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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MASOOD KHAN,

Plaintiff,

v.

THE GREENSPAN COMPANY, a
California corporation; GREENSPAN
ADJUSTERS INTERNATIONAL, INC., a
California corporation; ADJUSTERS
INTERNATIONAL/CALIFORNIA, INC., a
California corporation; ADJUSTERS
INTERNATIONAL PACIFIC
NORTHWEST, INC., a Washington
corporation; GORDON SCOTT, an
individual; CLAY GIBSON, an individual;
MARK FRATKIN, an individual; PAUL
MIGDAL, an individual; STEVE
SEVERAID, an individual; and DOES 1
through 10, inclusive,

Defendants.

Case No. 4:20-CV-01121

**FIRST AMENDED COMPLAINT
AND DEMAND FOR A JURY
TRIAL**

1. Constructive Discharge in Violation of Public Policy;
2. Whistleblower Retaliation in Violation of Labor Code § 1102.5;
3. Discrimination based on Race, National Origin, Color, and Religion in Violation of the FEHA;
4. Harassment based on Race, National Origin, Color, and Religion in Violation of the FEHA;
5. Retaliation in Violation of FEHA;
6. Retaliation in Violation of Labor Code § 98.6;
7. Failure to Prevent Discriminatory and Retaliatory Practices in Violation of FEHA;
8. Breach of Contract (Written);
9. Breach of Contract (Oral);
10. Breach of the Covenant of Good Faith and Fair Dealing;
11. Negligence (including Negligence *per se*);
12. Failure to Pay Wages Due and Owing in Violation of Labor Code §§ 200, 201, 202 & 218;
13. Penalties for Failure to Pay Earned Wages Upon Discharge in Violation of Labor Code § 203;

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- 14. Penalties for Failure to Furnish Timely and Accurate Wage Statements in Violation of Labor Code § 226; and
- 15. Unlawful, Unfair, and Fraudulent Business Practices in Violation of Bus. & Prof. Code §§ 17200 and 17203, *et seq.*

Plaintiff MASOOD KHAN (“Plaintiff”) complains and alleges, as follows:

I. INTRODUCTION

1. This is an action brought by Plaintiff against Defendants THE GREENSPAN COMPANY, GREENSPAN ADJUSTERS INTERNATIONAL, INC., ADJUSTERS INTERNATIONAL/CALIFORNIA, INC. and ADJUSTERS INTERNATIONAL PACIFIC NORTHWEST, INC. (collectively, “Greenspan”), and its officers, directors, managers, and/or partners Defendants GORDON SCOTT (“Scott”), CLAY GIBSON (“Gibson”), MARK FRATKIN (“Fratkin”), PAUL MIGDAL (“Migdal”), and STEVE SEVERAID (“Severaid”) (Scott, Gibson, Fratkin, Migdal, and Severaid shall collectively be referred to as the “Individual Defendants”) and DOES 1-10 (collectively, “Defendants”).

2. Plaintiff worked as a joint employee for Greenspan for 13 years as a public adjuster holding the title Vice President pursuant to an employment agreement which promised him, among other benefits, payments in commissions following the provision of adjuster services to Greenspan’s customers.

3. Throughout Plaintiff’s employment, Greenspan employed Fratkin and allowed Fratkin to engage in insurance related transactions on its behalf even though Fratkin is a felon convicted in connection with embezzlement and other felonies involving dishonesty or a breach of trust, rendering him unable to be eligible to obtain an license to work as a public adjuster or engage in any insurance related transactions for Greenspan.

4. Plaintiff is informed and believes that the remaining Individual Defendants tolerated and encouraged Fratkin’s continued unauthorized practice of public adjusting on Greenspan’s behalf because he was a profitable salesperson despite his illegal conduct in violation of various laws and insurance regulations.

1 5. In furtherance of Fratkin’s continued unauthorized practice of public adjusting,
2 Fratkin was allowed to impersonate other Greenspan sales employees on external
3 communications, including impersonating Plaintiff. In an attempt to cover up the unlawful
4 activities of Fratkin, Greenspan also instructed its employees to never copy Fratkin on external
5 emails in order to avoid exposing that he was engaging in the unauthorized practice of public
6 adjusting.

7 6. Plaintiff repeatedly complained about this conduct, asserting to the Individual
8 Defendants, including Migdal, Greenspan’s General Counsel, that Greenspan’s and Fratkin’s
9 conduct was illegal and in violation of numerous statutes and that Greenspan was putting Plaintiff
10 himself at risk of engaging in illegal conduct by having Fratkin to impersonate him.

11 7. Plaintiff’s complaints were continually rebuffed. Instead, Greenspan threatened
12 Plaintiff with retribution and retaliated against Plaintiff by subjecting him to a hostile work
13 environment, passed him over for promotions, and withheld sales commissions owed to him.
14 Eventually, Plaintiff’s work environment became so intolerable that he was left with no choice
15 but to resign from his employment on November 30, 2018.

16 8. Defendants also subjected Plaintiff to a discriminatory, harassing, and hostile work
17 environment and treated him differently from other similarly situated employees on the basis of
18 his race, national origin, color, and religion, as a man of Pakistani-descent and a Muslim. Plaintiff
19 was ridiculed, demeaned, passed for promotions, and subjected to both disparate treatment and
20 unconscionable disparate impact discrimination based on his race, national origin, and religion.

21 9. When Plaintiff complained of this unfair, discriminatory and disparate treatment,
22 Plaintiff was further retaliated against by Greenspan and the Individual Defendants.

23 10. Plaintiff performed to the terms of his employment agreement with Greenspan and
24 received numerous commendations and favorable reviews from Greenspan and Greenspan’s
25 clients for the stellar performance of Plaintiff’s execution of his work ethic, duties, loyalty,
26 dedication, and results. However, Greenspan and the Individual Defendants violated the terms of
27 Plaintiff’s employment agreement and promises made to Plaintiff, and interfered with, hindered,
28 or refused to pay Plaintiff numerous commissions and other wages owed to him in amounts
exceeding \$300,000.

 11. As a result, Defendants have breached Plaintiff’s employment agreement and
failed to pay Plaintiff his full wages due and owed.

1 12. Plaintiff now seeks compensatory damages, restitution, general damages, punitive
2 damages, civil penalties, and the cost of suit, including reasonable attorneys' fees, for the harms
3 caused to him by Defendants.

4 **II. PARTIES**

5 13. Plaintiff was employed by Defendants in San Francisco County, California from
6 April 2005 until his constructive termination on or about November 30, 2018.

7 14. Greenspan is a series of affiliated corporations that functions as a firm of public
8 adjusters, headquartered and/or primarily doing business in San Francisco County, California

9 15. Defendants THE GREENSPAN COMPANY, GREENSPAN ADJUSTERS
10 INTERNATIONAL, INC., ADJUSTERS INTERNATIONAL/CALIFORNIA, INC. are all
11 California corporations, are all independent public insurance adjusting firms that are
12 headquartered at 400 Oyster Point Boulevard, Suite 519, South San Francisco, California 94080,
13 and were and still are employers in California within the meaning of the California Fair
14 Employment and Housing Act ("FEHA"), California Government Code ("Gov't Code") § 12926,
15 *et seq.*, particularly Gov't Code § 12926(d).

16 16. Defendant ADJUSTERS INTERNATIONAL PACIFIC NORTHWEST, INC. is
17 an independent public insurance adjusting firm with its main office located a Washington
18 corporation, located 4300 36th Avenue West, Seattle, Washington 98199-1675, and was and still
19 is an employer in California within the meaning of the FEHA, and particularly Gov't Code
20 § 12926(d).

21 17. At all relevant times, each of the Greenspan entities have acted as the alter ego of
22 one another and operated as one entity for all purposes, and were Plaintiff's joint employer within
23 the meaning of the FEHA, the California Labor Code, and California labor and employment laws.

24 18. Scott is a resident of San Francisco, California. Scott is a Shareholder, Director,
25 President, and CEO of Greenspan. Scott is a Shareholder and Director of AIPNW. At all times
26 relevant hereto Scott was also the alter ego of each of the Greenspan entities, and a unity of
27 interest exists between Scott and each one of them.

28 19. Gibson is a resident of Novato, California. Gibson is a Shareholder, Director, and
COO of Greenspan. At all times relevant hereto Gibson was also the alter ego of each of the
Greenspan entities, and a unity of interest exists between Gibson and each one of them.

1 20. Fratkin was and still is the Director of Sales of Greenspan, and functioned as a *de*
2 *facto* director and/or a principal of Greenspan. Fratkin was previously convicted for
3 embezzlement. At all times relevant hereto Fratkin was also the alter ego of each of the Greenspan
4 entities, and a unity of interest exists between Fratkin and each one of them.

5 21. Migdal is a resident of San Francisco, California. Migdal is a Director,
6 Shareholder, and General Counsel of Greenspan. At all times relevant hereto Migdal was also
7 the alter ego of each of the Greenspan entities, and a unity of interest exists between Migdal and
8 each one of them.

9 22. Severaid is a resident of San Francisco, California. Severaid is a Director, and
10 Shareholder of Greenspan. At all times relevant hereto Severaid was also the alter ego of each of
11 the Greenspan entities, and a unity of interest exists between Severaid and each one of them.

12 23. Defendants Does 1 through 10 are sued herein under fictitious names. These
13 defendants along with the other Defendants are in some way liable for the damages sustained by
14 Plaintiff. Upon information and belief, Does 1 through 10 acted with and on behalf of named
15 Defendants in the alleged violations. Plaintiff does not, at this time, know the true names or
16 capacities of said unnamed defendants, but prays that the same may be inserted herein when
17 ascertained.

