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6 Attorneys for Defendants,
SOL LUNA EXPEDITIONS, LLC,
7 SAN DIEGO MARINE SERVICES AND
LAKE RICKOLT

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

04/26/2018 at 05:35:00 PM
Clerk of the Superior Court
By Veronica Navarro, Deputy Clerk

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SAN DIEGO

10 BRAD MCLAUGHLIN, an individual; and) CASE NO. 37-2018-00002850-CU-BC-NC
11 BUDTRADER.COM, a sole proprietorship,)
12 Plaintiffs,) **DEFENDANTS' ANSWER TO**
13 vs.) **COMPLAINT AND DEMAND FOR**
14 SOL LUNA EXPEDITIONS, LLC, a) **JURY TRIAL**
California Corporation; SAN DIEGO)
15 MARINE SERVICES, a California)
Corporation; LAKE RICKOLT, an)
16 individual, and DOES 1 through 20, inclusive,)
17 Defendants.)
Complaint Filed: January 19, 2018

18 Comes now Defendants SOL LUNA EXPEDITIONS, LLC, SAN DIEGO MARINE
19 SERVICES AND LAKE RICKOLT (“Defendants”) by and through their attorneys of record,
20 and hereby answers the unverified Complaint of Plaintiffs BRAD MCLAUGHLIN AND
21 BUDTRADER.COM (“Plaintiffs”) as follows:

22 **GENERAL DENIAL**

23 Pursuant to California Code of Civil Procedure section 431.30, Defendants generally and
24 specifically deny each, every, and all allegations in Plaintiffs’ Complaint, including each and
25 every purported cause of action contained or alleged therein. Defendants further deny that
26 Plaintiffs have or will sustain damages in the amounts alleged, or in any amount whatsoever, by
27 reason of any act, conduct, breach or omission by, on behalf of, or on the part of Defendants, and
28 Defendants further deny that Plaintiffs are entitled to any relief whatsoever from Defendants.

1 In addition, Defendants assert the following separate affirmative defenses:

2 **AFFIRMATIVE DEFENSES**

3 Defendants, through their attorneys, assert against Plaintiffs the following separate and
4 distinct affirmative defenses, the applicability of which will be determined through the course of
5 investigation and discovery:

6 **FIRST AFFIRMATIVE DEFENSE**

7 **(Failure to State Cause of Action)**

8 Defendants allege that the Complaint, and each and every purported cause of action
9 contained therein, fails to state facts sufficient to constitute a cause of action against Defendants.

10 **SECOND AFFIRMATIVE DEFENSE**

11 **(Estoppel)**

12 Plaintiffs are estopped from obtaining the relief sought, or pursuing any of the claims
13 raised or causes of actions contained in the Complaint, by virtue of Plaintiffs' acts, failures to
14 act, conduct, admissions, and the like.

15 **THIRD AFFIRMATIVE DEFENSE**

16 **(Failure to Mitigate)**

17 Defendants allege that any damages otherwise recoverable by Plaintiffs are barred and/or
18 limited by Plaintiffs' failure to exercise reasonable diligence in attempting to mitigate Plaintiffs'
19 alleged damages.

20 **FOURTH AFFIRMATIVE DEFENSE**

21 **(Laches, Waiver, and Unclean Hands)**

22 Defendants allege that Plaintiffs' Complaint, and each purported cause of action therein,
23 is barred by the doctrines of laches, estoppel, waiver, and unclean hands.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 **(Statute of Limitations)**

26 Plaintiffs' claims are barred by the applicable statute of limitation; including but not
27 limited to, the statute of limitations contained in Government Code section 12960, California
28 Code of Civil Procedure §§ 337, 338, 339, and 343; California Labor Code §§ 226.7, 1197.5,

1 2802, California Business and Professions Code §§ 17200, 17208, and any other applicable
2 statutes of limitation.

