

IN THE SUPREME COURT OF THE STATE OF NEVADA INDICATE

FULL CAPTION:

IN RE: D.O.T. LITIGATION

No. 82014

Electronically Filed
Nov 23 2020 04:14 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

TGIG, LLC; NEVADA HOLISTIC MEDICINE,
LLC; GBS NEVADA PARTNERS, LLC;
FIDELIS HOLDINGS, LLC; GRAVITAS
NEVADA, LLC; NEVADA PURE, LLC;
MEDIFARM, LLC; AND MEDIFARM IV LLC,
Appellants,

**DOCKETING STATEMENT
CIVIL APPEALS**

vs.

THE STATE OF NEVADA DEPARTMENT OF
TAXATION,

Respondent.

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District 8th Department 11

County Clark Judge Elizabeth Gonzalez

District Ct. Case No. A-19-787004-B

2. Attorney filing this docketing statement:

Attorney John A. Hunt Telephone 702-832-8300

Firm Clark Hill, PLLC

Address 3800 Howard Hughes Parkway, Ste. 500
Las Vegas, Nevada 89169

Client(s) TGIG, LLC; Nevada Holistic Medicine, LLC; GBS Nevada Partners, LLC; Fidelis Holdings, LLC; Gravitas Nevada, LLC; Nevada Pure, LLC; Medifarm, LLC; and Medifarm IV, LLC

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney See Attachment 1 Telephone _____

Firm _____

Address _____

Client(s) _____

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input checked="" type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input checked="" type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input checked="" type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following? N/A

- ☐ Child Custody
☐ Venue
☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal: RESPONSE:

Case No. 79670: Greenmart of Nev . NLV LLC v. MM Dev. Co., Inc.
Case No. 80637: State, Dep't of Taxation v. Dist. Ct. (Nev. Wellness Ctr., LLC)
Case No. 79673: Greenmart of Nev. NLV LLC et al. v. Nev. Wellness Ctr., LLC
Case No. 79672: Greenmart of Nev. NLV LLC v. High Sierra Holistics LLC
Case No. 79671: Greenmart of Nev. NLV LLC v. Compassionate Team of Las Vegas LLC
Case No. 79669: Greenmart of Nev. NLV LLC et al. v. ETW Management Group, LLC, et al.
Case No. 79668: Greenmart of Nev. NLV LLC et al. v. Serenity Wellness Ctr. LLC, et al.
Case No. 89230: Nevada Wellness Center, LLC v. Nevada Department of Taxation.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

RESPONSE: None.

8. Nature of the action. Briefly describe the nature of the action and the result below:

RESPONSE: See Attachment 2

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

RESPONSE: Whether the district court erred by failing to enjoin the State and its award of conditional licenses to any applicants that failed to provide a physical address and/or completed application as set forth in NRS453D.210(5)(b).

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

RESPONSE: Appellants are unaware of proceedings presently pending before this court which address the district court's orders following the bench trial.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☒ A ballot question

If so, explain: RESPONSE: The appeal raises questions regarding a government agency's ability to change the requirements of a statute passed as the result of a ballot initiative under Article 19, Section 2(3) of the Nevada State Constitution.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circum-stance(s) that warrant retaining the case, and include an explanation of their importance or significance: RESPONSE:

The matter is presumptively retained by the Supreme Court under several subsections of NRAP 17(a). It is a matter involving a ballot question and the discretion in interpreting statutes created by ballot question under subsection (2), it is an administrative agency case involving Department of Taxation determinations under subsection (8), it is a matter decided by a business court under subsection (9), and it is a matter raising as a principal issue a question of statewide public importance under subsection (12) as the resolution of the appeal will have a statewide impact regarding recreational marijuana in Nevada.

14. Trial. If this action proceeded to trial, how many days did the trial last? 7-17 to 8-18-20 Was it a bench or jury trial? bench

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

RESPONSE: Justice Silver. Justice Silver 's permanent recusal list includes Tisha Black, Esq. who is the founding partner of the law firm Black & LoBello. Black & LoBello represents Defendant in Intervention, Clear River LLC, in the consolidated district court matter captioned " In Re: DOT LITIGATION " from which this appeal originates.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 9-3-2020 and 9-16-2020

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

n/a

17. Date written notice of entry of judgment or order was served 9-22-2020

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) _____ Date of filing _____

☐ NRCP 52(b) _____ Date of filing _____

☒ NRCP 59 _____ Date of filing 9-10-2020 _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. _____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion 10-27-2020

(c) Date written notice of entry of order resolving tolling motion was served 10-27-2020

Was service by:

☐ Delivery

☒ Mail (electronic mail)

19. Date notice of appeal filed 10-23-2020

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:
RESPONSE:

11-10-2020; Appellants, THC Nev, Herbal Choice (see doc. 20-41092)

11-10-2020; Appellants, Red Earth, NEVCANN LLC, Green Therapeutics, Green Leaf Farms Holdings (see doc. 20-41107)

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1) ___ NRS 38.205

___ NRAP 3A(b)(2) ___ NRS 233B.150

___ NRAP 3A(b)(3) ___ NRS 703.376

___ Other (specify) _____

(b) Explain how each authority provides a basis for appeal from the judgment or order:

RESPONSE: The orders appealed from are final judgments entered in the action commenced in the court in which the judgment is rendered.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

RESPONSE:

See Attachment 3

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

RESPONSE: Appellants believe the parties listed in Paragraph 22(a) are parties to this appeal.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

RESPONSE: See Attachment 4

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes

☒ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

RESPONSE: See Attachment 5

(b) Specify the parties remaining below:

RESPONSE: See Attachment 6

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b)):

RESPONSE: The appealed from Findings of Fact, Conclusion of Law and Permanent Injunction e-filed on September 3, 2020, and the Findings of Fact, Conclusion of Law and Permanent Injunction e-filed on September 16, 2020, which addressed PHASE 1 and PHASE 2 of the trials at the district court are orders that finally resolve a constituent consolidated case which are, therefore, immediately appealable as a final judgment even where the other constituent case or cases remain pending, i.e., PHASE 3 of the trial. See Matter of Estate of Sarge, 134 Nev. 866, 866–67, 432 P.3d 718, 720 (2018).

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

TGIG, LLC, et al.

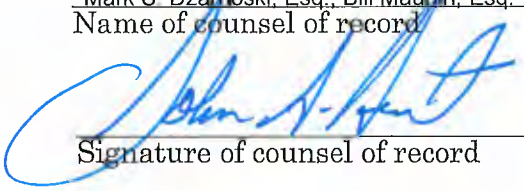
Name of appellant

November 23, 2020

Date

John A. Hunt, Esq., Dominic P. Gentile, Esq., Ross Miller, Esq.,
Mark S. Dzamoski, Esq., Bill Maupin, Esq.

Name of counsel of record



Signature of counsel of record

Nevada, Clark County

State and county where signed

CERTIFICATE OF SERVICE

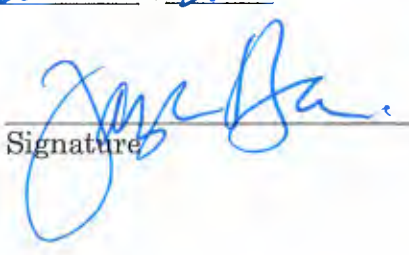
I certify that on the 23rd day of November, 2020, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.) See Attachment A.

Lansford W. Levitt
Settlement Judge
4320 Christy Way
Reno, NV 89519

Dated this 23RD day of November, 2020



Signature

Attachment A

STATE OF NEVADA, DEPARTMENT OF TAXATION (“DOT”)

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Green Therapeutics, LLC
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Las Vegas, NV 89107

Attachment 1 – (re: question 3. Attorneys representing respondents – respondent, attorney’s name, firm, address, telephone)

STATE OF NEVADA, DEPARTMENT OF TAXATION (“DOT”)

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Akke Levin
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Las Vegas, NV 89107

Attachment 2 – (re: question 8. Nature of the action. Briefly describe the nature of the action and the result below):

As the government agency charged with the implementation of the Nevada recreational marijuana program pursuant to NRS 453D.200, DOT accepted and graded applications for licenses to operate recreational retail marijuana dispensaries across the state of Nevada from approximately 463 applicants between September and December 2018 (the “September 2018 Application Period”). Because the DOT received more applications than there were licenses available in the various jurisdictions, the award of licenses was subject to “an impartial and numerically scored competitive bidding process to determine which application or applications among those competing will be approved.” See NRS 453D.210(6). Pursuant to the process developed and implemented by the DOT, on December 5, 2018, the DOT announced the results and awarded approximately 64 conditional licenses to successful applicants.

After the DOT announced the license winners, several of the non-winning applicants, including Appellants herein, brought multiple suits against the DOT asserting that the process the DOT used to award licenses violated various provisions of NRS Chapter 453D, violated the losing applicants constitutional rights under both the Federal and Nevada Constitutions, or was otherwise arbitrary and capricious for a multitude of reasons. The various plaintiffs sought to either set aside the application process in total or to obtain licenses under a number of different legal theories.

Appellants herein filed their initial Complaint on or about January 4, 2019 naming the DOT as the sole party defendant. Several winning applicants, believing that their interests were subject to the outcome of the litigation, sought to and were granted the right to intervene on the defendant DOT side. Following evidentiary hearings on Appellants’ Motion for Preliminary Injunction and various pre-trial motion proceedings, Appellants ultimately filed their operative Second Amended Complaint on or about November 26, 2019 naming the DOT and the intervening successful applicants as party defendants.

On May 13, 2019, the District Court coordinated a number of the cases brought by non-winning applicants in Department 11 of the Eighth Judicial District Court in order to determine whether a preliminary injunction should issue against the DOT. After conducting a nearly four month evidentiary hearing on the matter, the District Court granted the preliminary injunction based on the failure of the DOT to conduct background checks of the applicants as required under the ballot

initiative. As part of its impartial and numerically scored competitive bidding process, the DOT believed it was not required, pursuant to NAC 453D.255(1), to conduct background checks on owners with less than a five percent beneficial ownership interest in an applicant, the so-called “5% Rule.” The District Court found that the 5% rule set forth in NAC 453D.255(1) was an unreasonable limitation of NRS 453D.200(6) and the initiating Ballot Initiative, and, therefore, preliminarily enjoined the DOT from conducting final inspections of the license winners that the DOT determined had not listed owners with a less than 5% interest in their applications.

Because of the complexity of the cases and the diversity of the type of claims advanced by the various plaintiffs, the District Court adopted a Trial Protocol separating the trial into three (3) phases. PHASE 1 encompassed all of plaintiffs’ claims for judicial review. Appellants herein made such a claim in its Second Amended Complaint and participated fully in PHASE 1.¹ The District Court issued its “Findings of Fact and Conclusions of Law” for PHASE 1 on September 9, 2020. Notice of Entry of Order was served electronically on September 22, 2020.

PHASE 2 encompassed claims regarding the “(l)egality of the 2018 recreational marijuana application process (claims for Equal Protection, Due Process, Declaratory Relief, Intentional Interference with Prospective Economic Advantage, Intentional Interference with Contractual Relations and Permanent Injunction.” Again, Appellants made such claims and fully participated in PHASE 2 of the trial. The District Court issued its “Findings of Fact and Conclusions of Law” for PHASE 1 on September 3, 2020. Notice of Entry of Order was served electronically on September 22, 2020.

PHASE 3 encompassed a more narrowly limited claim for “Writ of Mandamus (Improper scoring of applications related to calculation errors on the 2018 recreational marijuana application.” The Trial Protocol further referenced the mandamus claims of plaintiffs in the consolidated cases other than Appellants (to wit: MM Development and LiveFree) “and any other Plaintiffs with mandamus claims will present their affirmative claims **related to their writ of mandamus claim based on their allegation of improper scoring of their applications due to calculation errors.**” (emphasis added). While Appellants made claims for mandamus in their Second Amended Complaint, they did not include claims based upon allegations of “improper scoring of their applications due to calculation errors.” Rather, Appellants’ mandamus claim generally related to the arbitrary process

¹ Because of issues related to Covid-19 and to accommodate briefing schedules, the trial of PHASE 2 actually occurred first. Trial of PHASE 1 followed completion of the trial on PHASE 2.

utilized by the DOT and more particularly with the failure of the DOT to determine “completeness” of the applications submitted to the DOT by the successful applicants. As to this mandamus claim, Appellants believe that the District Court denied that claim in its September 3, 2020 Findings of Fact and Conclusions of Law relating to PHASE 2 of the trial. At the very end of the September 3, 2020 , Findings of Fact and Conclusions of Law relating to PHASE 2 of the trial, the District Court states as follows: “The Court declines to issue an extraordinary writ unless a violation of the permanent injunction occurs.” Id., at pg. 29, lines 20-21. Based upon the above and foregoing, Appellants do not believe they are a party to PHASE 3 of the trial as their mandamus claim was denied in PHASE 2.

Following the completion of PHASE 2 of the trial, the District Court issued a permanent injunction against the DOT enjoining it from conducting a final inspection of any of the conditional licenses issued in the September 2018 Application Period for any applicant who did not provide the identification of each prospective owner, officer or board member as required by NRS 453D.200(6). Appellants herein assert that the scope of the permanent injunction should have been far broader to prevent final inspection and final issuance of licenses for any successful applicant and that a “redo” of the licensing process should be ordered. At a minimum, Appellants assert that the permanent injunction should have encompassed those successful applicants who failed to submit a truthful and complete application to the DOT during the September 2018 Application Period.

As to PHASE 1 of the trial, the District Court denied any relief to Appellants. At a minimum, the District Court should have remanded the matter back to the DOT to further develop an administrative record demonstrating that it considered the completeness of applications submitted during the September 2018 Application Period before submitting the applications to its supposedly impartial and numerically scored competitive bidding process. The District Court further should have permitted Appellants to supplement the certified administrative record with evidence that fully 70% of the applications were fatally incomplete for failure to include required information and/or contained disclosures that were false and fraudulent statutorily mandating the denial of such applications.

Appellants herein filed their Notice of Appeal on October 23, 2020 to preserve their right to appeal in the event their 30 days to file appeal started running on or about September 22, 2020 with service of a Notices of Entry of Order of the Findings of Fact and Conclusions of Law for PHASE 1 and PHASE 2. However, on September 10, 2020, Appellants filed a Motion to Amend the September 3, 2020 Findings of Fact, Conclusions of Law and Permanent Injunction relating to PHASE

2. The District Court denied the Motion to Amend but clarified the Findings of Fact and Conclusions of Law.

Attachment 3 (re: question 22(a). List all parties involved in the action or consolidated actions in the district court:)

Nevada Wellness Center, LLC
ETW Management Group LLC
Global Harmony LLC
Herbal Choice Inc
Just Quality, LLC
Libra Wellness Center, LLC
Rombough Real Estate Inc. d/b/a Mother Herb
NevCann LLC
THC Nevada LLC
Zion Gardens LLC
MMOF Vegas Retail, Inc.
Qualcan LLC
Rural Remedies, LLC
TGIG, LLC
Nevada Holistic Medicine, LLC
GBS Nevada Partners, LLC
Fidelis Holdings, LLC
Gravitas Nevada, LLC
Nevada Pure, LLC
Medifarm, LLC
Medifarm IV, LLC
MM Development Company, Inc
LivFree Wellness LLC
Integral Associates LLC d/b/a Essence Cannabis Dispensaries, Essence Tropicana, LLC, Essence Henderson, LLC
CPCM Holdings, LLC d/b/a Thrive Cannabis Marketplace
Commerce Park Medical, LLC
Cheyenne Medical, LLC
Helping Hands Wellness Center, Inc.
Circle S Farms, LLC
Clark Natural Medicinal Solutions LLC
NYE Natural Medicinal Solutions LLC
Clark NMSD LLC
Deep Root Medical, LLC
THC Nevada, LLC
Herbal Choice, Inc.
Green Therapeutics, LLC

Eureka Newgen Farms, LLC
Polaris Wellness Center, LLC
TRNVP098F
Pure Tonic Concentrates, LLC
Wellness Connection of Nevada, LLC
Jorge Pupo
The State of Nevada, Department of Taxation

Attachment 4 (re: question 23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.)

D.H. Flamingo, Inc., d/b/a The Apothecary Shoppe; Clark Natural Medicinal Solutions, LLC, d/b/a NuVeda; Nye Natural Medicinal Solutions, LLC, d/b/a NuVeda; Clark NMSD, LLC, d/b/a NuVeda; and Inyo Fine Cannabis Dispensary, LLC, d/b/a Inyo Fine Cannabis Dispensary; and Surterra Holdings, Inc. (collectively the "D.H. Flamingo Plaintiffs"). The claims pled by D.H. Flamingo Plaintiffs in their First Amended Complaint filed on September 6, 2019 are: (1) Petition for Judicial Review; (2) Petition for Writ of Certiorari; (3) Petition for Writ of Mandamus; and (4) Petition for Writ of Prohibition.

The claims pled by the TGIG Plaintiffs' in their Second Amended Complaint filed on November 26, 2019 are: (1) Violation of Civil Rights (Due Process: Deprivation of Property); (2) Violation of Civil Rights (Due Process: Deprivation of Liberty); (3) Violation of Civil Rights Equal Protection; (4) Petition for Judicial Review; (5) Petition for Writ of Mandamus; and (6) Declaratory Relief.

The claims pled by Nevada Wellness Center, LLC in its Second Amended Complaint filed on March 26, 2020 are: (1) Declaratory Relief; (2) Injunctive Relief; (3) Violation of Procedural Due Process; (4) Violation of Substantive Due Process; (5) Equal Protection Violation; (6) Petition for Judicial Review; (7) Petition for Writ of Mandamus; (8) Violation of 42 U.S.C. § 1983 by Jorge Pupo and the Department; and (9) Unjust Enrichment.

The claims pled by ETW Management Group et al. in their Third Amended Complaint filed on January 29, 2020 are: (1) Violation of Substantive Due Process - THE DOT; (2) Violation of Procedural Due Process - THE DOT; (3) Violation of Equal Protection - THE DOT; (4) Declaratory Judgment - All Defendants; (5) Petition for Judicial Review - All Defendants; and (6) Petition for Writ Mandamus – the DOT.

The claims pled by MM Development Company, Inc. & LivFree Wellness, LLC in their Second Amended Complaint filed on January 29, 2020 are: (1) Declaratory Relief; (2) Injunctive Relief; (3) Violation of Procedural Due Process; (4) Violation of Substantive Due Process; (5) Equal Protection Violation; (6) Petition for Judicial Review; and (7) Petition for Writ of Mandamus.

The claims pled by Natural Medicine, LLC in its Complaint in Intervention filed on February 7, 2020 are: (1) Declaratory Relief; (2) Petition for Judicial Review; (3) Petition for Writ of Certiorari; (4) Petition for Writ of Mandamus; and (5) Petition for Writ of Prohibition.

The claims pled by Strive Wellness of Nevada, LLC in its Complaint in Intervention filed on February 7, 2020 are: (1) Declaratory Relief; (2) Petition for

Judicial Review; (3) Petition for Writ of Certiorari; (4) Petition for Writ of Mandamus; and (5) Petition for Writ of Prohibition.

The claims pled by Qualcan, LLC in its Second Amended Complaint filed on February 11, 2020 are: (1) Declaratory Relief; (2) Request for Injunctive Relief; (3) Intentional Interference with Prospective Economic Advantage; (4) Intentional Interference with Contractual Relations; (5) Petition for Judicial Review; (6) Petition for Writ of Mandamus; (7) Violation of Procedural Due Process; (8) Violation of Substantive Due Process; and (9) Equal Protection Violation.

The claims for relief pled by Rural Remedies, LLC in its Amended Complaint-in-Intervention are: (1) Declaratory Relief; (2) Permanent Injunction; (3) Violation of 42 U.S.C. § 1983; (4) Petition for Judicial Review; (5) Petition for Writ of Mandamus; and (6) Unjust Enrichment.

Nevada Wellness Center, LLC and Rural Remedies, LLC's claim for violation of 42 U.S.C. § 1983 will be tried in PHASE THREE of trial against Jorge Pupo only.

The trial in these proceedings began on July 13, 2020. As noted above, trial was ordered to be conducted in three (3) phases, with each phase addressing only certain claims. The First Phase addressed only the petition for judicial review (the "First Phase"), the Second Phase addressed the equal protection, due process, declaratory relief, and permanent injunction claims (the "Second Phase"), and the Third Phase would address writ of mandamus claims and, in part, it is believed Nevada Wellness Center, LLC and Rural Remedies, LLC's claim for violation of 42 U.S.C. § 1983 will be tried in Phase Three of trial against Jorge Pupo only (the "Third Phase").

The Second Phase concluded with a decision issued by the Court on September 3, 2020 that converted the Preliminary Injunction into a permanent injunction and granted declaratory relief while determining among other things that: (i) the Department acted beyond its scope authority when it arbitrarily and capriciously replaced the mandatory requirement of BQ2; and (ii) the Department is permanently enjoined from conducting a final inspection of an of the conditional licenses issued to defendants who did not provide the identification of each prospective owner, officer, and board member as required. The Court then proceeded and completed the next phase (*i.e.*, the First Phase) according to NRS Chapter 233B.

Dispositions: See Order Regarding Plaintiff Nevada Wellness Center, LLC's Motion for Summary Judgment on First Claim for Relief filed August 14, 2020.²; see also Findings of Fact, Conclusions of Law and Permanent Injunction, filed September 3, 2020 (re: Second Phase); see also Findings of Fact, Conclusion of Law and Permanent Injunction filed September 16, 2020 (re: Phase Judgment).

Remaining disposition: The Third Phase of the trial has not taken place yet. As noted above, the Third Phase will address writ of mandamus claims and, in part, it is believed Nevada Wellness Center, LLC and Rural Remedies, LLC's claim for violation of 42 U.S.C. § 1983 will be tried in Phase Three of trial against Jorge Pupo only.

² The Court ordered:

It is hereby ORDERED that Nevada Wellness Center's Motion for Summary Judgment Regarding its First Claim for Declaratory Relief is GRANTED IN PART. Pursuant to NRCP 56, as a matter of law, the DoT acted beyond the scope of its authority by replacing the requirement for a background check of each prospective owner with the 5 percent or greater standard in NAC 453D.255(1).

With respect to the remaining issues, this court finds that genuine issues of material fact preclude summary judgment. The court finds that the applicants were entitled to a fair process, but there remain genuine issues of material fact as to causation and damages. For that reason, the remaining motions are denied without prejudice, to be renewed at the conclusion of the Plaintiffs' case at trial.

Attachment 5 (re: question 25(a). If you answered "No" to question 24, complete the following: (a) Specify the claims remaining pending below:)

As partially addressed above, the trial in this matter was divided into three (3) phases. The only remaining phase is PHASE 3. PHASE 3 encompassed a more narrowly limited claim for "Writ of Mandamus (Improper scoring of applications related to calculation errors on the 2018 recreational marijuana application." The district court's Trial Protocol further referenced the mandamus claims of plaintiffs in the consolidated cases other than Appellants (to wit: MM Development and LiveFree) "and any other Plaintiffs with mandamus claims will present their affirmative claims **related to their writ of mandamus claim based on their allegation of improper scoring of their applications due to calculation errors.**" (emphasis added). While Appellants made claims for mandamus in their Second Amended Complaint, they did not include claims based upon allegations of "improper scoring of their applications due to calculation errors." Rather, Appellants' mandamus claim generally related to the arbitrary process utilized by the DOT and more particularly with the failure of the DOT to determine "completeness" of the applications submitted to the DOT by the successful applicants. As to this mandamus claim, Appellants believe that the District Court denied that claim in its September 3, 2020 Findings of Fact and Conclusions of Law relating to PHASE 2 of the trial. At the very end of the September 3, 2020, Findings of Fact and Conclusions of Law relating to PHASE 2 of the trial, the District Court states as follows: "The Court declines to issue an extraordinary writ unless a violation of the permanent injunction occurs." *Id.*, at pg. 29, lines 20-21. Based upon the above and foregoing, Appellants do not believe they are a party to PHASE 3 of the trial as their mandamus claim was denied in PHASE 2.

Attachment 6 (re: question 25(b). Specify the parties remaining below:)

As addressed above in response to question 25(a), PHASE 3 encompassed a more narrowly limited claim for “Writ of Mandamus (Improper scoring of applications related to calculation errors on the 2018 recreational marijuana application.” The district court’s Trial Protocol further referenced the mandamus claims of plaintiffs in the consolidated cases other than Appellants (to wit: MM Development and LiveFree). Thus the parties remaining below in PHASE 3 are believed to be:

STATE OF NEVADA, DEPARTMENT OF TAXATION (“DOT”)
CANNABIS COMPLIANCE BOARD

Counsel for above parties:

Aaron D. Ford
Attorney General
Steven Shevorski
Chief Litigation Counsel
Akke Levin
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MM Development

LiveFree

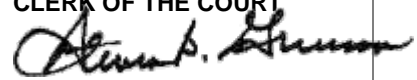
Attachment 7 (re: question 27 - Exhibits A-L)

ATTACHMENT 7

(Question 27 of Docketing Statement)

Exhibits A-L

EXHIBIT A



1 **ACOM**
CLARK HILL PLC
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Nevada Bar No. 1923
3 Email: dgentile@clarkhill.com
ROSS MILLER
4 Nevada Bar No. 8190
Email: rmiller@clarkhill.com
5 **JOHN A. HUNT**
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8 Fax: (702) 862-8400
Attorneys for Plaintiffs

9
10 **DISTRICT COURT**
CLARK COUNTY, NEVADA

11 SERENITY WELLNESS CENTER, LLC, a
Nevada limited liability company, TGIG, LLC, a
12 Nevada limited liability company, NULEAF
INCLINE DISPENSARY, LLC, a Nevada
13 limited liability company, NEVADA HOLISTIC
MEDICINE, LLC, a Nevada limited liability
14 company, TRYKE COMPANIES SO NV, LLC,
a Nevada limited liability company, TRYKE
15 COMPANIES RENO, LLC, a Nevada limited
liability company, GBS NEVADA PARTNERS,
16 LLC, a Nevada limited liability company,
FIDELIS HOLDINGS, LLC, a Nevada limited
17 liability company, GRAVITAS NEVADA, LTD,
a Nevada limited liability company, NEVADA
18 PURE, LLC, a Nevada limited liability company,
MEDIFARM, LLC, a Nevada limited liability
19 company, MEDIFARM IV, LLC a Nevada
limited liability company, DOE PLAINTIFFS I
20 through X; and ROE ENTITY PLAINTIFFS I
through X,

21 Plaintiffs,

22 vs.

23 THE STATE OF NEVADA, DEPARTMENT
24 OF TAXATION, CHEYENNE MEDICAL,
LLC, CIRCLE S. FARMS, LLC, CLEAR
25 RIVER, LLC, COMMERCE PARK MEDICAL
L.L.C., DEEP ROOTS MEDICAL LLC,
26 ESSENCE HENDERSON LLC, ESSENCE
TROPICANA, LLC, EUREKA NEWGEN
27 FARMS LLC, GREEN THERAPEUTICS, LLC,
GREENMART OF NEVADA, LLC, HELPING
28 HANDS WELLNESS CENTER, INC., LONE

CASE NO. A-19-786962-B
DEPT. XI

SECOND AMENDED COMPLAINT

1 MOUNTAIN PARTNERS LLC, NEVADA
2 ORGANIC REMEDIES, LLC, POLARIS
3 WELLNESS CENTER, L.L.C., PURE TONIC
4 CONCENTRATES LLC, TRNVP098, and
5 WELLNESS CONNECTION OF NEVADA,
6 LLC,

Defendants.

7 Plaintiffs, SERENITY WELLNESS CENTER, LLC, a Nevada limited liability company,
8 TGIG, LLC, a Nevada limited liability company, NULEAF INCLINE DISPENSARY, LLC, a
9 Nevada limited liability company, NEVADA HOLISTIC MEDICINE, LLC, a Nevada limited
10 liability company, TRYKE COMPANIES SO NV, LLC a Nevada limited liability company,
11 TRYKE COMPANIES RENO, LLC, a Nevada limited liability company, GBS NEVADA
12 PARTNERS, LLC, a Nevada limited liability company, FIDELIS HOLDINGS, LLC, a Nevada
13 limited liability company, GRAVITAS NEVADA, LTD, a Nevada limited liability company,
14 NEVADA PURE, LLC, a Nevada limited liability company, MEDIFARM, LLC, a Nevada
15 limited liability company MEDIFARM IV, LLC, a Nevada limited liability company; DOE
16 PLAINTIFFS I through X; and ROE ENTITIES I through X, by and through their counsel,
17 DOMINIC P. GENTILE, ESQ. and VINCENT SAVARESE III, ESQ., MICHAEL V.
18 CRISTALLI, ESQ., and ROSS MILLER, ESQ., of the law firm of Gentile Cristalli Miller
19 Armeni Savarese, hereby complain and allege against DEFENDANT STATE OF NEVADA,
20 DEPARTMENT OF TAXATION; DOE DEFENDANTS I through X; and ROE ENTITY
21 DEFENDANTS I through X, in their official and personal capacities, as follows:

24 **I.**

25 **PARTIES, JURISDICTION, AND VENUE**

26 1. Plaintiff SERENITY WELLNESS CENTER, LLC, was and is a Nevada limited
27 liability company and does business in Clark County, Nevada.

1 2. Plaintiff TGIG, LLC, was and is a Nevada limited liability company and does
2 business in Clark County, Nevada.

3 3. Plaintiff NULEAF INCLINE DISPENSARY, LLC, was and is a Nevada limited
4 liability company and does business in Clark County, Nevada.

5 4. Plaintiff NEVADA HOLISTIC MEDICINE, LLC, was and is a Nevada limited
6 liability company and does business in Clark County, Nevada.

7 5. Plaintiff TRYKE COMPANIES SO NV, LLC was and is a Nevada limited
8 liability company and does business in Clark County, Nevada.

9 6. Plaintiff TRYKE COMPANIES RENO, LLC, was and is a Nevada limited
10 liability company and does business in Clark County, Nevada.

11 7. Plaintiff GBS NEVADA PARTNERS, LLC, was and is a Nevada limited liability
12 company and does business in Clark County, Nevada.

13 8. Plaintiff FIDELIS HOLDINGS, LLC, was and is a Nevada limited liability
14 company and does business in Clark County, Nevada.

15 9. Plaintiff GRAVITAS NEVADA, LTD, was and is a Nevada limited liability
16 company and does business in Clark County, Nevada.

17 10. Plaintiff NEVADPURE, LLC, was and is a Nevada limited liability company and
18 does business in Clark County, Nevada.

19 11. Plaintiff MEDIFARM, LLC was and is a Nevada limited liability company and
20 does business in Clark County, Nevada.

21 12. Plaintiff MEDIFARM IV, LLC was and is a Nevada limited liability company
22 and does business in Clark County, Nevada.

23 13. Defendant STATE OF NEVADA, DEPARTMENT OF TAXATION (the
24 “Department”) is an agency of the State of Nevada. The Department is responsible for licensing
25 and regulating retail marijuana businesses in Nevada through its Marijuana Enforcement
26 Division.

27 ...

28 ...

**Parties Who Received Conditional Recreational Retail Marijuana Establishment
Licenses (“Defendant Applicants”)**

14. Upon information and belief, Defendant CHEYENNE MEDICAL, LLC is a Nevada limited liability company doing business under the fictitious names Thrive Cannabis Marketplace, Thrive, and/or Cheyenne Medical.

15. Upon information and belief, Defendant CIRCLE S FARMS, LLC is a Nevada limited liability company doing business under the fictitious firm names Canna Straz, and/or Circle S.

16. Upon information and belief, Defendant CLEAR RIVER, LLC is a Nevada limited liability company doing business under the fictitious names United States Marijuana Company, United States Medical Marijuana, Nevada Medical Marijuana, Clear River Wellness, Clear River Infused, Nevada Made Marijuana, Greenwolf Nevada, Farm Direct Weed, Atomicrockz, and/or Giddystick.

17. Upon information and belief, Defendant COMMERCE PARK MEDICAL L.L.C. is a Nevada limited liability company doing business under the fictitious names Thrive Cannabis Marketplace, LivFree Las Vegas, and/or Commerce Park Medical.

18. Upon information and belief, Defendant DEEP ROOTS MEDICAL LLC is a Nevada limited liability company doing business under the fictitious name Deep Root Harvest.

19. Upon information and belief, Defendant ESSENCE HENDERSON LLC is a Nevada limited liability company doing business under the fictitious name Essence Cannabis Dispensary.

20. Upon information and belief, Defendant ESSENCE TROPICANA LLC is a Nevada limited liability company doing business under the fictitious name Essence.

21. Upon information and belief, Defendant EUREKA NEWGEN FARMS LLC is a Nevada limited liability company doing business under the fictitious name Eureka NewGen Farms.

22. Upon information and belief, Defendant GREEN THERAPEUTICS LLC is a Nevada limited liability company doing business under the fictitious name Provision.

1 23. Upon information and belief, Defendant GREENMART OF NEVADA LLC is a
2 Nevada limited liability company doing business under the fictitious name Health for Life.

3 24. Upon information and belief, Defendant HELPING HANDS WELLNESS
4 CENTER, INC. is a Nevada corporation doing business under the fictitious names Cannacare,
5 Green Heaven Nursery, and/or Helping Hands Wellness Center.

6 25. Upon information and belief, Defendant LONE MOUNTAIN PARTNERS LLC
7 is a Nevada limited liability company doing business under the fictitious names Zenleaf, Siena,
8 Encore Cannabis, Bentley Blunts, Einstein Extracts, Encore Company, and/or Siena Cannabis.

9 26. Upon information and belief, Defendant NEVADA ORGANIC REMEDIES LLC
10 is a Nevada limited liability company doing business under the fictitious names The Source
11 and/or The Source Dispensary.

12 27. Upon information and belief, Defendant POLARIS WELLNESS CENTER L.L.C.
13 is a Nevada limited liability company doing business under the fictitious name Polaris MMJ.

14 28. Upon information and belief, Defendant PURE TONIC CONCENTRATES LLC
15 is a Nevada limited liability company doing business under the fictitious names Green Heart
16 and/or Pure Tonic.

17 29. Upon information and belief, Defendant TRNVP098 LLC is a Nevada limited
18 liability company doing business under the fictitious names Grassroots and/or Taproot Labs.

19 30. Upon information and belief, Defendant WELLNESS CONNECTION OF
20 NEVADA LLC is a Nevada limited liability company doing business under the fictitious name
21 Cultivate Dispensary

22 31. The true names and capacities, whether individual, corporate, association or
23 otherwise of Doe Plaintiffs I through X, Roe Entity Plaintiffs I through X; Doe Defendants I
24 through X; and Roe Entity Defendants I through X, inclusive, are unknown to Plaintiffs at
25 this time, who therefore sue said Defendants by such fictitious names. Plaintiffs are informed
26 and believe, and thereupon allege, that each of the Defendants designated herein as Doe
27 and/or Roe Entities is responsible in some manner for the events and occurrences herein
28 referred to, and in some manner caused the injuries and damages to Plaintiffs alleged herein.

1 And Plaintiffs will ask leave of the Court to amend this Complaint to insert the true names
2 and capacities of all Doe and/or Roe Entity Plaintiffs and Defendants when the same have
3 been ascertained by Plaintiffs, together with the appropriate charging allegations, and to join
4 such parties in this action.

5 32. Both jurisdiction and venue with respect to this action properly lie in this Court
6 pursuant to Nev. Rev. Stat. § 13.040.

7 II.

8 GENERAL ALLEGATIONS

9 33. The Nevada State Legislature passed a number of bills during the 2017
10 legislative session that affected the licensing, regulation, and operation of recreational marijuana
11 establishments in the state of Nevada. One of those bills, Assembly Bill 422, transferred
12 responsibility for the registration, licensing, and regulation of marijuana establishments from the
13 State of Nevada's Division of Public and Behavioral Health to the Department of Taxation.

14 34. This legislation was added to the voters' approval at the 2016 General Election of
15 2016 initiative petition, Ballot Question No. 2; is known as the "Regulation and Taxation of
16 Marijuana Act"; and is codified at NRS 453D.010, *et seq.* Nevada Revised Statutes ("NRS")
17 pursuant to

18 35. NRS 453D.020 (Findings and declarations) provides:

19 "1. In the interest of public health and public safety, and in
20 order to better focus state and local law enforcement resources on
21 crimes involving violence and personal property, the People of the
22 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.

23 2. The People of the State of Nevada find and declare that the
24 cultivation and sale of marijuana should be taken from the domain
25 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.

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

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

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

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

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

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

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

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

9 36. NRS 453D.200 (Duties of Department relating to regulation and licensing of
10 marijuana establishments; information about consumers) provides:

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

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

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

18

19 2. The Department shall approve or deny applications for
licenses *pursuant to NRS 453D.210*” (emphasis added).

20 37. NRS 453D.210 (Acceptance of applications for licensing; priority in licensing;
21 conditions for approval of application; limitations on issuance of licenses to retail marijuana
22 stores; competing applications), in turn, provides, in pertinent part:

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

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

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

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

28 6. When competing applications are submitted for a proposed

1 retail marijuana store within a single county, the Department shall
2 use an *impartial and numerically scored competitive bidding*
3 *process* to determine which application or applications among
those competing will be approved” (emphasis added).

4 38. According to an August 16, 2018 letter from the Department, pursuant to
5 Section 80(3) of Adopted Regulation of the Department of Taxation, LCB File No. R092-17
6 ("R092-17"), the Department was responsible for allocating the licenses of recreational
7 marijuana retail stores "to jurisdictions within each county and to the unincorporated area of
8 the county proportionally based on the population of each jurisdiction and of the
9 unincorporated area of the county.”

10 39. The Department issued a notice for an application period wherein the Department
11 sought applications from qualified applicants to award sixty-four (64) recreational marijuana
12 retail store licenses throughout various jurisdictions in Nevada.

13 40. The application period for those licenses, including thirty-one (31) licenses in
14 Clark County, seven (7) licenses in Washoe County and one (1) license in Nye County, opened
15 on September 7, 2018 and closed on September 20, 2018.

