

1 JONATHAN A. SHAPIRO (SBN 257199)
jshapiro@goodwinlaw.com
2 GOODWIN PROCTER LLP
3 3 Embarcadero Center
San Francisco, CA 94111
Telephone: 415.733.6202
4 Facsimile: 415.276.3064

5 KARAN SINGH DHADIALLA (SBN 296313)
karan.dhadialla@bakerbotts.com
6 BAKER BOTTS L.L.P.
101 California Street, Suite 3200
7 San Francisco, CA 94111
Telephone: 415.291.6200
8 Facsimile: 415.291.6300

9 BRIAN C. KERR (*admitted pro hac vice*)
brian.kerr@bakerbotts.com
10 BAKER BOTTS L.L.P.
30 Rockefeller Plaza
11 New York, NY 10112
Telephone: 212.408.2543
12 Facsimile: 212.259.2543

13 JULIE B. RUBENSTEIN (*admitted pro hac vice*)
julie.rubenstein@bakerbotts.com
14 BAKER BOTTS L.L.P.
700 K Street, N.W.
15 Washington, D.C. 20001
Telephone: 202.639.7886
16 Facsimile: 202.508.9320

17 Attorneys for Plaintiff
MABVAX THERAPEUTICS HOLDINGS, INC.

18 [Additional Counsel Listed on Signature Page]
19

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA

21 COUNTY OF SAN DIEGO

22 MABVAX THERAPEUTICS HOLDINGS, INC., a
Delaware corporation,

23 Plaintiff,

24 v.

25 BARRY HONIG, *et al.*,

26 Defendants

Case No. 37-2019-00018398-CU-SL-CTL

**MABVAX THERAPEUTICS
HOLDINGS, INC.'S RESPONSE TO
BARRY HONIG'S SPECIAL
INTERROGATORIES (SET ONE)**

1 PROPOUNDING PARTY: DEFENDANT/CROSS-COMPLAINANT BARRY HONIG
2 RESPONDING PARTY: PLAINTIFF MABVAX THERAPEUTICS HOLDINGS, INC.
3 SET NO.: ONE

4 Pursuant to Code of Civil Procedure section 2030.010, *et seq.*, Plaintiff MabVax
5 Therapeutics Holdings, Inc. ("MabVax") hereby responds to Defendant Barry Honig's
6 ("Defendant" or "Honig") special interrogatories ("Interrogatories").

7 **PRELIMINARY STATEMENT**

8 MabVax's responses to these Interrogatories are made to the best of its present knowledge,
9 information, and belief. Discovery in this matter is ongoing and, consequently, MabVax may not
10 have yet identified all information responsive to the Interrogatories. As discovery in this action
11 proceeds, MabVax may discover additional or different information or documents. Without in any
12 way obligating itself to do so, MabVax reserves the right to amend, modify, supplement, clarify, or
13 further explain its responses to these Interrogatories at any time in the future, and to make any use
14 of, or to introduce at any hearing, information responsive to the Interrogatories but discovered
15 subsequent to the date of this response.

16 MabVax reserves all objections or other questions relating to the competency, relevance,
17 materiality, privilege, or admissibility as evidence in any subsequent proceeding of its responses to
18 the Interrogatories. MabVax responds to the Interrogatories as it interprets and understands them.
19 MabVax reserves its rights to supplement its responses if Defendant subsequently asserts an
20 interpretation of any Interrogatory that differs from MabVax's current understanding.

21 **GENERAL OBJECTIONS**

22 1. MabVax objects to each Interrogatory, including any applicable Definition or
23 Instruction, to the extent that it purports to impose obligations that exceed the permissible scope of
24 discovery as set forth in the Code of Civil Procedure.

25 2. MabVax objects to each Interrogatory to the extent that it seeks information
26 protected by the attorney-client privilege, the attorney work product doctrine, and/or any other
27 applicable privileges or doctrines. Such information shall not be disclosed in response to the
28 Interrogatories, and any inadvertent disclosure shall not be deemed a waiver of any applicable

1 privilege.

2 3. MabVax objects to each Interrogatory to the extent that it calls for any confidential,
3 proprietary and/or trade secret information.

4 4. MabVax objects to each Interrogatory to the extent that it calls for and/or implicates
5 expert testimony prior to the time that expert disclosures, reports, and/or opinions are required to
6 be disclosed under the Code of Civil Procedure or any applicable scheduling order(s).

7 5. MabVax objects to each Interrogatory to the extent that it seeks information that
8 cannot be located after a reasonable search of MabVax's records on the grounds that requiring
9 MabVax to do so would be unduly burdensome and/or oppressive.

10 6. MabVax objects to each Interrogatory to the extent that it seeks information that is
11 not in the possession, custody, or control of MabVax.

12 7. MabVax objects to the extent the Interrogatories seek information that is not relevant
13 to the issues in this litigation or is not reasonably calculated to lead to the discovery of admissible
14 evidence.

15 8. MabVax objects to the extent any Interrogatory seeks information that is within the
16 Defendant's possession, custody, or control or is available through public sources and/or in the
17 public domain and is equally accessible to Defendant as to MabVax.

18 These general objections are incorporated by reference into each response below (as though
19 fully set forth therein) regardless of whether any or all of these general objections are repeated in a
20 particular response to a particular Interrogatory. Without waiving or limiting in any manner any
21 aspect of the foregoing preliminary statement and/or general objections, but rather incorporating
22 them herein as applicable, MabVax responds to the Interrogatories as follows:

23 **RESPONSE TO SPECIAL INTERROGATORIES**

24 **SPECIAL INTERROGATORY NO. 1:**

25 State all facts supporting the contentions contained in paragraph 50 of YOUR Second
26 Amended Complaint.

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

2 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
3 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
4 that is equally available to the Defendants. MabVax further objects to this Interrogatory on the basis
5 that it contains subparts, or a compound, conjunctive, or disjunctive question in violation of Code
6 of Civil Procedure section 2030.060(f).

7 Subject to and without waiving the foregoing objections, MabVax responds that discovery
8 is ongoing, and it still does not know the full extent of Defendants' misconduct. MabVax further
9 responds that Honig and Stetson have worked together for over a decade, often with their co-
10 Defendants (e.g., Brauser and Groussman) and other common collaborators involved in their
11 schemes. (*See* Stetson Tr. Vol. 1 at 21:13-16; JS-MBVX-CA0167742; Groussman Tr. Vol. 1 at
12 13:18-14:5; Haag Tr. at 14:19-15:3; Honig Tr. Vol. 1 at 88:23-89:9, 91:11-22; JS-MBVX-; JS-
13 MBVX-CA0112466; Groussman Tr. Vol. 1 at 196:23-197:10; Brauser Tr. Vol. 1 at 29:11-17;
14 30:15-31:16, 45:16-20, 65:13-66:17; Brauser Tr. Vol. 1 at 30:15-31:16; Brauser Tr. Vol. 1 at 32:9-
15 33:1; Stetson Tr. Vol. 1 at 178:11-18, 258:21-25; Stetson Tr. Vol. 1 at 61:11-24; Brauser Tr. Vol.
16 1 at 36:3-17; Ex. 8, Brauser Tr. Vol. 1 at 45:12-23.) The ringleader of the fraud scheme, Honig, is
17 the link among all the Defendants—introducing them to one another and introducing them to target
18 companies, often with his protégé Stetson. (Benz Tr. at 79:11-12, 88:1-3; Groussman Tr. Vol. 1 at
19 13:18-23; Groussman Tr. Vol. 2 at 226:9-11; Honig Tr. Vol. 1 at 112:18-24; Ahern Tr. at 38:8-12;
20 Benz Tr. at 60:16-20; Brauser Tr. Vol. 2 at 437:6-9; Groussman Tr. Vol. 1 at 45:18-20; Rubin Tr.
21 at 36:16-20; R. Prag Tr. at 63:16-22, 68:8-14, 22-25, 69:1-19; Logal Tr. at 100:20-101:2.)

