

LOUIS R. MILLER (State Bar No. 54141)
smiller@millerbarondess.com
MARK A. BARONDESS (State Bar No. 199901)
mbarondess@millerbarondess.com
A. SASHA FRID (State Bar No. 216800)
sfrid@millerbarondess.com
COLIN H. ROLFS (State Bar No. 280654)
crofs@millerbarondess.com
MILLER BARONDESS, LLP
1999 Avenue of the Stars, Suite 1000
Los Angeles, California 90067
Telephone: (310) 552-4400
Facsimile: (310) 552-8400

Attorneys for Plaintiffs
NEAL J. SCHON and JONATHAN CAIN FRIGA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

NEAL J. SCHON, an individual; and
JONATHAN CAIN FRIGA, an individual,

Plaintiffs,

v.

ROSS L. VALORY, an individual; STEVEN
B. SMITH, an individual; and DOES 1-20
inclusive,

Defendants.

CASE NO.

COMPLAINT FOR:

- (1) DECLARATORY JUDGMENT
- (2) BREACH OF FIDUCIARY DUTY
- (3) DECLARATORY JUDGMENT

DEMAND FOR JURY TRIAL

FILED

2020 MAR -3 P 3:14

KATE BIEKER
CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CA

BY: E. POOL DEPUTY CLERK

SUMMONS ISSUED

PER LOCAL RULE, THIS
CASE IS ASSIGNED TO
DEPT 21, FOR ALL
PURPOSES

C20 - 00407

By Fax
First Legal
200 Webster #201
Oakland, CA 94607
415-626-3111

COPY

1 Plaintiffs Neal J. Schon ("Schon") and Jonathan Cain Friga (a/k/a Jonathan Cain) ("Cain")
2 (together, "Plaintiffs"), by and through their undersigned attorneys, allege against Defendants
3 Steven B. Smith ("Smith") and Ross L. Valory ("Valory"), and DOES 1-20 (together,
4 "Defendants") as follows:

5 INTRODUCTION

6 1. Plaintiffs Schon and Cain are the remaining principal members of the iconic
7 American rock band *Journey*. With former band member Steve Perry ("Perry"), they were
8 responsible for the band's rise to prominence in the 1980's. Together, they wrote some of the
9 most well-known rock songs in the world, including "Don't Stop Believin'," the best-selling
10 digital track from the 20th century, with over 7 million copies sold in the United States, and the
11 second most downloaded song of all time.

12 2. Perry left the band in 1997, but Cain and Schon vibrantly continue touring and
13 playing together as *Journey* before arena and stadium crowds. They remain the key members of
14 *Journey*, the song writers and the vital core of the band.

15 3. Defendants Smith and Valory are former members of *Journey*. Smith is a
16 drummer, and Valory is a bassist. At various times prior to their final performance with *Journey*,
17 they had not been part of the band and been replaced by substitute musicians. They always had
18 limited involvement in the creative success of *Journey* and have only a handful of *Journey* song
19 writing credits between them.

20
21 4. Smith and Valory had previously expressed a desire to retire from the band. To
22 that end, they concocted and implemented a scheme amongst themselves and with others to
23 ensconce and set themselves up for retirement. They launched a coup to assume control of one of
24 the band's corporate entities, Nightmare Productions, Inc. ("Nightmare Productions"); and to
25 effectuate their scheme, they attempted to oust Cain and Schon—the key remaining members of
26 *Journey*—from control of Nightmare Productions.

27 ///

28 ///

1 5. Smith and Valory erroneously contend that Nightmare Productions controls the
2 *Journey* name. They hope to use Nightmare Productions to hold the *Journey* name hostage and
3 force Cain, Schon and Nightmare Productions to provide them with wind-fall payments for their
4 retirement. They want Nightmare Productions to pay them a share of *Journey* touring revenue in
5 perpetuity under the guise of a licensing fee while they perform absolutely no work for the band.
6 Smith and Valory have put their own interests ahead of the band and their fellow band members
7 and have breached their fiduciary duties. Smith and Valory are acting solely out of their own
8 personal greed, disregarding the future of *Journey* and destroying the chemistry, cohesion and
9 rapport necessary for the band to tour and play together.

10 6. Smith and Valory's scheme was not only malicious but also very ill-conceived.
11 Smith and Valory are wrong that Nightmare Productions controls the *Journey* name. Cain and
12 Schon, through an entity named Elmo Partners, hold all rights to the *Journey* name (the "Journey
13 Mark"), including Trademark Registration Nos. 3168509 and 3189220. Specifically, pursuant to a
14 Trademark License Agreement dated January 15, 1985, Nightmare Productions provided an
15 exclusive, irrevocable license of the Journey Mark to Elmo Partners. Cain and Schon control the
16 Journey Mark. Cain and Schon are expressly and solely authorized to perform together under the
17 *Journey* name.

18 7. Smith and Valory, on the other hand, never had, nor presently have, any legal rights
19 to the *Journey* name or Mark. They are not authorized in any manner to use it in any capacity
20 whatsoever.

21 8. Given Smith and Valory's greed, self-dealing and breaches of their fiduciary
22 obligations, Cain and Schon expelled Smith and Valory from *Journey*. On March 3, 2020, Cain
23 and Schon provided written notice that Smith and Valory were no longer part of *Journey* and
24 would no longer perform or tour with the band. A copy of the notice is attached hereto as Exhibit
25 "A."

26 9. As a result of their termination, Smith and Valory are no longer members of the
27 band *Journey* and cannot perform under the name *Journey*. They will be replaced with other very
28 talented musicians. *Journey* will continue touring and performing for their millions of fans around

1 the world.

2 10. By this Complaint, Cain and Schon seek to halt Defendants' self-serving scheme, a
3 declaration affirming their rights to the Journey Mark, and also damages as a result of Defendants'
4 misconduct.

5 **PARTIES**

6 11. Cain joined *Journey* as its pianist and keyboardist in 1980, precipitating the band's
7 rise to prominence over the next decade. He is one of the two remaining principal members of
8 *Journey*.

9 12. Schon has been the lead guitarist of *Journey* since the band was formed in 1973.
10 He is the other remaining principal member of *Journey* and the only original member of *Journey*.

11 13. Smith was the drummer for *Journey* from 1978 to 1985, from 1995 to 1998, and
12 from 2016 until his recent termination.

13 14. Defendant Valory is a resident of Contra Costa County, California. Valory was the
14 original bassist for *Journey*. He was fired from the band in 1985, rehired in 1995 and has
15 remained a member until his recent termination.

16 15. Defendants, and each of them, were authorized and empowered by the other
17 Defendants, and each of them, to act, and they did so act, as the agents, principals and or
18 employees of the other Defendants, and each of them; and all of the things alleged to have been
19 done by them, and each of them, were done in the capacity of and as agents, principals and or
20 employees of such other Defendants.

21 16. Plaintiffs further allege that Defendants Does 1 through 20, inclusive, are
22 individually and or jointly liable for the wrongs alleged herein. The true names and capacities,
23 whether individual, corporate, associate or otherwise, of Defendants Does 1 through 20, inclusive,
24 are unknown to Plaintiffs at this time. Accordingly, Plaintiffs sue Defendants Does 1 through 20,
25 inclusive, by fictitious names and will amend this Complaint to allege their true names and
26 capacities after they are ascertained.

27 **JURISDICTION AND VENUE**

28 17. This Court has jurisdiction in this matter pursuant to California Code of Civil

1 Procedure § 410.10 and the California Constitution, Article VI, § 10. Section 410.10 of the Code
2 of Civil Procedure provides that California state courts “may exercise jurisdiction on any basis not
3 inconsistent with the Constitution of [California] or of the United States.” The exercise of
4 jurisdiction by California is constitutionally permissible because Defendants reside, conduct
5 business, have bank accounts and own property in California and because the wrongdoing
6 occurred in California. Therefore, each Defendant has sufficient minimal contacts with the State
7 of California or has intentionally availed himself of the State of California, so as to render the
8 exercise of jurisdiction over them by California courts proper.

9 18. Venue is proper under California Code of Civil Procedure section 395(a) because
10 Defendants or some of them reside or took action causing harm to Plaintiffs in Contra Costa
11 County.

12 FACTUAL ALLEGATIONS

13 A. Journey

14 19. *Journey* is one of the most successful rock bands of all time. The band has ten
15 platinum albums, eighteen Top 40 singles and has sold over 75 million albums worldwide.

16 20. *Journey* was formed in 1973 in San Francisco, California. Plaintiff Schon has been
17 the lead guitarist of *Journey* since its inception and is the only original founding member still with
18 the band. In 1977, Perry joined the band as lead singer. In 1980, Plaintiff Cain joined *Journey* on
19 piano and keyboard. Cain also plays guitar.

20 21. Cain, Schon and Perry formed the core of *Journey*, and together they took the band
21 to new heights. They released *Escape* in 1981, which went platinum nine times. *Journey*
22 followed up with *Frontiers* in 1983, which sold six million copies, and *Raised on Radio* in 1986,
23 which sold over two million copies.

24 22. Cain, Schon and Perry wrote most of the band’s hit songs together, including
25 “Don’t Stop Believin,’” “Still They Ride” and “Stone in Love.” They are credited on every song
26 on *Escape*, *Frontiers* and *Raised on Radio*.

27 23. Following the release of *Raised on Radio* in 1986, the band took a hiatus from
28 touring, and Perry took a leave from the band. But *Journey* remained a fixture of American music.

1 Three *Journey* compilations were released; the 1988 greatest hits record alone still sells half-a-
2 million to a million copies per year.