16 41. Pursuant to Section 6.2 of the Recreational Marijuana Establishment License
17 Application (“the Application”) issued by the Department, as enabled under the above-quoted
18 provisions of NRS 453D.210, if the Department received more than one application for a license
19 for a recreational marijuana retail store and the Department determined that more than one of the
20 applications was complete and in compliance with R092-17, Sec. 78 and NRS 453D, the Department
21 was required to rank the applications within each applicable locality for any applicants in a
22 jurisdiction that limits the number of retail marijuana stores in order from first to last, with ranking
23 being based on compliance with the provisions of R092-17 Sec. 80, NRS 453D and on the content of
24 the applications relating to the following specifically-enumerated and objective published criteria:
25
26
27

28 a. Operating experience of another kind of business by the owners, officers or board

1 members that has given them experience which is applicable to the operation of a
2 marijuana establishment.

3 b. Diversity of the owners, officers or board members.

4 c. Evidence of the amount of taxes paid and other beneficial financial contributions.

5 d. Educational achievements of the owners, officers or board members.

6 e. The applicant's plan for care, quality and safekeeping of marijuana from seed to
7 sale.

8 f. The financial plan and resources of the applicant, both liquid and illiquid.

9 g. The experience of key personnel that the applicant intends to employ.

10 h. Direct experience of the owners, officers, or board members of a medical
11 marijuana establishment or marijuana establishment in this State.

12 42. However, no numerical scoring values are assigned to any of the foregoing
13 criteria enumerated in the Application.

14 43. Moreover, Section 6.3 of the Application further provides that "[a]pplications that
15 have not demonstrated a sufficient response related to the criteria set forth above will not have
16 ***additional [unspecified, unpublished] criteria*** considered in determining whether to issue a
17 license ***and will not move forward in the application process***" (emphasis added).

18 44. Thus, by necessary implication, conversely, Section 6.3 of the Application
19 textually subjects an Application which *has* in fact demonstrated a "sufficient" response related
20 to the specific, published criteria set forth above to "***additional [unspecified, unpublished]***
21 ***criteria***," consideration of which by the Department will determine whether or not a license is
22 issued and whether or not a license Application will "***move forward in the application process***,
23 notwithstanding the textual requirement of NRS 453 D. 200.1(b) that the Department shall adopt
24 only regulations that prescribe "[q]ualifications for licensure that are directly and ***demonstrably***
25 related to the operation of a marijuana establishment" (emphasis added).

26 45. No later than December 5, 2018, the Department was responsible for issuing
27 conditional licenses to those applicants who score and rank high enough in each jurisdiction to
28 be awarded one of the allocated licenses in accordance with the impartial numerically scored

1 competitive bidding process mandated by NRS 453D.210.

2 46. The Department allocated ten (10) licenses for unincorporated Clark County,
3 Nevada; ten (10) licenses for Las Vegas, Nevada; six (6) licenses for Henderson, Nevada; five (5)
4 licenses for North Las Vegas, Nevada; six (6) licenses for Reno, Nevada; one (1) license for Sparks,
5 Nevada; and one (1) license for Nye County, Nevada.

6 47. Plaintiffs, each of whom were already operating licensed recreational retail
7 marijuana stores and possessed a share of the retail recreational marijuana market in their
8 jurisdictions at the time, submitted Applications for licenses to own and operate additional
9 recreational marijuana retail stores and thereby to retain their market share in a highly
10 competitive industry, in compliance with the specified, published requirements of Department
11 regulations together with the required application fee in accordance with NRS 453D.210.

12 48. Plaintiffs have been informed by the Department that all of their Applications to
13 operate recreational marijuana retail stores were denied.

14 49. In each instance, Plaintiffs were informed by letter from the Department stating
15 that a license was not granted to the applicant “because it did not achieve a score high enough to
16 receive an available license.”

17 50. On information and belief, Plaintiffs allege that the Department’s denial of their
18 license applications was not properly based upon actual implementation of the impartial and
19 numerically scored competitive bidding process mandated by NRS 453D.210, but rather, was in
20 fact based upon the arbitrary and capricious exercise of administrative partiality and favoritism.

21 51. On information and belief, Plaintiffs allege conversely that that the Department
22 improperly granted licenses to other competing applicants, likewise without actual
23 implementation of the impartial and numerically scored competitive bidding process mandated
24 by NRS 453D.210, but rather, based upon the arbitrary and capricious exercise of administrative
25 partiality and favoritism.

26 52. On information and belief, Plaintiffs allege that the Department of Taxation has
27 unlawfully, and in a manner resulting in a deprivation of the legal protections to which the
28 Plaintiffs are entitled:

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

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

10 C. granted conditional licenses to applicants who were known by the Department of
11 Taxation to have violated the criminal laws of the State of Nevada by having sold marijuana to
12 minors and nonetheless, at the behest of these applicants, their attorneys and/or agents made the
13 supervisory Department of Taxation personnel in charge of the licensing process, and at said
14 supervisory personnel's direction, had that information deliberately suppressed from law
15 enforcement, removed from the administrative files and eliminated from the collection of
16 information made available to and forming the base of knowledge of those scoring the
17 Applications, an express component of which was to evaluate the prior compliance record of
18 applicants who were already operating licensed retail recreational marijuana establishments;

19 D. granted conditional licenses to applicants who, after receiving information not
20 available to all applicants, failed to disclose the true addresses of the locations at which they
21 proposed to open a retail recreational marijuana store, the Department of Taxation thereby totally
22 abdicating the requirement that the Application be impartially numerically scored with regard to
23 the impact that it was likely to have on the community in which it would operate;

24 E. granted conditional licenses to applicants who failed to disclose each of their owners,
25 the Department of Taxation thereby totally abdicating the requirement of a background check
26 into their historical behavior and associations and ignoring the mandate that retail sales of
27 marijuana be removed from the criminal element in society;

28 F. granted conditional licenses to applicants who impermissibly amended Applications

1 after they were purportedly “complete and in compliance” when submitted;

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

5 H. granting conditional licenses to applicants who benefitted from the Department of
6 Taxation implementing in a manner that was partial and subject to manipulation, the awarding of
7 points for diversity, resulting in the abdicating its mission to conduct an impartial numerically
8 scored competitive bidding process;

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

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

17 K. granted conditional licenses to applicants in other unlawful manners to be further
18 developed at trial.

19 **III.**

20 **CLAIMS FOR RELIEF**

21 **FIRST CLAIM FOR RELIEF**

22 **(Violation of Civil Rights)**

23 **(Due Process: Deprivation of Property)**

24 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

25 53. Plaintiffs repeat and re-allege all prior paragraphs as though fully set forth herein.

26 54. Pursuant to the enactment of NRS 598A.030 it has become the stated policy of the
27 laws of Nevada to
28

1 (a) Prohibit acts in restraint of trade or commerce, except where properly regulated as
2 provided by law, and

3 (b) Preserve and protect the free, open and competitive nature of our market system, and

4 (c) Penalize all persons engaged in such anticompetitive practices to the full extent
5 allowed by law

6 55. Such prohibited acts in restraint of trade or commerce include, among others,

7 A. monopolization of trade or commerce in this State, including, without
8 limitation, attempting to monopolize or otherwise combining or conspiring to monopolize trade
9 or commerce in this State, and,

10 B. consolidation, conversion, merger, acquisition of shares of stock or other
11 equity interest, directly or indirectly, of another person engaged in commerce in this State or the
12 acquisition of any assets of another person engaged in commerce in this State that may:

13 (1) Result in the monopolization of trade or commerce in this State or would
14 further any attempt to monopolize trade or commerce in this State; or

15 (2) Substantially lessen competition or be in restraint of trade.

16 56. Pursuant to NRS 598A.040, the above protection of a free, open and competitive
17 market system do not apply where contravened by conduct which is expressly authorized,
18 regulated or approved by

19 (a) statute of this State or of the United States;

20 (b) An ordinance of any city or county of this State, except for ordinances relating to
21 video service providers; or

22 (c) An administrative agency of this State or of the United States or of a city or county of
23 this State, having jurisdiction of the subject matter.

24 57. NRS 598A.210, in providing a cause of action for injunctive relief and/or
25 damages, represents a recognition under Nevada law and policy that a business's sales and the
26 resulting value of its market share are a property interest entitled to protection by the courts.

27 58. Such a statutorily recognized "property interest" is within the meaning and
28 subject to the due process protections of the Fourteenth Amendment to the Constitution of the

1 United States and Article 1, Sections 1 and 8 of the Constitution of the State of Nevada; and
2 therefore, by definition, may not be denied arbitrarily, capriciously, corruptly or based upon
3 administrative partiality or favoritism, as when present as in the instances complained of herein,
4 none of those trigger the exemption set out in NRS 598A.040.

5 59. Here, while acting under color of state law, the Department has effectively
6 nullified and rendered illusory the legislative statutory entitlement which all applicants have to
7 an impartial numerically scored competitive bidding system for licensure of applicants who
8 comply with and prevail competitively in accordance with the objective and impartial standards
9 and procedures prescribed by the provisions of NRS 453D.200.2 and NRS 453D.210.4-6.

10 60. Plaintiffs further allege that pursuant to the implementation of the foregoing
11 constitutionally-repugnant licensing process, the denial of their Applications for licensure, when
12 coupled with the issuing of conditional licenses to their competitors pursuant to a constitutionally
13 invalid and corrupt process infected by actual arbitrary, capricious or corrupt decision-making
14 based upon administrative partiality or favoritism, has and will continue cause a diminution of
15 Plaintiffs sales and market share values as a direct result of the conduct of the Department of
16 Taxation issuing the conditional licenses and the business operations conducted pursuant thereto
17 by the beneficiaries of that unconstitutional licensing process.

18 61. Plaintiffs have therefore been and will continue to be deprived of property without
19 due process under color of state law in violation of the Fourteenth Amendment to the
20 Constitution of the United States and Article 1, Sections 1 and 8 of the Constitution of the State
21 of Nevada.

22 62. Plaintiffs are entitled to declaratory relief with respect to the forgoing federal
23 constitutional infirmities of the administrative licensing scheme pursuant to the provisions of
24 Title 42, United States Code ("U.S.C."), Section 1983 and otherwise.

25 63. Plaintiffs are entitled to declaratory relief because a justiciable controversy exists
26 that warrants a declaratory judgment pursuant to Nevada's Uniform Declaratory Judgments Act,
27 codified at NRS 30.010 to 30.160, inclusive.

28 64. Plaintiffs and Defendant have adverse and/or competing interests in that the
14 of 23

1 Department, through its Marijuana Enforcement Division, has denied Plaintiffs' Applications in
2 in violation of Plaintiff's constitutional rights, Nevada law, and state policy.

3 65. The Department's refusal to issue licenses to Plaintiffs affects Plaintiffs' rights
4 under NRS 453D, NAC 453D, R092-17, and other Nevada laws and regulations.

5 66. Further, the Department's improper ranking of other applicants for licensure and
6 subsequent, improper issuance of licenses to such other applicants adversely affects the rights of
7 Plaintiff under NRS 453D, NAC 453D, R09217, and other Nevada laws and regulations.

8 67. The Department's actions and/or inactions also have created an actual justiciable
9 controversy ripe for judicial determination between Plaintiffs and the Department with respect to
10 the construction, interpretation, and implementation of NRS 453D, NAC 453D, and R092-17,
11 and Plaintiffs have been harmed, and will continue to be harmed, by the Defendants' actions
12 and/or inactions.

13 68. The Department's actions and/or inactions have further failed to appropriately
14 address the necessary considerations and legislative intent of NRS 453D.210, designed to restrict
15 monopolies.

16 69. Accordingly, Plaintiff seeks a declaration from this Court that, *inter alia*:

- 17 a. The procedures employed in evaluating license Applications and granting
18 conditional licenses violated Plaintiffs' procedural and substantive due
19 process rights and entitlement to equal protection of the law (as set forth *infra*)
20 under the Nevada and United States Constitutions and, therefore, those
21 conditional licenses awarded are void and unenforceable;
- 22 b. Defendant acted arbitrarily and capriciously or in contravention of a legal duty
23 and Plaintiffs are therefore entitled to a writ of mandamus;
- 24 c. Plaintiffs are entitled to judicial review; and

25 70. Plaintiffs also seek a declaration from this Court that the Department must issue
26 licenses to Plaintiffs for the operation of a recreational marijuana establishment as applied for in
27 that Plaintiffs' would have been entitled to receive said licenses had the Department properly
28 applied the provisions of NRS 453D, NAC Chapter 453D, and R092-17.

1 71. Plaintiffs contend that a declaratory judgment is both necessary and proper at
2 this time for the Court to determine the respective rights, duties, responsibilities and liabilities
3 of Plaintiffs under NRS 453D, NAC Chapter 453D, R092-17, and other Nevada laws and
4 regulations.

5 72. Plaintiffs are also entitled to injunctive relief from the foregoing federal
6 constitutional violations pursuant to the provisions of 42 U.S.C. Section 1983 and otherwise.

7 73. The Department's flawed interpretation of the provisions of NRS 453D, NAC
8 Chapter 453D, and R092-17, and refusal to issue "conditional" licenses in accordance with the
9 law constitute and cause continuing and irreparable harm to Plaintiffs, who have no adequate
10 remedy at law.

11 74. The purpose of this administrative refusal was and is to unreasonably interfere
12 with Plaintiffs' business and cause Plaintiffs to suffer irreparable harm.

13 75. The Department will suffer no harm by following the law with respect to issuing
14 the licenses in question.

15 76. The Department's interpretation of NRS 453D, NAC Chapter 453D, and R092-17
16 is flawed and Plaintiffs are likely to succeed on the merits in this litigation.

17 77. Therefore, Plaintiffs are entitled to preliminary injunctive relief, and after a trial
18 on the merits, permanent injunctive relief, ordering the Department to issue the subject licenses
19 to Plaintiffs in accordance with NRS 453D, NAC 453D, and R092-17.

20 78. Plaintiffs are also entitled to damages attributable to the above-identified due
21 process violations pursuant to the provisions of 42 U.S.C. Section 1983 and otherwise.

22 79. As the actions of the Department have necessitated that Plaintiffs retain the legal
23 services of Clark Hill PLLC, and incur fees and costs to bring this action, Plaintiffs are also
24 entitled to an award of attorneys' fees and costs of suit.

25 ...

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28 ...

SECOND CLAIM FOR RELIEF
(Violation of Civil Rights)

(Due Process: Deprivation of Liberty)

(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)

80. Plaintiffs repeat and re-allege all prior paragraphs as though fully set forth herein.

81. The fundamental constitutional right to pursue a lawful occupation constitutes a “liberty interest” within the meaning and subject to the due process protections of the Fourteenth Amendment to the Constitution of the United States and Article 1, Sections 1 and 8 of the Constitution of the State of Nevada; and therefore, by definition, may not be denied arbitrarily, capriciously, corruptly or based upon administrative partiality or favoritism.

82. However, acting under color of state law, the Department has effectively nullified and rendered illusory the legislative statutory entitlement to licensure of applicants who comply with and prevail competitively in accordance with the objective and impartial standards and procedures prescribed by the provisions of NRS 453D.200.2 and NRS 453D.210.4-6, by textually subjecting an Application which in fact provides “sufficient” responses related to the published, enumerated and specific criteria set forth in the Application to approval pursuant to further, unpublished, unspecified and unascertainable “additional criteria” which are not set forth therein, as a silent supplemental condition of licensure, in violation of NRS 200.D.1(b) thereby rendering the administrative regulation governing the Application and licensing process susceptible to *ad hoc*, non-transparent, arbitrary, capricious or corrupt decision-making based upon administrative partiality or favoritism which cannot be discounted; thereby rendering that regulatory scheme unconstitutional on its face.

83. On information and belief, Plaintiffs further allege that the pursuant to the implementation of the foregoing constitutionally-repugnant licensing process, the denial of their Applications for licensure, were in fact affected by actual arbitrary, capricious or corrupt decision-making based upon administrative partiality or favoritism; and therefore, that that licensing process has thereby been rendered unconstitutional in its application as well.

84. Plaintiffs have therefore likewise been deprived of liberty without due process

1 under color of state law in violation of the Fourteenth Amendment to the Constitution of the
2 United States and Article 1, Sections 1 and 8 of the Constitution of the State of Nevada.

3 85. The Constitutional infirmity of the entire licensing process renders the denial of
4 Plaintiffs' Applications for licensure void and unenforceable, and Plaintiffs are entitled to a
5 declaration as to the ineffectiveness thereof and an order enjoining the enforcement of those
6 license denials as well as those conditionally granted.

7 86. Plaintiffs are also entitled to damages for these due process violations pursuant
8 to the provisions of 42 U.S.C. Section 1983 and otherwise.

9 87. As the actions of the Department have necessitated that Plaintiffs retain the legal
10 services of Clark Hill PLLC, and incur fees and costs to bring this action, Plaintiffs are also
11 entitled to an award of attorneys' fees and costs of suit.

12 **THIRD CLAIM FOR RELIEF**

13 **(Violation of Civil Rights)**

14 **(Equal Protection)**

15 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1; Title 42 U.S.C. § 1983)**

16 88. Plaintiffs repeat and re-allege all prior paragraphs as though fully set forth herein.

17 89. By improperly denying Plaintiffs' Applications for licensure under the provisions
18 of NRS 453D.200.2 and NRS 453D.210.4-6 while improperly granting the Applications of other
19 applicants under color of state law as set forth *supra*, the Department has, without justification,
20 disparately treated Plaintiffs' Applications absent rational basis, and has thereby violated
21 Plaintiffs' rights to equal protection of the law as guaranteed by the Fourteenth Amendment to
22 the Constitution of the United States and Article 1, Section 1 of the Constitution of the State of
23 Nevada.

24 90. The constitutional infirmity of the entire licensing process and the resulting denial
25 of equal protection renders the denial of Plaintiffs' Applications for licensure void and
26 unenforceable, and, for the reasons set forth, *supra*, Plaintiffs are entitled to a declaration as to
27 the ineffectiveness thereof and an order enjoining the enforcement of those license denials as
28 well as those conditionally granted.

91. Plaintiffs are also entitled to damages for these equal protection violations pursuant to the provisions of 42 U.S.C. Section 1983 and otherwise.

92. As the actions of the Department have necessitated that Plaintiffs retain the legal services of Clark Hill PLLC, and incur fees and costs to bring this action, Plaintiffs are also entitled to an award of attorneys' fees and costs of suit.

FOURTH CLAIM FOR RELIEF

(Petition for Judicial Review)

93. Plaintiffs repeat and re-allege all prior paragraphs as though fully set forth herein.

94. The Department, in misinterpreting and incorrectly applying the provisions of NRS 453D, NAC 453D and the related Nevada laws and regulations, has exceeded its jurisdiction by improperly issuing licenses to applicants that do not merit licenses under the provisions of NRS 453D, NAC 453D, and R092-17.

95. Plaintiffs are aggrieved by the decision of the Department to deny Plaintiffs' Applications without proper notice, substantial evidence, or compliance with NRS 453D, NAC 453D, R092-17, and other Nevada state laws or regulations.

96. There is no provision in NRS 453D, NAC 453D, or R092-17 allowing for an administrative appeal of the Department's decision, and apart from injunctive relief, no plain, speedy, and adequate remedy for the Department's improper actions.

97. Accordingly, Plaintiffs petition this Court for judicial review of the record on which the Department's denials were based, and an order providing *inter alia*:

- a. A determination that the decision lacked substantial evidence;
- b. A determination that the denials are void *ab initio* for non-compliance with NRS 453D, NAC 453D, R092-17, and other Nevada laws or regulations; and
- c. Such other relief as is consistent with those determinations.

98. As the actions of the Department have necessitated that Plaintiffs retain the legal services of Clark Hill PLLC, and incur fees and costs to bring this action, Plaintiffs are also

entitled to an award of attorneys' fees and costs of suit.

FIFTH CLAIM FOR RELIEF

(Petition for Writ of Mandamus)

99. Plaintiffs repeat and re-allege all prior paragraphs as though fully set forth herein.

100. When a governmental body fails to perform an act “that the law requires” or acts in an arbitrary or capricious manner, a writ of mandamus shall issue to correct the action. Nev. Rev. Stat. § 34.160.

101. The Department has failed to perform various acts that the law requires including but not limited to:

a. Providing proper pre-hearing notice of the denial; and

b. Arbitrarily and capriciously denying the applications for no legitimate reason.

102. The Department acted arbitrarily and capriciously in the denial by performing and/or failing to perform the acts set forth *supra*, and because, *inter alia*:

a. The Board lacked substantial evidence to deny Plaintiffs’ Applications; and

b. The Board denied Plaintiffs’ Applications in order to approve the Applications of other competing applicants without regard to the merit of Plaintiffs’ Applications and the lack of merit of the Applications of other competing applicants.

103. These violations of the Department’s legal duties were arbitrary and capricious actions that compel this Court to issue a Writ of Mandamus directing the Department to review Plaintiffs’ Applications on their merits and/or approve them.

104. As a result of the Department’s unlawful and arbitrary and capricious actions, Plaintiffs have been forced to retain legal counsel to prosecute this action and is therefore also entitled to their damages, costs in this suit, and an award of attorneys’ fees pursuant to NRS 34.270.

FIFTH CLAIM FOR RELIEF

(Declaratory Relief)

105. Plaintiffs repeat and re-allege all prior paragraphs as though fully set forth herein.

106. A justiciable controversy exists sufficient to warrant a declaratory judgment pursuant to Nevada’s Uniform Declaratory Judgments Act, NRS 30.010, *et seq.*

107. Defendant Applicants received conditional recreational retail marijuana establishment licenses issued by the Department.

108. Plaintiffs contend that they are entitled to the same conditional licenses, which contention would/could deprive Defendant Applicants of their conditional licenses.

109. Plaintiffs request a declaratory judgment to determine their rights, status, or other legal relations under the applicable statutes and regulations with respect to this dispute brought by Plaintiffs. A declaratory judgment will eliminate any dispute over the conditional recreational marijuana establishment licenses issued by the Department.

110. Plaintiffs have been forced to retain legal counsel to prosecute this action and is therefore also entitled to their damages, costs in this suit, and an award of attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS pray for relief as follows:

1. For declaratory relief as set forth above;
2. For a preliminary and permanent injunction enjoining the enforcement of the denial of their Applications for licensure;
3. For judicial review of the record and history on which the denial of those Applications was based;
4. For the issuance of a writ of mandamus;
5. For compensatory and special damages as set forth herein;
6. For attorneys' fees and costs of suit; and
7. For all other and further relief as the Court deems just and proper.

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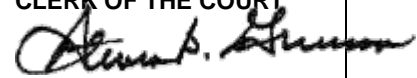
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DATED this 26th day of November, 2019.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

IN RE DOT

Case No. A-19-787004-B
Dept. No. XI

CONSOLIDATED WITH:
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

**DEPARTMENT OF TAXATION'S ANSWER TO PLAINTIFF
SERENITY PARTIES' SECOND AMENDED COMPLAINT**

The State of Nevada ex rel. Department of Taxation (the "Department") answers
Plaintiffs' Amended Complaint as follows:

PARTIES, JURISDICTION, AND VENUE

1. Answering Paragraph 1, the Department admits that Serenity Wellness
Center, LLC is a Nevada limited liability company, but the Department is without
knowledge or information sufficient to form a belief as to the truth of the allegations set
forth therein and, therefore denies the same.

2. Answering Paragraph 2, the Department admits that TGIG, LLC is a Nevada
limited liability company, but the Department is without knowledge or information

1 sufficient to form a belief as to the truth of the allegations set forth therein and, therefore
2 denies the same.

3 3. Answering Paragraph 3, the Department admits that Nuleaf Incline
4 Dispensary, LLC is a Nevada limited liability company, but the Department is without
5 knowledge or information sufficient to form a belief as to the truth of the allegations set
6 forth therein and, therefore denies the same.

7 4. Answering Paragraph 4, the Department admits that Nevada Holistic
8 Medicine, LLC is a Nevada limited liability company, but the Department is without
9 knowledge or information sufficient to form a belief as to the truth of the allegations set
10 forth therein and, therefore denies the same.

11 5. Answering Paragraph 5, the Department admits that Tryke Companies SO
12 NV, LLC is a Nevada limited liability company, but the Department is without knowledge
13 or information sufficient to form a belief as to the truth of the allegations set forth therein
14 and, therefore denies the same.

15 6. Answering Paragraph 6, the Department admits that Tryke Companies Reno,
16 LLC is a Nevada limited liability company, but the Department is without knowledge or
17 information sufficient to form a belief as to the truth of the allegations set forth therein
18 and, therefore denies the same.

19 7. Answering Paragraph 7, the Department admits that GBS Nevada Partners,
20 LLC is a Nevada limited liability company, but the Department is without knowledge or
21 information sufficient to form a belief as to the truth of the allegations set forth therein
22 and, therefore denies the same.

23 8. Answering Paragraph 8, the Department admits that Fidelis Holdings, LLC
24 is a Nevada limited liability company, but the Department is without knowledge or
25 information sufficient to form a belief as to the truth of the allegations set forth therein
26 and, therefore denies the same.

27 9. Answering Paragraph 9, the Department admits that Gravitas Nevada, LLC
28 is a Nevada limited liability company, but the Department is without knowledge or

1 information sufficient to form a belief as to the truth of the allegations set forth therein
2 and, therefore denies the same.

3 10. Answering Paragraph 10, the Department admits that Nevadapure, LLC is a
4 Nevada limited liability company, but the Department is without knowledge or information
5 sufficient to form a belief as to the truth of the allegations set forth therein and, therefore
6 denies the same.

7 11. Answering Paragraph 11, the Department admits that Medifarm, LLC is a
8 Nevada limited liability company, but the Department is without knowledge or information
9 sufficient to form a belief as to the truth of the allegations set forth therein and, therefore
10 denies the same.

11 12. Answering Paragraph 12, the Department admits that Medifarm IV, LLC is
12 a Nevada limited liability company, but the Department is without knowledge or
13 information sufficient to form a belief as to the truth of the allegations set forth therein
14 and, therefore denies the same.

15 13. Answering Paragraph 13, the Department admits the allegations contained
16 therein.

17 **Parties Who Received Conditional Recreational Retain Marijuana**
18 **Establishment Licenses (“Defendant Applicants”)**

19 14. Answering Paragraph 14, the Department admits that Cheyenne Medical,
20 LLC is a Nevada limited liability company, but the Department is without knowledge or
21 information sufficient to form a belief as to the truth of the allegations set forth therein
22 and, therefore denies the same.

23 15. Answering Paragraph 15, the Department admits that Circle S Farms, LLC
24 is a Nevada limited liability company, but the Department is without knowledge or
25 information sufficient to form a belief as to the truth of the allegations set forth therein
26 and, therefore denies the same.

27 16. Answering Paragraph 16, the Department admits that Clear River, LLC is a
28 Nevada limited liability company, but the Department is without knowledge or information

1 sufficient to form a belief as to the truth of the allegations set forth therein and, therefore
2 denies the same.

3 17. Answering Paragraph 17, the Department admits that Commerce Park
4 Medical, LLC is a Nevada limited liability company, but the Department is without
5 knowledge or information sufficient to form a belief as to the truth of the allegations set
6 forth therein and, therefore denies the same.

7 18. Answering Paragraph 18, the Department admits that Deep Roots Medical,
8 LLC is a Nevada limited liability company, but the Department is without knowledge or
9 information sufficient to form a belief as to the truth of the allegations set forth therein
10 and, therefore denies the same.

11 19. Answering Paragraph 19, the Department admits that Essence Henderson,
12 LLC is a Nevada limited liability company, but the Department is without knowledge or
13 information sufficient to form a belief as to the truth of the allegations set forth therein
14 and, therefore denies the same.

15 20. Answering Paragraph 20, the Department admits that Essence Tropicana,
16 LLC is a Nevada limited liability company, but the Department is without knowledge or
17 information sufficient to form a belief as to the truth of the allegations set forth therein
18 and, therefore denies the same.

19 21. Answering Paragraph 21, the Department admits that Eureka Newgen
20 Farms, LLC is a Nevada limited liability company, but the Department is without
21 knowledge or information sufficient to form a belief as to the truth of the allegations set
22 forth therein and, therefore denies the same.

23 22. Answering Paragraph 22, the Department admits that Green Therapeutics,
24 LLC is a Nevada limited liability company, but the Department is without knowledge or
25 information sufficient to form a belief as to the truth of the allegations set forth therein
26 and, therefore denies the same.

27 23. Answering Paragraph 23, the Department admits that Greenmart of Nevada,
28 LLC is a Nevada limited liability company, but the Department is without knowledge or

1 information sufficient to form a belief as to the truth of the allegations set forth therein
2 and, therefore denies the same.

3 24. Answering Paragraph 24, the Department admits that Helping Hands
4 Wellness Center, Inc. is a Nevada corporation, but the Department is without knowledge
5 or information sufficient to form a belief as to the truth of the allegations set forth therein
6 and, therefore denies the same.

7 25. Answering Paragraph 25, the Department admits that Lone Mountain
8 Partners, LLC is a Nevada limited liability company, but the Department is without
9 knowledge or information sufficient to form a belief as to the truth of the allegations set
10 forth therein and, therefore denies the same.

11 26. Answering Paragraph 26, the Department admits that Nevada Organic
12 Remedies, LLC is a Nevada limited liability company, but the Department is without
13 knowledge or information sufficient to form a belief as to the truth of the allegations set
14 forth therein and, therefore denies the same.

15 27. Answering Paragraph 27, the Department admits that Polaris Wellness
16 Center, LLC is a Nevada limited liability company, but the Department is without
17 knowledge or information sufficient to form a belief as to the truth of the allegations set
18 forth therein and, therefore denies the same.

19 28. Answering Paragraph 28, the Department admits that Pure Tonic
20 Concentrates, LLC is a Nevada limited liability company, but the Department is without
21 knowledge or information sufficient to form a belief as to the truth of the allegations set
22 forth therein and, therefore denies the same.

23 29. Answering Paragraph 29, the Department admits that TRNVP098, LLC is a
24 Nevada limited liability company, but the Department is without knowledge or information
25 sufficient to form a belief as to the truth of the allegations set forth therein and, therefore
26 denies the same.

27 30. Answering Paragraph 30, the Department admits that Wellness Connection
28 of Nevada, LLC is a Nevada limited liability company, but the Department is without

1 knowledge or information sufficient to form a belief as to the truth of the allegations set
2 forth therein and, therefore denies the same.

3 31. Answering Paragraph 31, the Department is without knowledge or
4 information sufficient to form a belief as to the truth of the allegations set forth therein
5 and, therefore denies the same.

6 32. Answering Paragraph 32, the Department admits the allegations contained
7 therein.

8 II.

9 GENERAL ALLEGATIONS

10 33. Answering Paragraph 33, the Department admits the allegations contained
11 therein.

12 34. Answering Paragraph 34, the Department is without knowledge or
13 information sufficient to form a belief as to the truth of the allegations set forth therein
14 and, therefore denies the same.

15 35. Answering Paragraph 35, the Department admits the allegations contained
16 therein.

17 36. Answering Paragraph 36, the Department is without knowledge or
18 information sufficient to form a belief as to the truth of the allegations set forth therein
19 and, therefore denies the same.

20 37. Answering Paragraph 37, the Department is without knowledge or
21 information sufficient to form a belief as to the truth of the allegations set forth therein
22 and, therefore denies the same.

23 38. Answering Paragraph 38, the Department is without knowledge or
24 information sufficient to form a belief as to the truth of the allegations set forth therein
25 and, therefore denies the same.

26 39. Answering Paragraph 39, the Department is without knowledge or
27 information sufficient to form a belief as to the truth of the allegations set forth therein
28 and, therefore denies the same.

1 40. Answering Paragraph 40, the Department is without knowledge or
2 information sufficient to form a belief as to the truth of the allegations set forth
3 therein and, therefore denies the same.

4 41. Answering Paragraph 41, and subparts 41(a) through 41(h.), the Department
5 is without knowledge or information sufficient to form a belief as to the truth of the
6 allegations set forth therein and, therefore denies the same.

7 42. Answering Paragraph 42, the Department is without knowledge or
8 information sufficient to form a belief as to the truth of the allegations set forth therein
9 and, therefore denies the same.

10 43. Answering Paragraph 43, the Department is without knowledge or
11 information sufficient to form a belief as to the truth of the allegations set forth therein
12 and, therefore denies the same.

13 44. Answering Paragraph 44, the Department is without knowledge or
14 information sufficient to form a belief as to the truth of the allegations set forth therein
15 and, therefore denies the same.

16 45. Answering Paragraph 45, the Department is without knowledge or
17 information sufficient to form a belief as to the truth of the allegations set forth therein
18 and, therefore denies the same.

19 46. Answering Paragraph 46, the Department is without knowledge or
20 information sufficient to form a belief as to the truth of the allegations set forth therein
21 and, therefore denies the same.

22 47. Answering Paragraph 47, the Department is without knowledge or
23 information sufficient to form a belief as to the truth of the allegations set forth therein
24 and, therefore denies the same.

25 48. Answering Paragraph 48, the Department admits the allegations contained
26 therein.

27 49. Answering Paragraph 49, the Department admits the allegations contained
28 therein.

50. Answering Paragraph 50, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

51. Answering Paragraph 51, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

52. Answering Paragraph 52, and subparts 52A through 52K, the Department denies the allegations contained therein.

III.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Violation of Civil Rights)

(Due Process: Deprivation of Property)

(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)

53. Answering Paragraph 53, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

54. Answering Paragraph 54, and subparts 54(a) through 54(c), the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

55. Answering Paragraph 55, and subparts 55A and 55B, and 55B(1) and 55(B)2, the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

56. Answering Paragraph 56, and subparts 56(a) through 56(c), the Department is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth therein and, therefore denies the same.

57. Answering Paragraph 57, the Department denies the allegations contained therein.

1 58. Answering Paragraph 58, the Department denies the allegations contained
2 therein.

3 59. Answering Paragraph 59, the Department denies the allegations contained
4 therein.

5 60. Answering Paragraph 60, the Department denies the allegations contained
6 therein.

7 61. Answering Paragraph 61, the Department denies the allegations contained
8 therein.

9 62. Answering Paragraph 62, the Department denies the allegations contained
10 therein.

11 63. Answering Paragraph 63, the Department denies the allegations contained
12 therein.

13 64. Answering Paragraph 64, the Department denies the allegations contained
14 therein.

15 65. Answering Paragraph 65, the Department denies the allegations contained
16 therein.

17 66. Answering Paragraph 66, the Department denies the allegations contained
18 therein.

19 67. Answering Paragraph 67, the Department denies the allegations contained
20 therein.

21 68. Answering Paragraph 68, the Department denies the allegations contained
22 therein.

23 69. Answering Paragraph 69, and subparts 69(a) through 69(c), the Department
24 denies the allegations contained therein.

25 70. Answering Paragraph 70, the Department denies the allegations contained
26 therein.

27 71. Answering Paragraph 71, the Department denies the allegations contained
28 therein.

1 72. Answering Paragraph 72, the Department denies the allegations contained
2 therein.

3 73. Answering Paragraph 73, the Department denies the allegations contained
4 therein.

5 74. Answering Paragraph 74, the Department denies the allegations contained
6 therein.

7 75. Answering Paragraph 75, the Department is without knowledge or
8 information sufficient to form a belief as to the truth of the allegations set forth therein
9 and, therefore denies the same.

10 76. Answering Paragraph 76, the Department denies the allegations contained
11 therein.

12 77. Answering Paragraph 77, the Department denies the allegations contained
13 therein.

14 78. Answering Paragraph 78, the Department denies the allegations contained
15 therein.

16 79. Answering Paragraph 79, the Department denies the allegations contained
17 therein.

18 **SECOND CLAIM FOR RELIEF**

19 **(Violation of Civil Rights)**

20 **(Due Process: Deprivation of Liberty)**

21 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

22 80. Answering Paragraph 80, the Department is without knowledge or
23 information sufficient to form a belief as to the truth of the allegations set forth therein
24 and, therefore denies the same.

25 81. Answering Paragraph 81, the Department denies the allegations contained
26 therein.

27 82. Answering Paragraph 82, the Department denies the allegations contained
28 therein.

1 83. Answering Paragraph 83, the Department denies the allegations contained
2 therein.

3 84. Answering Paragraph 84, the Department denies the allegations contained
4 therein.

5 85. Answering Paragraph 85, the Department denies the allegations contained
6 therein.

7 86. Answering Paragraph 86, the Department denies the allegations contained
8 therein.

9 87. Answering Paragraph 87, the Department denies the allegations contained
10 therein.

11 **THIRD CLAIM FOR RELIEF**

12 **(Violation of Civil Rights)**

13 **(Equal Protection)**

14 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1; Title 42 U.S.C. § 1983)**

15 88. Answering Paragraph 88, the Department is without knowledge or
16 information sufficient to form a belief as to the truth of the allegations set forth therein
17 and, therefore denies the same.

18 89. Answering Paragraph 89, the Department denies the allegations contained
19 therein.

20 90. Answering Paragraph 90, the Department denies the allegations contained
21 therein.

22 91. Answering Paragraph 91, the Department denies the allegations contained
23 therein.

24 92. Answering Paragraph 92, the Department denies the allegations contained
25 therein.

26 ...

27 ...

28 ...

1 **FOURTH CLAIM FOR RELIEF**

2 **(Petition for Judicial Review)**

3 93. Answering Paragraph 93, the Department is without knowledge or
4 information sufficient to form a belief as to the truth of the allegations set forth therein
5 and, therefore denies the same.

6 94. Answering Paragraph 94, the Department denies the allegations contained
7 therein.

8 95. Answering Paragraph 95, the Department denies the allegations contained
9 therein.

10 96. Answering Paragraph 96, the Department denies the allegations contained
11 therein.

12 97. Answering Paragraph 97, the Department denies the allegations contained
13 therein.

14 98. Answering Paragraph 98, the Department denies the allegations contained
15 therein.

16 **FIFTH CLAIM FOR RELIEF**

17 **(Petition for Writ of Mandamus)**

18 99. Answering Paragraph 99, the Department is without knowledge or
19 information sufficient to form a belief as to the truth of the allegations set forth therein
20 and, therefore denies the same.