18 24. Plaintiff is informed, believes and thereon alleges that each of the Defendants
19 designated as a Doe is responsible in some manner for the events and happenings herein, and that
20 Plaintiff's injuries and damages as hereinafter set forth were proximately caused by said
21 Defendants. Plaintiff is informed and believes and thereon alleges that at all times herein
22 mentioned, each of the Defendants sued herein was the agent and/or employee of each of the
23 remaining Defendants, and each of them, was at all times acting within the purpose and scope of
24 such agency and employment.

25 **III. PRE-LITIGATION RIGHT-TO-SUE**

26 25. In response to Defendants' unlawful conduct, Plaintiff filed a Complaint of
27 Employment Discrimination with the California Department of Fair Employment and Housing
28 ("DFEH") against Greenspan on November 22, 2019 (DFEH No. 201911-08368522). On
November 22, 2019, the DFEH issued a Right-To-Sue Notice permitting Plaintiff to file a civil
action under both federal and state laws, including the FEHA. A copy of said Complaint of
Employment Discrimination and Right-To-Sue Notice are attached hereto as **Exhibit 1**.

1 **IV. FACTUAL ALLEGATIONS**

2 **A. Plaintiff's Employment Duties at Greenspan**

3 26. Greenspan is an independent public adjusting firm that was originally founded in
4 1946 as the Sidney Greenspan Company. Through mergers and acquisitions, Greenspan is now
5 affiliated with 6 independent public adjusting firms in Adjusters International, which is the largest
6 nationwide coalition of public adjusters in the United States.

7 27. Greenspan has had two primary functions: a sales team which was primarily
8 responsible to generate new business, and an adjusting team which assisted clients in the process
9 of negotiating and adjusting their claims with insurance carrier.

10 28. Plaintiff was hired as a joint employee for Greenspan as a Vice President in April
11 2005. Plaintiff initially primarily worked with the adjusting team of Greenspan. But, due to his
12 successful and favorable results for Greenspan clients, Plaintiff would also engage in sales
13 activities for Greenspan as a result of direct referrals. His duties as a Vice President included
14 advocating on behalf of Greenspan's clients to claim insurance benefits from insurance firms
15 following damage from first-party losses or covered disasters such as fires, hurricanes, floods, or
16 other first-party insurance claims, representing private clients in negotiations with insurance
17 companies, estimating insurance losses, management of inventory, business accounting, and
18 management of Greenspan's production activities. While Plaintiff worked primarily in adjusting
19 claims, as he become more and more recognized in the industry, he increasingly engaged in sales
20 activity within Greenspan.

21 29. Plaintiff worked for Greenspan pursuant to an employment agreement, written in
22 part and oral in part, which promised him, among other benefits, payments in commissions whose
23 value was dependent upon substantial work performed in an attempt to try in good faith to
24 successfully resolve customers' claims.

25 30. Plaintiff was a highly skilled and well-performing public adjuster and salesperson
26 for Greenspan and dedicated long hours and outstanding service for Greenspan throughout his
27 employment. Plaintiff was sent on numerous international assignments for long durations of time
28 because of his ethnicity and efforts to induce Plaintiff that he would be promoted if he undertook
such commitments.

31. Plaintiff worked for Greenspan until November 30, 2018, when he resigned from
his employment due to being forced to acquiesce, consent to, or potentially aid and abet illegal

1 acts on the part of Greenspan and Fratkin in particular; due to continually being subjected to a
2 discriminatory, harassing, hostile, and retaliatory work environment at Greenspan; and due to not
3 having his commissions fully paid and acknowledged by Greenspan.

4 **B. Plaintiff's Constructive Termination as a Result of Greenspan and Fratkin's**
5 **Ongoing Illegal Conduct Condoned by the Individual Defendants**

6 32. Throughout Plaintiff's employment with Greenspan, Defendants engaged in
7 numerous illegal acts with respect to Fratkin, which eventually forced Plaintiff to resign his
8 position.

9 33. Fratkin is a felon who was previously convicted of multiple felonies in connection
10 with embezzlement of large sums of money and other felonies involving dishonesty or a breach
11 of trust. Fratkin's convictions relate to the following criminal cases: *The People of the State of*
12 *California v. Mark Bruce Fratkin*, Case No. SC027551A, 1991, Superior Court of California,
13 County of San Mateo; and *The People of the State of California v. Mark Bruce Fratkin*, Case No.
14 NF215912A, 1991, Superior Court of California, County of San Mateo.

15 34. Fratkin's convictions rendered him unlicensed and unable to act as a public
16 adjuster or otherwise engage in the business of insurance and insurance transactions, on
17 Greenspan's behalf or at all, under the Public Insurance Adjuster Act, California Insurance Code
18 § 15000, *et seq.* ("PIAA"); under Washington insurance law at the Revised Code of Washington
19 ("RCW") § 48.17.005, *et seq.*; and under Federal law at 18 U.S.C. § 1033.

20 35. The PIAA reads, in relevant part, that a "public insurance adjuster" is "a person
21 who, for compensation, acts on behalf of or aids in any manner, an insured in negotiating for or
22 effecting the settlement of a claim or claims for loss or damage under any policy of insurance
23 covering real or personal property or any person who advertises, solicits business, or holds himself
24 or herself out to the public as an adjuster of those claims and any person who, for compensation,
25 investigates, settles, adjusts, advises, or assists an insured with reference to claims for those losses
26 on behalf of any public insurance adjuster." Cal. Ins. Code § 15007.

27 36. The PIAA further provides that "[n]o person shall engage in a business regulated
28 by this chapter, or act or assume to act as, or represent himself or herself to be, a licensee unless
he or she is licensed under this chapter." Cal Ins. Code § 15006(a). Any person who violates this
subdivision becomes liable to the State of California for a civil penalty. *Id.* Further, any contract
entered into by an insured with any person who is in violation of this subdivision "may be voided
at the option of the insured." Cal Ins. Code § 15006(b).

1 37. In order for an insurance license to issue to an applicant, the applicant “[s]hall not
2 have committed acts or crimes constituting grounds for denial of licensure under Section 1668,
3 or 1669,” which provide, respectively, that an application may be denied if the applicant “has
4 previously engaged in a fraudulent practice or act or has conducted any business in a dishonest
5 manner” (Cal Ins. Code § 1668(i)); has been convicted of a “felony,” or “misdemeanor denounced
6 by this code or other laws regulating insurance”, or engaged in a “public offense having as one of
7 its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment
8 of money or property” (Cal Ins. Code § 1668(m) and Cal. Ins. Code § 1669). Cal. Ins. Code §
15011.

9 38. The RCW similarly defines an “adjuster” as “any person who, for compensation
10 as an independent contractor or as an employee of an independent contractor, or for fee or
11 commission, investigates or reports to the adjuster's principal relative to claims arising under
12 insurance contract,” and defines a “public adjuster” as an adjuster “employed by and representing
13 solely the financial interests of the insured named in the policy.” RCW § 48.17.010(1)(b).

14 39. The RCW further provides that “[a] person shall not sell, solicit, or negotiate
15 insurance in this state for any line or lines of insurance unless the person is licensed for that line
16 of authority in accordance with this chapter.” RCW § 48.17.060(1).

17 40. The RCW further provides that “[a] person may not act as or hold himself or
18 herself out to be an adjuster in this state unless licensed by the commissioner or otherwise
19 authorized to act as an adjuster under this chapter.” RCW § 48.17.060(2).

20 41. The RCW further provides that “any person who knowingly violated RCW
21 48.17.060 is guilty of a class B felony punishable under chapter 9A.20 RCW,” which provides
22 that such crimes are punishable “by confinement in a state correctional institution for a term of
23 ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such
24 confinement and fine.” RCW §§ 48.17.063(2); 9A.20.021. A violation of RCW 48.17.060 may
25 also be further punished through a cease and desist order, suspension or revocation of a license,
26 and a civil penalty. RCW § 48.17.063(4)(a).

27 42. The RCW further provides that an applicant may only be issued a license if the
28 applicant “has not committed any act that is a ground for denial, suspension, or revocation set
forth in RCW 48.17.530”, which includes “having been convicted of a felony” (RCW §
48.17.530(f); “having admitted or been found to have committed any insurance unfair trade

1 practice or fraud” (RCW § 48.17.530(g); and “using fraudulent, coercive, or dishonest practices,
2 or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or
3 elsewhere” (RCW § 48.17.530(h)). RCW § 48.17.090(2)(b).

4 43. Finally, 18 U.S.C. § 1033 provides that “[a]ny individual who has been convicted
5 of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an
6 offense under this section, and who willfully engages in the business of insurance whose activities
7 affect interstate commerce or participates in such business, shall be fined as provided in this title
8 or imprisoned not more than 5 years, or both.” 18 U.S.C. § 1033(e)(1)(A).

9 44. Nevertheless, despite the statutory provisions above and the clear regulator scheme
10 that prohibits felons like Fratkin to engage in public adjusting business, Greenspan allowed
11 Fratkin to engage in insurance transactions despite not having a license to do so nor the ability to
12 obtain one in blatant violation of the PIAA, the RCW, and 18 U.S.C. § 1033.

13 45. Plaintiff believes that Fratkin is engaging in such prohibited unlicensed insurance
14 transactions to date, and he was definitely engaged in those activities until the date he resigned
15 from Greenspan.

16 46. To effectuate the enforcement of the prohibitions discussed above, the California
17 Insurance Commissioner is empowered to suspend or revoke any license issued under the PIAA
18 if it determines that a licensee has, among other things, “[c]ommitted or permitted any employee
19 to commit any act, while the license was expired which would be cause for the suspension or
20 revocation of a license, or grounds for the denial of an application for a license.” Cal. Ins. Code
21 § 15039(f).