22 Defendants' scheme to defraud, seize control over, and leave companies in disrepair is well
23 developed, with Honig at the top orchestrating the roles of each participant down to the details of
24 how much each person would invest. (*See* JS-MBVX-CA0116269; JS-MBVX-CA0167742; JS-
25 MBVX-CA0112466.) Honig worked hand-in-hand with Stetson, whom Honig utilized as a
26 facilitator. (*See* JS-MBVX-CA0087264; JS-MBVX-CA0115255; Benz Tr. at 109:20-23; Brauser
27 Tr. Vol. 1 at 95:22-25.) But Stetson also acted on behalf of many of the other Defendants—
28

1 including tracking their holdings and completing their financial paperwork—and actively
2 participated in Defendants’ scheme. (*See* JS-MBVX-CA0018650; MB_0015804; Groussman Tr.
3 Vol. 1 at 138:15-18; JS-MBVX-CA0018182; MB_0016300.) In other words, Honig was the
4 ringleader and Stetson was his well-trained sidekick. Once Honig identified a new target, other
5 Defendants followed. (*See* MB_0010580.) Honig also closely collaborated with his business partner
6 Brauser, with whom he strategized how to manipulate companies, and shared (in Stetson’s words)
7 something akin to “a high school relationship where they’re dating, and then they have a break-up,
8 but they’re wanting to get back together or want to know what the other is up to.” (*See*
9 MB_0012199; MB_0010828; MB_0012346; JS-MBVX-CA0241655; MB_0012223;
10 MB_0016300; MB_0016075; Stetson Tr. Vol. 1 at 103:11-22.)

11 Honig, Stetson, and some combination of the other Defendants were collaborators,
12 investors, and held other roles in numerous companies, including: PolarityTE, Majesco, Pershing
13 Gold, MGT Capital Investments, Riot Blockchain, Marathon Patent Group, Biozone, 5 to 1,
14 ChromaDex, Sevion, Vaper Corp, IDI, VBI Vaccines, MusclePharm, Dataram, Senesco, and Rant.
15 (*See* Stetson Tr. Vol. 1 at 109:4-23; Groussman Tr. Vol. 1 at 46:17-25; Groussman Tr. Vol. 1 at
16 77:24-78:1, 101:15-25; Brauser Tr. Vol. 1 at 47:7-9; Groussman Tr. Vol. 1 at 77:17-20, 79:16-
17 82:25, 84:10-21; JS-MBVX-CA0139953; MB_0016091; MB_0016300; Brauser Tr. Vol. 1 at
18 309:4-21; MB_0007546; Groussman Tr. Vol. 1 at 59:11-13, 78:2-10; Groussman Tr. Vol. 1 at 47:2-
19 4, 121:13-123:3; Honig Tr. Vol. 1 at 59:14-22; Groussman Tr. Vol. 1 at 140:24-141:6, 145:5-10,
20 146:19-147:6, 148:15-149:14; Stetson Tr. Vol. 1 at 109:4-23; MB_0016094; MB_0015804;
21 Brauser Tr. Vol. 2 at 453:24-454:3; Prag Tr. at 65:2-66:1; Stetson Tr. Vol. 2 at 534:21-535:7;
22 MB_0010828; MB_0012223; MB_0012346; Inman Tr. at 97:11-19; Brauser Tr. Vol. 1 at 45: 12-
23 15; Honig Tr. Vol. 2 427:16-22; Brauser Tr. Vol. 1 at 46:4-10; MB_0016062; Rubin Tr. Vol. 1 at
24 100:25-101:1; Benz Tr. at 161:22-162:3; Inman Tr. at 97:11-19; Rubin Tr. Vol. 1 at 100:14-15;
25 Brauser Tr. Vol. 2, Ex. 41; Stetson Tr. Vol. 2 at 514:7-19; JOR-MABVAX_00055112;
26 MB_0007546; Stetson Tr. Vol. 2 at 493:3-16; Inman Tr. at 97:11-19; MB_0012346; Prag Tr. at
27 68:8-69:4; JOR-MABVAX_00037392; Rubin Tr. at 41:13-16, 42:25-43:8; and O’Rourke Tr. at
28

1 49:1-12.) Far from investing in the same companies by sheer coincidence (as Defendants sometimes
2 claim), Honig knew the total holdings of the group (he and Stetson tracked it and made sure it did
3 not appear to exceed a certain amount), and he would use investment vehicles to combine and hide
4 their investments in the same companies. (See JS-MBVX-CA0115238; MB_0012199.) In fact,
5 Honig, Stetson, and their co-Defendants were aware of and tried to hide their “group” status. Honig
6 made their motive and concealment strategy clear:

7 It is important the investments are made individually and I am acting as an advisor
8 to you and we are not acting as a “group”....I will be a co investor and you will be
9 “the lead investor” and you will be the management. I will be a board member. Do
10 not want to have grouping issues. The goal is for you and I to each own 20[%]. (See
11 JS-MBVX-CA0025268; JS-MBVX-CA0115785.)

12 The group’s pattern and scheme to defraud involved quietly taking over private companies
13 as investors, coordinating their investment amounts in these companies with the other Defendants,
14 pumping the stock with fake articles, horse-trading shares in various companies for money and
15 other benefits, and orchestrating mergers and other business combinations that were primarily for
16 their own benefit. (See O’Rourke Tr. at 40:10-41:8, 118:14-20; MB_0012325; MB_0016091; Benz
17 Tr. at 161:22-162:3, 164:13-25, 166:13-22; Groussman Tr. Vol. 1, Ex. 21; Groussman Tr. Vol. 1
18 at 160:9-161:13; MB_0016094; Groussman Tr. Vol. 1 at 96:22-97:4, 178:22-179:1.) Defendants
19 boasted to each other about accumulating “deal cubes” (“along with all the cash!”) for these
20 companies. (See MB_0014508.) It was—as Brauser said with respect to one of the deals—“*a team
21 effort,*” which would not have happened without Honig and Stetson. (See MB_0010828.)

22 **SPECIAL INTERROGATORY NO. 2:**

23 IDENTIFY all DOCUMENTS and COMMUNICATIONS pursuant to which Honig,
24 Brauser, Stetson and O’Rourke “agreed to act as a group in holding, disposing and voting” MabVax
25 securities, as alleged in paragraph 53 of YOUR Second Amended Complaint.

26 **RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

27 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
28 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
29 that is not within MabVax’s possession, custody, or control, and information that is more readily

1 available to Defendants. MabVax further objects to this Interrogatory on the basis that it contains
2 subparts, or a compound, conjunctive, or disjunctive question in violation of Code of Civil
3 Procedure section 2030.060(f).

4 Subject to and without waiving the foregoing objections, MabVax responds that discovery
5 is ongoing, and it still does not know the full extent of Defendants' coordination to acquire, hold,
6 vote and/or dispose of their MabVax shares. MabVax refers to its Response to Special Interrogatory
7 No. 1 and the documents cited therein regarding the coordination of Defendants with respect to
8 MabVax and other public companies. Honig carefully controlled his group's participants in the
9 financings he arranged so that shares were held only by individuals that permitted Honig to direct
10 how they voted their shares and/or acquiesced in Honig' control of the management of the
11 company.

12 Regarding MabVax, Defendants—with Honig at the helm—plotted from the start to gain
13 control of MabVax by coordinating and orchestrating for group members to become majority
14 holders.¹ (See MB_0010114; MB_0010585; MB_0014506; JS-MBVX-CA0026870.) The control
15 was so pervasive that the Defendants touted their ability to “arrange to have a shareholder vote” to
16 control issuers like MabVax. (See, e.g., MB_0010565.) Honig and Stetson privately amassed shares
17 of MabVax's stock, including making share issuances a condition of financing, and directed others
18 to hold (i.e., not sell) their MabVax stock. Honig even transferred MabVax shares among his
19 entities and Defendants. (See JS-MBVX-CA0043385; Honig Tr. Vol. 1 at 168:15-22; JS-MBVX-
20 CA0047993; JOR-MABVAX_00003696; JS-MBVX-CA0079599; MB_0007863;
21 MBVX_00375977; Groussman Tr. Vol. 1 at 224:1-6; Prag Tr. at 57:22-58:18.) Additionally, Honig
22 coordinated its shares among the Prag Defendants, directing Stetson to get shares to Prag, half from
23 Honig and half from HS Contrarian Investments, LLC, as well as to sell shares to Harvey Kesner,
24 MabVax's former counsel. (See, e.g., JS-MBVX-CA0036381.)