21 100. Answering Paragraph 100, the Department denies the allegations contained
22 therein.

23 101. Answering Paragraph 101, and subparts 101(a) and 101(b), the Department
24 denies the allegations contained therein.

25 102. Answering Paragraph 102, and subparts 102(a) and 102(b), the Department
26 denies the allegations contained therein.

27 103. Answering Paragraph 103, the Department denies the allegations contained
28 therein.

1 104. Answering Paragraph 104, the Department denies the allegations contained
2 therein.

3 **FIFTH CLAIM FOR RELIEF**

4 **(Declaratory Relief)**

5 105. Answering Paragraph 105, the Department is without knowledge or
6 information sufficient to form a belief as to the truth of the allegations set forth therein
7 and, therefore denies the same.

8 106. Answering Paragraph 106, the Department denies the allegations contained
9 therein.

10 107. Answering Paragraph 107, the Department denies the allegations contained
11 therein.

12 108. Answering Paragraph 108, the Department denies the allegations contained
13 therein.

14 109. Answering Paragraph 109, the Department denies the allegations contained
15 therein.

16 110. Answering Paragraph 110, the Department denies the allegations contained
17 therein.

18 **GENERAL DENIALS**

19 The Department denies any and all allegations in the Corrected First Amended
20 Complaint not specifically admitted in this Answer.

21 The Department denies that Plaintiffs are entitled to any of the relief prayed for in
22 the Corrected First Amended Complaint.

23 **AFFIRMATIVE DEFENSES**

24 The Department denies any and all liability in this matter and asserts the following
25 affirmative defenses:

- 26 1. Plaintiffs have failed to state a claim for which relief can be granted.
27 2. Plaintiffs do not have a property right in a privilege license that they do not
28 have.

- 1 3. Plaintiffs do not have a fundamental right to a privilege license.
- 2 4. Chapter 453D does not provide for a hearing when a retail marijuana license
- 3 is not issued.
- 4 5. The Nevada Administrative Procedures Act, NAC Chapter 233B, does not
- 5 provide for a hearing when a retail marijuana license is not issued.
- 6 6. The Department's actions were neither arbitrary, capricious, nor an abuse of
- 7 discretion.
- 8 7. The Department's interpretation of the statutes and regulations it is
- 9 authorized to execute is given great deference.
- 10 8. The Department used an impartial and numerically scored competitive
- 11 bidding process.
- 12 9. Plaintiffs did not have a statutory entitlement to a license.
- 13 10. The U.S. Constitution does not protect the right to engage in a business that
- 14 is illegal under federal law.
- 15 11. Plaintiffs do not have standing.
- 16 12. Plaintiffs have failed to exhaust their administrative remedies.
- 17 13. The Complaint fails to present a justiciable controversy.
- 18 14. This Court lacks jurisdiction to hear Plaintiffs' claims.
- 19 15. The Department is immune from liability pursuant to NRS 41.031, *et. seq.*
- 20 generally and NRS 41.032, in particular.
- 21 16. Plaintiff failed to name the Department properly as required by NRS
- 22 41.031(2).
- 23 17. Plaintiffs' claims, including the declaratory and/or equitable claims are barred
- 24 by the doctrines of waiver, ratification, estoppel, unclean hands and other equitable
- 25 defenses.
- 26 18. Plaintiffs' claims are barred by the applicable statute of limitations and/or the
- 27 doctrine of laches.
- 28 19. Plaintiffs' claims are barred based on impossibility.

1 20. Plaintiffs' claims have been waived because of the wrongful acts, omissions
2 and conduct of Plaintiffs.

3 21. Plaintiffs would be unjustly enriched if awarded damages.

4 22. The Department has no contractual relationship with Plaintiffs to give rise to
5 any declaratory relief.

6 23. The damages sustained by the Plaintiff, if any, were caused by the acts of
7 unknown third persons who were not agents, servants, or employees of the Department,
8 and who were not acting on behalf of the Department in any manner or form, and, as such,
9 the Department is not liable in any manner to Plaintiff.

10 24. The Department is not legally responsible for the actions and/or omissions of
11 other third parties.

12 25. Plaintiffs fail to name a party necessary for full and adequate relief essential
13 in this action.

14 26. Plaintiffs failed to comply with a condition precedent.

15 27. Plaintiffs have not suffered any damages attributable to the actions of the
16 Department.

17 28. Plaintiffs have failed to timely protect and/or enforce their alleged rights.

18 29. Plaintiffs' claims are barred as Plaintiffs have failed, refused, or neglected to
19 take reasonable steps to mitigate damages, therefore barring or diminishing the ability to
20 recover.

21 30. The Department has an objective good faith belief that it acted reasonably and
22 in good faith and the Department's actions were legally justified.

23 31. The Department substantially complied with NRS and NAC Chapter 453D.

24 32. The Department, at all relevant times, acted with due care and
25 circumspection in the performance of its duties; exercised the degree of skill and learning
26 ordinarily possessed and exercised by members of its profession in good standing,
27 practicing in similar localities and that at all times, used reasonable care and diligence in

28 . . .

1 the exercise of its skills and the application of its learning, and at all times acted according
2 to its best judgment and met the applicable standard of care.

3 33. Plaintiffs' claims for relief are barred as Plaintiff's alleged damages are
4 speculative and cannot be calculated with any certainty or reliability.

5 34. Each purported claim for relief is barred by the doctrines of *res judicata* and/or
6 collateral estoppel.

7 35. Each purported claim for relief is barred as Plaintiffs are estopped from
8 pursuing any claim against the Department in accordance with equitable principles of
9 jurisprudence.

10 36. The Department alleges that the damages, if any, alleged by the Plaintiffs
11 were the result of independent intervening acts, over which the Department had no control,
12 which resulted in the superseding cause of Plaintiffs alleged damages.

13 37. The Department avails itself of all affirmative defenses set forth in and or
14 arising out of NRS Chapter 453D and NRS Chapter 360 and all applicable regulations and
15 subparts.

16 38. Plaintiffs claims are barred by the doctrine of qualified immunity.

17 39. All possible affirmative defenses may not have been alleged inasmuch as
18 insufficient facts and other relevant information may not be available after reasonable
19 inquiry and, pursuant to NEV. R. CIV. P. 11, the Department hereby reserves the right to
20 amend these affirmative defenses as additional information becomes available.
21 Additionally, one or more of these Affirmative Defenses may have been pled for the
22 purposes of non-waiver.

23 DATED this 28th day of January, 2020.

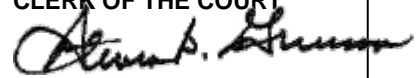
24 AARON D. FORD
25 Attorney General

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

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/s/ Traci Plotnick
Traci Plotnick, an employee of the
Office of the Attorney General

EXHIBIT C



CODE: ANS
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Jonathan J. Tew, Esq.
State Bar No. 11874
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Rich@nvlawyers.com
Jon@nvlawyers.com
Anthony@nvlawyers.com
Attorneys for Deep Roots Medical LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

IN RE: DOT

Case No.: A-19-787004-B
Department: XI

CONSOLIDATED WITH:
A-19-787035-C; A-18-785818-W
A-18-786357-W; A-19-786962-B
A-19-787540-W; A-19-787726-C
A-19-801416-B

**DEFENDANT DEEP ROOTS MEDICAL
LLC'S ANSWER TO THE SERENITY
PLAINTIFFS' SECOND AMENDED
COMPLAINT**

Defendant Deep Roots Medical LLC ("Defendant"), by and through its undersigned counsel of record, the law firm of Robertson, Johnson, Miller & Williamson, hereby answers the Serenity Plaintiffs' Second Amended Complaint ("Complaint") as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 1-12 of the Complaint and, therefore, denies same.

2. Defendant admits the allegations in paragraph 13 of the Complaint.

DEFENDANT DEEP ROOTS MEDICAL LLC'S ANSWER TO THE SERENITY PLAINTIFFS'SECOND
AMENDED COMPLAINT

PAGE 1

Parties Who Received Conditional Recreational Retail Marijuana Establishment Licenses
(“Defendant Applicants”)

3. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 14-17 of the Complaint and, therefore, denies same.

4. Defendant admits the allegations in paragraph 18 of the Complaint in so far as it is a Nevada limited liability company doing business under a properly-filed trade name. Defendant denies the allegations in paragraph 18 of the Complaint to the extent they incorrectly identify its trade name.

5. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 19-32 of the Complaint and, therefore, denies same.

II. GENERAL ALLEGATIONS.

6. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 33-52 of the Complaint and, therefore, denies same.

III. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Violation of Civil Rights)

(Due Process: Deprivation of Property)

(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)

7. To the extent that paragraph 53 of the Complaint requires a response, Defendant incorporates herein its responses to all previous paragraphs of the Complaint.

8. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 54-58 of the Complaint and, therefore, denies same.

9. Defendant denies the allegations in paragraph 59 of the Complaint.

10. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraph 60 of the Complaint and, therefore, denies same.

11. Defendant denies the allegations in paragraph 61 of the Complaint.

12. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 62-65 of the Complaint and, therefore, denies same.

13. Defendant denies the allegations in paragraph 66 of the Complaint.

14. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraph 67 of the Complaint and, therefore, denies same.

15. Defendant denies the allegations in paragraph 68 of the Complaint.

16. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 69-71 of the Complaint and, therefore, denies same.

17. Defendant denies the allegations in paragraphs 72-74 of the Complaint.

18. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraph 75-79 of the Complaint and, therefore, denies same.

SECOND CLAIM FOR RELIEF

(Violation of Civil Rights)

(Due Process: Deprivation of Liberty)

(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)

19. To the extent that paragraph 80 of the Complaint requires a response, Defendant incorporates herein its responses to all previous paragraphs of the Complaint.

20. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 81-83 of the Complaint and, therefore, denies same.

21. Defendant denies the allegations in paragraphs 84 and 85 of the Complaint.

22. Defendant is presently without sufficient information to form a belief as to the truth of the allegations in paragraphs 86-87 of the Complaint and, therefore, denies same.

THIRD CLAIM FOR RELIEF

(Violation of Civil Rights)

(Equal Protection)

(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1; Title 42 U.S.C. § 1983)

23. To the extent that paragraph 88 of the Complaint requires a response, Defendant incorporates herein its responses to all previous paragraphs of the Complaint.

24. Defendant denies the allegations in paragraphs 89 and 90 of the Complaint.

1 25. Defendant is presently without sufficient information to form a belief as to the
2 truth of the allegations in paragraphs 91 and 92 of the Complaint and, therefore, denies same.

3 **FOURTH CLAIM FOR RELIEF**

4 **(Petition for Judicial Review)**

5 26. To the extent that paragraph 93 of the Complaint requires a response, Defendant
6 incorporates herein its responses to all previous paragraphs of the Complaint.

7 27. Defendant denies the allegations in paragraphs 94 and 95 of the Complaint.

8 28. Defendant is presently without sufficient information to form a belief as to the
9 truth of the allegations in paragraphs 96-98 of the Complaint and, therefore, denies same.

10 **FIFTH CLAIM FOR RELIEF**

11 **(Petition for Writ of Mandamus)**

12 29. To the extent that paragraph 99 of the Complaint requires a response, Defendant
13 incorporates herein its responses to all previous paragraphs of the Complaint.

14 30. Defendant is presently without sufficient information to form a belief as to the
15 truth of the allegations in paragraph 100 of the Complaint and, therefore, denies same.

16 31. Defendant denies the allegations in paragraphs 101-104 of the Complaint.

17 **FIFTH CLAIM FOR RELIEF**

18 **(Declaratory Relief)**

19 32. To the extent that paragraph 105 of the Complaint requires a response, Defendant
20 incorporates herein its responses to all previous paragraphs of the Complaint.

21 33. Defendant is presently without sufficient information to form a belief as to the
22 truth of the allegations in paragraph 106 of the Complaint and, therefore, denies same.

23 34. Defendant admits the allegations in paragraph 107 of the Complaint as they relate
24 to Deep Roots Medical LLC. Defendant is presently without sufficient information to form a
25 belief as to the truth of the remaining allegations in paragraph 107 of the Complaint and,
26 therefore, denies same.

27 35. Defendant is presently without sufficient information to form a belief as to the
28 truth of the allegations in paragraphs 108 and 109 of the Complaint and, therefore, denies same.

36. Defendant denies the allegations in paragraph 110 of the Complaint.

AFFIRMATIVE DEFENSES

As separate and affirmative defenses to each cause of action, claim and allegation contained in Plaintiffs' Complaint, Defendant alleges as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff is precluded from recovery by the doctrine of Estoppel.

THIRD AFFIRMATIVE DEFENSE

Plaintiff is precluded from recovery by the doctrine of Waiver.

FOURTH AFFIRMATIVE DEFENSE

Each Plaintiff, with full knowledge of all the complained facts surrounding the application process, nonetheless participated in and thereby ratified and confirmed in all respects the Defendants' various acts and omissions.

FIFTH AFFIRMATIVE DEFENSE

As a result of each Plaintiff's acts, actions, omissions, failures to act and knowledge, Plaintiffs are estopped from bringing this action, from proving the allegations of the Complaint and from recovering any judgment against Defendant.

SIXTH AFFIRMATIVE DEFENSE

Defendants acted within the scope of their authority and have no duty or liability to any of the Plaintiffs.

SEVENTH AFFIRMATIVE DEFENSE

A petition for judicial review is inappropriate and unavailable under the facts of this case and the statutory scheme at issue.

EIGHTH AFFIRMATIVE DEFENSE

Defendants' conduct was privileged, proper, lawful, necessary and/or justified.

1 NINTH AFFIRMATIVE DEFENSE

2 Plaintiff's Complaint and the claims for relief contained therein are barred by the doctrine
3 of *volenti non fit injuria*.

4 TENTH AFFIRMATIVE DEFENSE

5 Defendant has, at all times, acted in good faith and has complied with each and every one
6 of its obligations under all statutes and regulations; as a consequence, Plaintiffs are barred from
7 bringing this Complaint, from proving the allegations contained therein and from recovering a
8 judgment against Defendant or otherwise interfering with Defendant's rights.

9 ELEVENTH AFFIRMATIVE DEFENSE

10 Plaintiff's claims are barred based on Plaintiff's failure to satisfy conditions precedent.

11 TWELFTH AFFIRMATIVE DEFENSE

12 Plaintiff's damages, if any, are the result of its own illegal, fraudulent, improper,
13 insufficient and/or inequitable conduct.

14 THIRTEENTH AFFIRMATIVE DEFENSE

15 The various Plaintiffs lack standing to assert the claims set forth in the Complaint.

16 FOURTEENTH AFFIRMATIVE DEFENSE

17 Plaintiff's Complaint and each and every claim for relief alleged therein is barred by the
18 doctrines of Res Judicata, Claim Preclusion, Issue Preclusion, and Stare Decisis.

19 FIFTEENTH AFFIRMATIVE DEFENSE

20 Plaintiffs have not exhausted their legal and administrative remedies.

21 SIXTEENTH AFFIRMATIVE DEFENSE

22 Plaintiffs do not have a property right in, or any fundamental right or entitlement to, a
23 privilege license that they were never awarded.

24 SEVENTEENTH AFFIRMATIVE DEFENSE

25 The U.S. Constitution does not protect the Plaintiffs' claimed right to engage in a
26 business that is illegal under federal law.

27 EIGHTEENTH AFFIRMATIVE DEFENSE

28 Plaintiffs have failed to establish jurisdiction and venue in this court.

1 NINETEENTH AFFIRMATIVE DEFENSE

2 Defendant incorporates by this reference the affirmative defenses enumerated in NRCP
3 Rule 8(c) to avoid waiver thereof.

4 TWENTIETH AFFIRMATIVE DEFENSE

5 Mandamus is not available to compel a non-ministerial, discretionary task.

6 TWENTY-FIRST AFFIRMATIVE DEFENSE

7 This answering Defendant has not harmed any of the Plaintiffs and is not responsible in
8 any way for the alleged acts. Therefore, each and every Plaintiff is precluded from recovering
9 any relief against this Defendant or from interfering with this Defendant's licenses.

10 TWENTY-SECOND AFFIRMATIVE DEFENSE

11 This answering Defendant hereby adopts and incorporates the other Defendants'
12 affirmative defenses.

13 TWENTY-THIRD AFFIRMATIVE DEFENSE

14 Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein
15 insofar as sufficient facts were not available after reasonable inquiry upon the filing of this
16 Answer and, therefore, Defendant reserves the right to amend this Answer to allege additional
17 affirmative defenses if subsequent information so warrants.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Defendant prays for judgment against each Plaintiff as follows:

- 20 1. That the Plaintiffs take nothing by reason of their complaints and that the same be
21 dismissed with prejudice;
- 22 2. That Defendant receives judgment for its costs and attorneys' fees incurred
23 herein; and
- 24 3. For such other and further relief as the Court deems just and proper in this case.

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AFFIRMATION

Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 12th day of February, 2020.

ROBERTSON, JOHNSON,
MILLER & WILLIAMSON

By: /s/ Richard D. Williamson
Richard D. Williamson, Esq.
Jonathan Joel Tew, Esq.
Anthony G. Arger, Esq.
Attorneys for Deep Roots Medical LLC

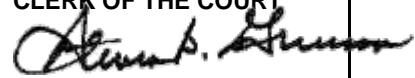
1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of Robertson, Johnson,
3 Miller & Williamson, 50 West Liberty Street, Suite 600, Reno, Nevada 89501, over the age of
4 eighteen, and not a party within this action. I further certify that on the 12th day of February,
5 2020, I electronically filed the foregoing **DEFENDANT DEEP ROOTS MEDICAL LLC'S**
6 **ANSWER TO THE SERENITY PLAINTIFFS' SECOND AMENDED COMPLAINT** with
7 the Clerk of the Court by using the ECF system, which served all parties currently on the
8 electronic service list on February 12, 2020.

9
10 /s/ Stefanie Smith

11 An Employee of Robertson, Johnson, Miller & Williamson
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EXHIBIT D



HOWARD & HOWARD ATTORNEYS PLLC

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Kirill V. Mikhaylov, Esq., Nevada Bar No. 13538
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Attorneys for Defendant

Wellness Connection of Nevada, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: A-19-787004-B

DEPT NO.: XI

In Re: D.O.T. Litigation,

CONSOLIDATED WITH:

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

ANSWER TO SERENITY

**PLAINTIFFS' SECOND AMENDED
COMPLAINT**

Defendant Wellness Connection of Nevada, LLC ("Wellness"), by and through its attorneys, the law firm of Howard & Howard, PLLC, hereby answers and responds to Serenity Wellness Center, LLC, TGIG, LLC, NuLeaf Incline Dispensary, LLC, Nevada Holistic Medicine, LLC, Tryke Companies SO NV, LLC, Tryke Companies Reno, LLC, GBS Nevada Partners, LLC, Fidelis Holdings, LLC, Gravitas Nevada, Ltd, Nevada Pure, LLC, Medifarm, LLC, and MediFarm IV, LLC's ("Plaintiffs") Second Amended Complaint ("Second Amended Complaint") as follows:

///

///

I.

PARTIES, JURISDICTION, AND VENUE

1. Answering paragraphs 1 through 12, Wellness is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

2. Answering paragraph 13, Wellness admits the allegations set forth therein.

**Parties Who Received Conditional Recreational Retail
Marijuana Establishment Licenses (“Defendant Applicants”)**

3. Answering paragraphs 14 through 29, Wellness is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

4. Answering paragraph 30, Wellness admits the allegations set forth therein.

5. Answering paragraphs 31 and 32, Wellness is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

II.

GENERAL ALLEGATIONS

6. Answering paragraphs 33 through 38, Wellness is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

7. Answering paragraph 39, Wellness admits the Department issued a notice seeking applications from qualified applicants, and is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations set forth therein, and therefore denies the same.

8. Answering paragraphs 40 through 45, Wellness is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

9. Answering paragraph 46, Wellness admits it received one conditional recreational retail marijuana establishment license, and is without sufficient knowledge or information to form

1 a belief as to the truth of the remaining allegations set forth therein, and therefore denies the
2 same.

3 10. Answering paragraphs 47 through 52, Wellness is without sufficient knowledge
4 or information to form a belief as to the truth of the allegations set forth therein, and therefore
5 denies the same.

6 **III.**

7 **CLAIMS FOR RELIEF**

8 **FIRST CLAIM FOR RELIEF**

9 **(Violation of Civil Rights)**

10 **(Due Process: Deprivation of Property)**

11 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec.1, 8; Title 42 U.S.C. § 1983)**

12 11. Answering paragraph 53, Wellness repeats and realleges its answers to each and
13 every other paragraph as though fully set forth herein.

14 12. Answering paragraphs 54 through 58, Wellness is without sufficient knowledge
15 or information to form a belief as to the truth of the allegations set forth therein, and therefore
16 denies the same.

17 13. Answering paragraph 59, Wellness denies the allegations set forth therein.

18 14. Answering paragraph 60, Wellness denies the allegations to the extent it applies
19 to Wellness and its application process, and is without sufficient knowledge or information to
20 form a belief as to the truth of the remaining allegations set forth therein, and therefore denies
21 the same.

22 15. Answering paragraph 61, Wellness is without sufficient knowledge or information
23 to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

24 16. Answering paragraphs 62 through 72, Wellness denies the allegations to the extent
25 it applies to Wellness and its application process, and is without sufficient knowledge or
26 information to form a belief as to the truth of the remaining allegations set forth therein, and
27 therefore denies the same.
28

1 17. Answering paragraph 73 through 76, Wellness is without sufficient knowledge or
2 information to form a belief as to the truth of the allegations set forth therein, and therefore denies
3 the same.

4 18. Answering paragraphs 77 through 79, Wellness denies the allegations to the extent
5 it applies to Wellness and its application process, and is without sufficient knowledge or
6 information to form a belief as to the truth of the remaining allegations set forth therein, and
7 therefore denies the same.

8 **SECOND CLAIM FOR RELIEF**
9 **(Violation of Civil Rights)**
10 **(Due Process: Deprivation of Property)**
11 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec.1, 8; Title 42 U.S.C. § 1983)**

12 19. Answering paragraph 80, Wellness repeats and realleges its answers to each and
13 every other paragraph as though fully set forth herein.

14 20. Answering paragraph 81, Wellness is without sufficient knowledge or information
15 to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

16 21. Answering paragraphs 82 through 87, Wellness denies the allegations to the extent
17 it applies to Wellness and its application process, and is without sufficient knowledge or
18 information to form a belief as to the truth of the remaining allegations set forth therein, and
19 therefore denies the same.

20 **THIRD CLAIM FOR RELIEF**
21 **(Violation of Civil Rights)**
22 **(Equal Protection)**
23 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec.1, 8; Title 42 U.S.C. § 1983)**

24 22. Answering paragraph 88, Wellness repeats and realleges its answers to each and
25 every other paragraph as though fully set forth herein.

26 23. Answering paragraphs 89 through 92, Wellness denies the allegations to the extent
27 it applies to Wellness and its application process, and is without sufficient knowledge or
28 information to form a belief as to the truth of the remaining allegations set forth therein, and
therefore denies the same.

FOURTH CLAIM FOR RELIEF
(Petition for Judicial Review)

24. Answering paragraph 93, Wellness repeats and realleges its answers to each and every other paragraph as though fully set forth herein.

25. Answering paragraphs 94 and 95, Wellness denies the allegations to the extent it applies to Wellness and its application process, and is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations set forth therein, and therefore denies the same.

26. Answering paragraph 96, Wellness is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

27. Answering paragraphs 97 and 98, Wellness denies the allegations to the extent it applies to Wellness and its application process, and is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations set forth therein, and therefore denies the same.

FIFTH CLAIM FOR RELIEF
(Petition for Writ of Mandamus)

28. Answering paragraph 99, Wellness repeats and realleges its answers to each and every other paragraph as though fully set forth herein.

29. Answering paragraph 100, Wellness is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, and therefore denies the same.

30. Answering paragraphs 101 through 104, Wellness denies the allegations set forth therein.

FIFTH CLAIM FOR RELIEF(sic)
(erroneously stated as Fifth Claim)
(Declaratory Relief)

31. Answering paragraph 105, Wellness repeats and realleges its answers to each and every other paragraph as though fully set forth herein.

1 32. Answering paragraph 106, Wellness is without sufficient knowledge or
2 information to form a belief as to the truth of the allegations set forth therein, and therefore denies
3 the same.

4 33. Answering paragraph 107, Wellness admits it received one conditional
5 recreational retail marijuana establishment license, and is without sufficient knowledge or
6 information to form a belief as to the truth of the remaining allegations set forth therein, and
7 therefore denies the same.

8 34. Answering paragraphs 108 and 110, Wellness denies the allegations to the extent
9 it applies to Wellness and its application process, and is without sufficient knowledge or
10 information to form a belief as to the truth of the remaining allegations set forth therein, and
11 therefore denies the same.

12 35. Wellness denies that Plaintiffs are entitled to any of the relief sought in the prayer
13 of relief.

14 36. Any allegations not responded to above are hereby denied.

15 **AFFIRMATIVE DEFENSES**

16 1. The Second Amended Complaint fails to state a claim upon which relief may be granted.

17 2. At all relevant times, Wellness used reasonable care and diligence and acted according to
18 its best judgment and obligations, if any, dealing fairly and in good faith, having no intent to inflict harm
19 or damage.

20 3. Plaintiffs' claims are barred based on the doctrine of estoppel.

21 4. Plaintiffs' claims are barred based on the doctrine of laches.

22 5. Plaintiffs' claims are barred based on the doctrine of waiver.

23 6. Plaintiffs' claims are barred based on the doctrine of release.

24 7. Plaintiffs' claims are barred based on the doctrine of ratification.

25 8. Plaintiffs' claims are barred by the statute of frauds.

26 9. Plaintiffs are guilty of unclean hands.

27 10. Plaintiffs have failed to do equity towards Wellness.

28 11. Plaintiffs' claims are barred by the applicable statute of limitations.

1 12. Any conduct on the part of Wellness was not the cause of Plaintiffs' alleged damages, the
2 existence of which are denied.

3 13. Plaintiffs' damages, the existence of which are denied, were caused, in whole or in part,
4 or contributed to by reason of the acts, omissions, negligence, and/or intentional misconduct of third parties
5 over which Wellness has no control.

6 14. Plaintiffs failed to mitigate their damages, the existence of which are denied. Any alleged
7 damages, the existence of which are denied, were not the result of any conduct by Wellness.

8 15. Plaintiffs' claims are barred due to failure to satisfy conditions precedent and/or
9 conditions subsequent.

10 16. Plaintiffs lack standing to assert claims and receive the relief sought in the Second
11 Amended Complaint.

12 17. The Court lacks subject matter jurisdiction over the claims alleged in the Second
13 Amended Complaint.

14 18. The State of Nevada, Department of Taxation is immune from suit when performing the
15 functions at issue in this case.

16 19. The actions of the State of Nevada, Department of Taxation were all official acts that were
17 done in compliance with applicable laws and regulations.

18 20. Plaintiffs/Petitioners' claims are barred because they have failed to exhaust administrative
19 remedies, if any.

20 21. Plaintiffs have failed to join necessary and indispensable parties to this litigation under
21 NRCP 19 as the Court cannot grant any of their claims without affecting the rights and privileges of those
22 parties who received the licenses at issue as well as other third parties.

23 22. The actions of the State of Nevada, Department of Taxation were not arbitrary or
24 capricious, nor an abuse of discretion, and the State of Nevada, Department of Taxation had a rational
25 basis for all of the actions taken in the licensing process at issue.

26 23. Plaintiffs have no constitutional rights to obtain privileged licenses.

27 24. Plaintiffs are not entitled to judicial review on the denial of a privileged license.
28

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3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

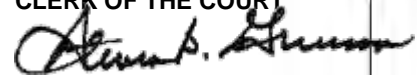
CERTIFICATE OF SERVICE

I hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is Howard & Howard Attorneys PLLC, 3800 Howard Hughes Parkway, Suite 1000, Las Vegas, Nevada 89145.

On February 12, 2020, I served the **ANSWER TO SERENITY PLAINTIFFS' SECOND AMENDED COMPLAINT** in this action or proceeding electronically with the Clerk of the Court via the Odyssey E-File system and e-served the same on all parties listed on the Court's Master Service List.

/s/ Julia M. Diaz
An employee of HOWARD & HOWARD ATTORNEYS PLLC

EXHIBIT E



1 **ANS**
2 **BLACK & LOBELLO**
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13 *Attorneys for Defendant Intervenor, Clear River, LLC*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 In Re: DOT LITIGATION

17 **Case No. A-19-787004-B**

18 **Consolidated with:** A-19-786962-B
A-19-787540-W
A-19-787035-C
A-18-785818-W
A-18-786357-W
A-19-78776-C
A-19-801416-B

19 **Dept. No. XI**

20 **HEARING DATE: N/A**
21 **HEARING TIME: N/A**

22 **DEFENDANT IN INTERVENTION, CLEAR RIVER, LLC'S ANSWER TO TGIG**
23 **PLAINTIFFS' SECOND AMENDED COMPLAINT**

24 Defendant, Clear River, LLC ("Clear River"), by and through its counsel, hereby
25 answers Serenity's Second Amended Complaint filed by Plaintiffs TGIG, LLC, Nuleaf Incline
26 Dispensary, LLC, Nevada Holistic Medicine, LLC, Tryke Companies So NV, LLC, Tryke
27 Companies Reno, LLC, GBS Nevada Partners, LLC, Fidelis Holdings, LLC, Gravitas Nevada,
28 LLC, Nevada Pure, LLC, Medifarm, LLC, and Medifarm IV, LLC (collectively, "Plaintiffs"),
Clear River states as follows:

Clear River denies each and every allegation in the complaint except those allegations
that are admitted, qualified, or otherwise answered herein.

I.
PARTIES, JURISDICTION, AND VENUE

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2
3 1. Answering paragraph 1 of the Second Amended Complaint, Clear River is
4 without sufficient knowledge or information as to the truth of the allegations contained therein,
5 and on that basis denies these allegations.

6 2. Answering paragraph 2 of the Second Amended Complaint, Clear River is
7 without sufficient knowledge or information as to the truth of the allegations contained therein,
8 and on that basis denies these allegations.

9
10 3. Answering paragraph 3 of the Second Amended Complaint, Clear River is
11 without sufficient knowledge or information as to the truth of the allegations contained therein,
12 and on that basis denies these allegations.

13 4. Answering paragraph 4 of the Second Amended Complaint, Clear River is
14 without sufficient knowledge or information as to the truth of the allegations contained therein,
15 and on that basis denies these allegations.

16 5. Answering paragraph 5 of the Second Amended Complaint, Clear River is
17 without sufficient knowledge or information as to the truth of the allegations contained therein,
18 and on that basis denies these allegations.

19
20 6. Answering paragraph 6 of the Second Amended Complaint, Clear River is
21 without sufficient knowledge or information as to the truth of the allegations contained therein,
22 and on that basis denies these allegations.

23 7. Answering paragraph 7 of the Second Amended Complaint, Clear River is
24 without sufficient knowledge or information as to the truth of the allegations contained therein,
25 and on that basis denies these allegations.

26
27 8. Answering paragraph 8 of the Second Amended Complaint, Clear River is
28 without sufficient knowledge or information as to the truth of the allegations contained therein,

1 and on that basis denies these allegations.

2 9. Answering paragraph 9 of the Second Amended Complaint, Clear River is
3 without sufficient knowledge or information as to the truth of the allegations contained therein,
4 and on that basis denies these allegations.

5 10. Answering paragraph 10 of the Second Amended Complaint, Clear River is
6 without sufficient knowledge or information as to the truth of the allegations contained therein,
7 and on that basis denies these allegations.

8 11. Answering paragraph 11 of the Second Amended Complaint, Clear River is
9 without sufficient knowledge or information as to the truth of the allegations contained therein,
10 and on that basis denies these allegations.

11 12. Answering paragraph 12 of the Second Amended Complaint, Clear River is
12 without sufficient knowledge or information as to the truth of the allegations contained therein,
13 and on that basis denies these allegations.

14 13. Answering paragraph 13 of the Second Amended Complaint, Clear River admits
15 that the Department of Taxation is an agency of the State of Nevada. Clear River states that the
16 duties of the Department are outlined by applicable law and regulation. Clear River admits the
17 allegations in this paragraph only insofar as they accurately reflect these laws and regulations.

18 **Parties Who Received Conditional Recreational Retail Marijuana Establishment Licenses**
19 **("Defendant Applicants")**

20 14. Answering paragraph 14 of the Second Amended Complaint, Clear River is
21 without sufficient knowledge or information as to the truth of the allegations contained therein,
22 and on that basis denies these allegations.

23 15. Answering paragraph 15 of the Second Amended Complaint, Clear River is
24 without sufficient knowledge or information as to the truth of the allegations contained therein,
25 and on that basis denies these allegations.

1 and on that basis denies these allegations.

2 24. Answering paragraph 24 of the Second Amended Complaint, Clear River is
3 without sufficient knowledge or information as to the truth of the allegations contained therein,
4 and on that basis denies these allegations.

5 25. Answering paragraph 25 of the Second Amended Complaint, Clear River is
6 without sufficient knowledge or information as to the truth of the allegations contained therein,
7 and on that basis denies these allegations.

8 26. Answering duplicate number 26 of the Second Amended Complaint, Clear River
9 is without sufficient knowledge or information as to the truth of the allegations contained therein,
10 and on that basis denies these allegations.

11 27. Answering paragraph 27 of the Second Amended Complaint, Clear River is
12 without sufficient knowledge or information as to the truth of the allegations contained therein,
13 and on that basis denies these allegations.

14 28. Answering paragraph 28 of the Second Amended Complaint, Clear River is
15 without sufficient knowledge or information as to the truth of the allegations contained therein,
16 and on that basis denies these allegations.

17 29. Answering paragraph 29 of the Second Amended Complaint, Clear River is
18 without sufficient knowledge or information as to the truth of the allegations contained therein,
19 and on that basis denies these allegations.

20 30. Answering paragraph 30 of the Second Amended Complaint, Clear River is
21 without sufficient knowledge or information as to the truth of the allegations contained therein,
22 and on that basis deny these allegations.

23 31. Answering paragraph 31 of the Second Amended Complaint, Clear River is
24 without sufficient knowledge or information as to the truth of the allegations contained therein,
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1 and on that basis deny these allegations.

2 32. Answering paragraph 32 of the Second Amended Complaint, no response is
3 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
4 response is required, Clear River denies these allegations.

5
6 **II.**
GENERAL ALLEGATIONS

7 33. Answering paragraph 32 of the Second Amended Complaint, no response is
8 required as the allegations contained therein are Plaintiffs' legal conclusions or statements
9 regarding the contents of laws or regulations. To the extent a response is required and the
10 allegations accurately state the laws or regulations referenced therein, Clear River admits these
11 allegations. To the extent the allegations are inconsistent with the laws of regulations referenced
12 therein, Clear River denies them.

13
14 34. Answering paragraph 34 of the Second Amended Complaint, no response is
15 required as the allegations contained therein are Plaintiff's legal conclusions and statements
16 regarding the contents of laws or regulations. To the extent a response is required, and the
17 allegations state the laws or regulations reference therein, Clear River admits these allegations.

18
19 35. Answering paragraph 35 of the Second Amended Complaint, no response is
20 required as the allegations contained therein are Plaintiffs' legal conclusions or statements
21 regarding the contents of laws or regulations. To the extent a response is required and the
22 allegations accurately state the laws or regulations referenced therein, Clear River admits these
23 allegations. To the extent the allegations are inconsistent with the laws of regulations referenced
24 therein, Clear River denies them.

25
26 36. Answering paragraph 36 of the Second Amended Complaint, no response is
27 required as the allegations contained therein are Plaintiffs' legal conclusions or statements
28 regarding the contents of laws or regulations. To the extent a response is required and the

1 allegations accurately state the laws or regulations referenced therein, Clear River admits these
2 allegations. To the extent the allegations are inconsistent with the laws of regulations referenced
3 therein, Clear River denies them.

4
5 37. Answering paragraph 37 of the Second Amended Complaint, no response is
6 required as the allegations contained therein are Plaintiffs' legal conclusions or statements
7 regarding the contents of laws or regulations. To the extent a response is required and the
8 allegations accurately state the laws or regulations referenced therein, Clear River admits these
9 allegations. To the extent the allegations are inconsistent with the laws of regulations referenced
10 therein, Clear River denies them.

11
12 38. Answering paragraph 38 of the Second Amended Complaint, Clear River states
13 that the August 16, 2018 letter from the Department speaks for itself and no response is required.
14 To the extent a response is required, and the allegations accurately state the contents of the
15 document referenced therein, Clear River admits these allegations. To the extent the allegations
16 are inconsistent with the contents of the document referenced therein, Clear River denies them.

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18 39. Answering paragraph 39 of the Second Amended Complaint, Clear River admits
19 these allegations.

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21 40. Answering paragraph 40 of the Second Amended Complaint, Clear River admits
22 these allegations.

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24 41. Answering paragraph 41 and Subparagraphs 41(a)-(h) of the Second Amended
25 Complaint, no response is required as the allegations contained therein are Plaintiffs' legal
26 conclusions or statements regarding the contents of laws or regulations. To the extent a response
27 is required and the allegations accurately state the laws or regulations referenced therein, Clear
28 River admits these allegations. To the extent the allegations are inconsistent with the laws of
regulations referenced therein, Clear River denies them.

1 42. Answering paragraph 42 of the Second Amended Complaint, no response is
2 required as to the allegations therein reference a document that speaks for itself. To the extent a
3 response is required, and the allegations accurately state the contents of the document referenced
4 therein, Clear River admits those allegations.

5 43. Answering paragraph 43 of the Second Amended Complaint, no response is
6 required as the allegations therein reference a document that speaks for itself. To the extent a
7 response is required, and the allegations state the laws or regulations reference therein, Clear
8 River admits these allegations.

9 44. Answering paragraph 44 of the Second Amended Complaint, no response is
10 required as to the allegations contained therein are Plaintiffs' legal conclusions and statements
11 regarding the contents of laws or regulations. To the extent a response is required, Clear River
12 denies these allegations.