3 24. In 1996, Schon, Cain, and Perry reunited to release *Trial by Fire*. The record
4 included the Grammy nominated hit "When You Love a Woman." Following the release of *Trial*
5 *by Fire*, Perry decided not to tour and voluntarily left *Journey* in 1997.

6 25. Perry's departure, however, was not the end of *Journey*. Perry, Cain and Schon
7 reached an agreement that granted Cain and Schon the exclusive, irrevocable right to perform as
8 *Journey* and gave them full control of all aspects of the *Journey* name.

9 26. Schon and Cain continued to perform as *Journey*. Schon discovered a new singer
10 for the band, Arnel Pineda, and hired Pineda as the band's lead singer in 2007. Lead by Schon
11 and Cain, *Journey* has thrived, playing to packed audiences across the country and around the
12 world. In 2008, the band released *Revelation*, which debuted at No. 5 on the Billboard charts.

13 **B. The Journey Mark**

14 27. Cain and Schon, through Elmo Partners, hold the exclusive, irrevocable right to the
15 Journey Mark, including the *Journey* name.

16 28. Nightmare Productions, a California corporation used by *Journey* to conduct part of
17 the band's business, owns the Journey Mark. In 1985, pursuant to the Trademark License
18 Agreement, Nightmare Productions provided an exclusive, irrevocable license of the Journey
19 Mark to Elmo Partners.

20 29. Under the terms of the agreement, the license shall continue "until the date upon
21 which none of Stephen Perry, Neal Joseph Schon, or Jonathan Cain is actively engaged in a
22 professional music career utilizing the name "JOURNEY." Because Cain and Schon continue to
23 engage in their music careers under the name *Journey*, Elmo Partners holds and retains its
24 exclusive license to the Journey Mark. A copy of the Trademark License Agreement is attached
25 hereto as Exhibit "B."

26 30. Cain, Schon and Perry are the three partners of Elmo Partners. In 1997, Cain,
27 Schon and Perry entered into a General Partnership Agreement of Elmo Partners. Section 3.1 of
28 the agreement provides that all decisions concerning the Journey Mark "shall require the prior

1 written, unanimous consent of all Partners.”

2 31. In 1998, after Perry’s decision to leave the band, Perry, Cain and Schon entered
3 into another agreement regarding Elmo Partners. This agreement authorized Cain and Schon to
4 control the use of the *Journey* name going forward and expressly authorized them to perform
5 together as *Journey*, with or without anyone else.

6 32. The 1998 Agreement provides: “Perry hereby agrees to waive the provisions set
7 forth in paragraph 3.1(a) of the [General Partnership Agreement of the Elmo Partners], which
8 requires his consent for Schon and Cain to use the Name without his continued involvement, and
9 Perry hereby consents to Schon and Cain otherwise continuing as Journey in connection with new
10 Journey albums delivered after the date hereof and on which a lead singer other than Perry
11 performs (the ‘New Journey’) and performing and recording without the participation of Perry as
12 the New Journey as set forth herein.” A copy of the 1998 Agreement is attached hereto as Exhibit
13 “C.”

14 33. Schon and Cain therefore possess the sole and exclusive, irrevocable right to the
15 *Journey* name.

16 **C. Defendants’ Unlawful Scheme**

17 34. Defendants Smith and Valory were members of *Journey* for various periods of the
18 band’s history. Valory was the band’s bassist. Smith was the drummer. In 1985, Perry fired
19 Smith and Valory, though they both were later rehired in 1995. Smith later took an eighteen (18)
20 year leave of absence from the band from 1998 to 2016.

21 35. Neither Smith nor Valory have ever made significant creative contributions to
22 *Journey*. They have very few song credits on *Journey*’s albums. Nevertheless, Smith and Valory
23 have been compensated generously for playing with *Journey*.

24 36. Recently, Smith and Valory decided that they want to retire. Not content with the
25 millions of dollars they have made over the years from their participation as band members of
26 *Journey*, they launched a scheme to extract wind-fall payments from *Journey*, even after their
27 retirement from the band. They did so by organizing a takeover of Nightmare Productions. Smith
28 and Valory incorrectly believe that Nightmare Productions controls the Journey Mark. They hope

1 that, by taking over Nightmare Productions, they can hold the *Journey* name hostage and obtain
2 millions of dollars more under the guise of a purported licensing fee arrangement.

3 37. Cain, Schon, Smith and Valory each own 1/6th of the shares of Nightmare
4 Productions. Other individuals formerly affiliated with *Journey* own the remaining shares. The
5 bylaws of Nightmare Productions provide for a three-member Board of Directors. In 2019, the
6 directors were Cain, Schon and Valory. Cain—as one of the two remaining key members of
7 *Journey*—was the President of Nightmare Productions.

8 38. In December 2019, Smith and Valory commenced their scheme to take control of
9 Nightmare Productions. They colluded and conspired with each other and others to oust Cain and
10 Schon from control of Nightmare Productions.

11 39. On January 31, 2020, an attorney named Daniel Schacht (“Schacht”) emailed a
12 document entitled, “Notice of Special Meeting of Shareholders of Nightmare Productions, Inc.”
13 (the “Shareholder Notice”), to the shareholders of Nightmare Productions. The Shareholder
14 Notice purported to provide notice of a shareholder meeting on February 13, 2020 in San Rafael,
15 California. The Shareholder Notice proposed amending the Bylaws of Nightmare Productions to
16 increase the number of Directors to six, as well as electing Smith, Valory and two of their allies to
17 the Board of Directors. This would give Smith and Valory control of the Board to effectuate their
18 scheme.

19 40. The same day, Schacht also sent a document entitled, “Notice of Special Meeting
20 of the Board of Directors of Nightmare Productions, Inc.” (the “Board Notice”). The Board
21 Notice purported to provide notice of a February 13, 2020 meeting of the Board of Directors of
22 Nightmare Productions in San Rafael, California. The Board Notice proposed that the Board of
23 Directors vote to replace Cain with Smith as President.

24 41. Cain and Schon were blindsided. The Shareholder and Board Notices were
25 purportedly issued and signed via an electronic signature by Cain. However, Cain did not approve
26 of the notices and did not sign them. On information and belief, Smith and Valory directed
27 Schacht to send the Notices.

28 42. After the Board Notice and Shareholder Notice were sent, Cain—as President of

1 Nightmare Productions and the officer under whose name the notices were issued—demanded that
2 they be withdrawn. Schon also demanded that the notices be withdrawn. Smith, Valory and
3 Schact ignored the written and verbal objections and instructions by Cain and Schon and refused
4 to withdraw the notices for both the shareholders and Board of Directors meetings.

5 43. On February 13, 2020, the improperly noticed shareholders meeting occurred.
6 Smith, Valory and their allies—together holding a majority of the shares of Nightmare
7 Productions and acting in concert—voted to increase the Board of Directors to six members and
8 install Smith, Valory and their allies on the Board, giving Smith and Valory control of the Board.

9 44. The improperly noticed Board of Directors meeting occurred immediately
10 following the shareholders meeting. Smith, Valory and their allies, now claiming to be the
11 purported members of the Board of Directors, voted to remove Cain as President and replace him
12 with Smith. They also voted to remove Schon as Secretary and replace him with Valory. At the
13 conclusion of each meeting, Schact congratulated the newly elected Board Members who had
14 orchestrated the coup.

15 45. Smith and Valory purported to take control of Nightmare Productions because they
16 believe, with no basis in law or fact, that Nightmare Productions has rights to presently control the
17 Journey Mark. Smith and Valory believe that they now control the *Journey* name and can force
18 Cain, Schon and Nightmare Productions to pay them a share of *Journey* touring revenue in
19 perpetuity while they do no work for the band. They want Nightmare Productions, through its
20 new officers and directors, to enter into agreements that will give them windfall payments in the
21 millions of dollars for the use of the *Journey* name after their retirement from *Journey*, when they
22 are no longer providing any services to the band.

23 46. Smith and Valory's coup drove a dagger between band members. Smith and
24 Valory have placed their own greed before the interests of the band, sowing discontent and
25 discord, jeopardizing the future of *Journey*. A band can only perform, tour successfully and
26 succeed creatively if it remains united and the band members trust and respect one another. Smith
27 and Valory shattered the existing rapport and chemistry of the band.

28 47. The very purpose of Nightmare Productions was to facilitate the rights of *Journey*.

1 Smith and Valory instead have used Nightmare Productions as a tool to destroy the very fabric of
2 the band.

3 48. Smith and Valory betrayed their bandmates for naught. Nightmare Productions
4 does not control the *Journey* name. Schon and Cain exclusively and solely control the *Journey*
5 name.

6 49. Accordingly, Schon and Cain removed Smith and Valory from the band. On
7 March 3, 2020, following Smith and Valory's malfeasance and breaches of fiduciary duty, Cain
8 and Schon, via counsel, provided written notice to Smith and Valory that they were no longer
9 members of *Journey*.

10 50. Smith and Valory will be replaced by other very talented musicians, and *Journey*
11 will continue performing, touring, recording and releasing new albums to the delight of their
12 millions of fans worldwide.

13 51. Schon and Cain now institute this lawsuit to remedy the harm wrought by Valory
14 and Smith's unlawful scheme and enjoin any conduct by Valory and Smith which is inconsistent
15 with the lawful rights of Schon and Cain.

16 **FIRST CLAIM FOR RELIEF**

17 **(Declaratory Judgment — Against Ross Valory, Steven Smith and Does 1-20)**

18 52. Plaintiffs repeat and re-allege the allegations contained in the preceding and
19 subsequent paragraphs of this Complaint, as though set forth fully herein.

