

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREENMART OF NEVADA NLV LLC; and NEVADA ORGANIC
REMEDIES, LLC,

Electronically Filed
Jun 04 2020 04:48 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Appellants/Cross Respondents,

v.

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. D/B/A
MOTHER HERB; NEVCANN LLC; RED GARDENS LLC; THC
NEVADA LLC; ZION GARDENS LLC; and MMOF VEGAS RETAIL
INC.,

Respondents/Cross-Appellants.

THE STATE OF NEVADA DEPARTMENT OF TAXATION

Respondent.

ON APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT
CASE No. A-19-797004-B

**THE STATE OF NEVADA EX REL. DEPARTMENT OF
TAXATION'S ANSWERING BRIEF**

AARON D. FORD
Nevada Attorney General
STEVE SHEVORSKI (Bar No. 8256)
Chief Litigation Counsel
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
Attorneys for Respondent
The State of Nevada, Department of Taxation

TABLE OF CONTENTS

PAGE

TABLE OF AUTHORITIES	ii
SUMMARY OF ARGUMENT AND ARGUMENT	1
CONCLUSION	2
CERTIFICATE OF COMPLIANCE	3
CERTIFICATE OF SERVICE.....	5

TABLE OF AUTHORITIES

CASES

PAGE

<i>State of Nev. ex rel. Div. of Ins. v. State Farm Mut. Auto. Ins. Co.,</i> 116 Nev. 290, 995 P.2d 485 (2000)	1
---	---

STATUTES

NRS 453D.200	1-2
NRS 453d.255	1-2

SUMMARY OF ARGUMENT AND ARGUMENT

Respondent, The State of Nevada ex rel. The Department of Taxation, agrees with the position of Nevada Organic Remedies, LLC. Nevada Revised Statutes 453D.200(6) is ambiguous. The Department of Taxation's interpretation, which gave rise to Nevada Administrative Code 453D.255(1) is by far the best interpretation. The district court erred by concluding that the Department of Taxation violated Nevada's constitutional prohibition on amending an initiative on an issue where the Department of Taxation is entitled to "great deference. *State of Nev. ex. rel. Div. of Ins. v. State Farm Mut. Auto. Ins. Co.*, 116 Nev. 290, 293, 995 P.2d 482, 485 (2000) (internal quotations omitted).

As will be more fully explained in its answering brief to Greenmart of Nevada NLV, LLC's opening brief, Ballot Question 2, or the Regulation and Taxation of Marijuana Act, does not define the phrases "prospective," "owner," "officer," or "board member." See NRS 453D.200(6). Subsection 6's lack of a definition of "prospective" is especially challenging from an interpretation point of view since it could conceivably apply to individual owners of a single share in a publicly-traded corporation, which may change each second of a trading day on a listed exchange. But such a

draconian interpretation would hardly be consistent with necessary or convenient regulations (NRS 453D.200(1)) or public safety and security, which is clearly the intended purpose of the background check requirement. The Department of Taxation's adoption of Nevada Administrative Code 453D.255(1) is a rational interpretation of an ambiguous statute and wholly consistent with the purpose of NRS 453D.200(6)'s background check requirement.

CONCLUSION

As will be more fully explained in its answering brief to Greenmart of Nevada NLV, LLC's opening brief, the Department of Taxation urges this Court to vacate the district court's preliminary injunction order.

Dated this 4th day of June, 2020.

AARON D. FORD
Attorney General

By: /s/ Steve Shevorski
Steve Shevorski (Bar No. 8256)
Chief Litigation Counsel

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

☒ This brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14 pt. font and Century Schoolbook; or

☐ This brief has been prepared in a monospaced typeface using [state name and version of word processing program] with [state number of characters per inch and name of type style].

2. I further certify that this brief complies with the page- or type volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

☒ Proportionately spaced, has a typeface of 14 points or more and contains 294 words; or

☐ Monospaced, has 10.5 or fewer characters per inch, and contains ____ words or ____ lines of text; or

☐ Does not exceed ____ pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or

interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 4th day of June, 2020.

AARON D. FORD
Attorney General

By: /s/ Steve Shevorski
Steve Shevorski
Chief Litigation Counsel

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court by using the electronic filing system on the 4th day of June, 2020, and e-served the same on all parties listed on the Court's Master Service List.

/s/ Traci Plotnick

Traci Plotnick, an employee of
the office of the Nevada Attorney General