**Cannabis Compliance Board Members:** 

Regarding the Cannabis Compliance Board meeting scheduled to be convened on Friday, August 7, 2020 at 10:00 AM, July 31, 2020 (attached) and in reference to Agenda IIA demand is hereby made pursuant to the Public Record Request (Attached) that copies of any and all public documents and associated supporting materials which have been and/or will be reviewed by the members of the Cannabis Compliance Board in deciding whether to reject or approve Agenda, Item IIA be forwarded by reply email to John A. Hunt, Esq. of the law firm of Clark Hill, PLCC.

Time is of the essence to receive the requested public documents identified in the attached Public Records Request to enable meaningful public comment, particularly in light of the Cannabis Compliance Board only providing the minimum three (3) day notice to conduct the meeting set for Friday. While the OML does not require supporting materials, such as a settlement agreement, to be appended to or attached to the publication of the public body's meeting Notice and Agenda, members of the public may request copies of supporting materials before or during the meeting which then imposes a duty to provide copies of any such supporting materials. *See*, AG File No. 10-008 (May 3, 2010).

In the event the Cannabis Compliance Board is unable to provide the requested documents prior to the scheduled meeting, we respectfully request that the Board defer action on requested approval of the proposed settlement until the requested materials and meaningful public comment can be provided.

Lastly, pursuant to Agenda Item 1, I am requesting the contents of this email be read into the record as my public comment as authorized by Agenda, Item I. I have read the contents of this email out loud and the time required to read it into the record is less than two (2) minutes.

Thank you, I look forward to receiving the responsive public documents as soon as possible.

#### John A. Hunt

CLARK HILL PLC 3800 Howard Hughes Parkway | Las Vegas, NV 89169-0928 702.697.7512 (Direct) | Las Vegas | JHunt@ClarkHill.com | www.clarkhill.com



August 5, 2020

#### Via Electronic Mail

The Honorable Michael Douglas Chairman of the Cannabis Compliance Board Members of the Cannabis Compliance Board 1550 College Parkway, Suite 142 Carson City, Nevada 89706

#### Re: Partial Settlement

Dear Chairman Douglas and the Members of the Cannabis Compliance Board:

Deep Roots Medical LLC ("Deep Roots") appreciates the opportunity to comment on the partial settlement approved by the Nevada Tax Commission on July 31, 2020 and to be considered by the Cannabis Compliance Board ("CCB") in an emergency meeting on August 7, 2020. The partial settlement relates to *In re Department of Taxation Litigation*, Case No. A-19-787004-B, pending in the Eighth Judicial District Court (consolidated with Case Nos.: A-18-785818-W; A-18-786357-W; A-19-786962-B; A-19-787035-C; A-19-787540-W; A-19-787726-C; A-19-801416-B).

Assuming the CCB approves the partial settlement agreement, it is important to note that Deep Roots and other successful licensees did not participate in the settlement and remain in the litigation, defending the state's licensing process.

The partial settlement contains a provision in which the CCB has granted a 14-month extension to the settling parties, which allows these parties to complete final inspection and receive approval from the CCB by February 5, 2022 or after the end date of a moratorium, as applicable. This provision should apply to all successful licensees – particularly non-settling licensees like Deep Roots who continue to defend the state's process. Moreover, the pending litigation has impacted all applicants not just the settling parties. Therefore, good cause exists to grant the same 14-month extension to all successful licensees.

The Honorable Michael Douglas Chairman of the Cannabis Compliance Board Members of the Cannabis Compliance Board August 5, 2020 Page 2 of 2

Any disparate treatment between the non-settling licensees and the settling parties would only serve to punish Deep Roots and other non-settling licensees as we continue to vigorously dispute liability and defend the state's licensing process. For your convenience, we include the specific provision:

18. DOT and/or CCB agrees that all parties to this Agreement shall receive a fourteen (14)-month extension of the current deadline of December 5, 2020 to February 5, 2022, for conditional licensees to obtain final inspections and approval from DOT and/or CCB on any and all conditional licenses received and that comparable extensions shall be extended to other parties that settle claims in this Lawsuit with the DOT and/or CCB. Notwithstanding the foregoing, for any jurisdiction that currently has a moratorium on new adult-use cannabis establishments (including but not limited to the City of Henderson, Douglas County, and the City of Reno), DOT and/or CCB agrees to extend the deadline for any Settling Party to obtain final inspections and approval from DOT and/or CCB on any and all conditional licenses in such jurisdiction for a period of fourteen (14) months after the date any moratorium is lifted in such jurisdiction.

While Deep Roots strongly supports the overall goals of the CCB, this settlement provision has far reaching implications that impose an unfair and inequitable burden on Deep Roots and other non-settling licensees. Indeed, it forces us to bear the curtailment of future extensions by the CCB while settling parties are excepted. To be fair and reasonable, Deep Roots respectfully requests the CCB grant the same 14-month extension to Deep Roots and other non-settling licensees. Such grant would reflect a more delicate balance in weighing the propriety of competing interests.

Needless to say, we cannot stress enough that Deep Roots has been in full compliance with the Department of Taxation and the CCB regulations, and that Deep Roots will continue to vigorously dispute liability and defend the state's licensing process in the ongoing litigation.

We are very grateful for the CCB's time and consideration of our comments regarding this important issue and look forward to a more balanced path to the grant of extensions.

Naturally, should you have any questions, please do not hesitate to contact me.

Very truly yours,

Keith Capurro Chief Executive Officer

cc: Tyler Klimas, Executive Director

# Barry J. Fieldman 2220 Village Walk Drive #3203 Henderson, Nevada 89052 702-429-6913

August 6, 2020

Honorable Michael Douglas Chairman Cannabis Compliance Board State of Nevada

Via-email

Dear Chairman Douglas and members of the CCB,

As much as I would like to be there in person to better express my feelings, the COVID 19 pandemic forces us all to be a little less "present" than pre COVID. Non the less I want to express my concerns as a 42-year resident in Clark County regarding item II regarding the proposed settlement agreement "conditionally" approved by the DoT.

All 3 of my children were born here in Nevada and I have served on many boards. I have served as a volunteer on the Henderson Redevelopment Advisory Board as its Chairman. I served as president and a founding member of Midbar Kodesh Temple as the 1<sup>st</sup> Jewish synagogue built in Henderson, Nevada. I currently serve on the Board at the David L. Simon Foundation providing grants to children's programs in Nevada. I am not new to serving the community and understand the lasting impressions we can leave on a community with our actions. The item before you is complicated and encompasses may parties. The issue at hand though is not a settlement to sweep the matter under the carpet and let those that appear to have abused the system get away with the spoils of their efforts. Rather, it is a matter of right and wrong. From the allegations in the litigation and the testimony that has already taken place, your board should want to get to the bottom of this. You should want to hear all the evidence before you approve an agreement that would take any wrongdoing and sweep it away rewarding those that may have gotten their licenses improperly. The success of gaming in Nevada was achieved through a commitment by State officials creating a Gaming Control Board. That board held open public hearings and was/is transparent to both the public and the regulators. I would hope that if the purpose of this new CCB is to have the same affect on the marijuana industry as the Gaming Control Board has on gaming then you will hit the brakes on this suspicious "partial" settlement that appears to be rushed for approval by the State AG. All this while the trial is underway! Why not seek the truth through the rule of law rater than sweep the suspected ill-gotten gains under the carpet? I hope you will NOT give final approval to this settlement until the CCB has conducted a full open public hearing before it rules on the partial settlement.

Thank you and I hope this board can achieve for the marijuana industry what the Gaming Control Board has done for the State of Nevada gaming industry.

Sincerely,

The **Barry Fieldman** 

From:	Bain, Tanya <tbain@clarkhill.com></tbain@clarkhill.com>
Sent:	Thursday, August 6, 2020 12:01 PM
То:	CCB Meetings
Cc:	Gentile, Dominic; Hunt, John A.
Subject:	CCB Public Comment - August 7, 2020 Meeting
Attachments:	TGIG CCB SETTLEMENT BRIEF -F.pdf; TGIG PLAINTIFFS -F.pdf

Cannabis Compliance Board Members:

In reference to the Cannabis Compliance Board meeting scheduled to be convened on Friday, August 7, 2020 at 10:00 AM, July 31, 2020 (attached), please find attached public comment regarding Agenda Item IIA. The public comments attached are being submitted on behalf of William Maupin, Dominic Gentile and Ross Miller. Please note there are two attachments. We are requesting the shorter vision be read into the record and the longer version be attached to the record and be disseminated to the Members of the Board.

Thank you

Tanya Bain Legal Administrative Assistant

<u>CLARK HILL LLP</u> 3800 Howard Hughes Parkway, Suite 500 | Las Vegas, Nevada 89169 (702) 697-7519 (direct) | (702) 862-8400 (fax) tbain@ClarkHill.com | www.clarkhill.com

# TGIG PLAINTIFFS' OBJECTION TO CCB ADMINISTRATIVE APPROVAL OF<br/>PARTIAL SETTLEMENT OF IN RE DOT LITIGATION, Case No. A-19-787004-B,<br/>Consolidated with A-785818, A-786357, A-786962, A-787035, A-787540, A-787726, AND<br/>A-801416,-currently pending in Dept. No. XI of the Eighth Judicial District Court of the<br/>State of Nevada.

#### DISCUSSION

In November 2018, the people of the State of Nevada approved Ballot Question 2, amending the Nevada Constitution to legalize the possession and sale of marijuana. The question itself contained two promises to all Nevadans: First, that the cultivation, distribution and sale of marijuana products would be heavily regulated – akin to the regulation of the distribution and sale of alcoholic beverages; Second, that the criminal element that had supplied marijuana prior to approval would be eliminated because only fully investigated persons or entities could be licensed to engage in this type of business enterprise.<sup>1</sup> These promises were broken by the regulatory authority when it approved many of the applications based upon favoritism, based upon regulations that illegally permitted licensure based upon investigations that did not include all of the owners or members of applicant entities, and based upon numerous other regulatory infirmities that include, without limitation: *improperly handled known illegal sales to minors*, arbitrarily and improperly awarding score points for diversity in ownership, officers, board of directors and management, failures of training of application scorers, allowing prohibited monopolies by certain licensees, failures to properly screen and check regulatory compliance, allowing licensure without appropriate addresses which impaired the ability to test the effect of an outlet on the surrounding community, etc.

<sup>&</sup>lt;sup>1</sup> In Public Announcement, Governor Sisolak has stated his reason for forming the Cannabis Compliance Board (CCB): to establish the "gold standard," of regulatory enforcement as in the gaming industry

These problems resulted in a series of suits against DOT designed to fulfill the intent of the electorate – that all applicants would have a level playing field and the public would be protected. Other defendants, also listed below, intervened to defend the issuance of the licenses and the processes leading their approvals. Pending trial, the district court issued an injunction in favor of the plaintiffs restraining the DOT from conducting final inspections of conditional licensees who failed under NRS 453D.200(6) to identify each owner, officer or board member in connection with such licenses issued in December 2018. The matter is currently in trial with an estimated seven days remaining to conclusion.

The stated purpose of these litigations recently changed in a mind-bending 180-degree pivot by a discrete group of plaintiffs. While litigating for some two years over the proposition that the regulatory system effected pursuant to the Constitution and Statutory Enactments needed re-tooling, and that the licensing process be revisited, these plaintiffs sought a settlement that merely re-shuffles a few enjoined licenses between intervening defendants and the settling plaintiffs, and dismisses the settling plaintiffs' actions against the State and the intervenor defendants. This, in essence, converted an important piece of public policy litigation -- designed to salvage the integrity of the ballot initiative and regulatory process -- into a parochial dispute between a few approved and a few disapproved former license applicants. In short, "I got mine – the rest of you are on your own." More to the point, this proposed settlement allows regulated parties to pick and choose who will benefit from the exchanges of licenses. It is the State that should make these choices but here, expedited approval procedures binding the State largely relegate it to bystander status.

In violation of the new Constitutional provision, which required investigation of any/all ownership interests, the DOT passed a regulation that allowed licensure where only owners with interests greater that 5% have been investigated. This, of course, allowed shadow owners to evade investigation which would defeat the purpose of insuring that these businesses were not engaged in some sort of criminal activity such as "money laundering." But this, as the presiding judge in the litigation has found, directly violates the explicit terms of the ballot initiative. Interestingly, the DOT pointed to a lack of resources as a reason to forego investigating all participants in these enterprises. This is not a valid consideration to forgive production of required information in aid of licensing – the State must provide the regulators with the ability to protect the industry and the people of this State as described in this written Objection to the Settlement. There is no cut-off for who gets investigated—all ownership interests are subject to agency examination. "Any" ownership interest includes persons with less than 5% of the enterprise.

Of prime importance is that regulators also provided discrete access to some applicants, thus giving them a significant competitive advantage over all of the plaintiffs in the lawsuits.

Until the hearing before the Tax Commission, the settlement agreement included a Section 13 which would have required the settling plaintiffs to "flip," by moving to "intervene" and defending the lawsuit against the State going forward. This provision was withdrawn at the Tax Commission hearing. Ostensibly, someone in the settling group realized that such a maneuver might violate ethical considerations involving the non-settling plaintiffs, might create problems of judicial estoppel, or might improperly delegate the defense of the regulatory structure to non-state regulated parties who would be defending their private positions and protecting the currently enjoined licenses they obtained in the settlement, not through the mandated competitive process. While some but not all plaintiffs can settle with all or some of the defendants at any time, the State, as a defendant, is left where it was before this proposed agreement was crafted – still defending the initial action on its merits.

As noted above, currently unresolved issues include at least two that are critical to the determination of whether the process employed in evaluating and ranking conformed to the Ballot Question and regulations mandate that (1) the applicant identify the actual physical address of the proposed retail cannabis location so that impact on the community and other issues could be assessed and scored, and (2) the applicants history of compliance with the laws and regulations governing the cannabis industry be examined, assessed and scored. <u>The latter is particularly important in light of the fact that one applicant that was awarded multiple licenses admittedly made multiple sales of cannabis to persons under the age of twenty-one over a six-month period prior to the deadline for filing the application. The evidence is uncontradicted that (1) many applicants who were awarded licenses listed the same UPS Postal box address or "to be determined" on their applications, and (2) no access to historic compliance records of the applications.</u>

#### CONCLUSION

The 2018 Ballot Initiative assures the people of Nevada that an enterprise, once carried on by local, national and international criminals, would be heavily regulated and that the regulatory process would be even handed. It also assures Nevadans that regulations would involve comprehensive oversight of qualified law-abiding persons and entities engaged in the legal cultivation, distribution and sale of marijuana. This settlement undercuts the non-settling plaintiffs named above, it undermines the very purpose of the litigations, and it will leave the State of Nevada in no better position than it was before. This litigation has been about the exercise of regulatory responsibilities vested in the DOT by the Nevada Constitution or by Nevada Statutory enactment. This settlement departs from that purpose and turns this litigation into a simple discrete re-allocation of enjoined licenses to the detriment of non-parties to the accord. If the litigation continues and the TGIG plaintiffs are successful, it is possible that this settlement will be eviscerated. Importantly, the trial is very close to being concluded and a decision announced by the court.

Dated: August 6, 2020

/s/ A. William Maupin /s/ Dominic P. Gentile /s/ Ross Miller

# TGIG PLAINTIFFS' OBJECTION TO CCB ADMINISTRATIVE APPROVAL OF<br/>PARTIAL SETTLEMENT OF IN RE DOT LITIGATION, Case No. A-19-787004-B,<br/>Consolidated with A-785818, A-786357, A-786962, A-787035, A-787540, A-787726, AND<br/>A-801416,-currently pending in Dept. No. XI of the Eighth Judicial District Court of the<br/>State of Nevada.

### INTRODUCTION

In November 2018, the people of the State of Nevada approved Ballot Question 2, amending the Nevada Constitution to legalize the possession and sale of marijuana. The question itself contained two promises to all Nevadans: First, that the cultivation, distribution and sale of marijuana products would be heavily regulated – akin to the regulation of the distribution and sale of alcoholic beverages; Second, that the criminal element that had supplied marijuana prior to approval would be eliminated because only fully investigated persons or entities could be licensed to engage in this type of business enterprise. These promises were broken by the regulatory authority when it approved many of the applications based upon favoritism, based upon regulations that illegally permitted licensure based upon investigations that did not include all of the owners or members of applicant entities, and based upon numerous other regulatory infirmities that include, without limitation: failures to disclose owners, , *improperly handled known illegal sales* to minors, arbitrarily and improperly awarding score points for diversity of officers, board of directors, owners and management, failures of training of application scorers, allowing prohibited monopolies by certain licensees, failures to properly screen and check regulatory compliance, allowing licensure without appropriate addresses which impaired the ability to test the effect of an outlet on the surrounding community, etc.

These problems resulted in a series of suits by the plaintiffs listed below and others against DOT designed to fulfill the intent of the electorate – that all applicants would have a level playing field and the public would be protected. Other defendants, also listed below, intervened to defend the issuance of the licenses and the processes leading their approvals. Pending trial, the district court issued an injunction in favor of the plaintiffs restraining the DOT from conducting final inspections of conditional licensees who failed under NRS 453D.200(6) to identify each owner, officer or board member in connection with such licenses issued in December of 2018. The matter is currently in trial

The stated purpose of these litigations recently changed in a mind-bending 180-degree pivot by a discrete group of plaintiffs. While litigating for some two years over the proposition that the regulatory system effected pursuant to the Constitution and Statutory Enactments needed re-tooling, and that the licensing process be revisited, these plaintiffs sought a settlement that merely re-shuffles a few licenses between intervening defendants and the settling plaintiffs, and dismisses the settling plaintiffs' actions against the State and the intervenor defendants. This, in essence, converted an important piece of public policy litigation -- designed to salvage the integrity of the regulatory process -- into a parochial dispute between a few approved and a few disapproved former license applicants. In short, "I got mine –the rest of you are on your own." More to the point, this proposed settlement allows regulated parties to pick and choose who will benefit from the exchanges of licenses. It is the State that should make these choices but here, expedited approval procedures binding the State largely relegate it to bystander status.

In violation of the new Constitutional provision, which required investigation of any/all ownership interests, the DOT passed a regulation that allowed licensure where only owners with interests greater that 5% have been investigated. This, of course, allowed shadow owners to evade investigation which would defeat the purpose of insuring that these businesses were not engaged in some sort of criminal activity such as "money laundering." But this, as the presiding judge in the litigation has found, directly violates the explicit terms of the ballot initiative. Interestingly,

the DOT pointed to a lack of resources as a reason to forego investigating all participants in these enterprises. This is not a valid consideration to forgive production of required information in aid of licensing – the State must provide the regulators with the ability to protect the industry and the people of this State as described in this written Objection to the Settlement. There is no cut-off for who gets investigated—all ownership interests are subject to agency examination. "Any" ownership interest includes persons with less than 5% of the enterprise.

Of prime importance is that regulators also provided discrete access to some of applicants, thus giving them a significant competitive advantage over all of the plaintiffs in the lawsuits.

Until the hearing before the Tax Commission, the settlement agreement included a Section 13 which would have required the settling plaintiffs to "flip," by moving to "intervene" and defending the lawsuit against the State going forward. This provision was withdrawn at the Tax Commission hearing. Ostensibly, someone in the settling group realized that such a maneuver might violate ethical considerations involving the non-settling plaintiffs, might create problems of judicial estoppel, or might improperly delegate the defense of the regulatory structure to non-state regulated parties who would be defending their private positions and protecting the licenses they obtained in the settlement, not through the mandated competitive process. While some but not all plaintiffs can settle with all or some of the defendants at any time, the State, as a defendant, is left where it was before this proposed agreement was crafted – still defending the initial action on its merits.

As noted above, currently unresolved issues include at least two that are critical to the determination of whether the process employed in evaluating and ranking conformed to the Ballot Question and regulations mandate that (1) the applicant identify the actual physical address of the proposed retail cannabis location so that impact on the community and other issues could be

assessed and scored, and (2) the applicants history of compliance with the laws and regulations governing the cannabis industry be examined, assessed and scored. <u>The latter is particularly</u> <u>important in light of the fact that one applicant that was awarded multiple licenses admittedly</u> <u>made multiple sales of cannabis to persons under the age of twenty-one over a six-month period</u> <u>prior to the deadline for filing the application.</u> The evidence is uncontradicted that (1) many applicants who were awarded licenses listed the same UPS postal box address or "to be determined" on their applications, and (2) no access to historic compliance records of the applicants was given to the persons who performed the analysis and scoring of the applications.

#### THE PARTIES

Livfree Wellness, LLC, ETW Management Group, LLC, Zion Gardens, LLC, Libra Wellness Center, LLC, MM Development Company, Inc., Global Harmony LLC, Just Quality, LLC, Libra Wellness Center, LLC, Rombough Real Estate Inc., and Qualcan, LLC (collectively ETW) are plaintiffs in consolidated cases numbered A-19-787004-B, A786962, A-785818, A-786357, A-787035, A-787540, A-787726, and A-801416, under the generic acronym -- In Re D.O.T. Litigation. These cases are currently being tried before the Honorable Elizabeth Gonzales, Presiding District Judge in Department XI of the Eighth Judicial District. As stated, the suits argue, among other things, that the approved licensures violated the terms of the ballot question because of favoritism in the licensing process and the promulgation of regulations that wrote part of the investigative requirements set forth in the ballot initiative out of existence. The DOT was named as the defendant because it bears the burden of regulating this industry. These plaintiffs and DOT are the primary proponents of this settlement agreement.

Lone Mountain Partners, LLC (Lone Mountain), Nevada Organic Remedies, LLC (NOR) Greenmart of Nevada NLV, LLC (Greenmart), Helping Hands Wellness Center, Inc. (Helping Hands), CPCM Holdings, LLC, Cheyenne Medical, LLC, and Commerce Park Medical, LLC (Collectively "Thrive") intervened in the consolidated actions to defend the initial licensures and regulatory processes adopted to carry out the mission of the DOT. These parties are likewise proponents of the settlement described above.

TGIG, LLC, Fidelis Holdings LLC, Gravitas LLC, GBS Nevada LLC, Medifarm, LLC, and Nevada Holistic Medicine, LLC(collectively, TGIG), are also plaintiffs in Eighth Judicial District Court litigation A786962. The TGIG plaintiffs and others oppose this Settlement per the instant document.

#### <u>ARGUMENT</u>

This emergency settlement agreement does not settle the case, and the State is getting very little, if anything, of worth out of this agreement. The remaining plaintiffs can and will proceed with all of the claims against the State. The settling parties have no ability to resolve the surviving claims without the consent of the remaining plaintiffs. As proposed, the partial settlement substantially hinders the State's ability to resolve the case because it allocates all, or virtually all, of the licenses of interest to only some of the plaintiffs, leaving the remaining plaintiffs with no reasonable relief. And, of paramount importance, the settlement agreement requires the State to commit to violations of state law.

The Nevada State Legislature passed a number of bills during the 2017 legislative session that affected the licensing, regulation, and operation of recreational marijuana establishments in the state of Nevada. One of those bills, Assembly Bill 422, transferred responsibility for the registration, licensing, and regulation of marijuana establishments from the State of Nevada's Division of Public and Behavioral Health to the Department of Taxation. This legislation was added to the voters' approval at the 2016 General Election of 2016 initiative petition. Ballot

Question No. 2 is known as the "Regulation and Taxation of Marijuana Act," and is codified at

NRS 453D.010, et seq. NRS453D.020 (Findings and declarations) provides:

"1. In the interest of public health and public safety, and in order to better focus state and local law enforcement resources on crimes involving violence and personal property, the People of the State of Nevada find and declare that the use of marijuana should be legal for persons 21 years of age or older, and its cultivation and sale should be regulated similar to other legal businesses.

2. The People of the State of Nevada find and declare that the cultivation and sale of marijuana should be taken from the domain of criminals and be regulated under a controlled system, where businesses will be taxed and the revenue will be dedicated to public education and the enforcement of the regulations of this chapter.

3. The People of the State of Nevada proclaim that marijuana should be regulated in a manner similar to alcohol so that:

(a) Marijuana may only be purchased from a business that is licensed by the State of Nevada;

(b) Business owners are subject to a review by the State of Nevada to confirm that the business owners and the business location are suitable to produce or sell marijuana;

(c) Cultivating, manufacturing, testing, transporting and selling marijuana will be strictly controlled through state licensing and regulation;

(d) Selling or giving marijuana to persons under 21 years of age shall remain illegal;

(e) Individuals will have to be 21 years of age or older to purchase marijuana;

(f) Driving under the influence of marijuana will remain illegal; and

(g) Marijuana sold in the State will be tested and labeled."

#### NRS 453D.200 (Duties of Department relating to regulation and licensing of

marijuana establishments; information about consumers) provides:

"1. Not later than January 1, 2018, the Department shall adopt all regulations necessary or convenient to carry out the provisions of this chapter. The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. The regulations <u>shall</u> include:

(a) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment;

(b) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment;

2. The Department <u>shall</u> approve or deny applications for licenses *pursuant to* <u>NRS 453D.210</u>" (emphasis added).

NRS 453D.210 (Acceptance of applications for licensing; priority in licensing;

conditions for approval of application; limitations on issuance of licenses to retail marijuana stores;

competing applications), in turn, provides, in pertinent part:

. . . .

"4. Upon receipt of a complete marijuana establishment license application, the Department *shall*, *within 90 days*:

(a) Issue the appropriate license if the license application is approved.

5. The Department *shall approve a license application if*:

(a) The prospective marijuana establishment has submitted an application in compliance with regulations adopted by the Department and the application fee required pursuant to <u>NRS</u> <u>453D.2</u>;

6. When competing applications are submitted for a proposed retail marijuana store within a single county, the Department <u>shall</u> use an *impartial and numerically scored competitive bidding process* to determine which application or applications among those competing will be approved" (emphasis added).

According to an August 16, 2018, letter from the Department, pursuant to Section 80(3) of

Adopted Regulation of the Department of Taxation, LCB File No. R092-17 ("R092-17"), the

Department was responsible for allocating the licenses of recreational marijuana retail stores

"to jurisdictions within each county and to the unincorporated area of the county proportionally

based on the population of each jurisdiction and of the unincorporated area of the county."

The Department issued a notice for an application period wherein the Department sought applications from qualified applicants to award sixty-four (64) recreational marijuana retail store licenses throughout various jurisdictions in Nevada. The application period for those licenses, including thirty-one (31) licenses in Clark County, seven (7) licenses in Washoe County and one (1) license in Nye County, opened on September 7, 2018 and closed on September 20, 2018. Pursuant to Section 6.2 of the Recreational Marijuana Establishment License Application ("the Application") issued by the Department per NRS 453D.210. If the Department received more than one application for a license for a recreational marijuana retail store and the Department determined that more than one of the applications was complete and in compliance with R092-17, Sec. 78 and NRS 453D, the Department was required to rank the applications within each applicable locality from first to last, with ranking being based on compliance with the provisions of R092-17 Sec. 80, NRS 453D and on the content of the applications relating to the following specifically-enumerated and objective published criteria:

- Operating experience of another kind of business by the owners, officers or board members that has given them experience which is applicable to the operation of a marijuana establishment.
- b. Diversity of the owners, officers or board members.
- c. Evidence of the amount of taxes paid and other beneficial financial contributions.
- d. Educational achievements of the owners, officers or board members.
- e. The applicant's plan for care, quality and safekeeping of marijuana from seed to sale.
- f. The financial plan and resources of the applicant, both liquid and illiquid.
- g. The experience of key personnel that the applicant intends to employ.
- h. Direct experience of the owners, officers, or board members of a medical marijuana establishment or marijuana establishment in this State.

However, no numerical scoring values are assigned to any of the foregoing criteria enumerated in the Application. Moreover, Section 6.3 of the Application provides that "[a]pplications that have not demonstrated a sufficient response related to the criteria set forth above will not have *additional [unspecified, unpublished] criteria* considered in determining whether to issue a license *and will not move forward in the application process*" (emphasis added). Conversely, per the application form, if an Application demonstrated a "sufficient"

response related to the specifically published criteria, the Department would then consider "additional [unspecified, unpublished] criteria," under which the Department would determine whether or not a license would be issued and whether or not a license Application would "move forward in the application process. The TGIG plaintiffs contend that the published application form ran afoul of the textual requirement of NRS 453 D. 200.1(b) -- that the Department shall adopt only regulations that prescribe "[q]ualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment" (emphasis added). No later than December 5, 2018, the Department was responsible for issuing conditional licenses to those applicants who scored and ranked high enough in each jurisdiction to be awarded one of the allocated licenses in accordance with the impartial numerically scored competitive bidding process mandated by NRS 453D.210.

The Department allocated ten (10) licenses for unincorporated Clark County, Nevada; ten (10) licenses for Las Vegas, Nevada; six (6) licenses for Henderson, Nevada; five (5) licenses for North Las Vegas, Nevada; six (6) licenses for Reno, Nevada; one (1) license for Sparks, Nevada; and one (1) license for Nye County, Nevada. Plaintiffs, each of whom were already operating licensed recreational retail marijuana stores and possessed a share of the retail recreational marijuana market in their jurisdictions at the time, submitted Applications for licenses to own and operate additional recreational marijuana retail stores and thereby to retain their market share in a highly competitive industry --all in compliance with the specified, published requirements of Department regulations together with the required application fee in accordance with NRS 453D.210.