20 53. Schon and Cain, through Elmo Partners, hold the exclusive, irrevocable right to the
21 Journey Mark, including the *Journey* name. Pursuant to the Trademark License Agreement,
22 Nightmare Productions provided an exclusive, irrevocable license of the Journey Mark to Elmo
23 Partners. Elmo Partners presently holds and will continue to maintain this exclusive license to the
24 Journey Mark.

25 54. Pursuant to the General Partnership Agreement of Elmo Partners and the
26 Agreement between Elmo Partners, Cain and Schon control the use of the Journey Mark and are
27 expressly authorized to perform together as *Journey*, with or without anyone else.

28 55. Smith and Valory, without a good faith basis in law or fact, deny that Elmo

Partners holds an exclusive, irrevocable license to the Journey Mark and that Cain and Schon control the use of the Journey Mark and are expressly authorized to perform together as *Journey*, with or without anyone else.

56. Therefore, an actual controversy of sufficient immediacy has arisen and exists between the parties as to the Journey Mark, and Plaintiffs are entitled to a declaratory judgment that Elmo Partners holds an exclusive, irrevocable license to the Journey Mark and that Cain and Schon solely and exclusively control the use of the Journey Mark and are expressly authorized to perform together as *Journey*, with or without anyone else. The need for a judicial determination of the rights of the parties is required given the wrongful actions already taken by the Defendants and in light of the future wrongful conduct proposed by them.

SECOND CLAIM FOR RELIEF

(Breach of Fiduciary Duty — Against Ross Valory, Steven Smith and Does 1-20)

57. Plaintiffs repeat and re-allege the allegations contained in the preceding and subsequent paragraphs of this Complaint, as though set forth fully herein.

58. Plaintiffs are shareholders of Nightmare Productions.

59. Smith, Valory and their allies own a majority of the outstanding shares of Nightmare Productions. As controlling shareholders of Nightmare Productions, they owe Plaintiffs fiduciary duties. Valory also owes fiduciary duties as a Board member of Nightmare Productions.

60. Smith and Valory breached their fiduciary obligations owed to Plaintiffs, including but not limited to, the following:

- Taking control of Nightmare Productions and conspiring for the purpose of forcing Nightmare Productions to enter into self-dealing transactions to enrich Smith and Valory after their retirement from *Journey*;
- Causing the invalid Shareholder Notice and Board Notice to be issued;
- Proceeding with the invalid Shareholder and Board of Director meetings on February 13, 2020; and
- Removing the principal and one of the founding members of *Journey* from control

1 of Nightmare Productions.

2 61. As a result of these breaches, Plaintiffs have been damaged in an amount to be
3 proven at trial. In doing the acts alleged herein, Smith and Valory intentionally acted with
4 oppression, fraud and malice. Therefore, Plaintiffs are also entitled to punitive damages.

5 62. Plaintiffs are further immediately entitled to preliminary and permanent injunctive
6 relief prohibiting Smith and Valory from acting in their own self-interests and causing Nightmare
7 Productions to enter into transactions for their own self-interest, to the detriment of Plaintiffs,
8 including but not limited to, any use of the *Journey* name or Mark.

9 **THIRD CLAIM FOR RELIEF**

10 **(Declaratory Judgment — Against Ross Valory, Steven Smith and Does 1-20)**

11 63. Plaintiffs repeat and re-allege the allegations contained in the preceding and
12 subsequent paragraphs of this Complaint, as though set forth fully herein.

13 64. The purported Meeting of the Shareholders on February 13, 2020 was improperly
14 noticed. The purported Board of Directors Meeting on February 13, 2020 was also improperly
15 noticed, and four of the purported Directors at the meeting (Smith, Valory and their allies) were
16 improperly elected.

17 65. Plaintiffs contend that all actions purportedly taken at the February 13, 2020
18 meetings are invalid and without any legal effect. Smith and Valory contend otherwise. The
19 actions taken are reflected in the attached minutes of the Shareholders and Board of Directors
20 Meetings of Nightmare Productions held on February 13, 2020, attached hereto and incorporated
21 by reference as Exhibit "D."

22 66. Therefore, an actual controversy of sufficient immediacy exists between the parties
23 as to the actions purportedly taken at the February 13, 2020 Shareholders and Board of Directors
24 Meetings, and Plaintiffs are entitled to a declaratory judgment that all actions purportedly taken at
25 the February 13, 2020 meetings are invalid, null and void and without any legal effect. The need
26 for a judicial determination of the rights of the parties is required given the wrongful actions
27 already taken by the Defendants and in light of the future wrongful conduct proposed by them.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for a judgment against Defendants for:

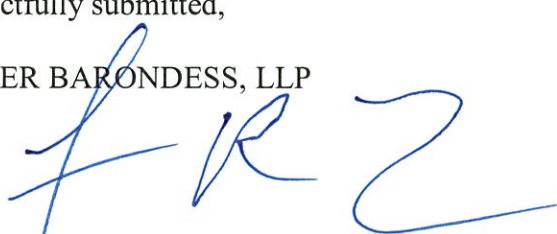
- (1) Compensatory damages in excess of \$10 million, or according to proof at trial;
- (2) Punitive damages;
- (3) Interest;
- (4) A preliminary and permanent injunction;
- (5) A declaration that Elmo Partners holds an exclusive, irrevocable license to the Journey Mark and that Cain and Schon control the use of the Journey Mark and are expressly authorized to perform together as *Journey*, with or without anyone else;
- (6) A declaration that all actions purportedly taken at the February 13, 2020 Board of Directors and Shareholder Meetings of Nightmare Productions are invalid, null and void and without any legal effect;
- (7) Attorneys' fees and costs; and
- (8) Any further relief that the Court deems just and proper.

DATED: March 3, 2020

Respectfully submitted,

MILLER BARONDESS, LLP

By:



LOUIS R. MILLER
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

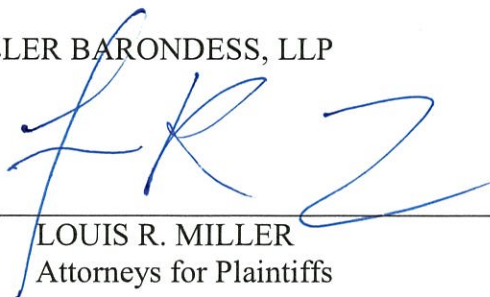
Plaintiffs hereby request a jury trial on any and all claims so triable.

DATED: March 3, 2020

Respectfully submitted,

MILLER BARONDESS, LLP

By:



LOUIS R. MILLER
Attorneys for Plaintiffs

INDEX OF EXHIBITS

Exhibit No.	Description	Pg. No.
A.	March 3, 2020 written notice to Steven Smith and Ross Valory	16-18
B.	January 15, 1985 Trademark License Agreement	19-22
C.	1998 Elmo Partners Agreement	23-29
D.	February 13, 2020 Meeting Minutes	30-65

EXHIBIT A

MILLER BARONDESS, LLP

ATTORNEYS AT LAW
1999 AVENUE OF THE STARS
SUITE 1000
LOS ANGELES, CALIFORNIA 90067
TEL: (310) 552-4400
FAX: (310) 552-8400
WWW.MILLERBARONDESS.COM

March 3, 2020

LOUIS R. MILLER
DIRECT DIAL: (310) 552-5251
SMILLER@MILLERBARONDESS.COM

VIA E-MAIL & CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Steven Smith
9999 Mt Ashland Ski Rd
Ashland, Oregon 97520
Email: vitalinfo1@gmail.com

Ross Valory
342 Golden Grass Dr
Alamo, California 94507
Email: roy@humidbeans.com

Re: *Journey*

Dear Mr. Smith and Mr. Valory:

This firm is counsel for Jonathan Cain and Neal Schon.

Mr. Schon and Mr. Cain are the remaining principal members of the band *Journey*. Unfortunately, your recent actions, in concert with others, have demonstrated that you are no longer acting in the best interests of the band. As set forth in a Complaint filed today in the Superior Court of Contra Costa County, California, you both participated in a scheme to takeover one of the band's entities, Nightmare Productions, Inc., in breach of your fiduciary obligations. You did so to enrich yourselves at the expense of our clients and to the detriment of the band. Our clients have lost all confidence in you and are not willing to perform with you.

Mr. Schon and Mr. Cain, through Elmo Partners, hold the sole exclusive, irrevocable license to the *Journey* name and all associated rights (the "Journey Mark"). Specifically, pursuant to the Trademark License Agreement, dated January 15, 1985, Nightmare Productions, Inc. provided this license to Elmo Partners. The agreement provides that the license shall continue "until the date upon which none of Stephen Perry, Neal Joseph Schon, or Jonathan Cain is actively engaged in a professional music career utilizing the name "JOURNEY."

Mr. Schon and Mr. Cain shall continue to pursue their music careers under the name *Journey*. Elmo Partners therefore retains and will continue to hold the exclusive, irrevocable license to the Journey Mark. Pursuant to the Agreement between the Elmo Partners, Mr. Schon

MILLER BARONDESS, LLP

Steven Smith
March 3, 2020
Page 2

and Mr. Cain control the Journey Mark. Mr. Schon and Mr. Cain are expressly authorized to perform together under the Journey Mark, with or without anyone else.

You have absolutely no rights to the Journey Mark and are not authorized to use the Journey Mark in any way. Effective immediately, you are no longer members of the band *Journey* and cannot perform under the name *Journey*. If you act in contravention of our clients' rights, please be advised that we will take all legal steps to protect the rights of our clients.