22 47. The California Insurance Commissioner is also empowered to suspend or revoke
23 any license issued under the PIAA “if the commissioner determines that the licensee has
24 committed any act in the course of the licensee's business constituting dishonesty or fraud.” Cal.
25 Ins. Code § 15042.

26 48. The RCW similarly provides that “[a]n insurance company, insurance producer,
27 or title insurance agent shall not pay a commission, service fee, or other valuable consideration
28 to a person for selling, soliciting, or negotiating insurance in this state if that person is required to
be licensed under this chapter or chapter 48.15 RCW and is not so licensed.” RCW §
48.17.490(1).

1 49. The RCW further provides that the “license of a business entity may be suspended,
2 revoked, or refused if the commissioner finds that an individual licensee's violation was known
3 or should have been known by one or more of the partners, officers, or managers acting on behalf
4 of the partnership or corporation, and the violation was neither reported to the commissioner nor
5 corrective action taken.” RCW § 48.17.530(2).

6 50. Based upon the above statutes and others, Plaintiff is informed and believes that it
7 is a criminal offense for Fratkin to engaged in the activities assigned to him at Greenspan, and it
8 is a criminal offense for Greenspan to willfully employ Fratkin to engage in the business of
9 insurance without an appropriate license or written consent of the Insurance Commissioner in
10 light of his prior felony convictions.

11 51. Plaintiff complained to Greenspan on multiple occasions that allowing Fratkin to
12 engage in activities prohibited under the law, including, but not limited to, operating the sales
13 department, facilitating claims assignments, retaining or managing building, contents, or financial
14 consultants on claims was violative of various laws.

15 52. However, Defendants have ignored Plaintiff’s complaints and, among other
16 things, aided and abetted Fratkin to function as a *de facto* officer and director of Greenspan since
17 at least 2005, and allowed Fratkin to run the entire sales, claims, and operational departments at
18 Greenspan and engage in public adjuster or insurance transactions on Greenspan’s behalf through
19 the date Plaintiff left Greenspan.

20 53. Plaintiff is also informed and believes that to cover up their unlawful activities,
21 the Defendants have also caused to submit knowingly false and fraudulent applications for
22 Business Entity Application Public Adjuster Licenses (or renewals) to the State of California and
23 to the State of Washington, omitting or falsely describing Fratkin’s involvement with Greenspan
24 and failing to identify him as a “Prohibited Person” (California Form CDI-181).

25 54. Furthermore, Defendants have allowed Fratkin to operate Greenspan’s entire sales,
26 claims, and operational departments, engage in insurance transaction requiring a license under
27 the PIAA, RCW, and 18 U.S.C. 1033, impersonate employees in insurance transactions requiring
28 a license, forcing Greenspan and its employee to facilitate illegal conduct, engage in other
 operational activities, and acting in their own personal interests rather than in Greenspan’s best
 interests.

1 55. In or around February 2014, Greenspan promoted Fratkin and Severaid (who are
2 both white) to assume control over Greenspan, despite the fact that Severaid had no formal
3 education or experience managing a firm, and that Fratkin was a convicted felon that could not
4 legally perform licensed work for Greenspan.

5 56. In addition, at various times beginning in November 2017 and throughout 2018,
6 Defendants allowed and caused Fratkin to impersonate Plaintiff on numerous marketing emails
7 sent out by Fratkin to clients and prospective clients. Fratkin would send such emails from a
8 generic Greenspan email address, "Greenspan AI," and would include a signature in the emails
9 purporting to be from Plaintiff. However, *the emails were not from Plaintiff but from Fratkin.*

10 57. Fratkin was also allowed to negotiate virtually all large sales contracts for
11 Greenspan, and wrote numerous external emails impersonating not only Plaintiff but other sales'
12 employees, and would review every other external email sent by Greenspan's sales employees.

13 58. Upon information and belief, Defendants directed or allowed Fratkin to send and
14 review such emails in order to conceal the fact that Greenspan was illegally allowing Fratkin to
15 provide services and engage in insurance transactions for Greenspan in violation of the PIAA,
16 RCW, and 18 U.S.C. § 1033.

17 59. Upon information and belief, Fratkin, Gibson, Migdal, Severaid, and Scott would
18 also send emails every month to Greenspan employees that specifically stated that Fratkin was
19 never to be copied on emails to clients, vendors, or members outside Greenspan, as Defendants
20 knew or should have known that such actions were illegal and in violation of the violative of the
21 PIAA, RCW, and 18 U.S.C. § 1033.

22 60. While Plaintiff make complaints of Defendants' unlawful activities before, he was
23 not engaged in much sales activities at the beginning of his employment at Greenspan. However,
24 as he received recognition in the industry his sales activity increased over time. With time and
25 more sales, Khan was subjected to an increasing pressure from Fratkin and the rest of the
26 Defendants to direct to Fratkin activities that he was prohibited of doing.

27 61. As such, in or around October 2017 and continuously after that time, Plaintiff
28 made repeated complaints about Defendants' unlawful practices, and expressed concern that
Greenspan and Fratkin were violating provisions of the PIAA, RCW, and 18 U.S.C. § 1033 as
stated above.

1 62. In particular, in or around November 2018, Plaintiff complained to Defendants
2 that Fratkin should not be allowed to impersonate Plaintiff. Defendants, nonetheless, allowed
3 Fratkin to impersonate Plaintiff over email or other communications to clients and prospective
4 clients in order to permit Fratkin to conduct work at Greenspan.

5 63. Plaintiff also complained that Greenspan and Fratkin were requiring *Plaintiff*
6 *himself* to commit illegal acts prohibited by the provisions of the PIAA and 18 U.S.C. § 1033
7 stated above, as a condition of his employment.

8 64. The PIAA provides that a “License issued under this chapter is not assignable.”
9 Cal Ins. Code § 15023. The PIAA also provides that a “a licensee shall not permit an employee
10 or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to
11 clients, or in any manner whatever to conduct business for which a license is required under this
12 chapter.” Cal. Ins. Code § 15027(i). Any violation of this subdivision may be prosecuted by the
13 California Insurance Commissioner. Cal. Ins. Code § 15027(j).

14 65. The PIAA also provides that “[n]o person licensed as a public adjuster shall...
15 Permit an employee or agent, in his or her own name, to advertise, engage clients, furnish reports,
16 present bills to clients, or in any manner conduct business for which a license is required pursuant
17 to this chapter.” Cal. Ins. Code § 15028(e).

18 66. Similarly, the RCW provides that an “insurance producer or title insurance agent
19 doing business under any name other than the insurance producer’s or title insurance agent’s legal
20 name is required to register the name in accordance with chapter 19.80 RCW and notify the
21 commissioner before using the assumed name.” RCW § 48.17.180.

22 67. The RCW also provides that a license may be revoked for “[u]sing fraudulent,
23 coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial
24 irresponsibility in this state or elsewhere,” “[h]aving an insurance producer license, or its
25 equivalent, denied, suspended, or revoked in any other state, province, district, or territory,” or
26 “[f]orging another’s name to an application for insurance or to any document related to an
27 insurance transaction.” RCW § 48.17.530(h)-(j).

28 68. Finally, as a licensed attorney, allowing Fratkin to impersonate Plaintiff on email
could be considered tantamount to aiding and abetting the unauthorized practice of law, as “[n]o
person shall practice law in California unless the person is an active licensee of the State Bar.”
Bus. & Prof. Code § 6125.

1 69. In order to prevent this ongoing conduct and the breach or potential breach of the
2 above statutes, Plaintiff repeatedly requested around the end of 2017 and the start of 2018 that
3 Fratkin cease impersonating him on emails sent from the “Greenspan AI” generic email address,
4 and asked that he be allowed to send sales emails from his own email address so that Fratkin
5 could no longer impersonate his identity in those emails. Plaintiff specifically told Migdal, Scott,
6 and Severaid that Fratkin’s impersonation of Plaintiff was tantamount to the unauthorized practice
7 of public adjusting.

8 70. Each time he complained about these practices, Gibson, Migdal, Scott, and
9 Severaid would tell Plaintiff that “we do what we have to do to get sales” and that “everything
10 has to be run through” Fratkin and is “non-negotiable” or something to that effect. Plaintiff
11 continually advised that he was not comfortable with this arrangement, but was not listened to.

12 71. On January 10, 2018, Fratkin communicated to Plaintiff in writing, with Severaid,
13 Scott, and Migdal all copied, stating that “[a]ll sales emails get sent from our generic address, not
14 your email address,” and “must be approved by” Fratkin or one of his staff. Fratkin further stated
15 that upon contacting anyone regarding a potential sale or solicitation, Plaintiff would be required
16 to reach out to Fratkin, Severaid, or Scott by phone before taking any further actions with that
17 prospect. In so doing, Fratkin effectively tried to take over all of Plaintiff’s prospective sales.

18 72. Moreover, this communication tacitly confirmed that Greenspan was refusing to
19 cease the unlawful practice of allowing Fratkin to function as a *de facto* officer of Greenspan or
20 of allowing Fratkin to engage in insurance transactions on behalf of Greenspan without a license
21 and without eligibility to ever obtain a license, in violation of the PIAA, RCW, and 18 U.S.C. §
22 1033.

23 73. Over the next several months, Fratkin continued to impersonate Plaintiff on
24 emails, take over Plaintiff’s prospective deals, and engage in insurance transactions without a
25 license in violation of the PIAA, RCW, and 18 U.S.C. § 1033.

26 74. When Plaintiff complained to Greenspan and the Individual Defendants about this
27 illegal conduct and was advised that “[he] complained too much.” Plaintiff was told by Greenspan
28 that he was “not a team member” and in particular by Fratkin that he “[will] never be a team
member of [Fratkin’s team] or [Fratkin] would have a mutiny on his hands.”