25 MabVax further refers to the following non-exhaustive list of documents demonstrating
26 Defendants' coordinated conduct: JS-MBVX-CA0117962; MB_0007863; MB_0010828;

27 _____
28 ¹ Honig and Stetson set the prices for the shares sold in private financing. (See Hansen Tr. Vol. 2
at 296:11-18.)

1 MB_0012199; JS-MBVX-CA0025268; JS-MBVX-CA0115238; MB_0016075; JS-MBVX-
2 CA0109431; MB_0014508; JOR-MABVAX-00002375; JS-MBVX-CA0115785; Honig Tr. Vol.
3 2 at 436:12-15; MB_0007507; JS-MBVX-CA0116269, JS-MBVX-CA0167698, JS-MBVX-CA-
4 0167699, MB_0010114, MB_0010114, JS-MBVX-CA0105069, JS-MBVX-CA0115238,
5 MB_0007863, JOR-MABVAX_0001026, MABVAX0446018-53, MABVAX0416276-77, JS-
6 MBVXCA0198994-9010, JS-MBVXCA0112971-74, JS-MBVXCA0113167-68, JS-
7 MBVXCA0157364-65, JS-MBVXCA0154f796-804, JS-MBVXCA0125363-65, JS-
8 MBVXCA0124087-88, JS-MBVXCA0046272, JS-MBVXCA0179404-13, JS-
9 MBVXCA0097361-599, JS-MBVXCA0090475, JS-MBVXCA0109431, MB_0019855,
10 MB_0012164, MB_0012037-42, MB_0010828, MB_0012199-201, JS-MBVXCA0115238-39,
11 MB_0016079-80, MB_0016075-76, MB_0010416, OPKO-00055170, MB_0010114, JOR-
12 MABVAX_00002375-2401, MB_0014600, MB_0010616-19, MB_0007647-49, MB_0009822,
13 MB_0007546, MB_0007863, MB_0007507-08, MB_0016062, GROUSSMAN_0002867-74, JS-
14 MBVXCA0112466, MB_0011603, JS-MBVXCA0052094-117, JOR-MABVAX_00025465-70,
15 JOR-MABVAX_00020387, MABVAX0066740-45, JS-MBVXCA0014785-802, JS-
16 MBVXCA0032625-34, JS-MBVXCA0018650, GROUSSMAN_0000734-35, JS-MBVX-
17 CA00532926-27, JS-MBVX-CA0079739-41, MBVX_IRTH_0018946-47,
18 MBVX_IRTH_0018760-61, JOR-MABVAX_00028569, MBVX_IRTH_0018689,
19 MBVX_IRTH_0018833-35, JOR-MABVAX_00031552-61, MBVX_IRTH_0018921-22, JOR-
20 MABVAX_00028837, JOR-MABVAX_00024351-53, MBVX_IRTH_0018860,
21 MBVX_IRTH_0018720, JS-MBVX-CA0082824, MABVAX0005427-29,
22 MBVX_IRTH_0005412, MBVX_IRTH_0018804-06, MBVX_IRTH_0018740,
23 MBVX_IRTH_0018736-39, JS-MBVX-CA0117962, OPKO-00078196, MB_0019583-85,
24 MB_0007486, JS-MBVX-CA0115785-87, JOR-MABVAX_00022672, OPKO-00162445, JOR-
25 MABVAX_00025976, LLMABVAX0013136-38, LLMABVAX0012670-71, JOR-
26 MABVAX_00004029-30, JOR-MABVAX_00002340-41, JS-MBVX-CA0072468-69, JS-
27 MABVAX-CA0036386-88, PRAG000328, JOR-MABVAX_00002603-06, PRAG000334-36,
28

1 PRAG000421-25, JOR-MABVAX_00002075-76, JOR-MABVAX_00002082-91, PRAG000786-
2 87, JS-MBVX-CA0119647, PRAG000177-82, JS-MBVX-CA0036663-77, JOR-
3 MABVAX_00003777, GROUSSMAN_00004066-67, JS-MBVX-CA0038726, JS-MBVX-
4 CA0240458, JS-MBVX-CA0096785, JS-MBVX-CA0122102, JS-MBVX-CA0123436, JS-
5 MBVX-CA0125403, JS-MBVX-CA0241750-51, JS-MBVX-CA0117962, MB_0007709, JS-
6 MBVX-CA0079739-41, GROUSSMAN_000406-67, JS-MBVX-CA0087764-65, MB_0016070,
7 JOR-MABVAX_00015182, JS-MBVX-CA0036381-82, JS-MBVX-CA0032989-90, Stetson Dep.
8 Ex. 14, JS- MBVX-CA0234563, Stetson Dep. Ex. 23, MB_0010585, JS-MBVX-CA0026870,
9 MBVX_00391018, JS-MBVX-CA0030771, BH-MBVX-CA0003335, MB_0009885, JS-MBVX-
10 CA0069288, OPKO-00056135, JS-MBVX-CA0079599, Groussman Dep. Ex. 1, Groussman Dep.
11 Ex. 2, Brauser Dep. Exs. 20-23, JS-MBVX-CA0240456, JS-MBVX-CA0115255, Groussman Dep.
12 Ex. 24, JOR-MABVAX_00040453, JS-MBVX-CA0139953, OPKO-00033760, Groussman Dep.
13 Ex. 44, Honig Dep. Ex. 26, Honig Dep. Ex. 27, JS-MBVX-CA0163312, JS-MBVX-CA0163316,
14 LLMABVAX0012661, LLMABVAX0012670, Marinaccio Dep. Tr. at 213:20-21, OPKO-
15 00034894, MBVX_00005809, LLMABVAX0029171, Marinaccio Dep. Ex. 11, Marinaccio Dep.
16 Tr. at 71:12-25, Marinaccio Dep. Ex. 29, Marinaccio Dep. Ex. 12, Marinaccio Dep. Ex. 14,
17 Marinaccio Dep. Ex. 16, MBVX_IRTH_0016587, MBVX_00368234, MBVX_IRTH_0008963,
18 Hansen Dep. Tr. at 579:9-12, MBVX_00005283, MBVX_00419568, MBVX_00389854,
19 PRAG000811, Hansen Dep Tr. at 591:9-25, 755:23 – 770:1, 775:3 – 778:19, OPKO-00055166,
20 Rubin Dep. Ex. 5, MB_0019894, OPKO-00055443, Rubin Dep. Tr. at 133:21-134:3, Stetson Dep.
21 Exs. 26-29, MBVX_00374086, MBVX_00463701, MBVX_00030414, and JOR-
22 MABVAX_00011385. Other evidence of Defendants’ coordination as to MabVax is contained in
23 documents that publicly are available and/or not bates labeled.

24 **SPECIAL INTERROGATORY NO. 3:**

25 State all facts supporting the contention in paragraph 62 of YOUR Second Amended
26 Complaint that the Defendants were members of “an illicit group” that “amassed a staggering
27
28

1 control position of at least 9,447,685 shares -- or at least 53.95% of the entire ownership of
2 MabVax.”

3 **RESPONSE TO SPECIAL INTERROGATORY NO. 3:**

4 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
5 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
6 that is not within MabVax’s possession, custody, or control, and information that is more readily
7 available to Defendants.

8 Subject to and without waiving the foregoing objections, MabVax refers to its Responses
9 to Special Interrogatory Nos. 1 and 2 regarding the coordination of Defendants and others within
10 their beneficial ownership group. Further, MabVax further refers to the facts stated in its May 21,
11 2018, SEC Form 8-K and its October 15, 2018 SEC Form 10-K/A.

12 **SPECIAL INTERROGATORY NO. 4:**

13 IDENTIFY all DOCUMENTS and COMMUNICATIONS supporting the contention in
14 paragraph 63 of YOUR Second Amended Complaint that Barry Honig “directed Stetson to transfer
15 MabVax shares and those held by HSCI to an investment relations consultant (in reality, a pumper)
16 he wanted involved in the promotion of MabVax.”

17 **RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

18 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
19 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
20 that is not within MabVax’s possession, custody, or control, and information that is more readily
21 available to Defendants.

22 Subject to and without waiving the foregoing objections, MabVax refers to the following
23 non-exhaustive list of documents: JS-MBVX-CA0036381.