The TGIG Plaintiffs have been informed by the Department that all of their Applications to operate recreational marijuana retail stores were denied. In each instance, the TGIG Plaintiffs were informed by letter from the Department stating that a license was not granted to the applicant "because it did not achieve a score high enough to receive an available license."

The TGIG Plaintiffs allege that the Department's denial of their license applications was not properly based upon actual implementation of the impartial and numerically scored competitive bidding process mandated by NRS 453D.210; but rather, was in fact based upon the arbitrary and capricious exercise of administrative partiality and favoritism. The TGIG Plaintiffs likewise allege that that the Department improperly granted licenses to other competing applicants without actual implementation of the impartial and numerically scored competitive bidding. In this, these approvals were based upon the arbitrary and capricious exercise of administrative partiality and favoritism.

The TGIG Plaintiffs allege that the Department of Taxation has unlawfully deprived legal protections to which the Plaintiffs are entitled as follows:

A. Granted more than one conditional recreational marijuana store license per jurisdiction to certain favored applicants, owners, or ownership groups in violation of the administration of an impartial and numerically scored competitive bidding process;

B. Granted conditional licenses to applicants who benefitted from information not made available to all applicants, but rather conveyed to these favored applicants or their attorneys or agents, by Department of Taxation personnel themselves in a manner designed to give these favored applicants an advantage in the scoring process over other applicants in obtaining a license or licenses to purportedly be awarded thereunder, and thereby destroying the mandated impartiality of the competitive bidding process;

C. Granted conditional licenses to applicants who were known by the Department of Taxation to have violated the criminal laws of the State of Nevada by having sold marijuana to minors. Nonetheless, at the behest of these applicants, their attorneys and/or agents, the DOT deliberately caused these disqualifying offenses to be sealed or suppressed;

D. Granted conditional licenses to applicants who, after receiving information not available to all applicants, failed to disclose the true addresses of the locations at which they proposed to open retail recreational marijuana stores, thus abdicating the requirement that the Application be impartially numerically scored with regard to the impact that it was likely to have on the community in which it would operate;

E. Granted conditional licenses to applicants who failed to disclose each of their owners, thereby totally abdicating the requirement of background checks under the mandate that retail sales

of marijuana be removed from the criminal element in society;

F. Granted conditional licenses to applicants who impermissibly amended Applications after they were purportedly "complete and in compliance" when submitted;

G. Granted conditional licenses to applicants without investigating discrepancies between the owners, officers and directors listed on the application where they were different from those officially listed with the Nevada Secretary of State;

H. Granted conditional licenses to applicants who benefitted from awards of diversity points in a manner that was partial and subject to manipulation, thus abdicating the Department's mission to conduct an impartial numerically scored competitive bidding process;

I. Failed to train the temporary employees hired to performing the impartial numerically scored competitive bid process and/or put in place, adequately supervise and/or maintain quality assurance and/or quality control over the process which, in turn, rendered the grading process inconsistent and unfair to Plaintiffs;

J. Granted conditional licenses to applicants in direct contravention of the legislative and regulatory mandate to operate the impartial numerically scored competitive bidding process in a manner that will prevent monopolistic practices in a county with a population of 100,000 or more;

All of these allegations remain litigable and the settlement will seriously impede the ability of the remaining parties and the court to achieve the purposes and elicit the proofs identified in this Objection. The following is an overview of specific problems with the EIW proposal.

Section 7 of the proposed settlement agreement provides that, "as a condition and term of this settlement, DOT will notify the Court and will file and appropriate Motion on OST in the Lawsuit informing the Court that it has determined that Lone Mountain, NOR, GreenMart, and Helping Hands (each, a "Tier 3 Party") have satisfied the DOT that each such Settling Defendant provided the information necessary in their respective applications to allow the DOT and/or CCB

to conduct all necessary background checks and related actions ...." There are no assurances that such information has been provided and, if not, this section, along with Sections 8,15, 16, 17 and 18 seemingly enable the Settling Parties to circumvent important application requirements. Section 7 may circumvent licensing requirements stated in the district court's injunction; and, if approved, the settlement requires a negative inference that the violations alleged as to the settling defendants are deemed as not proved.

Sections 8 and 15 are likewise problematic. Under them the CCB agrees to expedite Change of Ownership, or "CHOW" requests.

Under Section 39 -- Binding Effect --this agreement shall inure to the benefit of and be binding upon the parties . . . [and] [t]he binding effect of this agreement specifically includes the CCB as successor to the DOT . . . Despite the fact that the settlement doesn't bind non-settling parties, this agreement binds the regulators to these expedited licensing processes and then cuts the regulators adrift in defending a lawsuit that deals with what the regular course of regulation should entail.

#### <u>CONCLUSION</u>

The 2018 Ballot Initiative assures the people of Nevada that an enterprise, once carried on by local, national and international criminals, would be heavily regulated and that the regulatory process would be even handed. It also assures Nevadans that regulations would involve comprehensive oversight of qualified law-abiding persons and entities engaged in the legal cultivation, distribution and sale of marijuana. This settlement undercuts the non-settling defendants named above, it undermines the very purpose of the litigations, and it will leave the State of Nevada in no better position than it was before. This litigation has been about the exercise of regulatory responsibilities vested in the DOT by the Nevada Constitution or by Nevada Statutory enactment. This settlement departs from that purpose and turns this litigation into a simple discrete re-allocation of licenses to the detriment of non-parties to the accord. If the litigation continues and the TGIG plaintiffs are successful, it is possible that this settlement will be eviscerated.

Dated: August 6, 2020

/s/ A. William Maupin /s/ Dominic P. Gentile /s/ Ross Miller

#### CANNABIS CONTROL BOARD MEETING, AUGUST 7, 2020

#### PHILLIP C. PECKMAN PUBLIC COMMENT

My name is Phillip C. Peckman and I have been a resident of Nevada for over 40 years. I am one of the owners of Thrive Cannabis Marketplace. Thrive was one of the higher ranked applicants and was awarded licenses. Thrive was permitted to proceed in constructing and opening these new licenses. Other winning applicants were enjoined pending clarification of ownership disclosure matters. Litigation was initiated by several applicants that did not win licenses: let's remember that their scores were simply not as high as successful applicants who were deemed more qualified.

Settlement discussions began over a year ago, with Thrive taking the lead in the negotiations. This proposal before you today is the result of a long process of give and take among the majority of the applicants, the Office of the Attorney General, and representatives of the Tax Commission and the CCB. Thrive and other proponents of this settlement believe this brings the majority of this litigation to an end. The Tax Commission has approved the settlement and the CCB has already committed to executing its obligations under the agreement.

The litigation has gone on long enough. The State of Nevada, license winners and losers, are all damaged with legal fees, loss of revenue, loss of jobs, and lack of trust. This proposed settlement will hopefully put this all behind us and the new newly created CCB can proceed with regulating the industry for all to benefit.

But let me further clarify some issues that have been raised by some applicants that were not awarded licenses and who say they were excluded from the settlement negotiation. The truth is these applicants refused to legitimately participate in the settlement process. I have been actively involved in the settlement discussions in this case since June of 2019 and have put in well over one hundred hours of my time in working to resolve this case. On behalf of Thrive, I attended multiple days of mediation before the Hon. Ret. Judge Jennifer Togliatti. All litigants were invited to participate. The first mediation before Judge Togliatti was on August 10-11, 2019; then again on September 16 – 18, 2019 and follow up mediation dates in October of 2019. There were settlement discussions were open to every party to the litigation and also non-party applicants.

Contrary to David Goldwater's statement before the Nevada Tax Commission last week, Mr. Goldwater's company, Inyo Fine Dispensary, was a participant in the mediation proceedings before Judge Togliatti through its counsel Kelly Stout, Esq., at the law firm of Bailey Kennedy. Dr. Nick Spirtos' company, DH Flamingo was also actively participating in the mediation proceedings before Judge Togliatti. I can say for certain that no applicant has ever been prevented from participating in settlement discussions.

Recently, on August 4, 2020, Judge Togliatti presided over another round of mediation that involved Mr. Goldwater's company and other parties to the case, including TGIG, (John Ritter). These companies have been among the most vocal in fighting the settlement today and also have been the least willing to participate meaningfully in settlement discussions.

On behalf of Thrive, I attended nearly every day of the preliminary injunction hearing last summer and nearly every day of the current trial. There were multiple settlement discussions during breaks and I made myself available to any and all parties to discuss resolution of this case. Most of the parties spoke to me directly. At no time did Mr. Goldwater, Dr. Spirtos, representatives of TGIG, or any of the other of the non-settling parties contact me to discuss being included in the settlement. Even though fully aware of the ongoing discussions, they refused to participate.

Thrive is in full support of the proposed settlement agreement before the CCB and believes that this settlement is the best possible option for ending this litigation and allowing the cannabis industry in Nevada to continue to prosper, generate tax revenue, and employ thousands of Nevadans.

THRIVE CANNABIS MARKETPLACE

. lefn lar Phillip C Pegkman

From:	Chris Olsen <chris@inyolasvegas.com></chris@inyolasvegas.com>
Sent:	Thursday, August 6, 2020 1:55 PM
То:	CCB Meetings
Subject:	[Unverified Sender] Settlement of Lawsuit to award Licenses

Chairman Douglas and Commissioners:

My name is Chris Olsen, I currently work in the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. In fact, Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Respectfully,

Chris Olsen

From:	Emma Anderson <emma@inyolasvegas.com></emma@inyolasvegas.com>
Sent:	Thursday, August 6, 2020 3:03 PM
То:	CCB Meetings
Subject:	[Unverified Sender] Members Of The Cannabis Compliance Board

Chairman Douglas and Commissioners:

I am Emma Anderson. I work in the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. In fact, Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Respectfully,

Emma Anderson

From:	Lindsey Noll <lindsey@inyolasvegas.com></lindsey@inyolasvegas.com>
Sent:	Thursday, August 6, 2020 3:18 PM
То:	CCB Meetings
Subject:	[Unverified Sender]

Chairman Douglas and Commissioners:

I am Lindsey Noll. I work in the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. In fact, Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Let August 7, 2020 be the day you legitimized Nevada's decision to remain on the right side of history. Best,

Lindsey Nicole Noll

From:	Joanna Sanchez <joanna@inyolasvegas.com></joanna@inyolasvegas.com>
Sent:	Thursday, August 6, 2020 3:25 PM
То:	CCB Meetings
Subject:	[Unverified Sender] To the Members Of The Cannabis Compliance Board

Chairman Douglas and Commissioners:

I am Joanna Sanchez. I work in the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. In fact, Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Respectfully,

Joanna Sanchez

From:	Lisa Mayo-DeRiso <mayoderiso@gmail.com></mayoderiso@gmail.com>
Sent:	Thursday, August 6, 2020 4:01 PM
То:	CCB Meetings
Subject:	I urge you to delay Item II , Settlement Vote Tomorrow

Dear Hon. Michael Douglas, Chair Tyler Klimas, Executive Director Dennis Neilander,

I am writing today to urge you to either hold or delay Item II on the agenda tomorrow which pertains to the partial settlement agreement. The general public and key stakeholders have not had ample time to become aware of and/or have the opportunity to prepare public comments. This meeting of the CCB board was noticed in a 3-day period of time. While I recognize this is within the guidelines of the open meeting law, it did not take into consideration the impact of the pandemic on the open meeting process. It is unreasonable to expect concerned stakeholders to have had a chance to organize and prepare public comments. We all must be honest and admit that email or electronic public comment is neither effective or desirable. Especially when the issues and the pending vote can have such an impact on a new and still maturing industry.

This board was formed as Governor Sisolak was quoted, "Our marijuana industry is now a key part of our state economy, and to make sure it stays that way, we must hold it to the highest standard while empowering the industry to continue thriving. "Nevada's first-ever Cannabis Compliance Board will ensure this critical part of our state's economy is positioned to become the gold standard for the nation." Please allow that "gold standard" of privileged licenses to continue by holding this item to both allow for more time and to consider holding in person public comment like the municipalities of City of Las Vegas, Clark County Commission, and others have been holding while recognizing the Governor guidelines for COVID19 protocol.

Thank you for your consideration in this important matter.

Respectfully,

Lisa Mayo-DeRiso President/CEO Mayo & Associates | OnPoint Campaigns | First Tuesday|

Las Vegas, Nevada Integrated Marketing Communications, Political Campaign Management, Business and Government Consulting Mobile 702.403.7779 mayoderiso@gmail.com https://about.me/lisa.mayo

"If I was down to my last dollar, I would spend it on public relations."..... Bill Gates "The purpose of business is to create a customer"...Peter Drucker

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain privileged and confidential information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

August 6, 2020

To the Nevada Cannabis Compliance Board:

My name is Brandon Wiegand, and I am writing on behalf of Nevada Organic Remedies, LLC ("NOR"), one of the parties to the Settlement Agreement approved last week by the Nevada Tax Commission. I am the Regional General Manager of NOR and personally oversee operations of the company in Nevada, including the opening of additional recreational marijuana stores that would be permitted under the Settlement Agreement. We have been ready for many months to open stores in Reno and locations in Southern Nevada, but this litigation has delayed these openings, which in turn has limited the collection of revenue both for our stores and for the State of Nevada.

When the litigation with the DOT began, we were the first company to intervene on the side of the State to support its licensing process. We have now participated on the side of the State for more than 18 months. We have continued to defend the State's process throughout the lawsuit, even when the Department of Taxation raised a question regarding ownership of various applicants that affected NOR. While we disagreed with the DOT's statement on this question, we continued to defend the State. We have also confirmed that NOR identified company ownership to the full satisfaction of the State, so that the State can perform any duties it has with respect to our owners.

After litigating for over 18 months, the settlement approved by the Tax Commission provides a reasonable compromise that helps support the Cannabis Compliance Board's role in regulating this stillyoung industry. While we firmly believe the Department of Taxation's rankings were proper and that the 7 licenses awarded to NOR were validly awarded, we agreed to reach a compromise by contributing two of those licenses to the settlement so we can begin to do business.

This compromise was reached over many months of negotiations with many parties. While some parties have chosen not to participate, this settlement is good for Nevada. The settlement will allow NOR to employ many Nevadans, as we currently employ more than 150 individuals, and upon opening additional stores, we expect to hire at least 120 more employees. During this unprecedented time of employment uncertainty, this will benefit the State and its citizens. While the litigation caused us to lay off our entire Reno team last year, we are now looking forward to bringing many of those team members back to work as soon as possible. Each store opening will also generate many additonal jobs from construction, business services, and support.

Additionally, this settlement should result in additional tax revenue for the State, as NOR's operations have already provided more than \$20 million in tax revenue, and we expect additional stores will provide substantial tax revenue at a time when the State could certainly use it.

We will continue supporting the State's efforts to regulate this market to ensure it remains strong. This includes supporting the CCB in carrying out any duties or requirements under the Settlement Agreement approved last week by the Tax Commission. We ask the CCB to confirm that it will carry out any of the duties required under the Settlement Agreement, so we can begin to move forward after being delayed for so long.

Sincerely, Brandon Wiegand, Regional General Manager Nevada Organic Remedies, LLC



N. Las Vegas, Nevada 89030 Web: www.FloraVega.com



Dear CCB Members,

I am writing to you as one of the applicants who was denied a dispensary license as a result of the 2018 application process. Specifically, I am the managing member of THC Nevada, LLC. THC Nevada has been operating as a successful cultivator in the City of North Las Vegas since 2015. I sincerely hope that the CCB, relying on its autonomous authority, will reject this purported "partial settlement agreement" for the following:

I have been actively participating in this dispensary application process from early 2018 when I testified, along with Steven B. Cohen, before the Legislative Commission. We raised concerns over the rules/regs that we thought would result in disparate and preferential treatment of certain classes of applicants. We stated for the record if the process was not amended to "even the playing field", we were of the opinion that litigation was a virtual certainty. I testified at the dispensary trial taking place at the LV Convention Center. In fact, I testified on Wednesday and Thursday of this week before Judge Gonzalez, whom I am hopeful will uphold her prior findings that the Department of Taxation did not follow the law in this application process, resulting in a systemically flawed application process, with arbitrary and capricious grading system and preferential treatment. Couple that with a purported settlement with the State of Nevada that may gut the trial process, gut the preliminary injunction, and again putting certain litigants in an untenable position. I fail to see the transparency of the State with the errors and omissions and questions raised in application process, raised in the litigation would want to further the cloud of suspicions by yielding to a partial settlement.

I know this because I have been an active businessman who has participated in numerous competitive bidding processes in Nevada for over thirty years in my moving/storage company. In those processes, there was transparency in the components evaluated and grading criteria such that there was an EVEN playing field across the board. Even when I lost out on some big bids, I did not protest or initiate a lawsuit – as information was equally available to everyone. However, in this dispensary application process, I cannot say the same.

This process, as evidenced by THREE applicants who received approximately 34% of the available licenses in contravention of the monopolistic protections put in place, is inherently flawed. **The CCB should not sanction this flawed and erroneous process**. As I testified at the trial, the grading was arbitrary and capricious as it was inconsistent in its overall grading process.

All I have ever asked for is transparency from the State. Clearly, there has already been significant discussions behind the scenes between the CCB who is notably not a party to this lawsuit, but is mentioned more than 37 times in the settlement agreement. How the CCB can submit a letter, via its Executive Director, to the Tax Commission evidencing the CCB's support, the same day that the Tax Commission is to vote on approving this "partial settlement agreement" unless there was behind the scenes and extensive discussions regarding the same? This makes no sense to me when the Governor clearly wanted the CCB to be an INDEPENDENT and standalone agency not influenced by the prior missteps

taken by the DOT (why else would he have created the CCB?) And yet within one month of the CCB's initiation, there is grave concern that the CCB is simply following lockstep in the DOT's footsteps. Respectfully, I submit that other agencies and commissions of the State would never engage in such behavior.

My company has engaged for 18 months of horrendous litigation and the incumbent expense in the hundreds of thousands of dollars, all to be wiped away with a potential settlement that does everything to corroborate the arbitrary and capricious nature of the entire process. Precious few attempt to settle *using enjoined licenses*, with not only the DOT's blessing to the process, but helping them accomplish another blight on the system. This partial settlement must not be approved and rather the CCB should allow the Eighth Judicial District court case to resolve. Anything short of that logical and needed ending will endure more criticism of favoritism and non-transparency, which is what our State desperately needs to avoid.

Sincerely,

/Signed/ Allen Puliz Managing Member THC Nevada, LLC

## M. Jo Ann Abajian 4 Sardana Court Henderson, NV. 89011-2405 702.219.0642

August 6, 2020

Honorable Michael Douglas Chairman Cannabis Compliance Board State of Nevada

Via email

Dear Chairman Douglas and Esteemed Members of the CCB:

Caution for your health and mine prevents attendance at this very important meeting where my presence could be better felt and shown. Please let this letter suffice.

I am a fifty-six (56) year resident of Las Vegas/Henderson. My son and three grandchildren were all born here. I am an active majority-owner and officer in a cannabis concern. I am also a woman of color, the only one I am aware of in such a position in Nevada.

I appreciate the magnitude of the matter before you and the precedence it sets.

I attended almost every session at the Regional Justice Center in Judge Gonzalez' courtroom last year. May I say it was an absolute travesty the way the Department of Taxation personnel obfuscated the will of the Nevada voters.

Not only did they not have a complete set of guidelines by which to score applicants, they did not bother to follow those. They issued a separate easier-to-facilitate set of guidelines to a chosen few via a back channel to allow for better scoring, used two mail lists: a preferred and one can only conclude a non-preferred, at after-hours dinners they offered tips to some applicants on how to enhance scores, etc. The list of misdeeds goes on and on, resulting in the misappropriation of the sixty-one cannabis licenses. This is simply known as cheating and I hope you will **NOT** award such behavior.

My late husband, Rich Abajian, and I worked very diligently to obtain our license. My partners and I follow the rules and have been active participants at every meeting where marijuana regulation was discussed. We fought to make sure the cannabis industry in Nevada was accessible to Nevadans, not out-of-state conglomerates just looking to take money out of the State. This settlement would hurt our business and create huge monopolies that would make it very difficult for us to compete. I urge you to look into this matter further or let the courts decide this lawsuit.

Thank you. Jo Ann Abajian

Theodore Parker III tparker@pnalaw.net Admitted in Nevada &South Carolina

> Todd N. Nelson 1965-2002



August 6, 2020

#### VIA E-MAIL: CCBmeetings@ccb.nv.gov

Cannabis Compliance Board 555 E. Washington Avenue, Suite 4200 Las Vegas, Nevada 89101

#### Re: In Re: D.O.T. Litigation, Case No. A-19-787004-B

Dear Executive Director and Board Members:

Nevada Wellness Center is a settling party under this agreement and submits this comment in support of approval of this settlement. Nevada Wellness Center is the only dispensary in the State of Nevada that is 100% owned by African-Americans, including Frank Hawkins, Andre Rhodes and Luther Mack. The settlement creates the opportunity for Nevada Wellness Center and the settling parties to move forward in opening new adult-use cannabis dispensaries. These new dispensaries will create jobs for Nevadans at a time when additional jobs are desperately needed and create significant tax revenues for the State at a time when state funds are desperately needed. This settlement and the Cannabis Compliance Board's ("CCB") approval allows Nevada Wellness Center, and the other settling parties, to put the current litigation and, potentially, years of administrative appeals behind them; and the time and funds that would have been spent on years of litigation may now be dedicated to growing the Nevada cannabis industry.

Nevada Wellness Center did its best, spending hundreds (if not thousands) of hours negotiating with as many parties as it could, to include any and all parties to this litigation in the settlement discussions. Nevada Wellness Center has never stopped anyone from taking part in the settlement negotiations and nothing in this settlement agreement was ever intended to prevent or impede other conditional license-holders from asking the CCB for similar treatment as is provided in this agreement. This agreement simply asks the CCB to govern the transfers of licenses described within it and perform those duties already assigned to the CCB under the laws of Nevada. Nevada Wellness Center respectfully requests that the CCB affirm its prior commitment to executing the requirements and obligations set forth in the agreement.

Sincerely,

#### PARKER NELSON & ASSOCIATES, CHTD.

Theodore Parker III

Theodore Parker, III, Esq.

 TP/en
 LAS VEGAS, NV

 P: 702.868.8000 | F: 702.868.8001

 2460 Professional Court, Suite 200 | Las Vegas, Nevada 89128

Jacqueline Dixon Phillips jdixon@pnalaw.net Admitted in South Carolina

Yadira Rios Gibson Of Counsel yrios@pnalaw.net Admitted in Nevada, California & Illinois

> Shana D. Weir sweir@pnalaw.net Admitted in Nevada

Carlton D. Bowers cbowers@pnalaw.net Admitted in South Carolina

Thomas B. Pritchard tpritchard@pnalaw.net Admitted in South Carolina

Casey D. Gish Of Counsel cgish@pnalaw.net Admitted in Nevada & California

Mahogany A. Turfley mturfley@pnalaw.net Admitted in Nevada

Jennifer A. DelCarmen jdelcarman@pnalaw.net Admitted in Nevada

From:	Szelina Kira Kiss <szelinakira@gmail.com></szelinakira@gmail.com>
Sent:	Thursday, August 6, 2020 4:54 PM
To:	CCB Meetings
Subject:	Proposed Settlement in Licensing Litigation
Importance:	High

Chairman Douglas and Commissioners:

My name is Szelina Kira Kiss. My husband and I have ownership in a cannabis dispensary. I am writing you to express my strong opposition regarding the proposed settlement in the licensing litigation.

I have a 4 year old and a 2 year child, whom I'm already teaching that things in life have to be earned based on merit and shortcuts and cheating are unacceptable. I would like to raise my children in a city/state where these values are applied and when "errors" are made, justice gets served. I believed prior to getting involved in this industry that licenses are going to be awarded based on merit. In fact, Nevada's merit based system for awarding licenses has been an example nationwide.

However, this settlement awards dispensary licenses NOT BASED ON OBJECTIVE CRITERIA, but based on NO SPECIFIC CRITERIA WHATSOEVER.

Approving this settlement today, would change the dynamic of the litigation, so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if this appears to be a fair settlement, the trial is nearly over. Please preserve Nevada's merit-based system and let the litigation conclude without this settlement interfering with the pursuit of justice.

Thank you for your time and consideration,

Sincerely,

Szelina Kira Kiss

From:	Elaine@LV6S.com
Sent:	Thursday, August 6, 2020 5:27 PM
То:	CCB Meetings
Cc:	Otto Merida; luisvalera@yahoo.com
Subject:	CCB Hearing Agenda Item II for August 7, 2020 Meeting

Elaine Sanchez, Dr. Luis Valera Sr., and Otto Merida Nevada Holistic Medicine DBA MMJ America 4660 South Decatur Blvd. Las Vegas, NV 89103 702-283-2208

August 6, 2020

Honorable Michael Douglas Chairman Cannabis Compliance Board

Sent Via Email

Dear Chairman Douglas and Members of the Cannabis Compliance Board (CCB):

We applied to the State for an additional marijuana license, along with my business partners Otto Merida and Dr. Luis Valera, Sr. As owners of Nevada Holistic Medicine DBA MMJ America in Southern Nevada, we respectfully request the Cannabis Compliance Board to allow the judicial process to proceed with respect to Agenda Item II, regarding the conditional approval by the Department of Taxation. There should be no settlement until all witnesses and allegations are thoroughly investigated by your members. It is imperative the process is transparent into these very serious allegations. Witness testimony and public hearings should be allowed in order to understand how licenses were administered in this fashion. This is a matter that will financially injure us without the benefit of knowing why or how the marijuana licenses were prescribed to other parties.

To allow a settlement would mean that as an applicant, there is no recourse for our partnership to understand the inner workings should additional licenses be granted in the future. Uniformity of the process is imperative as is the transparency of those agents making licensing decisions on behalf of the state. We are hard-working and our current license is compliant with all county and state requirements and we believe that should a partial settlement be approved by the CCB, our current interest in our company would be diluted and financially impacted.

Sincerely,

Elaine Sanchez, Dr. Luis Valera, Sr., and Otto Merida

Daniel H.C. Brasov 3750 Las Vegas Blvd., suite 3508 Las Vegas, NV 89158

SENT VIA E-MAIL August 6, 2020 Honorable Michael Douglas Chairman Hon. Dennis Neilander, Member Hon. Jerrie E. Merritt, Member Cannabis Compliance Board State of Nevada

Dear Chairman Douglas and Members of the CCB,

It has been brought to my attention that the Cannabis Compliance Board has called an emergency meeting to discuss the support of a partial settlement for those establishments that brought suit against the State for the disparate treatment that received during the application process for new Marijuana licenses.

As a member of this community and business owner, I was very receptive to the change and implementation of the Cannabis Compliance Board. Nevada has a well deserved reputation for fair and transparent oversight of Nevada's gaming industry. With that in mind, I feel very strongly that this issue should be given the careful and thoughtful attention that it requires before a decision is made. The marijuana industry is nascent to Nevada and the Commission should ensure that we hold it up to the same standard that gaming has enjoyed and become the "Gold Standard" domestically and internationally.

Regards, Daniel H.C. Brasov

From: Sent: To: Subject: Jessica Nelson <jessica\_nelson2323@yahoo.com> Thursday, August 6, 2020 5:43 PM CCB Meetings Public Comment- CCB 08/07/20 Meeting

> Jessica Nelson 100 Park Vista Drive, 3133 Las Vegas, NV 89117 (775) 297-6705

08/06/2020

Honorable Michael Douglas Chairman Cannabis Compliance Board State of Nevada

Dear Chairman Douglas (and members of the CCB),

As the prohibition of cannabis draws to a close in our nation, we have the unprecedented ability to set an example for other municipalities, and create opportunity for the residents of our great state. The immense responsibility this sets forth for our governing bodies cannot be ignored. While a settlement to resolve the distribution of cannabis licenses is certainly an attractive option, it is not in the best interest of the community, industry, or the CCB itself to continue on this course of action. Choosing to settle this matter in lieu of a thorough investigation followed by corrective action would be beneficial primarily to parties that do not have a vested interest in the future of this industry or the state of Nevada. It also does nothing to mitigate the forming of monopolies that would prevent diversity from being able to grow and thrive in cannabis, something that the Department of Taxation and the CCB claim to want to protect. The impact of reputation and trustworthiness cannot be overstated when it comes to the future success of the Cannabis Compliance Board. I sincerely hope that I, and the residents of Nevada, can count on the CCB to uphold their mission statement as the future of cannabis licensing is determined.

The Nevada Cannabis Compliance Board governs Nevada's cannabis industry through strict regulation of all areas of its licensing and operations, protecting the public health and safety of our citizens and visitors while holding cannabis licensees to the highest ethical standards.

Sincerely,

Jessica Nelson

August 6, 2020

The Cannabis Compliance Board CCBmeetings@ccb.nv.gov

To whom it may concern:

I am writing to express my concern for finalizing a rushed settlement by the Cannabis Compliance Board.

I urge the Compliance Board to take more time to understand that licenses have not been dispersed fairly by the former Department of Taxation, and that more time to appropriate future licenses is needed.

The Cannabis Compliance Board making a rushed settlement does not provide for a full scope of what is at stake, and furthermore will result in severely limited economic opportunity for smaller businesses and potential industry development. Providing licenses to already heavy-handed stakeholders will increase the lack of diversity and limit or inhibit opportunity for small businesses to have a fair chance to take part in the cannabis industry.