13 45. Answering paragraph 45 of the Second Amended Complaint, Clear River admits
14 that the Department of Taxation announced it would issue recreational retail store licenses no
15 later than December 5, 2018. The remaining allegations in Paragraph 45 are Plaintiffs' legal
16 conclusions to which no response is required. To the extent an response is required, Clear River
17 denies these remaining allegations.

18 46. Answering paragraph 46 of the Second Amended Complaint, Clear River is
19 without sufficient knowledge or information as to the truth of the allegations contained therein,
20 and on that basis deny these allegations.

21 47. Answering paragraph 47 of the Second Amended Complaint, Clear River is
22 without sufficient knowledge or information as to the truth of the allegations contained therein,
23 and on that basis deny these allegations.

24 48. Answering paragraph 48 of the Second Amended Complaint, Clear River is
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1 without sufficient knowledge or information as to the truth of the allegations contained therein,
2 and on that basis deny these allegations.

3 49. Answering paragraph 49 of the Second Amended Complaint, Clear River is
4 without sufficient knowledge or information as to the truth of the allegations contained therein,
5 and on that basis deny these allegations.

6 50. Answering paragraph 50 of the Second Amended Complaint, no response is
7 required as to the allegations contained therein are Plaintiffs' legal conclusions and statements
8 regarding the contents of laws or regulations. To the extent a response is required, Clear River
9 denies these allegations.

10 51. Answering paragraph 51 of the Second Amended Complaint, no response is
11 required as to the allegations contained therein are Plaintiffs' legal conclusions and statements
12 regarding the contents of laws or regulations. To the extent a response is required, Clear River
13 denies these allegations.

14 52. Answering paragraph 52 and subparagraphs 52(A-K) of the Second Amended
15 Complaint, no response is required as to the allegations contained therein are Plaintiffs' legal
16 conclusions and statements regarding the contents of laws or regulations. To the extent a
17 response is required, Clear River denies these allegations.

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21 **III.**
CLAIMS FOR RELIEF

22 **FIRST CLAIM FOR RELIEF**
23 **(Violation of Civil Rights)**

24 **(Due Process; Deprivation of Property)**

25 **(U.S. Const., Amendment XIV; Nev. Const. Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

26 53. Answering paragraph 53 of the Second Amended Complaint, Clear River hereby
27 repeats and realleges its answers to paragraph 1 through 52 above and incorporates the same
28

herein by reference as though fully set forth herein.

54. Answering paragraph 54 of the Second Amended Complaint and subparagraphs 54(a)-(c) of the Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

55. Answering paragraph 55 of the Second Amended Complaint and subparagraphs 55(A-B), no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

56. Answering paragraph 56 of the Second Amended Complaint and subparagraphs 56(a)-(c), no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

57. Answering paragraph 57 of the Second Amended Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations. To the extent a response is required, Clear River denies these allegations.

58. Answering paragraph 58 of the Second Amended Complaint, Clear River denies these allegations.

59. Answering paragraph 59 of the Second Amended Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

60. Answering paragraph 60 of the Second Amended Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

61. Answering paragraph 61 of the Second Amended Complaint, no response is

1 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
2 response is required, Clear River denies these allegations.

3 62. Answering paragraph 62 of the Second Amended Complaint, no response is
4 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
5 response is required, Clear River denies these allegations.

6 63. Answering paragraph 63 of the Second Amended Complaint, no response is
7 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
8 response is required, Clear River denies these allegations.

9 64. Answering paragraph 64 of the Second Amended Complaint, no response is
10 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
11 response is required, Clear River denies these allegations.

12 65. Answering paragraph 65 of the Second Amended Complaint, no response is
13 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
14 response is required, Clear River denies these allegations.

15 66. Answering paragraph 66 of the Second Amended Complaint, no response is
16 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
17 response is required, Clear River denies these allegations.

18 67. Answering paragraph 67 of the Second Amended Complaint, no response is
19 required as the allegations contained therein are not factual in nature and/or contain legal
20 conclusions. To the extent a response is required, Clear River denies these allegations.

21 68. Answering paragraph 68 of the Second Amended Complaint, no response is
22 required as the allegations contained therein are not factual in nature and/or contain legal
23 conclusions. To the extent a response is required, Clear River denies these allegations.

24 69. Answering paragraph 69 of the Second Amended Complaint and subparagraphs
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1 69(a)-(c), no response is required as the allegations contained therein are Plaintiffs' legal
2 conclusions. To the extent a response is required, Clear River denies these allegations.

3 70. Answering paragraph 70 of the Second Amended Complaint, no response is
4 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
5 response is required, Clear River denies these allegations.

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7 71. Answering paragraph 71 of the Second Amended Complaint, no response is
8 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
9 response is required, Clear River denies these allegations.

10 72. Answering paragraph 72 of the Second Amended Complaint, Clear River is
11 without sufficient knowledge or information as to the truth or falsity of the allegations contained
12 therein, and on that basis denies these allegations.

13 73. Answering paragraph 73 of the Second Amended Complaint, Clear River denies
14 these allegations.

15 74. Answering paragraph 74 of the Second Amended Complaint, no response is
16 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
17 response is required, Clear River denies these allegations.

18 75. Answering paragraph 75 of the Second Amended Complaint, no response is
19 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
20 response is required, Clear River denies these allegations.

21 76. Answering paragraph 76 of the Second Amended Complaint, no response is
22 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
23 response is required, Clear River denies these allegations.

24 77. Answering paragraph 77 of the Second Amended Complaint, no response is
25 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
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1 response is required, Clear River denies these allegations.

2 78. Answering paragraph 78 of the Second Amended Complaint, no response is
3 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
4 response is required, Clear River denies these allegations.

5 79. Answering Paragraph 79 of the Second Amended Complaint no response is
6 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
7 response is required, Clear River denies these allegations.
8

9 **SECOND CLAIM FOR RELIEF**
10 **(Violation of Civil Rights)**

11 **(Due Process: Deprivation of Liberty)**

12 **(U.S. Const., Amendment XIV; Nev. Const. Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

13 80. Answering paragraph 80 of the Second Amended Complaint, Clear River hereby
14 repeats and realleges its answers to paragraph 1 through 79 above and incorporates the same
15 herein by reference as though fully set forth herein.

16 81. Answering paragraph 81 of the Second Amended Complaint, no response is
17 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
18 response is required, Clear River denies these allegations.
19

20 82. Answering paragraph 82 of the Second Amended Complaint, no response is
21 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
22 response is required, Clear River denies these allegations.

23 83. Answering paragraph 83 of the Second Amended Complaint, no response is
24 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
25 response is required, Clear River denies these allegations.
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27 84. Answering paragraph 84 of the Second Amended Complaint, no response is
28 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a

1 response is required, Clear River denies these allegations.

2 85. Answering paragraph 85 of the Second Amended Complaint, no response is
3 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
4 response is required, Clear River denies these allegations.

5 86. Answering paragraph 86 of the Second Amended Complaint, no response is
6 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
7 response is required, Clear River denies these allegations.

8 87. Answering paragraph 87 of the Second Amended Complaint, no response is
9 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
10 response is required, Clear River denies these allegations.

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12
13 **THIRD CLAIM FOR RELIEF**
14 **(Violation of Civil Rights)**

15 **(Equal Protection)**

16 **(U.S. Const., Amendment XIV; Nev. Const. Art. 1, Sec. 1; Title 42 U.S.C. § 1983)**

17 88. Answering paragraph 88 of the Second Amended Complaint, Clear River hereby
18 repeats and realleges its answers to paragraph 1 through 87 above and incorporates the same
19 herein by reference as though fully set forth herein.

20 89. Answering paragraph 89 of the Second Amended Complaint, no response is
21 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
22 response is required, Clear River denies these allegations.

23 90. Answering paragraph 90 of the Second Amended Complaint, no response is
24 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
25 response is required, Clear River denies these allegations.

26 91. Answering paragraph 91 of the Second Amended Complaint, no response is
27
28

1 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
2 response is required, Clear River denies these allegations.

3 92. Answering paragraph 92 of the Second Amended Complaint, no response is
4 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
5 response is required, Clear River denies these allegations.
6

7 **FOURTH CLAIM FOR RELIEF**
8 **(Petition for Judicial Review)**

9 93. Answering paragraph 93 of the Second Amended Complaint, Clear River hereby
10 repeats and realleges its answers to paragraph 1 through 92 above and incorporates the same
11 herein by reference as though fully set forth herein.

12 94. Answering paragraph 94 of the Second Amended Complaint, no response is
13 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
14 response is required, Clear River denies these allegations.

15 95. Answering paragraph 95 of the Second Amended Complaint, no response is
16 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
17 response is required, Clear River denies these allegations.
18

19 96. Answering paragraph 96 of the Second Amended Complaint, no response is
20 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
21 response is required, Clear River denies these allegations.

22 97. Answering paragraph 97 and subparagraphs 97(a)-(c) of the Second Amended
23 Complaint, no response is required as the allegations contained therein are Plaintiffs' legal
24 conclusions. To the extent a response is required, Clear River denies these allegations.
25

26 98. Answering paragraph 98 of the Second Amended Complaint, no response is
27 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
28 response is required, Clear River denies these allegations.

FIFTH CLAIM FOR RELIEF
(Petition for Writ of Mandamus)

99. Answering paragraph 99 of the Second Amended Complaint, Clear River hereby repeats and realleges its answers to paragraph 1 through 98 above and incorporates the same herein by reference as though fully set forth herein.

100. Answering paragraph 100 of the Second Amended Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

101. Answering paragraph 101 and subparagraphs 101(a)-(b) of the Second Amended Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

102. Answering paragraph 102 and subparagraphs 102(a)-(b) of the Second Amended Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

103. Answering paragraph 103 of the Second Amended Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

104. Answering paragraph 104 of the Second Amended Complaint, no response is required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a response is required, Clear River denies these allegations.

SIXTH CLAIM FOR RELIEF¹
(Petition for Writ of Mandamus)

105. Answering paragraph 105 of the Second Amended Complaint, Clear River hereby

¹ The Second Amended Complaint duplicates the Fifth Claim for Relief title which should be the Sixth Claim for Relief.

1 repeats and realleges its answers to paragraph 1 through 104 above and incorporates the same
2 herein by reference as though fully set forth herein.

3 106. Answering paragraph 106 of the Second Amended Complaint, no response is
4 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
5 response is required, Clear River denies these allegations.

6
7 107. Answering paragraph 107 of the Second Amended Complaint, Clear River is
8 without sufficient knowledge or information as to the truth or falsity of the allegations contained
9 therein, and on that basis denies the allegation as to Defendant Applicants other than Clear River
10 and admits as to Clear River.

11 108. Answering paragraph 108 of the Second Amended Complaint, Clear River admits
12 that this is Plaintiff's contention and denies the remaining allegation.

13 109. Answering paragraph 109 of the Second Amended Complaint, no response is
14 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
15 response is required, Clear River denies these allegations.

16
17 110. Answering paragraph 110 of the Second Amended Complaint, no response is
18 required as the allegations contained therein are Plaintiffs' legal conclusions. To the extent a
19 response is required, Clear River denies these allegations.

20 **GENERAL DENIAL**

21
22 To the extent a further response is required to any allegations set forth in the Second
23 Amended Complaint, Clear River denies such allegation.

24 **ANSWER TO PRAYER FOR RELIEF**

25 Clear River, without altering the burdens of proof the parties must bear, asserts the
26 following affirmative defenses to Plaintiffs' Second Amended Complaint, and all causes of
27 action alleged therein, and specifically incorporates into these affirmative defenses its answers to
28

1 the preceding Paragraphs of the Second Amended Complaint as if fully set forth herein.

2 **FIRST AFFIRMATIVE DEFENSE**

3 The Second Amended Complaint and all the claims for relief alleged therein, fails to state
4 a claim upon which relief can be granted.

5 **SECOND AFFIRMATIVE DEFENSE**

6 Plaintiffs have not been damaged directly, indirectly, proximately, or in any manner
7 whatsoever by any conduct of Clear River.

8 **THIRD AFFIRMATIVE DEFENSE**

9 The State of Nevada, Department of Taxation is immune from suit when performing the
10 functions at issue in this case.

11 **FOURTH AFFIRMATIVE DEFENSE**

12 The actions of the State of Nevada, Department of Taxation were all official acts that
13 were done in compliance with applicable laws and regulations.

14 **FIFTH AFFIRMATIVE DEFENSE**

15 Plaintiffs' claims are barred because Plaintiffs have failed to exhaust administrative
16 remedies, if any.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 The actions of the State of Nevada, Department of Taxation, were not arbitrary or
19 capricious, and the State of Nevada, Department of Taxation had a rational basis for all the
20 actions taken in the licensing process at issue.

21 **SEVENTH AFFIRMATIVE DEFENSE**

22 Plaintiffs have failed to join necessary and indispensable parties to this litigation under
23 Nev. R. Civ. P. 19, as the Court cannot grant any of Plaintiffs' claims without affecting the rights
24 and privileges of those parties who received the licenses at issue as well as other third parties.

EIGHTH AFFIRMATIVE DEFENSE

The claims, and each of them, are barred by the failure of Plaintiffs to plead those claims with sufficient particularity.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to allege sufficient facts and cannot carry the burden of proof imposed on them by law to recover attorney's fees incurred to bring this action.

TENTH AFFIRMATIVE DEFENSE

Injunctive relief is not available to Plaintiffs, because the State of Nevada, Department of Taxation has already completed the task of issuing conditional licenses.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs have no constitutional right to obtain a privilege license.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to judicial review on the denial of a privilege license.

THIRTEENTH AFFIRMATIVE DEFENSE

Mandamus is not available to compel the members of the executive branch to perform non-ministerial, discretionary tasks.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to declaratory relief because declaratory relief will not give the Plaintiffs the relief it is seeking.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of unclean hands.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of laches.

SEVENTEENTH AFFIRMATIVE DEFENSE

1 Plaintiffs' claims are barred by waiver, estoppel, release and/or discharge.

2 **EIGHTEENTH AFFIRMATIVE DEFENSE**

3 The occurrences referred to in the Second Amended Complaint and all alleged damages,
4 if any, resulting therefrom, were caused by a third party of which Clear River had no control.

5 **NINETEENTH AFFIRMATIVE DEFENSE**

6 Plaintiffs lack standing to seek the relief they request.

7 **TWENTIETH AFFIRMATIVE DEFENSE**

8 Plaintiffs do not have a protectable property interest.

9 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

10 Clear River adopts and incorporates herein all affirmative defenses by Defendants and
11 other Intervenors in this matter.

12 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

13 The Plaintiffs have failed to timely file and comply with the requirements of NRS
14 233B.130 for a Petition For Judicial Review.

15 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

16 Pursuant to the Nevada Rules of Civil Procedure, all possible affirmative defenses may
17 not have been alleged herein insofar as sufficient facts were not available after reasonable
18 inquiry upon the filing of this answer and, therefore, Clear River hereby reserves the right to
19 amend this answer to allege additional affirmative defenses if subsequent investigation warrants.

20 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

21 Clear River expressly reserves the right to amend this Answer to bring counterclaims
22 against Plaintiffs.

PRAYER FOR RELIEF

WHEREFORE, Clear River prays for judgment as follows:

1. Plaintiffs take nothing by way of their Second Complaint;
2. The Second Amended Complaint, and all causes of action alleged against Clear River and Defendants therein be dismissed with prejudice;
3. For reasonable attorney's fees and costs, be awarded to Clear River; and
4. For any such other and further relief, the Court deems just and proper under the circumstances.

DATED this 21st day of April, 2020.

BLACK & LOBELLO


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Attorneys for Defendant Intervenor

Clear River, LLC

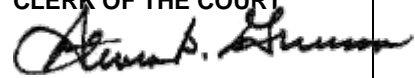
CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of April, 2020, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing **CLEAR RIVER, LLC'S ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT** to *Serenity Wellness Center, LLC, et al v. State of Nevada, Department of Taxation, et al*, Clark County District Court Consolidated Case No. A-19-787004-B, to be served electronically using the Odyssey File & Serve system, to all parties with an email address on record.

/s/ Marsha Stallsworth

An Employee of Black & Lobello

EXHIBIT F



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Essence Tropicana, LLC, Essence Henderson, LLC*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In Re: D.O.T. Litigation,

Case No.: 19-A-787004 B
Dept. No.: XI

CONSOLIDATED WITH:

A-785818
A-786357
A-786962
A-787035
A-787540
A-787726
A-801416

**ESSENCE ENTITIES' ANSWER TO THE
TGIG PARTIES' SECOND AMENDED
COMPLAINT**

Defendants/Respondents Essence Tropicana, LLC, and Essence Henderson, LLC (the "Essence Entities") respond to the allegations made by the TGIG Parties' Second Amended Complaint ("Second Amended Complaint") as set forth below.

I. PARTIES

1. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1 and therefore deny the same.¹

2. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 2 and therefore deny the same.

3. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 3 and therefore deny the same.

4. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 4 and therefore deny the same.

5. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5 and therefore deny the same.

6. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 6 and therefore deny the same.

7. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 7 and therefore deny the same.

8. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 8 and therefore deny the same.

9. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 9 and therefore deny the same.

10. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 10 and therefore deny the same.

11. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 11 and therefore deny the same.

¹ The Court granted Serenity Wellness Center, LLC's motion for voluntary dismissal. (See NEOJ, April 10, 2020, on file.)

12. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 12 and therefore deny the same.

13. The allegations of Paragraph 13 call for a legal conclusion to which no response is required. To the extent a response is necessary, Essence Entities deny the allegations in Paragraph 13.

**Parties Who Received Conditional Recreational Retail Marijuana Establishment Licenses
("Defendant Applicants")**

14. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 14 and therefore deny the same.

15. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 15 and therefore deny the same.

16. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 16 and therefore deny the same.

17. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 17 and therefore deny the same.

18. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 18 and therefore deny the same.

19. Essence Entities admit the allegations in Paragraph 19.

20. Essence Entities admit the allegations in Paragraph 20.

21. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 21 and therefore deny the same.

22. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 22 and therefore deny the same.

23. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 23 and therefore deny the same.

24. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 24 and therefore deny the same.

25. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 25 and therefore deny the same.

26. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 26 and therefore deny the same.

27. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 27 and therefore deny the same.

28. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 28 and therefore deny the same.

29. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 29 and therefore deny the same.

30. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 30 and therefore deny the same.

31. The allegations of Paragraph 31 call for a legal conclusion to which no response is required. To the extent a response is necessary, Essence Entities deny the allegations in Paragraph 31.

32. Essence Entities deny the allegations in Paragraph 32.

II.

GENERAL ALLEGATIONS

33. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 33 and therefore deny the same.

34. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 34 and therefore deny the same.

35. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 35 and therefore deny the same.

36. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 36 and therefore deny the same.

37. Essence Entities lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 37 and therefore deny the same.

1 38. Essence Entities lack knowledge or information sufficient to form a belief about
2 the truth of the allegations in Paragraph 38 and therefore deny the same.

3 39. Essence Entities lack knowledge or information sufficient to form a belief about
4 the truth of the allegations in Paragraph 39 and therefore deny the same.

5 40. Essence Entities lack knowledge or information sufficient to form a belief about
6 the truth of the allegations in Paragraph 40 and therefore deny the same.

7 41. Essence Entities lack knowledge or information sufficient to form a belief about
8 the truth of the allegations in Paragraph 41 and its subparts and therefore deny the same.

9 42. Essence Entities lack knowledge or information sufficient to form a belief about
10 the truth of the allegations in Paragraph 42 and therefore deny the same.

11 43. Essence Entities lack knowledge or information sufficient to form a belief about
12 the truth of the allegations in Paragraph 43 and therefore deny the same.

13 44. Essence Entities lack knowledge or information sufficient to form a belief about
14 the truth of the allegations in Paragraph 44 and therefore deny the same.

15 45. Essence Entities lack knowledge or information sufficient to form a belief about
16 the truth of the allegations in Paragraph 45 and therefore deny the same.

17 46. Essence Entities lack knowledge or information sufficient to form a belief about
18 the truth of the allegations in Paragraph 46 and therefore deny the same.

19 47. Essence Entities lack knowledge or information sufficient to form a belief about
20 the truth of the allegations in Paragraph 47 and therefore deny the same.

21 48. Essence Entities lack knowledge or information sufficient to form a belief about
22 the truth of the allegations in Paragraph 48 and therefore deny the same.

23 49. Essence Entities lack knowledge or information sufficient to form a belief about
24 the truth of the allegations in Paragraph 49 and therefore deny the same.

25 50. Essence Entities deny the allegations in Paragraph 50.

26 51. Essence Entities deny the allegations in Paragraph 51.

27 52. Essence Entities deny the allegations in Paragraph 52 to the extent that they
28 submitted complete and compliant applications. Essence Entities lack knowledge or information

1 sufficient to form a belief about the truth of the remaining allegations in Paragraph 52 and
2 therefore deny the same.

3 **III.**

4 **CLAIMS FOR RELIEF**

5 **FIRST CLAIM FOR RELIEF**

6 **(Violation of Civil Rights)**

7 **(Due Process: Deprivation of Property)**

8 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

9 53. Essence Entities repeat and reallege their responses contained in all previous
10 paragraphs as though fully set forth herein.

11 54. The allegations of Paragraph 54 and its subparts call for a legal conclusion to
12 which no response is required. To the extent a response is necessary, Essence Entities deny the
13 allegations in Paragraph 54 and its subparts.

14 55. The allegations of Paragraph 55 and its subparts call for a legal conclusion to
15 which no response is required. To the extent a response is necessary, Essence Entities deny the
16 allegations in Paragraph 55 and its subparts.

17 56. The allegations of Paragraph 56 and its subparts call for a legal conclusion to
18 which no response is required. To the extent a response is necessary, Essence Entities deny the
19 allegations in Paragraph 56 and its subparts.

20 57. Paragraph 57 does not assert factual averments to which a response is required. To
21 the extent a response is required, Essence Entities deny the allegations in Paragraph 57.

22 58. The allegations in Paragraph 58 call for a legal conclusion to which no response is
23 required. To the extent a response is necessary, Essence Entities deny the allegations in
24 Paragraph 58.

25 59. The allegations in Paragraph 59 call for a legal conclusion to which no response is
26 required. To the extent a response is necessary, Essence Entities deny the allegations in
27 Paragraph 59.

28

1 60. The allegations in Paragraph 60 call for a legal conclusion to which no response is
2 required. To the extent a response is necessary, Essence Entities deny the allegations in
3 Paragraph 60.

4 61. Essence Entities lack knowledge or information sufficient to form a belief about
5 the truth of the allegations in Paragraph 61 and therefore deny the same.

6 62. The allegations in Paragraph 62 call for a legal conclusion to which no response is
7 required. To the extent a response is necessary, Essence Entities deny the allegations in
8 Paragraph 62.

9 63. The allegations in Paragraph 63 call for a legal conclusion to which no response is
10 required. To the extent a response is necessary, Essence Entities deny the allegations in
11 Paragraph 63.

12 64. The allegations in Paragraph 64 call for a legal conclusion to which no response is
13 required. To the extent a response is necessary, Essence Entities deny the allegations in
14 Paragraph 64.

15 65. The allegations in Paragraph 65 call for a legal conclusion to which no response is
16 required. To the extent a response is necessary, Essence Entities deny the allegations in
17 Paragraph 65.

18 66. The allegations in Paragraph 66 call for a legal conclusion to which no response is
19 required. To the extent a response is necessary, Essence Entities deny the allegations in
20 Paragraph 66.

21 67. The allegations in Paragraph 67 call for a legal conclusion to which no response is
22 required. To the extent a response is necessary, Essence Entities deny the allegations in
23 Paragraph 67.

24 68. The allegations in Paragraph 68 call for a legal conclusion to which no response is
25 required. To the extent a response is necessary, Essence Entities deny the allegations in
26 Paragraph 68.

27 69. Paragraph 69 does not assert factual averments to which a response is required. To
28 the extent a response is required, Essence Entities deny the allegations in Paragraph 69.

1 70. Paragraph 70 does not assert factual averments to which a response is required. To
2 the extent a response is required, Essence Entities deny the allegations in Paragraph 70.

3 71. The allegations in Paragraph 71 call for a legal conclusion to which no response is
4 required. To the extent a response is necessary, Essence Entities deny the allegations in
5 Paragraph 71.

6 72. The allegations in Paragraph 72 call for a legal conclusion to which no response is
7 required. To the extent a response is necessary, Essence Entities deny the allegations in
8 Paragraph 72.

9 73. The allegations in Paragraph 73 call for a legal conclusion to which no response is
10 required. To the extent a response is necessary, Essence Entities deny the allegations in
11 Paragraph 73.

12 74. Essence Entities lack knowledge or information sufficient to form a belief about
13 the truth of the allegations in Paragraph 7 and therefore deny the same.

14 75. The allegations in Paragraph 75 call for a legal conclusion to which no response is
15 required. To the extent a response is necessary, Essence Entities deny the allegations in
16 Paragraph 75.

17 76. The allegations in Paragraph 76 call for a legal conclusion to which no response is
18 required. To the extent a response is necessary, Essence Entities deny the allegations in
19 Paragraph 76.

20 77. The allegations in Paragraph 77 call for a legal conclusion to which no response is
21 required. To the extent a response is necessary, Essence Entities deny the allegations in
22 Paragraph 77.

23 78. The allegations in Paragraph 78 call for a legal conclusion to which no response is
24 required. To the extent a response is necessary, Essence Entities deny the allegations in
25 Paragraph 78.

26 79. Essence Entities deny the allegations in Paragraph 79.
27
28

SECOND CLAIM FOR RELIEF

(Violation of Civil Rights)

(Due Process: Deprivation of Liberty)

(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)

80. Essence Entities repeat and reallege their responses contained in all previous paragraphs as though fully set forth herein.

81. The allegations of Paragraph 81 call for a legal conclusion to which no response is required. To the extent a response is necessary, Essence Entities deny the allegations in Paragraph 81.

82. The allegations of Paragraph 82 call for a legal conclusion to which no response is required. To the extent a response is required, Essence Entities deny the allegations in Paragraph 82.

83. The allegations of Paragraph 83 call for a legal conclusion to which no response is required. To the extent a response is required, Essence Entities deny the allegations in Paragraph 83.

84. The allegations in Paragraph 84 call for a legal conclusion to which no response is required. To the extent a response is required, Essence Entities deny the allegations in Paragraph 84.

85. The allegations in Paragraph 85 call for a legal conclusion to which no response is required. To the extent a response is required, Essence Entities deny the allegations in Paragraph 85.

86. The allegations in Paragraph 86 call for a legal conclusion to which no response is required. To the extent a response is required, Essence Entities deny the allegations in Paragraph 86.

87. Essence Entities deny the allegations in Paragraph 87.

THIRD CLAIM FOR RELIEF

(Violation of Civil Rights)

(Equal Protection)

(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1; Title 42 U.S.C. § 1983)

88. Essence Entities repeat and reallege their responses contained in all previous paragraphs as though fully set forth herein.

89. The allegations of Paragraph 89 call for a legal conclusion to which no response is required. To the extent a response is necessary, Essence Entities deny the allegations in Paragraph 89.

90. The allegations of Paragraph 90 call for a legal conclusion to which no response is required. To the extent a response is necessary, Essence Entities deny the allegations in Paragraph 90.

91. The allegations of Paragraph 91 call for a legal conclusion to which no response is required. To the extent a response is necessary, Essence Entities deny the allegations in Paragraph 91.

92. Essence Entities deny the allegations of Paragraph 92.

FOURTH CLAIM FOR RELIEF

(Petition for Judicial Review)

93. Essence Entities repeat and reallege their responses contained in all previous paragraphs as though fully set forth herein.

94. The allegations in Paragraph 94 call for a legal conclusion to which no response is required. To the extent a response is necessary, Essence Entities deny the allegations in Paragraph 94.

95. The allegations in Paragraph 95 call for a legal conclusion to which no response is required. To the extent a response is necessary, Essence Entities deny the allegations in Paragraph 95.

1 96. The allegations in Paragraph 96 call for a legal conclusion to which no response is
2 required. To the extent a response is necessary, Essence Entities deny the allegations in
3 Paragraph 96.

4 97. Paragraph 97 does not assert factual averments to which a response is required. To
5 the extent a response is required, the Essence Entities deny the allegations in Paragraph 97.

6 98. Essence Entities deny the allegations in Paragraph 98.

7 **FIFTH CLAIM FOR RELIEF**

8 **(Petition for Writ of Mandamus)**

9 99. Essence Entities repeat and reallege their responses contained in all previous
10 paragraphs as though fully set forth herein.

11 100. Paragraph 100 does not assert factual averments to which a response is required.
12 To the extent a response is required, the Essence Entities deny the allegations in Paragraph 100.

13 101. The allegations of Paragraph 101 call for a legal conclusion to which no response
14 is required. To the extent a response is necessary, Essence Entities deny the allegations in
15 Paragraph 101.

16 102. The allegations in Paragraph 102 call for a legal conclusion to which no response
17 is required. To the extent a response is necessary, Essence Entities deny the allegations in
18 Paragraph 102.

19 103. The allegations in Paragraph 103 call for a legal conclusion to which no response
20 is required. To the extent a response is necessary, Essence Entities deny the allegations in
21 Paragraph 103.

22 104. Essence Entities deny the allegations in Paragraph 104.

23 **FIFTH (sic) CLAIM FOR RELIEF**

24 **(Declaratory Relief)**

25 105. Essence Entities repeat and reallege their responses contained in all previous
26 paragraphs as though fully set forth herein.

1 106. The allegations in Paragraph 106 call for a legal conclusion to which no response
2 is required. To the extent a response is necessary, Essence Entities deny the allegations in
3 Paragraph 106.

4 107. Essence Entities admit that they received conditional recreational retail marijuana
5 establishment licenses issued by the Department. Essence Entities lack knowledge or information
6 sufficient to form a belief about the truth of the remaining allegations in Paragraph 107 and
7 therefore deny the same.

8 108. Essence Entities deny the allegations in Paragraph 108.

9 109. Paragraph 109 does not assert factual averments to which a response is required.
10 To the extent a response is required, the Essence Entities deny the allegations in Paragraph 109.

11 110. Essence Entities deny the allegations in Paragraph 110.

12 **AFFIRMATIVE DEFENSES**

13 **FIRST AFFIRMATIVE DEFENSE**

14 Plaintiffs' complaint fails to state a claim upon which relief may be granted.

15 **SECOND AFFIRMATIVE DEFENSE**

16 The court lacks subject matter jurisdiction.

17 **THIRD AFFIRMATIVE DEFENSE**

18 Judicial review is not an available remedy to Plaintiffs.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 Plaintiffs' claims sounding in equity are barred by equitable defenses, including but not
21 limited to unclean hands, estoppel, waiver, and laches.

22 **FIFTH AFFIRMATIVE DEFENSE**

23 Plaintiffs' claims are barred by the doctrine of fraud.

24 **SIXTH AFFIRMATIVE DEFENSE**

25 Plaintiffs' claims are barred by the statute of limitations.

26 **SEVENTH AFFIRMATIVE DEFENSE**

27 Plaintiffs lack standing and a justiciable controversy.
28

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to join all necessary and indispensable parties under NRCP 19.

Essence Entities reserve the right to amend this answer to assert additional affirmative defenses consistent within NRCP Rule 11, including the affirmative defenses plead by other parties to this action.

WHEREFORE, having fully answered Plaintiffs' Second Amended Complaint, Essence Entities pray for Judgment in his favor as follows:

1. That Plaintiffs' Second Amended Complaint against Essence Entities be dismissed with prejudice, with Plaintiffs taking nothing thereby;

2. That Essence Entities be awarded their costs incurred herein;

3. That Essence Entities be awarded their reasonable attorneys' fees incurred herein; and

4. That Essence Entities be awarded such other and further relief as the Court deems just and proper.

DATED this 8th day of July, 2020.

PISANELLI BICE PLLC

By: /s/ Todd L. Bice

James J. Pisanelli, Esq., Bar No. 4027
Todd L. Bice, Esq., Bar No. 4534
Jordan T. Smith, Esq., Bar No. 12097
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

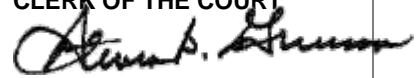
*Attorneys for Defendants in Intervention,
Integral Associates LLC d/b/a Essence Cannabis
Dispensaries, Essence Tropicana, LLC, Essence
Henderson, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 8th day of July, 2020, I caused to be served via the Court's e-filing/e-service system true and correct copies of the **ESSENCE ENTITIES' ANSWER TO THE TGIG PARTIES' SECOND AMENDED COMPLAINT** to all parties listed on the Court's Master Service List.

/s/ Shannon Dinkel
An employee of Pisanelli Bice PLLC

EXHIBIT G



1 **ANS**
2 Jared Kahn, Esq.
3 Nevada Bar # 12603
4 JK Legal & Consulting, LLC
5 9205 West Russell Rd., Suite 240
6 Las Vegas, NV 89148
7 P: (702) 708-2958
8 F: (866) 870-6758
9 jkahn@jk-legalconsulting.com

Attorneys Helping Hands Wellness Center, Inc.

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

	)	CASE NO: A-19-787004-B
)	
	)	Consolidated with: A-785818
11 <i>In Re: DOT Litigation</i>	)	A-786357
12	)	A-786962
13	)	A-787035
14	)	A-787540
15	)	A-787726
16	)	A-801416
17)	
18	)	DEPT NO.: XI
19)	
20	)	HELPING HANDS WELLNESS
21	)	CENTER, INC., ANSWER TO TGIG
22	)	PARTIES' SECOND AMENDED
23	)	COMPLAINT

20 Defendant Intervenor Helping Hands Wellness Center, Inc., ("HHWC") responds to the
21 allegations made by TGIG Parties' Second Amended Complaint as set forth below.

22 **I. PARTIES**

- 23 1. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
24 allegations in Paragraph 1 and therefore deny the same¹.

27 ¹ The Court granted Serenity Wellness Center, LLC's motion for voluntary dismissal. (See
28 NEOJ, April 10, 2020, on file.)

- 1 2. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
2 allegations in Paragraph 2 and therefore deny the same.
- 3 3. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
4 allegations in Paragraph 3 and therefore deny the same.
- 5 4. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
6 allegations in Paragraph 4 and therefore deny the same.
- 7 5. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
8 allegations in Paragraph 5 and therefore deny the same.
- 9 6. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
10 allegations in Paragraph 6 and therefore deny the same.
- 11 7. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
12 allegations in Paragraph 7 and therefore deny the same.
- 13 8. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
14 allegations in Paragraph 8 and therefore deny the same.
- 15 9. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
16 allegations in Paragraph 9 and therefore deny the same.
- 17 10. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
18 allegations in Paragraph 10 and therefore deny the same.
- 19 11. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
20 allegations in Paragraph 11 and therefore deny the same.
- 21 12. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
22 allegations in Paragraph 12 and therefore deny the same.
- 23 13. The allegations of Paragraph 13 call for a legal conclusion to which no response is
24 required. To the extent a response is necessary, HHWC denies the allegations in
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Paragraph 13.

Parties Who Received Conditional Recreational Retail Marijuana Establishment Licenses
("Defendant Applicants")

14. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 14 and therefore deny the same.

15. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 15 and therefore deny the same.

16. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 16 and therefore deny the same.

17. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 17 and therefore deny the same.

18. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 18 and therefore deny the same.

19. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 18 and therefore deny the same.

20. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 18 and therefore deny the same.

21. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 21 and therefore deny the same.

22. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 22 and therefore deny the same.

23. HHWC lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 23 and therefore deny the same.

24. HHWC admits to the allegations of Paragraph 24.

1 25. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
2 allegations in Paragraph 25 and therefore deny the same.

3 26. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
4 allegations in Paragraph 26 and therefore deny the same.

5 27. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
6 allegations in Paragraph 27 and therefore deny the same.

7 28. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
8 allegations in Paragraph 28 and therefore deny the same.

9 29. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
10 allegations in Paragraph 29 and therefore deny the same.

11 30. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
12 allegations in Paragraph 30 and therefore deny the same.

13 31. The allegations of Paragraph 31 call for a legal conclusion to which no response is
14 required. To the extent a response is necessary, HHWC denies the allegations in
15 Paragraph 31.

16 32. HHWC denies the allegations in Paragraph 32.

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19 **II. GENERAL ALLEGATIONS**

20 33. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
21 allegations in Paragraph 33 and therefore deny the same.

22 34. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
23 allegations in Paragraph 34 and therefore deny the same.

24 35. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
25 allegations in Paragraph 35 and therefore deny the same.
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- 1 36. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
2 allegations in Paragraph 36 and therefore deny the same.
- 3 37. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
4 allegations in Paragraph 37 and therefore deny the same.
- 5 38. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
6 allegations in Paragraph 38 and therefore deny the same.
- 7 39. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
8 allegations in Paragraph 39 and therefore deny the same.
- 9 40. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
10 allegations in Paragraph 40 and therefore deny the same.
- 11 41. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
12 allegations in Paragraph 41 and its subparts and therefore deny the same.
- 13 42. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
14 allegations in Paragraph 42 and therefore deny the same.
- 15 43. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
16 allegations in Paragraph 43 and therefore deny the same.
- 17 44. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
18 allegations in Paragraph 44 and therefore deny the same.
- 19 45. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
20 allegations in Paragraph 45 and therefore deny the same.
- 21 46. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
22 allegations in Paragraph 46 and therefore deny the same.
- 23 47. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
24 allegations in Paragraph 47 and therefore deny the same.
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1 48. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
2 allegations in Paragraph 48 and therefore deny the same.

3 49. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
4 allegations in Paragraph 49 and therefore deny the same.

5 50. HHWC denies the allegations in Paragraph 50.

6 51. HHWC denies the allegations in Paragraph 51.

7 52. HHWC denies the allegations in Paragraph 52 to the extent that they submitted complete
8 and compliant applications. HHWC lacks knowledge or information sufficient to form a
9 belief about the truth of the remaining allegations in Paragraph 52 and therefore deny the
10 same.
11

12 **III.**

13 **CLAIMS FOR RELIEF** 14 **FIRST CLAIM FOR RELIEF** 15 **(Violation of Civil Rights)** 16 **(Due Process: Deprivation of Property)**

17 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

18 53. HHWC repeat and reallege their responses contained in all previous paragraphs as
19 though fully set forth herein.