24 **SPECIAL INTERROGATORY NO. 5:**

25 Specifically IDENTIFY which, if any, of the six factual contentions denoted by bullet
26 points alleged in paragraph 63 of YOUR Second Amended Complaint RELATE TO MabVax
27 securities.

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

2 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
3 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
4 that is not within MabVax's possession, custody, or control, and information that is more readily
5 available to Defendants. MabVax further objects to this Interrogatory on the basis that it contains
6 subparts, or a compound, conjunctive, or disjunctive question in violation of Code of Civil
7 Procedure section 2030.060(f). MabVax further objects to this Interrogatory on the basis that it that
8 is not relevant to the issues in this litigation nor is it reasonably calculated to lead to the discovery
9 of admissible evidence.

10 Subject to and without waiving the foregoing objections, MabVax responds that the
11 following factual contentions relate to MabVax securities:

- 12 • “In July 2015, Honig directed Stetson to transfer Honig's MabVax shares and
13 those held by HSCI to an investment relations consultant (in reality, a pumper) he
14 wanted involved in the promotion of MabVax.

15 Further, MabVax responds that it is unclear whether the following factual contentions
16 relate to MabVax securities:

- 17 • “In a January 5, 2014 email, Honig directed Stetson to wire \$1.7 million
18 from HSCI to accounts at his broker and bank.”

19 MabVax further responds that whether the factual contentions in paragraph 63 of MabVax's
20 Second Amended Complaint relate to MabVax is irrelevant given MabVax's allegations—and the
21 evidence uncovered in discovery—that Defendants' fraudulent scheme involved not only MabVax
22 but also scores of other companies over many years. (*See supra* Responses to Interrogatory Nos.
23 1-2.)

24 **SPECIAL INTERROGATORY NO. 6:**

25 State all facts supporting the contention in paragraph 67 of YOUR Second Amended
26 Complaint that “Honig and Ford had agreed that Honig would secretly compensate Ford to write
27 about companies that Honig introduced to him, and that Ford would not publicly disclose that
28

1 compensation so that investors would believe Ford’s articles to be the product of his independent
2 analysis and free from any conflict of interest.”

3 **RESPONSE TO SPECIAL INTERROGATORY NO. 6:**

4 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
5 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
6 that is not within MabVax’s possession, custody, or control, and information that is more readily
7 available to Defendants. MabVax further objects to this Interrogatory on the basis that it contains
8 subparts, or a compound, conjunctive, or disjunctive question in violation of Code of Civil
9 Procedure section 2030.060(f).

10 Subject to and without waiving the foregoing objections, MabVax responds that Honig (and
11 Stetson) had significant involvement in writings that were meant to artificially pump the value of
12 the stocks they invested in, specifically including articles by settled Defendant John Ford. Honig
13 and Stetson also have a long history—dating back to at least 2012—remunerating Ford for
14 promotional work. (*See* O’Rourke Tr. Vol. 1 at 124:1-125:2 [Settled Defendant O’Rourke testified
15 that Ford was compensated through “alternative ways” to get a piece of the investment for writing
16 exuberant “research” that promoted companies in which Honig invested]; LLMABVAX0044700;
17 JS-MBVX-CA0140311 at JS-MBVX-CA0140312 [“MabVax Investor List” with John Ford
18 allotted \$50,000 and 6,757 reverse shares and warrants, all of which is emailed to Honig from
19 Stetson]; JS-MBVX-CA0092158 [Aug. 12, 2016 email from Stetson to Luke Kottke at Laidlaw,
20 attaching “Investor Spreadsheet – July 2016” stating that he “[u]pdated emails and added John
21 Ford.”]; JS-MBVX-CA0089883; JS-MBVX-CA0127124; JS-MBVX-CA0127075; JS-MBVX-
22 CA0126975; JS-MBVX-CA0100747; JS-MBVX-CA0126967; JS-MBVX-CA0126895 [“Per your
23 conversations with Barry and myself, you have been allocated a portion of the Founders round of
24 a deal that we have been working on for a few months.”]; JS-MBVX-CA0238075 [“Put together a
25 SPA for John Ford to buy 100,000 shares at .10 cents[.] He may give us some push back on the
26 amount of shares ... but I believe he will do it. . .because you will remind him paid .02 cents a
27 share.”].) MabVax further refers to FORD_0001-000221.

1 **SPECIAL INTERROGATORY NO. 7:**

2 Specifically IDENTIFY which, if any, of the securities transactions or articles mentioned
3 in paragraphs 67-75 of YOUR Second Amended Complaint RELATE TO MabVax or MabVax
4 securities.

5 **RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

6 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
7 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
8 that is not within MabVax's possession, custody, or control, and information that is more readily
9 available to Defendants. MabVax further objects to this Interrogatory on the basis that it contains
10 subparts, or a compound, conjunctive, or disjunctive question in violation of Code of Civil
11 Procedure section 2030.060(f). MabVax further objects to this Interrogatory on the basis that it that
12 is not relevant to the issues in this litigation nor is it reasonably calculated to lead to the discovery
13 of admissible evidence.

14 Subject to and without waiving the foregoing objections, MabVax responds that discovery
15 is ongoing, and it still does not know the full extent of Defendants' coordination to pump the value
16 of various issuers' securities. MabVax further responds that Ford wrote "*MabVax: Near-Term*
17 *Catalysts Could Push Shares from \$2 to over \$5*," published on *Seeking Alpha* on July 1, 2015.
18 MabVax further refers to its Response to Special Interrogatory No. 6.

19 **SPECIAL INTERROGATORY NO. 8:**

20 State all facts and IDENTIFY all DOCUMENTS and COMMUNICATIONS supporting
21 the contention in paragraph 80 of YOUR Second Amended Complaint that Barry Honig "actually
22 directed and controlled HSCI's investment decisions" RELATING TO MabVax securities.

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 8:**

24 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
25 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
26 that is not within MabVax's possession, custody, or control, and information that is more readily
27 available to Defendants.

1 Subject to and without waiving the foregoing objections, MabVax responds that Honig
2 directed Stetson many times to execute the investment decisions Honig had made for HSCI, such
3 as directing the size of the allocation HSCI would take in a particular financing, the timing of when
4 HSCI would deposit shares or sell its position, and the brokers HSCI would use for its transactions.
5 (*See, e.g.*, JS-MBVX-CA0007727; JS-MBVX-CA0113288; JS-MBVX-CA0001821.) In regards to
6 MabVax securities, Honig directed Stetson to transfer “175,000 shares half from BH and half HS”
7 to Robert Prag, an investor relations consultant that Honig and his group forced MabVax to hire.
8 (*See* JS-MBVX-CA0036381.) Further, Honig also directed Stetson to sell Harvey Kesner “50,000
9 shares also from HS.” (*Id.*)

10 **SPECIAL INTERROGATORY NO. 9:**

11 IDENTIFY each transaction proposed by YOU to which HSCI or Southern Biotech did not
12 provide consent pursuant to the “Consent Right” mentioned in paragraphs 81, 85, 96, 119-26, 128-
13 33 and 141 of YOUR Second Amended Complaint.

14 **RESPONSE TO SPECIAL INTERROGATORY NO. 9:**

15 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
16 burdensome. MabVax further objects to this Interrogatory on the basis that it contains subparts, or
17 a compound, conjunctive, or disjunctive question in violation of Code of Civil Procedure section
18 2030.060(f).

19 Subject to and without waiving the foregoing objections, MabVax responds that consent
20 was not provided in the potential transaction with H.C. Wainwright & Co. (*See e.g.*, Hansen Dep.
21 Tr. Vol. 1 at 102:7-18; MBVX_00221692, MBVX_00288744, MBVX_00339664;
22 MBVX_00518663; MBVX_00518665; MBVX_00440008.) MabVax further responds that Honig
23 and other Defendants in many instances refused consent far in advance of deals being formally put
24 together.

25 **SPECIAL INTERROGATORY NO. 10:**

26 IDENTIFY all potential additional investors with which YOU communicated as alleged in
27 paragraph 88 of YOUR Second Amended Complaint.

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

2 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
3 burdensome. MabVax further objects to this Interrogatory on the basis that it contains subparts, or
4 a compound, conjunctive, or disjunctive question in violation of Code of Civil Procedure section
5 2030.060(f). MabVax further objects to this Interrogatory on the basis that it that is not relevant to
6 the issues in this litigation nor is it reasonably calculated to lead to the discovery of admissible
7 evidence.