 75. Ultimately, Plaintiff could no longer condone any of these behaviors, nor put
himself at risk of being found to have violated numerous statutes preventing a licensed private

1 adjuster or attorney from allowing another to use impersonate them, as identified above, or put
2 himself at risk of being found to have aided and abetted Greenspan and Fratkin's own illegal
3 conduct or violations of the statutes identified above. As such, Plaintiff was left with no choice
4 but to resign from Greenspan for these and other reasons, which he did on November 30, 2018.

5 **C. In Retaliation for his Complaints, Plaintiff was Subjected to a**
6 **Discriminatory, Harassing, and Hostile Work Environment that Included**
7 **Verbal Abuse, Being Passed Over for Promotions**

8 76. Plaintiff is of Pakistani descent, identifies as Muslim, and is of visibly dark brown
9 skin tone. Throughout his time at Greenspan, from the beginning of his employment until the
10 end, Plaintiff was routinely mocked and disparaged at work, including in front of other junior
11 employees and in front of clients, through continued racist and bigoted comments directed at him
12 particularly by Migdal, Severaid, and others due to his race, national origin, color, and religion.

13 77. Approximately 20-30 times over the first few years of his employment, Migdal, a
14 Jewish man with white skin tone, routinely referred to Plaintiff as "my anti-Semitic brother."
15 Whenever he made this comment, Migdal would also hold his arm up to Plaintiff's arm and
16 compare their skin tones. Migdal went on to make this same comment towards Plaintiff
17 approximately one per month or more over the 13 years of Plaintiff's employment with
18 Greenspan.

19 78. In the summer of 2005, Plaintiff hosted a party at his home and invited personal
20 friends and directors of Greenspan, including Migdal. Plaintiff's personal friends included
21 friends of Latin, Brazilian, and other foreign heritages. Upon noticing that Plaintiff had friends
22 from a variety of racial and ethnic backgrounds, Migdal would routinely opine disparagingly to
23 Plaintiff that his social circle is "like the United Nations" or something to that effect, with the
24 connotation that Plaintiff kept company with individuals of different racial backgrounds which
25 was not acceptable.

26 79. In addition, comments by Plaintiff's superiors throughout his employment also
27 suggest that Plaintiff's work assignments abroad were given to him in part on his race, ethnicity,
28 and skin color. Plaintiff is informed and believes that Greenspan tracks its clients by ethnicity
and would try to pair employees and clients of similar ethnicities.

80. Plaintiff is informed and believes that his superiors at Greenspan would not send
any other public adjusters to Asia besides Plaintiff, due to his race, ethnicity and skin color

1 because Greenspan told Plaintiff that in the past it was difficult to work these overseas
2 assignments if the public adjuster did not blend in culturally.

3 81. In or around December 2011, Plaintiff was assigned to Thailand to serve on major
4 flood losses that started there in November 2011. At that time, Migdal and Severaid both told
5 Plaintiff “you’re going to run Thailand, you’re brown just like everyone there. You’ll blend in,”
6 or something to that effect with respect to the assignment, on the basis that because Plaintiff was
7 “brown,” and “looked Indian,” he would “blend in” with Thai culture.

8 82. Before, during and after assignment to Guam in February 2016 for a major power
9 plant explosion, , Migdal, Severaid and others would “joke” with Plaintiff about indigenous
10 Chamorro women, stating that Plaintiff would fit in with them because “you’re their cultural type
11 and like fat women” and that “your people f*ck goat and sheep” or something to that effect.

12 83. Before, during and after assignment to Guam, Migdal, Severaid and others also
13 told Plaintiff that he was being sent on this assignment because “being brown you would blend
14 in well,” or something to that effect.

15 84. Greenspan’s clients from Guam consisted of board members that were of Pacific
16 Islander descent with a brown skin tone. These clients would often visit San Francisco,
17 California. When they came to visit, Plaintiff would ask Migdal or Severaid to join in on his
18 meeting with them, and Migdal or Severaid would reply with the comment “you handle it, as you
19 blend in well with them,” or something to that effect.

20 85. Severaid, Migdal, and others at Greenspan routinely subjected Plaintiff to
21 numerous racist slurs and bigoted comments. Migdal said comments including referring to
22 Plaintiff as a “wacky paki,” “camel jockey,” “raghead,” “turbanhead,” “Arab” but pronounced
23 “ey-rab,” and “brownie,” and telling Plaintiff, among other things that “you f*ck goats and
24 sheep.”

25 86. Among other things, Severaid would routinely refer to Plaintiff as “wacky paki,”
26 “brownie,” and “brown Muslim terrorist.” Severaid also frequently called Plaintiff “my
27 niggerachi from Karachi,” (referring to the N-word combined with the most populous city in
28 Pakistan) approximately 1 to 3 times per day whenever he would interact with Plaintiff.

87. At other times, Migdal, Severaid, or Fratkin (who is also a white man of Jewish
heritage) told Plaintiff to falsely tell clients or give the impression that he is of Indian descent

1 when dealing with Indian clients, because Migdal, Severaid, or Fratkin thought that because India
2 and Pakistan are territorial enemies, Plaintiff's true national origin could affect the sale.

3 88. In or around 2013, Severaid began to have get-togethers at his new house and
4 invited Greenspan officers and employees. Scott, Migdal, and Severaid would typically attend
5 these events. When Plaintiff attended, Severaid would routinely call Plaintiff "wacky Paki" and
6 "niggerachi from Karachi" in front of Scott, Migdal, and other Greenspan employees.

7 89. Severaid, Migdal and others from Greenspan routinely told Plaintiff that "you're
8 a terrorist and your wife's a drug dealer, it's fantastic." Plaintiff's wife is from Colombia and has
9 a thick Hispanic accent. Severaid, Migdal, and others at Greenspan routinely would also make
10 fun of Plaintiff's wife heritage of being Colombian and how her "family was made of drug
11 dealers." Migdal, Severaid, and others at Greenspan also commented on multiple occasions that
12 Plaintiff's marriage as a man of Pakistani descent to a lady of Colombian descent was a "match
13 made in heaven", with the connotation being that drug dealers and terrorists were a "perfect fit."

14 90. When on assignment to Guam, Plaintiff spent time with Severaid and another
15 employee named Dow Brooks ("Brooks") in order to solicit business that was referred to Plaintiff
16 by the general manager, John Benavente, and others at Guam Power Authority for a typhoon loss
17 that struck Saipan in or around late October 2018. During this time, Severaid routinely referred
18 to Plaintiff as a "sand nigger," "waki Paki," and "niggerachi from Karachi" in front of Brooks.

19 91. Brooks and Severaid have been friends outside of Greenspan. Picking up from
20 Severaid, Brooks himself would routinely make the same comments as Severaid, Migdal, and
21 others, that Plaintiff had stomach surgery, was a "niggerachi from Karachi," "sand nigger," "waki
22 Paki," and other derogatory comments. Plaintiff previously and routinely complained of this
23 behavior to Severaid, Migdal, and others at Greenspan, however no corrective action was taken.

24 92. On numerous occasions, Severaid would then also make fun of Plaintiff in front
25 of other Greenspan employees, Brooks and in other social settings that Plaintiff and his wife had
26 had stomach surgery to lose weight. Plaintiff specifically complained to Severaid, Migdal, and
27 others at Greenspan that such conduct was not acceptable and causing anguish to Plaintiff and his
28 spouse.

93. In particular, while on assignment in Guam in October 2018, Severaid went on a
tirade on numerous occasions in front of Brooks, calling Plaintiff "niggerachi from Karachi",
"brown Muslim terrorist", "un-American", of having had "stomach surgery" and other degrading

1 comments. Upon return from assignment from Guam in October 2018, Plaintiff complained to
2 Migdal about the degrading comments, but no action was taken to abate this conduct by
3 Defendants.

4 94. While sharing a cab one night during the assignment in Manila in November 2018,
5 Severaid told Plaintiff in reference to upcoming holidays, “Masood, you’re not American, you
6 weren’t born here, you don’t understand how important Thanksgiving is. You’re just a brown
7 Muslim terrorist, you know that,” or something to that effect.

8 95. In early 2018, Plaintiff was assigned to Puerto Rico. Migdal and Severaid again
9 told Plaintiff that he was being given this assignment because he would “blend in well” due to his
10 actual or perceived race, national origin, and color. At that time, Greenspan pulled back its entire
11 team from Puerto Rico other than Plaintiff and one assistant. Migdal and Severaid also told
12 Plaintiff of Greenspan’s Puerto Rico clients: “their kind are crooked, not hard workers, and just
13 live off the government.”

14 96. Scott, Gibson, Migdal, and Severaid strung Plaintiff along throughout the entirety
15 of his employment with Greenspan, promising Plaintiff that he would eventually become a
16 Director and General Counsel of Greenspan and take over Migdal’s position if he continued to
17 perform excellently for Greenspan. When Plaintiff complained to Migdal and Scott and others
18 about Severaid and that he would be a liability for Greenspan due to his conduct, Migdal and
19 Scott and others told Plaintiff that Severaid would never be promoted, would never be in a
20 position to harass Plaintiff, that Plaintiff would be at equal parity in management, Plaintiff went
21 above and beyond to fulfill his employment duties and in fact obtained hundreds of letters
22 recommendations from clients as well as Greenspan.

23 97. Instead, however, Plaintiff was subjected to the abuse and racially degrading
24 conduct stated above. Eventually, Plaintiff also noticed that other employees, whom were white
25 and non-Muslim and particularly Jewish, were being promoted ahead of Plaintiff and treated more
26 favorably than him.

27 98. Upon information and belief, Chris Glenister (“Glenister”) and Gibson, two
28 Caucasian men, were promoted to the Board of Greenspan ahead of Plaintiff. When Plaintiff
complained, in fall 2016, Greenspan changed his title to Assistant General Counsel, but it
consistently refused to allow him to attend any management meetings.