20 54. The allegations of Paragraph 54 and its subparts call for a legal conclusion to which no
21 response is required. To the extent a response is necessary, HHWC denies the
22 allegations in Paragraph 54 and its subparts.

23 55. The allegations of Paragraph 55 and its subparts call for a legal conclusion to which no
24 response is required. To the extent a response is necessary, HHWC denies the
25 allegations in Paragraph 55 and its subparts.
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- 1 56. The allegations of Paragraph 56 and its subparts call for a legal conclusion to which no
2 response is required. To the extent a response is necessary, HHWC denies the
3 allegations in Paragraph 56 and its subparts.
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5 57. Paragraph 57 does not assert factual averments to which a response is required. To the
6 extent a response is required, HHWC denies the allegations in Paragraph 57.
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8 58. The allegations in Paragraph 58 call for a legal conclusion to which no response is
9 required. To the extent a response is necessary, HHWC denies the allegations in
10 Paragraph 58.
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12 59. The allegations in Paragraph 59 call for a legal conclusion to which no response is
13 required. To the extent a response is necessary, HHWC denies the allegations in
14 Paragraph 59.
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16 60. The allegations in Paragraph 60 call for a legal conclusion to which no response is
17 required. To the extent a response is necessary, HHWC denies the allegations in
18 Paragraph 60.
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20 61. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
21 allegations in Paragraph 61 and therefore deny the same.
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23 62. The allegations in Paragraph 62 call for a legal conclusion to which no response is
24 required. To the extent a response is necessary, HHWC denies the allegations in
25 Paragraph 62.
26
27 63. The allegations in Paragraph 63 call for a legal conclusion to which no response is
28 required. To the extent a response is necessary, HHWC denies the allegations in

1 Paragraph 64.

2 65. The allegations in Paragraph 65 call for a legal conclusion to which no response is
3 required. To the extent a response is necessary, HHWC denies the allegations in
4 Paragraph 65.

5 66. The allegations in Paragraph 66 call for a legal conclusion to which no response is
6 required. To the extent a response is necessary, HHWC denies the allegations in
7 Paragraph 66.

8 67. The allegations in Paragraph 67 call for a legal conclusion to which no response is
9 required. To the extent a response is necessary, HHWC denies the allegations in
10 Paragraph 67.

11 68. The allegations in Paragraph 68 call for a legal conclusion to which no response is
12 required. To the extent a response is necessary, HHWC denies the allegations in
13 Paragraph 68.

14 69. Paragraph 69 does not assert factual averments to which a response is required. To the
15 extent a response is required, HHWC denies the allegations in Paragraph 69.

16 70. Paragraph 70 does not assert factual averments to which a response is required. To the
17 extent a response is required, HHWC denies the allegations in Paragraph 70.

18 71. The allegations in Paragraph 71 call for a legal conclusion to which no response is
19 required. To the extent a response is necessary, HHWC denies the allegations in
20 Paragraph 71.

21 72. The allegations in Paragraph 72 call for a legal conclusion to which no response is
22 required. To the extent a response is necessary, HHWC denies the allegations in
23 Paragraph 72.

24 73. The allegations in Paragraph 73 call for a legal conclusion to which no response is
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1 required. To the extent a response is necessary, HHWC denies the allegations in
2 Paragraph 73.

3 74. HHWC lacks knowledge or information sufficient to form a belief about the truth of the
4 allegations in Paragraph 7 and therefore deny the same.

5 75. The allegations in Paragraph 75 call for a legal conclusion to which no response is
6 required. To the extent a response is necessary, HHWC denies the allegations in
7 Paragraph 75.

8 76. The allegations in Paragraph 76 call for a legal conclusion to which no response is
9 required. To the extent a response is necessary, HHWC denies the allegations in
10 Paragraph 76.

11 77. The allegations in Paragraph 77 call for a legal conclusion to which no response is
12 required. To the extent a response is necessary, HHWC denies the allegations in
13 Paragraph 77.

14 78. The allegations in Paragraph 78 call for a legal conclusion to which no response is
15 required. To the extent a response is necessary, HHWC denies the allegations in
16 Paragraph 78.

17 79. HHWC denies the allegations in Paragraph 79.

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21 **SECOND CLAIM FOR RELIEF**
22 **(Violation of Civil Rights)**
23 **(Due Process: Deprivation of Liberty)**
24 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

25 80. HHWC repeat and reallege their responses contained in all previous paragraphs as
26 though fully set forth herein.

27 81. The allegations of Paragraph 81 call for a legal conclusion to which no response is
28 required. To the extent a response is necessary, HHWC denies the allegations in

Paragraph 81.

82. The allegations of Paragraph 82 call for a legal conclusion to which no response is required. To the extent a response is required, HHWC denies the allegations in Paragraph 82.

83. The allegations of Paragraph 83 call for a legal conclusion to which no response is required. To the extent a response is required, HHWC denies the allegations in Paragraph 83.

84. The allegations in Paragraph 84 call for a legal conclusion to which no response is required. To the extent a response is required, HHWC denies the allegations in Paragraph 84.

85. The allegations in Paragraph 85 call for a legal conclusion to which no response is required. To the extent a response is required, HHWC denies the allegations in Paragraph 85.

86. The allegations in Paragraph 86 call for a legal conclusion to which no response is required. To the extent a response is required, HHWC denies the allegations in Paragraph 86.

87. HHWC denies the allegations in Paragraph 87.

THIRD CLAIM FOR RELIEF
(Violation of Civil Rights)
(Equal Protection)
(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1; Title 42 U.S.C. § 1983)

88. HHWC repeat and reallege their responses contained in all previous paragraphs as though fully set forth herein.

89. The allegations of Paragraph 89 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in

Paragraph 89.

90. The allegations of Paragraph 90 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 90.

91. The allegations of Paragraph 91 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 91.

92. HHWC denies the allegations of Paragraph 92.

**FOURTH CLAIM FOR RELIEF
(Petition for Judicial Review)**

93. HHWC repeat and reallege their responses contained in all previous paragraphs as though fully set forth herein.

94. The allegations in Paragraph 94 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 94.

95. The allegations in Paragraph 95 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 95.

96. The allegations in Paragraph 96 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 96.

97. Paragraph 97 does not assert factual averments to which a response is required. To the extent a response is required, the HHWC denies the allegations in Paragraph 97.

98. HHWC denies the allegations in Paragraph 98.

FIFTH CLAIM FOR RELIEF
(Petition for Writ of Mandamus)

99. HHWC repeat and reallege their responses contained in all previous paragraphs as though fully set forth herein.

100. Paragraph 100 does not assert factual averments to which a response is required. To the extent a response is required, the HHWC denies the allegations in Paragraph 100.

101. The allegations of Paragraph 101 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 101.

102. The allegations in Paragraph 102 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 102.

103. The allegations in Paragraph 103 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 103.

104. HHWC denies the allegations in Paragraph 104.

FIFTH CLAIM FOR RELIEF
(Declaratory Relief)

105. HHWC repeat and reallege their responses contained in all previous paragraphs as though fully set forth herein.

106. The allegations in Paragraph 106 call for a legal conclusion to which no response is required. To the extent a response is necessary, HHWC denies the allegations in Paragraph 106.

107. HHWC admits that they received conditional recreational retail marijuana establishment licenses issued by the Department. HHWC lacks knowledge or

1 information sufficient to form a belief about the truth of the remaining allegations in
2 Paragraph 107 and therefore deny the same.

3 108. HHWC denies the allegations in Paragraph 108.

4 109. Paragraph 109 does not assert factual averments to which a response is required.
5 To the extent a response is required, the HHWC denies the allegations in Paragraph
6 109.

7
8 110. HHWC denies the allegations in Paragraph 110.

9 **AFFIRMATIVE DEFENSES**

- 10
11 1. The court lacks subject matter jurisdiction.
12 2. Plaintiffs' complaint fails to state a claim upon which relief may be granted.
13 3. Plaintiffs have not been damaged directly, indirectly, proximately, or in any manner
14 whatsoever by any conduct of Defendant.
15 4. The State of Nevada, Department of Taxation is immune from suit when performing
16 the functions at issue in this case.
17 5. The actions of the State of Nevada, Department of Taxation were all official acts that
18 were done in compliance with applicable laws and regulations.
19 6. Plaintiffs' claims are barred for failure to exhaust administrative remedies.
20 7. The actions of the State of Nevada, Department of Taxation, were not arbitrary or
21 capricious, and the State of Nevada, Department of Taxation had a rational basis for
22 all the actions taken in the licensing process at issue.
23 8. Plaintiffs have failed to join all necessary and indispensable parties under NRCP 19.
24 9. Plaintiffs have failed to allege sufficient facts and cannot carry the burden of proof
25 imposed on them by law to recover attorney's fees incurred to bring this action.
26 10. Injunctive relief is not available to Plaintiffs, because the State of Nevada,
27 Department of Taxation has already completed the task of issuing conditional
28 licenses.

11. Plaintiffs have no constitutional right to obtain privileged licenses.
12. Plaintiffs are not entitled to judicial review on the denial of a privileged license.
13. The U.S. Constitution does not protect the Plaintiff's claimed right to engage in a business that is illegal under federal law.
14. Plaintiffs' claims are barred by the doctrines of waiver, laches, and estoppel.
15. Defendant has not harmed Plaintiffs and is not responsible in any way for the alleged acts. Therefore, Plaintiffs are precluded from recovering any relief against this Defendant or from interfering with this Defendant's licenses.
16. Plaintiffs do not have a protectable property interest.

HHWC reserve the right to amend this answer to assert additional affirmative defenses consistent within NRCP Rule 11, including the affirmative defenses plead by other parties to this action.

WHEREFORE, having fully answered Plaintiffs' Second Amended Complaint, HHWC pray for Judgment in his favor as follows:

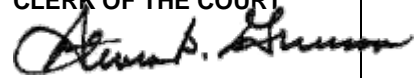
1. That Plaintiffs' Second Amended Complaint against HHWC be dismissed with prejudice, with Plaintiffs taking nothing thereby;
2. That HHWC be awarded their costs incurred herein;
3. That HHWC be awarded their reasonable attorneys' fees incurred herein; and
4. That HHWC be awarded such other and further relief as the Court deems just and proper.

DATED: July 9, 2020.

/s/ Jared B. Kahn

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Of Attorneys for *Helping Hands Wellness Center, Inc.*

EXHIBIT H



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sscow@kochscow.com

Attorneys for Intervenor
Nevada Organic Remedies, LLC

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

IN RE DOT LITIGATION

CASE NO.: A-19-787004-B (Lead Case)

A-18-785818-W (Sub Case)
A-18-786357-W (Sub Case)
A-19-786962-B (Sub Case)
A-19-787035-C (Sub Case)
A-19-787540-W (Sub Case)
A-19-787726-C (Sub Case)
A-19-801416-B (Sub Case)

DEPT. 11

**DEFENDANT-INTERVENOR
NEVADA ORGANIC REMEDIES,
LLC'S ANSWER TO TGIG
PARTIES' SECOND AMENDED
COMPLAINT**

Nevada Organic Remedies, (collectively "NOR"), by and through its attorneys of record, Koch & Scow, LLC file their answer to Plaintiffs TGIG, LLC et al.'s ("Plaintiffs") Second Amended Complaint as follows:

///

///

1 I.

2 **PARTIES & JURISDICTION**

3 1. NOR does not have sufficient knowledge or information as to the truth or
4 falsity of the allegations contained in paragraphs 1 through 13 of the Second Amended
5 Complaint and on that basis denies these allegations.

6 **Parties Who Received Conditional Recreational Retail Marijuana Establishment**
7 **Licenses (“Defendant Applicants”)**

8 2. NOR does not have sufficient knowledge or information as to the truth or
9 falsity of the allegations contained in paragraphs 14 through 25 of the Second Amended
10 Complaint and on that basis denies these allegations.

11 3. NOR admits the allegations contained in paragraph 26 of the Second
12 Amended Complaint.

13 4. NOR does not have sufficient knowledge or information as to the truth or
14 falsity of the allegations contained in paragraphs 27 through 31 of the Second Amended
15 Complaint and on that basis denies these allegations

16 5. The allegations contained in paragraph 32 of the Second Amended
17 Complaint contain legal conclusions, and no response is necessary.

18 II.

19 **GENERAL ALLEGATIONS**

20 6. In response to paragraphs 33 through 38 of the Second Amended Complaint,
21 NOR admits that the statutes and regulations mentioned in the paragraphs have been
22 enacted. As to the content of the statutes and regulations, the documents speak for
23 themselves, and no response is necessary.

24 7. NOR admits the allegations contained in paragraphs 39 and 40 of the Second
25 Amended Complaint.

26 8. In response to paragraphs 41 through 44 of the Second Amended Complaint,
27 the referenced application speaks for itself and no response is necessary.

28 9. The allegations contained in paragraph 45 of the Second Amended

1 Complaint contain legal conclusions, and no response is necessary.

2 10. NOR admits the allegations contained in paragraph 46 of the Second
3 Amended Complaint.

4 11. NOR does not have sufficient knowledge or information as to the truth or
5 falsity of the allegations contained in paragraphs 47 through 49 of the Second Amended
6 Complaint and on that basis denies these allegations.

7 12. NOR denies the allegations contained in paragraphs 50 through 52 of the
8 Second Amended Complaint.

9 **III.**

10 **CLAIMS FOR RELIEF**

11 **FIRST CLAIM FOR RELIEF**
12 **(Violation of Civil Rights)**

13 **(Due Process: Deprivation of Property)**

14 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

15 13. In response to paragraph 53 of the Second Amended Complaint, NOR
16 repeats and reasserts all prior responses as though fully set forth herein.

17 14. Paragraphs 54 through 69 of the Second Amended Complaint contain legal
18 conclusions, and no response is necessary. Insomuch as the allegations do not contain
19 legal conclusions, NOR denies the allegations.

20 15. Paragraphs 69 and 70 of the Second Amended Complaint do not contain any
21 allegations and no response is necessary.

22 16. Paragraphs 71 through 79 of the Second Amended Complaint contain legal
23 conclusions, and no response is necessary. Insomuch as the allegations do not contain
24 legal conclusions, NOR denies the allegations.

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2 **SECOND CLAIM FOR RELIEF**
3 **(Violation of Civil Rights)**

4 **(Due Process: Deprivation of Liberty)**

5 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

6 17. In response to paragraph 80 of the Second Amended Complaint, NOR
7 repeats and reasserts all prior responses as though fully set forth herein.

8 18. Paragraphs 81 through 87 of the Second Amended Complaint contain legal
9 conclusions, and no response is necessary. Insomuch as the allegations do not contain
10 legal conclusions, NOR denies the allegations.

11 **THIRD CLAIM FOR RELIEF**
12 **(Violation of Civil Rights)**

13 **(Equal Protection)**

14 **(U.S. Const., Amendment XIV; Nev. Const., Art. 1, Sec. 1, 8; Title 42 U.S.C. § 1983)**

15
16 19. In response to paragraph 88 of the Second Amended Complaint, NOR
17 repeats and reasserts all prior responses as though fully set forth herein.

18 20. Paragraphs 89 through 92 of the Second Amended Complaint contain legal
19 conclusions, and no response is necessary. Insomuch as the allegations do not contain
20 legal conclusions, NOR denies the allegations.

21 **FOURTH CLAIM FOR RELIEF**

22 **(Petition for Judicial Review)**

23
24 21. In response to paragraph 93 of the Second Amended Complaint, NOR
25 repeats and reasserts all prior responses as though fully set forth herein.

26 22. Paragraphs 94 through 98 of the Second Amended Complaint contain legal
27 conclusions, and no response is necessary. Insomuch as the allegations do not contain
28 legal conclusions, NOR denies the allegations.

FIFTH CLAIM FOR RELIEF
(Petition for Writ of Mandamus)

23. In response to paragraph 99 of the Second Amended Complaint, NOR repeats and reasserts all prior responses as though fully set forth herein.

24. Paragraphs 100 through 104 of the Second Amended Complaint contain legal conclusions, and no response is necessary. Insomuch as the allegations do not contain legal conclusions, NOR denies the allegations.

FIFTH CLAIM FOR RELIEF
(Declaratory Relief)

25. In response to paragraph 105 of the Second Amended Complaint, NOR repeats and reasserts all prior responses as though fully set forth herein.

26. Paragraph 106 of the Second Amended Complaint contains legal conclusions, and no response is necessary. Insomuch as the allegations do not contain legal conclusions, NOR denies the allegations.

27. NOR does not have sufficient knowledge or information to respond to all of the allegations contained in paragraph 107 of the Second Amended Complaint and, therefore, denies the allegations. NOR, however, admits that it received conditional recreational retail marijuana establishment licenses issued by the Department.

28. NOR does not have sufficient knowledge or information to respond to all of the allegations contained in paragraph 108 of the Second Amended Complaint and, therefore, denies the allegations.

29. Paragraph 109 of the Second Amended Complaint does not contain any allegations and no response is necessary.

30. Paragraph 110 of the Second Amended Complaint contains legal conclusions, and no response is necessary. Insomuch as the allegations do not contain legal conclusions, NOR denies the allegations.

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GENERAL DENIAL

To the extent a further response is required to any allegation set forth in the Second Amended Complaint, NOR denies such allegation.

AFFIRMATIVE DEFENSES

AFFIRMATIVE DEFENSE NO. 1

The Second Amended Complaint and each claim for relief fails to state a claim upon which relief can be granted.

AFFIRMATIVE DEFENSE NO. 2

The actions of Defendants the State of Nevada and Nevada Department of Taxation were all official acts that were done in compliance with applicable laws and regulations.

AFFIRMATIVE DEFENSE NO. 3

Plaintiffs’ claims are barred because Plaintiffs have failed to exhaust administrative remedies.

AFFIRMATIVE DEFENSE NO. 4

Plaintiffs do not have a right in a privileged license to exercise.

AFFIRMATIVE DEFENSE NO. 5

The actions of Defendant the State of Nevada and Nevada Department of Taxation was not arbitrary or capricious, the Department had a rational basis for all of the actions taken in the licensing process at issue, and the department has great deference in taking the actions at issue in this litigation.

AFFIRMATIVE DEFENSE NO. 6

No statute or regulation provides a hearing when a marijuana license is not issued.

AFFIRMATIVE DEFENSE NO. 7

Plaintiffs do not have standing to bring the claims contained in the Second Amended Complaint.

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AFFIRMATIVE DEFENSE NO. 8

Plaintiffs fail to present a justiciable controversy.

AFFIRMATIVE DEFENSE NO. 9

The Court lacks jurisdiction to hear Plaintiffs’ claims.

AFFIRMATIVE DEFENSE NO. 10

Plaintiffs’ claims are barred by the doctrines of waiver, ratification, estoppel, unclean hand, laches, and other equitable defenses.

///

AFFIRMATIVE DEFENSE NO. 11

Plaintiffs are barred by the applicable statutes of limitations.

AFFIRMATIVE DEFENSE NO. 12

Plaintiffs are barred based on the doctrine of impossibility.

AFFIRMATIVE DEFENSE NO. 13

Plaintiffs have failed to mitigate damages.

AFFIRMATIVE DEFENSE NO. 14

The Defendants the State of Nevada and Nevada Department of Taxation are immune from suit when performing the functions at issue in this case.

AFFIRMATIVE DEFENSE NO. 15

Injunctive relief is unavailable to Plaintiffs, because the Nevada Department of Taxation has already completed the tasks of issuing the conditional licenses.

AFFIRMATIVE DEFENSE NO. 16

Mandamus is not available to compel the members of the executive branch to perform non-ministerial, discretionary tasks.

AFFIRMATIVE DEFENSE NO. 17

Plaintiffs are not entitled to Judicial Review on the denial of a license.

AFFIRMATIVE DEFENSE NO. 18

Declaratory relief will not give the Plaintiffs the relief that they are seeking.

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AFFIRMATIVE DEFENSE NO. 19

Additional facts may support the assertion of additional affirmative defenses, including, but not limited to, those enumerated in NRCP 8(c). NOR reserves the right to assert such affirmative defenses as discovery proceeds.

AFFIRMATIVE DEFENSE NO. 20

It has been necessary for NOR to employ the services of an attorney to defend this action and a reasonable sum should be allowed NOR as and for attorneys' fees, together with its costs expended in this action.

///

PRAYER FOR RELIEF

WHEREFORE, NOR prays for judgment as follows:

1. That Plaintiffs take nothing by way of its Second Amended Complaint and that the same be dismissed with prejudice;
2. For costs of suit and reasonable attorneys' fees; and
3. For any other such relief as this Court deems just and proper under the circumstances.

DATED: July 10, 2020

KOCH & SCOW, LLC

By: /s/ David R. Koch
David R. Koch, Esq.
*Attorneys for Intervenor
Nevada Organic Remedies*

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. I certify that on July 10, 2020, I caused the foregoing document entitled: **DEFENDANT-INTERVENOR NEVADA ORGANIC REMEDIES, LLC'S ANSWER TO TGIG PARTIES' SECOND AMENDED COMPLAINT**

to be served as follows:

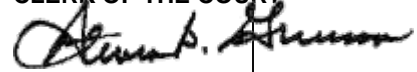
- ☒ Pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in in the mail; and/or;
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Henderson, Nevada; and/or
- ☐ Pursuant to EDCR 7.26, to be sent via facsimile; and/or
- ☐ hand-delivered to the attorney(s) listed below at the address indicated below;
- ☐ to be delivered overnight via an overnight delivery service in lieu of delivery by mail to the addressee (s); and or:
- ☐ by electronic mailing to:

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Executed on July 10, 2020 at Henderson, Nevada.

/s/ David R. Koch
David R. Koch

EXHIBIT I



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Attorneys for TGIG Plaintiffs in case no. A-786962

**DISTRICT COURT
CLARK COUNTY, NEVADA**

	)	Case No. A-19-787004-B
)	
	)	Consolidated with A-785818
	)	A-786357
In Re: D.O.T. Litigation,	)	A-786962
	)	A-787035
	)	A-787540
	)	A-787726
	)	A-801416
	)	Dept. No. XI
)	
	)	<u>(REQUEST FOR HEARING)</u>

**TGIG PLAINTIFFS' MOTION TO AMEND FINDINGS OF FACT, CONCLUSIONS OF
LAW AND PERMANENT INJUNCTION**

The TGIG Plaintiffs move to amend this court's Findings of Fact, Conclusions of Law and Permanent Injunction (FFCL), filed September 3, 2020. See NRCP 59(e). The purpose of this motion is to seek clarification of the status of intervenors who were certified as Tier 3 defendants by the Nevada Department of Taxation following entry of the preliminary injunction.

1 This Motion is based upon the Memorandum of Points and Authorities below, the
2 evidentiary support attached hereto, the pleadings and papers on file, and any argument that the
3 Court may entertain on this matter.
4

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 **I.**
7 **INTRODUCTION**¹

8 The final FFCL provides, in pertinent part, as follows:

9
10 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

11 The Claim for declaratory relief is granted. The Court declares:

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

17 The claim for equal protection is granted in part:

18 With respect to the decision by the DoT to arbitrarily and capriciously replace the
19 mandatory requirement of BQ2, for the background check of each prospective owner,
20 officer and board member with the 5 percent or greater standard in NAC 453.255(1), the
DoT created an unfair process. . . .

21 Injunctive relief under these claims is appropriate. The State is permanently enjoined
22 from conducting a final inspection of any of the conditional licenses issued on or about
23 December 2018 for an applicant who did not provide the identification of each
24 prospective owner, officer and board member as required by NRS 453D.200(6).
25

26
27 ¹ Pending trial, this Court issued a Preliminary Injunction in favor of the plaintiffs restraining the DOT from conducting final
28 inspections of conditional licensees who failed under NRS 453D.200(6) to identify each prospective owner, officer or board
member in connection with such licenses issued in December of 2018. The recent FFCL made that preliminary injunction
permanent.

1 By email certification dated August 21, 2019, Steven Shevorski, counsel for the DoT,
2 certified that “the Department of Taxation could not eliminate a question as to the completeness”
3 of the applications of applicants Helping Hands Wellness Center Inc., Lone Mountain Partners
4 LLC, Nevada Organic Remedies LLC, and Greenmart of Nevada NLV LLC with reference to
5 NRS 453D.200(6). See Court Exhibit 3 to the Amended Findings of Fact, Conclusions of Law
6 and Order of Preliminary Injunction dated February 7, 2020, **Exhibit 1**. More specifically:
7

- 8 1. **Helping Hands Wellness Center, Inc.** – The Department of Taxation could not
9 eliminate a question a question regarding the completeness of the applicant’s
10 identification of all of its officers on Attachment A in light of Mr. Terteryan’s
11 testimony that he is the Chief Operating Officer and was not listed on Attachment
12 A. The Department of Taxation does note, however, that Mr. Terteryan has been
13 the subject of a completed background check.
- 14 2. **Lone Mountain Partners, LLC** – The Department of Taxation could not
15 eliminate a question regarding the completeness of the applicant’s identification
16 of all of its owners because the Department could not determine whether Lone
17 Mountain Partners, LLC was a subsidiary of an entity styled “Verona” or was
18 owned by the individual members listed on Attachment A.
- 19 3. **Nevada Organic Remedies, LLC** - The Department of Taxation could not
20 eliminate a question regarding the completeness of the applicant’s identification
21 of all of its owners because the Department could not determine whether there
22 were shareholders who owned a membership interest in the applicant at the time
23 the application was submitted, but who were not listed on Attachment A, as the
24 applicant was acquired by a publicly traded company on or around September 4,
25 2018.
- 26 4. **Greenmart of Nevada NLV, LLC** - The Department of Taxation could not
27 eliminate a question regarding the completeness of the applicant’s identification
28 of all of its owners. The Department could not determine whether the applicant
listed all its owners on Attachment A because a subsidiary of a publicly traded
company owned a membership interest in the applicant at the time the applicant
submitted its application.

29 *See Id.*

30 Near to the end of trial proceedings, a group of plaintiffs negotiated a proposed
31 settlement with the DoT and selected intervenor defendants, including the intervenor defendants

1 listed above by the DoT. Terms included transfers of licenses and a unilateral re-tiering of
2 certain defendants. The settlement in part required as follows:

3
4 10. As a condition and term of this settlement, within two business days after
5 the conditions precedent in Paragraphs 5-8 are met, Settling Plaintiffs shall
6 move to dismiss any and all claims in the cases listed below (the “Dismissed
Claims”):

7 MM Development/LivFree action (Case No. A-18-785818-W);

8 In Re: DOT Litigation (A-19-787004-B);

9 Nevada Wellness Center action (A-19-787540-W);

10 Qualcan action (A-19-801416-B).

11 Settling Plaintiffs will dismiss the Dismissed Claims with prejudice against
12 each Settling Party hereto, as applicable, and without costs or fees to or from
13 any such Settling Party; Settling Defendants reserve their rights to seek fees
and costs from any Non-Settling Plaintiff . . . in the Lawsuit.

14 The settlement agreement is attached to this motion as **Exhibit 2**.

15 The settling parties thereafter sought and received approval to settle the matter under the
16 terms of the Settlement Agreement from the DoT and the Cannabis Compliance Board. The
17 settling defendants then sought, based upon the settlement, an Order by this Court for return of
18 bond deposits. This Court granted release of the bonds to all plaintiffs in the recent FFCL --
19 pending objections by defendant parties.

20
21 Importantly, none of the “settled” claims have been dismissed and the recent FFCL
22 makes no mention of the settlement. The claims against the settling defendants were thus
23 litigated to conclusion because the claims were not dismissed, and the bond releases are still
24 pending. The TGIG plaintiffs seek amendment to the recent FFCL to clarify that the decision
25 applies to settling and non-settling parties alike.
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The proposed Settlement Agreement's provisions concerning transfer of conditional license violate clearly articulated prohibitions in both NAC453D and NCCR. Paragraph 8 of the proposed Settlement Agreement provides: "[a]s a condition and term of this settlement, after the conditions precedent in Paragraphs 5-7 are met, the CCB agrees to make a good faith effort to expedite any and all CHOW requests for the transfer of licenses from existing licensee to another existing licensee as set forth in Paragraph 1 above. The CCB agrees that it will make a good faith effort to expedite and process all CHOWs after submission thereof.

Absent a finding invalidating the ranking of applications by DoT, neither the proposed “Settling Defendants” nor the proposed “Settling Plaintiffs” can assert that the marijuana establishments going forward will meet or exceed the very same criteria that DOT purports it

1 appropriately considered and ranked from first to last among competing applicants. The Settling
2 Parties simply cannot assert that the proposed transfers will be built and operated at the same
3 standards ranked and scored by the DoT. To demonstrate, the purported Settlement Agreement
4 provide for unlawful transfers of conditional licenses as follows:
5

- 6 1. Lone Mountain hereby assigns 1 City of Las Vegas conditional license to Qualcan; this
7 provision seeks unlawful transfer of a license from an applicant ranked number Six (6) to
8 an applicant ranked number Eleven (11).
9
- 10 2. Lone Mountain hereby assigns 1 Washoe County – City of Reno conditional license.
11 This provision seeks unlawful transfer of a license from an applicant ranked number Five
12 (5) to an applicant whose ranking cannot specifically be determined but would not have
13 qualified for initial licensure.
14
- 15 3. Eureka County conditional license to ETW Plaintiffs. This provision seeks unlawful
16 transfer of a license from an applicant ranked number One (1) to an applicant that did not
17 apply in that jurisdiction but based on scores in other jurisdictions would not have
18 qualified for licensure.
19
- 20 4. Helping Hands hereby assigns 1 Unincorporated Clark County conditional license to
21 LivFree. This provision seeks unlawful transfer of a license from an applicant ranked
22 number Five (5) to an applicant ranked Thirty-Five (35).
23
- 24 5. NOR hereby assigns 1 Unincorporated Clark County conditional license to MM. This
25 provision seeks unlawful transfer of a license from an applicant ranked number Three (3)
26 to an applicant ranked Fourteen (14).
27
- 28 6. NOR hereby assigns 1 Carson City conditional license to Qualcan. This provision seeks
unlawful transfer of a license from an applicant ranked number Two (2) to an applicant

1 that did not apply in that jurisdiction. These settling parties justify this transfer based
2 upon scores in other jurisdictions that would not have qualified for licensure in Carson
3 City.
4

- 5 7. GreenMart hereby assigns 1 Unincorporated Clark County conditional license to NWC.

6 This provision seeks unlawful transfer of a license from an applicant ranked number
7 Seven (7) to an applicant ranked sixty-nine (69).
8

- 9 8. Thrive hereby assigns 1 Clark County – City of Henderson conditional license (RD266)
10 to ETW Management or a related-entity designee. This provision seeks unlawful
11 transfer of a license from an applicant ranked number Fourth (4) to an applicant ranked
12 Thirty (30).
13

- 14 9. Lone Mountain hereby assigns 1 Douglas County conditional license to Thrive. This
15 provision seeks unlawful transfer of a license from an applicant ranked number One (1)
16 to an unspecified applicant. Per the terms of the Agreement, the Parties agree to a
17 transfer to Thrive yet that applicant applied under two separate entity names. Both
18 Thrive entities, Cheyenne Medical and Commerce Park, submitted identical
19 applications but were scored differently.
20

21 Applicable provisions of NAC 453D clearly establish that the intent of NAC 453.315(9)
22 is that the terms “build and operate the marijuana establishment at standards that meet or exceed
23 the criteria contained in the original marijuana establishment” are intended to prohibit the exact
24 conditions the settling parties now seek to apply. NAC 453D.260 provides that the
25 “[d]epartment will provide notice of a request for applications to operate a marijuana
26 establishment...” NAC 453D.268 provides in relevant part, “The application must include,
27 without limitation: Documentation concerning the size of the proposed marijuana establishment,
28 including, without limitation, building and general floor plans with supporting details.” These

1 associated regulations evidence a clear intent prohibiting the precise conduct that DoT now
2 attempts to condone in permitting transfer of conditional licenses under this settlement.

3 **III.**
4 **CONCLUSION**

5 The DoT simply has no authority to disregard the law in furtherance of any proposed
6 partial settlement. Accordingly, the permanent injunction should apply by its terms and the court
7 should not dismiss the actions listed in the Settlement Agreement. In this, the TGIG parties
8 move for an amendment to the FFCL refusing dismissal of the settling defendants per the
9 settlement.²
10

11 DATED this 10th day of September 2020.

12 **CLARK HILL, PLLC**

13 By /s/ John A. Hunt, Esq.
14 John A. Hunt, Esq. (NSBN 1888)
15 Dominic P. Gentile, Esq. (NSBN 1923)
16 Ross Miller, Esq. (NSBN 8190)
17 Mark Dzarnoski, Esq. (NSBN 3398)
18 3800 Howard Hughes Pkwy., #500
19 Las Vegas, Nevada 89169
20 Attorneys for Plaintiffs
21
22
23
24
25
26

27 ² In response to the FFCL, the Attorney General himself has publicly announced that the permanent
28 injunction is moot because he has removed the listed parties from the category of deficient applicants
awarded licenses in December 2018. That means that the chief counsel for the NDot and CCB has
countenanced a violation of the constitutional provision at issue in the instant permanent injunction.

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/s/ Tanya Bain
An Employee of Clark Hill

EXHIBIT 1

EXHIBIT 1

Traci A. Plotnick

From: Steven G. Shevorski
Sent: Sunday, August 2, 2020 9:42 AM
To: Steven G. Shevorski
Subject: FW: A786962 Serenity - Response to Judge's Question on NRS 453D.200(6)

Steve Shevorski
Chief Litigation Counsel
Office of the Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
702-486-3783

From: Steven G. Shevorski
Sent: Wednesday, August 21, 2019 3:23 PM
To: 'Meriwether, Danielle LC' ; 'Michael Cristalli' ; 'Vincent Savarese' ; 'Ross Miller' ; Ketan D. Bhirud ; Robert E. Werbicky ; David J. Pope ; Theresa M. Haar ; 'jag@mgalaw.com' ; 'rgraf@blacklobello.law' ; 'bhiggins@blacklobello.law' ; 'alina@nvlitigation.com' ; 'Work' ; 'Eric Hone, Esq. (eric@h1lawgroup.com)' ; 'jamie@h1lawgroup.com' ; 'moorea@h1lawgroup.com' ; 'jkahn@jk-legalconsulting.com' ; 'dkoch@kochscow.com' ; 'sscow@kochscow.com' ; 'Bult, Adam K.' ; 'tchance@bhfs.com' ; 'a.hayslett@kempjones.com' ; 'Nathanael Rulis, Esq. (n.rulis@kempjones.com)' ; 'tparker@pnalaw.net' ; 'Fetaz, Maximilien' ; 'phil@hymansonlawnv.com' ; 'shane@lasvegaslegalvideo.com' ; 'joe@lasvegaslegalvideo.com' ; 'Pat Stoppard (p.stoppard@kempjones.com)' ; 'jdelcarmen@pnalaw.net' ; Kutinac, Daniel ; 'ShaLinda Creer' ; 'Tanya Bain' ; 'Karen Wiehl (Karen@HymansonLawNV.com)' ; 'Kay, Paula' ; 'Dennis Prince (dprince@thedplg.com)' ; 'tlb@pisanellibice.com' ; 'JTS@pisanellibice.com'
Cc: Kutinac, Daniel
Subject: RE: A786962 Serenity - Response to Judge's Question on NRS 453D.200(6)

Case : A-19-786962-B

Dept. 11

Danielle,

The Department of Taxation answers the Court's question as follows:

Court's Question: Which successful applicants completed the application in compliance with NRS 453D.200(6) at the time the application was filed in September 2018?

Answer: The Department of Taxation answers the Court's question in three parts.

First, there were seven successful applicants who are not parties to the coordinated preliminary injunction proceeding. These entities are Green Therapeutics LLC, Eureka NewGen Farms LLC, Circle S Farms LLC, Deep Roots Medical LLC, Pure Tonic Concentrates LLC, Wellness Connection of Nevada LLC, Polaris Wellness Center LLC, and TRNVP098 LLC. Accepting as truthful these applicants' attestations regarding who their owners, officers, and board members were at the time of the application, these applications were complete at the time they were filed with reference to NRS 453D.200(6).

Second, there were five successful applicants who are parties to this coordinated preliminary injunction proceeding whose applications were complete with reference to NRS 453D.200(6) if the Department of Taxation accepts as truthful their attestations regarding who their owners, officers, and board members were. These applicants were Clear River LLC, Cheyenne Medical LLC, Essence Tropicana LLC, Essence Henderson LLC, and Commerce Park Medical LLC.

Third, there were four successful applicants who are parties to this proceeding regarding whom the Department of Taxation could not eliminate a question as to the completeness of their applications with reference to NRS 453D.200(6). These applicants were Helping Hands Wellness Center Inc., Lone Mountain Partners LLC, Nevada Organic Remedies LLC, and Greenmart of Nevada NLV LLC.

With respect to the third group, the Department of Taxation could not eliminate a question as to the completeness of the applications due to the following:

1. **Helping Hands Wellness Center, Inc.** – The Department of Taxation could not eliminate a question a question regarding the completeness of the applicant's identification of all of its officers on Attachment A in light of Mr. Terteryan's testimony that he is the Chief Operating Officer and was not listed on Attachment A. The Department of Taxation does note, however, that Mr. Terteryan has been the subject of a completed background check.
2. **Lone Mountain Partners, LLC** – The Department of Taxation could not eliminate a question regarding the completeness of the applicant's identification of all of its owners because the Department could not determine whether Lone Mountain Partners, LLC was a subsidiary of an entity styled "Verona" or was owned by the individual members listed on Attachment A.
3. **Nevada Organic Remedies, LLC** - The Department of Taxation could not eliminate a question regarding the completeness of the applicant's identification of all of its owners because the Department could not determine whether there were shareholders who owned a membership interest in the applicant at the time the application was submitted, but who were not listed on Attachment A, as the applicant was acquired by a publicly traded company on or around September 4, 2018.
4. **Greenmart of Nevada NLV, LLC** - The Department of Taxation could not eliminate a question regarding the completeness of the applicant's identification of all of its owners. The Department could not determine whether the applicant listed all its owners on Attachment A because a subsidiary of a publicly traded company owned a membership interest in the applicant at the time the applicant submitted its application.