8 Subject to and without waiving the foregoing objections, MabVax refers, without limitation,
9 to the investors listed in MBVX_00031386, MBVX_00101256, MBVX_00015625-26, and
10 MBVX_00026287.

11 **SPECIAL INTERROGATORY NO. 11:**

12 State all facts and IDENTIFY all DOCUMENTS and COMMUNICATIONS supporting
13 the contention in paragraph 89 of YOUR Second Amended Complaint that “Entity H” was “an
14 undisclosed collaborator with Defendants.”

15 **RESPONSE TO SPECIAL INTERROGATORY NO. 11:**

16 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
17 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
18 that is not within MabVax’s possession, custody, or control, and information that is more readily
19 available to Defendants.

20 Subject to and without waiving the foregoing objections, MabVax responds that
21 Defendants’ long association with Hudson Bay is well documented in the discovery record.
22 Defendants invested together with Hudson Bay in Riot Blockchain, Rant, Inc., Bullfrog, SpineZ,
23 MGT Capital Investments, Inc., and Marathon Patent Group, Inc. among other companies. (*See*,
24 *e.g.*, Groussman Dep. Tr. at 122:16-123:3; JS-MBVX-CA0207934; JS-MBVX-CA0123858; JS-
25 MBVX-CA0207924, JS-MBVX-CA0153308; JOR-MABVAX_00039635; Groussman Dep. Ex.
26 4; JS-MBVX-CA0017422; Stetson Dep. Tr. at 386:6-13.) HSCI and Hudson Bay even invested
27 through a limited partnership together. (Stetson Dep. Tr. at 386:9-17.) Defendants further listed
28

1 Hudson Bay as one of “many multibillion funds invested alongside with us” for a presentation
2 Defendants were creating for a new partnership they had formed. (See JOR-MABVAX_00020387.)
3 The Honig/Stetson Defendants also coordinated the buy-out of Hudson Bay in MabVax, after
4 learning of the MabVax opportunity from Hudson Bay and meeting with David Hansen for the first
5 time in Hudson Bay’s offices. (See OPKO-00078196; MB_0010416; Honig Dep. Tr. at 194:4-19;
6 Stetson Dep. Tr. at 383:12-24.)

7 **SPECIAL INTERROGATORY NO. 12:**

8 State all facts and IDENTIFY all DOCUMENTS and COMMUNICATIONS supporting
9 your contention that Honig was a member of a “group” of investors in MabVax securities for
10 purposes of reporting beneficial ownership.

11 **RESPONSE TO SPECIAL INTERROGATORY NO. 12:**

12 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
13 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
14 that is not within MabVax’s possession, custody, or control, and information that is more readily
15 available to Defendants. MabVax further objects to this Interrogatory on the basis that it calls for a
16 legal conclusion.

17 Subject to and without waiving the foregoing objections, MabVax responds that discovery
18 is ongoing, and MabVax still does not know the full extent of Defendants’ misconduct. But Honig
19 was part of an undisclosed group that exerted pressure, influence, and control over MabVax
20 decisions and fraudulently concealed their investment activity. Defendants—including Honig—
21 have a long history of coordination with respect to MabVax and other public companies. MabVax
22 refers to its Response to Special Interrogatory Nos. 1 and 2 and the documents cited therein for
23 evidence of the existence of a group.

24 As members of the beneficial ownership group, and in light of their agreement to acquire,
25 hold, vote and/or dispose of their MabVax shares in concert, the group’s direction of MabVax
26 management and policies, and their combined share ownership, Honig—like the other
27
28

1 Defendants—was required to make Schedule 13 filings truthfully disclosing their beneficial
2 ownership.

3 A non-exhaustive list of documents that demonstrate Defendants’ coordination with respect
4 to MabVax and other public companies include: JS-MBVX-CA0116269, JS-MBVX-CA0167698,
5 JS-MBVX-CA-0167699, MB_0010114, MB_0010114, JS-MBVX-CA0105069, JS-MBVX-
6 CA0115238, MB_0007863, JOR-MABVAX_0001026, MABVAX0446018-53,
7 MABVAX0416276-77, JS-MBVXCA0198994-9010, JS-MBVXCA0112971-74, JS-
8 MBVXCA0113167-68, JS-MBVXCA0157364-65, JS-MBVXCA0154796-804, JS-
9 MBVXCA0125363-65, JS-MBVXCA0124087-88, JS-MBVXCA0046272, JS-
10 MBVXCA0179404-13, JS-MBVXCA0097361-599, JS-MBVXCA0090475, JS-
11 MBVXCA0109431, MB_0019855, MB_0012164, MB_0012037-42, MB_0010828,
12 MB_0012199-201, JS-MBVXCA0115238-39, MB_0016079-80, MB_0016075-76, MB_0010416,
13 OPKO-00055170, MB_0010114, JOR-MABVAX_00002375-2401, MB_0014600, MB_0010616-
14 19, MB_0007647-49, MB_0009822, MB_0007546, MB_0007863, MB_0007507-08,
15 MB_0016062, GROUSSMAN_0002867-74, JS-MBVXCA0112466, MB_0011603, JS-
16 MBVXCA0052094-117, JOR-MABVAX_00025465-70, JOR-MABVAX_00020387,
17 MABVAX0066740-45, JS-MBVXCA0014785-802, JS-MBVXCA0032625-34, JS-
18 MBVXCA0018650, GROUSSMAN_0000734-35, JS-MBVX-CA00532926-27, JS-MBVX-
19 CA0079739-41, MBVX_IRTH_0018946-47, MBVX_IRTH_0018760-61, JOR-
20 MABVAX_00028569, MBVX_IRTH_0018689, MBVX_IRTH_0018833-35, JOR-
21 MABVAX_00031552-61, MBVX_IRTH_0018921-22, JOR-MABVAX_00028837, JOR-
22 MABVAX_00024351-53, MBVX_IRTH_0018860, MBVX_IRTH_0018720, JS-MBVX-
23 CA0082824, MABVAX0005427-29, MBVX_IRTH_0005412, MBVX_IRTH_0018804-06,
24 MBVX_IRTH_0018740, MBVX_IRTH_0018736-39, JS-MBVX-CA0117962, OPKO-00078196,
25 MB_0019583-85, MB_0007486, JS-MBVX-CA0115785-87, JOR-MABVAX_00022672, OPKO-
26 00162445, JOR-MABVAX_00025976, LLMABVAX0013136-38, LLMABVAX0012670-71,
27 JOR-MABVAX_00004029-30, JOR-MABVAX_00002340-41, JS-MBVX-CA0072468-69, JS-
28