1 99. When Plaintiff complained to Migdal that it was assured to Plaintiff that he was
2 part of the management team as Assistant General Counsel, Migdal prohibited Plaintiff from
3 being a part of the management meetings even though Plaintiff was a management executive.
4 Others of Jewish or Caucasian descent were permitted to attend management meetings, and in
5 particular Fratkin.

6 100. Plaintiff is informed and believes that soon after his constructive termination, at
7 the end of 2018, Tim Larsen who is a white man of Jewish decent was promoted to be the
8 Assistant General Counsel, and in early 2019 he was invited and started to participate in
9 management meeting of Greenspan.

10 101. As time went on, Plaintiff would also regularly have clients that he procured taken
11 away from him and assigned to other adjusters by Severaid, Scott, Migdal or Fratkin, causing
12 Plaintiff to lose out on commissions for claims that he was expending efforts to procure for
13 Greenspan. For instance, a prospective customer would call Plaintiff directly to obtain services
14 for an insurance claim; Plaintiff was required by protocol of Greenspan to notify Severaid, Migdal
15 or Fratkin, who would then instruct other adjusters to go with Plaintiff or to replace Plaintiff for
16 those jobs, thereby either reducing or eliminating Plaintiff's eventual commissions for those jobs.
17 Upon information and belief, Plaintiff alleges that this practice occurred due to Defendants'
18 hostility towards him on the basis of his race, ethnicity, and religion.

19 102. Separately, after Severaid made the racist comments listed above to Plaintiff in
20 Guam and Manila, Plaintiff confronted Severaid about his treatment of Plaintiff, which prompted
21 Severaid to state "you're my employee and don't forget it because I can fire you at any time," or
22 something to that effect. This conversation occurred in front of Brooks at the Dusit Thani Hotel
23 in Guam in or around October 2018.

24 103. Approximately two days later, Severaid again confronted Plaintiff and called
25 Plaintiff "deceitful" and "dishonest" for not regularly bringing other adjusters into the field with
26 him, which would have the effect of reducing Plaintiff's commissions. This conversation
27 occurred at the Hyatt Hotel in Guam in or around October 2018

28 104. Upon his return from Guam and Manila to San Francisco, Plaintiff was receiving
calls from prospective clients and began attempting to work claims relating to the Paradise,
California fires. During this time, Fratkin told Plaintiff "you will never be a part of my team
because there would be a mutiny in my ranks," or something to that effect. Fratkin's team

1 members on the sales operations that were being conducted illegally were largely of Caucasian
2 descent.

3 105. In late 2018, Plaintiff got referrals to clients from Paradise, California following
4 the fires in that area, only to have the assignments be either diluted or commissions reduced.

5 106. Shortly after the Paradise fire, Plaintiff met with Migdal on or about November
6 27, 2018 and reiterated his complaints that sales were being misappropriated, that Fratkin was
7 still illegally impersonating Plaintiff, that Fratkin was engaging in illegal insurance transactions,
8 and that Defendants were not living up to the promises made to Plaintiff of promotions and
9 promoting others that were not qualified ahead of him.

10 107. Plaintiff also recalls Migdal telling Plaintiff during that time period that “you
11 complain too much,” and “I don’t give a fuck if you want to go work for someone else,” or
12 something to this effect. Plaintiff also recalls Migdal telling Plaintiff “you complain too much”
13 throughout 2017, 2018 and 2019, each time Plaintiff complained about being passed over for
14 promotions or would not be allowed to attend management meetings.

15 **D. Plaintiff was not Paid all Commissions Owed to him**

16 108. Despite his stellar performance and the successful resolution of his customers’
17 insurance claims, Defendants have not paid Plaintiff numerous commissions owed to him in
18 exchange for his services. Among other cases, Plaintiff was not paid sufficient commissions
19 following an assignment he took for six months in Puerto Rico based on express representations
20 by Greenspan that he would receive eleven percent (11%) commissions on all claims. This
21 assignment took place after Plaintiff was promised as such in or around May 28, 2018. Plaintiff
22 was also not fully paid commissions for the settlement of an insurance claim of approximately
23 \$24,000,000 involving the K-Mart located in Santa Rosa, California that Plaintiff helped to
24 negotiate around the time that he had left his employment with Greenspan. Plaintiff was also not
25 paid the full amount of commissions for the settlement of various residential claims including,
26 but not limited to, an insurance claim Plaintiff settled for approximately \$2,000,000 in relation to
27 the “Tubbs Fires” of 2017 which Plaintiff negotiated. As an example, Plaintiff was only paid
28 commissions for that case as if it has settled for approximately \$1,200,000 and not for the
remaining \$800,000.

109. There are numerous other instances where Plaintiff was not paid full commissions
because Defendants claimed that because Plaintiff was an adjuster he was not entitled to any

1 commission even though Plaintiff had substantially completed the work and Defendants had or
2 have received monies based on Plaintiff's efforts.

3 110. Upon information and belief, Plaintiff estimates that his unpaid commissions to
4 date, for these cases and others, total at least or more than \$300,000.

5 **FIRST CAUSE OF ACTION**
6 **Constructive Discharge in Violation of Public Policy**
7 **(Against Greenspan)**

8 111. The allegations in the preceding paragraphs are re-alleged and incorporated herein
9 by reference.

10 112. Constructive discharge occurs when an employer engaged in conduct that
11 effectively forces the employee to resign from his employment. A constructive discharge is
12 legally regarded as a firing by the employer rather than a voluntary resignation by the employee.

13 113. A constructive discharge claim lies where an employer either intentionally created
14 or knowingly permitted working conditions that were so intolerable or aggravated at the time of
15 the employee's resignation that a reasonable employer would realize that a reasonable person in
16 the employee's position would be compelled to resign."

17 114. An employer commits tortious termination in violation of public policy when there
18 is an applicable public policy protecting an employee with a certain status and the employer
19 terminates the employee because of his protected status. A duty is implied by law on the part of
20 the employer to conduct its affairs in compliance with public policy, expressed judicially or by
21 statute.

22 115. The public policies expressed in the FEHA, the California Labor Code, the PIAA,
23 the RCW, 18 U.S.C. § 1033, and other statutes, all protect Plaintiff from discrimination,
24 harassment, and retaliation based upon his protected status, provide certain wage protections he
25 is entitled to, and protect him from retaliation due to the exercise of rights under said statutes.
26 These public policies also provide Plaintiff the right to refuse to participate in illegal activity at
27 work and the right to report that illegal activity.

28 116. Here, Greenspan intentionally created or knowingly permitted intolerable working
conditions at the time of Plaintiff's resignation by, *inter alia*, permitting Fratkin to engage in
illegal acts at work, including engaging in insurance transactions without a license and
impersonating Plaintiff in order to do so; refusing to cease the illegal activity upon Plaintiff
reporting it; and retaliating against Plaintiff for reporting the activity by subjecting him to adverse

1 employment actions including, but not limited to discrimination and a hostile work environment,
2 passing him over for promotions and other performance incentives, taking away assignments and
3 potential earnings from him, and refusing to pay him outstanding commissions earned and owed.

4 117. These actions created working conditions for Plaintiff that were so intolerable that
5 any reasonable person in Plaintiff's position would have been compelled to resign. Greenspan's
6 conduct effectively directed Plaintiff to commit, acquiesce to, or potentially aid and abet, illegal
7 acts on the part of Greenspan and Fratkin by allowing Fratkin to impersonate Plaintiff's identity
8 in order for Fratkin to engage in insurance related transactions on Greenspan's behalf without a
9 license, in violation of the PIAA, RCW, 18 U.S.C. § 1033. Fratkin and Greenspan financially
benefited from such illegal impersonation and violations of the law to the detriment of Plaintiff.

10 118. Accordingly, these conditions left Plaintiff no choice but to resign from his
employment with Greenspan.

11 119. Greenspan's creation of such intolerable working conditions was in violation of
12 the public policies identified above.

13 120. Greenspan's actions, as described above, directly and proximately have caused
14 and continue to cause Plaintiff to suffer losses of income and work opportunities and have caused
15 him to suffer severe emotional distress, anguish, pain and suffering, ridicule, humiliation,
16 indignity, and personal embarrassment.

17 121. In doing the acts herein alleged, Defendants acted with oppression, fraud or
18 malice, and in reckless or in willful disregard of Plaintiff's rights and Plaintiff is therefore entitled
19 to punitive damages in an amount according to proof at the time of trial.

20 **SECOND CAUSE OF ACTION**
Whistleblower Retaliation in Violation of Labor Code § 1102.5
21 **(Against Greenspan)**

22 122. The allegations in the preceding paragraphs are re-alleged and incorporated herein
by reference.

23 123. Labor Code § 1102.5 provides that "[a]n employer, or any person acting on behalf
24 of the employer, shall not retaliate against an employee for disclosing information, or because the
25 employer believes that the employee disclosed or may disclose information, to a government or
26 law enforcement agency, to a person with authority over the employee or another employee who
27 has the authority to investigate, discover, or correct the violation or noncompliance, or for
28 providing information to, or testifying before, any public body conducting an investigation,

1 hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses
2 a violation of state or federal statute, or a violation of or noncompliance with a local, state, or
3 federal rule or regulation, regardless of whether disclosing the information is part of the
4 employee's job duties.

5 124. Labor Code § 1102.5 further provides that “[a]n employer, or any person acting
6 on behalf of the employer, shall not retaliate against an employee for refusing to participate in an
7 activity that would result in a violation of state or federal statute, or a violation of or
8 noncompliance with a local, state, or federal rule or regulation

9 125. Here, Plaintiff disclosed to numerous officers or directors of Greenspan, including
10 but not limited to all of the Individual Defendants, that Greenspan was engaging in a violation of
11 state and federal laws, including the PIAA, the RCW, and 18 U.S.C. § 1033, through its continued
12 employment of Fratkin, its allowing of Fratkin to engage in insurance transactions without license
13 or eligibility for a license, and its allowing of Fratkin to impersonate Plaintiff on external emails
14 and other communications with clients and potential clients.

