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9 Attorneys for Defendant,
10 FALLING PRICES, INC.

11 SUPERIOR COURT OF CALIFORNIA, COUNTY SACRAMENTO

12 ALIZADEH HOLDINGS, LLC, a California
13 limited liability company, and ALIZADEH
14 & SALEH, DDS, INC., a California
15 professional corporation dba MARCONI
16 DENTAL GROUP,

17 Plaintiffs,

18 v.

19 CARMICHAEL SQUARE, LLC, a
20 California limited liability company; CBRE,
21 INC., a Delaware corporation authorized to
22 do business in California; FALLING
23 PRICES, INC., a California corporation, and
24 DOES 1 through 50, inclusive,

25 Defendants.

Case No.: 34-2019-00260735

ANSWER TO COMPLAINT

Complaint Filed: July 17, 2019

26 Defendant FALLING PRICES, INC. (“Defendant”) hereby answers the unverified Original
27 Complaint (“Complaint”) filed by Plaintiffs ALIZADEH HOLDINGS, LLC, a California limited
28 liability company, and ALIZADEH & SALEH, DDS, INC., a California professional corporation
dba MARCONI DENTAL GROUP (Plaintiffs”):

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GENERAL DENIAL

Pursuant to the provisions of California Code of Civil Procedure section 431.30(d), Defendant denies, generally and specifically, each and every allegation contained in the Complaint, and further denies that Plaintiff has been damaged in the amount or amounts alleged therein, or in any other amount, or at all, by reason of any act or omission on the part of Defendant, or by any act or omission by any agent or employee of Defendant. Defendant further denies, generally and specifically, that Plaintiff is entitled to any relief whatsoever.

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Cause of Action)

As a first affirmative defense, the answering Defendant is informed and believes and thereon alleges that the Complaint fails to state facts sufficient to constitute a cause of action against this answering Defendant.

SECOND AFFIRMATIVE DEFENSE

(Comparative Negligence of Plaintiff)

As a second, separate and distinct affirmative defense to the Complaint, this answering Defendant is informed and believes and thereon alleges that Plaintiff, at all times mentioned in the Complaint, was itself guilty of comparative negligence or fault.

THIRD AFFIRMATIVE DEFENSE

(Comparative Negligence of Third Parties)

As a third, separate and distinct affirmative defense to the Complaint, this answering Defendant is informed and believes and thereon alleges that the other persons and entities including, but not limited to, all parties hereto, save and except this answering Defendant, were themselves comparatively negligent, strictly liable, in breach of warranty, or otherwise apportionately legally responsible for the events and resulting injuries complained of herein.

FOURTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

As a fourth, separate and distinct affirmative defense to the Complaint, this answering

1 Defendant is informed and believes and thereon alleges that Plaintiff, with the exercise of reasonable
2 diligence and effort, would have and could have mitigated the damages alleged in the Complaint, if
3 any there were, and that the resultant damages, if any, complained of in the Complaint were directly
4 and proximately caused by the failure, neglect and refusal of Plaintiff to exercise reasonable
5 diligence and effort to mitigate the damages alleged.

6 **FIFTH AFFIRMATIVE DEFENSE**

7 **(Good Faith)**

8 As a fifth, separate and distinct affirmative defense, this answering Defendant is informed
9 and believes and thereon alleges that at all times relevant to the Complaint, this answering Defendant
10 had good faith defenses, based in law and/or fact which, if successful, precludes recovery, in whole
11 or in part, by Plaintiff as against the answering Defendant.

12 **SIXTH AFFIRMATIVE DEFENSE**

13 **(Laches)**

14 As a sixth, separate and distinct affirmative defense, this answering Defendant is informed
15 and believes and thereon alleges that the causes of action contained in the Complaint are barred by
16 the doctrine of laches in that Plaintiff has unreasonably delayed in asserting the claims contained in
17 its Complaint, and said delays have caused prejudice to this answering Defendant.