1 MABVAX-CA0036386-88, PRAG000328, JOR-MABVAX_00002603-06, PRAG000334-36,
2 PRAG000421-25, JOR-MABVAX_00002075-76, JOR-MABVAX_00002082-91, PRAG000786-
3 87, JS-MBVX-CA0119647, PRAG000177-82, JS-MBVX-CA0036663-77, JOR-
4 MABVAX_00003777, GROUSSMAN_00004066-67, JS-MBVX-CA0038726, JS-MBVX-
5 CA0240458, JS-MBVX-CA0096785, JS-MBVX-CA0122102, JS-MBVX-CA0123436, JS-
6 MBVX-CA0125403, JS-MBVX-CA0241750-51, JS-MBVX-CA0117962, MB_0007709, JS-
7 MBVX-CA0079739-41, GROUSSMAN_000406-67, JS-MBVX-CA0087764-65, MB_0016070,
8 JOR-MABVAX_00015182, JS-MBVX-CA0036381-82, JS-MBVX-CA0032989-90, Stetson Dep.
9 Ex. 14, JS- MBVX-CA0234563, Stetson Dep. Ex. 23, MB_0010585, JS-MBVX-CA0026870,
10 MBVX_00391018, JS-MBVX-CA0030771, BH-MBVX-CA0003335, MB_0009885, JS-MBVX-
11 CA0069288, OPKO-00056135, JS-MBVX-CA0079599, Groussman Dep. Ex. 1, Groussman Dep.
12 Ex. 2, Brauser Dep. Exs. 20-23, JS-MBVX-CA0240456, JS-MBVX-CA0115255, Groussman Dep.
13 Ex. 24, JOR-MABVAX_00040453, JS-MBVX-CA0139953, OPKO-00033760, Groussman Dep.
14 Ex. 44, Honig Dep. Ex. 26, Honig Dep. Ex. 27, JS-MBVX-CA0163312, JS-MBVX-CA0163316,
15 LLMABVAX0012661, LLMABVAX0012670, Marinaccio Dep. Tr. at 213:20-21, OPKO-
16 00034894, MBVX_00005809, LLMABVAX0029171, Marinaccio Dep. Ex. 11, Marinaccio Dep.
17 Tr. at 71:12-25, Marinaccio Dep. Ex. 29, Marinaccio Dep. Ex. 12, Marinaccio Dep. Ex. 14,
18 Marinaccio Dep. Ex. 16, MBVX_IRTH_0016587, MBVX_00368234, MBVX_IRTH_0008963,
19 Hansen Dep. Tr. at 579:9-12, MBVX_00005283, MBVX_00419568, MBVX_00389854,
20 PRAG000811, Hansen Dep Tr. at 591:9-25, 755:23 – 770:1, 775:3 – 778:19, OPKO-00055166,
21 Rubin Dep. Ex. 5, MB_0019894, OPKO-00055443, Rubin Dep. Tr. at 133:21-134:3, Stetson Dep.
22 Exs. 26-29, MBVX_00374086, MBVX_00463701, MBVX_00030414, and JOR-
23 MABVAX_00011385. Other evidence of Defendants’ coordination as to MabVax is contained in
24 documents that publicly are available and/or not bates labeled.

25 **SPECIAL INTERROGATORY NO. 13:**

26 IDENTIFY all DOCUMENTS and COMMUNICATIONS supporting YOUR contention
27 that Honig directed John O’Rourke to write the article entitled “*Opko Spots Another Overlooked*
28

1 *Opportunity in MabVax Therapeutics,”* published on *Seeking Alpha* on April 8, 2015, as alleged
2 in paragraph 113 of YOUR Second Amended Complaint.

3 **RESPONSE TO SPECIAL INTERROGATORY NO. 13:**

4 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
5 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
6 that is not within MabVax’s possession, custody, or control, and information that is more readily
7 available to Defendants.

8 Subject to and without waiving the foregoing objections, MabVax responds that discovery
9 is ongoing, and MabVax still does not know the full extent of Defendants’ misconduct. MabVax
10 further responds that discovery has revealed that Honig had significant involvement in writings that
11 were meant to artificially pump the value of MabVax’s—and other issuers’ stock—including
12 writings by Defendant O’Rourke. For instance, Honig was involved with the April 6, 2015 press
13 release, drafted by O’Rourke, regarding the OPKO/Frost Defendants’ investments in
14 MabVax. (*See, e.g.*, OPKO-00075315; JOR-MABVAX_00002075; PRAG000469). Honig and
15 Stetson also have a long history remunerating settled Defendant John Ford for his promotional
16 articles. (*See* O’Rourke Tr. Vol. 1 at 124:1-125:2; LLMABVAX0044700; JS-MBVX-CA0140311
17 at JS-MBVX-CA0140312 [“MabVax Investor List” with John Ford allotted \$50,000 and 6,757
18 reverse shares and warrants, all of which is emailed to Honig from Stetson]; JS-MBVX-
19 CA0092158 [Aug. 12, 2016 email from Stetson to Luke Kottke at Laidlaw, attaching “Investor
20 Spreadsheet – July 2016” stating that he “[u]pdated emails and added John Ford.”]; JS-MBVX-
21 CA0089883; JS-MBVX-CA0127124; JS-MBVX-CA0127075; JS-MBVX-CA0126975; JS-
22 MBVX-CA0126967; JS-MBVX-CA0126895 [“Per your conversations with Barry and myself, you
23 have been allocated a portion of the Founders round of a deal that we have been working on for a
24 few months.”]; JS-MBVX-CA0238075 [“Put together a SPA for John Ford to buy 100,000 shares
25 at .10 cents[.] He may give us some push back on the amount of shares ... but I believe he will do
26 it.. .because you will remind him paid .02 cents a share.”].) Mr. Ahern of Laidlaw & Co. (the
27 Defendant group’s investment bank of choice) notably forwarded O’Rourke’s Seeking Alpha
28

1 article to Honig soon after it was published. (LLMABVAX0013085.) Fellow Aggregated Investor
2 John Lemak also passed the article along to Honig, Stetson, O'Rourke, and Brauser calling the
3 MabVax press coverage a "nice report!" (See JS-MBVX-CA0034835.) Laidlaw personnel (again,
4 Defendants' chosen investment bank) passed the article around the day it was published.
5 (LLMABVAX0013080)

6 Further, MabVax refers to its Responses to Special Interrogatories Nos. 1, 2, and 12 for
7 Honig's extensive history of coordinated activity with the other Defendants, including with respect
8 to their investments in MabVax.

9 **SPECIAL INTERROGATORY NO. 14:**

10 IDENTIFY each statement in the article entitled "*Opko Spots Another Overlooked*
11 *Opportunity in MabVax Therapeutics*," published on *Seeking Alpha* on April 8, 2015, which you
12 contend was false when the article was published.

13 **RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

14 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
15 burdensome.

16 Subject to and without waiving the foregoing objections, MabVax responds that the
17 following statements (the italicized portions) are false, misleading, overstated, and/or speculative:

- 18 • "MabVax's lead antibody program, HuMab 5B1, targets metastatic pancreatic and
19 colon cancers with *anticipated early Phase I data coming out by the end of 2015*,
20 for both therapeutic and diagnostic indications."
- 21 • "*This is a billion dollar annual market opportunity* with a critical unmet medical
22 need, as there are very poor 5-year survival rates for metastatic pancreatic and
23 colon cancer."
- 24 • "*The neuroblastoma vaccine will enter Phase II trials by the end of 2015.*"
- 25 • "Phase I data expected out later this year for two antibody programs addressing
26 critical unmet medical needs *in the billion dollar markets of metastatic pancreatic*
27 *and colon cancer*;"

1 **SPECIAL INTERROGATORY NO. 15:**

2 IDENTIFY all DOCUMENTS supporting YOUR contention that Honig compensated
3 John Ford to write the article entitled “*MabVax: Near-Term Catalysts Could Push Shares from \$2*
4 *to over \$5,*” published on *Seeking Alpha* on July 1 2015, as alleged in paragraph 117 of YOUR
5 Second Amended Complaint.

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 15:**

7 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
8 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
9 that is not within MabVax’s possession, custody, or control, and information that is more readily
10 available to Defendants.

11 Subject to and without waiving the foregoing objections, MabVax responds that discovery
12 is ongoing, and MabVax still does not know the full extent of Defendants’ misconduct. MabVax
13 refers to its Responses to Special Interrogatories Nos. 6 and 13.

14 **SPECIAL INTERROGATORY NO. 16:**

15 IDENTIFY each statement in the article entitled ““*MabVax: Near-Term Catalysts Could*
16 *Push Shares from \$2 to over \$5,*” published on *Seeking Alpha* on July 1 2015, which YOU
17 contend was false when the article was published.

18 **RESPONSE TO SPECIAL INTERROGATORY NO. 16:**

19 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
20 burdensome.