Nothing contained herein is intended to waive any and all rights of Mr. Cain and Mr. Schon, and all such rights and remedies are expressly reserved.

Sincerely,

A handwritten signature in blue ink, appearing to read "Skip", followed by a long, sweeping horizontal line that extends to the right.

Louis R. Miller

LRM:CHR

EXHIBIT B

EXHIBIT A

TRADEMARK LICENSE AGREEMENT

THIS AGREEMENT is made this 15th day of January, 1985, by and between NIGHTMARE PRODUCTIONS, INC., P.O. Box 404, San Francisco, California 94101 (hereinafter "Licensor"), and THE ELMO PARTNERS, 1111 Columbus Avenue, San Francisco, California 94133 (hereinafter "Licensee"); with reference to the following facts:

A. Licensor is the owner of the trademark and service mark "JOURNEY" (hereinafter "Marks"), as well as the logos and designs attached hereto as Exhibit "A", all of which Licensor has adopted and used and which are well known with respect to entertainment services, clothing, phonograph records, printed goods, and other merchandise.

B. Licensor recognizes that Licensee is the entity through which the performing artist members of JOURNEY shall continue to record and commercially exploit merchandise embodying their names and likenesses as members of JOURNEY, and Licensor also recognizes that it is to the benefit of the parties hereto to enter into this agreement to allow the exploitation of the Marks most effectively.

NOW, THEREFORE, in consideration of the foregoing and the covenants and conditions set forth below, Licensor and Licensee hereby agree as follows:

1. For valuable consideration, receipt of which is hereby acknowledged, Licensor grants Licensee, free of any royalty payments whatsoever to Licensor, the exclusive right during the term of this agreement to use the Marks throughout the world for the following purposes:

(a) recording and exploiting phonograph records first commercially released after the date hereof and embodying the performances of the musical group JOURNEY (hereinafter "Artist"); for purposes of this agreement, "phonograph records" shall mean all forms of reproduction now or hereafter known and embodying (i) sound alone; or (ii) sound coupled with images (e.g. "sight-and-sound" devices);

(b) exploiting and merchandising Artist's names, likenesses, sobriquets, and biographical materials, including use of the Marks on items of merchandise including but not limited to T-shirts and other articles of clothing, posters, and souvenirs;

(c) permitting all uses, as required or permitted by Licensee, by its partnership agreement dated January 15, 1985.

2. The term of this agreement shall commence as of January 15, 1985, and continue until the date upon which none of Stephen Ray Perry, Neal Joseph Schon, or Jonathan Cain is actively engaged in a professional musical career utilizing the name "JOURNEY"; provided that the expiration of the term shall not invalidate any sub-licenses entered into by Licensee during the term which extend beyond the term.

3. Licensee recognizes Licensor's title to the Marks and shall not at any time do, authorize, or permit to be done any act or thing which will in any way impair Licensor's rights in and to the Marks. It is understood that Licensee shall not acquire or claim any title to the Marks adverse to Licensor by virtue of the license granted herein or through Licensee's use of the Marks, it being the intention of the parties that any use of the Marks by Licensee shall at all times inure to Licensor's benefit.

4. Licensee agrees to display the Marks on any products and on labels affixed thereto, as well as on the packaging, advertising, and promotional materials relative thereto, in a manner approved by Licensor. Licensee also agrees to cause to appear on all materials used in connection with the Marks such legends, markings, and notices as requested by Licensor to give appropriate notice of its trademark rights. Licensee agrees to refrain from using any markings, legends, or notices with respect to the Marks without Licensor's prior approval.

5. In the event Licensee learns of any infringement upon the Marks, it shall promptly notify Licensor thereof. Licensor reserves the right to decide whether legal proceedings shall be instituted, by whom, in whose name(s) same shall be brought, and how same shall be handled.

6. This agreement shall be binding on both parties' successors and assigns. Licensee shall, subject to the terms hereof, have the right to sub-license to any person, firm, or corporation any or all rights granted to Licensee hereunder in connection with its business activities.

7. Copies of all notices required or desired to be given hereunder shall be sent certified or registered mail, return receipt requested, postage prepaid, to the parties at their respective addresses set out above.

IN WITNESS WHEREOF, the parties hereto have executed this

agreement as of the date first written above.

NIGHTMARE PRODUCTIONS,
INC.
("Licensor")

By Wesley Hershey

THE ELMO PARTNERS
("Licensee")

By [Signature]
PEAR CO.

By [Signature]
JONATHAN CAIN FRIGA

By [Signature]
NEAL J. SCHON

EXHIBIT C

**Agreement between
THE ELMO PARTNERS**

Reference is hereby made to the Amendment to the General Partnership Agreement of the Elmo Partners ("Elmo") dated June 12, 1997 between Jonathan Cain Friga ("Cain"), Pear Co. f/s/o Stephen Ray Perry ("Perry") and, to the extent of their interests, Neal J. Schon and Schon Productions, Inc., (individually and collectively "Schon") (the "Agreement"). Wherefore Perry has mutually determined with Schon and Cain that he shall no longer perform with Schon and Cain as a member of "Journey" (the "Name") (Perry, Schon and Cain shall sometimes be collectively referred to herein as the "Elmo Partners"), it is hereby agreed as follows:

1. Subject to the terms of the Agreement and this document, Perry hereby agrees to waive the provisions set forth in paragraph 3.1(a) of the Agreement, which requires his consent for Schon and Cain to use the Name without his continued involvement, and Perry hereby consents to Schon and Cain otherwise continuing as Journey in connection with new Journey albums delivered after the date hereof and on which a lead singer other than Perry performs (the "New Journey") and performing and recording without the participation of Perry as the New Journey as set forth herein. The Agreement is hereby amended accordingly. Notwithstanding the above, Schon and Cain hereby acknowledge that Nightmare Productions, Inc. (currently known as N.M. Productions Inc. ("NM")) is the current owner of the Name and that its approval may be necessary to use the Name. As a shareholder of NM, Perry hereby agrees that he will vote in favor of NM granting such approval, provided that if the corporation and/or any NM shareholder receives any consideration, directly or indirectly, in connection with such grant of rights, then Perry shall receive the same consideration.

2. Schon and Cain agree that they shall not, under the Name, rerecord any musical compositions written, in whole or in part, by Cain, Schon and/or Perry, including, without limitation, "Group Compositions" as defined in the Agreement, or any compositions previously recorded by Journey if Perry is prevented from rerecording these compositions as a result of any rerecording restrictions in any agreements with Sony Music Inc. ("Sony"). In the event that Schon, Cain and Perry are permitted to rerecord such compositions hereunder, the parties agree that such rerecorded material shall be used solely for New Journey and Perry records, as applicable, for distribution through normal retail channels, including, without limitation, through record clubs (but specifically excluding any licensing of the masters and/or compositions), and the parties agree to ensure that all third parties (including, without limitation, Sony) will comply with this provision.

3. In full consideration for the agreements made by Perry as set forth in paragraph 1 above, Schon and/or Cain agree to pay or cause to be paid to Perry or his designee the following sums solely in connection with the New Journey (by way of clarification, the sums payable to Perry pursuant to the Agreement and any prior agreement shall remain unchanged):

a. New Journey Masters. In connection with all exploitation of the New Journey masters (the "Masters"), Perry shall be entitled to the following shares of Net Master Income (as defined below): (i) with regard to the first two New Journey albums, a sum equal to fifty percent (50%) of the Net Master Income in connection with such albums; (ii) with regard to the third New Journey album, a sum equal to twenty-five percent (25%) of the Net Master Income in connection with such album; and (iii) with regard to the fourth and all subsequent New Journey albums, a sum equal to twelve and one-half percent (12.5%) of the Net Master Income in connection with such album(s). "Net Master Income" shall mean all sums due to Schon or Cain, whichever is greater, in connection with the New Journey pursuant to the recording agreement between Schon and Cain as the New Journey and Sony (or any other applicable record company), including, without limitation, advances and royalties, after recoupment of all applicable amounts that are recoupable by Sony or the applicable record company from record royalties pursuant to such recording agreement, including any recording costs, as that term is defined in said recording agreement, paid by the New Journey in excess of any fund amounts, less only actual management commissions up to a maximum of fifteen percent (15%) ("Management Commissions") and actual, reasonable out-of-pocket third-party accounting fees paid solely due to an audit to recover monies in connection with the New Journey Masters, up to a maximum of five percent (5%), which shall be payable out of such audit recovery ("Master Accounting Fees"). In the event that the New Journey incurs legal expenses in connection with the New Journey Masters, the actual, reasonable out-of-pocket legal fees may be deducted in calculating Net Master Income ("Master Legal Fees"), provided that, by way of clarification, only legal fees paid for services rendered after the date of the execution of this agreement may be deducted hereunder. Notwithstanding anything contained in the foregoing, in no event shall the Net Master Income be less than twenty percent (20%) of the total amount earned by the New Journey in connection with the exploitation of the Masters, after recoupment of all applicable amounts that are recoupable by Sony or the applicable record company from record royalties pursuant to such recording agreement (other than any advances in which Perry does not share, which shall not be deductible), less Management Commissions and Master Legal Fees, if any. Perry's share of Net Master Income shall be payable without regard to the recoupment status of any other sources of New Journey income (e.g., the Net Tour Income and Net Miscellaneous Income discussed below). Schon and Cain will instruct Sony or any other applicable record company to pay to Perry Perry's share of Net Master Income directly, at the same time as Schon and Cain are paid pursuant to such recording agreement, and Schon and Cain agree to sign any additional documents reasonably necessary in this regard, including, without limitation, the letter of direction attached hereto as Exhibit A. In the event that Perry receives a direct payment as set forth in the immediately preceding sentence and Schon and Cain provide written notice to Perry that Management Commissions and/or Master Legal Fees are due in connection with said payment as provided herein, Perry will reimburse Schon and Cain therefor or Schon and Cain may deduct such amounts from other sums due to Perry hereunder.