As a community advocate, as well as someone who makes their livelihood in the cannabis industry, I believe it is important to remind the commission that cannabis is an essential business. Looking forward to post-COVID-19, consumers and patients deserve diversified access to their medicine. Las Vegas has the opportunity to develop into an American cannabis destination, if not international, and the CCB dispersing licenses will determine whether a few-giant, non-Nevada corporate entities will benefit, or it could provide a fair opportunity to existing and future local businesses. Current industry stakeholders and their contributions, despite limited licenses, should be considered, as well as other mitigating factors to determine what fair allocation of these licenses should be.

I believe that rushing this settlement will continue to perpetuate the unfair license-share of what will be a future staple in contributing to the Las Vegas economy.

Thank you for your attention and consideration with regard to this important matter.

Sincerely, Dani Baranowski danibaranowski@outlook.com Chad Christensen Las Vegas, NV

SENT VIA E-MAIL

August 6, 2020

Honorable Michael Douglas Chairman Hon. Dennis Neilander, Member Hon. Jerrie E. Merritt, Member Cannabis Compliance Board State of Nevada

Dear Chairman Douglas and Members of the CCB,

Nevada has been under intense scrutiny since the details of the application process for new Marijuana Licenses was released to the public. Publicity has not been favorable to our State. Prior to the legalization of marijuana, the State of Nevada was held up as a standard for regulation on gaming. No other jurisdiction had the perceived integrity of the process as Nevada. Therefore, once the CCB was established, I was confident that the marijuana industry would be held up as an example of transparency and unbiased reform.

It is with this in mind, that I encourage steadfast thoughtfulness and clear understanding of all the issues surrounding the details of the application process that is in question. By doing so, the industry can be assured that just as the GCB is deliberative and contemplative, the CCB will be as well.

Regards,

Chad Christensen

From:	Christopher Francis <doslasvegas@gmail.com></doslasvegas@gmail.com>
Sent:	Thursday, August 6, 2020 6:46 PM
То:	CCB Meetings
Subject:	Disappointment in Settlement

"Chairman Douglas and Commissioners:

I am Christopher Francis. I work in the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. In fact, Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Respectfully,

Christopher M. Francis

From:	David Goldwater <david@inyolasvegas.com></david@inyolasvegas.com>	
Sent:	Thursday, August 6, 2020 7:06 PM	
То:	CCB Meetings	
Subject:	[Unverified Sender] Comment/Testimony Re: proposed settlement	

Attached is a signed letter to the Board along with an attachment for reference. Below is the copy with properly formatted hyperlinks. Please confirm receipt.

August 7, 2020

Cannabis Compliance Board

C/O Director Tyler Klimas

Chairman Hon. Michael Douglas

555 E. Washington Ave. Suite 4200

Las Vegas, Nevada 89101

By email: CCBmeetings@ccb.nv.gov <mailto:CCBmeetings@ccb.nv.gov>

Re: Department of Taxation Litigation, Case No. A-19-787004-B

Dear Chairman Douglas:

"There are no provisions in the law to issue licenses to low-scoring applicants." These are not my words. They are the words of Melanie Young, Executive Director of Nevada's Department of Taxation in an open letter <https://tax.nv.gov/FAQs/Marijuana\_License\_Application\_Information\_-\_NEW/> posted on the department's website regarding the recent marijuana licensing process. If that statement is true, then it is clear the settlement before you violates at least the spirit of Nevada law and must be reconsidered.

Nevada takes pride in its merit-based system of awarding marijuana licenses. If we believe the 2018 process to be fair—I do not, but that is before Judge Gonzalez—then there is no reason for the random distribution of licenses in this proposed settlement. For example, in unincorporated Clark County, where the top 10 applicants were awarded a license in the original process, the 69th ranked application and the 14th ranked application are "awarded" a license in this settlement. Further, in Henderson, where the top 6 applications were supposed to receive licenses, the 30th ranked application is "awarded" a license in this settlement.

Mr. Chairman, I want to be clear that do not think the rankings were fair. In fact, I know the operations of the 69th ranked application in unincorporated Clark County and I believe they should have been awarded a dispensary license based on how they operate. But that is the very point regarding this settlement: my opinion does not—and should not—

count in the awarding of licenses. And, with all due respect, neither should yours. The process for awarding licenses in Nevada was supposed to be based on objective criteria scored by independent evaluators in a fair and uniform manner. This settlement abandons that concept and distributes licenses based on no criteria whatsoever. We still have no idea who made these decisions or how the settling parties received a license. Please know that no one offered Inyo a license or anything near an equivalent to settle despite our scores being much higher than some of the settling parties.

It is useful to draw an analogy to gaming regulation because, according to Governor Sisolak's general counsel <https://www.leg.state.nv.us/Session/80th2019/Minutes/Assembly/JUD/Final/1254.pdf> Brin Gibson in a hearing presenting the bill that is now the law for Nevada's cannabis industry regulatory structure, "It is an attempt to recreate a similar type of apolitical regulatory structure that is self-sustaining for the most part and is able to stay clean and help grow this industry." Imagine 5 applications for an unrestricted gaming license coming before the Gaming Control Board. Two were good, two were marginal, and one was unacceptable. Imagine granting a license to the two good applicants and denying the other three. Rather than appealing to the Gaming Commission (the administrative remedy Inyo is seeking in this case,) the affected parties appealed directly to district court. During the trial, the two successful applicants negotiated a settlement with the unacceptable applicant stipulating the Gaming Commission grant an unrestricted gaming license to the deficient applicant without any justification or logical reasoning as to why; just simply because they wanted to end the litigation. This would be outrageous. It would (hopefully) never happen. If it is outrageous and would not happen in gaming regulation, then it should be outrageous and never happen in cannabis regulation.

In summary, this settlement is a litigation strategy designed to divide the plaintiffs and preserve the ill-gotten gains of some of the applicants. If Nevada's system of awarding licenses is truly merit based, then this settlement cannot stand. The trial to decide whether or not the process was fair is nearly over. Let Judge Gonzalez decide this important issue without this settlement confusing the issue and taking away an important option of Judge Gonzalez. I have attached my previous letter to the Tax Commissioners for your reference. As Director Young says, "There are no provisions in the law to issue licenses to low scoring applicants." This settlement is no exception.

Respectfully,

David Goldwater, Partner

Inyo Fine Cannabis Dispensary

Enclosure

# Mark Bradley CEO Green leaf Farms Holdings 3939 Belmont Street, North Las Vegas 89030

August 6, 2020

Honorable Michael Douglas Chairman Hon. Dennis Neilander, Member Hon. Jerrie E. Merritt, Member Cannabis Compliance Board State of Nevada

Via-email

Dear Chairman Douglas and members of the CCB,

I have been a resident of Las Vegas for 30 years and build several businesses including running a fully reporting public company and launching the first 24 Vegas Entertainment Network marketing Vegas to 104 million homes. and run a public company. I know what its like to work in a regulated industry, I am now in the cannabis business and one of the original license holder where I have been trying to lend my talents to help grow our industry and wish I could attend this meeting in person so please except this letter as a record of my public comments.

Green Leaf Farms and other none vertically integrated license holder business have a substantially disadvantage in building its business without a retail outlet. Every day we are held hostage to selling our product at little profit and sometimes at a loss, as we see the dispensary markup our products sometimes 400%. The dispensary operators who are defending the class action lawsuit are no more qualified to run a retail business than the experience of my management team and owners involved in our licenses which has substantial business and retail operational experience.

I was involved in the first DOT board hearing in January 2018 where there were over 25 public comments spoke up against the adaption of the permanent regulations that was contradicting the language that was voted in question 2. There was no deliberation among the executive board and the decision to recommend and adapt language was pushed through. This information and the lack of process is a factual public record and should be carefully reviewed. The following February the language was presented to the oversite committee who basically did the same, there were again at least 25 more comments against the permanent regulations. Despite the public comments again there was no deliberation or consideration and they voted to adapt incorrect and unfair language which became permanent and what I believe to be the core problem that created this entire flawed process and lawsuit.

As a new oversite board, I hope that you will listen to all opposing comments and not allow a partial settlement to be agreed upon. The process of scoring retail application was not fair or impartial, for example; how could the DOT allow retail license holders who already had a retail operation in a

jurisdiction apply for a second licenses? but an applicant who had zero licenses in the same jurisdiction could only apply for only 1 license? This is one example of how the process was not fair or impartial.

On our application we tediously made sure every section was completed to near perfect meeting every requirement, only to receive a zero score on one of our locations.

After reviewing and investigation the work papers used to grade our application, we found a sticky note that was hand written by someone who could only be from the DOT or a grader, stating<u>" Applicant</u> <u>redacted this location</u>" Of course we never pulled an application from a location where we signed a 20 year lease. I can give you 5 more examples negligence or what might have been intentional in the scoring and flaws in the process that have been coming out during testimony.

I urge the board to deny approving any partial settlement, approving any settlement will only muddy the water more if that is even possible, We will end up having licensees that are under scrutiny being transferred by means of a settlement centered around a active lawsuit. By approving this partial settlement will only cause more damages from a case that has a substantial amount of evidence in favor of the plaintiffs.

Please let the legal process proceed and support a global settlement or a complete redo that follows the law that the voters passed with question 2

Thank you and I hope this board can help Nevada achieve the gold standards that was originally for the marijuana industry

Sincerely,

Mark Bradley CEO Green Leaf Farms Holdings

From: Sent: To: June Beattie-Mead <scottishwoman45@gmail.com> Thursday, August 6, 2020 8:07 PM CCB Meetings

I am June Mead I am an advocate for the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. In fact, Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Respectfully,

June mead

From:	Ashley Marquand <ashleym@inyolasvegas.com></ashleym@inyolasvegas.com>		
Sent:	Thursday, August 6, 2020 8:25 PM		
То:	CCB Meetings		
Subject:	[Unverified Sender] Disappointment in Settlement		

Chairman Douglas and Commissioners:

My name is Ashley Marquand and I work in the cannabis industry, and I am here to tell you that this proposed settlement in the licensing litigation is an absolute disgrace.

My journey with cannabis began when I started working at Inyo Fine Cannabis Dispensary. My first position with the company was at the front desk as an intake specialist. The thing I noticed while working my first week was just how many repeat customers Inyo had. One after another they would come in and make their regular purchase, bump fists with the budtenders (pre-Covid, of course), and leave with a satisfied smile. The level of customer service and sense of community is unparalleled when it comes to Inyo, and we continue to lead the charge fighting for justice within our neighborhoods.

So let me be clear when I say that this settlement is downright insulting to the fine staff at Inyo FCD. Not only do they meet every state standard, they continue to go above and beyond what is required of them. It is not only a slap in the face to their staff members who adhere to every guideline put in place, but to the inhabitants who support us with their business. To give licenses out to dispensaries that are sub-par and who do not meet the objective scoring criteria is doing everyone who partakes in cannabis a disservice.

As someone who regularly uses marijuana for medical purposes I need to feel confident that the dispensary I patronize is adhering to the strictest standards--the products they sell can literally save my life. It's important that all the information be accurate, and the budtenders be knowledgeable about the products they're selling. We shouldn't be looking to cheapen this experience by giving out licenses to anyone who complains enough to get one. I'd rather go to a dispensary that has to earn my respect and my trust.

This settlement spits in the face of every dispensary that works hard to be the best. And based on my experiences at other dispensaries, Inyo simply is the best. Our friendly faces, commitment to our locale, and impressive sales records speak for themselves.

There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based system, and the integrity and dignity of this cannabis institution.

Respectfully,

Ashley Marquand Inyo Fine Cannabis Dispensary ashleym@inyolasvegas.com <mailto:ashleym@inyolasvegas.com> Cole Christensen Las Vegas, NV

Sent Via E-Mail

August 6, 2020

Honorable

Dear

I am writing this letter In hopes that I may sway your decision in quickly granting approval of the settlement offer to less than all of the marijuana applicants involved in the quagmire of what should have been an above-board process.

I would hope that all interested decisions makers would want to ensure that Nevada is known for fair and unbiased regulations and doing right by all not just a select few.

Sincerely,

Cole Christensen

From: Leighton Koehler <lkoehler@planet13lasvegas.com></lkoehler@planet13lasvegas.com>	
Sent:	Thursday, August 6, 2020 8:48 PM
То:	CCB Meetings
Subject:	MM Development Company, Inc., Comment to CCB, August 7, 2020.

Chairman & Board Members,

I am a Board Member and the Corporate Secretary for settling party MM Development Company, Inc. doing business as Planet 13. Our company has worked diligently towards settlement with the State of Nevada, and we are fully in support of the settlement you are reviewing today. This settlement will allow licensed marijuana operators to move forward opening the new licenses. The immediate effects will be greater citizen access to a product many in Nevada use for essential medical purposes, more jobs for Nevada employees who will work at the new dispensaries, and an increased tax base at a time when Nevada is looking for revenue and solutions to the ongoing downturn caused by the COVID pandemic.

The industry and State have come together to propose this solution, and we feel this settlement is firmly in the best interests of Nevada and its cannabis industry, and request your approval.

# Respectfully,

# LEIGHTON KOEHLER

GENERAL COUNSEL O 702-206-1313 | M 702-308-8430 www.medizinlv.com | www.planet13lasvegas.com



Notice of Confidentiality: This e-mail message, together with any attachments, contains information that may be confidential, proprietary copyrighted and/or legally privileged, and is intended solely for the use of the individual or entity named on this message. If you are not the intended recipient, and have received this message in error, please immediately return this by e-mail and then delete it. Any unauthorized review, use, disclosure or distribution without approval is prohibited.

From:	Sigal Chattah <sigal@thegoodlawyerlv.com></sigal@thegoodlawyerlv.com>
Sent:	Thursday, August 6, 2020 9:24 PM
То:	CCB Meetings
Subject:	In Re DOT Litigation; Partial Settlement Agreement
Attachments:	Opposition Letter to CCB.docx

Please see the attached written comment to be read into the record for tomorrow's agenda meeting.

Thank you

Sigal Chattah, Esq.

---

Chattah Law Group 5875 S. Rainbow Blvd #203 Las Vegas, NV 89118 Tel: (702) 360-6200 Thegoodlawyerlv.com

This e-mail communication is a confidential attorney-client communication intended only for the person named above. If you are not the person named above, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please e-mail the sender that you have received the communication in error. Thank you.

IRS Circular 230 Notice: To ensure compliance with requirements imposed by the IRS, we inform you that any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

#### **OPPOSITION LETTER TO SETTLEMENT AGREEMENT**

Please accept this statement in Opposition of the submittal of the Settlement Agreement presented before you for approval.

The matter currently being litigated in the Eighth Judicial District Court, In Re Dept. of Taxation Litigation, involves a challenge to the licensing and application process, conducted in 2018 by DOT, regarding licenses to operate a recreational marijuana retail stores.

At the outset, whether this matter is ripe for review by this body is questionable. Audaciously settling Plaintiffs' present this matter for review by this administrative body before a Motion for Good Faith settlement is presented to the Court.

While the settling Parties deny the necessity for a good faith settlement review, they fail to understand that even though monies are not being transferred from one Defendant to a settling Plaintiff, the contribution of a license with pecuniary value as a value for settlement mandates that a good faith analysis be made by the Court. The transfer of value, whether monetary or pecuniary, from settling Defendants to settling Plaintiffs, reduces the amount of pecuniary value for non-settling Plaintiffs. Therefore, this must go through a good faith settlement review with the Court, be approved by the Court and only then be presented to this administrative body. This administrative body simply should give an advisory opinion, nothing more as to the merit of the settlement agreement.

As to the merit of the case *sub judice*, the evidence elicited during Plaintiffs' case in chief has
included, acts ranging from negligent/incompetent scoring methods by Manpower employees,
collusive meetings between DOT employees and license holders, violation of monopoly protections
under NAC 453.272(5), interest transfers that violated NAC 454.315(9), and three of one lawyer's
clients obtaining 21 out of the 61 allocable licenses in the State. Over one-third of all allocable
licenses were obtained by one lawyer's- *three* Clients, in a field of over 400 applicants.

1 The appearance of impropriety that encompassed this licensure process, would only be 2 compounded by an even more improper collusive partial resolution. The Parties involved in this 3 resolution identified as "settling parties" have engaged in questionable and legally preclusive 4 conduct that is unprecedented in the legal community of Nevada and remains the epitome of inequity 5 in their collusive endeavors. 6 While the Nevada Tax Commission has issued a conditional approval based on the final

determination by this body, it is imperative that a complete analysis of the terms of the proposed settlement be engaged, prior to contemplation of setting a bad precedent to an already tainted process.

7

8

9

10

11

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

It is significant to note that **no modified version of the Settlement Agreement** in the last week has been presented, although assurances were made that various paragraphs would be stricken 12 from the Agreement.

The issues that are at hand with the Settlement Agreement are as follows:

The Settlement Agreement unlawfully binds the Parties to join an ambiguously described DOT filed Motion that exceeds any lawful authority of the State, binds the parties to an agreement which usurps and supplants the proper role of the court and which evidences a clear intent by the settling parties to inappropriately collude toward a settlement that is inapposite to sound public policy and good government. Paragraph Seven (7) of the Agreement provides:

"As a condition and term of this settlement, DOT will notify the Court and will file an appropriate Motion on OST in the Lawsuit informing the Court that it has determined that Lone Mountain, NOR, GreenMart, and Helping Hands (each, a "Tier 3 Party") have satisfied the DOT that each such Settling Defendant provided the information necessary in their respective applications to allow the DOT and/or CCB to conduct all necessary

related proceedings." While the express terms of any Motion that the DOT would be required to file pursuant to the Settlement Agreement remain unclear, the DOT simply has no authority to revise its previous representations to the court and now claim instead that applications were complete for purposes of evaluation and scoring of the identified portions of the merit criteria. The DOT represented that applications filed by the parties subject to the Court's injunction were not complete and in compliance with respect to disclosures of ownership. As the court noted in its Findings of Fact and Conclusions of Law, the law "required the DOT to determine that an Application is "complete and in compliance" with the provisions of NAC 453D in order to

were not complete and in compliance with respect to disclosures of ownership. As the court noted in its Findings of Fact and Conclusions of Law, the law "required the DOT to determine that an Application is "complete and in compliance" with the provisions of NAC 453D in order to properly apply the licensing criteria set forth therein and the provision of the Ballot Initiative and the enabling statute." The court further determined that, "[w]hen the DOT received applications, it undertook no effort to determine if the applications were in fact "complete and in compliance."

background checks and related actions and that Lone Mountain, NOR, GreenMart, and

Helping Hands are being reassigned to Tier 2 status in the Lawsuit for purposes of the Preliminary Injunction or any other injunction that may be issued in the Lawsuit or any

Factual determinations that certain successful applicants did not submit complete applications with respect to ownership cannot now be simply conveniently disregarded or forgotten by the State to reach a partial settlement agreement. Indeed, the fact that the enjoined parties failed to list all owners in their applications remains unchanged. This fact is critical to the ultimate factual determination by the court as to whether the DOT's failure to comply with the law invalidates the issuance of licenses because the applicants' designations of owners, officers and

board members were directly tied to the merit criteria used by the evaluators to score and rank applicants.

In evaluating numerous sections of the application, the evaluators applied a percentagebased formula of the proportional number of owners, officers or board members who met established criteria such as educational achievements, previous business experience, experience in the marijuana industry and diversity. Therefore, if certain applicants were awarded conditional licenses based upon scoring which did not include a complete disclosure of the applicant's owners, officers or board members, the DOT cannot now simply revise its previous findings regarding the completeness of applications and suddenly suggest to this Court that the ranking and scoring would remain unchanged.

Furthermore, the proposed Settlement Agreement provides in Paragraph Two (2) that, "the DOT and/or CCB agrees to issue a conditional Henderson license to LiveFree" subject to conditions which appear to completely disregard the statutory mandates relating to the requirement that the State conduct a competitive application process prior to issuing any such licenses. See, NRS 453D.210(6).

Any such contemplated issuance of a Henderson license to LivFree circumvents clear statutory mandates and is facially violative of the clear provisions mandating a merit-based review of competing applicants. DOT was granted no such authority to wholly disregard the law in granting licenses, which are limited in quantity by statute, and are the entire subject of dispute of the instant litigation.

The proposed Settlement Agreement alarmingly suggests the Parties agree to circumvent key provisions of this Court's previous findings and instead swiftly allow illegally issued conditional licenses to move forward with approvals toward final inspections. The Settlement Agreement provides, "[t]he Motion to be filed by DOT will indicate the DOT's approval of the applications of the previously designated Tier 3 Defendant Intervenors and that final inspections may be completed for any establishments owned by Lone Mountain, NOR, GreenMart, and Helping Hands." The Agreement further mandates that "[a]ll Parties will join in the DOT's Motion." The number of available licenses is limited, and the State has now awarded the maximum number allowed in multiple counties, but the State awarded those licenses based upon scoring and rankings of incomplete applications that cannot now be remedied by any DOT fiction that the State might somehow be able to reconstruct the applications to include an applicant's omitted owners, officers or board members. See NRS 453D.210(5)(d); 678B.260(1)(a). Consequently, the applicants who would have received a license, but did not because the State ignored the law, have been and still are being harmed. Any proposed approval by the Cannabis Compliance Board of a partial Settlement Agreement that mandates transfer of illegally awarded licenses would result in injury to

1	Plaintiffs in this litigation and should be enjoined as the agreement seeks to circumvent
2	this Court's ultimate determination on the merits.
3	The whitewashing of invalidly procured licenses for the purpose of procuring an
4	expedited settlement should be unacceptable to everyone on this Board. This Board was
5	established to rectify the failures of its predecessor and enforce the laws of the State in an
6	
7	equitable and transparent manner; not a manner that wreaks of corruption and dishonor.
8	• Section 13 "Continued Participation by Settling Plaintiffs" provides that Settling
9	Plaintiffs will file a Motion to Intervene as Defendants/Intervenors in the Lawsuit and
10	participate in the Lawsuit in good faith and shall use best efforts to defend.
11	against the Lawsuit.
12	against the Lawsuit.
13	The proposed Agreement, violates Supreme Court Rule 1.9 entitled Duties to Former
14	Clients and provides:
15	
16	A lawyer who has formerly represented a client in a matter <b>shall not</b> thereafter represent another person in the same or a substantially related
17	matter in which that person's interests are materially adverse to the interests
18	of the former client unless the former client gives informed consent, confirmed in writing.
19	(b) A lowwoon shall not knowingly represent a norman in the same on a
20	(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly
21	was associated had previously represented a client:
22	(1) Whose interests are materially adverse to that person; and
23	(2) About whom the lawyer had acquired information protected by
24	Rules 1.6 and 1.9(c) that is material to the matter
25	
26	6
27	
28	

	(3) Unless the former client gives informed consent, confirmed in
1	writing.
2	(c) A lawyer who has formerly represented a client in a matter or whose
3 4	present or former firm has formerly represented a client in a matter shall not thereafter:
5	(1) Use information relating to the representation to the disadvantage
6	of the former client except as these Rules would permit or require with respect to a client, or when the information has become
7	generally known; or
8	(2) Reveal information relating to the representation except as these
9	Rules would permit or require with respect to a client.
10	It is significant to note that Herbal Choice, Inc., is a former party of the ETW Plaintiffs'
11	and was represented by Brownstein Hyatt, prior to undersigned Counsel's involvement in this
12 13	matter. Seemingly, settling Plaintiffs and their Counsels, know no limits to their collusive
13	activities and paths of bad faith they are willing to travel to perfect them.
15	• Outrageously, settling Plaintiffs filed a Motion to release their bond monies in the
16	ultimate coup de grace, after two years of litigation in an attempt to force non-settling
17	plaintiffs, to expend more monies on the bond.
18	Plaintiffs' attempt to crash the \$5 Million bond, ordered by the Court mid trial, with no
19 20	ramifications to them is the golden parachute to any liability after two years of
20	litigation which they zealously engaged in.
22	
23	The settling Plaintiffs have litigated the matter in a spirit of all Plaintiffs aligning
24	interests during the course of litigation and throughout the course of discovery, filed
25	Joint Pre-Trial Motions, Joinders to Motions, Joint Trial Exhibits, only to be advised
26	7
27	
28	

that settling Plaintiffs will now align themselves with Defendants and use all trial strategies and tactics against non-settling Plaintiffs. The Partial Settlement Agreement is designed not simply to resolve the settling parties' disputes amongst themselves in agreeing to redistribute coveted dispensary licenses from the "haves" to the "have nots", but the Partial Settlement Agreement is designed specifically and purposely to eradicate the remaining parties' rights in this lawsuit. Consequently, any proposed settlement agreement which requires the State to reach any such finding is unlawful, collusive and injurious to other Plaintiffs to this litigation. Notwithstanding same, it is unprecedented conduct and should not set new precedents when the very purpose of the establishment of the Cannabis Compliance Board was to promote that transparency that was such a failure by its predecessor; and remains the very subject of this litigation. I urge you to review the law you have been chosen to enforce and apply legal and rational reasoning in your decision, and not capitulate to political or collateral pressures to resolve this matter. Thank You Sigal Chattah, Esq. Attorney for Herbal Choice Inc. 

# Howard & Howard

law for business.

Chicago	Detroit	Las Vegas	Los Angeles	Peoria
direct dial: 702.667.4852		Christopher Rose, E	Esq.	email:LCR@H2law.com

August 6, 2020

VIA EMAIL <u>CCBMeetings@ccb.nv.gov</u>

# **Cannabis Compliance Board**

State of Nevada 555 E. Washington Ave. Suite 4200 Las Vegas, Nevada 89101

# RE: Public Comment Regarding Consideration of the Proposed Settlement Agreement Approved by the Nevada Tax Commission on July 31, 2020 in the Case of *In re Dept. of Taxation Litigation*, Case No. A-19-787004-B (with consolidated cases)

Dear Board:

Our office represents Wellness Connection of Nevada, LLC, which does business as Cultivate ("Wellness"). Wellness is a defendant in the above-referenced litigation, captioned as the *In re D.O.T. Litigation* (the "Litigation"). Wellness is not one of the settling parties to the Settlement Agreement dated July 28, 2020 (the "Settlement Agreement" or "Agreement") that is before the Board for approval today. I write this letter on Wellness' behalf to express its concerns and objections to approval of the Settlement Agreement.

Wellness does not object merely because it is not a party to the Settlement Agreement as some others do. The fact that Plaintiffs did not approach Wellness to join the settlement is understandable. Wellness applied for three licenses in September 2018 and received only one conditional license. Given that Wellness received only one license, and given that no Plaintiff has accused Wellness of misconduct or of improperly receiving a license, the Plaintiffs naturally did not approach Wellness as part of their settlement efforts leading to the Settlement Agreement. Wellness' objection to the Settlement Agreement is more fundamental.

First, as a marijuana licensee in the State of Nevada – a state often admired as the gold standard for its regulatory structure – Wellness and other licensees expect to be treated fairly and equally by the regulatory authority, first the Department of Taxation ("DOT") and now the Board. Indeed, the Litigation arose from allegations that the DOT did not treat all licensees/applicants equally but that it engaged in favoritism in awarding licenses to certain applicants. The Plaintiffs' allegations and claims of favoritism in the Litigation are highly disputed but, nonetheless, led to protracted and costly litigation now spanning over a year and a half. Given the allegations and accusations of the DOT's favoritism towards certain licensees and applicants, it is deeply concerning that the Litigation could now be partially resolved through a contract that requires the

#### **Cannabis Compliance Board**

August 6, 2020 Page 2

DOT/Board to show favoritism to certain licensees and applicants. More specifically, the Settlement Agreement provides for the reallocation of disputed licenses in the Litigation outside of the 2018 statutorily required application and ranking process. It also provides for the issuance of a conditional Henderson license outside of the application and ranking process to an entity that did not apply for a license in the Henderson jurisdiction in September 2018. The Settlement Agreement also provides that the DOT/Board will give special preferences and treatment to the parties to the Settlement Agreement, including expedited ownership transfers, expedited location changes, expedited final inspections, and a 14 month extension to obtain final inspection and approval of their conditional licenses.

It seems ironic and wrong for a lawsuit over alleged improper favoritism by the DOT to be partially settled through a contract that requires improper favoritism by the DOT/Board. It seems doubly improper that the favors and benefits granted to the parties to the Settlement Agreement are not merit-based nor in accordance with the 2018 Retail Marijuana Store Application Scores and Rankings that governed the award of conditional licenses in 2018 (the "2018 Rankings," a copy of which is attached with this letter). By statute, licenses awarded as a result of the September 2018 application process had to be awarded pursuant to "an impartial and numerically scored competitive bidding process." *See* NRS 453D.210(6). The impartial and numerically scored competitive bidding process was required "to determine which application or applications among those competing [would] be approved." *Id.* The impartial and numerically scored competitive bidding process resulted in the attached 2018 Rankings. Thus, Nevada law mandates that any award of a license relating to the 2018 application process be awarded pursuant to the 2018 Rankings. The Settlement Agreement contravenes that mandate.

For example, as shown in the attached 2018 Rankings, Wellness applied for licenses in three jurisdictions: (1) Clark County, City of Las Vegas; (2) unincorporated Clark County; and (3) Washoe County, Reno. Wellness succeeded in obtaining a conditional license in only one jurisdiction, Las Vegas, where Wellness ranked ninth out of the 10 applicants awarded licenses. In Clark County, Wellness ranked 11th out of 97 applicants, but only the top 10 applicants received conditional licenses. In Reno, Wellness ranked ninth out of 53 applicants, but only the top six applicants received conditional licenses. If any licenses awarded as a result of the 2018 application process were to become available, they would, under NRS 453D.210(6), have to be awarded to the next lowest ranked applicants. In Clark County, the next lowest ranked applicant is Wellness, ranked 11 of ten applicants. In Reno, the next lowest ranked applicant is Commerce Park Medical, LLC (Thrive). If Commerce Park Medical, LLC is not able to receive the award of the Reno license, the next lowest ranked applicant is Qualcan, LLC, ranked eighth, with Wellness following in line, ranked ninth. But the Settlement Agreement does not follow the 2018 Rankings as required by law, NRS 453D.210(6). Instead, it provides for licenses to be issued or reallocated to applicants that did not succeed in obtaining any licenses and that in some cases ranked as high as the 60s, 70s, 80s, or 90s in certain jurisdictions. See 2018 Rankings for Settling Plaintiffs. As such, the award, reallocation, or transfer of any licenses, including the disputed license in the Litigation, that does not follow the 2018 Rankings violates the mandate of NRS 453D.210(6) and is improper.



#### **Cannabis Compliance Board**

August 6, 2020 Page 3

As both the United States and Nevada Supreme Courts have recognized, administrative bodies must be impartial and avoid favoritism. *See Withrow v. Larkin*, 421 U.S. 35, 46, 95 S. Ct. 1456, 1464 (1975) (stating that "a 'fair trial in a fair tribunal is a basic requirement of due process." [cite omitted] This applies to administrative agencies which adjudicate as well as to courts."); *Matter of Ross*, 99 Nev. 1, 7, 656 P.2d 832, 835 (1983) (stating that administrative decision makers must not be biased and must avoid unfairness); *Nassiri v. Chiropractic Physicians' Bd.*, 130 Nev. 245, 249, 327 P.3d 487, 490 (2014) (stating that an administrative board must "ensure a fair and impartial hearing").

Wellness firmly believes that approval of the Settlement Agreement is inconsistent with the Board's obligations to ensure that all licensees and applicants are treated equally, to avoid favoritism, and to ensure that conditional licenses as a result of the September 2018 application process are awarded according to law and pursuant to the 2018 Rankings. Thus, Wellness respectfully requests the Board not approve the Settlement Agreement, and that the 2018 Rankings be upheld and enforced in all circumstances.

Sincerely,

# HOWARD & HOWARD ATTORNEYS PLLC

L. Christopher Rose

L. Christopher Rose

LCR:cld

4838-2215-8791, v. 1



#### 2018 Retail Marijuna Store Application Scores and Rankings

#### Revised 4 pm 5/14/2019

CARSON CITY				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	ESSENCE HENDERSON, LLC	ESSENCE	227.17	Yes
2	NEVADA ORGANIC REMEDIES, LLC	THE SOURCE	222.66	Yes
3	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	No
4	TRNVP098, LLC	GRASSROOTS	196.49	No
5	CLARK NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No
6	NYE NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No
7	BIONEVA INNOVATIONS OF CARSON CITY, LLC	BIONEVA INNOVATIONS	188.00	No
8	CLARK NMSD, LLC	NUVEDA (THE GREEN SOLUTION)	178.84	No
9	D LUX, LLC	D LUX	150.49	No
10	CN LICENSECO I, INC	CANA NEVADA	139.01	No
11	CARSON CITY AGENCY SOLUTIONS, LLC	CARSON CITY AGENCY SOLUTIONS	128.67	No

	CHURCHILL COUNTY				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No	
	NO APPLICATIONS RECEIVED				

	CLARK COUNTY- HENDERSON						
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No			
1	ESSENCE TROPICANA, LLC	ESSENCE	227.84	Yes			
2	NEVADA ORGANIC REMEDIES, LLC	THE SOURCE	222.99	Yes			
3	DEEP ROOTS MEDICAL, LLC	DEEP ROOTS HARVEST	222.49	Yes			
4	CHEYENNE MEDICAL, LLC	THRIVE	216.50	Yes			
5	GREENMART OF NEVADA NLV, LLC	HEALTH FOR LIFE	213.33	Yes			
6	CLEAR RIVER, LLC	KABUNKY	210.16	Yes			
7	QUALCAN, LLC	QUALCAN	209.66	No			
8	CIRCLE S FARMS, LLC	CIRCLE S	208.00	No			
9	WSCC, INC	SIERRA WELL	201.50	No			
10	VEGAS VALLEY GROWERS	KIFF PREMIUM CANNABIS	197.83	No			
11	TRNVP098, LLC	GRASSROOTS	196.49	No			
12	HARVEST of NEVADA, LLC	HARVEST	195.01	No			
13	RED EARTH, LLC	RED EARTH	194.67	No			
14	GRAVITAS NEVADA, LTD	THE APOTHECARIUM	194.66	No			
15	CLARK NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No			
16	NYE NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No			
17	FRANKLIN BIO SCIENCE NV, LLC	BEYOND/HELLO	190.66	No			
18	GREEN THERAPEUTICS, LLC	PROVISIONS	188.34	No			
19	NV 3480 PARTNERS, LLC	EVERGEEN ORGANIX	188.00	No			
20	SERENITY WELLNESS CENTER, LLC	OASIS CANNABIS	180.17	No			
21	GBS NEVADA PARTNERS, LLC	SHOW GROW	180.17	No			
22	CLARK NMSD, LLC	NUVEDA (THE GREEN SOLUTION)	178.84	No			
23	ROMBOUGH REAL ESTATE, INC	MOTHER HERB	178.83	No			
24	NEVADA GROUP WELLNESS, LLC	PRIME	178.18	No			
25	WELLNESS & CAREGIVERS OF NEVADA NLV, LLC	MMD	172.16	No			
26	GOOD CHEMISTRY NEVADA, LLC	GOOD CHEMISTRY	167.17	No			
27	TWELVE TWELVE, LLC	12/12 DISPENSARY	166.67	No			
28	GLOBAL HARMONY, LLC	TOP NOTCH	166.34	No			
29	JUST QUALITY, LLC	PANACA CANNABIS (HUSH)	163.83	No			
30	ETW MANAGEMENT GROUP, LLC	GASSERS	158.17	No			
31	GREEN LEAF FARMS, LLC	PLAYERS NETWORK	148.51	No			
32	LIBRA WELLNESS CENTER, LLC	LIBRA WELLNESS	134.17	No			
33	NYE FARM TECH, LTD	URBN LEAF	133.34	No			
34	GREENLEAF WELLNESS, INC	GREENLEAF WELLNESS	114.83	No			
35	GREENWAY HEALTH COMMUNITY, LLC	GREENWAY HEALTH COMMUNITY	87.33	No			

		CLARK COUNTY- LAS VEGAS	CLARK COUNTY- LAS VEGAS					
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No				
1	ESSENCE TROPICANA, LLC	ESSENCE	227.84	Yes				
2	NEVADA ORGANIC REMEDIES, LLC	THE SOURCE	222.66	Yes				
3	DEEP ROOTS MEDICAL, LLC	DEEP ROOTS HARVEST	222.49	Yes				
4	HELPING HANDS WELLNESS CENTER, INC	HELPING HANDS WELLNESS CENTER	218.50	Yes				
5	CHEYENNE MEDICAL, LLC	THRIVE	216.50	Yes				
6	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes				
7	GREENMART OF NEVADA NLV, LLC	HEALTH FOR LIFE	212.33	Yes				
8	CLEAR RIVER, LLC	KABUNKY	210.16	Yes				
9	WELLNESS CONNECTION OF NEVADA, LLC	CULTIVATE	208.67	Yes				
10	CIRCLE S FARMS, LLC	CIRCLE S	208.00	Yes				
11	QUALCAN, LLC	QUALCAN	207.33	No				
12	MM DEVELOPMENT COMPANY, INC	PLANET 13 / MEDIZIN	204.01	No				
13	3AP, INC	NATURE'S CHEMISTRY	202.83	No				
14	WSCC, INC	SIERRA WELL	200.83	No				
15	ACRES MEDICAL, LLC	ACRES DISPENSARY	199.84	No				
16	LAS VEGAS WELLNESS & COMPASSION CENTER	PEGASUS NV	199.83	No				
17	VEGAS VALLEY GROWERS	KIFF PREMIUM CANNABIS	197.83	No				
18	NATURAL MEDICINE, LLC	NATURAL MEDICINE	197.17	No				
19	TGIG, LLC	THE GROVE	196.67	No				
20	TRNVP098, LLC	GRASSROOTS	196.49	No				
21	TRNVP098, LLC	GRASSROOTS	196.49	No				
22	GRAVITAS HENDERSON, LLC	BETTER BUDS	196.01	No				
23	D.H. FLAMINGO, INC	THE APOTHECARY SHOPPE	196.00	No				
24	HARVEST of NEVADA, LLC	HARVEST	195.01	No				
25	RED EARTH, LLC	RED EARTH	194.67	No				
26	STRIVE WELLNESS OF NEVADA, LLC	STRIVE	194.00	No				
27	CLARK NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No				
28	NYE NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No				
29	FRANKLIN BIO SCIENCE NV, LLC	BEYOND/HELLO	190.66	No				
30	LIVFREE WELLNESS, LLC	THE DISPENSARY	190.17	No				
31	INYO FINE CANNABIS DISPENSARY, LLC	INYO	189.68	No				
32	TRYKE COMPANIES SO NV, LLC	REEF	189.33	No				
33	NV 3480 PARTNERS, LLC	EVERGEEN ORGANIX	188.00	No				
34	AGUA STREET, LLC	CURALEAF	188.00	No				
35	GREEN THERAPEUTICS, LLC	PROVISIONS	187.67	No				
36	POLARIS WELLNESS CENTER, LLC	POLARIS MMJ	184.84	No				
37	HIGH SIERRA HOLISTICS, LLC	HSH	184.83	No				

Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
38	GTI NEVADA, LLC	RISE	184.33	No
39	GTI NEVADA, LLC	RISE	184.33	No
40	GTI NEVADA, LLC	RISE	184.33	No
41	TRYKE COMPANIES RENO, LLC	REEF	182.00	No
42	SILVER SAGE WELLNESS, LLC	+ VIBES	181.99	No
43	CW NEVADA, LLC	CANOPI	181.67	No
44	TRYKE COMPANIES RENO, LLC	REEF	181.33	No
45	MATRIX NV, LLC SERENITY WELLNESS CENTER, LLC	MATRIX NV	180.67	No
46 47	GBS NEVADA PARTNERS, LLC	OASIS CANNABIS SHOW GROW	180.17 180.17	No
47	GBS NEVADA PARTNERS, LLC	SHOW GROW	180.17	No
49	ROMBOUGH REAL ESTATE, INC	MOTHER HERB	179.83	No
50	CLARK NMSD, LLC	NUVEDA (THE GREEN SOLUTION)	178.84	No
51	NEVADA GROUP WELLNESS, LLC	PRIME	178.18	No
52	WAVESEER OF NEVADA, LLC	JENNY'S DISPENSARY	176.34	No
53	NLVG, LLC	DESERT BLOOM WELLNESS CENTER	173.83	No
54	MEDI FARM IV, LLC	BLUM	173.50	No
55	NEVADA HOLISTIC MEDICINE, LLC	NHM	172.50	No
56	WELLNESS & CAREGIVERS OF NEVADA NLV, LLC	MMD	172.16	No
57	LUFF ENTERPRISES NV, INC	SWEET CANNABIS	171.33	No
58	THC NEVADA, LLC	CANNA VIBE	170.99	No
59	THE HARVEST FOUNDATION, LLC	THE HARVEST FOUNDATION	170.50	No
60	MALANA LV, LLC	MALANA LV	168.66	No
61	WEST COST DEVELOPMENT NEVADA, LLC	SWEET GOLDY	168.17	No
62	GOOD CHEMISTRY NEVADA, LLC	GOOD CHEMISTRY	167.17	No
63	TWELVE TWELVE, LLC	12/12 DISPENSARY	166.67	No
64	GLOBAL HARMONY, LLC	TOP NOTCH	166.34	No
65	NEVADA PURE, LLC	SHANGO LAS VEGAS	164.83	No
66 67	FSWFL, LLC NEVADA MEDICAL GROUP, LLC	GREEN HARVEST (Have A Heart) THE CLUBHOUSE DISPENSARY	164.83 164.32	No
68	JUST QUALITY, LLC	PANACA CANNABIS (HUSH)	163.83	No No
69	SOUTHERN NEVADA GROWERS, LLC	BOWTIE CANNABIS	163.17	No
70	GREENPOINT NEVADA, INC	CHALICE FARMS	160.84	No
71	ETW MANAGEMENT GROUP, LLC	GASSERS	158.17	No
72	NEVADA WELLNESS CENTER, LLC	NWC	156.51	No
73	ALTERNATIVE MEDICINE ASSOCIATION, LLC	ALTERNATIVE WELLNESS	154.67	No
74	YMY VENTURES, LLC	STEM	154.16	No
75	SOLACE ENTERPRISES	THALLO	153.67	No
76	MMOF VEGAS RETAIL, INC	MEDMEN	152.67	No
77	NULEAF INCLINE DISPENSARY, LLC	NULEAF	152.50	No
78	YMY VENTURES, LLC	STEM	152.16	No
79	NEVCANN, LLC	NEVCANN	150.67	No
80	NEVCANN, LLC	NEVCANN	150.67	No
81	GREEN LEAF FARMS, LLC	PLAYERS NETWORK	150.51	No
82	WENDOVERA, LLC	WENDOVERA	145.66	No
83 84	FOREVER GREEN, LLC RELEAF CULTIVATION, LLC	FOREVER GREEN RELEAF CULTIVATION	144.01 143.83	No No
85	HERBAL CHOICE, INC	HERBAL CHOICE	143.85	No
85	PARADISE WELLNESS CENTER, LLC	LAS VEGAS RELEAF	143.51	No
-	PURE TONIC CONCENTRATES, LLC	THE GREEN HEART	141.83	No
88	CN LICENSECO I, INC	CANA NEVADA	139.01	No
89	DIVERSIFIED MODALITIES MARKETING, LTD	DIVERSIFIED MODALITIES MARKETING	138.66	No
90	ECONEVADA LLC	MARAPHARM LAS VEGAS	137.33	No
91	ECONEVADA LLC	MARAPHARM LAS VEGAS	137.33	No
92	PHENOFARM NV LLC	MARAPHARM LAS VEGAS	137.33	No
93	DP HOLDINGS, INC	COMPASSIONATE TEAM OF LAS VEGAS	134.82	No
94	DP HOLDINGS, INC	COMPASSIONATE TEAM OF LAS VEGAS	134.82	No
95	LIBRA WELLNESS CENTER, LLC	LIBRA WELLNESS	134.17	No
96	NYE FARM TECH, LTD	URBN LEAF	133.34	No
97	NYE FARM TECH, LTD	URBN LEAF	133.34	No
98	BLOSSUM GROUP, LLC	HEALING HERB	125.50	No
99 100	GB SCIENCES NEVADA, LL RURAL REMEDIES, LLC	GB SCIENCES DOC'S APOTHECARY	125.00	No
100	GREENLEAF WELLNESS, INC	GREENLEAF WELLNESS	119.16 115.16	No No
101	RG HIGHLAND	TWEEDLEAF	113.00	No
102	NLV WELLNESS, LLC	ETHCX	109.67	No
				• 10 <sup>2</sup>

Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
CLARK COUNTY- MESQUITE				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
NO ALLOCATION				

	CLARK	COUNTY- NORTH LAS VEGAS		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	ESSENCE HENDERSON, LLC	ESSENCE	227.17	Yes
2	NEVADA ORGANIC REMEDIES, LLC	THE SOURCE	222.99	Yes
	DEEP ROOTS MEDICAL, LLC	DEEP ROOTS HARVEST	222.49	Yes
4 5	HELPING HANDS WELLNESS CENTER, INC LONE MOUNTAIN PARTNERS, LLC	HELPING HANDS WELLNESS CENTER ZENLEAF	218.50 214.50	Yes Yes
6	GREENMART OF NEVADA NLV, LLC	HEALTH FOR LIFE	214.50	No
7	COMMERCE PARK MEDICAL, LLC	THRIVE	212.33	No
8	CLEAR RIVER, LLC	KABUNKY	209.83	No
9	QUALCAN, LLC	QUALCAN	209.00	No
10	CIRCLE S FARMS, LLC	CIRCLE S	208.00	No
11	MM DEVELOPMENT COMPANY, INC 3AP, INC	PLANET 13 / MEDIZIN NATURE'S CHEMISTRY	204.01 202.83	No No
12	WSCC, INC	SIERRA WELL	202.85	No
14	ACRES MEDICAL, LLC	ACRES DISPENSARY	199.84	No
15	VEGAS VALLEY GROWERS	KIFF PREMIUM CANNABIS	198.50	No
16	NATURAL MEDICINE, LLC	NATURAL MEDICINE	197.17	No
17	TGIG, LLC	THE GROVE	196.67	No
18 19	TRNVP098, LLC	GRASSROOTS	196.49 196.01	No
20	GRAVITAS HENDERSON, LLC HARVEST of NEVADA, LLC	BETTER BUDS HARVEST	196.01	No No
20	D.H. FLAMINGO, INC	THE APOTHECARY SHOPPE	195.67	No
22	RED EARTH, LLC	RED EARTH	194.67	No
23	ZION GARDENS, LLC	ZION GARDENS	194.17	No
24	GREENSCAPE PRODUCTIONS, LLC	HERBAL WELLNESS CENTER	192.83	No
25	CLARK NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No
26 27	NYE NATURAL MEDICINAL SOLUTIONS, LLC LIVFREE WELLNESS, LLC	NUVEDA (THE GREEN SOLUTION) THE DISPENSARY	191.67 190.54	No No
27	FRANKLIN BIO SCIENCE NV, LLC	BEYOND/HELLO	190.54	No
28	INYO FINE CANNABIS DISPENSARY, LLC	INYO	190.55	No
30	TRYKE COMPANIES SO NV, LLC	REEF	189.33	No
31	FIDELIS HOLDINGS, LLC	PISOS	189.00	No
32	FIDELIS HOLDINGS, LLC	PISOS	189.00	No
33	GREEN THERAPEUTICS, LLC	PROVISIONS	188.67	No
34	NV 3480 PARTNERS, LLC	EVERGEEN ORGANIX	188.00	No
35 36	AGUA STREET, LLC POLARIS WELLNESS CENTER, LLC	CURALEAF POLARIS MMJ	185.50 185.17	No No
30	GTI NEVADA, LLC	RISE	184.33	No
38	MATRIX NV, LLC	MATRIX NV	181.00	No
39	SERENITY WELLNESS CENTER, LLC	OASIS CANNABIS	180.17	No
40	GBS NEVADA PARTNERS, LLC	SHOW GROW	180.17	No
41	ROMBOUGH REAL ESTATE, INC	MOTHER HERB	178.83	No
42	NEVADA GROUP WELLNESS, LLC WAVESEER OF NEVADA, LLC	PRIME JENNY'S DISPENSARY	178.18	No
43 44	NLVG, LLC	DESERT BLOOM WELLNESS CENTER	176.34 173.83	No No
45	WELLNESS & CAREGIVERS OF NEVADA NLV, LLC	MMD	172.16	No
46	THC NEVADA, LLC	CANNA VIBE	170.99	No
47	MALANA LV, LLC	MALANA LV	169.00	No
48	TWELVE TWELVE, LLC	12/12 DISPENSARY	166.67	No
	GLOBAL HARMONY, LLC	TOP NOTCH	166.34	No
50 51	EUPHORIA WELLNESS, LLC NEVADA MEDICAL GROUP, LLC	EUPHORIA WELLNESS THE CLUBHOUSE DISPENSARY	165.16 164.32	No No
51	SOUTHERN NEVADA GROWERS, LLC	BOWTIE CANNABIS	163.17	No
53	GREENPOINT NEVADA, INC	CHALICE FARMS	161.84	No
54	NEVADA WELLNESS CENTER, LLC	NWC	156.51	No
55	SOLACE ENTERPRISES	THALLO	153.67	No
56	PHYSIS ONE, LLC	LV FORTRESS	153.00	No
57	NULEAF INCLINE DISPENSARY, LLC	NULEAF	152.50	No
58 59	NEVCANN, LLC HEALTHCARE OPTIONS for PATIENTS ENTERPRISES, LLC	NEVCANN SHANG0	150.67 150.33	No No
60	PURE TONIC CONCENTRATES, LLC	THE GREEN HEART	130.33	No
61	WENDOVERA, LLC	WENDOVERA	145.66	No
62	RELEAF CULTIVATION, LLC	RELEAF CULTIVATION	143.83	No
63	HERBAL CHOICE, INC	HERBAL CHOICE	143.51	No
64	FOREVER GREEN, LLC	FOREVER GREEN	141.34	No
65 66	CN LICENSECO I, INC DIVERSIFIED MODALITIES MARKETING, LTD	CANA NEVADA DIVERSIFIED MODALITIES MARKETING	139.01	No
66	GREEN LEAF FARMS, LLC	PLAYERS NETWORK	138.66 137.51	No No
68	ECONEVADA LLC	MARAPHARM LAS VEGAS	137.31	No
69	PHENOFARM NV LLC	MARAPHARM LAS VEGAS	137.33	No
	LIBRA WELLNESS CENTER, LLC	LIBRA WELLNESS	134.17	No
71	BLOSSUM GROUP, LLC	HEALING HERB	125.50	No
72	LYNCH NATURAL PRODUCTS, LLC	LNP	124.00	No
73	RURAL REMEDIES, LLC	DOC'S APOTHECARY	120.16	No
74 75	NLV WELLNESS, LLC MM R&D, LLC	ETHCX SUNSHINE CANNABIS	109.67 64.66	No No
75	THOMPSON FARM ONE, LLC	GREEN ZONE	49.66	No
· · · ·				

	CLARK COUNTY- UNINCORPORATED CLARK COUNTY				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No	
1	ESSENCE TROPICANA, LLC	ESSENCE	227.84	Yes	
2	ESSENCE HENDERSON, LLC	ESSENCE	227.17	Yes	
3	NEVADA ORGANIC REMEDIES, LLC	THE SOURCE	222.66	Yes	
4	DEEP ROOTS MEDICAL, LLC	DEEP ROOTS HARVEST	222.49	Yes	
5	HELPING HANDS WELLNESS CENTER, INC	HELPING HANDS WELLNESS CENTER	218.50	Yes	
6	CHEYENNE MEDICAL, LLC	THRIVE	216.50	Yes	
7	GREENMART OF NEVADA NLV, LLC	HEALTH FOR LIFE	214.66	Yes	
8	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes	
9	COMMERCE PARK MEDICAL, LLC	THRIVE	212.16	Yes	
10	CLEAR RIVER, LLC	KABUNKY	210.16	Yes	
11	WELLNESS CONNECTION OF NEVADA, LLC	CULTIVATE	208.50	No	
12	CIRCLE S FARMS, LLC	CIRCLE S	208.00	No	
13	QUALCAN, LLC	QUALCAN	207.66	No	
14	MM DEVELOPMENT COMPANY, INC	PLANET 13 / MEDIZIN	205.67	No	
15	3AP, INC	NATURE'S CHEMISTRY	202.83	No	
16	WSCC, INC	SIERRA WELL	200.83	No	
17	LAS VEGAS WELLNESS & COMPASSION CENTER	PEGASUS NV	200.16	No	

Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
18	ACRES MEDICAL, LLC	ACRES DISPENSARY	198.67	No
19	NATURAL MEDICINE, LLC	NATURAL MEDICINE	197.17	No
20	VEGAS VALLEY GROWERS	KIFF PREMIUM CANNABIS	197.17	No
21	TGIG, LLC	THE GROVE	196.67	No
22	TRNVP098, LLC	GRASSROOTS	196.49	No
23 24	GRAVITAS HENDERSON, LLC D.H. FLAMINGO, INC	BETTER BUDS THE APOTHECARY SHOPPE	196.01 195.67	No No
24	HARVEST of NEVADA, LLC	HARVEST	195.07	No
26	RED EARTH, LLC	RED EARTH	195.00	No
27	GRAVITAS NV	THE APOTHECARIUM	194.66	No
28	ZION GARDENS, LLC	ZION GARDENS	194.17	No
29	GREENSCAPE PRODUCTIONS, LLC	HERBAL WELLNESS CENTER	192.83	No
30	CLARK NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No
31 32	CLARK NATURAL MEDICINAL SOLUTIONS, LLC NYE NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION) NUVEDA (THE GREEN SOLUTION)	191.67 191.67	No No
32	NYE NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No
34	FRANKLIN BIO SCIENCE NV, LLC	BEYOND/HELLO	190.66	No
35	LIVFREE WELLNESS, LLC	THE DISPENSARY	190.17	No
36	INYO FINE CANNABIS DISPENSARY, LLC	INYO	189.68	No
37	TRYKE COMPANIES SO NV, LLC	REEF	189.33	No
38	FIDELIS HOLDINGS, LLC	PISOS	189.33	No
39	FIDELIS HOLDINGS, LLC	PISOS	189.00	No
40	LVMC C&P, LLC GREEN THERAPEUTICS, LLC	CANNA COPIA PROVISIONS	188.50 187.67	No No
41 42	AGUA STREET, LLC	CURALEAF	187.67	NO
42	AGUA STREET, LLC	CURALEAF	186.50	No
44	CWNEVADA, LLC	CANOPI	184.34	No
45	TRYKE COMPANIES RENO, LLC	REEF	181.33	No
46	MATRIX NV, LLC	MATRIX NV	180.33	No
47	SERENITY WELLNESS CENTER, LLC	OASIS CANNABIS	180.17	No
48 49	GBS NEVADA PARTNERS, LLC	SHOW GROW	180.17	No
50	ROMBOUGH REAL ESTATE, INC CLARK NMSD, LLC	MOTHER HERB NUVEDA (THE GREEN SOLUTION)	179.50 178.84	No No
50	NEVADA GROUP WELLNESS, LLC	PRIME	178.18	No
52	WAVESEER OF NEVADA, LLC	JENNY'S DISPENSARY	176.34	No
53	NLVG, LLC	DESERT BLOOM WELLNESS CENTER	173.83	No
54	MEDI FARM IV, LLC	BLUM	173.50	No
55	WELLNESS & CAREGIVERS OF NEVADA NLV, LLC	MMD	172.16	No
56	LUFF ENTERPRISES NV, INC	SWEET CANNABIS	171.33	No
57 58	WEST COST DEVELOPMENT NEVADA, LLC GOOD CHEMISTRY NEVADA, LLC	SWEET GOLDY GOOD CHEMISTRY	168.17 167.17	No
59	TWELVE TWELVE, LLC	12/12 DISPENSARY	166.67	No
60	GLOBAL HARMONY, LLC	TOP NOTCH	166.34	No
61	NEVADA PURE, LLC	SHANGO LAS VEGAS	165.83	No
62	EUPHORIA WELLNESS, LLC	EUPHORIA WELLNESS	165.16	No
63	FSWFL, LLC	GREEN HARVEST (Have A Heart)	164.83	No
64	NEVADA MEDICAL GROUP, LLC	THE CLUBHOUSE DISPENSARY	164.32	No
65	JUST QUALITY, LLC SOUTHERN NEVADA GROWERS, LLC	PANACA CANNABIS (HUSH) BOWTIE CANNABIS	163.83	No
66 67	GREENPOINT NEVADA GROWERS, LLC	CHALICE FARMS	163.17 160.84	No No
68	ETW MANAGEMENT GROUP, LLC	GASSERS	158.17	No
69	NEVADA WELLNESS CENTER, LLC	NWC	155.18	No
70	YMY VENTURES, LLC	STEM	153.83	No
71	MMOF VEGAS RETAIL, INC	MEDMEN	152.67	No
72	NULEAF INCLINE DISPENSARY, LLC	NULEAF	152.50	No
73	NEVCANN, LLC	NEVCANN THE CREEN HEART	150.67	No
74 75	PURE TONIC CONCENTRATES, LLC WENDOVERA, LLC	THE GREEN HEART WENDOVERA	146.99 145.66	No No
76	NCMM, LLC	NCMM	143.66	No
77	NCMM, LLC	NCMM	144.16	No
78	RELEAF CULTIVATION, LLC	RELEAF CULTIVATION	143.83	No
79	HERBAL CHOICE, INC	HERBAL CHOICE	143.51	No
80	CN LICENSECO I, INC	CANA NEVADA	139.01	No
81	DIVERSIFIED MODALITIES MARKETING, LTD	DIVERSIFIED MODALITIES MARKETING	138.66	No
82 83	PHENOFARM NV LLC	MARAPHARM LAS VEGAS	137.33	No
83	GREEN LEAF FARMS, LLC DP HOLDINGS, INC	PLAYERS NETWORK COMPASSIONATE TEAM OF LAS VEGAS	135.84 134.82	No
85	LIBRA WELLNESS CENTER, LLC	LIBRA WELLNESS	134.82	No
86	NYE FARM TECH, LTD	URBN LEAF	133.34	No
87	GFIVE DISPENSARY, LLC	G5	128.83	No
88	BLOSSUM GROUP, LLC	HEALING HERB	125.50	No
89	GB SCIENCES NEVADA, LL	GB SCIENCES	125.00	No
90	KINDIBLES, LLC	AREA 51	117.50	No
91	KINDIBLES, LLC	AREA 51	117.50	No
92 93	KINDIBLES, LLC KINDIBLES, LLC	AREA 51 AREA 51	117.50 117.50	No No
93	NLV WELLNESS, LLC	ETHCX	117.50	No
95	GREENWAY MEDICAL, LLC	GREENWAY MEDICAL	109.07	No
96	MILLER FARMS, LLC	LUCID	88.66	No
	MM R&D, LLC	SUNSHINE CANNABIS	64.66	No

	DOUGLAS COUNTY				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No	
1	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes	
2	GREEN THERAPEUTICS, LLC	PROVISIONS	188.34	Yes	
3	POLARIS WELLNESS CENTER, LLC	POLARIS MMJ	184.84	No	
4	GREEN LEAF FARMS, LLC	PLAYERS NETWORK	148.51	No	
5	PURE TONIC CONCENTRATES, LLC	THE GREEN HEART	146.99	No	
6	WENDOVERA, LLC	WENDOVERA	145.66	No	
7	NCMM, LLC	NCMM	144.16	No	

		ELKO COUNTY		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	CHEYENNE MEDICAL, LLC	THRIVE	216.50	Yes
2	GREENMART OF NEVADA NLV, LLC	HEALTH FOR LIFE	213.53	No
3	QUALCAN, LLC	QUALCAN	209.66	No
4	HARVEST of NEVADA, LLC	HARVEST	195.01	No
5	JUST QUALITY, LLC	PANACA CANNABIS (HUSH)	163.83	No
6	WENDOVERA, LLC	WENDOVERA	145.66	No
7	H&K GROWERS, CORP	H&K GROWERS	125.83	No
8	LYNCH NATURAL PRODUCTS, LLC	LNP	124.00	No

Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
	B	SMERALDA COUNTY		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes
2	POLARIS WELLNESS CENTER, LLC	POLARIS MMJ	185.17	Yes
3	BLUE COYOTE RANCH, LLC	BLUE COYOTE RANCH	100.83	No

		EUREKA COUNTY		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes
2	EUREKA NEWGEN FARMS, LLC	EUREKA NEWGEN FARMS	97.67	Yes

	HUMBOLDT COUNTY				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No	
1	TRNVP098, LLC	GRASSROOTS	196.49	Yes	
2	PURE TONIC CONCENTRATES, LLC	THE GREEN HEART	146.99	Yes	
3	LYNCH NATURAL PRODUCTS, LLC	LNP	124.00	No	
4	RURAL REMEDIES, LLC	DOC'S APOTHECARY	119.16	No	
5	MILLER FARMS, LLC	LUCID	88.66	No	

		LANDER COUNTY		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes
2	TRNVP098, LLC	GRASSROOTS	196.49	Yes
3	HARVEST of NEVADA, LLC	HARVEST	195.01	No
4	DIVERSIFIED MODALITIES MARKETING, LTD	DIVERSIFIED MODALITIES MARKETING	138.66	No
5	RURAL REMEDIES, LLC	DOC'S APOTHECARY	119.16	No

LINCOLN COUNTY				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1 LOI	NE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes

Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
		LYON COUNTY		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	TRNVP098, LLC	GRASSROOTS	196.49	Yes
2	LIVFREE WELLNESS, LLC	THE DISPENSARY	190.17	No
3	HIGH SIERRA HOLISTICS, LLC	HSH	184.83	No
4	5SEAT INVESTMENTS, LLC	KANNA	162.00	No
5	GREEN LEAF FARMS, LLC	PLAYERS NETWORK	143.17	No
6	FOREVER GREEN, LLC	FOREVER GREEN	141.01	No
7	LYNCH NATURAL PRODUCTS, LLC	LNP	124.00	No
8	MILLER FARMS, LLC	LUCID	88.66	No
9	INTERNATIONAL SERVICES AND REBUILDING, INC	VOODOO WELLNESS	56.00	No

		MINERAL COUNTY		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes
2	TRNVP098, LLC	GRASSROOTS	196.49	Yes

		NYE COUNTY		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	NEVADA ORGANIC REMEDIES, LLC	THE SOURCE	222.99	Yes
2	GREENMART OF NEVADA NLV, LLC	HEALTH FOR LIFE	213.33	No
3	COMMERCE PARK MEDICAL, LLC	THRIVE	212.16	No
4	MM DEVELOPMENT COMPANY, INC	PLANET 13 / MEDIZIN	204.01	No
5	TGIG, LLC	THE GROVE	196.67	No
6	TRNVP098, LLC	GRASSROOTS	196.49	No
7	CLARK NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No
8	NYE NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No
9	LIVFREE WELLNESS, LLC	THE DISPENSARY	190.50	No
10	GREEN LIFE PRODUCTIONS, LLC	GREEN LIFE PRODUCTIONS	180.68	No
11	SERENITY WELLNESS CENTER, LLC	OASIS CANNABIS	180.17	No
12	CLARK NMSD, LLC	NUVEDA (THE GREEN SOLUTION)	178.84	No
13	GLOBAL HARMONY, LLC	TOP NOTCH	166.34	No
14	5SEAT INVESTMENTS, LLC	KANNA	161.67	No
15	NYE FARM TECH, LTD	URBN LEAF	133.34	No
16	NLV WELLNESS, LLC	ETHCX	109.67	No
17	MILLER FARMS, LLC	LUCID	88.66	No
18	MM R&D, LLC	SUNSHINE CANNABIS	64.66	No

Rank         Business Name         DBA/LOGO         Score         Conditional License           1         TRNVP098, LLC         GRASSROOTS         196.49         Yes	PERSHING COUNTY				
1 TENVERING LLC CEASSEQUES 106.40 Voc	Yes / No				
1 IRIVI1070, LLC GRASSROUIS 170.47 ICS					

		STOREY COUNTY		
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	TRNVP098, LLC	GRASSROOTS	196.49	Yes
2	PURE TONIC CONCENTRATES, LLC	THE GREEN HEART	146.99	Yes

	WHITE PINE COUNTY				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No	
1	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	Yes	
2	TRNVP098, LLC	GRASSROOTS	196.49	Yes	
3	DIVERSIFIED MODALITIES MARKETING, LTD	DIVERSIFIED MODALITIES MARKETING	138.66	No	

Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No		
WASHOE COUNTY- RENO           Rank         Business Name         DBA/LOGO         Score         Conditional License Yes / No						
Rank		DBA/LOGO	Score	Conditional License Yes / No		
1	ESSENCE TROPICANA, LLC	ESSENCE	227.84	Yes		
2	NEVADA ORGANIC REMEDIES, LLC	THE SOURCE	222.99	Yes		
3	DEEP ROOTS MEDICAL, LLC	DEEP ROOTS HARVEST	222.49	Yes		
4	CHEYENNE MEDICAL, LLC LONE MOUNTAIN PARTNERS, LLC		216.50	Yes		
5	· · · · · · · · · · · · · · · · · · ·	ZENLEAF	214.50	Yes		
6	GREENMART OF NEVADA NLV, LLC	HEALTH FOR LIFE	213.66	Yes		
7	COMMERCE PARK MEDICAL, LLC	THRIVE	212.16	No		
8	QUALCAN, LLC	QUALCAN	209.66	No		
9	WELLNESS CONNECTION OF NEVADA, LLC	CULTIVATE	208.33	No		
10	CIRCLE S FARMS, LLC	CIRCLE S	208.00	No		
11	MM DEVELOPMENT COMPANY, INC	PLANET 13 / MEDIZIN	204.01	No		
12	WSCC, INC	SIERRA WELL	201.50	No		
13	ACRES MEDICAL, LLC	ACRES DISPENSARY	199.84	No		
14	TGIG, LLC	THE GROVE	196.67	No		
15	TRNVP098, LLC	GRASSROOTS	196.49	No		
16	CLARK NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No		
17	NYE NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No		
18	FRANKLIN BIO SCIENCE NV, LLC	BEYOND/HELLO	190.66	No		
19	LIVFREE WELLNESS, LLC	THE DISPENSARY	190.50	No		
20	INYO FINE CANNABIS DISPENSARY, LLC	INYO	189.68	No		
21	GREEN THERAPEUTICS, LLC	PROVISIONS	188.34	No		
22	BIONEVA INNOVATIONS OF CARSON CITY, LLC	BIONEVA INNOVATIONS	187.67	No		
23	HIGH SIERRA HOLISTICS, LLC	HSH	184.83	No		
24	GTI NEVADA, LLC	RISE	184.33	No		
25	HIGH SIERRA CULTIVATION, LLC	HIGH SIERRA	183.33	No		
26	SERENITY WELLNESS CENTER, LLC	OASIS CANNABIS	180.17	No		
27	CLARK NMSD, LLC	NUVEDA (THE GREEN SOLUTION)	178.84	No		
28	ROMBOUGH REAL ESTATE, INC	MOTHER HERB	178.50	No		
29	NEVADA GROUP WELLNESS, LLC	PRIME	178.18	No		
30	WAVESEER OF NEVADA, LLC	JENNY'S DISPENSARY	175.67	No		
31	WELLNESS & CAREGIVERS OF NEVADA NLV, LLC	MMD	172.16	No		
32	THC NEVADA, LLC	CANNA VIBE	170.99	No		
33	HELIOS NV, LLC	HYDROVIZE	167.17	No		
34	MMNV2 HOLDINGS I, LLC	MEDMEN	166.83	No		
35	GLOBAL HARMONY, LLC	TOP NOTCH	166.34	No		
36	FSWFL.LLC	GREEN HARVEST (Have A Heart)	164.83	No		
37	NEVADA MEDICAL GROUP, LLC	THE CLUBHOUSE DISPENSARY	164.32	No		
38	GREENPOINT NEVADA, INC	CHALICE FARMS	159.84	No		
39	NEVADA WELLNESS CENTER, LLC	NWC	155.18	No		
40	NULEAF INCLINE DISPENSARY, LLC	NULEAF	152.50	No		
40	NEVCANN, LLC	NEVCANN	150.67	No		
42	D LUX, LLC	DLUX	149.83	No		
43	PURE TONIC CONCENTRATES, LLC	THE GREEN HEART	149.83	No		
43	CN LICENSECO I, INC	CANA NEVADA	139.01	No		
44	LIBRA WELLNESS CENTER, LLC	LIBRA WELLNESS	139.01	No		
45	H&K GROWERS, CORP	H&K GROWERS	134.17	No		
46	BLOSSUM GROUP, LLC	HEALING HERB	125.50	No		
48	LYNCH NATURAL PRODUCTS, LLC		124.00	No		
49	RURAL REMEDIES, LLC	DOC'S APOTHECARY	120.16	No		
50	NEVADA BOTANICAL SCIENCE, INC	VIGOR DISPENSARIES	115.34	No		
51	NV GREEN, INC	NV GREEN	105.84	No		
52	MILLER FARMS, LLC		88.66	No		
53	MM R&D, LLC	SUNSHINE CANNABIS	64.66	No		

WASHOE COUNTY- SPARKS				
Rank	Business Name	DBA/LOGO	Score	Conditional License Yes / No
1	ESSENCE HENDERSON, LLC	ESSENCE	227.17	Yes
2	NEVADA ORGANIC REMEDIES, LLC	THE SOURCE	222.99	No
3	LONE MOUNTAIN PARTNERS, LLC	ZENLEAF	214.50	No
4	GREENMART OF NEVADA NLV, LLC	HEALTH FOR LIFE	213.33	No
5	TGIG, LLC	THE GROVE	196.67	No
6	TRNVP098, LLC	GRASSROOTS	196.49	No
7	CLARK NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	192.01	No
8	NYE NATURAL MEDICINAL SOLUTIONS, LLC	NUVEDA (THE GREEN SOLUTION)	191.67	No
9	SERENITY WELLNESS CENTER, LLC	OASIS CANNABIS	180.17	No
10	CLARK NMSD, LLC	NUVEDA (THE GREEN SOLUTION)	178.84	No
11	ROMBOUGH REAL ESTATE, INC	MOTHER HERB	178.83	No
12	GREENPOINT NEVADA, INC	CHALICE FARMS	161.17	No
13	NULEAF INCLINE DISPENSARY, LLC	NULEAF	152.33	No
14	D LUX, LLC	D LUX	149.83	No
15	CN LICENSECO I, INC	CANA NEVADA	139.01	No
16	RURAL REMEDIES, LLC	DOC'S APOTHECARY	120.16	No

WASHOE COUNTY- UNINCORPORATED WASHOE				
Rank         Business Name         DBA/LOGO         Score         Conditional License Yes /				Conditional License Yes / No
NO ALLOCATION				

## **Amber Virkler**

Tommy Rayl <
Thursday, Aug
CCB Meetings
Public Comme

ommy Rayl <trayl178@gmail.com> hursday, August 6, 2020 10:20 PM CB Meetings Public Comment CCB

Honorable Michael Douglas Chairman Cannabis Compliance Board

Dear chairman Douglas and members of the CCB:

I am a 10 year Nevada resident who has found their home here and loves our great state. I have started a family here and raised my two young daughters in Henderson. I am proud to live in work in Nevada.

The Nevada state government is the gold standard in integrity and honor. We are the best in control and regulation of industries, taking care of the people, encouraging businesses big and small, and blazing trails in innovation.

I want to express my concern regarding item II and the proposed settlement for cannabis licensing. When the voters elected to bring cannabis into our community and our economy, we did so under the understanding that locals would be the stewards of these privileged licenses. That people of and from our great state would be the ones serving our people, helping craft our laws, and benefiting from the commerce of our citizens and guests.

It's evident that the DOT and its members failed the citizens of Nevada in the recent licensing task and run the risk of tarnishing the State's sterling reputation for fairness and integrity if this matter isn't handled with the upmost attention and thoroughness. Approving this settlement before all of the cards are on the table would stoop the CCB to the level of the very folks who have abused their power and are dishonoring the citizens who got them their power to begin with. Don't allow the people of our city to get pillaged and bullied by corporate juggernauts - do right by your neighbors.

What's right is right, and what is true is true. Please postpone any decisions until all discovery is complete and the board has had the opportunity to weigh all of the evidence before them in a public hearing. Standing for what is right and fair isn't for the faint of heart, it isn't for those who are easily influenced, but rather it is for those who believe in justice, honor, integrity, and principals that make our state the greatest of all fifty.

The Gaming Commission Board did it, and so can you.

All the best, Tommy Rayl

# **Amber Virkler**

From:	Sarah Barton <mainstreetcre@gmail.com></mainstreetcre@gmail.com>
Sent:	Friday, August 7, 2020 12:34 AM
То:	CCB Meetings
Subject:	August 7, 2020 - Public Comment to read to CCB please

Dear Board Members,

It appears that you are about to vote on a Settlement of extensive litigation over one of the worst cannabis licensing efforts since cannabis legalization started in the US. Even though it occured in 2018, 2 years later Nevadans are still dealing with the consequences of it.

As a result of how it was designed and handled, the State of Nevada wasted valuable taxpayer dollars; Nevadans lost 2 years worth of licensing fees and taxes that could've been collected and thousands of jobs that would've been created along the way.

I hope that I am wrong, however, it is likely that you will miss another opportunity today to do the right thing for the industry, for the state, for the consumers and patients, and for social justice and equity by only reshuffling the license allocations between a handful of applicants were able to fight but only if they had nearly unlimited legal resources.

The only way to resolve the mess created by the Department of Taxation in 2018 under the failed leadership of Jorge Pupo is to issue dispensary licenses to ALL the groups who met the minimum qualifications. There were only 127 different groups that applied with just 462 applications and the State of Nevada needs several hundred more dispensaries throughout our state. By comparison, the States of Colorado and Oklahoma have over a 1,000 operating dispensaries each and the cannabis market is very healthy in both states while contributing a very significant amount of taxes and license fees to the local and state budgets.

Las Vegas Medical Marijuana Association, which is one of the oldest industry groups in Nevada, has suggested for months in their public statements that the best way to resolve litigation and benefit the state's economic recovery post pandemic, is to issue every group a license who met basic qualifications. This will unleash a lot of capital from Nevada and out of state to generate thousands of new jobs while the state battles the highest unemployment in our history. New licenses to all the qualified applicants will create first construction jobs then permanent jobs.

I hope and pray that the Settlement that you may approve today is NOT going to only benefit a small group vs the industry and the State of Nevada at large.

I hope you will come up with a comprehensive solution to make the industry in Nevada more open, transparent, diverse, and competitive by issuing the dispensary licenses to all the suitable applicants who applied in the last round. Anything less than that gives unfair advantage to a very small group instead of an industry wide boost.

Nevada needs hundreds of dispensaries in order to bring diversity that is sorely lacking in our state since 2014 and make this a thriving industry that it can become if it is allowed to follow very successful licensing models in Colorado and Oklahoma. The definition of insanity is doing the same thing over and over again while expecting different results - that is what the Department of Taxation did since 2017. I hope that this esteemed board can bring the much needed change to Nevada cannabis industry.

Please don't approve the settlement that only benefits a small group versus the entire pool of 2018 applicants who met the qualifications and are standing by to invest lots of capital into our virus battered economy and create thousands of new jobs.

Thank you,

Sarah Barton Nevada Recovery Effort



Jared B. Kahn, Esq.\*

\*Admitted in Oregon and Nevada

9205 West Russell Rd., Suite 240 Las Vegas, NV 89148 TEL: (702) 708-2958 FAX: (866) 870-6758 Direct e-mail: jkahn@jk-legalconsulting.com

August 6, 2020

By Electronic Submission: CCBmeetings@ccb.nv.gov

Cannabis Compliance Board Chairman and Justice Michael Douglas, Esq. (Ret.) P.O. Box 1948 Carson City, NV 89701

# Re: CCB Hearing Date: August 7, 2020 Public Comment Submission: In Re DOT Litigation Settlement Agreement

Chairman Justice Douglas and Board Members:

As counsel on behalf of Helpings Hands Wellness Center, Inc., ("Helping Hands"), which is a settling defendant intervenor in the <u>In re DOT Litigation</u>, I am pleased with the opportunity to provide supporting comments for the <u>In Re DOT Litigation</u> settlement. At this stage, the Nevada Tax Commissioners issued a conditional approval subject to this Board's approval, to ensure any jurisdictional issues are appropriately addressed, and it is now appropriate for the Board to approve the Settlement Agreement in conjunction with its prior letter of support previously provided to the Nevada Tax Commission.

At the time of the 2018 application process, Helping Hands was only a cultivation/production cannabis licensee. Helping Hands was awarded three dispensary licenses in December 2018. The goal of the Helping Hands dispensaries has been and is to donate 70% of its profits to the affiliated non-profit of Dr. Florence Jameson, Volunteers in Medicine Clinic (which provides low income residents with free access to health care in our community) and to many other non-profits in the Southern Nevada community.

Helpings Hands is grateful for the Board's approval today to assist resolving this challenging case after the parties expended thousands of hours over the past year to settle this

matter. The Settling Defendants, and even the non-settling defendants, main desire was to achieve a global resolution of the <u>In Re DOT Litigation</u>, if it was possible. Extensive efforts have been made since the summer 2019 mediation that attempted numerous options for a global settlement– none of which would ultimately achieve agreement by the parties. The various global settlement options attempted to include the non-settling plaintiffs, however, the demands made by certain non-settling plaintiffs were uncompromising, and simply unreasonable and unrealistic – for instance, demanding more licenses than would have been available, or making demands that the rural county licenses be re-allocated to Clark County solely for TGIG Plaintiffs' benefit. It appeared difficult for the TGIG Plaintiffs to maintain the hypocrisy of seeking to delay the process through the litigation, while at the same time demanding, without compromise, the requirements of some TGIG Plaintiff Group clients' s desire to settle and obtain licenses.

Thereafter, an opportunity to explore a partial settlement of the case among certain reasonable settling defendants and certain reasonable settling plaintiff groups was pursued. The partial settlement proposal appeared enticing for the Settling Defendants for a variety of business and litigation strategy reasons. Therefore, after hundreds of hours exploring a partial settlement and the manner in which it would unfold, the Settlement Agreement before the Cannabis Control Board for approval was achieved.

A universal settlement with this many plaintiffs and defendants was in reality an unreasonable expectation and virtually impossible. To have as many parties to this settlement as has been achieved, should be in both the eyes of the Court and the State a position not only worthy of appreciation, but a position worthy of confirmation. The sincere efforts of the settling parties should be weighed against the insincerity of those who merely seek further delay and difficulty. After a year and a half of litigation and the delays in creating the jobs and opportunities for Las Vegas residents, with this settlement Helping Hands is pleased it will now be able to open its dispensary locations, support the tax revenues generated from cannabis sales and begin fulfilling its mission to provide financial support to the non-profit community of Southern Nevada, including the Jamesons' Volunteers in Medicine of Southern Nevada, the primary free and charitable healthcare clinic of Southern Nevada.

Sincerely,

JK LEGAL AND CONSULTING, LLC

JK:st

# Duke Fu 11430 Klavans Court Las Vegas. Nevada 89183 702-372-3690

August 6, 2020

Honorable Michael Douglas Chairman Cannabis Compliance Board State of Nevada

Via-email

Dear Chairman Douglas and members of the CCB,

I have been in the Nevada cannabis industry since 2014. I left my nuclear medicine position in order to participate in the program because I believe that Cannabis is medicine. My company, Green Therapeutics, has been what we believe to be one of the best operators in Nevada. During this last round of licensing we recieved a dispensary license in Douglas County. Despite that we were plantifs because we felt the selection process was unfair. We believe that certain companies had more advantages than others. We believe that there needs to be a global settlement not individual settlements because it strikes at the heart of establishing a merit based process. It's not fair to selectively benefit certain groups in the settlement because it is the same issue why the lawsuits happened in the first place. I hope that you do not approve of a partial settlement that is beneficial to selective groups. I hope that we work together to have a solution that represents the interest of all parties involved.

Sincerely,

Duke Fu



**ATTORNEYS AT LAW** 

VIA E-MAIL ONLY

August 6, 2020

Cannabis Compliance Board 555 E. Washington Ave., Suite 4200 Las Vegas, Nevada 89101 Email: CCBMeetings@ccb.nv.gov

To Executive Director Klimas and the Members of the Cannabis Compliance Board:

I am writing on behalf of my client, GreenMart of Nevada NLV, LLC ("GreenMart"), to urge you to approve the settlement approved on July 31, 2020, by the Nevada Tax Commission in the case of *In re D.O.T. Litigation*, Case No. A-19-787004-B, pending in the Eighth Judicial District Court.

GreenMart is one of the settling parties in this matter. During the 2018 recreational dispensary license application process, GreenMart was awarded four conditional dispensaries licenses. Following the initiation of several court actions against the Department of Taxation, GreenMart, along with several other successful applicants, intervened in those actions to defend the impartial and numerically scored competitive bidding process used by the Department in awarding dispensary licenses.

The litigation over the 2018 application process has been dragging on for over a year and a half and has cost the State potentially millions of dollars in lost tax revenues that are sorely need in this time of economic crisis. If the CCB approves this settlement, GreenMart and the other successful applicants who have been prevented from opening recreational dispensaries will be able to open retail dispensaries that will create jobs and generate tax revenue.

The settlement agreement you are considering today is the product of months of effort by parties on both sides of the *In re D.O.T. Litigation* matter to resolve their disputes so that Nevada's cannabis industry can continue to grow and provide Nevadans with employment, tax revenues, and access to safe, legal recreational cannabis products.

Sincerely,

Margaret A. McLetchie

Margaret A. McLetchie

My name is Dr Nick Spirtos

The duplicity associated with this application process is only exceeded by the efforts of some members of the tax commission and the attorney general's office to defend these egregious acts. 18 months ago I stood before the tax commission detailing the changes made in the application that directly countermanded the will of the people in Nevada as expressed in question 2. In Question 2, NRS 453D and NAC 453 D a physical address is required address for their proposed retail location ( either owned or secured by applicant with a lease) and that all owners be identified and vetted. Without a physical address how could a score be given for impact on the community? How can a security plan be evaluated? Did the applicants that used the same PO BOX all receive the same scores? Here's the truth Thrive and its sister companies, Essence Tropicana and Essence Henderson and the Source all using a post office box received almost perfect scores for "building plans and details, transportation plans, security plans, and the impact on the community" because we all know location affects none of those things. Furthermore, to prevent monopolistic behavior the NAC spells out that the Department will ensure, in a county whose population is 100,000 or more, that the Department does not issue, to any person, group of persons or entity, the greater of:

(a) One license to operate a retail marijuana store; or

(b) More than 10 percent of the licenses for retail marijuana stores allocable in the county.

The Thrive, Essence and the Source groups some using different names but the same group of people were granted more than 10% of the allocable licenses in a county but somehow this was overlooked by the powers that be.

For your entertainment and to demonstrate how flawed the proess was our application was 1700 pages long and the scorers claimed to have read it in a littler under 4 hours each....Unbelievable > 400 pages an hr.! Chairman DuVald initially stated he would put these matters on the agenda. Later he claimed it was for the courts to decide and now he wants to step in at the last minute without giving the matter a fair hearing. Please don't further embarass the State of Nevada by allowing this "partial settlement" to benefit those who did not follow the rules.Nevada law was violated. Approving this will set a horrible example and I hope you will see that this flawed process needs to be overturned not upheld.

Thank you

# **Amber Virkler**

From:	Bult, Adam K. <abult@bhfs.com></abult@bhfs.com>
Sent:	Friday, August 7, 2020 7:26 AM
То:	CCB Meetings
Subject:	Aug 7, 2020 Public Comment
Attachments:	Wendel Ethics Opinion 080620.pdf

Dear Board Members-

Please find the attached letter from Bradley Wendel on behalf of the Settling Parties for public comment at today's CCB Meeting.

Thank you in advance for your consideration.

AKB

## Adam K. Bult

Brownstein Hyatt Farber Schreck, LLP 100 North City Parkway, Suite 1600 Las Vegas, NV 89106 702.464.7077 tel ABult@BHFS.com

STATEMENT OF CONFIDENTIALITY & DISCLAIMER: The information contained in this email message is attorney privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this email is strictly prohibited. If you have received this email in error, please notify us immediately by calling (303) 223-1300 and delete the message. Thank you.



**W. Bradley Wendel** Edwin H. Woodruff Professor of Law

108 Myron Taylor Hall Ithaca, New York 14853-4901 Phone / 607.255.9719 wbw9@cornell.edu

## August 6, 2020

Cannabis Compliance Board Chairman and Justice Michael Douglas, Esq. (Ret.) P.O. Box 1948 Carson City, NV 89701

Re: In re D.O.T. Litigation, Case No. A-19-787004-B

Dear Chairman Douglas:

I am a tenured full Professor of Law and the Associate Dean for Academic Affairs at Cornell Law School in Ithaca, New York. My primary area of teaching and research specialization is legal ethics, professional responsibility, and the law governing lawyers. I am a co-editor of a widely adopted law school casebook, Hazard, Koniak, Cramton, Cohen & Wendel, The Law and Ethics of Lawyering. I was retained by certain of the Settling Parties in the <u>In Re DOT</u> action to review allegations that some parties have made about the settlement negotiations before you this morning. As part of this process I reviewed the Settling Parties' fully executed Settlement Agreement, the filings related to a recent Temporary Restraining Order and Preliminary Injunction filed by certain non-settling parties, and an insinuation by non-settling parties' counsel that somehow the Attorney General may have committed ethical violations in negotiating terms of a partial settlement of the matter.

While not fully outlined by accusing counsel, the criticism from the non-settling parties appears to be that because the State is involved, a global resolution is required or the settlement is unethical. My understanding of this litigation is that multiple Plaintiffs filed suit against the State based on its handling of the 2018 application process to allocate retail cannabis dispensary licenses. As the matter proceeded towards trial, certain parties elected to settle their dispute after many months of mediations, meetings regarding settlement in front of the Department of Taxation, and thousands of hours of negotiations. The non-settling parties were included in these negotiations but were unable to reach suitable settlement terms with other parties and the State. Now, because these non-settling parties did not agree to a settlement that gave them everything they want, they have alleged collusion and ethical violations against the State and/or settling parties.

As a general matter, in multi-party civil litigation, partial settlements are not only routine, but an important part of helping to settle the matters more globally. That a certain party(ies) decides to limit exposure or costs to accept less than it might hope to obtain at trial, is Litigation 101 and an important part of the process that allows parties to resolve litigation on their own terms, without being extorted by holdouts who make unreasonable demands in order to have their wishes met. The State and settling parties have negotiated for many months to craft a settlement that resolves their claims and limits exposure from an ongoing trial. The non-settling parties have been well aware of the idea of settlement for over a year, and the possibility of settlement was presented to the Nevada Tax Commission in a public meeting in March 2020 (when the Tax Commission appointed a representative to negotiate the terms of any potential settlement). And the Settlement Agreement itself was made public on the very day it was fully executed. This process is consistent with my understanding of resolving civil litigation with a public body in Nevada and every other State.

While the threats of ethics violations have only been hinted at, the criticism appears to stem from the idea that if every Plaintiff is not included in a settlement, then the process must be collusive, secret or unfair. This is not only baseless because the history of this matter evidences several mediations including one taking place earlier this week on August 4, 2020, but would directly undermine the very idea of settlement in civil litigation matters where parties get to weigh the strengths and weaknesses of certain litigants' position in a case and make decisions accordingly. Parties should not be precluded from settling their particular claims merely because other parties demand unreasonable resolutions and try to extract terms under threat of holding up the rest of the settlement. There are legal procedures for addressing partial settlements, and the court in this case would be able to consider any issues relating to the procedure for a settlement of less than all claims being alleged. Here, the settling parties and the State have made their own strategic decisions and moved forward with settlement.

Finally, the non-settling parties appear to be alleging that because the State is resolving portions of the litigation to the benefit of certain settling parties, that it colluded with them. That is simply false. Oftentimes, when a party settles there are conditions to that settlement in order to effectuate the settlement terms and resolve those portions of the suit. Having reviewed the Settlement Agreement, I see nothing out of the ordinary for settlement negotiations or such that would rise to any ethical violations on behalf of the Attorney General or any other party to the Settlement Agreement.

Very truly yours,

W. Bradley Wendel Edwin H. Woodruff Professor of Law

Tisha R. Black James L. Wadhams

C. JOSEPH GUILD III J. RUSTY GRAF

BRIGID M. HIGGINS



Mark T. Lounsbury Jesse A. Wadhams Christopher V. Yergensen

> Sean T. Higgins of counsel

August 6, 2020

Sent via email: CCBmeetings@ccb.nv.gov

Cannabis Compliance Board State of Nevada PO Box 1948 Carson City, NV 89701

Dear Justice Douglas and Distinguished Members of the Cannabis Compliance Board:

The undersigned, on behalf of its client, Clear River, LLC, dba Nevada Made Marijuana ("<u>Nevada</u> <u>Made Marijuana</u>"), respectfully submits this correspondence for consideration and inclusion as part of the record and public comment in regards to the singular item currently on calendar before the Cannabis Compliance Board of Nevada ("<u>Board</u>") for Friday, August 7, 2020. Specifically, we write for this esteemed Board's consideration regarding a settlement agreement proposed by a portion of the plaintiffs and a portion of the enjoined defendants involved in that collection of cannabis related cases pending in the Eighth Judicial District Court styled as *In Re: D.O.T. Litigation* ("<u>Partial Settlement Agreement</u>").

Black & Wadhams (formerly Black & LoBello) represents Nevada Made Marijuana in the *In Re D.O.T. Litigation* ("DOT Litigation") and, prior thereto, through each and every cannabis application process held in Nevada since 2015. Most recently, Nevada Made Marijuana was awarded three (3) additional conditional licenses pursuant to the 2018 competitive application process. As a result of its application success, Nevada Made Marijuana has spent considerable resources in the DOT Litigation advocating on behalf of the state's application and scoring process as well as defending against the plaintiffs' call for Nevada Made's most recently awarded licenses.

By way of explanation, Nevada Made Marijuana is a successful cannabis establishment operator. It is the holder and operator of twelve (12) separate marijuana establishment licenses earned as a result of the competitive licensing process conducted in this state since the inception of Nevada's commercial cannabis program. Given this history, we are respectful of the many hardships and trials Nevada's regulators and entrepreneurs have endured in bringing the nascent cannabis market safely and thoughtfully to the Nevada community. Furthermore, and throughout this process, we have been benefitted by a transparent and collegial cooperation with our varying regulators and competitors and look forward in continuing in such a relationship after the DOT Litigation has concluded. Accordingly, and as the comments made herein reflect, let us be clear that Nevada Made Marijuana remains committed to the best interests of the cannabis community and Nevada at large.

Importantly, Nevada Made Marijuana was one of the five (5) conditional licensee recipients that was NOT enjoined pursuant to the Honorable Judge Gonzales' Preliminary Injunction Order in the DOT Litigation. Irrespective of this fact, Nevada Made Marijuana has remained consistent in its efforts to assist and participate in a global settlement of the pending litigation. Though a global settlement has not been

Cannabis Compliance Board State of Nevada August 6, 2020 Page 2 of 2

achieved, we are pleased that a portion of the parties have negotiated a partial settlement that is befitting of their position and concerns regarding the litigation. Because Nevada Made Marijuana is not a party to the Partial Settlement Agreement, we raise the following two points for your consideration.

To begin and as articulated in Deep Roots' correspondence to this Board, Nevada Made Marijuana takes umbrage with any particular benefit bestowed upon the Settling Parties (by authoritative bodies or others that govern the cannabis industry) if such benefits are not delivered with transparency and in parity to the Non-Settling Parties. The promotion of marked favoritism, of any sort, can only serve to undermine Nevada's cannabis integrity and introduces a necrotizing element to the competitive marketplace. As such, it should be stricken from the Partial Settlement Agreement or amended. As an alternative, the Board may consider altering the language to include the extension of such benefits to ALL recipient licensees as suggested in Deep Roots' submitted correspondence.

In addition, Nevada Made Marijuana respectfully requests that the Board review and consider removing Section 2 of the proposed Partial Settlement Agreement which condones the issuance of a new and non-existent Henderson dispensary license ("<u>Synthetic License</u>"). Pursuant to the proposed agreement, the Synthetic License is to be distributed to a chosen member of the Settling-Parties. The creation of this Synthetic License is not only counter-intuitive, as it does not ensure that the Nevada is awarding licenses to vetted and deserving candidates, it creates a precedent that an unsuccessful applicant may have the expectation that a license can be made of whole cloth simply by filing a lawsuit against the state of Nevada. In addition to a complete lack of authority to create such a license, the Partial Settlement Agreement authorizes the issuance of this Synthetic License outside of the competitive licensing process and without any further evaluation of its selected recipient.

As the holder of an operating Henderson Dispensary License and the holder of an awarded conditional Henderson Dispensary License, Nevada Made Marijuana objects to the unilateral decision by non-awarded parties to impact the Henderson market with a license that has not been authorized by the legislature, contemplated by the business community of Henderson or expected by the parties that have a current and significant investment in the Henderson Cannabis market such as Nevada Made Marijuana. To the extent that the creation of the Synthetic License expands the licensee pool without further investigation of the licensed party and dilutes the market place without authority for its existence, Nevada Made Marijuana respectfully requests that this Board strike this portion of the Partial Settlement Agreement or amend the same to allow all parties to apply through the competitive bidding process.

While Nevada Made Marijuana commends the Settling Parties for achieving its proposed Partial Settlement Agreement, we feel it imperative to repeat the concerns expressed by Deep Roots and bring to the attention of the Board our concerns with the creation of the Synthetic License. We are certain that a thoughtful settlement of the controversy at bar is in the best interest of all affected parties and thank you for the opportunity to be heard on these matters.

Respectfully, **BLACK & WADHAMS** 

Tisha Black, Esq.

# **Amber Virkler**

From:	Clarence Gamble <clarence@ramoslaw.com></clarence@ramoslaw.com>
Sent:	Friday, August 7, 2020 7:59 AM
То:	CCB Meetings
Subject:	Consideration of the Proposed Settlement Agreement Approved by the Nevada Tax Commission
Attachments:	Waller v Financial Corp of America partial settlement.pdf

Hon. Michael Douglas, Dennis Neilander and Jerrie Merritt:

I represent Rural Remedies, LLC ("Rural"), one of the unsuccesful applicants in the 2018 recreational marijuana process, and also a litigant in the case of In Re Department of Taxation litigation. Rural is not participant to the partial settlement agreement currently before the Cannibas Control Board for approval.

While Rural is in favor of a global resolution of the ongoing litigation, the proposed partial resolution will have the effect of removing any appreciable remedy the non settling litigants are seeking in their action currently being tried before the Court. Rural's primary allegation, and that of many of the similarly situated unsuccesful applicants is that the Department of Taxation acted in violation of the U.S. and Nevada State Constitution by the arbitrary and capricious administration of the 2018 recreational marijuana application. Rural and many other unsuccessful applicants are seeking the district court's judgment vacating the award of licenses and remanding for a readministration of the process in compliance with the law.

In deliberating whether to approve of this proposed settlement, I would ask that the Board take into consideration the attached decision from the Ninth Circuit Court of Appeals, *Waller v Financial Corp*, which does provide standing to non-settling defendants to object to a proposed partial settlement if legal prejudice would inure to the non settling defendants. It is Rural's position that this proposed settlement would prejudice Rural in the manner articulated above.

Thank you in advance for your consideration of my comments on behalf of Rural Remedies, LLC.

Sincerely,



Clarence Gamble Licensed Attorney in Colorado and Nevada



10190 Bannock Street Suite 200 Northglenn, CO 80260 <u>www.ramoslaw.com</u>



(f) 🕲 in 🎔

KeyCite Yellow Flag - Negative Treatment Declined to Follow by Getty Oil Co. v. Department of Energy, Temp.Em.App., October 14, 1988

828 F.2d 579 United States Court of Appeals, Ninth Circuit.

John L. WALLER, et al., Plaintiff-Appellee, v.

> FINANCIAL CORPORATION OF AMERICA, Defendant-Appellee,

and

Arthur Anderson & Co., Intervenor-Appellant. Nessim HUSNI, et al., Plaintiffs-Appellees,

#### v.

FINANCIAL CORPORATION OF

AMERICA, Defendant-Appellee,

and

Arthur Anderson & Co., Intervenor-Appellant.

Nos. 86-6028, 86-6034.

Argued and Submitted Jan. 6, 1987.

Decided Sept. 22, 1987.

## **Synopsis**

Shareholders brought action against corporation, several of its officers, and its accountant, and accountant moved to intervene as of right and to object to partial settlement with corporation. The United States District Court for the Central District of California, Terry J. Hatter, Jr., J., denied motion and approved settlement and appeal was taken. The Court of Appeals, Poole, Circuit Judge, held that: (1) corporation's accountant had sufficient interest in litigation to permit intervention as of right, and (2) accountant did not have standing to object to proposed partial settlement in securities fraud action against its client.

Affirmed in part, reversed in part and remanded.

West Headnotes (7)

[1] Compromise, Settlement, and **Release**  $\leftarrow$  Views of **parties**, claimants, or class members; opposition or approval Nonsettling **party** does not necessarily have standing to object to partial settlement.

25 Cases that cite this headnote

#### Federal Courts 🤛 Compromise and [2] Settlement

Denial of motion to establish standing to object to settlement presents mixed question of law and fact which Court of Appeals reviews de novo.

8 Cases that cite this headnote

#### [3] Federal Civil Procedure 🤛 Particular Intervenors

Corporation's accountant had sufficient interest in litigation brought against corporation stemming from allegedly inaccurate financial statements to allow accountant to intervene as of right. Fed.Rules Civ.Proc.Rule 24(a)(2), 28 U.S.C.A.

8 Cases that cite this headnote

#### [4] Compromise, Settlement, and **Release** $\leftarrow$ Views of **parties**, claimants, or

class members; opposition or approval

Recognized exception to general principle barring objections to partial settlement by nonsettling defendant allows nonsettling defendant to object where it can demonstrate that it will sustain some formal legal prejudice as a result of settlement.

118 Cases that cite this headnote

#### Compromise, Settlement, and [5] **Release** $\leftarrow$ Views of **parties**, claimants, or class members; opposition or approval

WESTLAW © 2020 Thomson Reuters. No claim to original U.S. Government Works.

## 56 USLW 2251, Fed. Sec. L. Rep. P 93,397, 9 Fed.R.Serv.3d 92

Nonsettling defendant has standing to object to **partial settlement** which purports to strip it of legal **claim** or cause of action, including action for indemnity or contribution.

42 Cases that cite this headnote

## [6] Privileged Communications and Confidentiality - Common interest doctrine; joint clients or joint defense

Under joint defense privilege, which is extension of attorney-client privilege, communications by client to his own lawyer remain privileged when lawyer subsequently shares them with codefendants for purpose of common defense.

56 Cases that cite this headnote

#### [7] Compromise, Settlement, and

# **Release** $\leftarrow$ Views of **parties**, claimants, or class members; opposition or approval

Settlement agreement between shareholders and corporation which pledged corporation to cooperate with shareholders in prosecuting class, derivative and direct actions against corporation's accountant, which pledged to provide corporation with share in proceeds of such action, and which specified that neither corporation nor shareholders could settle respective actions against accountant without other's approval did not compromise accountant's legal rights under joint defense agreement or privilege, so as to confer standing on accountant to object to partial settlement on ground that formal legal prejudice would be suffered by accountant due to disclosure of privileged communications.

## 21 Cases that cite this headnote

#### **Attorneys and Law Firms**

**\*580** Stuart L. Kadison, Michael C. Kelley and Thomas H. Keeling, Los Angeles, Cal., for intervenor-appellant.

Wesley G. Howell, Jr. and Patrice I. Kopistansky, Los Angeles, Cal., for defendant-appellee Financial Corp. of America.

George C. Zachary, Walter S. Weiss, John J. Stumreiter and James Y. Leong, Beverly Hills, Cal., David J. Bershad, Virginia A. LoPreto, San Diego, Cal., and Edward Labaton, Joseph Sternberg and Stuart D. Wechsler, New York City, for plaintiffs-appellees Waller and Husni, et al.

Appeal from the United States District Court for the Central District of California.

Before KENNEDY, SCHROEDER and POOLE, Circuit Judges.

#### Opinion

#### POOLE, Circuit Judge:

This appeal arises out of two consolidated Rule 10b– 5 class action lawsuits brought by shareholders against Financial Corporation of America (FCA), several of its officers and directors, and its accountant, Arthur Anderson & Co. (Anderson). Plaintiffs reached a **settlement** agreement with FCA alone, in parallel actions filed for the purpose of expediting the **settlement**. Anderson **sought** to object to the **settlement** by filing a motion "to establish limited standing to object to the proposed **settlement**." The district court denied Anderson's motion and approved the **settlement**. We view Anderson's motion as a motion to both intervene as a matter of right and object to the **settlement**. We hold that while Anderson should have been granted intervenor status, it did not have standing to object to the **settlement** between plaintiffs and FCA.

#### FACTS

On May 2, 1983 John L. Waller sued FCA and its then chief executive officer on behalf of a class of buyers of FCA common stock, alleging violations of federal securities laws and pendant state law **claims** (*Waller I*). The **claims** were based on the dissemination of allegedly inaccurate financial statements for 1982. Anderson and other officers and directors were added subsequently by amendments.<sup>1</sup> In August 1984, following a restatement of FCA's financial statements, other plaintiffs filed a series of lawsuits<sup>2</sup> that were later consolidated into a single action (*Husni I*).<sup>3</sup>

On April 7, 1986, at a joint status conference, plaintiffs and FCA informed the district court that they had agreed in principle to settle *Waller I* and *Husni I*. The **settlement** did not purport to affect the plaintiffs' **claims** against Anderson and the FCA officers and directors or cross-**claims** among Anderson, the individual defendants, and FCA. The court was told that a condition of the **settlement** was an expansion of the classes.<sup>4</sup> Counsel for Anderson declined to consent to the proposed amendments. In an effort to expedite matters, the classes suggested filing new, separate actions against FCA only, defining the classes as proposed by the **settlement** but otherwise substantially identical to the original actions. The district court approved this procedure and on April 10, 1986 the new law suits (*Waller II* and *Husni II*) were filed.

The settlement was signed by FCA and the classes on April 11, 1986. Under its provisions, FCA agreed to pay at least \$32 million to the classes in cash or stock. FCA also pledged to "co operate" in the prosecution of actions against Anderson and the individual defendants. In addition, FCA and plaintiffs agreed to share in the proceeds of the ongoing, unsettled actions \*581 according to a specified formula, with FCA's share to be approximately one-third. FCA also agreed to assert claims against Anderson and certain FCA officers and directors, and both FCA and plaintiffs pledged not to settle their respective suits without the prior approval of the other.

At a hearing on April 14, 1986 the district judge gave preliminary approval to the settlement. The court instructed Anderson to file a motion to establish standing if it wished to present objections to the settlement.<sup>5</sup> In compliance with the court's directive Anderson filed a motion on May 9, 1986 to "Establish Arthur Anderson & Co.'s Limited Standing to Object to Proposed Settlement." The motion alleged that the proposed settlement would adversely affect Anderson's formal legal rights by requiring FCA to "cooperate" with plaintiffs in the ongoing litigation and share in the proceeds obtained therefrom. Anderson contended that this arrangement would require FCA to breach a joint defense agreement entered into in June 1985 by FCA, Anderson and the other defendants in the original Waller and Husni actions. The purpose of the agreement was to protect privileged and confidential information exchanged in the course of the case preparation. The agreement provided that (1) privileged communications would remain privileged when communicated to other clients or counsel, (2) defendants who are dismissed or settle would continue to protect the confidentiality of "joint defense information", (3) specific

enforcement or **injunction** are the appropriate remedies to compel performance, and (4) federal law governing the attorney-client work product privilege would govern. There was a further agreement to toll the statute of limitations with respect to any **claims** the defendants had against one another arising out of these proceedings. Anderson's motion was denied by the district court on June 5, 1986. Anderson timely appealed.

On July 3, 1986 a motions panel of this court construed the district court's order of June 5 as an order denying a petition to intervene as of right under Fed.R.Civ.P. 24(a) (2) and denied Anderson's motion to stay the upcoming **settlement** hearing. <sup>6</sup> The panel did, however, grant motions for expedited consideration and consolidation of the two cases.

At the hearing held July 7, 1986, the district court approved the **settlement** as provided by Fed.R.Civ.P. 23(e).

## DISCUSSION

[1] As the motions panel held, Anderson's motion to "establish standing" may be construed as a petition to intervene **\*582** as of right. By referring to Anderson as a "**party**" and in the course of its instructions, *supra* n. 5, the district court may have inadvertently misled Anderson into thinking that it was already a non-settling defendant for purposes of *Waller II* and *Husni II*. Anderson's motion did not merely **seek** to intervene, however. It also **sought** standing to object to the proposed **settlement**. A non-settling **party** does not necessarily have standing to object to a **partial settlement**. *See infra* at 582–583. We therefore construe Anderson's motion as first a petition to intervene and second as a motion for standing to object.

## **Standard of Review**

[2] As discussed above, Anderson's motion sought both to intervene and to establish its standing as a non-settling party to offer objections to the settlement. An order denying intervention as of right is subject to *de novo* review. U.S. v. Stringfellow, 783 F.2d 821, 825 (9th Cir.1986); U.S. v. \$129,374 in U.S. Currency, 769 F.2d 583, 585 (9th Cir.1985). The denial of a motion to establish standing to object to a settlement presents a mixed question of law and fact which we review *de novo*. U.S. v. McConney, 728 F.2d 1195, 1202

56 USLW 2251, Fed. Sec. L. Rep. P 93,397, 9 Fed.R.Serv.3d 92

(9th Cir.) (en banc), *cert. denied*, 469 U.S. 824, 105 S.Ct. 101, 83 L.Ed.2d 46 (1984).

#### Intervention

[3] A party may intervene as of right if it satisfies the fourpart test formulated by this circuit on the basis of Fed.R.Civ.P. 24(a)(2):

(1) The party's motion must be timely;
(2) the party must assert an interest relating to the property or transaction which is the subject of the action; (3) the party must be so situated that without intervention the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and (4) the party's interest must be inadequately represented by the other parties.

#### County of Fresno v. Andrus, 622 F.2d 436, 438 (9th Cir.1980).

Anderson's motion was timely and there is no reason to believe that the **parties** to *Waller II* and *Husni II* represent Anderson's interests. The extent of Anderson's interest and the impairment of that interest—the second and third factors are closer questions to which we now turn.

This court has "rejected the notion that Rule 24(a)(2) requires a specific legal or equitable interest." *Id. See also Blake v. Pallan*, 554 F.2d 947, 952 (9th Cir.1977). We have noted that the "interest test" is "primarily a practical guide to disposing of lawsuits." *County of Fresno*, 622 F.2d at 438 (quoting *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C.Cir.1967)). As a result, "Rule 24 traditionally has received a liberal construction in favor of applications for intervention." *Washington State Building & Construction Trades v. Spellman*, 684 F.2d 627, 630 (9th Cir.1982), *cert. denied*, 461 U.S. 913, 103 S.Ct. 1891, 77 L.Ed.2d 282 (1983). *See also Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 527 (9th Cir.1983).

Applying these principles we find that Anderson has interests in the litigation sufficient to permit it to intervene as of right. The gravaman of plaintiffs' **claims** is that FCA's 1982 financial statements were inaccurate. Anderson, as FCA's auditor and accountant, has an obvious interest in defending against such allegations. Furthermore, without intervention Anderson's capacity to effectively defend its interest would be both impaired and impeded. We therefore hold that Anderson should have been permitted to intervene. We now turn to the entirely separate issue whether Anderson had standing to object to the **settlement**.

#### Standing

The Ninth Circuit has not previously addressed the [4] issue when, if ever, a defendant has standing to object to a settlement involving other parties to a lawsuit. The view of other courts is that a non-settling defendant, in general, lacks standing to object to a partial settlement. In re Viatron Computer Systems Corp. Litigation, 614 F.2d 11, 14 (1st Cir.1980); In re Beef Industry, 607 F.2d 167, 172 (5th Cir.1979). \*583 See also Quad/Graphics, Inc. v. Fass, 724 F.2d 1230, 1232 (7th Cir.1983); In re Mid-Atlantic Toyota, 564 F.Supp. 1379, 1387 (D.Md.1983); Ampicillin Antitrust Litigation, 82 F.R.D. 652, 654–55 (D.D.C.1979); Seiffer v. Topsy's Int'l Inc., 70 F.R.D. 622, 627 nn. 5 & 6, 631 n. 11 (D.Kan.1976); Wainwright v. Kraftco Corp., 53 F.R.D. 78, 81 (N.D.Ga.1971). This rule advances the policy of encouraging the voluntary settlement of lawsuits. See Quad/Graphics, 724 F.2d at 1233. Courts, however, are also charged with responsibility for safeguarding the rights of **parties**. See id. There is therefore a recognized exception to the general principle barring objections by non-settling defendants to permit a non-settling defendant to object where it can demonstrate that it will sustain some formal legal prejudice as a result of the settlement. *Quad/Graphics*, 724 F.2d at 1233; Mid Atlantic Toyota, 564 F.Supp. at 1387. This standard strikes a balance between the desire to promote settlements and the interests of justice. It also maintains consistency with Fed.R.Civ.P. 41(a)(2) which governs voluntary dismissals of lawsuits. In this circuit, as elsewhere, a district court should grant a motion for voluntary dismissal unless a defendant can show that it will suffer some plain legal prejudice as a result. Hamilton v. Firestone Tire & Rubber Co., Inc., 679 F.2d 143, 145 (9th Cir.1982). It would, as the Seventh Circuit has pointed out, "be incongruous for a non-settling defendant to have any less of a burden in attempting to prevent such a voluntary dismissal than he would if he were the **party** being dismissed." *Quad/Graphics*, 724 F.2d at 1233.

[5] Courts who have addressed this issue have found the formal legal prejudice standard to have been met in a variety of situations. There is consensus that a non-settling defendant has standing to object to a **partial settlement** which purports

to strip it of a legal **claim** or cause of action, an action for indemnity or contribution for example. *Beef Industry*, 607 F.2d at 172, *quoting* 3 Newberg on Class Actions (1977) § 5660b at 564–65; *Altman v. Liberty Equities Corp.*, 54 F.R.D. 620, 625; *Mid-Atlantic Toyota*, 564 F.Supp. at 1387. Authority exists for finding legal prejudice sufficient to confer standing where a **settlement** invalidates the contract rights of one not participating in the **settlement**. *Quad/Graphics*, 724 F.2d at 1233 (citing *Krause v. Rhodes*, 640 F.2d 214 (6th Cir.1981)). A district court has suggested that a non-settling defendant has standing to object where the proposed **settlement** would eliminate its right to assert an *in pari delicto* defense. *Florida Power Corp. v. Granlund*, 82 F.R.D. 690 (M.D.Fla.1979).

[6] [7] Anderson urges us to find that a **claim** of formal legal prejudice is made out where a **settlement** compromises a nonsettling defendant's rights to preserve the confidentiality of communications protected by the common law joint defense privilege<sup>7</sup> and by the **parties**' own joint defense agreement. We, however, for the reasons below, do not believe that the **settlement** between the classes and FCA contravenes the joint defense privilege or the joint defense agreement. We therefore have no occasion to decide the issue put before us by Anderson.

Anderson contends that the **settlement** violates the joint defense privilege and agreement because it "virtually assures, if not requires" FCA to disclose to the plaintiff classes privileged communications obtained from Anderson. Anderson bases this assertion on the provisions of the **settlement** which (1) pledge FCA to "cooperate" with the classes in prosecuting class, derivative and direct actions against Anderson, (2) provide FCA with a share in the proceeds of such actions and (3) specify that neither FCA nor the classes will settle **\*584** their respective actions against Anderson without the other's approval.

While we understand Anderson's concern, we do not believe that the **settlement** compromises Anderson's legal rights under the joint defense agreement or privilege. The **settlement** does not cut off or in anyway affect any of Anderson's **claims**; it only disposes of the **claims** of the classes against FCA. Contrary to Anderson's repeated assertions, nothing in the stipulation of **settlement** *requires* FCA or its counsel to breach the agreement or privilege. The fact that FCA has committed itself to "cooperate" with the classes does not mean that it must disclose privileged communications. The same is true of the sharing provision. Simply because FCA has some financial incentive to assist the classes against Anderson does not mean that confidential communications will be leaked; the classes have stated that they have not received nor do they expect any privileged information from FCA. On the other hand, Anderson has steadfastly refused to describe the substance of its allegedly confidential disclosures, **claiming** that to do so would largely defeat the purposes of this litigation. As a result, we have no way of knowing whether FCA possesses any privileged communications to share even if it is so disposed. <sup>8</sup> Finally, we note that if Anderson remains fearful that some particular confidence will be disclosed, we see no reason why it cannot, as suggested by the district court, **seek injunctive relief** or the disqualification of counsel, remedies which the joint defense agreement itself expressly prescribes.

In sum, we conclude that the **settlement** does not require the sharing of privileged information. There is, as a consequence, no basis for proceeding further in our inquiry whether the prospect of violation of the privilege and agreement confer standing: The **settlement** simply does not contravene these safeguards. At most, the **settlement** puts Anderson at something of a tactical disadvantage in the continuing litigation. Such an injury does not constitute plain legal prejudice.

#### CONCLUSION

The district court should have permitted Anderson to intervene as of right. It was, however, correct in denying Anderson standing to object to the proposed **settlement**, as Anderson has not shown itself to be the victim of any formal legal prejudice. The district court may, indeed, consider it appropriate to frame a protective order which will assure against any improper disclosure of the terms of the joint defense agreement. Accordingly, we vacate the order denying intervention and remand for consideration by the district court of Anderson's need for protection. *Anderson's motion to supplement the record, which it claims would more fully demonstrate the probability of a breach of the joint defense agreement, is denied without prejudice to Anderson's right to make such presentation to the district court.* 

AFFIRMED IN PART, REVERSED IN PART AND REMANDED.

Waller v. Financial Corp. of America, 828 F.2d 579 (1987)

56 USLW 2251, Fed. Sec. L. Rep. P 93,397, 9 Fed.R.Serv.3d 92

## **All Citations**

828 F.2d 579, 56 USLW 2251, Fed. Sec. L. Rep. P 93,397, 9 Fed.R.Serv.3d 92

## Footnotes

- 1 On May 3, 1984, a class was certified to proceed against FCA and its officers and directors consisting of purchasers of FCA common stock between April 14, 1982 and May 2, 1983. A subclass was certified to proceed against Anderson comprised of purchasers of FCA securities between March 27, 1983 and May 2, 1983.
- 2 The August 1984 lawsuits consisted of approximately fifteen class actions and several shareholder derivative suits.
- 3 In *Husni I* the district court has thus far declined to certify a class, although it has indicated that certification would ultimately be granted.
- 4 The **settlement** expanded the Waller class backward to April 1, 1980 and expanded the Husni class to run from May 3, 1983 to April 8, 1985.
- 5 Judge Hatter told counsel:

There will be ample time to be heard if indeed the Court determines that there is standing; and even without standing, as friends of the Court, or pursuant to the Manual on Complex Litigation, the Court might very well entertain some amount of opposition, not necessarily as much as counsel would like to have, but that would not change even indeed if it turns out that the Court rules that there is standing.

I think I understand many of the objections already; to drag them out interminably doesn't help anyone. We have really a question of judicial economy more than anything else; and while it might be argued that it might make more sense to go ahead and hear the opposition fully or more fully before signing the orders and proceeding to the full fairness hearing, I deem that it makes more sense in terms of protecting the class involved or classes involved to sign the order now and proceed to the full fairness hearing, at which time we very well may hear more in terms of opposition.

In that regard, I would ask that you follow the local rules; and if you want to notice a motion regarding standing, and the hearing in that regard, ... you [may] do so[,] but no later than ... a month prior to the full fairness hearing which will be scheduled for July 7th.

So, therefore, we would want a hearing on standing by the nonsettling parties no later than June 7th.

- 6 The motions panel ruled that Anderson had failed to demonstrate either a likelihood of success on the merits on appeal or possible irreparable injury if the settlement hearing proceeded, citing Quad/Graphics, Inc. v. Fass, 724 F.2d 1230 (7th Cir.1983). It added that plaintiffs had shown that the balance of hardships tipped decidedly in their favor. The motions panel also denied plaintiffs' motions for summary disposition finding that the appeal was not frivolous nor the disposition obvious by application of relevant precedent.
- 7 The joint defense privilege, which is an extension of the attorney client privilege, has been long recognized by this circuit. See Hunydee v. U.S., 355 F.2d 183 (9th Cir.1965); Continental Oil Co. v. U.S. 330 F.2d 347 (9th Cir.1964). Under the joint defense privilege "communications by a client to his own lawyer remain privileged when the lawyer subsequently shares them with co-defendants for purposes of a common defense." U.S. v. McPartlin, 595 F.2d 1321, 1326 (7th Cir.1979).
- 8 One reason for doubting that Anderson revealed confidential information is that Anderson acknowledges that it and FCA had claims against one another that would likely be brought in the future.

**End of Document** 

© 2020 Thomson Reuters. No claim to original U.S. Government Works.

My name is Dr. Nick Thanos. I am a 70-year-old gynecologist who relocated to Las Vegas many years ago to be part of The Apothecary Shoppe Team. My cousin, Dr Nick Spirtos and I conducted a clinical study using *THC AND CBD* in an attempt to address the opiate crisis in this country. Our trial was quite successful with a 75% reduction in opiate use and we presented our data at the American Society of Clinical Oncology. Our shoppe was never cited for selling to minors. We were profitable, but after we failed to obtain additional licenses while members of Taxation acted with prejudice and with total disregard for the laws of Nevada, it became clear that we would not have the financial resources to compete with companies that were given a number of licenses that far exceeded what was allowed by law. In addition, while we procured leases for our 3 proposed retail sites, other companies were using PO Boxes for their address. This is patently unfair and not in accordance with the laws in Nevada.

The bias present was so blatant that one of your CCB staff members, Kara Cronkite engaged in a conversation with Mr. Pupo wherein my cousin who has authored approximately 100 peer-reviewed journal articles and a major textbook was referred to as a "dumb ass" and Kara Cronkite stated perhaps because her name was misspelled is why we scored so low". No, we missed by 12 points and 6 of those points are a simple numerical error regarding the over \$1 million dollars we donated to UNLV and the School of Medicine. That issue is apparently unfixable because we were refused the opportunity to have our scores reviewed.

The reality is our building construction score of 13 was lower than some successful applications that used the **SAME PO BOX** as an address **FOR MULTIPLE SITES**. We actually paid an architect to draw up site specific plans so I am amazed that companies using a PO BOX, whose applications should not have been scored as they were incomplete, ended up with higher scores.

This is just the tip of the iceberg and I could go on and on but will stop here and ask that the CCB step up and put an end to this blatant attempt to cover up an incredibly inept if not dishonest process.

Thank you for your time. -Nicholas J Thanos MD

# **Amber Virkler**

From:	Amy Sugden <amy@sugdenlaw.com></amy@sugdenlaw.com>
Sent:	Friday, August 7, 2020 8:11 AM
То:	CCB Meetings
Subject:	Public Comment - Proposed Partial Settlement Agreement
Attachments:	TRO App (FINAL) 7.28.20.pdf
To: Subject:	CCB Meetings Public Comment - Proposed Partial Settlement Agreement

Dear CCB Members,

I represent one of the plaintiffs, THC Nevada, LLC in the pending litigation that is impacted by the proposed partial settlement. As detailed more fully in the attached pleadings, THC Nevada, and the other remaining parties are unfairly prejudiced by the partial settlement as there are several terms that impact the remaining parties rights – as well as other marijuana license holders in the State.

In particular, the following terms are of great concern:

- (1) Paragraph 2 (providing a conditional Henderson license to LivFree") with LivFree expressly reserving its right to lobby to keep the Henderson moratorium in place (so as to further eliminate competition to benefit LivFree)
- (2) "Dissolution of Bond and Injunction" The parties will agree to work together in contravention of the Court's prior order to self-servingly and unilaterally redistribute licenses by way of the DOT's improper reclassification of "Tier 3" to "Tier 2" parties
- (3) "Timing of Transfers" CCB will agrees to provide preferential treatment in Change of Ownership Transfers to settling parties which have been backlogged for over a year due to a moratorium on transfers
- (4) Agreeing to release and dismissals in the litigation– which assumes that they are automatically obtainable when the Court must decide the same under NRCP 41(a)(2)
- (5) "Additional Terms Relating to Licenses and Transfer" CCB agrees to perform final inspections on expedited terms for settling parties so that they can be operational in preference of other license holders as well an extension to the current deadline to obtain final inspection

These are just some of the conditions that demonstrate clear bias and preference to settling parties over non-settling parties.

I have also submitted a public information request seeking additional information between the CCB and DOT as it relates to this settlement as it gives me and my client great concern over how the CCB is committed – in fact referenced 37 times in this agreement when the CCB is supposed to be an INDEPENDENT body. I have yet to receive the responsive information from this request as I was hoping to have more information relta4ed to the same – and transparency (which is why I'm submitting this email at 8 a.m. in hopes to have obtained more information this a.m.) But unfortunately, transparency has not been provided.

Respectfully, if the CCB approves this with a rubber stamp and no meaningful discussion and analyses of this settlement and its impact, it is sanctioning a resolution based on a "house of cards". The agreement is labyrinth of conditional terms – including most importantly the condition that the DOT obtains COURT APPROVED permission to reassign and distribute party tiers – otherwise the entire agreement is null and void

(See term stating: In the event that a Tier 3 Party is prevented or precluded reassignment to Tier 2 or otherwise remains enjoined from perfecting its conditional licenses for any reason, whether by a court, another party to the Lawsuit, any third party, or otherwise, the assignments of conditional licenses identified in Paragraph 1 shall be void and of no effect, with title to the licenses identified in Paragraph 1 to remain with the transferring party **and this Agreement shall be terminated without any further force or effect**").

The Court is where this should be decided not through a political body.

Thank you for your thoughtful consideration.



**Amy L. Sugden, Esq.** 9728 Gilespie Street Las Vegas, Nevada 89183 (702) 307-1500 Tel (702) 507-9011 Fax **www.sugdenlaw.com** 

Electronically Filed 7/28/2020 12:51 PM Steven D. Grierson CLERK OF THE COURT

1	OST	Atump. Sum
2	AMY L. SUGDEN, ESQ. Amy L. Sugden, Bar No. 9983	
3	9728 Gilespie St. Las Vegas, Nevada 89183	
4	Telephone: (702) 307-1500	
5	Facsimile:(702) 507-9011Attorney for THC Nevada, LLC	
6	<b>SIGAL CHATTAH, ESQ.</b> Nev. Bar No.: 8264	
7	CHATTAH LAW GROUP 5875 S. Rainbow Blvd. #203	
8	Las Vegas, Nevada 89118 Tel.: (702) 360-6200	
9	Fax: (702) 643-6292 Chattahlaw@gmail.com	
10	Attorney for Plaintiff Herbal Choice, Inc.	
11	EIG	HTH JUDICIAL DISTRICT COURT
12		<u>CLARK COUNTY, NEVADA</u>
13		****
14	In Re: D.O.T. Litigation,	) Case No.: A-19-787004-B
15		) Dept. No: XI
16 17		) ) CONSOLIDATED WITH:
17		) A-18-785818-W ) A-18-786357-W
19		) А-19-786962-В
		) A-19-787035-C ) A-19-787540-W
20		) A-19-787726-C
21		) A-19-801416-B
22		
23		)
24		)
25 26		OR TEMPORARY RESTRAINING ORDER WITH NOTICE
27	AND MOTION FOR PRELI	MINARY INJUNCTION ON ORDER SHORTENING TIME
28		
		1

COME NOW, THC NEVADA, LLC ("THC NV"), by and through its counsel, Amy L. 1 Sugden, and HERBAL CHOICE, INC. (hereinafter HERBAL CHOICE) by and through their 2 3 Counsel, SIGAL CHATTAH, ESQ. of CHATTAH LAW GROUP, and hereby submit this ex parte 4 application for temporary restraining order with notice, and motion for preliminary injunction to 5 prevent certain parties from attempting to enter into a partial settlement to redistribute privileged 6 marijuana dispensary licenses from certain Intervenors to certain Plaintiffs, among other material 7 8 terms. THC NV and HERBAL CHOICE will suffer irreparable injury if a Temporary Restraining 9 Order ("TRO") and/or Preliminary Injunction does not issue to prevent this redistribution of licenses 10 and the parties attempt to strong arm THC NV, HERBAL CHOICE and remaining Plaintiffs into a 11 dismissal of their claims. 12 This Application is brought under NRS 33.010(1)-(3), NRCP 65(b)(1), and is based upon the 13 14 Memorandum of Points and Authorities below, the Declarations of Amy L. Sugden and Sigal Chattah, 15 the evidentiary support attached hereto, the pleadings and papers on file, and any argument that the 16 Court may entertain on this matter. 17 DATED this 28<sup>th</sup> day of July 2020 18 19 SIGAL CHATTAH, ESQ AMY L. SUGDEN, ESQ. 20 21 /s/ Sigal Chattah /s/ Amy L. Sugden Sigal Chattah Amy L. Sugden 22 Nevada Bar No 9983 Nevada Bar No. 8264 23 5875 S. Rainbow Blvd #203 9728 Gilespie Street Las Vegas, NV 89118 Las Vegas, NV 89183 24 Attorney for Plaintiff Attorney for Plaintiff Herbal Choice. Inc. THC Nevada. LLC 25 26 27 28

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I.

## **INTRODUCTION**

The basis for the entry of the temporary restraining order is to prevent certain parties from colluding and attempting to enter into a stealth partial settlement to be ratified by the Nevada Tax Commission, to the detriment of THC NV, HERBAL CHOICE and others who have not been included in the settlement. Now the purported settlement, by the Settling Parties is going to be submitted to the Nevada Tax Commission on July 31, 2020 at 2:00p.m. for approval.<sup>1</sup> Seemingly, settling Plaintiffs are attempting to bypass any Motion for Good Faith Settlement to be filed with the Court, get their administrative approval and *force this Court to submit to the Nevada Tax Commission's approval* of a bad faith, collusively procured partial settlement.

It is significant to note that both THC NV and HERBAL CHOICE have no idea what has been resolved and what is to be submitted before the Nevada Tax Commission on Friday; perhaps the Settling Parties would be so kind as to share same with THC NV, HERBAL CHOICE and this Court prior to submitting to the Nevada Tax Commission.

While undersigned Plaintiffs' understand that the Nevada Tax Commission is simply the administrative body and any final approval must be issued by this Court through a Motion for Good Faith; as explained *infra*, the Settling Parties should not even be allowed to proceed in front of the Nevada Tax Commission based on their continuous collusion and bad faith in procuring such a settlement and their deliberate exclusion of others in the process.

On or about July 16, 2020, William Kemp, on behalf of LivFree Wellness, LLC, and MM
Development Company, Inc., (hereinafter collectively referred to as "Planet 13") stood before this
Court and announced that a partial – and eventually possible global – settlement had been obtained
between certain parties ("Partial Settlement"). It is significant to note that at no time during the
purported secret and collusive negotiations were THC NV, HERBAL CHOICE or other Plaintiffs

<sup>&</sup>lt;sup>11</sup> See 7/31/2020 Agenda attached hereto as Exhibit "1"

included in any of the discussions. A partial settlement agreement was circulated amongst the negotiating parties, deliberately and intentionally omitting the above noted Plaintiffs from any discussions.

Since that time and on a daily basis throughout the course of this trial, counsel for certain parties have been huddling around the courtroom and cloistering outside in the hallways of the South Hall at the Las Vegas Convention Center, to strategically organize a secret settlement that is designed to purposely harm the remaining parties who are not party to the settlement, including THC NV and HERBAL CHOICE. It has been and continues to be said settling Plaintiffs' position that if a majority of Plaintiffs settle, than the smaller Plaintiffs could not carry this trial and would be forced to take smaller nuisance fee type settlements.

It is clear that while settling Plaintiffs are negotiating significantly impactful settlements for
their Clients, which would dispose of a majority of the Plaintiff parties to this action, there is a
deliberate and intentional agenda to disregard and injure Plaintiffs THC NV and HERBAL CHOICE,
INC. These secret collusive and injurious negotiations are specifically what the Supreme Court
decision of *In re MGM Grand Hotel Fire Litigation*<sup>2</sup> sought to prevent as delineated more *infra*.

As such, THC NV and HERBAL CHOICE, being offered no part in such settlement negotiations or even being advised they were going on, has no choice but to compel the Court to enjoin any enforcement of this covert Partial Settlement and maintain the status quo until there is a full and fair opportunity for this Court to conduct a hearing to determine whether or not to issue a preliminary injunction regarding the same and/or consider the merits of the Partial Settlement pursuant to a properly brought motion for good faith settlement.

Undersigned Parties further request this Court preclude introduction of this covert and
injurious settlement as an item on the Nevada Tax Commission's Consent Agenda scheduled to occur
on July 31, 2020.

25 26 //

//

//

1

2

3

4

5

6

7

8

9

- 27
- 28

<sup>&</sup>lt;sup>2</sup> 570 F. Supp. 913, 927 (D.Nev.1983).

II.

## STATEMENT OF FACTS

1. The Nevada Legislature passed a number of bills during the 2017 legislative session concerning the licensing, regulation, and operation of recreational marijuana establishments in the State of Nevada.

2. One of those bills, Assembly Bill 422, transferred responsibility for the registration, licensing, and regulation of marijuana establishments from the State of Nevada Division of Public and Behavioral Health to the State of Nevada Department of Taxation (the "Department").

3. This legislation was approved by the voters at the General Election of 2016 as Initiative Petition, Ballot Question No. 2, entitled the "Regulation and Taxation of Marijuana Act," (the "Ballot Initiative").

It was enacted by the Nevada Legislature and is codified at NRS Chapter 453D.

5. After the enactment of NRS Chapter 453D, on May 8, 2017, the Department enacted temporary regulations pertaining to the issues of retail marijuana licenses ("Temporary Regulations").

6. On or around December 16, 2017, the Department issued a Notice of Intent to Adopt Permanent Regulations Pursuant to the Mandates of NRS 453D.200(1).

7. On or around January 16, 2018, the Department held a public hearing on the proposed permanent regulations, which was attended by numerous members of the public and marijuana business industry.

8. In early 2018, the Department adopted regulations governing the issuance, suspension, or revocation of retail marijuana licenses in LCB File No. R092-17, which were codified in NAC Chapter 453D (the "Regulations").

9. On July 6, 2018, the Department made available the application package for non-Early Start Program applicants on the Department website and via a Department list serve email.

10.The Department required that the applications be returned in complete form betweenSeptember 7 and September 20, 2018.

1		11.	11. The applications were to be submitted to the Department from September 7, 2018, to			
2	September, 20, 2018.					
3		12.	The Department received applications exceeding the number of awardable licenses,			
4	and it	utilized	the regulations to engage in a com	petitive bidding process, which gave rise to the present		
5	disput	te.				
6		13.	In total, 127 applicants applied	for retail marijuana licenses in the 17 jurisdictions.		
7		14.	On December 5, 2018, the Depa	artment awarded conditional retail marijuana licenses.		
8		15.	The Department issued 61 recre	eation marijuana retail store conditional licenses to 17		
9	applic	cants.				
10		16.	In other words, only 13% of the	applicants were awarded at least one retail marijuana		
11 12	licens	e.				
12		17.	After the expiration of the Ear	ly Start Program during the period specified by the		
13	Department, THC NV submitted three separate applications that contained the same substantive			ate applications that contained the same substantive		
15	inform	nation f	for issuance of retail marijuana lice	ense at different localities.		
16		18.	Specifically, THC NV submitted	d applications in the following jurisdictions:		
17						
18		PLAIN	TIFF	JURISDICTION		
19		THC	NEVADA LLC	Clark County – North Las Vegas		
20				Clark County – Las Vegas		
21				Washoe County - Reno		
22		HERE	BAL CHOICE, INC.	Clark County- Las Vegas		
23				Clark County- City of Las Vegas		
24				Clark County- City of North Las Vegas		
25						
26		19.	HERBAL CHOICE also submi	tted their three applications on or about September 7-		
27	20, 20	)18.				
28						
				6		

- 20. On or around December 5, 2018, each of THC NV's and HERBAL CHOICE applications were denied by identical written notices issued by the Department.
- 21. After receiving the denial notices from the Department, THC NV challenged its scores at meetings held by the Department on or around January 10, 2019.

22.

The Department refused to consider THC NV's challenges.

23. On January 4, 2019, THC NV and HERBAL CHOICE *as part of* the ETW Plaintiffs filed its Complaint against the Department, Case No. A-19-787004-B.

24. Thereafter, THC NV and HERBAL CHOICE *as part of* the ETW Plaintiffs filed and served their Third Amended Complaint against Cheyenne Medical, LLC; Circle S Farms, LLC; Clear River, LLC; Commerce Park Medical L.L.C.; Deep Roots Medical LLC; Essence Henderson, LLC, Essence Tropicana, LLC; Eureka Newgen Farms LLC; Green Therapeutics LLC; Greenmart; Helping Hands Wellness Center, Inc.; Lone Mountain Partners, LLC; Nevada Organic Remedies LLC; Polaris Wellness Center L.L.C.; Pure Tonic Concentrates LLC; TRNVP098; Wellness Connection of Nevada, LLC (collectively, the "Successful Applicants") and the Department (together with the Successful Applicants, the "Defendants").

25. In their Complaint, THC NV and HERBAL CHOICE *as part of* ETW Plaintiffs asserted the following claims against the Department and the Successful Applicants: (1) Violation of Substantive Due Process against the Department, (2) Violation of Procedural Due Process against the Department, (3) Equal Protection Violation against the Department; (4) Declaratory Judgment against all the Defendants, (5) Petition for Judicial Review against all of the Defendants, and (6) Petition for Writ of Mandamus against the Department.

26. Upon demand and part and parcel of this Court's Order's grant of the Preliminary Injunction, both THC NV and HERBAL CHOICE posted surety bonds in in excess of \$300,000.00 respectively.

27. On or about May 20, 2020, HERBAL CHOICE substituted its counsel of record herein so that undersigned Counsel Sigal Chattah, replaced the firm of Brownstein Hyatt Farber Schreck,

LLC.

1

2

28. On or about June 24, 2020, THC NV substituted its counsel of record herein so that the undersigned counsel, Amy L. Sugden, replaced the firm of Brownstein Hyatt Farber Schreck, LLC.

29. It is significant to note that neither THC NV nor HERBAL CHOICE ever signed conflict waivers during the course of representation by Brownstein Hyatt, and it became clear that a conflict and preferential treatment of certain Plaintiffs were made prior to said substitutions during the course of former Counsels representation of these Plaintiffs.

30. Trial was set to begin on July 13, 2020 pursuant to the Amended Trial Protocol No. 2. 31. On or about July 16, 2020, William Kemp, Esq. counsel for Planet 13, pronounced a partial or even possible global settlement had been reached.

32. Upon information and belief, the Plaintiffs involved in the Partial Settlement include: Planet 13; ETW Plaintiffs; Nevada Wellness Center ("NWC"), and Qualcan, LLC (collectively "Partial Settlement Plaintiffs").

33. Neither THC NV nor HERBAL CHOICE were offered an opportunity to participate in the Partial Settlement, nor to date has been provided any proposed settlement agreement regarding the same by the Partial Settlement Plaintiffs.

34. Upon information and belief, THC NV and HERBAL CHOICE understand that the Partial Settlement contemplates the redistribution of certain dispensary licenses from certain Successful Applicants to Partial Settlement Plaintiffs in addition to other material terms and conditions, such of which include the exchange of additional monies.

35. Upon information and belief, the Partial Settlement Plaintiffs purposely excluded THC NV, HERBAL CHOICE and other Plaintiffs from participation and opportunity to be a part of the Partial Settlement in order to strategically gain an advantage to gain access and control of the limited dispensary licenses available.

36. Upon information and belief, the Partial Settlement includes a provision to further eliminate the purposely excluded remaining Plaintiffs, including THC NV and HERBAL CHOICE,

8

by specifically providing for the Partial Settlement Plaintiffs to seek injunctive *relief to limit the remedies available to the excluded remaining Plaintiffs* (i.e., in an attempt prevent a complete doover of the application process sought by the remaining Plaintiffs).

37. Such collusively deviant acts by settling parties would essentially paralyze Plaintiffs from seeking the redress from this Court that they are rightfully entitled to and have been litigating over the course of two years.

38. Notwithstanding same, Plaintiffs THC NV and HERBAL CHOICE have secured their vested interests in this matter by each surrendering in excess of \$300,000.00 USD held during this litigation.

39. As such, THC NV and HERBAL CHOICE seek to enjoin any party from the execution, finalization and/or any attempts to perform pursuant to the Partial Settlement Agreement.

40. THC NV and HERBAL CHOICE face the threat of irreparable harm to their ability to pursue its claims in this action to full fruition as a result of the Partial Settlement Agreement which is believed to include collusion at best, fraud and/or tortious conduct at worst, to injure the interest of the non-settling defendants. *In re MGM Grand Hotel Fire Litigation*, 570 F.Supp. 913, 927 (D. Nev. 1983).

41. Now, Settling Parties seek to have this Partial Settlement placed on the Nevada Tax
Commissions Consent Agenda for July 31, 2020 at 2:00p.m for final approval by said administrative
body.

42. This Court should preclude any such purported settlement, procured in bad faith and deliberately injurious to Plaintiffs that have not been offered to participate, from being introduced to the Nevada Tax Commission, and further advise the Commission of these injurious acts these parties have engaged in.

//

//

//

1 III. 2 LEGAL ARGUMENT 3 4 A. THC NV and HERBAL CHOICE are Entitled to a Temporary Restraining Order on an Ex Parte Basis. 5 THC NV and HERBAL CHOICE entitled to a temporary restraining order without notice 6 7 under NRCP 65(b) because irreparable harm will result if an order from this Court is not issued 8 immediately to preserve the status quo. A temporary restraining order without notice is proper if "(1) 9 it clearly appears from specific facts shown by [declaration], or by the verified complaint that 10 immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party 11 12 or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court 13 in writing the efforts, if any, which have been made to give the notice and the reasons supporting the 14 claim that notice should not be required." NRCP 65(b). Here, both factors are satisfied: 15 16 1. Parties to Partial Settlement Agreement Will Not Suffer Immediate, Irreparable Harm, but Plaintiffs THC NV and HERBAL CHOICE Will Be Greatly and 17 Irreparably Harmed Absent Maintaining the Status Quo. 18 An injunction is needed to prevent certain parties to this complex litigation from improperly 19 and prematurely attempting to redistribute the licenses that are the subject matter of this suit by 20 21 presenting the settlement to the Nevada Tax Commission on July 31, 2020. See Exhibit 1. Conversely, 22 there is no immediate need to jam the partial redistribution of certain licenses when the entire process 23 is sought to be invalidated by the Non-Settling Plaintiffs. 24 If certain limited parties, are allowed to redistribute licenses pursuant to the Partial Settlement 25 26 Agreement without obtaining prior Court approval, but rather by sneaking to the Nevada Tax 27 Commission to push through the limited parties self-serving redistribution of select licenses at issue 28

herein, THC NV and HERBAL CHOICE will be further deprived of due process. Specifically, the Partial Settlement Agreement is believed to have a provision that provides for the settling Plaintiffs to in turn seek a preliminary injunction against Non-Participating Intervenor/Defendants as well as threaten to seek costs and fees to prevent the remaining Plaintiffs who are moving forward to finish trial.

## 2. Parties to the Partial Settlement Should Not Be Heard Before Entry of the TRO

NRCP 65(b) provides that in addition to setting forth the specific facts in an affidavit clearly showing that immediate and irreparable injury, loss or damage will occur before the adverse party can be heard, in opposition that the movant's attorney certify "the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required". The undersigned counsel certifies herein that notice should not be required given the short time frame in which the threat of the Partial Settlement Agreement is set to go into effect. Assuming this Court believes Notice shall be given, all Parties have been served with the foregoing pleading (so as to not replicate the same egregious and clandestine behavior of the parties to the Partial Settlement).

Moreover, undersigned counsel certifies that THC NV and HERBAL CHOICE undertook numerous actions since that learning about the Partial Settlement to become apprised of such agreement and participate in good faith with the Partial Settlement, but both have been stonewalled. See Declarations of Amy L. Sugden and Sigal Chattah set forth herein.

It is quite apparent that since THC NV and HERBAL CHOICE substituted counsel for trial

purposes and separated from the ETW Plaintiffs, this has been used against THC NV and HERBAL CHOICE so that they would be forced out of the Partial Settlement Agreement. //

//

THC NV and HERBAL CHOICE further submits that it has not consented to any such waiver from its former counsel, Brownstein Hyatt Farber Schreck, that alleviates its ethical obligations set forth in Nevada Rules of Professional Conduct 1.9 (Duties to Former Clients).<sup>3</sup>

Thus, not only are THC NV and HERBAL CHOICE at risk of being locked out of this litigation, it is being done so by their former counsel, which should give this Court great concern in contemplating any allowance of the Partial Settlement.

As such, THC NV and HERBAL CHOICE have been left with no choice but to obtain protection from the Court in obtaining a TRO to preserve the status quo. Thus, the Court should enter the temporary restraining order, a proposed form of which is attached as Exhibit "2".

#### **B.** THC NV and Herbal Choice are Entitled to a Preliminary Injunction.

A preliminary injunction "is extraordinary relief" and the factors met to obtain this relief must be "articulated in specific terms". *Dep't of Conservation & Natural Res. v. Foley*, 121 Nev. 77, 80, 109 P.3d 760, 762, (2005). A party can only receive a preliminary injunction "when the movant shows a likelihood of success on the merits and a reasonable probability that the nonmovant's conduct will cause irreparable harm if allowed to continue." *Univ. & Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004). The party seeking a preliminary injunction must show "by the complaint or affidavit that the commission or continuance of some act, during the litigation, would produce great or irreparable injury to the plaintiff." *Dixon v. Thatcher*, 103 Nev. 414, 415-416, 742 P.2d 1029, 1030, (1987). Finally, the Court may also weigh "the public interest and the relative hardships of the parties in deciding whether to grant a preliminary injunction." *Clark County* 

On or about July 16, 2020, the undersigned counsel emailed a request to Adam Bult and Maximillien Fetaz
 requesting a copy of their attorney client representation agreement with THC NV, including any joint
 representation type agreements with the other Plaintiff to which no response was provided. Thus, it is counsels
 understanding there is no such waiver of any potential conflicts that has been obtained.

*Sch. Dist. v. Buchanan*, 112 Nev. 1146, 1150, 924 P.2d 716, 719, (1996) quoting *Ellis v. McDaniel*, 95 Nev. 455, 459, 596 P.2d 222, 224-25 (1979). THC NV and HERBAL CHOICE are entitled to a preliminary injunction because, as provided above, irreparable harm will occur, there is a reasonable likelihood of success on its merits, the potential hardships weigh in THC NV and HERBAL CHOICE's favor and the public interest favors the injunction.

#### , ||

#### 1. THC NV and HERBAL CHOICE are Likely to Succeed on the Merits

First and foremost, this Court has already found in its Facts and Conclusions of Law Granting Preliminary Injunction Issued on August 23, 2019 the following pertinent issues:

(1) The State's determination that it was not reasonable to require industry to provide every owner of a prospective licensee violated Article 19, Section 3 of the Nevada Constitution. This determination was not based on a rational basis.

(2) The adoption of NAC 4533.255(1), as it applies to the application process is an unconstitutional modification of BQ2.

(3) The failure of the State to carry out the mandatory provision of NRS 453D.200(6) is fatal to the application process. The State's decision to adopt regulations in direct violation of BQ2's mandatory application requirements is violative of Article 19, Section 2(3) of the Nevada Constitution.

(4) The State's late decision to delete the physical address requirement on some application forms while not modifying those portions of the application that were dependent on a physical location (i.e., floor plan, community impact, security plan, and the sink locations) after the repeated communications by an applicant's agent; not effectively communicating the revision; and, leaving the original version of the application on the website, is evidence of conduct that is a serious issue.

1	(5) The State's inclusion of the diversity category was implemented in a way that created			
2	a process which was partial and subject to manipulation by applicants.			
3	Id.			
4	Further, THC NV and HERBAL CHOICE are likely to ultimately proceed on the underlying			
5	merits of its action against the State on the following claims:			
6				
7	(1) Violation of Substantive Due Process against the Department;			
8	(2) Violation of Procedural Due Process against the Department;			
9	(3) Equal Protection Violation against the Department;			
10	(4) Declaratory Judgment against all the Defendants;			
11	(5) Petition for Judicial Review against all of the Defendants; and			
12	(6) Petition for Writ of Mandamus against the Department			
13				
14	Given the number and extent of such claims at issue, for brevity's sake, THC NV and HERBAL			
15	CHOICE hereby incorporate by reference Plaintiffs' July 14, 2020 Proposed Findings of Fact and			
16 17	Conclusions of Law, on file herein to demonstrate that it is likely to prevail on the merits, which will			
18	ultimate find that the recreational dispensary application process in its entirety was flawed.			
19	This Court has heard over six (6) day of testimony which further confirm that the State had			
20	designed and implemented a completely arbitrary and capricious application system (by doing such			
21	things as not verifying any physical locations of applicants; by not verifying the accuracy or veracity			
22				
23	of resumes; by not requiring funds to be "unconditionally committed"; by not verifying the identity of			
24	applicants (in particular when there was a trust and/or LLC at issue) among several other disturbing			
25	flaws).			
26	//			
27				
28				
	14			

### 2. There is a Reasonable Probability of Irreparable Harm to THC NV and HERBAL CHOICE.

There is a reasonable probability of irreparable harm for which compensatory damages would be inadequate, as discussed above in Section III(A)(I) above, which THC NV incorporates by reference into this section. *See Danberg Holdings*, 1 20 Nev. at 142-43, 97I P .2d at 319-20 (affirming an injunction prohibiting Danberg Holdings from entering a settlement agreement with another party because of "irreparable harm and inadequacy of legal remedies" to the plaintiff that would result) (emphasis added).

### 3. The Relative Hardships Favor THC NV and HERBAL CHOICE

Although the Court is not required to consider this factor, the relative hardships of the parties also weigh in THC NV and HERBAL CHOICE's favor. *See Clark Cty. Sch. Dist. v. Buchanan*, 12 Nev. at 1150, 924 P.2d at 719. There is no legitimate immediate need to approve the Partial Settlement on this severely truncated timeline.

The only reason the settling parties are attempting to do so is to injury non settling Parties by forcing them to accept a nuisance type settlement. Settling Plaintiffs <u>and Defendants</u> should not benefit from such collusive and deviant behavior. It is clear by these Parties' actions that there has not been a scintilla of good faith in their negotiation process and said process has been riddled with cunningly disingenuous attempts to in THC NV and HERBAL CHOICE from resolving this matter on the merits.

As stated above, the Partial Settlement, which has not been provided to THC NV nor HERBAL CHOICE, is believed to contain certain language that is specifically targeted to "take out" the remaining parties and force them to dismiss their claims.

Instead of sanctioning such collusion, the parties should proceed to a hearing on a preliminary injunction on this matter pursuant so that this Court can then decide if more permanent relief should issue until this litigation is resolved, which will ultimately reconcile the recreational dispensary application process on its merits. This Court should find that any negotiation which does not include all Plaintiffs in a global type negotiation, is automatically implicit of bad faith.

An injunction, if granted, would preserve the status quo of the licenses at issue so that they cannot be used as a sword against the remaining parties.

#### 4. If the Court Does Grant an Injunction the Bond, if Any, Should Be Nominal.

NRCP 65(c) requires that security be given before a temporary restraining order and/or preliminary injunction can issue. The sum of the security is left to the discretion of the court and is for the payment of such costs and damages as may be incurred or suffered by any party found to be wrongfully restrained or enjoined. *Id*. As an injunction in this matter would mean the status quo is maintained and the Partial Settlement is held in abeyance until there is a final ruling on the merits of the claims at issue. THC NV and HERBAL CHOICE already have posted Three Hundred Thousand Dollars (\$300,00.00), respectively as a result of the August 23, 2019 Preliminary Injunction and has substantial monies at risk. Therefore, any additional bond to simply the status should be minimal and not be in excess \$500.00.

Both THC NV and HERBAL CHOICE simply want what is equitable, to be included in the negotiations of a settlement. There should be no cost to secure such fairness in the legal process which is **mandated** as to be included in a global resolution of this matter.

The fact that two Plaintiffs have been deliberately ignored, as if non-existent, in a proceeding that they have spent the past two years, litigating, paying attorneys fees and complying with Court Orders, not to mention a presence at trial, is a despicable demonstration of perpetuating the collusion that this very trial is about, but now the betrayal is by Plaintiffs' own former counsel and Co-Plaintiffs.

1		IV.				
2	CONCLUSION					
3	For the foregoing reasons, the Court should find that Plaintiff THC NV and HERBAL					
4	CHOICE have met its burden for a temporary restraining order and ultimately a preliminary injunction					
5	in this matter must issue preventing any execution, enforcement and/or application any Partial					
6	Settlement until such time this matter is concluded herein, and enter a temporary restraining order in					
7 8						
° 9	the form attached as Exhibit "2".					
10	DATED this 28 <sup>th</sup> day of July 2020.					
11	SIGAL CHATTAH, ESQ.	AMY L. SUGDEN, ESQ.				
12	/s/ Sigal Chattah	/s/ Amy L. Sugden				
13	Sigal Chattah Nevada Bar No. 8264	Amy L. Sugden Nevada Bar No 9983				
14	5875 S. Rainbow Blvd #203	9728 Gilespie Street				
15	Las Vegas NV 89118 Attorney for Plaintiff	Las Vegas, NV 89183 Attorney for Plaintiff				
16	Herbal Choice, Inc.	THC Nevada LLC				
17						
18						
19						
20						
21						
22						
23 24						
24 25						
25 26						
27						
28						
		17				

1	CERTIFICATE OF SERVICE
2	I hereby certify that on this day, I caused a true and correct copy of the foregoing <u>EX PARTE</u>
3	APPLICATION FOR TEMPORARY RESTRAINING ORDER WITH NOTICE AND
4	MOTION FOR PRELIMINARY INJUNCTION ON ORDER SHORTENING TIME to be
5	served to all registered parties, via the Court's Electronic Filing System.
6	Dated: July 28, 2020
7 8	
9	10/ Ann I Sugdan
10	<u>/s/ Amy L. Sugden</u> Attorney
11	
12	
13	
14	
15	
16	
17	
18 19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	18

1 2 3	AMY L. SUC Nev. Bar No. SUGDEN LA 9728 Gilespie Las Vegas, N Telephone:	9983 W e St.
4	Facsimile:	(702) 507-9011
5	amy@sugden Attorney for T	<u>law.com</u> THC Nevada, LLC
6	DECLARAT	TION OF AMY L. SUGDEN, ESQ. IN SUPPORT OF APPLICATION FOR
7		TEMPORARY RESTRAINING ORDER
8 9	I, AM	Y L. SUGDEN, declare as follows:
9	1.	I am a licensed attorney in the State of Nevada since 2005 and a member of
11		good standing with the State Bar of Nevada.
12	2.	I am Counsel for Plaintiff THC Nevada, LLC, in the matter sub judice, and
13		substituted former Counsel of Brownstein Hyatt Farber Schreck on or about
14 15		June 24, 2020.
16	3.	This Declaration is made in support of an Application for the Temporary
17		Restraining Order on an Order Shortening Time.
18	4.	On or about July 17, 2020, I emailed THC NV's former counsel to request a
19		copy of the attorney client representation agreement with THC NV as well as
20 21		any other type of agreements related to joint representation of the ETW
21		Plaintiffs.
23	5.	To date, I have no received any response.
24	6.	Additionally, I have inquired of my client, THC NV, to determine if any
25		waiver of conflicts has been obtained by former counsel, to which my client is
26		unaware exists.
27		
28		

1	7.	As a result of disparate treatment between the Plaintiffs, it became clear that			
2		the less Plaintiffs in the ETW group, the easier to effectuate a settlement with			
3		Defendants in this matter, as the ultimate goal was a transfer of licenses in a			
4		resolution of all matters.			
5	8.	Accordingly, THC NV made an attempt was to be included in the participation			
6		of settlement negotiations which were immediately rejected.			
7					
8	9.	Thereafter, it was brought to my attention that on July 15, a partial settlement			
9		agreement was being circulated including Planet 13; ETW Plaintiffs; Nevada			
10		Wellness Center, and Qualcan, LLC.			
11	10.	While it is clear that individual groups of Plaintiffs have no obligation to			
12					
13		procure any resolution for all Plaintiffs, the deliberate collusion against the			
14		Plaintiffs that were never allowed to participate in the negotiations is a vile			
15		exhibition of corruption that not only plagues the case itself, but also the			
16		attempt to resolve it.			
17	11.	This Court has been privy to the continued entry and exit of numerous			
18		Plaintiffs' Counsels from the Courtroom during this trial, deceitfully and			
19		secretly attempting to negotiate terms in the hallway of the South Hall, while			
20					
21		THC NV has not even been invited to even accept any offer.			
22	12.	It is not only Plaintiffs attempt to partially dispose of the Parties to this matter,			
23		it is also their intent to preclude and injure non settling Plaintiffs from litigating			
24		the matters on the merit, by forcing them to settle for nuisance value fees under			
25		the threat of attorneys fees and costs.			
26		are anout of automoys roos and costs.			
27					
28					
		2			

1	13.	On July 31, 2020 at 2:00 p.m., the Nevada Tax Commission will be conducting	
2		a hearing on its Consent Agenda on a partial settlement agreement that will not	
3		dispose of all matters of this case.	
4	14.	Further the Nevada Tax Commission must be advised that this Partial	
5		Settlement was not engaged in good faith, did not include all Plaintiffs, or was	
6		even remotely an attempt to globally resolve the matter.	
7	15		
8	15.	Moreover, the parties to the Partial Settlement attempt move forward with	
9		their secret agenda without any advance approval by this Court.	
10	16.	It is clear that there was never an attempt to resolve the matter globally, and	
11 12		that the negotiations were targeted to deliberately and deceitfully exclude	
12		parties they deemed insignificant in the action.	
13	17.	These are the facts as I know them to be true.	
15	18.	Under NRS 53.045, I declare under penalty of perjury that the foregoing is true	
16		and correct.	
17			
18	FURTHER THIS AFFIANT SAYETH NAUGHT.		
19	DATED this 28 <sup>th</sup> day of July, 2020.		
20			
21		/s/ Amy L. Sugden AMY L. SUGDEN	
22			
23			
24			
25			
26			
27 28			
20		2	
		3	

<ol> <li>SIGAL CHATTAH, ESQ.</li> <li>Nevada Bar No.: 8264</li> <li>CHATTAH LAW GROUP</li> <li>5875 S. Rainbow Blvd #203</li> <li>Las Vegas, Nevada 89118</li> <li>Tel: (702) 360-6200</li> <li>Fax: (702) 643-6292</li> <li><u>Chattahlaw@gmail.com</u></li> <li><i>Counsel for Plaintiffs</i></li> </ol>	<u>ATION</u>			
<ul> <li>CHATTAH LAW GROUP</li> <li>5875 S. Rainbow Blvd #203</li> <li>Las Vegas, Nevada 89118</li> <li>Tel: (702) 360-6200</li> <li>Fax: (702) 643-6292</li> <li><u>Chattahlaw@gmail.com</u></li> </ul>	<u>ATION</u>			
<ul> <li>3 5875 S. Rainbow Blvd #203 Las Vegas, Nevada 89118</li> <li>4 Tel: (702) 360-6200</li> <li>5 Fax: (702) 643-6292</li> <li><u>Chattahlaw@gmail.com</u></li> </ul>	<u>ATION</u>			
4 Tel: (702) 360-6200 5 Fax: (702) 643-6292 <u>Chattahlaw@gmail.com</u>	<u>ATION</u>			
Chattahlaw@gmail.com	<u>ATION</u>			
6 Counsel for Plaintiffs	ATION			
	ATION			
DECLARATION OF SIGAL CHATTAH, ESQ. IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER				
8				
9 I, SIGAL CHATTAH, declare as follows:				
10 1. I am a licensed attorney in the State of Nevada since 2002 and a men	nber of			
11				
	1			
13 2. I am Counsel for Plaintiff Herbal Choice, Inc. in the matter sub judic	e, and			
substituted former Counsel of Brownstein Hyatt on or about May 20,	, 2020.			
153.This Declaration is made in support of an Application for the Tempo	rary			
16   Restraining Order on an Order Shortening Time.     17				
4. I was retained on this matter following a conflict that was relayed to	Herbal			
19 Choice and they were provided with the option of dismissing their cl	aims with			
20 return of their bond monies or finding new Counsel				
21 5. Herbal Choice refused to dismiss their claims and chose to hire myse	elf as			
22 Counsel on this matter.				
23				
6. I was advised upon substitution, that at no time prior to representatio	notEIW			
25 Plaintiffs or during the course of same, were HERBAL CHOICE pre	sented			
26 with a conflict waiver to be signed as part of a larger group of Plainti	iffs			
27 litigating and seeking the same ultimate result.				
28				

1	7.	As a result of disparate treatment between the Plaintiffs, it became clear that
2		the less Plaintiffs in the ETW group, the easier to effectuate a settlement with
3		Defendants in this matter, as the ultimate goal was a transfer of licenses in a
4		resolution of all matters.
5	8.	Accordingly, I made an attempt was to be included in the participation of
6		attlement reactificant which were immediately rejected
7		settlement negotiations which were immediately rejected.
8	9.	Thereafter, it was brought to my attention that on July 15, a partial settlement
9		agreement was being circulated including Planet 13; ETW Plaintiffs; Nevada
10		Wellness Center ("NWC"), and Qualcan, LLC.
11	10.	While it is clear that individual groups of Plaintiffs have no obligation to
12		procure any resolution for all Plaintiffs, the deliberate collusion against the
13		
14		Plaintiffs that were never allowed to participate in the negotiations is a vile
15		exhibition of corruption that not only plagues the case itself, but also the
16		attempt to resolve it.
17	11.	This Court has been privy to the continued entry and exit of numerous
18		Plaintiffs' Counsels from the Courtroom during this trial, deceitfully and
19		secretly attempting to negotiate terms in the hallway of the South Hall, while
20		secretly attempting to negotiate terms in the narway of the South Han, while
21		Herbal Choice has not even been invited to even accept any offer.
22	12.	It is not only Plaintiffs attempt to partially dispose of the Parties to this matter,
23		it is also their intent to preclude and injure non settling Plaintiffs from litigating
24		the matters on the merit, by forcing them to settle for nuisance value fees under
25		
26		the threat of attorneys fees and costs.
27		
28		
		2

1	13.	On July 31, 2020 at 2:00p.m., the Nevada Tax Commission will be conducting
2		a hearing on its Consent Agenda on a partial settlement agreement that will not
3		dispose of all matters of this case.
4	14.	Further the Nevada Tax Commission must be advised that this Partial
5		Settlement was not engaged in good faith, did not include all Plaintiffs, or was
6		even remotely an attempt to globally resolve the matter.
7	15.	It is clear that there was never an attempt to resolve the matter globally, and
8 9		that the negotiations were targeted to deliberately and deceitfully exclude
10		
11	16	parties they deemed insignificant in the action.
12	16.	These are the facts as I know them to be true.
13	17.	Under NRS 53.045, I declare under penalty of perjury that the foregoing is true
14		and correct.
15	/s/	SIGAL CHATTAH
16	Decla	
17	BIOA	
18		
19 20		
20		
22		
23		
24		
25		
26		
27		
28		
		3

## EXHIBIT "1"

# EXHIBIT "1"

#### NEVADA TAX COMMISSION MEETING AGENDA

#### July 31, 2020 2:00 p.m.

In compliance with the Governor's Emergency Directive 006, dated March 22, 2020, this meeting will be conducted by means of electronic communication. The public may view the meeting by live stream on the Nevada Department of Taxation's YouTube channel at: https://www.youtube.com/channel/UCwZMw0CLJAjXH1XFjYde18Q/feed and may submit public

<u>https://www.youtube.com/channel/UCwZMw0CLJAjXH1XFjYde18Q/feed</u> and may submit public comment as set forth below in the Public Comment section.

#### Note: <u>Items on this agenda may be taken in a different order than listed.</u> <u>Items may be combined for consideration by the Tax Commission.</u> <u>Items may be pulled or removed from the agenda at any time.</u>

I. \*\*Public Comment. Testimony will be accepted in writing or by telephone. In consideration of others, who may also wish to provide public comment, please avoid repetition, and limit your comments to no more than two (2) minutes. Please submit written testimony by email to tpadovano@tax.state.nv.us, by facsimile to (775) 684-2020; or by U.S. Mail addressed to the Nevada Tax Commission, 1550 E. College Parkway, Carson City, NV 89706. To dial in to provide testimony by telephone:
Dial: +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592
When prompted to provide a Webinar ID, please enter: 973 8235 5536, then press # When prompted for a Participant ID, please enter # Please call (775) 684-2100 to report technical difficulties.

#### II. CONSENT CALENDAR<sup>1</sup>:

#### A. Consideration for Approval of the Recommended Settlement Agreement:

- 1. In re Department of Taxation Litigation, Case No. A-19-787004-B, pending in the Eighth Judicial District Court (consolidated with Case Nos.: A-18-785818-W; A-18-786357-W; A-19-786962-B; A-19-787035-C; A-19-787540-W; A-19-787726-C; A-19-801416-B) (for possible action)
- III. Next Meeting Date: <u>August 17, 2020</u>
- IV. \*\*Public Comment. Testimony will be accepted in writing or by telephone. In consideration of others, who may also wish to provide public comment, please avoid repetition, and limit your comments to no more than two (2) minutes. Please submit written testimony by email to tpadovano@tax.state.nv.us, by facsimile to (775) 684-2020; or by U.S. Mail addressed to the Nevada Tax Commission, 1550 E. College Parkway, Carson City, NV 89706. To dial in to provide testimony by telephone:

Dial: +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592

When prompted to provide a Webinar ID, please enter: 973 8235 5536, then press # When prompted for a Participant ID, please enter # Please call (775) 684-2100 to report technical difficulties.

<sup>&</sup>lt;sup>1</sup> The Commission will review all of the items on the consent calendar unless a member of the Commission, the Attorney General's Office, the Department or the public wishes to speak in regard to a certain issue, in which case the Commission may, in its discretion, pull the item from the consent calendar.

#### V. Adjourn.

Please contact Tina Padovano at (775) 684-2096 to request copies of the Nevada Tax Commission support materials. Please call (775) 684-2100 to report technical difficulties.

Members of the public who are disabled and require accommodations or assistance at this meeting are requested to notify the Department of Taxation at (775) 684-2096 as soon as possible.

Any appeal to the Nevada Tax Commission (the "Commission") concerning the liability of tax must be heard in open session. A taxpayer may request that a portion of the hearing be closed to the public so that the Commission can receive proprietary or confidential information pursuant to NRS 360.247. The request must be submitted to the Commission in writing and contain a list or summary of the information that the taxpayer believes is proprietary or confidential. It must also include a short statement explaining how the information qualifies as proprietary or confidential information pursuant to NRS 360.247. The submission must be made no later than fourteen (14) days prior to the date of the hearing. \*All requests for closed hearings will be noted as such on the Commission's agenda.

Decisions of the Tax Commission and any information submitted in public session will become public and may be published. If a transcript of any hearing held before the Commission is desired by the petitioner or appellant, he/she may obtain a copy, at the party's expense, from the court reporter furnished by the Commission.

\*\*This item is to receive public comment on any issue and any discussion of those items, provided that comment will be limited to areas relevant to and within the authority of the Nevada Tax Commission. <u>No</u> action will be taken on any items raised in the public comment period. At the discretion of the Chairman, public comment may be received prior to action on individual agenda items. Public Comment may not be limited based on viewpoint. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. See NRS 233B.126.

Notice of this meeting has been posted on the internet through the Department of Taxation's website at <u>https://tax.nv.gov/</u> and at <u>https://notice.nv.gov/</u>.

## EXHIBIT "2"

# EXHIBIT "2"

1	AMY L. SUGDEN, ESQ.					
1	Nev. Bar No. 9983 SUGDEN LAW					
2	9728 Gilespie St.					
3	Las Vegas, Nevada 89183					
4	Telephone:         (702) 307-1500           Facsimile:         (702) 507-9011					
5	amy@sugdenlaw.com Attorney for THC Nevada, LLC					
6						
7	SIGAL CHATTAH, ESQ. Nev. Bar No.: 8264					
8	CHATTAH LAW GROUP 5875 S. Rainbow Blvd. #203					
9	Las Vegas, Nevada 89118 Tel.: (702) 360-6200					
10	Fax: (702) 643-6292 Chattahlaw@gmail.com					
11	Attorney for Plaintiff Herbal Choice, Inc.					
12	EIGHTH JUDICIAL DISTRICT COURT					
13	<u>CLARK COUNTY, NEVADA</u>					
14	****					
15	In Re: D.O.T. Litigation, ) Case No.: A-19-787004-B					
16	) Dept. No: XI					
17	) ) CONSOLIDATED WITH:					
18	) A-18-785818-W					
19	) A-18-786357-W ) A-19-786962-B					
20	) А-19-787035-С					
21	) A-19-787540-W ) A-19-787726-C					
21	) A-19-787720-C ) A-19-801416-B					
22						
23						
25	)					
26						
20	TEMPORARY RESTRAINING ORDER					
27						
28						
	1					

//

//

//

//

//

//

//

//

//

Having considered Plaintiff's THC NEVADA, LLC ("THC NV") and HERBAL CHOICE, INC. ("Herbal Choice")'s *Ex Parte* Application for Temporary Restraining Order ("Application"); having considered the exhibits attached to the Application, including the Declarations of Amy L. Sugden, Esq. and Sigah Chattah, Esq., and all the other papers on file; and good cause having been shown:

IT IS HEREBY ORDERED that THC NV and Herbal Choice's Application is GRANTED. IT IS FURTHER ORDERED that any parties to the Partial Settlement that is currently set to be considered at the July 31, 2020 Nevada Tax Commission Meeting, including the Department of Taxation, are temporarily restrained from the execution, finalization and/or any attempts to perform pursuant to the Partial Settlement Agreement in any way until such time as the hearing on the Motion

for Preliminary Injunction is heard.

IT IS FURTHER ORDERED that the hearing on THC NV and Herbal Choice's Motion for Preliminary Injunction shall be conducted on \_\_\_\_\_\_, at \_\_\_\_\_, at \_\_\_\_\_, at \_\_\_\_\_, at \_\_\_\_\_, with notice to all parties as required by Nevada law.

1	IN SUPPORT OF THIS TEMPORARY	RESTRAINING ORDER, and pursuant to NRCP
2	65(c), THC NV and Herbal Choice shall post a b	oond in the amount of \$
3	IT IS SO ORDERED.	
4	DATED: July <u>,</u> 2020.	
5		
6	TIME::m.	
7		
8		DISTRICT COURT JUDGE
9		
10	Respectfully Submitted:	
11		
12	AMY L. SUGDEN	
13	/s/ Amy L. Sugden	
14	Amy L. Sugden Nevada Bar No 9983	
15	9728 Gilespie Street	
16	Las Vegas, NV 89183	
17	Attorney for THC Nevada LLC	
18	SIGAL CHATTAH, ESQ.	
19	/s/ Sigal Chattah	
20	Nevada Bar No. 8264 5875 S. Rainbow Blvd #203	
21	Las Vegas, NV 89118	
22		
23		
24		
25		
26		
27		
28		
		3

From:	
Sent:	
To:	

Kennedy McKinney <mckink1@unlv.nevada.edu> Friday, August 7, 2020 8:14 AM CCB Meetings

Chairman Douglas and Commissioners:

I am Kennedy McKinney. I work in the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. While Inyo has gone above and beyond to follow state regulations, this settlement would reward other dispensaries and harm the integrity of this process. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Respectfully, Kennedy McKinney

From:	Mark Hesiak <mark_hesiak@yahoo.com></mark_hesiak@yahoo.com>
Sent:	Friday, August 7, 2020 8:15 AM
То:	CCB Meetings
Subject:	Comment for 8.7.2020 Meeting of the CCB

To the Nevada Cannabis Control Board

I am submitting this statement as a public comment for the August 7, 2020 meeting of the Cannabis Control Board ("CCB"). I have been a licensed attorney in Nevada since 2011 and have represented clients in the Nevada marijuana industry since 2014. I am writing to express my concerns regarding the most recent round of licensing, the potential settlement of litigation regarding those licenses, and the process by which they were awarded.

Although numerous flaws in the process that have come to light during the litigation, the most concerning is the unilateral decision to remove the requirement that applicants provide a physical address for a marijuana facility's proposed location. This decision by the Tax Commission directly contradicts Nevada law as approved by the voters pursuant to the 2016 ballot initiative commonly known as "Question 2."

Question 2 as codified under NRS 453D, requires each applicant to provide the location of any proposed facility in order to have a complete application. The necessity of this requirement is obvious given several other provisions of NRS 453D. For example, an application cannot be approved unless "The physical address where the proposed marijuana establishment will operate is owned by the applicant or the applicant has the written permission of the property owner to operate the proposed marijuana establishment on that property." NRS 453D.210(5)(b). In addition, a proposed location cannot be within 1,000 feet of a school nor 300 feet of a "community facility." NRS 453D.210(5)(c). Further, the scoring of the application included points for "impact on the community" and "building plan." None of these items can be scored properly without providing an actual address. As is obvious from the text of Nevada law, the physical location of a proposed facility was a critical part of the application for a license.

Despite this clear requirement, the Nevada Tax Commission decided to eliminate this requirement from the applications. The Tax Commission had no authority to make this change. Further, although some applicants still provided a proposed physical address with their applications, many did not and only provided a P.O Box. This omission rendered all of the latter applications incomplete, and under Nevada law, they should not have been scored at all. NRS 453D.210(4).

However, not only were these incomplete applications scored, dozens of licenses were awarded to applicants who failed to include a proposed address. As an example of the absurdity of eliminating this requirement, these applications received points for "impact on the community" when they failed to even identify the community they proposed to serve. Further, without an actual proposed location, none of these applications could have included permission from a property owner to operate a marijuana facility on the property or demonstrated that they were far enough away from schools and community facilities.

The Tax Commission's actions during the application process should render that entire process null and void for failure to follow the requirements of Nevada law. Now, applicants who were awarded licenses pursuant to a legally flawed process are proposing to use the improperly awarded licenses as leverage to settle litigation that seeks to correct the errors and insure a fair process for all. Not surprisingly, the Tax Commission would like this matter to go away because its failures and errors are being exposed publicly. The CCB should not begin its existence by approving a settlement merely as a matter of expediency, but instead, should deny this settlement and take appropriate action to ensure that applicants who did not submit applications that complied with Nevada law suffer the fate that the law prescribes, which is to have those applications deemed incomplete, and the improperly awarded licenses should be revoked.

Thank you for your time

Mark Hesiak, Esq.

From:	William Napoles <william@inyolasvegas.com></william@inyolasvegas.com>
Sent:	Friday, August 7, 2020 2:42 AM
То:	CCB Meetings
Subject:	[Unverified Sender] Settlement In The Licensing Litigation

"Chairman Douglas and Commissioners:

I am William Napoles. I work in the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. In fact, Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Respectfully,

William Napoles

Inyo Fine Cannabis Dispensary

william@inyolasvegas.com <mailto:william@inyolasvegas.com>

From:	Elysha Wickman <elysha@inyolasvegas.com></elysha@inyolasvegas.com>
Sent:	Friday, August 7, 2020 6:26 AM
То:	CCB Meetings
Subject:	[Unverified Sender] Urgent

Chairman Douglas and Commissioners:

I am Elysha Wickman. I work in the cannabis industry. I am strongly opposed to the settlement agreement before you regarding the proposed settlement in the licensing litigation. It is comforting to work in an industry that licenses business based on merit. In fact, Nevada's merit based system for awarding licenses is a source of pride nationally. This settlement awards dispensary licenses not based on objective scoring criteria, but, frankly, based on no specific criteria whatsoever. By approving this settlement today, you are changing the dynamic of the litigation so that a fair resolution may be impossible to reach, even for a judge. There is no reason to accept this settlement today. Even if you feel this settlement is fair, the trial is nearly over. Please preserve Nevada's merit-based and let the litigation conclude without this settlement interfering with the pursuit of justice.

Respectfully, Elysha Wickman

From: Sent: To: Subject: Richard Perkins <richard@theperkinsco.com> Friday, August 7, 2020 9:10 AM CCB Meetings cannabis settlement

August 7, 2020

Honorable Michael Douglas Chairman Hon. Dennis Neilander, Member Hon. Jerrie E. Merritt, Member Cannabis Compliance Board State of Nevada

Via-email

Dear Chairman Douglas and members of the CCB,

I am sorry I could not appear today in-person, as I know everyone is frustrated that COVID has made this impossible. However, I feel it is imperative that I weigh in on the issue in front of you during your meeting, approving the supposed settlement between the Department of Taxation and several cannabis companies.

As a career law-enforcement professional and former Police Chief for the City of Henderson, I've participated in and supervised numerous investigations. I think I have a pretty good sense when something just doesn't pass the "smell" test, and I certainly felt that way when I heard the results of the 2018 recreational marijuana licensing process. Further investigation has shown that to be true, with allegations of favoritism, questionable ethics and obfuscation of some participants' records to give them higher scores. Recent litigation has shown this process was anything but fair, and it's unfortunate a state that has the gold-standard in gaming regulation allowed such a corrupt and dishonest process to happen in this industry.

As you know, the Cannabis Compliance Board was created and modeled after the Gaming Control Board and I know you are committed to upholding the highest standards possible in this new industry. I would submit approving this settlement, with still so much to be learned, would not meet the highest standard. Please allow a full hearing so you can be completely informed and listen to all sides prior to making any decision.

I am aware there is a rush to finish this litigation and try to return some normalcy to this industry. However, approving this settlement will have just the opposite effect. It will create even more litigation and will likely lead to a need for further changes in the next session of the Legislature. Please give this settlement the full hearing it needs and deserves.

Sincerely,

Richard D. Perkins President, The Perkins Company 631 N. Stephanie Street, Suite 202 Henderson, NV 89014 702-238-5286 (direct)

From:	Mona Lisa <monalisaloveslife@gmail.com></monalisaloveslife@gmail.com>
Sent:	Friday, August 7, 2020 10:57 AM
То:	CCB Meetings
Subject:	Today's CCB Meeting - For Last Public Comment

It should not go unmentioned that today's meeting took place specifically because Nevada's regulatory "gold standards" have once again proven themselves to be nothing more than a sad ruse. Everything our medical cannabis patients lost in the marijuana money grab is so immense, it's not even calculable. What a mess!