21 Subject to and without waiving the foregoing objections, MabVax responds that Mr. Hansen
22 did not approve or authorize Mr. Ford’s article. (*See Hansen Tr. Vol. 1 at 260:15-261:14;*
23 *MBVX_00026035.*)

24 Further, MabVax responds that the following statements (the italicized portions) are a
25 non-exhaustive list of statements that are false, misleading, overstated, and/or speculative:

- 26 • “*In neuroblastoma trials MabVax demonstrated its drug is almost twice as*
27 *effective as the standard of care.*”
28

- 1 • *“If positive clinical data is announced later this year, the shares could trade well*
- 2 *above \$10.”*
- 3 • *“Yesterday marked the option deadline, so if a deal is in the works, when we*
- 4 *consider the time required to close complex biotech deals, we could hear*
- 5 *something within the next couple of weeks.”*
- 6 • *“MabVax is clinically more advanced than Juno, yet is trading at a huge discount”*
- 7 • *“MabVax has demonstrated phenomenal safety and efficacy”*
- 8 • *“What I found particularly encouraging was that there was absolutely no dose*
- 9 *limiting toxicity.”*
- 10 • *“MabVax’s diagnostic agent will provide a major catalyst in Q1 of 2016”*
- 11 • *“The company’s next-generation diagnostic agent could become the standard of*
- 12 *care given its superior accuracy and reliability.”*
- 13 • *“This one product alone is addressing a \$400 million market.”*
- 14 • *“Undoubtedly Dr. Frost and his team of scientists conducted a high level of due*
- 15 *diligence, which validates MabVax’s technology.”*
- 16 • *“What’s important here, is that these antibodies have already proven effective in*
- 17 *the original patient from which the antibodies were derived so there is a high*
- 18 *probability of efficacy in new patients.”*
- 19 • ***“Licensing deal with Juno: if a deal occurs, there could be an announcement***
- 20 ***within the next 2 weeks.”***
- 21 • ***“Reporting of Phase 1 clinical data for pancreatic and colon cancer: this data***
- 22 ***should be released in Q4 of this year.”***
- 23 • ***“Reporting of Phase 1 clinical data for diagnostic agent: this data should be***
- 24 ***released in Q1 of 2016.”***
- 25 • *“For the past 6 months, there has been a steady stream of insider buying on the*
- 26 *open market.”*

1 **SPECIAL INTERROGATORY NO. 17:**

2 State all facts and IDENTIFY all DOCUMENTS supporting the contentions in paragraph
3 139 of YOUR Second Amended Complaint.

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 17:**

5 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
6 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
7 that is not within MabVax's possession, custody, or control, and information that is more readily
8 available to Defendants.

9 Subject to and without waiving the foregoing objections, MabVax responds that discovery
10 is ongoing, and it still does not know the full extent of Defendants' coordination, but Andrew Haag,
11 Robert Haag, and IRTH Communications, LLC (collectively, the "IRTH Defendants") contributed
12 to and were part of Defendants' concerted scheme to control MabVax and manipulate MabVax's
13 stock, including by taking direction from fellow members of Defendants' beneficial ownership
14 group—who made hiring the IRTH Defendants a condition of financing—with respect to public
15 relations statements and for the purpose of controlling Defendants' "pump" messages to the public.
16 (*See, e.g.*, MBVX_00005427.)

17 MabVax further responds that the IRTH Defendants had been previously involved with
18 Honig in another issuer and asked to stay involved in Honig's investments. (*See*
19 MBVX_IRTH_0018736, MBVX_IRTH_0018760.) Honig made sure to keep Haag Defendants
20 involved by requiring MabVax to hire their company IRTH Communications, LLC and
21 compensating IRTH through cash and stock worth hundreds of thousands of dollars. (*See* Hansen
22 Tr. Vol. 3 at 707:5-6, 706:20-25; Hanson Tr. Vol. 2 at 306:5-12; MABVAX0029912;
23 MBVX_00005427; *see also* Van Tassel Report at VANTASSEL000009, VANTASSEL000011.)
24 As Mr. Hansen testified, the IRTH Defendants never provided a full accounting for their purported
25 services and appear to have used some portion of the \$300,000 retention payment, which was a
26 condition of their hiring, on promotional pieces that were not written at MabVax's direction. (*See,*
27 *e.g.*, Hansen Dep. Tr. Vol. 3 at 743:18–744:11.) Mr. Hansen also testified that when he asked the
28

1 Haags how they were spending the money or who they were employing, they responded ““You
2 don’t want to know.”” (See Hansen Dep. Tr. Vol. 3 at 579:9-12.)

3 The IRTD Defendants also had an obligation to and failed to disclose the Defendants’ group
4 activity to MabVax, which provided further substantial assistance to the Defendants’ efforts to
5 manipulate MabVax’s stock.

6 **SPECIAL INTERROGATORY NO. 18:**

7 State all material terms of the alleged “financing” that YOU contend H.C. Wainwright had
8 offered to extend to YOU as set forth in paragraph 142 of YOUR Second Amended Complaint.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 18:**

10 MabVax objects to this Interrogatory on the basis that it is vague, ambiguous, and calls for
11 a legal conclusion as to the meaning of “material terms.” MabVax further objects to this
12 Interrogatory under CCP § 2030.230.

13 Subject to and without waiving the foregoing objections, MabVax refers to
14 MBVX_00413990.

15 **SPECIAL INTERROGATORY NO. 19:**

16 IDENTIFY all DOCUMENTS supporting the contentions in paragraph 149 of YOUR
17 Second Amended Complaint that Honig “had an arrangement to manipulate the price of the stock
18 in direct contradiction of Regulation M.”

19 **RESPONSE TO SPECIAL INTERROGATORY NO. 19:**

20 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
21 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
22 that is not within MabVax’s possession, custody, or control, and information that is more readily
23 available to Defendants.

24 Subject to and without waiving the foregoing objections, MabVax refers to its Responses
25 to Special Interrogatories Nos. 1, 2, 6, 8, 11, 12, 13, and 17.

1 **SPECIAL INTERROGATORY NO. 20:**

2 State all facts and IDENTIFY all DOCUMENTS and COMMUNICATIONS supporting
3 the contentions in paragraph 152 of YOUR Second Amended Complaint.

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 20:**

5 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
6 burdensome.

7 Subject to and without waiving the foregoing objections, MabVax refers to its response to
8 Special Interrogatory No. 1 regarding coordination of MabVax securities by Stetson with
9 Defendants and others. Further MabVax refers to the following non-exhaustive list of documents:
10 JS-MBVX-CA0022329, JS-MBVX-CA0018650, JS-MBVX-CA0117962, JS-MBVX-
11 CA0043385, JS-MBVX-CA0047993, Groussman Tr. Vol. 1 at 224:1-6.

12 **SPECIAL INTERROGATORY NO. 21:**

13 IDENTIFY each of the factors which YOU contend are part of the “multi-factor test” for
14 determining “whether investors are part of a 13D Group,” as alleged in paragraph 162 of YOUR
15 Second Amended Complaint.

16 **RESPONSE TO SPECIAL INTERROGATORY NO. 21:**

17 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
18 burdensome. MabVax further objects to this Interrogatory on the basis that it calls for a legal
19 conclusion.

20 **SPECIAL INTERROGATORY NO. 22:**

21 State the date(s) on which you contend each Defendant became a member of the “13D
22 Group” you allege in paragraphs 162-165 of YOUR Second Amended Complaint.

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 22:**

24 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
25 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
26 that is equally available to the Defendants.

1 Subject to and without waiving the foregoing objections, MabVax responds that it believes
2 Defendants were a “13D Group” by the time of their first investment in MabVax.

3 **SPECIAL INTERROGATORY NO. 23:**

4 State the date(s) on which you contend the “13D Group” alleged in paragraphs 162-165 of
5 YOUR Second Amended Complaint beneficially owned in excess of 4.99% of MabVax’s
6 outstanding common stock.

7 **RESPONSE TO SPECIAL INTERROGATORY NO. 23:**

8 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
9 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
10 that is equally available to the Defendants.

11 Subject to and without waiving the foregoing objections, MabVax responds that it believes
12 Defendants beneficially owned in excess of 4.99% of MabVax’s outstanding common stock as of
13 their first investment in MabVax.

14 **SPECIAL INTERROGATORY NO. 24:**

15 IDENTIFY all DOCUMENTS and COMMUNICATIONS RELATING TO YOUR
16 decision to disclaim reliance on YOUR previously filed SEC reports, as described in paragraph
17 167 of YOUR Second Amended Complaint.

18 **RESPONSE TO SPECIAL INTERROGATORY NO. 24:**

19 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
20 burdensome. MabVax further objects to this Interrogatory to the extent that it seeks information
21 protected by the attorney-client privilege and/or the attorney work product doctrine.

22 Subject to and without waiving the foregoing objections, MabVax refers to the following
23 non-exhaustive list of documents associated with the Board of Directors meeting held on or around
24 May 20, 2018: MBVX_00447292. MabVax further refers to MabVax’s SEC Form 8-K, filed May
25 20, 2018, MabVax’s SEC Form 10-K/A, filed October 15, 2018, and the Verified Petition for Relief
26 Under 8 Del. C. § 205, filed by MabVax on July 27, 2018.