In creating this answer, the Department of Taxation sought to answer the Court's question in a neutral fashion based on the information available to it from the applications themselves, testimony given at the hearing (without reference to issues of admissibility, which an affected party may raise), and information publicly available from a government website (the Canadian Securities Exchange website), which was submitted by the applicant or information submitted about the applicant by an entity claiming an affiliation to the applicant. The Department of Taxation expects that Helping Hands Wellness Center Inc., Lone Mountain Partners LLC, Nevada Organic Remedies LLC, and Greenmart of Nevada NLV LLC may explain why they believe they submitted complete applications in compliance with the provisions of NRS 453D.200(6).

Best regards,

Steve Shevorski

Steve Shevorski
Head of Complex Litigation
Office of the Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
702-486-3783

From: Meriwether, Danielle LC <Dept11LC@clarkcountycourts.us>

Sent: Wednesday, August 21, 2019 10:11 AM

To: Steven G. Shevorski <SShevorski@ag.nv.gov>; 'Michael Cristalli' <mcristalli@gcmaslaw.com>; 'Vincent Savarese' <vsavarese@gcmaslaw.com>; 'Ross Miller' <rmiller@gcmaslaw.com>; Ketan D. Bhirud <KBhirud@ag.nv.gov>; Robert E. Werbicky <RWerbicky@ag.nv.gov>; David J. Pope <DPope@ag.nv.gov>; Theresa M. Haar <THaar@ag.nv.gov>; 'jag@mgalaw.com' <jag@mgalaw.com>; 'rgraf@blacklobello.law' <rgraf@blacklobello.law>; 'bhiggins@blacklobello.law' <bhiggins@blacklobello.law>; 'alina@nvlitigation.com' <alina@nvlitigation.com>; 'Work' <maggie@nvlitigation.com>; 'Eric Hone, Esq.' <eric@h1lawgroup.com>; 'jamie@h1lawgroup.com' <jamie@h1lawgroup.com>; 'moorea@h1lawgroup.com' <moorea@h1lawgroup.com>; 'jkahn@jk-legalconsulting.com' <jkahn@jk-legalconsulting.com>; 'dkoch@kochscow.com' <dkoch@kochscow.com>; 'sscow@kochscow.com' <sscow@kochscow.com>; 'Bult, Adam K.' <ABult@bhfs.com>; 'tchance@bhfs.com' <tchance@bhfs.com>; 'a.hayslett@kempjones.com' <a.hayslett@kempjones.com>; 'Nathanael Rulis, Esq.' <n.rulis@kempjones.com>; 'tparker@pnalaw.net' <tparker@pnalaw.net>; 'Fetaz, Maximilien' <MFetaz@bhfs.com>; 'phil@hymansonlawnv.com' <phil@hymansonlawnv.com>; 'shane@lasvegaslegalvideo.com' <shane@lasvegaslegalvideo.com>; 'joe@lasvegaslegalvideo.com' <joe@lasvegaslegalvideo.com>; 'Pat Stoppard' <p.stoppard@kempjones.com>; 'jdelcarmen@pnalaw.net' <jdelcarmen@pnalaw.net>; Kutinac, Daniel <KutinacD@clarkcountycourts.us>; 'ShaLinda Creer' <screer@gcmaslaw.com>; 'Tanya Bain' <tbain@gcmaslaw.com>; 'Karen Wiehl' <Karen@HymansonLawNV.com>; 'Kay, Paula' <PKay@bhfs.com>; 'Dennis Prince' <dprince@thedplg.com>; 'tlb@pisanellibice.com' <tlb@pisanellibice.com>; 'JTS@pisanellibice.com' <JTS@pisanellibice.com>

Cc: Kutinac, Daniel <KutinacD@clarkcountycourts.us>

Subject: RE: A786962 Serenity - Request for 1 day extension to respond to Judge's Question on NRS 453D.200

Mr. Shevorski,

Judge said she understands and asks that you please get us an answer as soon as you can.

Thank you,

Danielle M. Meriwether, Esq.
Law Clerk to the Honorable Elizabeth G. Gonzalez
District Court, Department XI
P: (702) 671-4375
F: (702) 671-4377

From: Meriwether, Danielle LC
Sent: Tuesday, August 20, 2019 4:06 PM
To: 'Steven G. Shevorski'; Michael Cristalli; Vincent Savarese; Ross Miller; Ketan D. Bhirud; Robert E. Werbicky; David J. Pope; Theresa M. Haar; jag@mgalaw.com; rgraf@blacklobello.law; bhiggins@blacklobello.law; alina@nvlitigation.com; Work; Eric Hone, Esq. (eric@h1lawgroup.com); jamie@h1lawgroup.com; moorea@h1lawgroup.com; jkahn@jk-legalconsulting.com; dkoch@kochscow.com; sscow@kochscow.com; Bult, Adam K.; tchance@bhfs.com; a.hayslett@kempjones.com; Nathanael Rulis, Esq. (n.rulis@kempjones.com); tparker@pnalaw.net; Fetaz, Maximilien; phil@hymansonlawnv.com; shane@lasvegaslegalvideo.com; joe@lasvegaslegalvideo.com; Pat Stoppard (p.stoppard@kempjones.com); jdelcarmen@pnalaw.net; Kutinac, Daniel; ShaLinda Creer; Tanya Bain; Karen Wiehl (Karen@HymansonLawNV.com); Kay, Paula; Dennis Prince (dprince@thedplg.com); tlb@pisanellibice.com; JTS@pisanellibice.com
Cc: Kutinac, Daniel
Subject: RE: A786962 Serenity - Request for 1 day extension to respond to Judge's Question on NRS 453D.200

Mr. Shevorski,

Thank you for your email. I will inform Judge.

Danielle M. Meriwether, Esq.
Law Clerk to the Honorable Elizabeth G. Gonzalez
District Court, Department XI
P: (702) 671-4375
F: (702) 671-4377

From: Steven G. Shevorski [<mailto:SShevorski@ag.nv.gov>]
Sent: Tuesday, August 20, 2019 4:03 PM
To: Meriwether, Danielle LC; Michael Cristalli; Vincent Savarese; Ross Miller; Ketan D. Bhirud; Robert E. Werbicky; David J. Pope; Theresa M. Haar; jag@mgalaw.com; rgraf@blacklobello.law; bhiggins@blacklobello.law; alina@nvlitigation.com; Work; Eric Hone, Esq. (eric@h1lawgroup.com); jamie@h1lawgroup.com; moorea@h1lawgroup.com; jkahn@jk-legalconsulting.com; dkoch@kochscow.com; sscow@kochscow.com; Bult, Adam K.; tchance@bhfs.com; a.hayslett@kempjones.com; Nathanael Rulis, Esq. (n.rulis@kempjones.com); tparker@pnalaw.net; Fetaz, Maximilien; phil@hymansonlawnv.com; shane@lasvegaslegalvideo.com; joe@lasvegaslegalvideo.com; Pat Stoppard (p.stoppard@kempjones.com); jdelcarmen@pnalaw.net; Kutinac, Daniel; ShaLinda Creer; Tanya Bain; Karen Wiehl (Karen@HymansonLawNV.com); Kay, Paula; Dennis Prince (dprince@thedplg.com); tlb@pisanellibice.com; JTS@pisanellibice.com
Cc: Kutinac, Daniel
Subject: A786962 Serenity - Request for 1 day extension to respond to Judge's Question on NRS 453D.200

To the Honorable Judge Gonzales,

The Department of Taxation needs until tomorrow to submit the email responding to your query. My office needs a little more time to confer with the DOT on the answer to your question. I also have to

leave work early due to a medical circumstance involving my wife's family, which requires my wife to attend to her mother in the hospital and I have the charge of my two children.

I apologize for the delay. The DOT requests an additional day to provide its response, if possible.

Steve Shevorsi
Head of Complex Litigation
Office of the Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
702-486-3783

From: Meriwether, Danielle LC <Dept11LC@clarkcountycourts.us>

Sent: Thursday, August 15, 2019 8:23 AM

To: Michael Cristalli <mcristalli@gcmaslaw.com>; Vincent Savarese <vsavarese@gcmaslaw.com>; Ross Miller <rmiller@gcmaslaw.com>; Ketan D. Bhirud <KBhirud@ag.nv.gov>; Robert E. Werbicky <RWerbicky@ag.nv.gov>; David J. Pope <DPope@ag.nv.gov>; Steven G. Shevorsi <SShevorsi@ag.nv.gov>; Theresa M. Haar <THaar@ag.nv.gov>; jag@mgalaw.com; rgraf@blacklobello.law; bhiggins@blacklobello.law; alina@nvlitigation.com; Work <maggie@nvlitigation.com>; Eric Hone, Esq. (eric@h1lawgroup.com) <eric@h1lawgroup.com>; jamie@h1lawgroup.com; moorea@h1lawgroup.com; jkahn@jk-legalconsulting.com; dkoch@kochscow.com; sscow@kochscow.com; Bult, Adam K. <ABult@bhfs.com>; tchance@bhfs.com; a.hayslett@kempjones.com; Nathanael Rulis, Esq. (n.rulis@kempjones.com) <n.rulis@kempjones.com>; tparker@pnalaw.net; Fetaz, Maximilien <MFetaz@bhfs.com>; phil@hymansonlawnv.com; shane@lasvegaslegalvideo.com; joe@lasvegaslegalvideo.com; Pat Stoppard (p.stoppard@kempjones.com) <p.stoppard@kempjones.com>; jdelcarmen@pnalaw.net; Kutinac, Daniel <KutinacD@clarkcountycourts.us>; ShaLinda Creer <screer@gcmaslaw.com>; Tanya Bain <tbain@gcmaslaw.com>; Karen Wiehl (Karen@HymansonLawNV.com) <Karen@hymansonlawnv.com>; Kay, Paula <PKay@bhfs.com>; Dennis Prince (dprince@thedplg.com) <dprince@thedplg.com>; tlb@pisanellibice.com; JTS@pisanellibice.com

Cc: Kutinac, Daniel <KutinacD@clarkcountycourts.us>

Subject: A786962 Serenity - Bench Briefs Received

Counsel:

I am emailing to confirm the receipt of the following briefs:

1. MM & LivFree (Kemp)
2. CPCM/Thrive (Gutierrez)
3. NOR (Koch)
4. Essence (Bice)
5. Greenmart (Shell)
6. Clear River (Graf)

Thank you,

Danielle M. Meriwether, Esq.
Law Clerk to the Honorable Elizabeth G. Gonzalez
District Court, Department XI
P: (702) 671-4375
F: (702) 671-4377

EXHIBIT 2

EXHIBIT 2

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into as of July ___, 2020 (the “Effective Date”) (this “Agreement”), among LivFree Wellness, LLC, a Nevada limited liability company (“LivFree”), MM Development Company, Inc., a Nevada corporation, (“MM”); ETW Management Group LLC, Global Harmony LLC, Just Quality, LLC, Libra Wellness Center, LLC, Rombough Real Estate, Inc., and Zion Gardens LLC, (collectively the “ETW Plaintiffs”); Nevada Wellness Center, LLC, a Nevada limited liability company (“NWC”); Qualcan, LLC, a Nevada limited liability company (“Qualcan”) (collectively, “Settling Plaintiffs” or individually, a “Settling Plaintiff”); Lone Mountain Partners, LLC, a Nevada limited liability company (“Lone Mountain”); Nevada Organic Remedies, LLC, a Nevada limited liability company (“NOR”); Greenmart of Nevada NLV, LLC, a Nevada limited liability company (“GreenMart”); Helping Hands Wellness Center, Inc., a Nevada corporation (“Helping Hands”); CPCM Holdings, LLC, a Nevada limited liability company, Cheyenne Medical, LLC, a Nevada limited liability company, and Commerce Park Medical, LLC, a Nevada limited liability company (collectively “Thrive”); and the State of Nevada, Department of Taxation (“DOT”) (collectively “Settling Defendants” or individually, a “Settling Defendant”).

RECITALS

- A. LivFree, MM, ETW Plaintiffs, NWC, Qualcan, Lone Mountain, NOR, GreenMart, Helping Hands, Thrive, and the DOT (collectively the “Settling Parties” and individually, a “Settling Party”) are all parties to a consolidated lawsuit pending in the District Court, Clark County, Nevada, as Case No. A-19-787004-B (the “Lawsuit”).
- B. Within the Lawsuit there are claims and counterclaims relating to the disputes at issue in the Lawsuit (the “Disputes”).
- C. The parties want to compromise and settle the Disputes in the Lawsuit by dismissing the claims in the Lawsuit by and between the Settling Parties, each Settling Party to bear its own costs and attorneys’ fees, and to exchange mutual releases as provided in this Agreement.

NOW THEREFORE the Settling Parties agree:

DESCRIPTION OF TRANSFERS AND ISSUANCES OF LICENSES

1. The Settling Defendants hereby assign (subject to DOT and/or Cannabis Compliance Board (“CCB”) approval) all rights, interest and title in the various Nevada retail marijuana dispensary conditional licenses (the “Conditionally Approved Licenses”) to other entities as set forth below provided that each of the conditions set forth in this Agreement, including those set forth in Paragraphs 5-8 hereof, shall first be fulfilled:

- Lone Mountain hereby assigns 1 City of Las Vegas conditional license to Qualcan;
- Lone Mountain hereby assigns 1 Washoe County – City of Reno conditional license, 1 Lincoln County conditional license, 1 Esmerelda conditional license, and 1 Eureka County conditional license to ETW Plaintiffs;

- Helping Hands hereby assigns 1 Unincorporated Clark County conditional license to LivFree;
- NOR hereby assigns 1 Unincorporated Clark County conditional license to MM;
- NOR hereby assigns 1 Carson City conditional license to Qualcan;
- GreenMart hereby assigns 1 Unincorporated Clark County conditional license to NWC;
- Thrive hereby assigns 1 Clark County – City of Henderson conditional license (RD266) to ETW Management or a related-entity designee; and
- Lone Mountain hereby assigns 1 Douglas County conditional license to Thrive¹.

2. LivFree Henderson. To fully resolve the potential MM and LivFree appeals, the DOT and/or CCB agrees to issue a conditional Henderson license to LivFree and LivFree agrees that it will hold such license in abeyance (the “Limited Henderson License”) until such time as both of the following two conditions are satisfied and provided that no Settling Party has exercised the “put option” described below: (1) the Henderson moratorium and/or restriction on the opening of additional adult-use cannabis establishments (the “Henderson Moratorium”) is lifted; AND (2) the issuance of a final inspection certificate for this Henderson license does not require the DOT and/or CCB to exceed the current cap for Clark County licenses (presently 80 licenses) or any adjusted cap for Clark County licenses. Nothing herein shall be construed to excuse or eliminate any and all requirements or duties that LivFree is or maybe required to fulfill under state or local law pertaining to the Henderson conditional license in the event that conditions precedent 1 and 2 are fulfilled. Nothing in this Paragraph 2 shall prevent any Settling Parties issued conditional licenses in the City of Henderson from perfecting those conditional licenses if the Henderson Moratorium is lifted.

LivFree expressly does not commit to undertake any efforts to eliminate the existing Henderson Moratorium and, in fact, expressly reserves the right to undertake lobbying efforts to preserve any Henderson Moratorium, provided, however, that LivFree shall not seek any legal action to prevent the Henderson Moratorium from being lifted or seeking its continuance. Further, LivFree shall not engage in any tortious interference with any Settling Parties’ ability to perfect any Henderson license and/or to receive the issuance of a final inspection certificate from both the City of Henderson and the State of Nevada (CCB). LivFree agrees that the existing Henderson Moratorium applies to the Henderson conditional license issued to LivFree hereunder (but does not apply to LivFree’s existing operational Henderson dispensary license). To assist the DOT and/or CCB in reducing any potential issues with the current cap for Clark County licenses, LivFree agrees that, for a period of 5 years (the “Option Period”) following execution of this Agreement, it will pay \$250,000, or any other price on which the parties are able to agree, to purchase one Henderson conditional licenses. No such Settling Defendant shall have any obligation whatsoever to sell LivFree any such Henderson conditional licenses and nothing in this Agreement should be construed as any indication that the DOT and/or CCB is suggesting that any Settling Defendant should exercise this “put option.” However, LivFree agrees that any Settling Defendant, at their respective option (not obligation) and in their sole and unfettered discretion,

¹ Lone Mountain agrees that, subject to agreement to final terms by all parties to the Lawsuit, it will contribute its remaining Lander County, Mineral County, and White Pine County conditional licenses to a Global Settlement.

shall have a “put option” to sell to LivFree, and LivFree shall have the obligation to purchase, one such license from any Settling Defendant, whichever decides to exercise the option first (if at all), for \$250,000, or any other price on which the parties are able to agree, during the Option Period.

Nothing in this Paragraph 2 shall be construed to (a) prevent or limit any Settling Defendant’s ability to operate the conditional Henderson licenses during the Option Period, (b) prevent or limit any Settling Defendant’s ability to sell, assign, or otherwise transfer any Henderson conditional licenses during the Option Period to any other party at any time and upon any such terms as such Settling Defendant may agree, and (c) apply to any other licenses held by any affiliate of any Settling Defendant. Further, LivFree and DOT and/or CCB agree that the grant of any “put option” pursuant to this Paragraph 2 shall not constitute the creation of an “interest” (ownership or otherwise) in the Henderson conditional licenses for LivFree.

If LivFree acquires one of the conditional licenses through the exercise of the “put option”, LivFree agrees that it will surrender either the Limited Henderson License or the license acquired through the “put option” (at LivFree’s discretion to determine which of those options it will choose) to allow the DOT and/or CCB to reduce the existing or any future cap on total Clark County licenses. In no event shall LivFree have two additional Henderson conditional licenses by getting one directly or indirectly through this settlement (or any further settlement of the Lawsuit) and another through an exercise of the “put option”, in addition to the already existing LivFree Henderson license.

In the event that the pre-condition of lifting the Henderson moratorium occurs and LivFree is not able to exercise in good faith the “put option”, LivFree agrees to remain solely responsible for any and all local government and county approvals necessary for the CCB to reallocate a license which was not applied for during the September 2018 retail marijuana store competition.

3. All licensees described in this Agreement must be in good standing.
4. No license transfer pursuant to this Agreement can create a monopoly, as prohibited in NRS 678B.230 and NRS 678B.270.

DISSOLUTION OF BOND AND INJUNCTION

5. As a condition and term of this settlement, within 2 business days of the execution of this Agreement by all Parties, Settling Plaintiffs shall file a motion for a return of the cash bond that they have posted and seek an order shortening time. Contemporaneously, Settling Plaintiffs will withdraw the pending Motion for Case Terminating Sanctions filed against the DOT seeking to strike its Answer to the Lawsuit.
6. As a condition and term of this settlement, the CCB agrees to make a good faith effort to expedite and process GreenMart’s previously submitted Change of Ownership request for transfer of interests and/or ownership (“CHOW”) .
7. 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 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 related proceedings. The Motion to be filed by DOT will

indicate the DOT's approval of the applications of the previously designated Tier 3 Defendant Intervenor and that final inspections may be completed for any establishments owned by Lone Mountain, NOR, GreenMart, and Helping Hands. All Parties will join in the DOT's Motion. The reassignment of the settling Tier 3 parties into Tier 2, is a material condition of this Agreement and a material condition and requirement for the assignments contained in Paragraph 1. 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. In such instance, the DOT and/or CCB (or successor entity, as appropriate) and the proposed assignee shall perform all actions and execute all documents to ensure that such licenses remain with the affected transferring party.

TIMING OF TRANSFERS

8. As a condition and term of this settlement, after the conditions precedent in Paragraphs 5-7 are met, the CCB agrees to make a good faith effort to expedite any and all CHOW requests for the transfer of licenses from existing licensee to another existing licensee as set forth in Paragraph 1 above. The CCB agrees that it will make a good faith effort to expedite and process all CHOWs after submission thereof. For purposes of approving the transfers, LivFree, MM, ETW Plaintiffs, NWC, Qualcan, and Thrive were previously and are currently approved by the DOT as owners and operators of medical and retail marijuana dispensary licenses in the state of Nevada. In compliance with NRS/NAC 453D, these parties have operated retail marijuana dispensaries without any suspensions or revocations of those licenses. Any delays in approvals of the CHOWs due to no fault of transferor shall not be deemed a breach of this Agreement.

RELEASES AND DISMISSALS

9. As a condition and term of this settlement, within two business days after the conditions precedent in Paragraphs 5-8 are met, the parties will execute mutual releases in the form attached hereto as Exhibit B, with each party to bear its own costs and attorneys' fees.

10. As a condition and term of this settlement, within two business days after the conditions precedent in Paragraphs 5-8 are met, Settling Plaintiffs shall move to dismiss any and all claims in the cases listed below (the "Dismissed Claims"):

- a. MM Development/LivFree action (Case No. A-18-785818-W);²
- b. In Re: DOT Litigation (A-19-787004-B);
- c. Nevada Wellness Center action (A-19-787540-W);³
- d. Qualcan action (A-19-801416-B).

Settling Plaintiffs will dismiss the Dismissed Claims with prejudice against each Settling Party hereto, as applicable, and without costs or fees to or from any such Settling Party, Settling

² However, MM will not dismiss its counterclaims against D.H. Flamingo in the associated cases.

³ NWC's claims against Defendant Jorge Pupo will remain and not be dismissed as a result of this settlement.

Defendants reserve their rights to seek fees and costs from any Non-Settling Plaintiff (as defined below) in the Lawsuit.

11. LivFree/MM agree to stipulate with the DOT to dismiss the pending writ petition regarding the cell phone of Rino Tenorio (Supreme Court Case No. 79825).

12. MM Development, Nevada Wellness Center, and Liv Free agree to relinquish any and all administrative appeals to DOT and CCB which they may have or have arising out of the September 2018 retail marijuana store competition.

CONTINUED PARTICIPATION BY SETTling PLAINTIFFS

13. Further, upon the execution of this Agreement, the Settling Plaintiffs will file a Motion to Intervene as Defendants/Intervenors in the Lawsuit and participate in the Lawsuit in good faith and shall use best efforts to defend against the Lawsuit.

14. If any Settling Party settles any other matter related to the Lawsuit (each, a “Future Settlement”), every other Settling Party shall be included as released parties in such Future Settlement on the same release terms and conditions as set forth herein; provided, however, that any Settling Party receiving such release shall bear its own costs and attorneys’ fees with respect thereto as provided in this Agreement.

ADDITIONAL TERMS RELATING TO LICENSES AND TRANSFERS

15. As a condition and term of this settlement, the CCB agrees to make a good faith effort to expedite and process:

- a. a CHOW to be filed by Helping Hands;
- b. any CHOW submitted by NOR with respect to its licenses as the expedited handling of such CHOW requests may be necessary under the pending Companies’ Creditors’ Arrangement Act proceeding involving NOR’s parent company;
- c. a CHOW to be submitted by Lone Mountain; and
- d. any CHOW to be submitted by MM with respect to the transfer of cultivation and production licenses (medical and recreational) from West Coast Development Nevada, LLC.

16. DOT and/or CCB further agrees to perform final inspections on an expedited time period – within 5 business days of the request for inspection – for the new locations for the conditional licenses for the NOR proposed dispensary in Reno, NV and the MM proposed dispensary in Unincorporated Clark County, and any and all of Thrive’s conditional licenses to be designated by Thrive.

17. DOT and/or CCB agrees to, in good faith, expedite the processing of Thrive’s pending Change of Location Request for its Unincorporated Clark County license (RD263).

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.

19. LivFree agrees to reimburse Helping Hands for its expenses, through January 31, 2020 totaling \$890,000, related to building out the designated location at 8605 S. Eastern Ave., Las Vegas, NV 89123 for the Unincorporated Clark County license. Payment of the \$890,000 by LivFree is contingent upon approval of a special use permit ("SUP") for this location by the Clark County Commission and will be made no later than 10 business days after final approval of the SUP. LivFree will submit the application for the SUP in good faith no later than forty-five (45) days following the Effective Date or 45 days after the conclusion of trial, whichever is later. Helping Hands makes no representations or warranties regarding the SUP for the Eastern location. If Clark County does not approve the SUP for such location on or before March 31, 2021, LivFree may request a SUP at a different location and would not be required to pay Helping Hands \$890,000.

20. LivFree agrees to assume the lease, attached hereto as Exhibit A, for the premises located at 8605 S. Eastern Ave., Las Vegas, NV 89123 upon receipt of an estoppel certificate executed by the landlord. Assumption of the lease by LivFree is contingent upon approval of a SUP for this location by the Clark County Commission and will be made no later than 10 business days after final approval of the SUP. Helping Hands will remain liable for lease payments until LivFree assumes the lease and LivFree will have no liability on the lease if the SUP is not approved.

21. LivFree agrees to pay to Thrive the amount of \$400,000 and Helping Hands agrees to pay to Thrive the amount of \$100,000 upon approval of the transfer of the Thrive conditional license as set forth in paragraph 1 of this Agreement. LivFree and Helping Hands agree to cooperate with Thrive to report the payment set out in this Paragraph in the most tax-advantaged way to Thrive and its affiliates.

REPRESENTATIONS AND WARRANTIES

22. In the event that the DOT is no longer responsible for performing any of the conditions and/or requirements in this Agreement, then the entity that is responsible for performing such duties (e.g., the CCB or any related entity) shall be subject to the conditions and requirements provided in this Agreement. The State of Nevada, DOT represents and warrants that it has authority to sign this Agreement and bind the CCB.

23. Lone Mountain represents and warrants that it has full and complete control to assign the conditional licenses it was awarded, that there are no ownership disputes and Lone Mountain shall indemnify, defend and hold settling parties harmless from any and all costs, damages, fees (including attorneys' fees) or liability claimed by the entity claiming an ownership interest in the Lone Mountain conditional licenses being transferred for only up to the time when the license transfer is completed. Lone Mountain is not responsible for securing any ownership transfer approvals from the DOT or CCB for any license Lone Mountain transfers hereunder. The designated assignee of the Lone Mountain conditional license will be responsible for all costs associated with the ownership transfer applications with the state and any local jurisdiction (including any costs incurred by Lone Mountain). Nothing contained herein shall limit, waive, or revoke the DOT's or CCB's rights, powers, or duties under Nevada Administrative Code 453D.312.

24. NOR represents and warrants that it has full and complete control to assign the conditional licenses it was awarded, that there are no ownership disputes or any persons claiming to have an interest in the conditional license being transferred and NOR shall indemnify, defend and hold settling parties harmless from any and all costs, damages, fees (including attorneys' fees) or liability claimed by any person or entity claiming an ownership interest in any of the NOR conditional licenses. NOR is not responsible for securing any ownership transfer approvals from the DOT or CCB for any license NOR transfers hereunder. The designated plaintiff assignee of any NOR conditional license will be responsible for all costs associated with the ownership transfer applications with the state and any local jurisdiction (including any costs incurred by NOR). NOR represents and warrants that any pending legal proceedings involving its Parent Company in Canada do not affect its ability to transfer the above licenses. Nothing contained herein shall limit, waive, or revoke the DOT's or CCB's rights, powers, or duties under Nevada Administrative Code 453D.312.

25. GreenMart represents and warrants that it has full and complete control to assign the conditional licenses it was awarded, that there are no ownership disputes and GreenMart shall indemnify, defend and hold the Settling Party to which GreenMart's Clark County license is transferred hereunder (i.e, NWC) harmless from any and all costs, damages, fees (including attorneys' fees) or liability claimed by the entity claiming an ownership interest in the Greenmart conditional licenses being transferred for only up to the time when the license transfer is completed. GreenMart is not responsible for securing any ownership transfer approvals from the DOT or CCB for any license GreenMart transfers hereunder. The designated plaintiff assignee of the GreenMart conditional license will be responsible for all costs associated with the ownership transfer applications with the state and any local jurisdiction (including any costs incurred by GreenMart). Nothing contained herein shall limit, waive, or revoke the DOT's or CCB's rights, powers, or duties under Nevada Administrative Code 453D.312.

26. Helping Hands represents and warrants that it has full and complete control to assign the conditional licenses it was awarded, that there are no ownership disputes or any persons claiming to have an interest in the conditional license being transferred and Helping Hands shall indemnify, defend and hold settling parties harmless from any and all costs, damages, fees (including attorneys' fees) or liability claimed by any person or entity claiming an ownership interest in any of the Helping Hands conditional licenses. Nothing contained herein shall limit, waive, or revoke the DOT's or CCB's rights, powers, or duties under Nevada Administrative Code 453D.312.

27. Thrive represents and warrants that it has full and complete control to assign the conditional license it was awarded, that there are no ownership disputes and Thrive shall indemnify, defend and hold settling parties harmless from any and all costs, damages, fees (including attorneys' fees) or liability claimed by the entity claiming an ownership interest in the Thrive conditional license being transferred for only up to the time when the license transfer is completed. Nothing contained herein shall limit, waive, or revoke the DOT's or CCB's rights, powers, or duties under Nevada Administrative Code 453D.312.

28. Each of the Settling Parties hereto represent and warrant that they have had an adequate opportunity to seek and receive legal advice and counsel from an attorney of their choice regarding the content and effect of this Agreement, have actually received such counsel and advice as they deem prudent to receive in these circumstances, have read this Agreement in its entirety, understand all provisions of this Agreement and their import and effect, and enter into and execute this Agreement freely and voluntarily.

29. Each of the Settling Parties warrant and represent there are no other agreements made between any Settling Plaintiffs and any Settling Defendants involving conditions related to the transfer of any conditional licenses or related to any marijuana consumption lounges in the State of Nevada.

OTHER TERMS

30. The CCB agrees to recommend an industry funded study to the Cannabis Advisory Commission, a duly authorized public body pursuant to NRS 678A.300 and NRS 678A.310, to gather information and make recommendations to the CCB on the following matters: (1) what are reasonable additional actions, if any, can be taken to deter black-market sales; (2) analysis of adequacy of number and commercial need for additional marijuana licenses, if any, to serve the citizens of Nevada, including consideration of minority access to licensure, (3) recommendations of changes, if any, relating to state and local fees and taxation of the marijuana industry, and (4) analysis of adequacy of safeguards to protect minors.

31. Purpose of Compromise and Settlement. The parties have each entered into this Agreement solely for the purpose of settling and compromising the Disputes and the Lawsuit and nothing contained in this Agreement or its performance shall be deemed to be an admission or acknowledgment of: liability, the existence of damages or the amount of any damages relating to the Disputes or the Lawsuit.

32. Non-Participating Party Procedure: The Settling Parties agree to cooperate to obtain final resolution of Lawsuit (“Global Settlement”) consistent with this Agreement.

33. Non-Transferability. For a period of 2 years from July 1, 2020, no license transferred to a Settling Plaintiff herein may be transferred to any entity without prior written approval of the party giving up the designated license in this Agreement. This prohibition on transfers shall not apply to good faith corporate mergers, buyouts and/or acquisitions, which shall not be utilized for purposes of circumventing this paragraph. For this same period of time, LivFree and MM or related entities will not obtain ownership of any GreenMart licenses transferred herein. This non-transferability provision shall not be circumvented by, including but not limited to, any consulting, management or licensing/IP agreement, or by other means. Specifically excepted from this prohibition is a transfer from a Settling Party to an additional plaintiff in the Lawsuit (“a Non-settling Plaintiff”) provided that any such transfer is only utilized towards a global or more inclusive resolution of the Lawsuit (e.g., a transfer of a rural license from an ETW Plaintiff to a Non-settling plaintiffs such as Rural Remedies if Rural Remedies and NWC give complete releases approved by the State), subject to the consent of the Settling Defendant who transferred the license pursuant to this Agreement , which shall not be unreasonably withheld.

34. Cooperation & Non-Interference. The parties agree that they will not use or refer to the Lawsuit as part of any interactions with or lobbying efforts to any governmental agency to prevent any other party from obtaining local government approval and/or from obtaining an approval at final inspection for the licenses retained by any party or assigned to any party, including but limited to a party seeking an extension or trying to secure additional time to obtain and SUP from a local jurisdiction.

Despite the assignment of rural county licenses to certain Settling Parties, all parties hereto expressly reserve their right to vigorously oppose any legislative action regarding the relocation of such licenses to different jurisdictions. MM, LivFree, Qualcan, Thrive, and others have

expressly informed the Settling Parties that they are vehemently opposed to any such transfer. In the event of such transfer, MM, LivFree, Qualcan, Thrive and others expressly reserve their rights to file a declaratory relief action to prevent such relocation and/or seek other appropriate legal remedies.

35. Location of Adult-Use Establishments. The Parties agree that the physical address of any adult-use cannabis establishment utilizing any of the conditional licenses transferred pursuant to Paragraph 1 of this Agreement may not be within 1,500 feet of any adult-use cannabis establishment that existed as of the Effective Date of this Agreement. Nothing in this paragraph applies to any other licenses held by any parties or any entity that already has a special use permit.

GENERAL PROVISIONS

36. No Wrongdoing. The Parties acknowledge that this Agreement is entered into solely for the purpose of compromising disputed claims and avoiding the time and expense of litigation. It is expressly understood and agreed that this Agreement represents the settlement of disputed claims and nothing contained in this Agreement shall constitute or be treated as an admission of any wrongdoing or liability on the part of any Party hereto.

37. Enforcement. In the event of the breach of this Agreement by any party, the remedies of the non-breaching parties shall be limited to enforcement of this Agreement for breach of this Agreement.

38. Mediation. If any of the Parties breaches or terminates this Agreement but one of the other Parties disputes the basis for that breach or termination, the Parties agree that in the first instance, they shall attempt to resolve such dispute through mediation with the Honorable Jennifer Togliatti (Retired) at Advanced Resolution Management (“ARM”) (or, if she is not available, a mediator agreed upon by the Parties).

This Agreement to mediate all disputes applies even if some person or entity claims that this Agreement is void, voidable or unenforceable for any reason.

39. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties and their respective heirs, successors and assigns. With this Agreement requiring approval of the Nevada Tax Commission, the binding effect of this Agreement specifically includes the CCB as successor to the DOT in its capacity as regulator of the marijuana program in the State of Nevada. Except as specifically provided in prior paragraphs of this Agreement, this Agreement is not intended to create, and shall not create, any rights in any person who is not a party to this Agreement.

40. Entire Agreement. This Agreement contains the entire agreement between the parties and may not be changed or terminated orally but only by a written instrument executed by the parties after the date of this Agreement.

41. Construction. The terms and conditions of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any party. The parties acknowledge that each of them has reviewed this Agreement and has had the opportunity to have it reviewed by their attorneys and that any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, including its exhibits or any amendments.

42. Partial Invalidity. Except with respect to Paragraph 7, if any term of this Agreement or the application of any term of this Agreement should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all provisions, covenants and conditions of this Agreement, and all of its applications, not held invalid, void or unenforceable, shall continue in full force and effect and shall not be affected, impaired or invalidated in any way.

43. Attorneys' Fees. In any action or proceeding to enforce the terms of this Agreement or to redress any violation of this Agreement, the prevailing party shall be entitled to recover as damages its attorneys' fees and costs incurred, including but not limited to mediation fees, whether or not the action is reduced to judgment. For the purposes of this provision, the "prevailing party" shall be that party who has been successful with regard to the main issue, even if that party did not prevail on all the issues.

44. Governing Law and Forum. The laws of the State of Nevada applicable to contracts made or to be wholly performed there (without giving effect to choice of law or conflict of law principles) shall govern the validity, construction, performance and effect of this Agreement. Any lawsuit to interpret or enforce the terms of this Agreement shall be brought in a court of competent jurisdiction in Clark County, Nevada. The Parties acknowledge the matters involved in the Lawsuit and this Agreement may involve conduct and concepts in violation of Federal law regardless of compliance with applicable State law. The Parties expressly waive the defense of illegality under the Federal Controlled Substances Act.

45. Necessary Action. Each of the Settling Parties shall do any act or thing and execute any or all documents or instruments necessary or proper to effectuate the provisions and intent of this Agreement.

46. Counterparts. This Agreement may be executed in any number of counterparts, each of which when duly executed and delivered shall be an original, but all such counterparts shall constitute one and the same agreement. Any signature page of this Agreement may be detached from any counterpart without impairing the legal effect of any signatures, and may be attached to another counterpart, identical in form, but having attached to it one or more additional signature pages. This Agreement may be executed by signatures provided by electronic facsimile transmission (also known as "Fax" copies), or by electronic signature, which signatures shall be as binding and effective as original signatures.

47. Notices. Any and all notices and demands by or from any party required or desired to be given under this Agreement shall be in writing and shall be validly given or made if served either personally or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served by registered or certified mail in the manner provided, service shall be conclusively deemed given upon receipt or attempted delivery, whichever is sooner.

48. Miscellaneous. The headers or captions appearing at the commencement of the paragraph of this Agreement are descriptive only and for convenience in reference to this Agreement and shall not define, limit or describe the scope or intent of this Agreement, nor in any way affect this Agreement.

Masculine or feminine pronouns shall be substituted for the neuter form and vice versa and the plural shall be substituted for the singular form and vice versa in any place or places in this Agreement in which the context requires such substitution or substitutions, and references to "or"

7/28/2020

are used in the inclusive sense of “and/or”.

[Signatures on following pages]


7/27/2020

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.