b. Tour Income. In connection with all New Journey tours (the "Tours"), Perry shall be entitled to the following shares of Net Tour Income (as defined below): (i) with regard to the first two New Journey Tours in support of the first two New Journey albums, a sum

equal to fifty percent (50%) of the Net Tour Income in connection with such Tours; (ii) with regard to the third New Journey Tour in support of the third New Journey album, a sum equal to twenty-five percent (25%) of the Net Tour Income in connection with such Tour; and (iii) with regard to the fourth and all subsequent New Journey Tours in support of the fourth and all subsequent New Journey albums, a sum equal to twelve and one-half percent (12.5%) of the Net Tour Income in connection with such Tour(s). The applicable tour cycle will commence upon the start of the Tour and continue until Schon and/or Cain begin recording the subsequent New Journey album. "Net Tour Income" shall mean Schon or Cain's share, whichever is greater, of all revenues earned by the New Journey in connection with the applicable Tour (including, without limitation, tour merchandise, tour sponsorship income and any tour support payments), after deducting only direct, actual expenses paid by the New Journey in connection with the Tour (excluding any salaries paid to Schon, Cain or any other member of the New Journey), including any Management Commissions, the actual, reasonable out-of-pocket third-party accounting fees paid solely in connection with the Tour ("Tour Accounting Fees") and any actual out-of-pocket agency commissions paid solely in connection with such Tour up to a maximum of ten percent (10%) ("Tour Agency Commissions"). In the event that the New Journey incurs legal expenses in connection with the Tour, the actual, reasonable out-of-pocket legal fees paid by the New Journey may be deducted in calculating Net Tour Income ("Tour Legal Fees"). Notwithstanding anything contained in the foregoing, in no event shall the Net Tour Income be less than twenty percent (20%) of the total amount earned by the New Journey in connection with the Tours, after deducting only direct, actual expenses paid by the New Journey in connection with the Tour (excluding any salaries paid to Schon, Cain or any other member of the New Journey), including Management Commissions, Tour Accounting Fees, Tour Agency Commissions, and Tour Legal Fees, if any. Perry's share of Net Tour Income shall be payable without regard to the recoupment status of any other sources of New Journey income (e.g., the Net Master Income and Net Miscellaneous Income). Perry's share of Net Tour Income shall be payable within five (5) business days after Schon and/or Cain receive any payments representing their net share of such Tour income.

c. Net Miscellaneous Income. In connection with all other income derived from Schon and/or Cain's use of the Name separate from the exploitation of New Journey Masters and Tours, including, without limitation, retail merchandise and endorsements, Perry shall be entitled to the following shares of all Net Miscellaneous Income (as defined below): (i) with regard to such income earned following the release of the first two New Journey albums until the release of the third New Journey album, a sum equal to fifty percent (50%) of the Net Miscellaneous Income; (ii) with regard to such income earned following the release of the third New Journey album until the release of the fourth New Journey album, a sum equal to twenty-five percent (25%) of the Net Miscellaneous Income; and (iii) with regard to such income earned following the release of the fourth and all subsequent New Journey albums, a sum equal to twelve and one-half percent (12.5%) of the Net Miscellaneous Income. "Net Miscellaneous Income" shall mean Schon or Cain's share, whichever is greater, of all revenues earned by the New Journey in connection with sources of revenue other than in connection with the New Journey Masters and Tours, less only direct, actual expenses paid by the New Journey in

connection with such income, including Management Commissions, the actual, reasonable out-of-pocket third-party accounting fees paid solely in connection with such income ("Miscellaneous Accounting Fees") and any actual out-of-pocket agency commissions paid solely in connection with such income up to a maximum of ten percent (10%) ("Miscellaneous Agency Commissions"). In the event that the New Journey incurs legal expenses in connection with sources of revenue other than in connection with the New Journey Masters and Tours or due to an audit to recover such monies, the actual, reasonable out-of-pocket legal fees paid by the New Journey ("Miscellaneous Legal Fees") may be deducted in calculating Net Miscellaneous Income. Notwithstanding anything contained in the foregoing, in no event shall the Net Miscellaneous Income be less than twenty percent (20%) of the total amount earned by the New Journey in connection with such revenue sources, less only direct, actual expenses paid by the New Journey in connection with such income, including Management Commissions, Miscellaneous Accounting Fees, Miscellaneous Agency Commissions and Miscellaneous Legal Fees, if any. Perry's share of Net Miscellaneous Income shall be payable without regard to the recoupment status of any other sources of New Journey income (e.g., the Net Master Income and Net Tour Income). Perry's share of Net Miscellaneous Income shall be payable within five (5) business days after Schon and/or Cain receive any payments representing their net share of such income.

4. Schon and Cain agree that all New Journey business shall be conducted through a new entity (i.e., neither Elmo nor N.M. Productions), to be established by Schon and Cain for this purpose (the "New Journey Entity"). By way of clarification, all of the operations of Elmo under the Agreement shall continue unaffected by this amendment (e.g., in connection with "Trial by Fire," "Raised on Radio," the 1981 live album, etc.), and the unanimous consent of the Elmo Partners shall remain necessary in connection with all such matters pursuant to the provisions of the Agreement, including, without limitation, in connection with the exploitation of any Group Master or Group Composition, as those terms are defined in the Agreement. Notwithstanding the foregoing, as of February 1, 1998, the salary of Richard Ivers and any other costs associated with his services will no longer be treated as an expense of Elmo, and no such amounts may be deducted in determining the amounts due to Perry under the Agreement, as amended. Schon and Cain agree to instruct Sony to pay Perry Perry's share of income pursuant to the Agreement directly, and Schon and Cain agree to sign any additional documents reasonably necessary in this regard, including, without limitation, the letter of direction attached hereto as Exhibit A. Perry shall not be responsible for any losses in connection with the New Journey Entity.

5. Schon and Cain shall maintain accurate books of account in connection with the New Journey and all sums due Perry hereunder. Perry or a Certified Public Accountant employed by Perry may, at Perry's expense, at reasonable intervals, during normal business hours and upon reasonable notice, examine Schon's, Cain's and the New Journey Entity's books concerning all income hereunder ("Audit"). Such Audit may only be conducted as aforesaid once per year, and Schon and Cain shall have no obligation to permit Perry to so Audit their said books relating to any particular period more than once. Perry shall receive from Schon and/or

Cain his pro rata share hereunder of any net recovery in the event that Schon and/or Cain conduct an audit of Sony or any other applicable third party in connection with income hereunder. Perry shall have the right to object to whether the Management Commissions, Master Accounting Fees, Master Legal Fees, Tour Accounting Fees, Tour Agency Commissions, Tour Legal Fees, Miscellaneous Accounting Fees, Miscellaneous Agency Commissions and Miscellaneous Legal Fees have been properly computed hereunder from time to time, and any examination by Perry or Perry's representative of Schon's, Cain's or the New Journey's books concerning these amounts will not constitute an Audit hereunder.

6. Schon and Cain agree to cause Sony and any other applicable third party to ensure that all phonorecords, advertisements (whether print, audio or audiovisual, including, without limitation, the Internet), publicity material and any other printed material (including, without limitation, in any tour programs) used in connection with the initial release of the first New Journey album shall contain appropriate stickering indicating that there is a new lead singer and the name of that lead singer in a clear manner. If the first New Journey album sells less than one million (1,000,000) units, the second New Journey album shall include a similar sticker on its initial release. If the first New Journey album sells more than one million (1,000,000) units, the decision whether to include a similar sticker on the second New Journey album will be determined by good faith negotiations between the Elmo Partners, including Perry, and Sony or any applicable record company.

7. Perry, Schon, Cain and Sony shall mutually develop and approve a press release indicating that there is a new lead singer of Journey and identifying that lead singer (the "Press Release"), and no other press release shall be released concerning the new lead singer for eighteen (18) months following the date of the release of the Press Release without the unanimous consent of the parties hereto. Schon and Cain shall obtain Perry's approval before releasing any press release that makes reference to Perry.

8. The parties hereby agree that neither Perry, Schon nor Cain shall make any public statements that would be inconsistent with the press release set forth in paragraph 7 above or take any action or make any statements that would or might disparage or demean any other party regarding the subject of this amendment or otherwise.

9. Schon and Cain will at all times indemnify Perry and Pear Co. and hold Perry and Pear Co. harmless from and against any and all claims, damages, liabilities, costs and expenses, including legal expenses and reasonable counsel fees, arising out of any claim in connection with the New Journey. Perry shall give Schon and Cain notice of any such claim and Schon and Cain shall, at Perry's election, defend such claim, at Schon and Cain's cost and expense. Schon and Cain shall reimburse Perry on demand for any payment made at any time after the date hereof in connection with any liability or claim in respect of which Perry is entitled to be indemnified hereunder.

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Gerald Weiner

310 203 8334

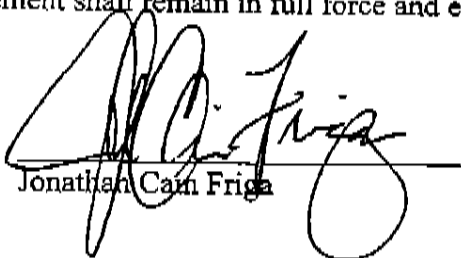
p.7

10. No party shall be in breach of any of its obligations hereunder unless and until another party notifies the breaching party in writing of the breaching party's breach or alleged breach and the breaching party fails to cure that breach or alleged breach within thirty (30) days after receipt of that notice from the non-breaching party, except that the breaching party shall have fifteen (15) days instead of thirty (30) days to cure any breach in connection with payments hereunder.