3 **SIXTH AFFIRMATIVE DEFENSE**

4 **(Plaintiffs' Bad Faith)**

5 Plaintiffs' complaint fails because plaintiffs' acted in bad faith in attempting to negotiate
6 a contract for an illegal purpose.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 **(Indispensable Parties)**

9 Plaintiffs' Complaint is barred by the failure of plaintiffs to join, in a timely fashion,
10 indispensable and/or necessary parties to this action.

11 **EIGHTH AFFIRMATIVE DEFENSE**

12 **(Plaintiffs' Bad Faith)**

13 Plaintiffs failed to act in good faith in complying with their obligations under the law and
14 the alleged contract with defendants.

15 **NINTH AFFIRMATIVE DEFENSE**

16 **(Fraudulent Inducement)**

17 Plaintiffs' complaint fails because not contract was created because defendants' consent
18 was obtained by fraud.

19 **TENTH AFFIRMATIVE DEFENSE**

20 **(Mistake)**

21 Plaintiffs' complaint fails because there was no contract because the parties to the alleged
22 contract were mistaken about the terms and purpose of such.

23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 **(Unconscionable)**

25 Plaintiffs' complaint fails because the alleged contract is unconscionable.

26 **TWELFTH AFFIRMATIVE DEFENSE**

27 **(Illegality)**

28 Plaintiffs' complaint fails because the alleged contract was for an illegal purpose.

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THIRTEENTH AFFIRMATIVE DEFENSE

(Failure of Plaintiff do Disclose Material Fact)

Plaintiffs' complaint fails because plaintiffs, and plaintiffs' agents, failed to disclose material facts.

FOURTEENTH AFFIRMATIVE DEFENSE

(Void Contract)

Plaintiffs' complaint fails because the alleged contract was void ab initio.

FIFTEENTH AFFIRMATIVE DEFENSE

(Meeting of the Minds)

Plaintiffs' complaint fails because there was never a "meeting of the minds" with regard to the terms of the alleged contract.

SIXTEENTH AFFIRMATIVE DEFENSE

(Standing)

Plaintiffs lack standing to pursue the claims made under California Business and Professions Code §§ 17200 et. seq.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Breach of Contract)

Defendants allege that Plaintiff's Complaint and each cause of action alleged therein are barred or any recovery is reduced because plaintiffs cannot recover on a breach of contract claim where plaintiffs were the parties who committed the material breach.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Anticipatory Breach)

Plaintiffs' claims are barred due to the anticipatory breach by plaintiffs.

NINETEENTH AFFIRMATIVE DEFENSE

(Good Faith by Answering Defendants)

Defendants allege that Plaintiff's Complaint and each cause of action alleged therein are barred or any recovery is reduced because Defendants, at all times, acted in good faith.

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TWENTIETH AFFIRMATIVE DEFENSE

(Lack of Causation)

Defendants allege that Plaintiff’s Complaint and each cause of action alleged therein are barred or any recovery is reduced because Defendants’ conduct was not the proximate or legal cause of plaintiffs’ alleged injury.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Prevention, Frustration, Impossibility of Performance)

Defendants were ready, willing and able to perform the contract, and plaintiffs’ conduct prevented and frustrated such performance and made performance by defendants impossible.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Intervening/Supervening Causes)

Defendants allege that Plaintiff’s Complaint and each cause of action alleged therein are barred or any recovery is reduced because intervening /supervening causes were the proximate and/or legal cause of plaintiffs’ alleged injuries.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(No Attorneys’ Fees)

Defendant asserts that Plaintiffs’ complaint, and each purported cause of action set forth therein fails to state facts sufficient for recovery of attorneys’ fees or other litigation expenses.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Plaintiffs’ Damages Caused by Third Party)

Plaintiffs’ damages, if any, were caused by a third party. Defendants assert that person, firms, corporations, entities, or organizations other than Defendants caused the damages sustained by plaintiffs, if any. By reason thereof, defendants are not liable to plaintiffs for the alleged injuries, losses or damages.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Acts or Omissions of Plaintiffs)

The complaint, and each purported cause of action contained therein, is barred in whole or in part to the extent that damages, if any, resulted from the acts and/or omissions of plaintiffs.