15 126. Plaintiff also refused to participate in this illegal activity and repeatedly asked that
16 Fratkin not be allowed to impersonate Plaintiff on external emails and other communications or
17 otherwise engage in unlicensed insurance transactions.

18 127. Despite his complaints, Defendants did not cease any of the illegal behavior.

19 128. Instead, Defendants retaliated against Plaintiff for his reporting of the illegal
20 behavior and refusal to take part in the illegal behavior by subjecting him to adverse employment
21 actions including, but not limited to discrimination and a hostile work environment, passing him
22 over for promotions and other performance incentives, taking away assignments and potential
23 earnings from him, and refusing to pay him outstanding commissions earned and owed.

24 129. As a result of Defendants’ harassing conduct, Plaintiff has suffered significant
25 harm and damages in an amount to be proven at trial.

26 130. In doing the acts herein alleged, Defendants acted with oppression, fraud or
27 malice, and in reckless or in willful disregard of Plaintiff’s rights, and Plaintiff is therefore entitled
28 to punitive damages in an amount according to proof at the time of trial.

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THIRD CAUSE OF ACTION
Discrimination based on Race, National Origin, Color, and Religion
in Violation of the FEHA
(Against Greenspan)

1
2
3 131. The allegations in the preceding paragraphs are re-alleged and incorporated herein
4 by reference.

5 132. FEHA broadly prohibits discrimination against an employee in compensation or
6 in terms, conditions, or privileges of employment based on that employee’s “race, religious creed,
7 color, [or] national origin.” Gov’t Code § 12940(a).

8 133. Plaintiff is a member of a protected category under FEHA because of his actual or
9 perceived race, national origin, color, and religion, by virtue of being of Pakistani-descent with
10 brown skin and a Muslim.

11 134. The consistent and pervasive derogatory comments and hostile and abusive work
12 environment that Defendants subjected Plaintiff to, as described above, fundamentally altered the
13 terms, conditions, and privileges of Plaintiff’s employment with Greenspan. Plaintiff was
14 prevented from being able to carry out his role as a Vice President at Greenspan, as the harassing
15 conduct pervaded every aspect of Plaintiff’s employment, including but not limited to affecting
16 the location of his assignments and identities of his clients, causing him to be passed over for
17 promotions and other performance incentives, and subjecting him to regular humiliation and
18 anguish.

19 135. Defendants subjected Plaintiff to these consistent and pervasive derogatory
20 comments, harassing conduct, and abusive conditions due to his race, national origin, and color,
21 as the comments themselves were primarily racial slurs directed at Plaintiff’s race, national origin,
22 color, and religion such as “brownie,” “niggerachi from Karachi”, “wacky Paki,” “brown Muslim
23 terrorist,” “turbanhead,” “brown Muslim terrorist,” or “my anti-Semitic brother,” among others.

24 136. Defendants subjected Plaintiff to these conditions in an effort to diminish the
25 terms, conditions, and privileges of Plaintiff’s role as a Vice President, and did so.

26 137. As a result of Defendants’ harassing conduct, Plaintiff has suffered significant
27 damages in an amount to be proven at trial, and has also suffered severe emotional distress,
28 anguish, pain and suffering, ridicule, humiliation, indignity, and personal embarrassment.

1 138. In doing the acts herein alleged, Defendants acted with oppression, fraud or
2 malice, and in reckless or in willful disregard of Plaintiff's rights, and Plaintiff is therefore entitled
3 to punitive damages in an amount according to proof at the time of trial.

4 **FOURTH CAUSE OF ACTION**
5 **Harassment based on Race, National Origin, and Color in Violation of the FEHA**
6 **(Against All Defendants)**

7 139. The allegations in the preceding paragraphs are re-alleged and incorporated herein
8 by reference.

9 140. The FEHA specifically prohibits harassment based on, among other things, "race,
10 religious creed, color, [or] national origin." Gov. Code § 12940(j)(1). The FEHA more broadly
11 prohibits harassment where the harassing conduct is sufficiently severe and pervasive to alter the
12 conditions of an individual's employment and creates an abusive work environment.

13 141. Plaintiff is a member of a protected category under FEHA because of his race,
14 national origin, and color, by virtue of being of Pakistani-descent with brown skin.

15 142. The consistent and pervasive derogatory comments and hostile and abusive work
16 environment that Defendants subjected Plaintiff to, as described above, fundamentally altered the
17 terms, conditions, and privileges of Plaintiff's employment with Greenspan. Plaintiff was
18 prevented from being able to carry out his role as a Vice President at Greenspan, as the harassing
19 conduct pervaded every aspect of Plaintiff's employment, including but not limited to affecting
20 the location of his assignments and identities of his clients, causing him to be passed over for
21 promotions and other performance incentives, and subjecting him to regular humiliation and
22 anguish.

23 143. Defendants, and each of them, subjected Plaintiff to these consistent and pervasive
24 derogatory comments, harassing conduct, and abusive conditions due to his race, national origin,
25 and color, as the comments themselves were primarily racial slurs directed at Plaintiff's race,
26 national origin, and color, such as "brownie," "niggerachi from Karachi", "wacky Paki," "brown
27 Muslim terrorist," "turbanhead," "brown Muslim terrorist," or "my anti-Semitic brother," among
28 others.

144. Defendants, and each of them, subjected Plaintiff to these conditions in an effort
to diminish the terms, conditions, and privileges of Plaintiff's role as a Vice President, and did
so.

1 145. All of this harassing conduct created a severe, pervasive, abusive, and hostile work
2 environment for Plaintiff at Greenspan.

3 146. Defendants, and each of them, participated in, assisted, and/or encouraged the
4 harassing conduct.

5 147. As a result of Defendants' harassing conduct, Plaintiff has suffered significant
6 damages in an amount to be proven at trial, and has also suffered severe emotional distress,
7 anguish, pain and suffering, ridicule, humiliation, indignity, and personal embarrassment.

8 148. In doing the acts herein alleged, Defendants acted with oppression, fraud or
9 malice, and in reckless or in willful disregard of Plaintiff's rights, and Plaintiff is therefore entitled
10 to punitive damages in an amount according to proof at the time of trial.

11 **FIFTH CAUSE OF ACTION**
12 **Retaliation in Violation of FEHA**
13 **(Against Greenspan)**

14 149. The allegations in the preceding paragraphs are re-alleged and incorporated herein
15 by reference.

16 150. Under the FEHA, Greenspan is forbidden from retaliating against any person for
17 opposing any practices forbidden by FEHA.

18 151. Greenspan violated this provision of the FEHA by acting in a retaliatory manner
19 towards Plaintiff because he asserted his rights under the FEHA, including, but not limited to, his
20 right to an environment free of discrimination, harassment, and retaliation due to his race, national
21 origin, color, and religion.

22 152. Greenspan retaliated against Plaintiff by taking various adverse actions including,
23 but not limited to, subjecting him to harassment, discrimination, and a hostile work environment;
24 withholding certain sales commissions that Plaintiff earned and is still owed passing him over for
25 promotions and other performance incentives; taking away potential clients and potential
26 opportunities to earn commissions; and deliberately assigning him to far-flung assignments
27 abroad solely on the basis of his race, national origin, color, or religion.

28 153. Greenspan's actions, as described above, directly and proximately caused, and
continue to cause, Plaintiff to suffer loss of income, severe emotional distress, anguish, pain and
suffering, humiliation, indignity, personal embarrassment, and damage to his professional
reputation.

154. Therefore, Plaintiff is entitled to damages according to proof at trial.

1 155. In committing the acts alleged herein, Defendants acted with oppression, fraud,
2 and/or malice, and in reckless or willful disregard of Plaintiff's rights. Plaintiff is therefore
3 entitled to punitive damages in an amount according to proof at trial.

4 **SIXTH CAUSE OF ACTION**
5 **Retaliation in Violation of Labor Code § 98.6**
6 **(Against Greenspan)**

7 156. The allegations in the preceding paragraphs are re-alleged and incorporated herein
8 by reference.

9 157. Labor Code § 98.6 provides in relevant part that an employer shall not "in any
10 manner discriminate, retaliate, or take any adverse employment action against any employee ...
11 because the employee ... made a written or oral complaint that he or she is owed unpaid wages."

12 158. Plaintiff made written and oral complaints to Greenspan that he was owed unpaid
13 wages, as well as that he was being wrongfully subjected to a hostile work environment and was
14 being discriminated against due to his race, national origin, color, and religion.

15 159. Greenspan failed to address Plaintiff's complaints and instead began a process of
16 retaliating against him that eventually forced him to resign.

17 160. As a result of Defendants' harassing conduct, Plaintiff has suffered significant
18 damages in an amount to be proven at trial, and has also suffered severe emotional distress,
19 anguish, pain and suffering, ridicule, humiliation, indignity, and personal embarrassment.

20 161.

21 162. In committing the acts alleged herein, Defendants acted with oppression, fraud,
22 and/or malice, and in reckless or willful disregard of Plaintiff's rights. Plaintiff is therefore
23 entitled to punitive damages in an amount according to proof at trial

24 **SEVENTH CAUSE OF ACTION**
25 **Failure to Prevent Discriminatory and Retaliatory Practices in Violation of FEHA**
26 **(Against Greenspan)**

27 163. The allegations in the preceding paragraphs are re-alleged and incorporated herein
28 by reference.

164. Pursuant to Gov't Code § 12940(k), Greenspan has a duty to take all reasonable
steps necessary to prevent discrimination and harassment from occurring in their place of
employment.