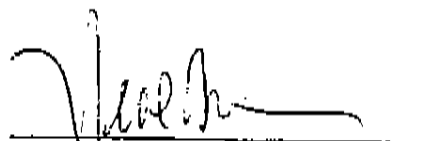
11. With respect to all non-New Journey matters (e.g., pursuant to the Agreement), the parties hereby agree that Grant & Tani shall remain as business managers until the parties unanimously decide otherwise. By way of clarification, Schon and Cain shall determine the business manager for all New Journey matters.

12. All notices or correspondence pertaining to this agreement shall be sent to Perry c/o Manatt, Phelps & Phillips, 11355 West Olympic Boulevard, Los Angeles, California 90064, Attention: L. Lee Phillips, Esq; to Schon c/o Marc S. Fleischer, 128 Heather Drive, New Canaan, Connecticut 06840; and to Cain c/o Gerald B. Weiner, Esq., 1925 Century Park East, Suite 1260, Los Angeles, California 90067.

13. Except as specifically amended herein, all the terms and conditions of the Agreement shall remain in full force and effect.


Jonathan Cain Friga

Date: _____


Neal Schon and
Neal Schon Productions

Date: _____

Pear Co.


By: Stephen Ray Perry

Date: _____

EXHIBIT D

**MINUTES OF THE SPECIAL MEETING OF THE SHAREHOLDERS
NIGHTMARE PRODUCTIONS, INC.**

A Special Meeting of the Shareholders of Nightmare Productions, Inc., a California corporation, was held at 10:30 a.m. on February 13, 2020, at 1000 4th Street, Suite 375, San Rafael, California 94901. The meeting was pursuant to a Notice of Special Meeting of the Shareholders of Nightmare Productions, Inc., dated January 31, 2020 and e-mailed and mailed to the Shareholders of Nightmare Productions, Inc. A copy of the Notice is attached hereto as Exhibit A.

A. The following individuals attended the meeting in person:

1. Ross Valory;
2. Walter J. Herbert, Jr.;
3. Timothy J. Jorstad;
4. Daniel J. Schacht; and
5. Megan C. Cronin.

The following individuals called into a telephonic conference call for the meeting:

6. Jonathan Friga pka Jonathan Cain;
7. Steven Smith;
8. Stephen Perry;
9. Lee Phillips;
10. Darrell Miller; and
11. Mark Barondess.

B. Daniel J. Schacht, attorney with Donahue Fitzgerald LLP and counsel for Nightmare Productions, Inc., acted as Chairman of the meeting. Ross Valory acted as Secretary for the meeting.

C. The Chairman instructed the Secretary to incorporate a copy of the Certificate of Mailing, attached hereto as Exhibit B, showing that the notice of the meeting had been duly given to each Shareholder via e-mail and U.S. mail on January 31, 2020, into the minutes of the meeting.

Mark Barondess, counsel for Neal Schon, disputed the validity of the Notice of Special Meeting of the Shareholders pursuant to Section 20 and Section 600 of the California Corporations Code because the notice was sent via e-mail, and stated he was reserving all rights for his client. Darrell Miller, counsel for Jonathan Friga, stated he was disputing the validity of the notice on behalf of his client as well. The Chairman acknowledged the objections by Mark Barondess and Darrell Miller.

D. The Chairman then announced the following shareholders were personally present for the meeting:

1. Ross Valory; and
2. Walter J. Herbert, Jr.

The Chairman then announced the following shareholders were represented by proxy and designated Timothy J. Jorstad, CPA as their attorney-in-fact to vote their shares for the meeting:

1. Steven Smith (proxy executed on February 10, 2020)
2. Stephen Perry (proxy executed on February 13, 2020)

Copies of the proxies are attached hereto as Exhibit C.

The Chairman noted shareholder Neal Schon was not present in person or by phone, or represented by proxy for the meeting. Jonathan Friga was not represented by proxy for the meeting; the Chairman offered him the opportunity to submit the proxy form before proceeding, but he declined.

Mark Barondess objected to the validity of the proxies because they were not made available for inspection prior to the meeting. The Chairman acknowledged Barondess's objection and noted that the proxies would be incorporated into the minutes of the meeting and made available for everyone to review.

E. The Chairman announced that a majority of shareholders entitled to vote on the matters identified in the Notice of Special Meeting were present in person or by proxy and that a quorum was present.

F. Next, the Chairman announced the first matter of business of meeting was for the shareholders to amend the bylaws as set forth in the Notice of Special Meeting, to allow for six (6) directors to hold office for a term of one year until their respective successors have been duly elected.

The proposal passed with the affirmative votes of Ross Valory (625 shares), Steven Smith (625 shares), Walter J. Herbert, Jr. (625 shares), and Stephen Perry (625 shares) and the Chairman announced the following resolution had been adopted:

RESOLVED, that Article III, Section 2 of the Bylaws of the Corporation is deleted in its entirety and replaced by the following:

Section 2. NUMBER AND QUALIFICATION OF DIRECTORS. The authorized number of directors of the corporation shall be six (6) until changed by amendment of the Articles of Incorporation or a by-law duly adopted by the shareholders amending this Section 2.

G. The Chairman then announced the next action to be taken by the shareholders was the election of six (6) directors to hold office for a term of one (1) year until their respective successors have been duly elected. The nominees for directors were:

1. Jonathan Friga pka Jonathan Cain
2. Neal Schon

3. Ross Valory
4. Steven Smith
5. Walter J. Herbert, Jr.
6. Stephen Perry

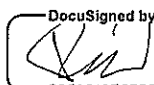
Mark Barondess objected to the vote by the shareholders for the election of six (6) directors. The Chairman acknowledged Barondess's objection. The Chairman invited further discussion on the matter and there was none.

The election of all six (6) nominees was passed with the affirmative votes of Ross Valory (625 shares), Steven Smith (625 shares), Walter J. Herbert, Jr. (625 shares), and Stephen Perry (625 shares). The Chairman announced that the directors of Nightmare Productions, Inc. are:

1. Jonathan Friga pka Jonathan Cain
2. Neal Schon
3. Ross Valory
4. Steven Smith
5. Walter J. Herbert, Jr.
6. Stephen Perry

H. The Chairman then announced that the Special Meeting was officially adjourned.

Dated: February 27, 2020

DocuSigned by:

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Ross Valory, Secretary

EXHIBIT A

[See Attached]

**NOTICE OF SPECIAL MEETING OF SHAREHOLDERS
OF
NIGHTMARE PRODUCTIONS, INC.**

Date: February 13, 2020

Time: 10:30 a.m.

TO THE SHAREHOLDERS OF NIGHTMARE PRODUCTIONS, INC.:

Notice is hereby given that a special meeting of shareholders of Nightmare Productions, Inc., a California corporation (the "Corporation") will be held at 1000 Fourth Street, Suite 375, San Rafael, CA 94901, on February 13, 2020 at 10:30 a.m. Pacific Time for the following purposes:

- 1) To vote to amend the bylaws to allow for six directors in the form attached hereto as Exhibit A.
- 2) To vote to elect six (6) directors to the board of directors of the Corporation to hold office for a term of one year or until their respective successors have been duly elected and qualified. The nominees for directors are:

John Friga pka Jonathan Cain

Neal Schon

Ross Valory

Steven Smith

Walter J. Herbert, Jr.

Stephen Perry

If you do not expect to be present at the meeting and wish your shares to be voted, you may complete the attached form of proxy and file it with the Secretary at the commencement of the meeting, or return it to dschacht@donahue.com or Daniel Schacht, Esq., 1999 Harrison Street 26th Floor, Oakland, California 94612.

DATED: January 31, 2020

DocuSigned by:

BFC8DE79AA47473...
John Friga pka Jonathan Cain, President

PROXY

The undersigned shareholder of Nightmare Productions, Inc., a California corporation (the "Corporation"), hereby appoints _____ as the attorney-in-fact and proxy for the undersigned, with the powers the undersigned would possess if personally present, and with full power of substitution, for and in the name and stead of the undersigned to attend a special meeting of the shareholders of the Corporation to be held at 1000 Fourth Street, Suite 375, San Rafael, CA 94901, on February 13, 2020, at 10:30 a.m. Pacific Time, and any adjournment or postponement thereof and thereat to vote all shares of stock of the Corporation held by the undersigned which the undersigned would be entitled to vote if personally present with respect to the matters set forth below.

This proxy also delegates discretionary authority to vote with respect to any other business which may properly come before the meeting or any adjournment or postponement thereof. The shares represented by this proxy shall be voted in the following manner:

Actions Proposed to be Taken	For	Against	Withhold
Proposal No. 1: Amend the bylaws to allow for six (6) directors in the form attached hereto as Exhibit A.			

Election as Directors, effective as of February 13, 2020	For	Against	Withhold
John Friga pka Jonathan Cain			
Neal Schon			
Steven Smith			
Walter J. Herbert, Jr.			
Stephen Perry			
Ross Valory			

THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF THE NOTICE OF SPECIAL MEETING AND PROXY STATEMENT.

IF NO INDICATION IS MADE ON HOW YOU DESIRE YOUR SHARES TO BE VOTED, THE PROXY HOLDER WILL HAVE COMPLETE DISCRETION IN VOTING THE SHARES ON ANY MATTER VOTED ON AT THE MEETING.