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TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Additional Affirmative Defenses)

As a separate and distinct affirmative defense, Defendants reserve the right to amend this Answer to assert additional defenses and/or supplement, alter or change this Answer as may be warranted by the revelation of information during discovery and investigation.

CONCLUSION

WHEREFORE, Defendants pray for judgment as follows:

- 1. That Plaintiffs take nothing by reason of the complaint, and that plaintiffs' complaint be dismissed in its entirety with prejudice;
- 2. For entry of judgment in favor of defendants;
- 3. For costs of suit incurred herein;
- 4. For reasonable attorney's fees; and
- 5. For any such other and further relief as the court deems just and proper.

JURY TRIAL DEMANDED

Defendants hereby demand a trial by jury.

Dated: April 26, 2018

GORDON REES SCULLY MANSUKHANI, LLP

By:



Brandon D. Saxon
PJ Lucca
Attorneys for Defendants
SOL LUNA EXPEDITIONS, LLC, SAN
DIEGO MARINE SERVICES AND LAKE
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SAN DIEGO MARINE SERVICES
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8 SUPERIOR COURT OF CALIFORNIA
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14 California Corporation; SAN DIEGO)
MARINE SERVICES, a California)
15 Corporation; LAKE RICKOLT, an)
individual, and DOES 1 through 20, inclusive,)
16)
Defendants.)
17

18 I am a resident of the State of California, over the age of eighteen years, and not a party
19 to the within action. My business address is: Gordon & Rees LLP, 101 W. Broadway, Suite
20 2000, San Diego, CA 92101. My email address is malford@grsm.com.

21 On April 26, 2018, I served the within document(s):

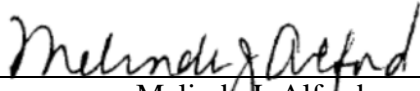
22 **DEFENDANTS' ANSWER TO COMPLAINT AND DEMAND FOR JURY TRIAL**

- 23 **PERSONAL SERVICE:** By causing the document(s) listed above to be personally
24 delivered to the person(s) at the address(es) set forth below.
- 25 **MAIL:** By placing the document(s) listed above in a sealed envelope with postage
26 thereon fully prepaid, in United States mail in the State of California addressed as
27 follows. I am readily familiar with the firm's practice of collection and processing
28 correspondence for mailing. Under that practice it would be deposited with the U.S.
Postal Service on that same day with postage thereon fully prepaid in the ordinary
course of business. I am aware that on motion of the party served, service is presumed
invalid if postal cancellation date or postage meter date is more than one day after the
date of deposit for mailing in affidavit.

- 1 **ONE LEGAL:** by sending electronically a true and correct copy thereof to **ONE**
2 **LEGAL** (www.onelegal.com) for **filing** at Court and **electronic service** on all counsel
3 of record maintained by One Legal website, pursuant to Court Order and pursuant to
4 CCP § 1010.6 and CRC 2.251. The transmission was reported as complete and
5 without error.
- 6 **FACSIMILE:** By transmitting via facsimile the document(s) listed above to the fax
7 number(s) set forth below on this date before 5:00 p.m.
- 8 **ELECTRONIC TRANSMISSION:** By transmitting a pdf format version of the
9 document(s) via electronic mail to the party(s) identified on the service list using the
10 email address(es) indicated. **COURTESY COPY ONLY**
- 11 **OVERNIGHT:** By placing a true copy thereof enclosed in a sealed envelope, at a
12 station designated for collection and processing of envelopes and packages for
13 overnight delivery by FedEx (or other overnight service) as part of the ordinary
14 business practices of Gordon & Rees LLP described below, addressed as follows:

Oscar Ramirez Matthew P Blair BLAIR & RAMIREZ LLP 777 S. Figueroa Street, Suite 4900 Los Angeles, CA 90017 Tel: 213-568-4000 / Fax: 213-568-4100 Attorney for Plaintiff	
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15 I declare under penalty of perjury under the laws of the State of California that the above
16 is true and correct. Executed on **April 26, 2018**, at San Diego, California.

17 
18 _____
19 Melinda J. Alford