165. Upon information and belief, Greenspan failed to prevent discrimination and
retaliation in the workplace and that this conduct included, but was not limited to, the following:

1 (a) failure to properly train all supervisory employees, including but not limited to the Individual
2 Defendants, regarding discrimination and retaliation in the workplace; (b) failure to effectively
3 enforce policies and procedures regarding the prevention and abatement of discrimination and
4 retaliation; (c) failure to prevent employees, including Individual Defendants, from retaliating
5 against Plaintiff because of his complaints; (d) failure to investigate complaints of discrimination
6 and retaliation made by Plaintiff in good faith; and (e) failure to ensure compliance with federal
7 and California anti-discrimination and anti-retaliation laws.

8 166. Upon information and belief, Greenspan failed to implement effective
9 discrimination prevention and reporting procedures, inform employees of what the firm's
10 discrimination and harassment reporting procedures were, if any, or take any other reasonable
11 steps to prevent discrimination and retaliation.

12 167. Greenspan's actions, as described above, directly and proximately have caused,
13 and continue to cause, Plaintiff to suffer losses of income and work opportunities and have caused
14 severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal
15 embarrassment, and damage to his professional reputation.

16 168. As such, Plaintiff is entitled to damages according to proof at trial.

17 169. In doing the acts herein alleged, Defendants acted with oppression, fraud, malice,
18 and in reckless or in willful disregard of Plaintiff's rights. Plaintiff is therefore entitled to punitive
19 damages in an amount according to proof at the time of trial.

20 **EIGHTH CAUSE OF ACTION**
21 **Breach of Contract (Written)**
22 **(Against All Defendants)**

23 170. The allegations in the preceding paragraphs are re-alleged and incorporated herein
24 by reference.

25 171. As stated above, Plaintiff worked for Greenspan pursuant to an employment
26 agreement, written in part, which promised him, among other benefits, payments in commissions
27 whose value was dependent upon the successful resolution of customers' claims.

28 172. Plaintiff performed all obligations owed by him under his employment agreement
with Greenspan.

173. However, Defendants did not perform all of its obligations owed to Plaintiff under
the employment agreement. Defendants did not pay Plaintiff numerous commissions owed to

1 him in exchange for his services, in an amount estimated to be over \$300,000. As such, Greenspan
2 has breached the employment agreement between Plaintiff and Greenspan.

3 174. Further, as the breach involves a failure to pay wages due and owing under
4 California law, any “other person acting on behalf of an employer” who fails to pay such wages
5 or causes the failure may also be held liable as the employer for such a violation of law. Labor
6 Code § 558.1. As such, Scott, Gibson, Fratkin, Migdal, and Severaid may be held personally
7 liable for failure to pay Plaintiff all wages due and owing.

8 175. As such, Plaintiff is entitled to damages and/or restitution according to proof at
9 trial.

10 **NINTH CAUSE OF ACTION**
11 **Breach of Contract (Oral)**
12 **(Against All Defendants)**

13 176. The allegations in the preceding paragraphs are re-alleged and incorporated herein
14 by reference.

15 177. As stated above, Plaintiff worked for Greenspan pursuant to an employment
16 agreement, oral in part, which promised him, among other benefits, payments in commissions
17 whose value was dependent upon the successful resolution of customers’ claims.

18 178. Plaintiff performed all obligations owed by him under his employment agreement
19 with Greenspan.

20 179. However, Defendants did not perform all of its obligations owed to Plaintiff under
21 the employment agreement. Defendants did not pay Plaintiff numerous commissions owed to
22 him in exchange for his services, in an amount estimated to be over \$300,000. As such, Greenspan
23 has breached the employment agreement between Plaintiff and Greenspan.

24 180. Further, as the breach involves a failure to pay wages due and owing under
25 California law, any “other person acting on behalf of an employer” who fails to pay such wages
26 or causes the failure may also be held liable as the employer for such a violation of law. Labor
27 Code § 558.1. As such, Scott, Gibson, Fratkin, Migdal, and Severaid may be held personally
28 liable for failure to pay Plaintiff all wages due and owing.

181. As such, Plaintiff is entitled to damages and/or restitution according to proof at
trial.

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TENTH CAUSE OF ACTION
Breach of the Covenant of Good Faith and Fair Dealing
(Against All Defendants)

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3 182. The allegations in the preceding paragraphs are re-alleged and incorporated herein
4 by reference.

5 183. The law implies a covenant of good faith and fair dealing in every contract, written
6 or oral, including employment agreements. This duty requires that each party will not do anything
7 to unfairly interfere with the right of any other party to receive the benefits of the contract.

8 184. As stated above, Plaintiff worked for Greenspan pursuant to an employment
9 agreement which promised him, among other benefits, payments in commissions whose value
10 was dependent upon the successful resolution of customers' claims. Implicit in this employment
11 agreement was a covenant of good faith and fair dealing.

12 185. Plaintiff performed all obligations owed by him under his employment agreement
13 with Greenspan.

14 186. However, Defendants did not perform all of its obligations owed to Plaintiff under
15 the employment agreement. Defendants did not pay Plaintiff numerous commissions owed to
16 him in exchange for his services, in an amount estimated to be over \$300,000. By engaging in
17 this conduct, Defendants have unfairly interfered with Plaintiff's right to receive the benefits of
18 the contract despite his performance.

19 187. Further, as the breach involves a failure to pay wages due and owing under
20 California law, any "other person acting on behalf of an employer" who fails to pay such wages
21 or causes the failure may also be held liable as the employer for such a violation of law. Labor
22 Code § 558.1. As such, Scott, Gibson, Fratkin, Migdal, and Severaid may be held personally
23 liable for failure to pay Plaintiff all wages due and owing.

24 188. Defendants' actions, as described above, directly and proximately have caused,
25 and continue to cause, Plaintiff to suffer losses of income and work opportunities and have caused
26 severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal
27 embarrassment, and damage to his professional reputation.

28 189. As such, Plaintiff is entitled to damages according to proof at trial.

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ELEVENTH CAUSE OF ACTION
Negligence (including Negligence *per se*)
(Against All Defendants)

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3 190. The allegations in the preceding paragraphs are re-alleged and incorporated herein
4 by reference.

5 191. All persons are required to use due care in managing their activities and property.
6 Civil Code § 1714(a). Such a duty is established through the existence of various factors,
7 including the social utility of the activity, risks of the activity, workability of a rule of care, the
8 identity of the persons involved and their relationship, financial considerations, moral
9 considerations, prophylactic effect, closeness of the connection between the harm and the
10 conduct, foreseeability, and the availability and cost of insurance against the risk. *Rowland v.*
Christian (1968) 69 Cal.2d 108, 112-113.

11 192. A person is liable for negligence where such a duty exists and is breached through
12 an act or omission that proximately causes harm to another. The usual standard for a breach is
13 what an ordinarily prudent person would so under similar circumstances. *Tucker v. Lombardo*
14 (1956) 47 Cal.2d 457, 463-64.

15 193. Additionally, duty and breach may be established by a defendant's violation of a
16 statute, regulation or ordinance that establishes a standard of appropriate conduct, if the violation
17 was the cause of the plaintiff's harm, the harm was the type sought to be prevented by the statute,
18 and the victim was among those whom the statute was designed to protect. *Ramirez v. Nelson*
(2008) 44 Cal.4th 908, 918.

19 194. Here, Defendants owed Plaintiff a duty of care by virtue of being his employer.
20 Defendants' duties owed to Plaintiff included, among other things, performing according to the
21 terms of his employment agreement; paying him all wages and benefits of employment owed;
22 providing Plaintiff with a safe and non-hostile work environment; and refraining from engaging
23 in illegal conduct or forcing Plaintiff to engage in or acquiesce to illegal conduct.

24 195. Defendants breached such duties owed to Plaintiff and did not act as a reasonably
25 prudent employer would in similar circumstances when Defendants failed to pay Plaintiff
26 numerous commissions owed to him in exchange for his services, in an amount estimated to be
27 over \$300,000. Finally, Defendants breached such duties owed to Plaintiff by allowing Fratkin
28 to operate as a *de facto* director and officer of Greenspan, and by allowing Fratkin to operate
Greenspan's entire sales, claims, and operational departments, engage in insurance transaction

1 requiring a license under the PIAA, impersonate employees in insurance transactions requiring a
2 license, forcing Greenspan and its employee to facilitate illegal conduct, and engage in other
3 operational activities.

4 196. Further, Defendants' conduct constitutes negligence *per se* as their conduct
5 described above violated a multitude of statutes addressed in this Complaint, including but not
6 limited to Labor Code §§ 200, 201, 202, 203, 206, 218, and 226; and Bus. & Prof. Code § 17200,
7 *et seq.*

8 197. Further, as the breach involves a failure to pay wages due and owing under
9 California law, any "other person acting on behalf of an employer" who fails to pay such wages
10 or causes the failure may also be held liable as the employer for such a violation of law. Labor
11 Code § 558.1. As such, Scott, Gibson, Fratkin, Migdal, and Severaid may be held personally
12 liable for failure to pay Plaintiff all wages due and owing.

13 198. Defendants' actions, as described above, directly and proximately have caused,
14 and continue to cause, Plaintiff to suffer losses of income and work opportunities and have caused
15 severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal
16 embarrassment, and damage to his professional reputation.

17 199. As such, Plaintiff is entitled to damages according to proof at trial.

18 **TWELFTH CAUSE OF ACTION**
19 **Failure to Pay Wages Due and Owing in Violation of Labor Code §§ 200, 201, 202, 218**
20 **(Against All Defendants)**

21 200. The allegations in the preceding paragraphs are re-alleged and incorporated herein
22 by reference.