<p>LIVFREE WELLNESS, LLC</p> <p>By: <u>[Signature]</u></p> <p>Print Name: <u>Will Kemp</u></p> <p>Title: <u>Attorney-In-Fact</u></p>	<p>MM DEVELOPMENT COMPANY, INC.</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
<p>ETW MANAGEMENT GROUP LLC</p> <p>By: <u>[Signature]</u></p> <p>Print Name: <u>Adam K Burt</u></p> <p>Title: <u>owner</u></p>	<p>GLOBAL HARMONY LLC</p> <p>By: <u>[Signature]</u></p> <p>Print Name: <u>Adam K Burt</u></p> <p>Title: <u>owner</u></p>
<p>ZION GARDENS LLC</p> <p>By: <u>[Signature]</u></p> <p>Print Name: <u>Adam K Burt</u></p> <p>Title: <u>owner</u></p>	<p>JUST QUALITY LLC</p> <p>By: <u>[Signature]</u></p> <p>Print Name: <u>Adam K Burt</u></p> <p>Title: <u>owner</u></p>
<p>LIBRA WELLNESS CENTER, LLC</p> <p>By: <u>[Signature]</u></p> <p>Print Name: <u>Adam K Burt</u></p> <p>Title: <u>owner</u></p>	<p>ROMBOUGH REAL ESTATE, INC.</p> <p>By: <u>[Signature]</u></p> <p>Print Name: <u>Adam K Burt</u></p> <p>Title: <u>owner</u></p>

7/27/2020


IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

<p>LIVFREE WELLNESS, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>MM DEVELOPMENT COMPANY, INC.</p> <p>By:  _____</p> <p>Print Name: Leighton Koehler</p> <p>Title: General Counsel</p>
<p>ETW MANAGEMENT GROUP LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>GLOBAL HARMONY LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
<p>ZION GARDENS LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>JUST QUALITY, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
<p>LIBRA WELLNESS CENTER, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>ROMBOUGH REAL ESTATE, INC.</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>

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<p>NEVADA WELLNESS CENTER, LLC</p> <p>By: <u></u></p> <p>Print Name: <u>Theodore Pantaleo</u></p> <p>Title: <u>ATTY</u></p>	<p>QUALCAN, LLC</p> <p>By: <u></u></p> <p>Print Name: <u>Peter S. Christensen</u></p> <p>Title: <u>Attorney</u></p>
<p>LONE MOUNTAIN PARTNERS, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>NEVADA ORGANIC REMEDIES, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
<p>GREENMART OF NEVADA NLV, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>HELPING HANDS WELLNESS CENTER, INC.</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
	<p>CPCM Holdings, LLC, CHEYENNE MEDICAL, LLC, and COMMERCE PARK MEDICAL, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>


7/28/2020

<p>NEVADA WELLNESS CENTER, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>QUALCAN, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
<p>LONE MOUNTAIN PARTNERS, LLC</p> <p>By: _____ </p> <p>Print Name: <u>George Archos</u></p> <p>Title: <u>Manager</u></p>	<p>NEVADA ORGANIC REMEDIES, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
<p>GREENMART OF NEVADA NLV, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>HELPING HANDS WELLNESS CENTER, INC.</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
	<p>CPCM Holdings, LLC, CHEYENNE MEDICAL, LLC, and COMMERCE PARK MEDICAL, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>

7/27/2020

NEVADA WELLNESS CENTER, LLC By: _____ Print Name: _____ Title: _____	QUALCAN, LLC By: _____ Print Name: _____ Title: _____
LONE MOUNTAIN PARTNERS, LLC By: _____ Print Name: _____ Title: _____	NEVADA ORGANIC REMEDIES, LLC By: <u>Raymond C. Whitaker III</u> Print Name: <u>Raymond C. Whitaker III</u> Title: <u>Authorized Person</u>
GREENMART OF NEVADA NLV, LLC By: _____ Print Name: _____ Title: _____	HELPING HANDS WELLNESS CENTER, INC. By: _____ Print Name: _____ Title: _____
	CPCM Holdings, LLC, CHEYENNE MEDICAL, LLC, and COMMERCE PARK MEDICAL, LLC By: _____ Print Name: _____ Title: _____

7/27/2020

<p>NEVADA WELLNESS CENTER, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>QUALCAN, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
<p>LONE MOUNTAIN PARTNERS, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>	<p>NEVADA ORGANIC REMEDIES, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
<p>GREENMART OF NEVADA NLV, LLC</p> <p>By: <u></u></p> <p>Print Name: Elizabeth Stavola</p> <p>Title: Manager</p>	<p>HELPING HANDS WELLNESS CENTER, INC.</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>
	<p>CPCM Holdings, LLC, CHEYENNE MEDICAL, LLC, and COMMERCE PARK MEDICAL, LLC</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Title: _____</p>

7/27/2020

NEVADA WELLNESS CENTER, LLC By: _____ Print Name: _____ Title: _____	QUALCAN, LLC By: _____ Print Name: _____ Title: _____
LONE MOUNTAIN PARTNERS, LLC By: _____ Print Name: _____ Title: _____	NEVADA ORGANIC REMEDIES, LLC By: _____ Print Name: _____ Title: _____
GREENMART OF NEVADA NLV, LLC By: _____ Print Name: _____ Title: _____	HELPING HANDS WELLNESS CENTER, INC. By: <u>Mares</u> Print Name: <u>KARIS TERTOGH</u> Title: <u>RESIDENT</u>
	CPCM Holdings, LLC, CHEYENNE MEDICAL, LLC, and COMMERCE PARK MEDICAL, LLC By: _____ Print Name: _____ Title: _____

NEVADA WELLNESS CENTER, LLC By: _____ Print Name: _____ Title: _____	QUALCAN, LLC By: _____ Print Name: _____ Title: _____
LONE MOUNTAIN PARTNERS, LLC By: _____ Print Name: _____ Title: _____	NEVADA ORGANIC REMEDIES, LLC By: _____ Print Name: _____ Title: _____
GREENMART OF NEVADA NLV, LLC By: _____ Print Name: _____ Title: _____	HELPING HANDS WELLNESS CENTER, INC. By: _____ Print Name: _____ Title: _____
	CPCM Holdings, LLC, CHEYENNE MEDICAL, LLC, and COMMERCE PARK MEDICAL, LLC By:  _____ Print Name: _____ Title: _____

7/28/2020

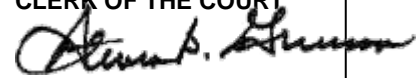
STATE OF NEVADA, DEPARTMENT OF
TAXATION

By: Melanie Y

Print Name: Melanie Young

Title: Executive Director

EXHIBIT J



AARON D. FORD
Attorney General
Steve Shevorski (Bar No. 8256)
Chief Litigation Counsel
Akke Levin (Bar No. 9102)
Senior Deputy Attorney General
Kiel B. Ireland (Bar No. 15368C)
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alevin@ag.nv.gov
kireland@ag.nv.gov
Attorneys for Defendant
State of Nevada ex rel. its
Department of Taxation

DISTRICT COURT
CLARK COUNTY, NEVADA

In re DOT Litigation,

Case No. A-19-787004-B
Dept. No. XI

Consolidated with:
A-18-785818-W
A-18-786357-W
A-19-786962-B
A-19-787035-C
A-19787540-W
A-19-787726-C
A-19-801416-B

NOTICE OF ENTRY OF JUDGMENT

PLEASE TAKE NOTICE that a Findings of Fact, Conclusion of Law and Permanent Injunction was entered on the 3rd day of September, 2020, a copy of which is attached hereto as Exhibit "A".

DATED this 22nd day of September, 2020.

AARON D. FORD
Attorney General

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

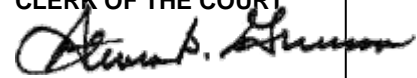
CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court by using the electronic filing system on the 22nd day of September, 2020, and e-served the same on all parties listed on the Court's Master Service List.

/s/ *Eddie Rueda*
Eddie Rueda, an employee of the
Office of the Attorney General

EXHIBIT A

EXHIBIT A



FFCL

DISTRICT COURT
CLARK COUNTY, NEVADA

In Re: D.O.T. Litigation

Case No. A-19-787004-B

Consolidated with:

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

Dept. No. XI

FINDINGS OF FACT, CONCLUSION OF LAW AND PERMANENT INJUNCTION

This matter having come before the Court for a non-jury trial on Phase 2 pursuant to the Trial Protocol¹ beginning on July 17, 2020², and occurring day to day thereafter until its completion on August 18, 2020. The following counsel and party representatives participated in this Phase of the Trial:³

The Plaintiffs

Dominic P. Gentile, Esq., John A. Hunt, Esq., Mark S. Dzarnoski, Esq. and Ross J. Miller, Esq., of the law firm Clark Hill, appeared on behalf of TGIG, LLC; Nevada Holistic Medicine, LLC; GBS

¹ Phase 2 as outlined in the Trial protocol includes:

Legality of the 2018 recreational marijuana application process (claims for Equal Protection, Due Process, Declaratory Relief, Intentional Interference with Prospective Economic Advantage, Intentional Interference with Contractual Relations, and Permanent Injunction).

² Prior to the commencement of trial the Court commenced an evidentiary hearing relief to Nevada Wellness motion for case terminating sanctions filed 6/26/2020. The decision in 136 NAO 42 raised issues which caused the Court to suspend that hearing and consolidate it with the merits of the trial. As a result of the evidence presented during trial the motion is granted in part.

³ Given the social distancing requirements many representatives attended telephonically for at least a portion of the proceedings.

1 Nevada Partners, LLC; Fidelis Holdings, LLC; Gravitas Nevada, LLC; Nevada Pure, LLC; Medifarm,
2 LLC; and Medifarm IV, LLC; (Case No. A786962-B) (the “TGIG Plaintiffs”) Demetri Kouretas
3 appeared as the representative for TGIG, LLC; Scott Sibley appeared as the representative for Nevada
4 Holistic Medicine, LLC; Michael Viellion appeared as the representative for GBS Nevada Partners,
5 LLC; Michael Sullivan appeared as the representative for Gravitas Nevada, LLC; David Thomas
6 appeared as the representative for Nevada Pure, LLC; and, Mike Nahass appeared as the representative
7 for Medifarm, LLC and Medifarm IV, LLC;
8

9 Adam K. Bult, Esq., and Maximilien D. Fetaz, Esq., of the law firm Brownstein Hyatt Farber
10 Schreck, LLP, appeared on behalf of ETW Management Group, LLC; Global Harmony, LLC; Just
11 Quality, LLC; Libra Wellness Center, LLC; Rombough Real Estate Inc. dba Mother Herb; and Zion
12 Gardens, LLC; (Case No. A787004-B) (the “ETW Plaintiffs”) Paul Thomas appeared as the
13 representative for ETW Management Group, LLC; John Heishman appeared as the representative for
14 Global Harmony, LLC; Ronald Memo appeared as the representative for Just Quality, LLC; Erik Nord
15 appeared as the representative for Libra Wellness Center, LLC; Craig Rombough appeared as the
16 representative for Rombough Real Estate Inc. dba Mother Herb; and, Judah Zakalik appeared as the
17 representative for Zion Gardens, LLC;
18

19 William S. Kemp, Esq., and Nathaniel R. Rulis, Esq., of the law firm Kemp, Jones & Coulthard,
20 LLP, appeared on behalf of MM Development Company, Inc. and LivFree Wellness, LLC; (Case No.
21 A785818-W) (the “MM Plaintiffs”); Leighton Koehler appeared as the representative for MM
22 Development Company, Inc.; and Tim Harris appeared as the representative for LivFree Wellness,
23 LLC;
24

25 Theodore Parker III, Esq., and Mahogany A. Turfley, Esq., of the law firm Parker Nelson &
26 Associates, appeared on behalf of Nevada Wellness Center (Case No. A787540-W) and Frank
27 Hawkins appeared as the representative for Nevada Wellness Center;
28

1 Peter S. Christiansen, Esq., and Whitney Barrett, Esq., of the law firm Christiansen Law
2 Offices, appeared on behalf of Qualcan LLC and Lorenzo Barracco appeared as the representative for
3 Qualcan LLC;

4 James W. Puzey, Esq., of the law firm Holley, Driggs, Walch, Fine, Puzey, Stein & Thompson,
5 appeared on behalf of High Sierra Holistics, LLC and Russ Ernst appeared as the representative for
6 High Sierra Holistics, LLC;

7 Amy L. Sugden, Esq., of Sugden Law, appeared on behalf of THC Nevada, LLC and Allen
8 Puliz appeared as the representative for THC Nevada, LLC;

9 Sigal Chattah, Esq., of the law firm Chattah Law Group, appeared on behalf of Herbal Choice,
10 Inc. and Ron Doumani appeared as the representative for Herbal Choice, Inc.;

11 Nicolas R. Donath, Esq., of the law firm N.R. Donath & Associates, PLLC, appeared on behalf
12 of Green Leaf Farms Holdings, LLC; Green Therapeutics, LLC; NevCann, LLC; and Red Earth, LLC
13 and Mark Bradley appeared as the representative for Green Leaf Farms Holdings, LLC; Green
14 Therapeutics, LLC; NevCann, LLC; and Red Earth, LLC;

15 Stephanie J. Smith, Esq., of Bendavid Law, appeared on behalf of Natural Medicine, LLC and
16 Endalkachew “Andy” Mersha appeared as the representative for Natural Medicine, LLC;

17 Craig D. Slater, Esq., of the law firm Luh & Associates, appeared on behalf of Clark Natural
18 Medicinal Solutions, LLC; NYE Natural Medicinal Solutions, LLC; Clark NMSD, LLC; and Inyo Fine
19 Cannabis Dispensary, LLC; Pejman Bady appeared as the representative for Clark Natural Medicinal
20 Solutions, LLC; NYE Natural Medicinal Solutions, LLC; and Clark NMSD, LLC; and David
21 Goldwater appeared as the representative Inyo Fine Cannabis Dispensary, LLC;⁴

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⁴ Although Rural Remedies, LLC claims were severed for this phase, Clarence E. Gamble, Esq., of the law firm Ramos Law participated on its behalf by phone.

The State

Diane L. Welch, Esq. of the law firm McDonald Carano, LLP, appeared on behalf of Jorge Pupo (“Pupo”);

Steven G. Shevorski, Esq., and Akke Levin, Esq., of the Office of the Nevada Attorney General, appeared on behalf of the State of Nevada, Department of Taxation (“DoT”) and Cannabis Compliance Board⁵ (“CCB”) (collectively “the State”) and Karalin Cronkhite appeared as the representative for the DoT and CCB;

The Industry Defendants

David R. Koch, Esq., and Brody Wight, Esq., of the law firm Koch & Scow, LLC, appeared on behalf of Nevada Organic Remedies, LLC (“NOR”) and Kent Kiffner appeared as the representative for Nevada Organic Remedies, LLC;

Brigid M. Higgins, Esq. and Rusty Graf, Esq., of the law firm Black & Lobello, appeared on behalf of Clear River, LLC and Tisha Black appeared as the representative for Clear River, LLC;

Eric D. Hone, Esq., and Joel Schwarz, Esq., of the law firm H1 Law Group, appeared on behalf of Lone Mountain Partners, LLC;

Alina M. Shell, Esq., Cayla Witty, Esq., and Leo Wolpert, Esq., of the law firm McLetchie Law, appeared on behalf of GreenMart of Nevada NLV LLC;

Jared Kahn, Esq., of the law firm JK Legal & Consulting, LLC, appeared on behalf of Helping Hands Wellness Center, Inc. and Alfred Terteryan appeared as the representative for Helping Hands Wellness Center, Inc.;

Rick R. Hsu, Esq., of the law firm Maupin, Cox & LeGoy, appeared on behalf of Pure Tonic Concentrates, LLC;

⁵ The CCB was added based upon motion practice as a result of the transfer of responsibility for the Marijuana Enforcement Division effective on July 1, 2020.

1 Jennifer Braster, Esq., and Andrew J. Sharples, Esq., of the law firm Naylor & Braster,
2 appeared on behalf of Circle S Farms, LLC;

3 Christopher Rose, Esq., and Kirill Mikhaylov, Esq., of the law firm Howard and Howard,
4 appeared on behalf of Wellness Connection of Nevada, LLC and Matt McClure appeared as the
5 representative for Wellness Connection of Nevada, LLC;

6 Richard D. Williamson, Esq., and Anthony G. Arger, Esq., of the law firm Robertson, Johnson,
7 Miller & Williamson, appeared on behalf of Deep Roots Medical, LLC and Keith Capurro appeared as
8 the representative for Deep Roots Medical, LLC;

9 Joseph A. Gutierrez, Esq., of the law firm Maier Gutierrez & Associates, and Dennis Prince,
10 Esq., of the Prince Law Group, appeared on behalf of CPCM Holdings, LLC d/b/a Thrive Cannabis
11 Marketplace; Commerce Park Medical, LLC; and Cheyenne Medical, LLC (“Thrive”) and Phil
12 Peckman appeared as the representative for on behalf of CPCM Holdings, LLC d/b/a Thrive Cannabis
13 Marketplace; Commerce Park Medical, LLC; and Cheyenne Medical, LLC (“Thrive”);

14 Todd L. Bice, Esq., and Jordan T. Smith, Esq., of the law firm Pisanelli Bice, appeared on
15 behalf of Integral Associates, LLC d/b/a Essence Cannabis Dispensaries; Essence Tropicana, LLC;
16 Essence Henderson, LLC; (“Essence”) (collectively the “Industry Defendants”).

17 Having read and considered the pleadings filed by the parties, having reviewed the evidence
18 admitted during this phase of the trial⁶, and having heard and carefully considered the testimony of the
19 witnesses called to testify, having considered the oral and written arguments of counsel, and with the
20 intent of deciding the remaining issues⁷ related to Legality of the 2018 recreational marijuana
21 application process only⁸, the Court makes the following findings of fact and conclusions of law:
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23
24

25 ⁶ Due to the limited amount of discovery conducted prior to the Preliminary Injunction hearing and the large volume
26 of evidence admitted during that 20-day evidentiary hearing, the Court required parties to reoffer evidence previously
utilized during that hearing.

27 ⁷ The Court granted partial summary judgment on the sole issue previously enjoined. The order entered 8/17/2020
28 states:

PROCEDURAL POSTURE

Plaintiffs are a group of unrelated commercial entities who applied for, but did not receive, licenses to operate retail recreational marijuana establishments in various local jurisdictions throughout the state. Defendant is the DoT, which was the administrative agency responsible for issuing the licenses at the times subject to these complaints. Some successful applicants for licensure intervened as Defendants.

The Attorney General's Office was forced to deal with a significant impediment at the early stages of the litigation. This inability to disclose certain information was outside of its control because of confidentiality requirements that have now been slightly modified by SB 32. Although the parties stipulated to a protective order on May 24, 2019, many documents produced in preparation for the trial and for discovery purposes were heavily redacted or produced as attorney's eyes only because of the highly competitive nature of the industry and sensitive financial and commercial information involved. Many admitted exhibits are heavily redacted and were not provided to the Court in unredacted form.

After Judge Bailus issued the preservation order in A785818 on December 13, 2018, the Attorney General's Office sent a preservation letter to the DoT. Pupo, Deputy Director of the DoT, testified he was not told to preserve his personal cellular phone heavily utilized for work purposes. He not only deleted text messages from the phone after the date of the preservation order but also was unable to produce his phone for a forensic examination and extraction of discoverable materials. The Court finds evidence has been irretrievably lost as a result of his actions.

While case terminating sanctions and/or an irrebuttable presumption were requested, after evaluation of the Ribiero factors, given the production of certain text messages with Pupo by some

[T]he DoT acted beyond the scope of its authority by replacing the requirement for a background check of each prospective owner with the 5 percent or greater standard in NAC 453D.255(1).

The entry of these findings will convert the preliminary injunction on this issue to a permanent injunction.

⁸ While several plaintiffs have reached a resolution of their claims with the State and certain Industry Defendants, the claims of the remaining plaintiffs remain virtually the same. At the time of the issuance of this decision, the following plaintiffs have advised the Court they have reached a resolution with the State and certain Industry Defendants:

ETW Management Group, LLC; Libra Wellness Center, LLC; Rombough Real Estate, Inc. dba Mother Herb; Just Quality, LLC; Zion Gardens, LLC; Global Harmony, LLC; MM Development, LLC; LivFree Wellness, LLC; Nevada Wellness Center, LLC; Qualcan, LLC; High Sierra Holistics, LLC; Natural Medicine, LLC.

1 Industry Defendants and their attorney Amanda Connor, the impact of the loss of evidence was limited.
2 As a result, the Court imposes an evidentiary sanction in connection with the Sanctions ruling that the
3 evidence on Pupo's phone, if produced, would have been adverse to the DoT.⁹

4 PRELIMINARY STATEMENT

5 All parties agree that the language of an initiative takes precedence over any regulation that is in
6 conflict and that an administrative agency has some discretion in determining how to implement the
7 initiative. The Court gives deference to the agency in establishing those regulations and creating the
8 framework required to implement those provisions in conformity with the initiative.

9 The initiative to legalize recreational marijuana, Ballot Question 2 ("BQ2"), went to the voters
10 in 2016. The language of BQ2 is independent of any regulations that were adopted by the DoT. The
11 Court must balance the mandatory provisions of BQ2 (which the DoT did not have discretion to
12 modify¹⁰), those provisions with which the DoT was granted some discretion in implementation¹¹, and

13 ⁹ Given the text messages produced by certain Industry Defendants and Amanda Connor, any presumption is
14 superfluous given the substance of the messages produced.

15 ¹⁰ Article 19, Section 2(3) provides the touchstone for the mandatory provisions:

16 An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or
suspended by the Legislature within 3 years from the date it takes effect.

17 ¹¹ NRS 453D.200(1) required the adoption of regulations for the licensure and oversight of recreational marijuana
18 cultivation, manufacturing/production, sales and distribution, but provides the DoT discretion in exactly what those
regulations would include:

19 . . . the Department shall adopt all regulations necessary or convenient to carry out the provisions of this chapter.
20 The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations
that make their operation unreasonably impracticable. The regulations shall include:

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

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

23 (c) Requirements for the security of marijuana establishments;

24 (d) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under 21
years of age;

25 (e) Requirements for the packaging of marijuana and marijuana products, including requirements for child-
resistant packaging;

26 (f) Requirements for the testing and labeling of marijuana and marijuana products sold by marijuana
establishments including a numerical indication of potency based on the ratio of THC to the weight of a product
intended for oral consumption;

27 (g) Requirements for record keeping by marijuana establishments;

28 (h) Reasonable restrictions on signage, marketing, display, and advertising;

(i) Procedures for the collection of taxes, fees, and penalties imposed by this chapter;

(j) Procedures and requirements to enable the transfer of a license for a marijuana establishment to another
qualified person and to enable a licensee to move the location of its establishment to another suitable location;

the inherent discretion of an administrative agency to implement regulations to carry out its statutory duties. The Court must give great deference to those activities that fall within the discretionary functions of the agency. Deference is not given where the actions of the DoT were in violation of BQ2 or were arbitrary and capricious.

FINDINGS OF FACT

1. Nevada allows voters to amend its Constitution or enact legislation through the initiative process. Nevada Constitution, Article 19, Section 2.

2. In 2000, the voters amended Nevada's Constitution to allow for the possession and use of marijuana to treat various medical conditions. Nevada Constitution, Article 4, Section 38(1)(a). The initiative left it to the Legislature to create laws "[a]uthoriz[ing] appropriate methods for supply of the plant to patients authorized to use it." Nevada Constitution, Article 4, Section 38(1)(e).

3. For several years prior to the enactment of BQ2, the regulation of medical marijuana dispensaries had not been taken up by the Legislature. Some have argued in these proceedings that the delay led to the framework of BQ2.

4. In 2013, Nevada's legislature enacted NRS 453A, which allows for the cultivation and sale of medical marijuana. The Legislature described the requirements for the application to open a medical marijuana establishment. NRS 453A.322. The Nevada Legislature then charged the Division of Public and Behavioral Health with evaluating the applications. NRS 453A.328.

5. The materials circulated to voters in 2016 for BQ2 described its purpose as the amendment of the Nevada Revised Statutes as follows:

Shall the *Nevada Revised Statutes* be amended to allow a person, 21 years old or older, to purchase, cultivate, possess, or consume a certain amount of marijuana or concentrated marijuana, as well as manufacture, possess, use, transport, purchase, distribute, or sell marijuana paraphernalia; impose a 15 percent excise tax on wholesale sales of marijuana; require the

(k) Procedures and requirements to enable a dual licensee to operate medical marijuana establishments and marijuana establishments at the same location;

(l) Procedures to establish the fair market value at wholesale of marijuana; and

(m) Civil penalties for the failure to comply with any regulation adopted pursuant to this section or for any violation of the provisions of [NRS 453D.300](#).

1 regulation and licensing of marijuana cultivators, testing facilities, distributors, suppliers, and
2 retailers; and provide for certain criminal penalties?

3 6. BQ2 was enacted by the Nevada Legislature and is codified at NRS 453D.¹²

4 7. BQ2 specifically identified regulatory and public safety concerns:

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

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

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

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

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

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

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

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

17 NRS 453D.020(3).

18 8. BQ2 mandated the DoT to “conduct a background check of each prospective owner,
19 officer, and board member of a marijuana establishment license applicant.” NRS 453D.200(6).

20 9. On November 8, 2016, by Executive Order 2017-02, Governor Brian Sandoval
21 established a Task Force composed of 19 members to offer suggestions and proposals for legislative,
22 regulatory, and executive actions to be taken in implementing BQ2.

23 10. The Nevada Tax Commission adopted temporary regulations allowing the state to issue
24 recreational marijuana licenses by July 1, 2017 (the “Early Start Program”). Only medical marijuana
25 establishments that were already in operation could apply to function as recreational retailers during the
26 early start period. The establishments were required to be in good standing and were required to pay a
27 one-time, nonrefundable application fee as well as a specific licensing fee. The establishment also was
28 required to provide written confirmation of compliance with their municipality’s zoning and location
requirements.

¹² As the provisions of BQ2 and the sections of NRS 453D in effect at the time of the application process (with the exception of NRS 453D.205) are identical, for ease of reference the Court cites to BQ2 as enacted by the Nevada Legislature during the 2017 session in NRS 453D.

1 11. The Task Force’s findings, issued on May 30, 2017, referenced the 2014 licensing
2 process for issuing Medical Marijuana Establishment Registration Certificates under NRS 453A. The
3 Task Force recommended that “the qualifications for licensure of a marijuana establishment and the
4 impartial numerically scored bidding process for retail marijuana stores be maintained as in the medical
5 marijuana program except for a change in how local jurisdictions participate in selection of locations.”

6 12. During the 2017 legislative session, Assembly Bill 422 transferred responsibility for the
7 registration, licensing, and regulation of marijuana establishments from the State of Nevada Division of
8 Public and Behavioral Health to the DoT.¹³

9
10 13. On February 27, 2018, the DoT adopted regulations governing the issuance, suspension,
11 or revocation of retail recreational marijuana licenses in LCB File No. R092-17, which were codified in
12 NAC 453D (the “Regulations”).

13 14. The Regulations for licensing were to be “directly and demonstrably related to the
14 operation of a marijuana establishment.” NRS 453D.200(1)(b). The phrase “directly and demonstrably
15 related to the operation of a marijuana establishment” is subject to more than one interpretation.
16

17 15. Each of the Plaintiffs were issued marijuana establishment licenses involving the
18 cultivation, production and/or sale of medicinal marijuana in or about 2014.
19
20
21

22 ¹³ Those provisions (a portion of which became NRS 453D.205) are consistent with BQ2:
23

24 1. When conducting a background check pursuant to subsection 6 of [NRS 453D.200](#), the Department may
25 require each prospective owner, officer and board member of a marijuana establishment license applicant to submit
a complete set of fingerprints and written permission authorizing the Department to forward the fingerprints to the
Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation
for its report.

26 2. When determining the criminal history of a person pursuant to paragraph (c) of subsection 1 of [NRS](#)
27 [453D.300](#), a marijuana establishment may require the person to submit to the Department a complete set of
fingerprints and written permission authorizing the Department to forward the fingerprints to the Central
Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its
28 report.

1 16. A person holding a medical marijuana establishment registration certificate could apply
2 for one or more recreational marijuana establishment licenses within the time set forth by the DoT in
3 the manner described in the application. NAC 453D.268.¹⁴
4

5 ¹⁴ Relevant portions of that provision require that application be made

6 ... by submitting an application in response to a request for applications issued pursuant to [NAC 453D.260](#) which
must include:

7 ***

8 2. An application on a form prescribed by the Department. The application must include, without limitation:

9 (a) Whether the applicant is applying for a license for a marijuana establishment for a marijuana cultivation
10 facility, a marijuana distributor, a marijuana product manufacturing facility, a marijuana testing facility or a retail
marijuana store;

11 (b) The name of the proposed marijuana establishment, as reflected in both the medical marijuana establishment
12 registration certificate held by the applicant, if applicable, and the articles of incorporation or other documents filed
with the Secretary of State;

13 (c) The type of business organization of the applicant, such as individual, corporation, partnership, limited-liability
company, association or cooperative, joint venture or any other business organization;

14 (d) Confirmation that the applicant has registered with the Secretary of State as the appropriate type of business,
and the articles of incorporation, articles of organization or partnership or joint venture documents of the applicant;

15 (e) The physical address where the proposed marijuana establishment will be located and the physical address of
any co-owned or otherwise affiliated marijuana establishments;

16 (f) The mailing address of the applicant;

17 (g) The telephone number of the applicant;

18 (h) The electronic mail address of the applicant;

19 (i) A signed copy of the Request and Consent to Release Application Form for Marijuana Establishment License
prescribed by the Department;

20 (j) If the applicant is applying for a license for a retail marijuana store, the proposed hours of operation during
which the retail marijuana store plans to be available to sell marijuana to consumers;

21 (k) An attestation that the information provided to the Department to apply for the license for a marijuana
establishment is true and correct according to the information known by the affiant at the time of signing; and

22 (l) The signature of a natural person for the proposed marijuana establishment as described in subsection 1 of [NAC](#)
[453D.250](#) and the date on which the person signed the application.

23 3. Evidence of the amount of taxes paid, or other beneficial financial contributions made, to this State or its
political subdivisions within the last 5 years by the applicant or the persons who are proposed to be owners, officers
or board members of the proposed marijuana establishment.

24 4. A description of the proposed organizational structure of the proposed marijuana establishment, including,
without limitation:

25 (a) An organizational chart showing all owners, officers and board members of the proposed marijuana
establishment;

26 (b) A list of all owners, officers and board members of the proposed marijuana establishment that contains the
following information for each person:

27 (1) The title of the person;

28 (2) The race, ethnicity and gender of the person;

 (3) A short description of the role in which the person will serve for the organization and his or her
responsibilities;

 (4) Whether the person will be designated by the proposed marijuana establishment to provide written notice to
the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a
marijuana establishment agent at the proposed marijuana establishment;

 (5) Whether the person has served or is currently serving as an owner, officer or board member for another
medical marijuana establishment or marijuana establishment;

 (6) Whether the person has served as an owner, officer or board member for a medical marijuana establishment
or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as
applicable, revoked;

1 NRS 453D.210(6) mandated the DoT to use “an impartial and numerically scored competitive bidding
2 process” to determine successful applicants where competing applications were submitted.

3 17. NAC 453D.272(1) provides the procedure for when the DoT receives more than one
4 “complete” application for a single county. Under this provision the DoT will determine if the

5 (7) Whether the person has previously had a medical marijuana establishment agent registration card or
6 marijuana establishment agent registration card revoked;

7 (8) Whether the person is an attending provider of health care currently providing written documentation for the
8 issuance of registry identification cards or letters of approval;

9 (9) Whether the person is a law enforcement officer;

10 (10) Whether the person is currently an employee or contractor of the Department; and

11 (11) Whether the person has an ownership or financial investment interest in any other medical marijuana
12 establishment or marijuana establishment.

13 5. For each owner, officer and board member of the proposed marijuana establishment:

14 (a) An attestation signed and dated by the owner, officer or board member that he or she has not been convicted of
15 an excluded felony offense, and that the information provided to support the application for a license for a
16 marijuana establishment is true and correct;

17 (b) A narrative description, not to exceed 750 words, demonstrating:

18 (1) Past experience working with governmental agencies and highlighting past experience in giving back to the
19 community through civic or philanthropic involvement;

20 (2) Any previous experience at operating other businesses or nonprofit organizations; and

21 (3) Any demonstrated knowledge, business experience or expertise with respect to marijuana; and

22 (c) A resume.

23 6. Documentation concerning the size of the proposed marijuana establishment, including, without limitation,
24 building and general floor plans with supporting details.

25 7. The integrated plan of the proposed marijuana establishment for the care, quality and safekeeping of marijuana
26 from seed to sale, including, without limitation, a plan for testing and verifying marijuana, a transportation or
27 delivery plan and procedures to ensure adequate security measures, including, without limitation, building security
28 and product security.

8. A plan for the business which includes, without limitation, a description of the inventory control system of the
proposed marijuana establishment to satisfy the requirements of [NRS 453D.300](#) and [NAC 453D.426](#).

9. A financial plan which includes, without limitation:

(a) Financial statements showing the resources of the applicant;

(b) If the applicant is relying on money from an owner, officer or board member, evidence that the person has
unconditionally committed such money to the use of the applicant in the event the Department awards a license to
the applicant and the applicant obtains the necessary approvals from the locality to operate the proposed marijuana
establishment; and

(c) Proof that the applicant has adequate money to cover all expenses and costs of the first year of operation.

10. Evidence that the applicant has a plan to staff, educate and manage the proposed marijuana establishment on a
daily basis, which must include, without limitation:

(a) A detailed budget for the proposed marijuana establishment, including pre-opening, construction and first-year
operating expenses;

(b) An operations manual that demonstrates compliance with this chapter;

(c) An education plan which must include, without limitation, providing educational materials to the staff of the
proposed marijuana establishment; and

(d) A plan to minimize the environmental impact of the proposed marijuana establishment.

11. If the application is submitted on or before November 15, 2018, for a license for a marijuana distributor,
proof that the applicant holds a wholesale dealer license issued pursuant to [Chapter 369](#) of NRS, unless the
Department determines that an insufficient number of marijuana distributors will result from this limitation.

12. A response to and information which supports any other criteria the Department determines to be relevant,
which will be specified and requested by the Department at the time the Department issues a request for
applications which includes the point values that will be allocated to the applicable portions of the application
pursuant to subsection 2 of [NAC 453D.260](#).

1 “application is complete and in compliance with this chapter and Chapter 453D of NRS, the
2 Department will rank the applications . . . in order from first to last based on the compliance with the
3 provisions of this chapter and Chapter 453D of NRS and on the content of the applications relating
4 to . . .” several enumerated factors. NAC 453D.272(1).

5 18. The factors set forth in NAC 453D.272(1) that are used to rank competing applications
6 received for a single county (collectively, the “Factors”) are:

- 7
- 8 (a) Whether the owners, officers or board members have experience operating another kind
9 of business that has given them experience which is applicable to the operation of a marijuana
10 establishment;
 - 11 (b) The diversity of the owners, officers or board members of the proposed marijuana
12 establishment;
 - 13 (c) The educational achievements of the owners, officers or board members of the proposed
14 marijuana establishment;
 - 15 (d) The financial plan and resources of the applicant, both liquid and illiquid;
 - 16 (e) Whether the applicant has an adequate integrated plan for the care, quality and
17 safekeeping of marijuana from seed to sale;
 - 18 (f) The amount of taxes paid and other beneficial financial contributions, including, without
19 limitation, civic or philanthropic involvement with this State or its political subdivisions, by the
20 applicant or the owners, officers or board members of the proposed marijuana establishment;
 - 21 (g) Whether the owners, officers or board members of the proposed marijuana establishment
22 have direct experience with the operation of a medical marijuana establishment or marijuana
23 establishment in this State and have demonstrated a record of operating such an establishment in
24 compliance with the laws and regulations of this State for an adequate period of time to
25 demonstrate success;
 - 26 (h) The (unspecified) experience of key personnel that the applicant intends to employ in
27 operating the type of marijuana establishment for which the applicant seeks a license; and
 - 28 (i) Any other criteria that the Department determines to be relevant.

19. Each of the Factors is within the DoT’s discretion in implementing the application
process provided for in BQ2. The DoT had a good-faith basis for determining that each of the Factors
is “directly and demonstrably related to the operation of a marijuana establishment.”

20. Pupo met with several of the applicants’ agent, Amanda Conner, Esq., numerous times
for meals in the Las Vegas Valley. Pupo also met with representatives of several of the applicants in
person. These meetings appeared to relate to regulatory, disciplinary and application issues.

1 21. The DoT posted the application on its website and released the application for
2 recreational marijuana establishment licenses on July 6, 2018.¹⁵

3 22. The DoT used a Listserv¹⁶ to communicate with prospective applicants.

4 23. While every medical marijuana certificate holder was required to have a contact person
5 with information provided to the DoT for purposes of communication, not every marijuana
6 establishment maintained a current email or checked their listed email address regularly, and some of
7 the applicants contend that they were not aware of the revised application.
8

9 24. Applications were accepted from September 7, 2018 through September 20, 2018.

10 25. The DoT elected to utilize a bright line standard for evaluating the factor “operating
11 such an establishment in compliance” of whether the applicant was suspended or revoked.¹⁷ If an
12 applicant was suspended or revoked they were not qualified to apply. This information was
13 communicated in the cover letter with the application.¹⁸ This decision was within the discretion of the
14 DoT.
15
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19 ¹⁵ The DoT made a change to the application after circulating the first version of the application to delete the
20 requirement of a physical location. The modification resulted in a different version of the application bearing the same
“footer” with the original version remaining available on the DoT’s website.

21 ¹⁶ According to Dictionary.com, the term “Listserv” is used to refer to online mailing list. When capitalized it refers
22 to a proprietary software.

23 ¹⁷ The method by which certain disciplinary matters (self-reported or not) were resolved by the DoT would not affect
the grading process.

24 ¹⁸ The cover letter reads in part:

25 All applicants are required to be in compliance with the following:

26 All licenses, certificates, and fees are current and paid;

27 Applicant is not delinquent in the payment of any tax administered by the Department or is not in default on
payment required pursuant to a written agreement with the Department; or is not otherwise liable to the Department
for the payment of money;

28 No citations for illegal activity or criminal conduct; and

Plans of correction are complete and on time, or are in progress within the required 10 business days.

1 26. The DoT utilized a question and answer process through a generic email account at
2 marijuana@tax.state.nv.us to allow applicants to ask questions and receive answers directly from the
3 DoT, and that information was not further disseminated by the DoT to other applicants.¹⁹

4 27. The cover letter with the application advised potential applicants of the process for
5 questions:

6 Do not call the division seeking application clarification or guidance.
7 Email questions to marijuana@tax.state.nv.us

8 28. No statutory or regulatory requirement for a single point of contact process required the
9 DoT to adopt this procedure.