1 **SPECIAL INTERROGATORY NO. 25:**

2 IDENTIFY each benefit which you contend each DEFENDANT personally unjustly
3 retained, as alleged pursuant to the Ninth Cause of Action contained in YOUR Second Amended
4 Complaint.

5 **RESPONSE TO SPECIAL INTERROGATORY NO. 25:**

6 MabVax objects to this Interrogatory on the basis that it is overbroad and unduly
7 burdensome. MabVax further objects to this Interrogatory on the grounds that it seeks information
8 that is equally available to the Defendants.

9 Subject to and without waiving the foregoing objections, MabVax refers to and incorporates
10 by reference the June 22, 2022, expert report of Karyl Van Tassel, and its associated exhibits (bates
11 labeled as VANTASSEL000001-110).

12
13
14 Dated: October 21, 2022

Respectfully submitted,

15 GOODWIN PROCTER LLP

16 
17 Jonathan A. Shapiro (SBN 257199)
18 Jshapiro@goodwinlaw.com
19 GOODWIN PROCTER LLP
20 3 Embarcadero Center
San Francisco, CA 94111
Telephone: 415.733.6202
Facsimile: 415.276.3064

21 Karan Singh Dhadialla (SBN 296313)
22 karan.dhadialla@bakerbotts.com
23 BAKER BOTTS L.L.P.
101 California Street, Suite 3200
San Francisco, CA 94111
Telephone: 415.291.6200
Facsimile: 415.291.6300

24 Brian C. Kerr (*pro hac vice*)
25 brian.kerr@bakerbotts.com
26 BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, NY 10112
27 Telephone: 212.408.2543
28 Facsimile: 212.259.2543

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Julie B. Rubenstein (*pro hac vice*)
julie.rubenstein@bakerbotts.com
BAKER BOTTS L.L.P.
700 K Street, N.W.
Washington, DC 20001
Telephone: 202.639.7886
Facsimile: 202.508.9320

Dustin Appel (*pro hac vice pending*)
Dustin.appel@bakerbotts.com
BAKER BOTTS L.L.P.
910 Louisiana Street
Houston, TX 77002-4995
Telephone: 713.229.1234
Facsimile: 713.229.1522

Attorneys for Plaintiff
MABVAX THERAPEUTICS HOLDINGS, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

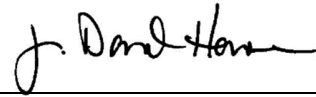
VERIFICATION

I have reviewed MabVax Therapeutics Holdings, Inc.'s above responses to Barry Honig's Special Interrogatories.

I am the Chief Executive Officer at MabVax Therapeutics Holdings, Inc. and am authorized to make this verification on its behalf. I am informed and believe that the responses above are true and correct based on the information currently available and known to me.

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

Executed on October 21, 2022



J. David Hansen

PROOF OF SERVICE

I am employed in the County of San Francisco, State of California; I am over the age of 18 years and not a party to this action. My business address is 101 California St., Suite 3200, San Francisco CA 94111. My email address is nicole.bigley@bakerbotts.com. On October 21, 2022 I served the following documents on the parties listed below in the manner(s) indicated:

➤ **MABVAX THERAPEUTICS HOLDINGS, INC.'S RESPONSE TO BARRY HONIG'S SPECIAL INTERROGATORIES, SET ONE**

☒ BY ELECTRONIC SERVICE: via electronic filing service provider One legal by electronically transmitting the document(s) listed above to One Legal, an electronic filing service provider at <http://www.onelegal.com>. To my knowledge, the transmission was reported as complete and without error. See Cal. R. Ct. R. 2.253, 2.255, 2.260.

<p>J.T. Fox LAW OFFICES OF J.T. FOX & ASSOCIATES, APC 556 S. Fair Oaks Ave., Suite 444 Pasadena, CA 91105 Email: jt@jtfoxlaw.com</p> <p>Russell M. Selmont Pooja S. Nair ERVIN COHEN & JESSUP LLP 9401 Wilshire Boulevard, Ninth Floor Beverly Hills, CA 90212-2974 rselmont@ecjlaw.com pnair@ecjlaw.com</p> <p><i>Attorneys for Defendants Robert Haag; Andrew Haag; IRTH Communications, LLC</i></p>	<p>Ian Pancer THE LAW OFFICE OF IAN PANCER 105 West F Street, 4th Floor San Diego, CA 92101 Email: ian@sandiegolegal.net</p> <p>Dennis Richard Melissa L. Mackiewicz RICHARD AND RICHARD, P.A. 825 Brickell Bay Drive Tower III, Suite 1748 Miami, FL 33131 Email: dennis@richardandrichard.com Email: melissa@richardandrichard.com</p> <p><i>Attorney for Defendants Michael Brauser, Grander Holdings, Inc., Grander Holdings Inc. 401K</i></p>
<p>Robert D. Weber Nolan J. Walter SHEPPARD, MULLIN, RICHTER & HAMPTON LLP 1901 Avenue of the Stars, Suite 1600 Los Angeles, CA 90067-6055 Email: rweber@sheppardmullin.com Email: nwalter@sheppardmullin.com Email: sljames@sheppardmullin.com</p> <p>Kristin P. Housh SHEPPARD, MULLIN, RICHTER</p>	<p>Todd Frederick Stevens Brian L. Frary KEENY WAITE AND STEVENS 402 West Broadway, Suite 1820 San Diego, CA 92101 Email: tstevens@keenlaw.com Email: BFRary@keenlaw.com</p> <p><i>Attorney for Defendants Robert Prag, The Del Mar Consulting Group, Inc., The Del Mar Consulting Group, Inc. Retirement Plant Trust</i></p>

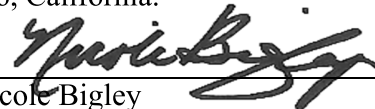
<p>1 & HAMPTON LLP</p> <p>2 12275 El Camino Real, Suite 200</p> <p>3 San Diego, California 92130-4092</p> <p>4 Email: khoush@sheppardmullin.com</p> <p>5 <i>Attorneys for Defendants</i></p> <p>6 <i>Barry Honig; GRQ Consultants, Inc.; GRQ</i></p> <p>7 <i>Consultants, Inc. 401K; GRQ Consultants,</i></p> <p>8 <i>Inc. ROTH 401K FBO Barry Honig; GRQ</i></p> <p>9 <i>Consultants, Inc. ROTH 401K FBO Renee</i></p> <p>10 <i>Honig; Barry and Renee Honig Charitable</i></p> <p>11 <i>Foundation Inc.; Southern Biotech, Inc.,</i></p> <p>12 <i>John Stetson; HS Contrarian Investments</i></p> <p>13 <i>LLC</i></p>	
<p>9 Perrie M. Weiner</p> <p>10 Edward Totino</p> <p>11 Benjamin W. Turner</p> <p>12 BAKER & MCKENZIE LLP</p> <p>13 1901 Avenue of the Stars, Suite 950</p> <p>14 Los Angeles, California 90067</p> <p>15 Email: perrie.weiner@bakermckenzie.com</p> <p>16 Email: edward.totino@bakermckenzie.com</p> <p>17 Email: ben.turner@bakermckenzie.com</p> <p>18 <i>Attorney for Defendants</i></p> <p>19 <i>Mark Groussman, Melechdavid, Inc.,</i></p> <p>20 <i>Melechdavid, Inc. Retirement Plan</i></p>	<p>Jonathan A. Shapiro</p> <p>GOODWIN PROCTER LLP</p> <p>3 Embarcadero Center</p> <p>San Francisco, CA 94111</p> <p>Telephone: 415.733.6202</p> <p>Facsimile: 415.276.3064</p> <p>Email: Jshapiro@goodwinlaw.com</p> <p><i>Co-counsel for Plaintiff MabVax Therapeutics</i></p> <p><i>Holdings, Inc.</i></p>

21 I declare that I am employed in the office of a member of the Bar of this Court at whose

22 direction the service was made. I declare under penalty of perjury under the laws of the State of

23 California that the above is true and correct.

24 Executed on October 21, 2022, in San Francisco, California.

25 

26 Nicole Bigley