Dated: _____

Signature

Print Name

EXHIBIT A
CERTIFICATE OF AMENDMENT TO BYLAWS
OF
NIGHTMARE PRODUCTIONS, INC.

This Amendment to the Bylaws of Nightmare Productions, Inc., a California corporation (the "Corporation"), is effective as of February 13, 2020 and is made pursuant to Article VI of the Bylaws.

RESOLVED, that Article III, Section 2 of the Bylaws of the Corporation is deleted in its entirety and amended to read as follows:

Section 2. NUMBER AND QUALIFICATION OF DIRECTORS. The authorized number of directors of the corporation shall be six (6) until changed by amendment of the Articles of Incorporation or a by-law duly adopted by the shareholders amending this Section 2.

I, the undersigned, do hereby certify:

1) That I am the duly elected and acting Secretary of Nightmare Productions, Inc., a California corporation.

2) That the foregoing amendment to the Bylaws of the Corporation was duly adopted by the shareholders of the corporation at a meeting of the shareholders held on February 13, 2020.

Dated: February 13, 2020

Ross Valory, Secretary

EXHIBIT B

[See Attached]

DECLARATION OF MAILING

I, Megan C. Cronin, declare:

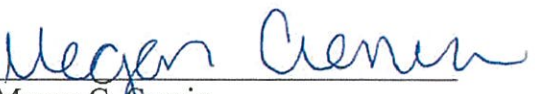
I am over the age of 18 years. My business address is Donahue Fitzgerald LLP, 1999 Harrison Street, 26th Floor, Oakland, California 94612, which is located in the county where the mailing described below took place.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On January 31, 2020, at my place of business at 1999 Harrison Street, 26^h Floor, Oakland, California 94612, I caused to be mailed a **Notice of Special Meeting of Shareholders of Nightmare Productions, Inc.**, signed by John Friga pka Jonathan Cain, President of Nightmare Productions, Inc., to each shareholder entitled to vote at the meeting by depositing a true and correct copy of the notice (in the form attached hereto) in the United States mail, in a sealed envelope with postage prepaid, addressed to each shareholder at his/her last known address as listed in the records of the corporation or given to this corporation for the purpose of notice.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on January 31, 2020.


Megan C. Cronin

**NOTICE OF SPECIAL MEETING OF SHAREHOLDERS
OF
NIGHTMARE PRODUCTIONS, INC.**

Date: February 13, 2020

Time: 10:30 a.m.

TO THE SHAREHOLDERS OF NIGHTMARE PRODUCTIONS, INC.:

Notice is hereby given that a special meeting of shareholders of Nightmare Productions, Inc., a California corporation (the "Corporation") will be held at 1000 Fourth Street, Suite 375, San Rafael, CA 94901, on February 13, 2020 at 10:30 a.m. Pacific Time for the following purposes:

- 1) To vote to amend the bylaws to allow for six directors in the form attached hereto as Exhibit A.
- 2) To vote to elect six (6) directors to the board of directors of the Corporation to hold office for a term of one year or until their respective successors have been duly elected and qualified. The nominees for directors are:

John Friga pka Jonathan Cain

Neal Schon

Ross Valory

Steven Smith

Walter J. Herbert, Jr.

Stephen Perry

If you do not expect to be present at the meeting and wish your shares to be voted, you may complete the attached form of proxy and file it with the Secretary at the commencement of the meeting, or return it to dschacht@donahue.com or Daniel Schacht, Esq., 1999 Harrison Street 26th Floor, Oakland, California 94612.

DATED: January 31, 2020

DocuSigned by:

BFC6DE79AA47473...
John Friga pka Jonathan Cain, President

PROXY

The undersigned shareholder of Nightmare Productions, Inc., a California corporation (the "Corporation"), hereby appoints _____ as the attorney-in-fact and proxy for the undersigned, with the powers the undersigned would possess if personally present, and with full power of substitution, for and in the name and stead of the undersigned to attend a special meeting of the shareholders of the Corporation to be held at 1000 Fourth Street, Suite 375, San Rafael, CA 94901, on February 13, 2020, at 10:30 a.m. Pacific Time, and any adjournment or postponement thereof and thereat to vote all shares of stock of the Corporation held by the undersigned which the undersigned would be entitled to vote if personally present with respect to the matters set forth below.

This proxy also delegates discretionary authority to vote with respect to any other business which may properly come before the meeting or any adjournment or postponement thereof. The shares represented by this proxy shall be voted in the following manner:

Actions Proposed to be Taken	For	Against	Withhold
<u>Proposal No. 1:</u> Amend the bylaws to allow for six (6) directors in the form attached hereto as Exhibit A.			

Election as Directors, effective as of February 13, 2020	For	Against	Withhold
John Friga pka Jonathan Cain			
Neal Schon			
Steven Smith			
Walter J. Herbert, Jr.			
Stephen Perry			
Ross Valory			

THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF THE NOTICE OF SPECIAL MEETING AND PROXY STATEMENT.

IF NO INDICATION IS MADE ON HOW YOU DESIRE YOUR SHARES TO BE VOTED, THE PROXY HOLDER WILL HAVE COMPLETE DISCRETION IN VOTING THE SHARES ON ANY MATTER VOTED ON AT THE MEETING.

Dated: _____

Signature

Print Name

EXHIBIT A
CERTIFICATE OF AMENDMENT TO BYLAWS
OF
NIGHTMARE PRODUCTIONS, INC.

This Amendment to the Bylaws of Nightmare Productions, Inc., a California corporation (the "Corporation"), is effective as of February 13, 2020 and is made pursuant to Article VI of the Bylaws.

RESOLVED, that Article III, Section 2 of the Bylaws of the Corporation is deleted in its entirety and amended to read as follows:

Section 2. NUMBER AND QUALIFICATION OF DIRECTORS. The authorized number of directors of the corporation shall be six (6) until changed by amendment of the Articles of Incorporation or a by-law duly adopted by the shareholders amending this Section 2.

I, the undersigned, do hereby certify:

1) That I am the duly elected and acting Secretary of Nightmare Productions, Inc., a California corporation.

2) That the foregoing amendment to the Bylaws of the Corporation was duly adopted by the shareholders of the corporation at a meeting of the shareholders held on February 13, 2020.

Dated: February 13, 2020

Ross Valory, Secretary

DONAHUE
FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Jonathan Cain
421 Kentucky Blue Circle
Apopka, Florida 32712

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DONAHUE
FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Walter J. Herbert
222 El Toyonal
Orinda, California 94563

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DONAHUE
FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Neal Schon
53 Tomahawk Drive
San Anselmo, California 94960

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DONAHUE
FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Steven Smith
P.O. Box 36
Ashland, Oregon 97520

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ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

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041L11254228

Stephen Perry
c/o Perry Oretsky
11150 W. Olympic Blvd., Ste. 915
Los Angeles, California 90064

DONAHUE
FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Mark Barondess, Esq.
Miller Barondess
1999 Avenue of the Stars, Suite 1000
Los Angeles, California 90067

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FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Ross Valory
342 Golden Grass Drive
Alamo, California 94507

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041L11254228

EXHIBIT C

[See Attached]

PROXY

The undersigned shareholder of Nightmare Productions, Inc., a California corporation (the "Corporation"), hereby appoints Tim Starsted as the attorney-in-fact and proxy for the undersigned, with the powers the undersigned would possess if personally present, and with full power of substitution, for and in the name and stead of the undersigned to attend a special meeting of the shareholders of the Corporation to be held at 1000 Fourth Street, Suite 375, San Rafael, CA 94901, on February 13, 2020, at 10:30 a.m. Pacific Time, and any adjournment or postponement thereof and thereat to vote all shares of stock of the Corporation held by the undersigned which the undersigned would be entitled to vote if personally present with respect to the matters set forth below.

This proxy also delegates discretionary authority to vote with respect to any other business which may properly come before the meeting or any adjournment or postponement thereof. The shares represented by this proxy shall be voted in the following manner:

Actions Proposed to be Taken	For	Against	Withhold
Proposal No. 1: Amend the bylaws to allow for six (6) directors in the form attached hereto as Exhibit A.	X		

Election as Directors, effective as of February 13, 2020	For	Against	Withhold
John Friga pka Jonathan Cain	X		
Neal Schon	X		
Steven Smith	X		
Walter J. Herbert, Jr.	X		
Stephen Perry	X		
Ross Valory	X		

THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF THE NOTICE OF SPECIAL MEETING AND PROXY STATEMENT.

IF NO INDICATION IS MADE ON HOW YOU DESIRE YOUR SHARES TO BE VOTED, THE PROXY HOLDER WILL HAVE COMPLETE DISCRETION IN VOTING THE SHARES ON ANY MATTER VOTED ON AT THE MEETING.

Dated: 02/10/2020

Signature

Print Name

Monally

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PROXY

The undersigned shareholder of Nightmare Productions, Inc., a California corporation (the "Corporation"), hereby appoints Tim Jorstad as the attorney-in-fact and proxy for the undersigned, with the powers the undersigned would possess if personally present, and with full power of substitution, for and in the name and stead of the undersigned to attend a special meeting of the shareholders of the Corporation to be held at 1000 Fourth Street, Suite 375, San Rafael, CA 94901, on February 13, 2020, at 10:30 a.m. Pacific Time, and any adjournment or postponement thereof and thereat to vote all shares of stock of the Corporation held by the undersigned which the undersigned would be entitled to vote if personally present with respect to the matters set forth below.