18 **SEVENTH AFFIRMATIVE DEFENSE**

19 **(Intervening and Superseding Cause)**

20 As a seventh, separate and distinct affirmative defense, this answering Defendant is informed
21 and believes and thereon alleges that the injuries, loss and/or damage, if any, of the Plaintiff were
22 caused by the intervening and superseding actions of others, which intervening and superseding
23 actions bar and/or diminish Plaintiff's recovery, if any, against this answering Defendant.

24 **EIGHTH AFFIRMATIVE DEFENSE**

25 **(Attorney's Fees)**

26 As an eighth, separate and distinct affirmative defense, this answering Defendant is informed
27 and believes and thereon alleges that the Complaint in its entirety, and via each separately stated
28 cause of action, fails to state facts sufficient to allow for Plaintiff's recovery of attorney's fees.

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NINTH AFFIRMATIVE DEFENSE

(Consent)

As a ninth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that Plaintiff consented to the actions allegedly taken by this answering Defendant, thereby barring Plaintiff from recovery.

TENTH AFFIRMATIVE DEFENSE

(Conduct of Others)

As a tenth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that the injuries and damages of which Plaintiff complains, if any there were, may have been proximately caused by the conduct of parties other than this answering Defendant, and recovery is therefore barred or proportionately reduced accordingly.

ELEVENTH AFFIRMATIVE DEFENSE

(Apportionment)

As an eleventh, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that if the matters and damages alleged in the Complaint were proximately caused by the conduct of more than one party, any recovery must be apportioned as to the fault of each party.

TWELFTH AFFIRMATIVE DEFENSE

(No Special Relationship)

As a twelfth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that no relationship existed between Plaintiff and this answering Defendant which would give rise to indemnity.

THIRTEENTH AFFIRMATIVE DEFENSE

(Aggravation)

As a thirteenth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that Plaintiff's injuries, losses or damages were aggravated by Plaintiff's failure to use reasonable diligence.

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FOURTEENTH AFFIRMATIVE DEFENSE

(Business Reasons)

As a fourteenth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that at all times, Defendant acted in good faith and for justified business reasons.

FIFTEENTH AFFIRMATIVE DEFENSE

(Damages Not a Result of a Wrongful Act)

As a fifteenth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that any damages, or losses, if any, resulting to Plaintiff was not the result of a wrongful act.

SIXTEENTH AFFIRMATIVE DEFENSE

(Punitive Damages: Failure to State a Claim)

As a sixteenth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that the Complaint, in its entirety and through each separately stated cause of action, fails to state facts sufficient to constitute a viable cause of action for punitive or exemplary damages against this answering Defendant.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Punitive Damages: Good Faith)

As a seventeenth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that Plaintiff's claims for punitive damages are barred, in whole or in part, because of Defendant's good faith efforts to comply with the applicable laws.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Reasonable Cause)

As an eighteenth, separate and distinct affirmative defense, this answering Defendant is informed and believes and thereon alleges that Defendant alleges that it acted with reasonable and probable cause in the validity of the claim and without malice towards Plaintiff.

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NINETEENTH AFFIRMATIVE DEFENSE

(Additional Defenses/Right to Amend)

As a nineteenth, separate and distinct affirmative defense, this answering Defendant alleges that it may have additional defenses that cannot be articulated due to Plaintiff's failure to particularize its claims, due to the fact that this answering Defendant does not have copies of certain documents bearing on Plaintiff's claims, and due to its failure to provide more specific information concerning the nature of the damage claims and claims for certain costs which Plaintiff alleges that the answering Defendant may share some responsibility. This answering Defendant therefore reserves the right to assert additional defenses upon further particularization of Plaintiff's claims, upon examination of documents provided, upon discovery of further information concerning the alleged damage claim and claims for costs, and upon the development of other pertinent information. Defendant further reserves the right to amend its answer herein, including the addition of affirmative defenses, after pleading and discovery in preparation for trial.

WHEREFORE, this answering Defendant prays that Plaintiff take nothing by its Complaint and that judgment be entered on Defendant's behalf, for costs of suit herein, and for such other relief as the Court deems just and proper.

Dated: September 4, 2019

PORTER SCOTT
A PROFESSIONAL CORPORATION

By _____
Chad S. Tapp
Brandon P. Jack
Attorneys for Defendant,
FALLING PRICES, INC.