paragraph if the process agent is another corporation.)

A corporation organized and existing under the laws of _____ is designated as agent upon whom process directed to this corporation may be served within the State of California, in the manner provided by law.

5. I hereby consent to service of process directed to it upon the agent designated above, and to service of process on the Secretary of State of the State of California if the agent so designated or the agent's successor is no longer authorized to act or cannot be found at the address given.

[Signature]
(Authorized Corporate Officer)

Leo McPherson, CEO
(Authorized Corporate Officer)

For the State of California, I hereby certify that the copy of this statement and designation filed with me is a true and correct copy of the original as submitted to me by the person or persons named in this statement and designation.

Secretary of State
1500 Street, Sacramento, CA 95833



000078

M
C/H/H/186
72.00

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF AGRICULTURE/MARKETING SECTION
235 PROMENADE STREET
PROVIDENCE, RHODE ISLAND 02908
Tel. 401-222-2181 Fax 401-222-6017
APPLICATION FOR THE REGISTRATION OF COMMERCIAL FERTILIZERS
RETURN ALL COPIES TO THE ABOVE

Company Number 89148

Application for registration of the following brands and grades of commercial fertilizer, or fertilizer materials, named below, is hereby filed with the Director of Environmental Management for the 2012 registration period. **SUBMIT WITH THIS APPLICATION ONE (1) LABEL OR FACSIMILE OF EACH BRAND AND GRADE TO BE REGISTERED.** Remittance payable to the Rhode Island Department of Environmental Management is enclosed to cover the annual registration fee of \$72.00 per product, brand or grade. Total fee enclosed \$ 72.00

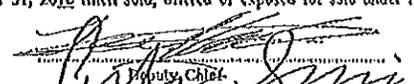
* Secondary and Micro-Nutrients: When Claims for such nutrients are made, the minimum percentages which will be accepted for registration are as follows: Calcium (Ca)- 1.00, Magnesium (Mg)- 0.50, Sulfur (S)- 1.00, Boron (B)- 0.02, Chlorine (Cl)- 0.10, Cobalt (Co)- 0.0005, Copper (Cu)- 0.05, Iron (Fe)- 0.10, Manganese (Mn)- 0.05, Molybdenum (Mo)- 0.0005, Sodium (Na)- 0.10, Zinc (Zn)- 0.05

Registered By: Mt. Eden Organics, Inc. Date: 6/4/12
 Street: P.O. Box 478 City: Santa Cruz State: CA Zip: 95061
 Name: Lee M. Pherson Signature: _____ Title: CEO
 Telephone: (831)345-1563 Fax: _____ E-Mail: lee@mtedenorganics.com

Certificate of Registration

When signed this certifies that the brands and grades below has been duly registered in the State of Rhode Island for a period beginning with the actual date of registration and ending December 31, 2012 when sold, offered or exposed for sale under the guarantees as described.

Date: 6/4/2012


Deputy Chief

Other Use R/Reg. No.	Brand Name	Nitrogen N	Available Phosphate P ₂ O ₅	Soluble Potash K ₂ O	Secondary & Micro-Nutrients
<u>3-68</u>	<u>Native Nutrients Mushroom Compost</u>	<u>1.7</u>	<u>1.29</u>	<u>1.65</u>	<u>Ca - 9.8%</u> <u>Mg - .91%</u> <u>Fe - .62%</u> <u>Mn - .05%</u>

For additional registrations attach 8 1/2" x 11" sheet to quadruplicate

OREGON DEPT OF AGRICULTURE
635 Capitol St. NE
Salem, OR 97301-2532
(503) 808-4635



MT EDEN ORGANICS INC
LEE MCPHERSON
PO BOX 470
SANTA CRUZ CA 95061

License No.: AQ-11020016MPR
Date Issued: 04/04/2012
Date Expires: 12/31/2012
Printed: 04/05/2012

Mineral Product Registration Certificate

PRODUCTS REGISTERED

Brand	Codes	Product Name
MT Eden Organics	1.7-1.29-1.05	Native Nutrients 100% Mushroom Compost

PRODUCTS REGISTERED: 1

IMPORTANT: As of Jan. 1, 2004, all product labels **MUST** contain an Internet statement approved by the Oregon Dept. of Agriculture.
All registered products are subject to this regulation (OAR 603-059-0055).
Codes: W= Waste-Derived, C= Conditional, P= Pesticide



STATE OF NEW YORK
 DEPARTMENT OF AGRICULTURE AND MARKETS
 100 AIRLINE DRIVE
 ALBANY, NEW YORK 12235

PI - LICENSING UNIT
 518 455-6326

CERTIFICATE NOTICE

The lower portion of this notice is the license for this establishment.

The licensee has consented to the free entry and free access to the licensed premises, buildings and offices to the Commissioner, the Commissioner's agents and inspectors, and in pursuance of the Commissioner's duty to supervise and regulate the production, storage, sale and use of articles subject to the Commissioner's jurisdiction.

Please post the certificate portion of this notice conspicuously in the establishment.

Receipt No.: 60	NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS ALBANY, NY 12235	License No.: 1092
Fee: \$150		Date Issued: 06/27/2012
		Expires: 12/31/2012
COMMERCIAL FERTILIZER DISTRIBUTOR REGISTRATION CERTIFICATE		
Pursuant to Article 10 of the Agriculture and Markets Law, the licensee is authorized to perform those activities for which it has applied to be performed at the following address.		
This license cannot be sold or transferred.		
MT BDN ORGANICS INC PO BOX 478 SANTA CRUZ, CA 95061		 Darrel J. Aubertino Commissioner

000093



State of Maine Department of Agriculture, Food and Rural Resources
Division of Quality Assurance and Regulations

Certificate of Registration

Mt. Eden Organics, Inc
PO Box 478
Santa Cruz CA 95061

Leo McPherson
811-345-1563

Serial Number : 8500
Date of Registration : 6/13/2012
Registration Number : 1752
Expiration Date : 12/31/2012

Type of Registration:
Fertilizer

Acting Director, Division of Quality Assurance

Production Information: On the basis of the information furnished by the applicant and receipt of registration fee(s), the attached products are hereby registered under the provisions of Maine law. Sale of said brands is hereby authorized in the State of Maine when sold in compliance with the provisions of said law during stated period.