This proxy also delegates discretionary authority to vote with respect to any other business which may properly come before the meeting or any adjournment or postponement thereof. The shares represented by this proxy shall be voted in the following manner:

Actions Proposed to be Taken	For	Against	Withhold
Proposal No. 1: Amend the bylaws to allow for six (6) directors in the form attached hereto as Exhibit A.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Election as Directors, effective as of February 13, 2020	For	Against	Withhold
John Friga aka Jonathan Cain	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neal Schon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Steven Smith	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Walter J. Herbert, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Perry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ross Valory	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

THE UNDERSIGNED HEREBY ACKNOWLEDGES RECEIPT OF THE NOTICE OF SPECIAL MEETING AND PROXY STATEMENT.

IF NO INDICATION IS MADE ON HOW YOU DESIRE YOUR SHARES TO BE VOTED, THE PROXY HOLDER WILL HAVE COMPLETE DISCRETION IN VOTING THE SHARES ON ANY MATTER VOTED ON AT THE MEETING.

Dated: 2/13/20


Signature

Steve Perry
Print Name

**MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS
NIGHTMARE PRODUCTIONS, INC.**

A Special Meeting of the Board of Directors of Nightmare Productions, Inc., a California corporation, was held on or about 10:45 a.m. on February 13, 2020, at 1000 4th Street, Suite 375, San Rafael, California 94901, directly following the Special Meeting of the Shareholders of Nightmare Productions, Inc. The meeting was pursuant to a Notice of Special Meeting of the Board of Directors of Nightmare Productions, Inc., dated January 31, 2020 and e-mailed and mailed to the board members of Nightmare Productions, Inc.

A. Those in attendance of the meeting were the following:

1. Jonathan Friga pka Jonathan Cain (by telephone);
2. Ross Valory (in person);
3. Steven Smith (by telephone);
4. Walter J. Herbert, Jr. (in person);
5. Stephen Perry (by telephone);
6. Timothy J. Jorstad (in person);
7. Lee Phillips (by telephone);
8. Darrell Miller (by telephone);
9. Mark Barondess (by telephone);
10. Daniel J. Schacht (in person); and
11. Megan C. Cronin (in person).

Perry Oretzky joined the meeting by telephone after it had commenced.

B. Daniel J. Schacht, attorney with Donahue Fitzgerald LLP and counsel for Nightmare Productions, Inc., acted as Chairman of the meeting. Ross Valory acted as Secretary for the meeting.

C. Attached hereto as Exhibit A is the Certificate of Mailing, showing that the notice of the meeting had been duly given to each director via e-mail and U.S. mail on January 31, 2020. The Chairman instructed the Secretary to incorporate a copy of the Certificate of Mailing into the minutes of the meeting.

D. Mark Barondess, counsel for Neal Schon, raised the issue to the Chairman that he had not received minutes for Nightmare Productions, Inc. as requested and therefore was objecting to the meeting on the grounds that he had not had opportunity to examine the corporate records. The Chairman acknowledged Barondess's objection and stated that copies of Nightmare Productions, Inc.'s minutes would be e-mailed to him following the meeting.

E. The Chairman then announced the following directors were present for the meeting:

1. Jonathan Friga pka Jonathan Cain (by telephone)
2. Ross Valory (in person)
3. Steven Smith (by telephone)

4. Walter J. Herbert, Jr. (in person)
5. Stephen Perry (by telephone)

The Chairman noted board member Neal Schon was not present in person or by telephone for the meeting. The Chairman announced that, as five of the six of directors entitled to vote on the matters outlined in the Notice of Special Meeting were present, a quorum was present.

F. Next, the Chairman announced the first matter of business of meeting was for directors to vote to elect the officers of Nightmare Productions, Inc. to serve a term of one (1) year or until their respective successors have been duly elected.

The nominees for officers were:

1. Steven Smith as President
2. Ross Valory as Secretary
3. Timothy J. Jorstad as Chief Financial Officer

The Chairman invited discussion and additional questions on the proposal and there was none. No further nominations were made.

The election of the officers of Nightmare Productions, Inc. was voted by the directors as follows:

Election of Steve Smith to Serve as President			
Board Member	Yes	No	Abstain
Jonathan Friga pka Jonathan Cain			X
Neal Schon	NOT PRESENT		
Ross Valory	X		
Steven Smith	X		
Stephen Perry	X		
Walter J. Herbert, Jr.	X		

Election of Ross Valory to Serve as Secretary			
Board Member	Yes	No	Abstain
Jonathan Friga pka Jonathan Cain			X
Neal Schon	NOT PRESENT		
Ross Valory	X		
Steven Smith	X		
Stephen Perry	X		
Walter J. Herbert, Jr.	X		

Election of Timothy J. Jorstad to Serve as Chief Financial Officer			
Board Member	Yes	No	Abstain
Jonathan Friga pka Jonathan Cain			X
Neal Schon	NOT PRESENT		
Ross Valory	X		
Steven Smith	X		
Stephen Perry	X		
Walter J. Herbert, Jr.	X		

Following the vote by the directors, the Chairman announced that the officers of Nightmare Productions, Inc. are:

1. Steven Smith as President
2. Ross Valory as Secretary
3. Timothy J. Jorstad as Chief Financial Officer

G. Next, the Chairman announced the next matter of business of meeting was for directors to confirm that Jorstad, Inc. and Donahue Fitzgerald LLP will continue to represent Nightmare Productions, Inc. for the corporation's business management and legal matters, respectively.

Mark Barondess objected to a vote by board members confirming Nightmare Productions, Inc. will continue to be represented by Jorstad, Inc. and Donahue Fitzgerald LLP the corporation's business management and legal matters, respectively. The Chairman acknowledged Barondess's objection. The Chairman invited further discussion on the matter and there was none.

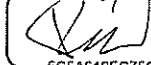
The matter was voted by the directors as follows:

Election of Ross Valory to Serve as Secretary			
Board Member	Yes	No	Abstain
Jonathan Friga pka Jonathan Cain			X
Neal Schon	NOT PRESENT		
Ross Valory	X		
Steven Smith	X		
Stephen Perry	X		
Walter J. Herbert, Jr.	X		

H. The Chairman then announced that the Special Meeting was officially adjourned.

Dated: February 27, 2020 _____

DocuSigned by:



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Ross Valory, Secretary

EXHIBIT A

[*See Attached*]

DECLARATION OF MAILING

I, Megan C. Cronin, declare:

I am over the age of 18 years. My business address is Donahue Fitzgerald LLP, 1999 Harrison Street, 26th Floor, Oakland, California 94612, which is located in the county where the mailing described below took place.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On January 31, 2020, at my place of business at 1999 Harrison Street, 26^h Floor, Oakland, California 94612, I caused to be mailed a **Notice of Special Meeting of Board of Directors of Nightmare Productions, Inc.**, signed by John Friga pka Jonathan Cain, President of Nightmare Productions, Inc., to each director of the corporation by depositing a true and correct copy of the notice (in the form attached hereto) in the United States mail, in a sealed envelope with postage prepaid, addressed to each shareholder at his/her last known address as listed in the records of the corporation or given to this corporation for the purpose of notice.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on January 31, 2020.


Megan C. Cronin

**NOTICE OF SPECIAL MEETING OF THE BOARD OF DIRECTORS
OF
NIGHTMARE PRODUCTIONS, INC.**

Date: February 13, 2020

Time: 10:30 a.m.

TO THE BOARD OF DIRECTORS OF NIGHTMARE PRODUCTIONS, INC.:

Notice is hereby given that a special meeting of the board of directors of Nightmare Productions, Inc., a California corporation (the "Corporation") will be held at 1000 Fourth Street, Suite 375, San Rafael, CA 94901, on February 13, 2020 at 10:30 a.m. Pacific Time for the following purposes:

- 1) To elect officers of the Corporation to hold office for a term of one (1) year or until their respective successors have been selected and qualified, The nominees for officers are:

Steven Smith – President

Ross Valory – Secretary

Timothy Jorstad – Chief Financial Officer

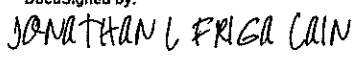
- 2) Affirm that Jorstad, Inc. and Donahue Fitzgerald LLP will continue to represent the Corporation for business management and legal matters, respectively.
- 3) To transact such other business as may properly be brought before the meeting.

Each director may participate by conference call using the following dial-in information, so long as the director uses a telephone or similar communications equipment that allows all members to hear one another:

Call (510) 251-7120 and enter the Participant Code below followed by # key.

Participant Code: 09221192

DATED: January 31, 2020

DocuSigned by:

BFC6DE79AA47473...
John Friga pka Jonathan Cain, President

DONAHUE
FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Jonathan Cain
421 Kentucky Blue Circle
Apopka, Florida 32712

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ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Walter J. Herbert
222 El Toyonal
Orinda, California 94563

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DONAHUE
FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Neal Schon
53 Tomahawk Drive
San Anselmo, California 94960

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DONAHUE
FITZGERALD
ATTORNEYS

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Steven Smith
P.O. Box 36
Ashland, Oregon 97520

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Stephen Perry
c/o Perry Oretsky
11150 W. Olympic Blvd., Ste. 915
Los Angeles, California 90064

**DONAHUE
FITZGERALD
ATTORNEYS**

1999 Harrison Street, 26th Floor, Oakland, CA 94612

Mark Barondess, Esq.
Miller Barondess
1999 Avenue of the Stars, Suite 1000
Los Angeles, California 90067

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ATTORNEYS

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Ross Valory
342 Golden Grass Drive
Alamo, California 94507

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