23 201. As stated above, Plaintiff worked for Greenspan pursuant to an employment
24 agreement which promised him, among other benefits, payments in commissions whose value
25 was dependent upon the successful resolution of customers' claims, and enrollment in an ESOP
26 whereby he would be paid periodic benefits from an account comprised of stock contributions
27 made by Greenspan.

28 202. Defendants did not pay Plaintiff numerous commissions owed to him in exchange
for his services, in an amount estimated to be over \$300,000. As such, Greenspan has breached
the employment agreement between Plaintiff and Greenspan.

203. These commissions and stock benefits count as "wages" for purposes of the
California Labor Code and California law regarding the payment of wages. *Davis v. Farmers*

1 *Ins. Exchange* (2016) 245 Cal.App.4th 1302, 1332, fn. 20 (“wages include not just salaries earned
2 hourly, but also bonuses, profit-sharing plans, and commissions”).

3 204. Further, as the breach involves a failure to pay wages due and owing under
4 California law, any “other person acting on behalf of an employer” who fails to pay such wages
5 or causes the failure may also be held liable as the employer for such a violation of law. Labor
6 Code § 558.1. As such, Scott, Gibson, Fratkin, Migdal, and Severaid may be held personally
7 liable for failure to pay Plaintiff all wages due and owing.

8 As such, Plaintiff is entitled to damages and civil penalties according to proof at trial.

9 **THIRTEENTH CAUSE OF ACTION**
10 **Failure to Pay Earned Wages Upon Discharge in Violation of Labor Code § 203**
11 **(Against All Defendants)**

12 205. The allegations in the preceding paragraphs are re-alleged and incorporated herein
13 by reference.

14 206. Pursuant to Labor Code §§ 201 & 202, if an employee is separated from
15 employment, the wages earned and unpaid at the time of discharge are due and payable
16 immediately.

17 207. Labor Code § 203 provides that where an employer willfully fails to make such
18 timely payment, the employer must, as a penalty, continue to pay the employee’s wages until the
19 back wages are paid in full or an action is commenced.

20 208. Plaintiff separated his employment from Greenspan. However, Defendants
21 separated Plaintiff’s employment without paying Plaintiff the full compensation that Plaintiff
22 rightfully earned from Plaintiff’s employment with Defendants, which Plaintiff has yet to receive
23 to this day.

24 209. Defendants willfully refused and continue to refuse to pay Plaintiff all wages
25 earned in a timely manner, as required by Labor Code § 203.

26 210. Therefore, Plaintiff is entitled to restitution and waiting time penalties pursuant to
27 Labor Code § 203.

28 **FOURTEENTH CAUSE OF ACTION**
Failure to Furnish Timely and Accurate Wage Statements
in Violation of Labor Code § 226
(Against all Defendants)

211. The allegations in the preceding paragraphs are re-alleged and incorporated herein
by reference.

1 substandard and unlawful conditions, and to protect employers who comply with the law from
2 those who attempts to gain competitive advantage at the expense of their workers by failing to
3 comply with the minimum standards law.”

4 222. Beginning at an exact date unknown to Plaintiff, but at least since the date four
5 years prior to filing this suit, Defendant had committed acts of unfair competition as defined by
6 the Bus. & Prof. Code, by engaging in the unlawful, unfair, and fraudulent acts and practices
7 described in this Complaint, including but not limited to the following statutes:

- 8 a. Violations of the FEHA;
- 9 b. Violations of Labor Code §§ 200, 201, 202, 203, and/or 218 pertaining to
10 unpaid wages;
- 11 c. Violation of the PIAA;
- 12 d. Violation of the RCW; and
- 13 e. Violation of 18 U.S.C. § 1033.

14 223. The violation of the above laws and regulations, as well as of fundamental
15 California public policies protecting workers, serve as unlawful predicate acts and practices for
16 purposes of Bus. & Prof. Code §§ 17200 and 17203, *et seq.*

17 224. The acts and practices described above have allowed Defendant to gain an unfair
18 competitive advantage over law-abiding employers and competitors.

19 225. Accordingly, the acts and practices described above constitute unfair, unlawful
20 and fraudulent business practices within the meaning of Bus. & Prof. Code §§ 17200 and 17203,
21 *et seq.*

22 226. As a direct and proximate result of the acts described herein, Plaintiff has been
23 denied compensation in an amount to be proven at trial.

24 227. Plaintiff is entitled to restitution pursuant to Bus. & Prof. Code § 17203 for all
25 wages and other compensation unlawfully withheld from Plaintiff during the four year period
26 prior to the filing of the complaint.

27 **JURY DEMAND**

28 228. Plaintiff hereby demands a trial by jury in this action.

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 1. For compensatory damages, restitution and such other damages according to proof
on all causes of action;

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- 2. For general damages on all causes of action according to proof, including damages for emotional distress and mental anguish;
- 3. For punitive damages;
- 4. For statutory penalties;
- 5. For attorneys’ fees and costs of suit;
- 6. For interest, including prejudgment interest at the legal rate; and
- 7. For such other and further relief as the court may deem proper.

Dated: March 3, 2020

PERETZ & ASSOCIATES

By:  _____
 Yosef Peretz
 David Garibaldi
 Attorneys for Plaintiff MASOOD KHAN

EXHIBIT 1



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

November 22, 2019

David Garibaldi
22 Battery Street, Suite 200
San Francisco, California 94111

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 201911-08368522
Right to Sue: Khan / The Greenspan Company et al.

Dear David Garibaldi:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
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<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

November 22, 2019

RE: **Notice of Filing of Discrimination Complaint**
DFEH Matter Number: 201911-08368522
Right to Sue: Khan / The Greenspan Company et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Masood Khan

DFEH No. 201911-08368522

Complainant,

vs.

The Greenspan Company
16542 Venture Blvd. Suite 2000
Encino, California 91436

Greenspan Adjusters International, Inc.
400 Oyster Point Blvd. STE 519
San Francisco, California 94080

Adjusters International/California, Inc.
16542 Ventura Blvd., Suite 200
Encino, California 91436

Adjusters International Pacific Northwest, Inc.
4300 36th Ave W
Seattle, Washington 98199

Gordon Scott

,

Clay Gibson
, California

Mark Fratkin

,

Paul Migdal

,

Steve Severaid

,

Respondents

1 Respondents
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6 1. Respondent **The Greenspan Company** is an **employer** subject to suit under the
7 California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

8 2. Complainant **Masood Khan**, resides in the City of **San Francisco** State of
9 **California**.

10 3. Complainant alleges that on or about **November 30, 2018**, respondent took the
11 following adverse actions:

12 **Complainant was harassed** because of complainant's race, national origin
13 (includes language restrictions), color, religious creed - includes dress and grooming
14 practices.

15 **Complainant was discriminated against** because of complainant's race, national
16 origin (includes language restrictions), color, religious creed - includes dress and
17 grooming practices, other and as a result of the discrimination was forced to quit,
18 denied hire or promotion, denied any employment benefit or privilege, other.

19 **Complainant experienced retaliation** because complainant reported or resisted
20 any form of discrimination or harassment and as a result was forced to quit, denied
21 hire or promotion, denied any employment benefit or privilege, other.

22 **Additional Complaint Details:** Mr. Khan was employed as a public adjuster by The
23 Greenspan Co./Greenspan Adjusters International, Inc./Adjusters International
24 Corporation/ Adjusters International Public Northwest, Inc., and/or any other
25 affiliated companies (collectively hereinafter, "Greenspan"). During his time at
26 Greenspan, Mr. Khan was subjected to a discriminatory, harassing and hostile work
27 environment and treated differently from other similarly situated employees on the
28 basis of his race, ethnicity, national origin, and religion. Mr. Khan was also
subjected to both disparate treatment and disparate impact discrimination on
account of his race, ethnicity, national origin, and religion. Mr. Khan faced severe
and/or pervasive racial-, religion-, ethnicity- and national origin-based harassment
and abuse from his co-workers and managers, including but not limited to Gordon

1 Scott, Paul Migdal, Clay Gibson, Mark Fratkin, and Steve Severaid, throughout his
2 time at Greenspan which affected the terms and conditions of his employment. Due
3 to being of Pakistani-descent and a identified Muslim, Mr. Khan was routinely
4 mocked and disparaged at work; was passed over for promotions he was previously
5 promised; was denied payment of full commissions and wages owed; was ridiculed
6 in front of junior employees, other adjusters, and even Greenspan clients; was
7 passed over for sales leads; had costs unduly deducted from the commissions he
8 was paid; had his private medical information and other personal information
9 disclosed to other employees; was forced to have other adjusters assume his
10 identity in emails and written correspondence; and was unduly coerced into
11 engaging in illegal conduct on Greenspan's behalf. Mr. Khan was also retaliated
12 against when complaining of the above treatment. Mr. Khan's treatment was
13 different than that of other similarly situated employees, based on his being
14 Pakistani-descent and a identified Muslim. Mr. Khan's treatment was also due in
15 part to the disparate impact of employment policies maintained by Greenspan, which
16 adversely affected Mr. Khan more than other employees due to his race, ethnicity,
17 national origin, and religion. The above intolerable working conditions breached the
18 express and implied terms of Mr. Khan's employment, hindered his ability to perform
19 his job duties, violated public policy, and grew so pervasive that Mr. Khan was
20 effectively forced to resign from Greenspan, which he did on November 30, 2018.

1 VERIFICATION

2 I, **David Garibaldi**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On November 22, 2019, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

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San Francisco, California



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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November 22, 2019

Masood Khan
425 Broderick Street
San Francisco, California 94117

RE: **Notice of Case Closure and Right to Sue**
DFEH Matter Number: 201911-08368522
Right to Sue: Khan / The Greenspan Company et al.

Dear Masood Khan,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective November 22, 2019 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing