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Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

GREENMART OF NEVADA NLV LLC, a  
Nevada Limited Liability Company; and  
Nevada Organic Remedies, LLC,

Appellants,

vs.

SERENITY WELLNESS CENTER, LLC, a  
Nevada limited liability company, TGIG,  
LLC, a Nevada limited liability company,  
NULEAF INCLINE DISPENSARY, LLC, a  
Nevada limited liability company,  
NEVADA HOLISTIC MEDICINE, LLC, a  
Nevada limited liability company, TRYKE  
COMPANIES SO NV, LLC a Nevada  
limited liability company, TRYKE  
COMPANIES RENO, LLC, a Nevada  
limited liability company, PARADISE  
WELLNESS CENTER, LLC, a Nevada  
limited liability company, GBS NEVADA  
PARTNERS, LLC, a Nevada limited  
liability company, FIDELIS HOLDINGS,  
LLC, a Nevada limited liability company,  
GRAVITAS NEVADA, LLC, a Nevada  
limited liability company, NEVADA PURE,  
LLC, a Nevada limited liability company,  
MEDIFARM, LLC, a Nevada limited  
liability company; MEDIFARM, IV LLC, a  
Nevada limited liability company; and THE  
STATE OF NEVADA, DEPARTMENT OF  
TAXATION,

Respondents.

Supreme Court Case No.: 79668

District Court Case No.: A-19-786962-B

**RESPONDENTS'  
OPPOSITION  
TO  
APPELLANT, NEVADA  
ORGANIC REMEDIES, LLC'S  
MOTION TO SUSPEND THE  
PRELIMINARY INJUNCTION  
ISSUED AGAINST THE STATE  
OF NEVADA, DEPARTMENT  
OF TAXATION  
PENDING APPEAL,  
PURSUANT TO NRAP 8**

1 Respondents (less the State of Nevada, Department of Taxation), by and through  
2 their attorneys, hereby submit their Opposition to *Nevada Organic Remedies, LLC's*  
3 *Motion to Suspend the Preliminary Injunction Issued Against the State of Nevada,*  
4 *Department of Taxation Pending Appeal, Pursuant to NRAP 8* ("Motion") filed on  
5 October 28, 2019. This Opposition is made and based upon the following points and  
6 authorities and the papers and pleadings on file.

## 7 POINTS & AUTHORITIES

### 8 I. 9 SUMMARY

10 The district court on August 23, 2019, issued a preliminary injunction with the  
11 filing of its *Findings of Fact and Conclusions of Law Granting Preliminary Injunction*  
12 ("Preliminary Injunction Order"). See Exhibit 1 to NOR's Motion. It runs for twenty-four  
13 (24) pages and includes at least ninety-one (91) numbered paragraphs of findings of fact  
14 and conclusions of law. In part, the district court found:

15  
16 86. As Plaintiffs have shown that the DoT clearly violated NRS Chapter  
17 453D, the claims for declaratory relief, petition for writ of prohibition, and  
18 any other related claims is likely to succeed on the merits.

19 87. The balance of equities weights in favor of Plaintiffs.

20 Id., at 22:24-27.

21 Having been unsuccessful in its request for a stay of the Preliminary Injunction  
22 Order at the district court,<sup>1</sup> Appellant, Nevada Organic Remedies, LLC ("NOR"), via its  
23 present Motion now moves this Court to stay the preliminary injunction pending appeal.  
24 Like at the district court, NOR's current Motion provides no compelling reason why the  
25

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26  
27 <sup>1</sup>See **Exhibit A**, *Order Denying (1) Nevada Organic Remedies, LLC's Motion to Dissolve*  
28 *Preliminary Injunction and to Stay Preliminary Injunction Pending Appeal and (2) Lone*

1 preliminary injunction should be stayed. The entire purpose of NOR's appeal is to  
2 challenge the preliminary injunction. Without a preliminary injunction in place, NOR's  
3 appeal will be moot. Moreover, without the preliminary injunction in place, Respondents  
4 will suffer irreparable harm as the Nevada Constitution and the Ballot Initiative continue  
5 to be violated. Therefore, NOR's Motion should be denied.

## 6 **II.** 7 **DISCUSSION**

8 While it is within this Court's sound discretion to grant or deny a motion to stay  
9 the preliminary injunction pending an appeal (White Pine Power Dist. No. 9 v. Pub. Serv.  
10 Comm'n, 76 Nev. 263, 264, 352 P.2d 256, 256 (1960)), NRAP 8(a)(1) provides that a  
11 party must ordinarily first seek a stay at the district court because the district court has  
12 "vastly greater familiarity with the facts and circumstances of the particular case." Nelson  
13 v. Heer, 121 Nev. 832, 836, 122 P.3d 1252, 1254 (2005), as modified (Jan. 25, 2006).  
14 Here the district court denied NOR's request for a stay.

15 In general, the party requesting a stay must show why it needs protection from the  
16 immediate effects of the district court's judgment while the reviewing court determines  
17 whether the district court erred. See Edwards v. Ghandour, 123 Nev. 105, 117, 159 P.3d  
18 1086, 1094 (2007), abrogated on other grounds by Five Star Capital Corp. v. Ruby, 124  
19 Nev. 1048, 194 P.3d 709 (2008) ("A stay will protect the appellant from the judgment's  
20 immediate consequences while the reviewing court determines whether reversible error  
21 occurred.").

22 Here, like before at the district court, NOR has failed to give a valid reason for  
23 why it needs protection from the immediate effects of the Preliminary Injunction Order.  
24 In fact, the only real reason NOR offers is invalid as a matter of law, i.e., that it is losing  
25 money each day the injunction is in place. This is not a valid reason to grant a stay

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26  
27 *Mountain Partners, LLC's Motion to Dissolve Preliminary Injunction for Failure to Post Bond*  
28 *on Order Shortening Time* filed on November 19, 2019, in the district court.

1 because “[m]ere injuries, however substantial, in terms of money, time and energy  
2 necessarily expended in the absence of a stay are not enough to show irreparable harm.”  
3 Hansen v. Eighth Judicial Dist. Court, 116 Nev. 650, 658, 6 P.3d 982, 987 (2000)  
4 (quoting Wisconsin Gas Co. v. F.E.R.C., 758 F.2d 669, 674 (D.C.Cir.1985)) (internal  
5 quotation marks omitted) (alterations in original). As such, nearly all of NOR’s  
6 arguments in support of its Motion are invalid as a matter of law.

7 NOR’s Motion addresses whether this Court should stay the injunction under  
8 NRAP 8(c)’s four (4) factors test: (1) whether the object of the appeal or writ petition will  
9 be defeated if the stay or injunction is denied; (2) whether appellant/petitioner will suffer  
10 irreparable or serious injury if the stay or injunction is denied; (3) whether  
11 respondent/real party in interest will suffer irreparable or serious injury if the stay or  
12 injunction is granted; and (4) whether appellant/petitioner is likely to prevail on the  
13 merits in the appeal or writ petition. Id. Contrary to NOR’s Motion, these factors weigh  
14 against NOR’s requested stay.

15 First, the object of the appeal will not be defeated if the stay of the injunction is  
16 denied. While NOR frames the object of its appeal as whether or not its licenses were  
17 rightfully issued, this is not the object of the appeal. Instead, NOR’s interlocutory appeal  
18 challenges the validity of the preliminary injunction that it is asking this Court to stay.  
19 Whether or not the injunction was validly issued has very little to do with whether its  
20 license was validly issued. Keeping the injunction in place would in no way hinder the  
21 appellate courts from analyzing whether the injunction was validly issued. Staying the  
22 injunction, on the other hand, would likely defeat the object of the appeal because staying  
23 the preliminary injunction could render the appeal moot.

24 For the Nevada appellate courts to rule on an issue it must not be moot, meaning  
25 that the “controversy must be present through all stages of the proceeding.” Personhood  
26 Nev. v. Bristol, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010). If this Court were to stay  
27 the preliminary injunction, then there would be no controversy for it to adjudicate  
28

1 because the injunction would no longer be in effect. Thus, this factor weighs against  
2 NOR's request for stay.

3 Second, NOR will not be irreparably harmed without a stay. As stated above, for a  
4 harm to be irreparable it must be more than lost profits, expenses, time, and other  
5 monetary factors. Hansen, 116 Nev. at 658, 6 P.3d at 987. Harm suffered by a plaintiff,  
6 for the purposes of a stay, is rarely irreparable. See Mikohn Gaming Corp. v. McCrea,  
7 120 Nev. 248, 253, 89 P.3d 36, 39 (2004). This is because it must be shown that the harm  
8 suffered cannot be remedied by money damages. Dixon v. Thatcher, 103 Nev. 414, 415,  
9 742 P.2d 1029, 1029 (1987). NOR claims in its at-issue Motion that it will be irreparably  
10 harmed because it will suffer lost profits, lost income for rent, lost time, and perhaps a  
11 lost license. All of these losses can be accounted for with monetary damages, which can  
12 be paid out of the posted bond if the injunction was wrongfully issued, and, therefore, the  
13 damages are not irreparable.

14 Third, the Plaintiffs below at the district court will be irreparably harmed by  
15 staying the preliminary injunction. While NOR argues the underlying Plaintiffs at district  
16 court will not be irreparably harmed by staying the preliminary injunction because they  
17 are unlikely to "move up in the ranking" and get licenses, this argument is beside the  
18 point.

19 Plaintiffs below have been irreparably harmed because of the repeated statutory  
20 and constitutional violations engaged in by the Department of Taxation ("DoT"). As the  
21 district court held in its Preliminary Injunction Order, the Plaintiffs below will continue  
22 to be irreparably harmed because of the constitutional violations engaged in by the DoT.  
23 See City of Sparks v. Sparks Mun. Court, 129 Nev. 348, 357, 302 P.3d 1118, 1124 (2013)  
24 (explaining that "a constitutional violation may be difficult or impossible to remedy  
25 through money damages, such a violation may, by itself, be sufficient to constitute  
26 irreparable harm"). For instance, in its Preliminary Injunction Order, the district court  
27 made numerous findings, including the following:  
28



1 36. NAC 453D.272(1) required the DoT to determine that an  
2 Application is "complete and in compliance" with the provisions of NAC  
3 453D in order to properly apply the licensing criteria set forth therein and  
4 the provisions of the Ballot Initiative and the enabling statute.

5 37. When the DoT received applications, **it undertook no effort** to  
6 determine if the applications were in fact "complete and in compliance."

7 38. In evaluating whether an application was "complete and in  
8 compliance" **the DoT made no effort** to verify owners, officers or board  
9 members (except for checking whether a transfer request was made and  
10 remained pending before the DoT).

11 \*\*\*

12 40. **The DoT created a Regulation that modified the mandatory BQ2**  
13 **provision** "[t]he Department shall conduct a background check of each  
14 prospective owner, officer, and board member of a marijuana establishment  
15 license applicant" and determined it would only require information on the  
16 application from persons "with an aggregate ownership interest of 5 percent  
17 or more in a marijuana establishment." NAC 453D.255(1).

18 41. NRS 453D.200(6) provides that "[t]he DoT shall conduct a  
19 background check of each prospective owner, officer, and board member of  
20 a marijuana establishment license applicant." **The DoT departed from this**  
21 **mandatory language** in NAC 453D.255(1) **and made no attempt in the**  
22 **application process to verify that the applicant's complied with the**  
23 **mandatory language of the BQ2 or even the impermissibly modified**  
24 **language.**

25 42. The DoT made the determination that it was not reasonable to  
26 require industry to provide every owner of a prospective licensee. The  
27 DOT's determination that only owners of a 5% or greater interest in the  
28 business were required to submit information on the application was not a  
permissible regulatory modification of BQ2. **This determination violated**  
**Article 19, Section 3 of the Nevada Constitution. The determination**  
**was not based on a rational basis.**

\*\*\*

44. **The adoption of NAC 453D.255(1), as it applies to the**  
**application process is an unconstitutional modification of BQ2** [fn.  
omitted]. The failure of the DoT to carry out the mandatory provisions of  
NRS 453D.200(6) is fatal to the application process [fn. omitted]. **The**  
**DoT's decision to adopt regulations in direct violation of BQ2's**

1        **mandatory application requirements is violative of Article 19, Section**  
2        **2(3) of the Nevada Constitution.**

3        45.    Given the lack of a robust investigative process for applicants, the  
4        requirement of the background check for each prospective owner, officer,  
5        and board member as part of **the application process impedes an**  
6        **important public safety goal in BQ2.**

7        46.    Without any consideration as to the voters mandate in BQ2, the DoT  
8        determined that requiring each prospective owner be subject to a  
9        background check was too difficult for implementation by industry. **This**  
10       **decision was a violation of the Nevada Constitution, an abuse of**  
11       **discretion, and arbitrary and capricious.**

12       47.    **The DoT did not comply with BQ2** by requiring applicants to  
13       provide information for each prospective owner, officer and board member  
14       or verify the ownership of applicants applying for retail recreational  
15       marijuana licenses. Instead the DoT issued conditional licenses to  
16       applicants who did not identify each prospective owner, officer and board  
17       member [fn. omitted].

18       Id., 14:7-16, 14:24 to 15:13, and 15:17 to 16:12, respectively (bold emphasis added). The  
19       district court also addressed certain other matters in its conclusions of law, including:

20       68.    While the category of diversity is not specifically included in the  
21       language of BQ2, the evidence presented in the hearing demonstrates that a  
22       rational basis existed for the inclusion of this category in the Factors and  
23       the application.

24       69.    The DoT's inclusion of the diversity category was implemented in a  
25       way that created a process which was **partial and subject to manipulation**  
26       **by applicants.**

27       70.    The **DoT staff provided various applicants with different**  
28       **information** as to what would be utilized from this category and whether it  
     would be used merely as a tiebreaker or as a substantive category.

     71.    Based upon the evidence adduced, the Court finds that **the DoT**  
     **selectively discussed** with applicants or their agents the modification of the  
     application related to physical address information.

     72.    **The process was impacted by personal relationships in decisions**  
     **related to the requirements of the application and the ownership**

1 **structures of competing applicants.** This in and of itself is insufficient to  
2 void the process as urged by some of the Plaintiffs.

3 73. The DoT disseminated various versions of the 2018 Retail Marijuana  
4 Application, one of which was published on the DoT's website and required  
5 the applicant to provide an actual physical Nevada address for the proposed  
6 marijuana establishment, and not a P.O. Box, (see Exhibit 5), whereas an  
7 alternative version of the DoT's application form, **which was not made**  
8 **publicly available and was distributed to some, but not all, of the**  
9 **applicants via a DoT listserv service,** deleted the requirement that  
10 applicants disclose an actual physical address for their proposed marijuana  
11 establishment. See Exhibit 5A.

12 \*\*\*

13 76. **By selectively eliminating the requirement to disclose an actual**  
14 **physical address for each and every proposed retail recreational**  
15 **marijuana establishment, the DoT limited the ability** of the Temporary  
16 Employees to adequately assess graded criteria such as (i) prohibited  
17 proximity to schools and certain other public facilities, (ii) impact on the  
18 community, (iii) security, (iv) building plans, and (v) other material  
19 considerations prescribed by the Regulations.

20 77. The hiring of Temporary Employees was well within the DoT's  
21 discretionary power.

22 78. **The evidence establishes that the DoT failed to properly train**  
23 **the Temporary Employees.** This is not an appropriate basis for the  
24 requested injunctive relief unless it makes the grading process unfair.

25 79. **The DoT failed to establish any quality assurance or quality**  
26 **control of the grading done by Temporary Employees [fn. Omitted].**  
27 This is not an appropriate basis for the requested injunctive relief unless it  
28 makes the grading process unfair.

\*\*\*

81. Certain of DoT's actions related to the licensing process were  
nondiscretionary modifications of BQ2's mandatory requirements. **The**  
**evidence establishes DoT's deviations constituted arbitrary and**  
**capricious conduct without any rational basis for the deviation.**

82. The DoT's decision to not require disclosure on the application and  
to not conduct background checks of persons owning less than 5% prior to  
award of a conditional license is **an impermissible deviation from the**



1        **mandatory language of BQ2**, which mandated "a background check of  
2        each prospective owner, officer, and board member of a marijuana  
3        establishment license applicant." NRS 453D.200(6).

4        \*\*\*

5        84.    Under the circumstances presented here, the Court concludes that  
6        **certain of the Regulations created by the DoT are unreasonable,**  
7        **inconsistent with BQ2 and outside of any discretion permitted to the**  
8        **DoT.**

9        85.    **The DoT acted beyond its scope of authority when it arbitrarily**  
10       **and capriciously replaced the mandatory requirement of BQ2**, for the  
11       background check of each prospective owner, officer and board member  
12       with the 5% or greater standard in NAC 453.255(1). This decision by the  
13       DoT was not one they were permitted to make as it **resulted in a**  
14       **modification of BQ2 in violation of Article 19, Section 2(3) of the**  
15       **Nevada Constitution.**

16       86.    As Plaintiffs have shown that the DoT clearly violated NRS  
17       Chapter 453D, the claims for declaratory relief, petition for writ of  
18       prohibition, and any other related claims is likely to succeed on the  
19       merits.

20       87.    **The balance of equities weighs in favor of Plaintiffs.**

21       Id., 20:1-24, 21:8-20, 22:1-9, and 22:15-27, respectively (bold emphasis added).

22       As the district court explained, the DoT violated the Ballot Initiative when it  
23       "arbitrarily and capriciously" replaced the mandatory requirements of the Ballot Initiative  
24       and violated other provisions of NRS Chapter 453D. A number of other violations are  
25       noted above from the Preliminary Injunction Order, including: (1) the DoT unlawfully  
26       communicated with some applicants and not others through a generic email address; (2)  
27       the DoT took no effort to determine if the applications were in fact complete and in  
28       compliance with the law; and (3) the DoT created regulations that unconstitutionally  
     altered the Ballot Initiative by requiring applications only from owners with a 5% or  
     greater interest in the business. These modifications and violations of the ballot initiative

1 violated the Nevada Constitution, which irreparably harmed the Plaintiffs below. That  
2 irreparable harm will continue if the preliminary injunction is lifted.

3 Fourth, NOR is unlikely to prevail on the merits of its appeal. As the district court  
4 stated that the "Plaintiffs have shown that the DoT clearly violated NRS Chapter 453D,  
5 the claims for declaratory relief, petition for writ of prohibition, and any other related  
6 claims is likely to succeed on the merits." Preliminary Injunction Order, at 22:24-26.  
7 Further, the above examples are indisputably violations of the Nevada Constitution.  
8 Given the DoT's repeated violations of the Nevada Constitution by altering the ballot  
9 initiative, the Plaintiffs below have a probability of success on the merits. While NOR  
10 attempts to re-litigate this issue in its current Motion, its arguments are as unpersuasive  
11 now as when they were argued during the motion for preliminary injunction and when  
12 NOR sought its unsuccessful stay at the district court.  
13  
14

15  
16 **III.**  
**CONCLUSION**

17 Wherefore, consistent with the above, the Court should deny NOR's Motion.

18 Respectfully submitted this 22ND day of NOVEMBER, 2019.

19 **CLARK HILL, PLLC**

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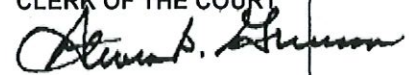
**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to NRAP 25(1)(d) on the 22 day of November, 2019, I served a true and correct copy of the foregoing **RESPONDENTS' OPPOSITION TO APPELLANT, NEVADA ORGANIC REMEDIES, LLC'S MOTION TO SUSPEND THE PRELIMINARY INJUNCTION ISSUED AGAINST THE STATE OF NEVADA, DEPARTMENT OF TAXATION PENDING APPEAL, PURSUANT TO NRAP 8** via the appellate CM/ECF electronic filing system to all parties currently on the electronic service list.

  
An employee of Clark Hill PLLC

222699969.2

# **EXHIBIT 1**



1 ORDER

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11 *Attorneys for Plaintiffs*

12  
13 DISTRICT COURT

14 CLARK COUNTY, NEVADA

15 ETW MANAGEMENT GROUP LLC, a  
Nevada limited liability company; GLOBAL  
16 HARMONY LLC, a Nevada limited liability  
company; GREEN LEAF FARMS  
17 HOLDINGS LLC, a Nevada limited liability  
company; GREEN THERAPEUTICS LLC, a  
18 Nevada limited liability company; HERBAL  
CHOICE INC., a Nevada corporation; JUST  
19 QUALITY, LLC, a Nevada limited liability  
company; LIBRA WELLNESS CENTER,  
20 LLC, a Nevada limited liability company;  
ROMBOUGH REAL ESTATE INC. dba  
21 MOTHER HERB, a Nevada corporation;  
NEVCANN LLC, a Nevada limited liability  
22 company; RED EARTH LLC, a Nevada  
limited liability company; THC NEVADA  
23 LLC, a Nevada limited liability company;  
ZION GARDENS LLC, a Nevada limited  
24 liability company; and MMOF VEGAS  
RETAIL, INC., a Nevada corporation,

25 *Plaintiffs,*

26 v.

27 STATE OF NEVADA, DEPARTMENT OF  
28 TAXATION, a Nevada administrative agency;

CASE NO.: A-19-787004-B  
DEPT NO.: XI

ORDER DENYING (1) NEVADA  
ORGANIC REMEDIES, LLC'S  
MOTION TO DISSOLVE  
PRELIMINARY INJUNCTION AND  
TO STAY PRELIMINARY  
INJUNCTION PENDING APPEAL  
AND (2) LONE MOUNTAIN  
PARTNERS, LLC'S MOTION TO  
DISSOLVE PRELIMINARY  
INJUNCTION FOR FAILURE TO  
POST BOND ON ORDER  
SHORTENING TIME



DOES 1 through 20, inclusive; and ROE  
CORPORATIONS 1 through 20, inclusive,

*Defendants.*

AND ALL RELATED MATTERS

Intervenor Defendants Nevada Organic Remedies, LLC's ("NOR") Motion to Dissolve the Preliminary Injunction in All Cases Where No Bond Was Posted and to Suspend/Stay the Preliminary Injunction Pending Appeal in All Remaining Cases and Intervenor Defendant Lone Mountain Partners, LLC's ("LMP") Motion to Dissolve Preliminary Injunction for Failure to Post Bond on Order Shortening Time (collectively, the "Motions") (NOR and LMP are collectively referred to herein as the "Enjoined Parties"), and all Joinders to the same, having come on for hearing before this Honorable Court on October 7, 2019; David R. Koch, Esq., of the law firm Koch & Scow LLC, appearing on behalf of Nevada Organic Remedies, LLC; Eric D. Hone, Esq., of the law firm H1 Law Group, appearing on behalf of Lone Mountain Partners, LLC; Adam K. Bult, Esq. and Maximilien D. Fetaz, Esq., of the law firm of Brownstein Hyatt Farber Schreck, LLP, appearing on behalf of Plaintiffs ETW Management Group LLC, Global Harmony LLC, Green Leaf Farms Holdings LLC, Green Therapeutics LLC, Herbal Choice Inc., Just Quality, LLC, Libra Wellness Center, LLC, Rombough Real Estate Inc. dba Mother Herb, NevCann LLC, Red Earth LLC, THC Nevada LLC, Zion Gardens LLC), and MMOF Vegas Retail, Inc.'s (collectively, "ETW Plaintiffs"); Dominic P. Gentile, Esq. and Ross J. Miller, Esq., of the law firm Gentile Cristalli Miller Armeni Savarese, appearing on behalf of Serenity Wellness Center, LLC, TGIG, LLC, Nuleaf Incline Dispensary, LLC, Nevada Holistic Medicine, LLC, TRYKE Companies SO NV, LLC, TRYKE Companies Reno, LLC, Paradise Wellness Center, LLC, GBS Nevada Partners, LLC, Fidelis Holdings, LLC, Gravitas Nevada, LLC, Nevada Pure, LLC, Medifarm, LLC (collectively, "Serenity Plaintiffs"); William S. Kemp, Esq. and Nathaniel R. Rulis, Esq., of the law firm Kemp, Jones & Coulthard LLP, appearing on behalf of MM Development Company, Inc. and LivFree Wellness LLC; Steven G. Shevorski, Esq., of the Office of the Nevada Attorney General, appearing on behalf of the State of Nevada, Department of Taxation; Todd L. Bice, Esq. and Jordon T. Smith, Esq., of the law firm Pisanelli Bice, appearing

1 on behalf of Integral Associates LLC d/b/a Essence Cannabis Dispensaries, Essence Tropicana,  
2 LLC, Essence Henderson, LLC; Jared Kahn, Esq., of the law firm JK Legal & Consulting, LLC,  
3 appearing on behalf of Helping Hands Wellness Center, Inc.; Alina M. Shell, Esq., of the law  
4 firm McLetchie Law, appearing on behalf of GreenMart of Nevada NLV LLC; Joseph A.  
5 Gutierrez, Esq., of the law firm Maier Gutierrez & Associates appearing on behalf of CPCM  
6 Holdings, LLC d/b/a Thrive Cannabis Marketplace, Commerce Park Medical, LLC, and  
7 Cheyenne Medical, LLC; Rusty Graf, Esq. and Brigid Higgins, Esq., of the law firm Black &  
8 Lobello, appearing on behalf of Clear River, LLC; and all other appearances noted in the record,  
9 and upon the Court's consideration of the pleadings and papers on file herein, including any  
10 joinders and oppositions, the arguments of counsel, and good cause appearing, makes the  
11 following findings of facts and conclusions of law:

12 **FINDINGS OF FACT**

13 1. On July 11, 2019, this Court issued an order coordinating certain cases for the  
14 purpose of a hearing on the Motion for Preliminary Injunction.

15 2. On August 23, 2019, this Court entered its Findings of Facts and Conclusions of  
16 Law Granting Preliminary Injunction.

17 3. On August 29, 2019, this Court ordered the Plaintiffs to post a bond in the amount  
18 of \$5,000,000 for purposes of the injunction the Court entered.

19 4. On September 13, 2019, Plaintiffs posted a bond in the amount of \$5,000,000 (the  
20 "Bond on Preliminary Injunction") in Case No. A-18-785818.

21 5. On the same day, Notices of Posting Bond were filed in Case Nos. A-18-785818-  
22 W; A-19-786962-B; A-19-787004-B; and A-19-787540-W.

23 6. The Bond on Preliminary Injunction lists the following Case Nos: A-18-785818-  
24 W; A-19-786962-B; A-19-787004-B; A-19-787540-W.

25 7. On September 27, 2019, NOR filed its Motion to Dissolve the Preliminary  
26 Injunction in All Cases Where No Bond Was Posted and to Suspend/Stay the Preliminary  
27 Injunction Pending Appeal in All Remaining Cases.  
28



1 8. On October 3, 2019, LMP filed its Motion to Dissolve Preliminary Injunction for  
2 Failure to Post Bond on Order Shortening Time.

3 9. On or before October 7, 2019, the ETW Plaintiffs, the Serenity Plaintiffs, and  
4 Nevada Wellness Center collectively deposited \$3,748,200 with the Clerk of the Court for the  
5 Eighth Judicial District Court.

6 10. Specifically, \$313,200 was posted in Case No. A-19-787540, \$1,889,000 was  
7 posted in Case No. A-19-786962, and \$1,546,000 was posted in Case No. A-19-787004.

8 11. If any findings of fact are properly conclusions of law, they shall be treated as if  
9 appropriately identified and designated.

10 CONCLUSIONS OF LAW

11 12. NRCP 65(c) states that "[t]he court may issue a preliminary injunction or a  
12 temporary restraining order only if the movant gives security in an amount that the court  
13 considers proper to pay the costs and damages sustained by any party found to have been  
14 wrongfully enjoined or restrained."

15 13. "The expressed purpose of posting a security bond [under NRCP 65(c)] is to  
16 protect a party from damages incurred as a result of a wrongful injunction . . . ." *Am. Bonding Co.*  
17 *v. Roggen Enterprises*, 109 Nev. 588, 591, 854 P.2d 868, 870 (1993).

18 14. An "injunctive order is valid" so long as NRCP 65(c)'s requirements are met by at  
19 least one of the movants. *Dangberg Holdings Nev., L.L.C. v. Douglas Cty.*, 115 Nev. 129, 145,  
20 978 P.2d 311, 321 (1999); *see also Top Cat Prods., Inc. v. Michael's Los Feliz*, 125 Cal. Rptr. 2d  
21 553, 555-56 (2002) (reasoning that it did not matter which of the moving parties were liable for  
22 the bond because "[t]he purpose of requiring security is to afford compensation to the party  
23 wrongly enjoined or restrained not to prevent one of several plaintiffs—or even a nonparty—from  
24 assuming the cost and exposure incident to a bond" (internal quotation marks and citations  
25 omitted)).

26 15. This Court has the discretion to grant or deny a motion to stay the preliminary  
27 injunction pending an appeal. *White Pine Power Dist. No. 9 v. Pub. Serv. Comm'n*, 76 Nev. 263,  
28 264, 352 P.2d 256, 256 (1960).

1 16. The Plaintiffs satisfied this Court's Order by posting a bond in the amount of  
2 \$5,000,000 and the Notices of Posting Bond were filed in Case Nos. A-18-785818-W; A-19-  
3 786962-B; A-19-787004-B; and A-19-787540-W.

4 17. Due to the limited number of licenses, Plaintiffs would suffer irreparable harm if  
5 the preliminary injunction was stayed pending appeal.

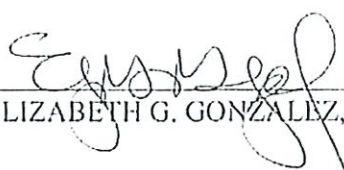
6 18. If any conclusions of law are properly findings of fact, they shall be treated as if  
7 appropriately identified and designated.

8 ORDER

9 ACCORDINGLY, IT IS HEREBY ADJUDGED ORDERED AND DECREED that  
10 NOR's Motion to Dissolve the Preliminary Injunction in All Cases Where No Bond Was Posted  
11 and to Suspend/Stay the Preliminary Injunction Pending Appeal in All Remaining Cases is  
12 DENIED.

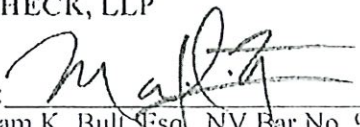
13 IT IS FURTHER ORDERED that LMP'S Motion to Dissolve Preliminary Injunction for  
14 Failure to Post Bond on Order Shortening Time is DENIED.

15 DATED this 18 day of November, 2019.

16  
17   
18 ELIZABETH G. GONZALEZ, DISTRICT COURT JUDGE

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