10 29. As the individual responsible for answering the emailed questions stated:

11 Jorge Pupo is the MED deputy Director. Steve Gilbert is program manager and reports to Jorge.
12 I report to Steve. Steve prefers to not have the world know our structure. He likes industry folks
13 knowing though and addressing them. He has all questions come to me. One's I can't answer,
14 he fields and has me respond, then if he can't then Jorge gets them and Jorge has me respond.
That's the goal anyway. ☺

15 Ky Plaskon text to Rebecca Gaska 9/18/2018, Exhibit 1051.

16 30. Some applicants abided by this procedure.

17 31. The DoT did not post the questions and answers so that all potential applicants would be
18 aware of the process

19 32. The DoT made no effort to ensure that the applicants received the same answers
20 regardless of which employee of the DoT the applicant asked.

21 33. On July 9, 2018, at 4:06 pm, Amanda Connor sent a text to Pupo:

22 List of things for us to talk about when you can call me:

23 Attachment E

24 Attachment I

25 Requirement for a location or physical address

26 Attachment F

Requirement for initial licensing fee

27 ¹⁹ This single point of contact process had been used in the 2014 medical marijuana establishment application period.
28 The questions and answers were posted to the department's website for all potential applicants to review and remain there to
this day. Exhibit 2038.

1 Transfers of ownership

2
3 Exhibit 1588-052.

4 34. Although Pupo tried to direct Amanda Connor to Steve Gilbert, she texted him that she
5 would wait rather than speak to someone else.

6 35. On the morning of July 11, 2018, Pupo and Amanda Connor spoke for twenty-nine
7 minutes and forty-five seconds.²⁰

8
9 36. Despite the single point of contact process being established, the DoT departed from this
10 procedure. By allowing certain applicants and their representatives to personally contact the DoT
11 employee about the application process, the DoT violated its own established procedures for the
12 application process.

13 37. After the posting of the application on July 6, 2018, Pupo decided to eliminate the
14 physical location requirement outlined in NRS 453D.210(5) and NAC 453D.265(b)(3).²¹

15
16 38. The DoT published a revised application on July 30, 2018. This revised application was
17 sent to all participants via the DoT's Listserv. The revised application modified physical address
18 requirements. For example, a sentence on Attachment A of the application, prior to this revision, the
19 sentence had read, "Marijuana Establishment's proposed physical address (this must be a Nevada
20 address and cannot be a P.O. Box)." The revised application on July 30, 2018, read: "Marijuana
21 Establishment's proposed physical address if the applicant owns property or has secured a lease or
22 other property agreement (this must be a Nevada address and not a P.O. Box). Otherwise, the
23 applications are virtually identical.
24

25
26
27 ²⁰ Exhibit 1809-054.

28 ²¹ It is unclear whether Pupo had communications similar to those with Amanda Connor with other potential applicants or their agents as Pupo did not preserve the data from his cell phone.

1 39. The DoT sent a copy of the revised application through the Listserv used by the DoT.
2 Not all Plaintiffs' correct emails were included on this list.

3 40. The July 30, 2018, application, like its predecessor, described how applications were to
4 be scored. The scoring criteria was divided into identified criteria and non-identified criteria. The
5 maximum points that could be awarded to any applicant based on these criteria was 250 points.

6 41. The identified criteria consisted of organizational structure of the applicant (60 points);
7 evidence of taxes paid to the State of Nevada by owners, officers, and board members of the applicant
8 in the last 5 years (25 points); a financial plan (30 points); and documents from a financial institution
9 showing unencumbered liquid assets of \$250,000 per location for which an application is submitted.

10 42. The non-identified criteria²² all consisted of documentation concerning the integrated
11 plan of the proposed marijuana establishment for the care, quality and safekeeping of marijuana from
12 seed to sale (40 points); evidence that the applicant has a plan to staff, educate and manage the
13 proposed recreational marijuana establishment on a daily basis (30 points); a plan describing operating
14 procedures for the electronic verification system of the proposed marijuana establishment and
15 describing the proposed establishment's inventory control system (20 points); building plans showing
16 the proposed establishment's adequacy to serve the needs of its customers (20 points); and a proposal
17 explaining likely impact of the proposed marijuana establishment in the community and how it will
18 meet customer needs (15 points).

19 43. An applicant was permitted to submit a single application for all jurisdictions in which it
20 was applying, and the application would be scored at the same time.
21
22
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26

27 ²² About two weeks into the grading process the Independent Contractors were advised by certain DoT employees
28 that if an identifier was included in the nonidentified section points should be deducted. It is unclear from the testimony
whether adjustments were made to the scores of those applications graded prior to this change in procedure being
established.

1 44. Although the amended application changed the language related to a physical address,
2 there was still confusion.²³

3 45. Amanda Connor corresponded with Pupo by email requesting clarification on August
4 22, 2018.²⁴

5 46. Although the DoT had used certain DoT personnel to grade applications for medical
6 marijuana establishment applications in White Pine County shortly before the recreational applications
7 were graded, the DoT made a decision for resource and staff reasons that non DoT employees hired on
8 a temporary basis would be used to grade the recreational medical marijuana applications.
9

10 47. Prior to the close of the application evaluation process, Pupo discussed with a
11 representative of the Essence Entities the timing of closing a deal involving the purchase of the entities
12 by a publicly traded company.

13 48. By September 20, 2018, the DoT received a total of 462 applications.
14

15 _____
16 ²³ One plaintiff was advised by counsel (not Amanda Conner) that, despite the information related to the change for
17 physical address, the revised application appeared to conflict with the statute's physical address requirement and that
18 therefore a physical address was required.

19 ²⁴ The email thread reads:

20 On Aug 22 at 6:17 pm Amanda Connor wrote

21 Jorge –

22 I know the regulations make clear that land use or the property will not be considered in the application and having a
23 location secured is not required, but there seems to be some inconsistency in the application. Can you please confirm that a
24 location is not required and documentation about a location will not be considered or no points will be granted for having a
25 location?

26 On Aug 22 at 8:15 pm Pupo wrote:

27 That is correct. If you have a lease or own property than (sic) put those plans. If you dont (sic) then tell us what will the
28 floorplan be like etc etc

On Aug 22 at 8:24 pm Amanda Connor wrote

But a person who has a lease or owns the property will not get more points simply for having the property secured, correct?

On Aug 22 at 8:27 pm Pupo wrote:

Nope. LOCATION IS NOT SCORED DAMN IT!

Exhibit 2064.

1 49. In order to grade and rank the applications, the DoT posted notices that it was seeking to
2 hire individuals with specified qualifications necessary to evaluate applications. Certain DoT
3 employees also reached out to recent State retirees who might have relevant experience as part of their
4 recruitment efforts. The DoT interviewed applicants and made decisions on individuals to hire for each
5 position.

6 50. When decisions were made on who to hire, the individuals were notified that they would
7 need to register with “Manpower” under a preexisting contract between the DoT and that company.
8 Individuals would be paid through Manpower, as their application-grading work would be of a
9 temporary nature.
10

11 51. The DoT identified, hired, and provided some training to eight individuals hired to
12 grade the applications, including three to grade the identified portions of the applications, three to grade
13 the non-identified portions of the applications, and one administrative assistant for each group of
14 graders (collectively the “Independent Contractors”).
15

16 52. Based upon the testimony at trial, it remains unclear how the DoT trained the Temporary
17 Employees. While portions of the training materials from PowerPoint decks were introduced into
18 evidence, it is unclear which slides from the PowerPoint decks were used. Testimony regarding the
19 oral training based upon example applications and practice grading of prior medical marijuana
20 establishment applications was insufficient for the Court to determine the nature and extent of the
21 training of the Independent Contractors.
22

23 53. Based on the evidence adduced, the Court finds that the lack of training for the graders
24 affected the graders’ ability to evaluate the applications objectively and impartially.

25 54. NAC 453D.272(1) required the DoT to determine that an Application is “complete and
26 in compliance” with the provisions of NAC 453D in order to properly apply the licensing criteria set
27 forth therein and the provisions of the Ballot Initiative and the enabling statute.
28

1 55. In evaluating whether an application was “complete and in compliance,” the DoT made
2 no effort to verify owners, officers or board members (except for checking whether a transfer request
3 was made and remained pending before the DoT).

4 56. For purposes of grading the applicant’s organizational structure²⁵ and diversity, if an
5 applicant’s disclosure in its application of its owners, officers, and board members did not match the
6 DoT’s own records, the DoT did not penalize the applicant. Rather, the DoT permitted the grading, and
7 in some cases, awarded a conditional license to an applicant under such circumstances and dealt with
8 the issue by simply informing the winning applicant that its application would have to be brought into
9 conformity with DoT records.
10

11 57. The DoT announced the award of conditional licenses in December 2018.

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

17 59. Some of the Industry Defendants and their agent Ms. Connor, produced text messages
18 forensically extracted from their cell phones revealing the extent of contact and substance of
19 communications between them and Pupo. Additionally, phone records of Pupo identifying telephone
20 numbers communicated with and length of communication (but not content) were obtained from
21 Pupo’s cellular service provider. This evidence reinforces the presumption related to Pupo’s failure to
22 preserve evidence and reflects the preferential access and treatment provided.²⁶
23
24

25 ²⁵ The use of Advisory Boards by many applicants who were LLCs has been criticized. The DoT provided no
26 guidance to the potential applicants or the Temporary Employees of the manner by which these “Boards” should be
evaluated. As this applied equally to all applicants, it is not a basis for relief.

27 ²⁶ TGIG also was represented by Amanda Conner and had communications with Pupo. TGIG did not provide its
28 communications with Pupo.

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

6 61. The DoT's departure from its stated single point of contact and the degree of direct
7 personal contact outside the single point of contact process provided unequal, advantageous and
8 supplemental information to some applicants and is evidence of a lack of a fair process.

9 62. Pursuant to NAC 453D.295, the winning applicants received a conditional license that
10 would not be finalized unless within twelve months of December 5, 2018, the licensees receive a final
11 inspection of their marijuana establishment.²⁷

12 63. The DoT's lack of compliance with the established single point of contact and the
13 pervasive communications, meetings with Pupo, and preferential information provided to certain
14 applicants creates an uneven playing field because of the unequal information available to potential
15 applicants. This conduct created an unfair process for which injunctive relief may be appropriate.

16 64. The only direct action attributed to Pupo during the evaluation and grading process
17 related to the determination related to the monopolistic practices. Based upon the testimony adduced at
18 trial, Pupo's reliance upon advice of counsel from Deputy Attorney General Werbicky in making this
19 decision removes it from an arbitrary and capricious exercise of discretion.

20 65. Nothing in NRS 453D or NAC 453D provides for any right to an appeal or review of a
21 decision denying an application for a retail recreational marijuana license.

22 66. In 2019, more than three years from the passage of Ballot Question 2, Nevada's
23 legislature repealed NRS 453D.200. 2019 Statutes of Nevada, Page 3896.

24
25
26
27
28 ²⁷ The DoT has agreed to extend this deadline due to these proceedings and the public health emergency. Some of
the conditional licenses not enjoined under the preliminary injunction have now received final approval.

1 67. With its repeal, NRS 453D.200 was no longer effective as of July 1, 2020.

2 68. Nevada’s legislature also enacted statutes setting forth general qualifications for
3 licensure and registration of persons who have applied to receive marijuana establishment licenses.
4 NRS 678B.200.

5 69. The CCB was formed by the legislature and is now the government entity that oversees
6 and regulates the cannabis industry in the State of Nevada. By statute, the CCB now determines if the
7 “person is qualified to receive a license...” NRS 678B.200(1).
8

9 70. There are an extremely limited number of licenses available for the sale of recreational
10 marijuana.

11 71. The number of licenses available was set by BQ2 and is contained in NRS
12 453D.210(5)(d).

13 72. The secondary market for the transfer of licenses is limited.²⁸

14 73. Although there has been little tourism demand for legal marijuana sales due to the public
15 health emergency and as a result growth in legal marijuana sales has declined, the market is not
16 currently saturated. With the anticipated return of tourism after the abatement of the current public
17 health emergency, significant growth in legal marijuana sales is anticipated. Given the number of
18 variables related to new licenses, the claim for loss of market share is too speculative for relief.
19

20 74. Since the Court does not have authority to order additional licenses in particular
21 jurisdictions and because there are a limited number of licenses that are available in certain
22 jurisdictions, injunctive relief may be necessary to permit the Plaintiffs, if successful in the NRS
23 453D.210(6) process, to actually obtain a license with respect to the issues on which partial summary
24 judgment was granted.
25
26

27 ²⁸ Multiple changes in ownership have occurred since the applications were filed. Given this testimony, simply
28 updating the applications previously filed would not comply with BQ2.

75. The remaining Plaintiffs²⁹(excluding TGIG) (the “Untainted Plaintiffs”) have not identified by a preponderance of the evidence, that if a single point of contact was followed by the DoT and equal information provided to all applicants, as was done for the medical marijuana application process, that there is a substantial likelihood they would have been successful in the ranking process.

76. After balancing the equities among the parties, the Court determines that the balance of equities does not weigh in favor of the Untainted Plaintiffs on the relief beyond that previously granted in conjunction with the partial summary judgment order entered on August 17, 2020.

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

CONCLUSIONS OF LAW

78. This Court has previously held that the 5 percent rule found in NAC 453D.255(1) was an impermissible deviation from the background check requirement of NRS 453D.200(6) as applied to that statute.

79. “Any person...whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.” NRS 30.040.

80. A justiciable controversy is required to exist prior to an award of declaratory relief. *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986).

81. The purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the state's jurisdiction against intentional and arbitrary discrimination. . . .” *Sioux City Bridge Co. v. Dakota Cty., Neb.*, 260 U.S. 441, 445 (1923). If a suspect class or fundamental right is not implicated, then the law or regulation promulgated by the state will be upheld “so long as it bears

²⁹ TGIG's employment of Amanda Connor and direct contact with Pupo were of the same degree as the Industry Defendants who were clients of Amanda Connor.

1 a rational relation to some legitimate end.” *Romer v. Evans*, 517 U.S. 620, 631 (1996). When the state
2 or federal government arbitrarily and irrationally treats groups of citizens differently, such unequal
3 treatment runs afoul the Equal Protection Clause. *Engquist v. Oregon Dep’t of Agr.*, 553 U.S. 591, 601
4 (2008). Where an individual or group were treated differently but are not associated with any distinct
5 class, Plaintiffs must show that they were “intentionally treated differently from others similarly
6 situated and that there is no rational basis for the difference in treatment.” *Vill. of Willowbrook v.*
7 *Olech*, 528 U.S. 562, 564 (2000).

8
9 82. The Nevada Constitution also demands equal protection of the laws under Article 4,
10 Section 21 of the Nevada Constitution. *See Doe v. State*, 133 Nev. 763, 767, 406 P.3d 482, 486 (2017).

11 83. NRS 33.010 governs cases in which an injunction may be granted. The applicant must
12 show (1) a likelihood of success on the merits; and (2) a reasonable probability that the non-moving
13 party’s conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is
14 an inadequate remedy.

15
16 84. Plaintiffs have the burden to demonstrate that the DoT’s conduct, if allowed to continue,
17 will result in irreparable harm for which compensatory damages is an inadequate remedy.

18 85. The Nevada Supreme Court has recognized that “[i]nitiative petitions must be kept
19 substantively intact; otherwise, the people’s voice would be obstructed. . . [I]nitiative legislation is not
20 subject to judicial tampering. The substance of an initiative petition should reflect the unadulterated
21 will of the people and should proceed, if at all, as originally proposed and signed. For this reason, our
22 constitution prevents the Legislature from changing or amending a proposed initiative petition that is
23 under consideration.” *Rogers v. Heller*, 117 Nev. 169, 178, 18 P.3d 1034,1039–40 (2001).

24
25 86. BQ2 provides, “the Department shall adopt all regulations necessary or convenient to
26 carry out the provisions of this chapter.” NRS 453D.200(1). This language does not confer upon the
27 DoT unfettered or unbridled authority to do whatever it wishes without constraint. The DoT was not
28

1 delegated the power to legislate amendments because this is initiative legislation. The Legislature itself
2 has no such authority with regard to NRS 453D until three years after its enactment under the
3 prohibition of Article 19, Section 2 of the Constitution of the State of Nevada.

4 87. Where, as here, amendment of a voter-initiated law is temporally precluded from
5 amendment for three years, the administrative agency may not modify the law.³⁰

6 88. An agency's action in interpreting and executing a statute it is tasked with interpreting is
7 entitled to deference "unless it conflicts with the constitution or other statutes, exceeds the agency's
8 powers, or is otherwise arbitrary and capricious." *Nuleaf CLV Dispensary, LLC v. State Dept. of Health*
9 *and Human Services, Div. of Pub. and Behavioral Health*, 414 P.3d 305, 308 (Nev. 2018) (quoting
10 *Cable v. State ex rel. Emp'rs Ins. Co. of Nev.*, 122 Nev. 120, 126, 127 P.3d 528, 532 (2006)).

11 89. NRS 453D.200(1) provides that "the Department shall adopt all regulations necessary or
12 convenient to carry out the provisions of this chapter." The Court finds that the words "necessary or
13 convenient" are susceptible to at least two reasonable interpretations. This limitation applies only to
14 Regulations adopted by the DoT.
15

16 90. While the category of diversity is not specifically included in the language of BQ2, the
17 evidence presented in the hearing demonstrates that a rational basis existed for the inclusion of this
18 category in the Factors and the application.
19

20 91. The DoT's inclusion of the diversity category was implemented in a way that created a
21 process which was partial and subject to manipulation by applicants.
22

23 92. NAC 453D.272 contains what is commonly referred to as the Regulations' "anti-
24 monopoly" provision. It forbids the DoT from issuing to any person, group of persons, or entity, in a
25 county whose population is 100,000 or more, the greater of one license to operate a retail marijuana
26 store or more than 10 percent of the retail marijuana licenses allocable for the county.
27

28 ³⁰ The Court notes that the Legislature has now modified certain provisions of BQ2. The Court relies on those statutes and regulations in effect at the time of the application process.

1 93. Although not required to use a single point of contact process for questions related to the
2 application, once DoT adopted that process and published the appropriate process to all potential
3 applicants, the DoT was bound to follow that process.

4 94. The DoT employees provided various applicants with different information as to
5 diversity and what would be utilized from this category and whether it would be used merely as a
6 tiebreaker or as a substantive category.

7 95. The DoT selectively discussed with applicants or their agents the modification of the
8 application related to physical address as well as other information contained in the application.
9

10 96. The process was impacted by personal relationships in decisions related to the
11 requirements of the application and the ownership structures of competing applicants.

12 97. The intentional and repeated violations of the single point of contact process in favor of
13 only a select group of applicants was an arbitrary and capricious act and served to contaminate the
14 process. These repeated violations adversely affected applicants who were not members of that select
15 group. These violations are in and of themselves insufficient to void the process as urged by some of
16 the Plaintiffs.
17

18 98. The DoT disseminated various versions of the 2018 Retail Marijuana Application, one
19 of which was published on the DoT's website and required the applicant to provide an actual physical
20 Nevada address for the proposed marijuana establishment, and not a P.O. Box, and an alternative
21 version of the DoT's application form, which was distributed to some, but not all, of the potential
22 applicants via a DoT Listserv, which deleted the requirement that applicants disclose an actual physical
23 address for their proposed marijuana establishment.
24

25 99. The applicants were applying for conditional licensure, which would last for 1 year.
26 NAC 453D.282. The license was conditional based on the applicant's gaining approval from local
27
28

1 authorities on zoning and land use, the issuance of a business license, and the Department of Taxation
2 inspections of the marijuana establishment.

3 100. By selectively eliminating the requirement to disclose an actual physical address for
4 each and every proposed retail recreational marijuana establishment, the DoT limited the ability of the
5 Independent Contractors to adequately assess graded criteria such as (i) prohibited proximity to schools
6 and certain other public facilities, (ii) impact on the community, (iii) security, (iv) building plans, and
7 (v) other material considerations prescribed by the Regulations.

8
9 101. The hiring of Independent Contractors was well within the DoT's discretionary power.

10 102. The evidence establishes that the DoT failed to properly train the Independent
11 Contractors. The DoT failed to establish any quality assurance or quality control of the grading done
12 by Independent Contractors.³¹ This is not an appropriate basis for the requested relief as the DoT
13 treated all applicants the same in the grading process. The DoT's failures in training the Independent
14 Contractors applied equally to all applicants.

15
16 103. The DoT made licensure conditional for one year based on the grant of power to create
17 regulations that develop "[p]rocedures for the issuance, renewal, suspension, and revocation of a
18 license to operate a marijuana establishment." NRS 453D.200(1)(a). This was within the DoT's
19 discretion.

20 104. Certain of DoT's actions related to the licensing process were nondiscretionary
21 modifications of BQ2's mandatory requirements.³² The evidence establishes DoT's deviations
22 constituted arbitrary and capricious conduct without any rational basis for the deviation.

23
24 105. The DoT's decision to not require disclosure on the application and to not conduct
25 background checks of persons owning less than 5 percent prior to award of a conditional license is an

26
27 ³¹ The only QA/QC process was done by the Temporary Employees apparently with no oversight by the DoT.

28 ³² These are contained in the order entered August 17, 2020.

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

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

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

13 108. The balance of equities weighs in favor of Plaintiffs on the issue for which partial
14 summary judgment has been granted.³³
15

16 109. The DoT stands to suffer no appreciable losses and will suffer only minimal harm as a
17 result of an injunction related to the August 17, 2020, partial summary judgment.

18 110. The bond previously posted for the preliminary injunction is released to those parties
19 who posted the bond.³⁴

20 111. If any conclusions of law are properly findings of fact, they shall be treated as if
21 appropriately identified and designated.
22
23
24

25 ³³ The order concludes:

26 [A]s a matter of law, the DoT acted beyond the scope of its authority by replacing the requirement for
27 a background check of each prospective owner with the 5 percent or greater standard in NAC 453D.255(1).

28 ³⁴ Any objections to the release of the bond must be made within five judicial days of entry of this order. If no
objections are made, the Court will sign an order submitted by Plaintiffs. If an objection is made, the Court will set a
hearing for further argument on this issue.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

The claim for declaratory relief is granted. The Court declares:

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

The claim for equal protection is granted in part:

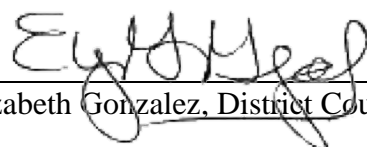
With respect to the decision by the DoT to arbitrarily and capriciously replace the mandatory requirement of BQ2, for the background check of each prospective owner, officer and board member with the 5 percent or greater standard in NAC 453.255(1), the DoT created an unfair process. No monetary damages are awarded given the speculative nature of the potential loss of market share.

Injunctive relief under these claims is appropriate. The State is permanently enjoined from conducting a final inspection of any of the conditional licenses issued in or about December 2018 for an applicant who did not provide the identification of each prospective owner, officer and board member as required by NRS 453D.200(6).

The Court declines to issue an extraordinary writ unless violation of the permanent injunction occurs.

All remaining claims for relief raised by the parties in this Phase are denied.

DATED this 3rd day of September 2020.

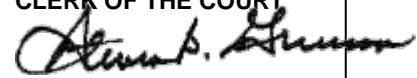

Elizabeth Gonzalez, District Court Judge

Certificate of Service

I hereby certify that on the date filed, these Findings of Fact, Conclusion of Law and Permanent Injunction were electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program.

/s/ Dan Kutinac
Dan Kutinac, JEA Dept XI

EXHIBIT K



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State of Nevada ex rel. its
Department of Taxation

DISTRICT COURT
CLARK COUNTY, NEVADA

In re DOT Litigation,

Case No. A-19-787004-B
Dept. No. XI

Consolidated with:
A-18-785818-W
A-18-786357-W
A-19-786962-B
A-19-787035-C
A-19787540-W
A-19-787726-C
A-19-801416-B

NOTICE OF ENTRY OF JUDGMENT

PLEASE TAKE NOTICE that a Findings of Fact, Conclusion of Law and Permanent Injunction was entered on the 16th day of September, 2020, a copy of which is attached hereto as Exhibit "A".

DATED this 22nd day of September, 2020.

AARON D. FORD
Attorney General

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

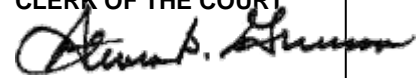
CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court by using the electronic filing system on the 22nd day of September, 2020, and e-served the same on all parties listed on the Court's Master Service List.

/s/ *Eddie Rueda*
Eddie Rueda, an employee of the
Office of the Attorney General

EXHIBIT A

EXHIBIT A



FFCL

DISTRICT COURT
CLARK COUNTY, NEVADA

In Re: D.O.T. Litigation

Case No. A-19-787004-B

Consolidated with:

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

Dept. No. XI

FINDINGS OF FACT, CONCLUSION OF LAW AND PERMANENT INJUNCTION

This matter having come before the Court for a non-jury trial on Phase 1 pursuant to the Trial Protocol¹ on September 8, 2020². The following counsel and party representatives participated in this Phase of the Trial:³

The Plaintiffs

Mark S. Dzarnoski, Esq. of the law firm Clark Hill, appeared on behalf of TGIG, LLC; Nevada Holistic Medicine, LLC; GBS Nevada Partners, LLC; Fidelis Holdings, LLC; Gravitas Nevada, LLC; Nevada Pure, LLC; Medifarm, LLC; and Medifarm IV, LLC; (Case No. A786962-B) (the “TGIG Plaintiffs”);

¹ Phase 1 of the Trial as outlined in the Trial Protocol includes all claims related to the petitions for judicial review filed by various Plaintiffs. Many of the Plaintiffs who filed Petitions for Judicial Review have now resolved their claims with the State and certain Industry Defendants.

² Prior to the commencement of Phase 1 of Trial, the Court completed the Trial of Phase 2 and issued a written decision on September 3, 2020. That decision included declaratory and injunctive relief related to many of the same issues raised by Plaintiffs in argument during this Phase. The Court previously limited the petition for judicial review process in this phase to the scoring and ranking of plaintiffs’ applications. See Order entered November 7, 2019.

³ Given the public health emergency Phase 1 of the Trial was conducted entirely by remote means.

1 Adam K. Bult, Esq. and Maximilien D. Fetaz, Esq. of the law firm Brownstein Hyatt Farber
2 Schreck, LLP, appeared on behalf of ETW Management Group, LLC; Global Harmony, LLC; Just
3 Quality, LLC; Libra Wellness Center, LLC; Rombough Real Estate Inc. dba Mother Herb; and Zion
4 Gardens, LLC; (Case No. A787004-B) (the “ETW Plaintiffs”);

5 Nathaniel R. Rulis, Esq. of the law firm Kemp, Jones & Coulthard, LLP, appeared on behalf of
6 MM Development Company, Inc. and LivFree Wellness, LLC; (Case No. A785818-W) (the “MM
7 Plaintiffs”);;

8 Theodore Parker III, Esq. and Jennifer Del Carmen, Esq. of the law firm Parker Nelson &
9 Associates, appeared on behalf of Nevada Wellness Center (Case No. A787540-W) and Frank
10 Hawkins appeared as the representative for Nevada Wellness Center;

11 Peter S. Christiansen, Esq. and Whitney Barrett, Esq. of the law firm Christiansen Law Offices,
12 appeared on behalf of Qualcan LLC;

13 James W. Puzey, Esq. of the law firm Holley, Driggs, Walch, Fine, Puzey, Stein & Thompson,
14 appeared on behalf of High Sierra Holistics, LLC;

15 Amy L. Sugden, Esq. of Sugden Law, appeared on behalf of THC Nevada, LLC and Allen Puliz
16 appeared as the representative for THC Nevada, LLC;

17 Sigal Chattah, Esq. of the law firm Chattah Law Group, appeared on behalf of Herbal Choice,
18 Inc..

19 Nicolas R. Donath, Esq. of the law firm N.R. Donath & Associates, PLLC, appeared on behalf
20 of Green Leaf Farms Holdings, LLC; Green Therapeutics, LLC; NevCann, LLC; and Red Earth, LLC;

21 Stephanie J. Smith, Esq. of Bendavid Law, appeared on behalf of Natural Medicine, LLC;

22 Craig D. Slater, Esq. of the law firm Luh & Associates, appeared on behalf of Clark Natural
23 Medicinal Solutions, LLC; NYE Natural Medicinal Solutions, LLC; Clark NMSD, LLC; and Inyo Fine
24 Cannabis Dispensary, LLC; and,

1 Clarence E. Gamble, Esq. of the law firm Ramos Law on behalf of Rural Remedies, LLC.

2 *The State*

3 Steven G. Shevorski, Esq. and Kiel Ireland, Esq. of the Office of the Nevada Attorney General,
4 appeared on behalf of the State of Nevada, Department of Taxation (“DoT”) and Cannabis Compliance
5 Board⁴ (“CCB”) (collectively “the State”).

6 *The Industry Defendants*

7 David R. Koch, Esq. of the law firm Koch & Scow, LLC, appeared on behalf of Nevada
8 Organic Remedies, LLC (“NOR”);

9 Rusty Graf, Esq. of the law firm Black & Lobello, appeared on behalf of Clear River, LLC;

10 Eric D. Hone, Esq. of the law firm H1 Law Group, appeared on behalf of Lone Mountain
11 Partners, LLC;

12 Alina M. Shell, Esq. of the law firm McLetchie Law, appeared on behalf of GreenMart of
13 Nevada NLV LLC;

14 Jared Kahn, Esq. of the law firm JK Legal & Consulting, LLC, appeared on behalf of Helping
15 Hands Wellness Center, Inc.;

16 Rick R. Hsu, Esq. of the law firm Maupin, Cox & LeGoy, appeared on behalf of Pure Tonic
17 Concentrates, LLC;

18 Andrew J. Sharples, Esq. of the law firm Naylor & Braster, appeared on behalf of Circle S
19 Farms, LLC;

20 Christopher Rose, Esq. and Kirill Mikhaylov, Esq. of the law firm Howard and Howard,
21 appeared on behalf of Wellness Connection of Nevada, LLC;

22
23
24
25
26
27 ⁴ The CCB was added based upon motion practice as a result of the transfer of responsibility for the Marijuana
28 Enforcement Division effective on July 1, 2020. While certain statutes and regulations in effect at the time of the
application process have been modified, for purposes of these proceedings the Court evaluates those that were in existence
at the time of the application process.

1 Richard D. Williamson, Esq. and Jonathan Tew, Esq. of the law firm Robertson, Johnson,
2 Miller & Williamson, appeared on behalf of Deep Roots Medical, LLC;

3 Joseph A. Gutierrez, Esq. of the law firm Maier Gutierrez & Associates, and Dennis Prince,
4 Esq. of the Prince Law Group, appeared on behalf of CPCM Holdings, LLC d/b/a Thrive Cannabis
5 Marketplace; Commerce Park Medical, LLC; and Cheyenne Medical, LLC (“Thrive”); and,

6 Todd L. Bice, Esq. and Jordan T. Smith, Esq. of the law firm Pisanelli Bice, appeared on behalf
7 of Integral Associates, LLC d/b/a Essence Cannabis Dispensaries; Essence Tropicana, LLC; Essence
8 Henderson, LLC; (“Essence”) (collectively the “Industry Defendants”).
9

10 Having read and considered the pleadings filed by the parties, having reviewed the
11 administrative record filed in this proceeding,⁵ and having considered the oral and written arguments of
12 counsel, and with the intent of deciding the remaining issues⁶ related to the various Petitions for
13 Judicial Review only,⁷ the Court makes the following findings of fact and conclusions of law:
14

15 **PROCEDURAL POSTURE**

16 Plaintiffs are a group of unrelated commercial entities who applied for, but did not receive,
17 licenses to operate retail recreational marijuana establishments in various local jurisdictions throughout
18 the state. Defendant is the DoT, which was the administrative agency responsible for issuing the
19 licenses at the times subject to these complaints. Some successful applicants for licensure intervened as
20 Defendants.
21
22

23 ⁵ The State produced the applications as redacted by various Plaintiffs on June 12, 2020 and supplemented with
24 additional information on June 26, 2020. The Court previously denied TGIG’s motion to supplement the record by order
25 entered August 28, 2020. The portions of the applications which were redacted varied based upon the decisions made by
26 each individual Plaintiff. These redacted applications do not provide the Court with information needed to make a decision
27 related to the “completeness” issue as argued during Phase 1. During Phase 2 of the Trial an unredacted application by THC
28 was admitted.

⁶ The Court granted partial summary judgment and remanded to the DoT, MM and LivFree’s appeals which had
been summarily rejected by Pupo. See written order filed on July 11, 2020.

⁷ While several plaintiffs have reached a resolution of their claims with the State and certain Industry Defendants,
the Petitions of the remaining plaintiffs remain virtually the same.

1 The Attorney General's Office was forced to deal with a significant impediment at the early
2 stages of the litigation. This inability to disclose certain information was outside of its control because
3 of confidentiality requirements that have now been slightly modified by SB 32. Although the parties
4 stipulated to a protective order on May 24, 2019,⁸ many documents produced in preparation for the
5 trial and for discovery purposes were heavily redacted or produced as attorney's eyes only because of
6 the highly competitive nature of the industry and sensitive financial and commercial information
7 involved. Much of the administrative record is heavily redacted and was not provided to the Court in
8 unredacted form.
9

10 **PRELIMINARY STATEMENT**

11 On June 12, 2020, the DOT submitted its Record on Review in Accordance with the Nevada
12 Administrative Procedure Act, including documents showing certain applicants' applications, the
13 scoring sheets, and related tally sheets. On June 26, 2020, the DOT filed a Supplement to Record on
14 Review in Accordance with the Nevada Administrative Procedure Act to add certain information
15 related to the dissemination of the applications. The documents contained within these two filings
16 (collectively, the "Record") provides all relevant evidence that resulted in the DoT's final decision. All
17 Plaintiffs redacted their own applications that are the subject of their Petition for Judicial Review.⁹
18

19 **FINDINGS OF FACT**

20 1. Ballot Question 2 ("BQ2") was enacted by the Nevada Legislature and is codified at
21 NRS 453D.¹⁰
22

23 ⁸ The Court recognizes the importance of utilizing a stipulated protective order for discovery purpose in complex
24 litigation involving confidential commercial information. NRS 600A.070. The use of a protective order does not relieve a
party of proffering evidence sufficient for the Court to make a determination on the merits related to the claims at issue.

25 ⁹ The Record filed by the State utilized the versions of the submitted applications which had been redacted by the
26 applicants as part of the stipulated protective order in this matter. Applications for which an attorney's eyes only
27 designation had been made by a Plaintiff were not included in the Record. The redacted applications submitted by Plaintiffs
limits the Court's ability to discern information related to this Phase.

28 ¹⁰ As the provisions of BQ2 and the sections of NRS 453D in effect at the time of the application process (with the
exception of NRS 453D.205) are identical, for ease of reference the Court cites to BQ2 as enacted by the Nevada
Legislature during the 2017 session in NRS 453D.

2. BQ2 specifically identified regulatory and public safety concerns:

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.020(3).

3. On February 27, 2018, the DoT adopted regulations governing the issuance, suspension, or revocation of retail recreational marijuana licenses in LCB File No. R092-17, which were codified in NAC 453D (the “Regulations”).

4. NRS 453D.210(6) mandated the DoT use “an impartial and numerically scored competitive bidding process” to determine successful applicants where competing applications were submitted.

5. NAC 453D.272(1) provides the procedure for when the DoT receives more than one “complete” application for a single county. Under this provision the DoT will determine if the “application is complete and in compliance with this chapter and Chapter 453D of NRS, the Department will rank the applications . . . in order from first to last based on the compliance with the provisions of this chapter and Chapter 453D of NRS and on the content of the applications relating to . . .” several enumerated factors. NAC 453D.272(1).

6. The DoT posted the application on its website and released the application for recreational marijuana establishment licenses on July 6, 2018.¹¹

¹¹ The DoT made a change to the application after circulating the first version of the application to delete the requirement of a physical location. The modification resulted in a different version of the application bearing the same “footer” with the original version remaining available on the DoT’s website.

1 7. The DoT used a Listserv¹² to communicate with prospective applicants.

2 8. Applications were accepted from September 7, 2018 through September 20, 2018.

3 9. After the posting of the application on July 6, 2018, Pupo decided to eliminate the
4 physical location requirement outlined in NRS 453D.210(5) and NAC 453D.265(b)(3).

5 10. The DoT published a revised application on July 30, 2018. This revised application was
6 sent to all participants via the DoT's Listserv. The revised application modified physical address
7 requirements. For example, a sentence on Attachment A of the application, prior to this revision, the
8 sentence had read, "Marijuana Establishment's proposed physical address (this must be a Nevada
9 address and cannot be a P.O. Box)." The revised application on July 30, 2018, read: "Marijuana
10 Establishment's proposed physical address if the applicant owns property or has secured a lease or
11 other property agreement (this must be a Nevada address and not a P.O. Box)." Otherwise, the
12 applications are virtually identical.

13 11. The DoT sent a copy of the revised application through the Listserv used by the DoT.
14 Not all Plaintiffs' correct emails were included on this list.

15 12. The July 30, 2018, application, like its predecessor, described how applications were to
16 be scored. The scoring criteria was divided into identified criteria and non-identified criteria. The
17 maximum points that could be awarded to any applicant based on these criteria was 250 points.

18 13. The identified criteria consisted of organizational structure of the applicant (60 points);
19 evidence of taxes paid to the State of Nevada by owners, officers, and board members of the applicant
20 in the last 5 years (25 points); a financial plan (30 points); and documents from a financial institution
21 showing unencumbered liquid assets of \$250,000 per location for which an application is submitted.
22
23
24
25
26

27 ¹² According to Dictionary.com, the term "Listserv" is used to refer to online mailing list. When capitalized it refers
28 to a proprietary software.

1 14. The non-identified criteria all consisted of documentation concerning the integrated plan
2 of the proposed marijuana establishment for the care, quality and safekeeping of marijuana from seed to
3 sale (40 points); evidence that the applicant has a plan to staff, educate and manage the proposed
4 recreational marijuana establishment on a daily basis (30 points); a plan describing operating
5 procedures for the electronic verification system of the proposed marijuana establishment and
6 describing the proposed establishment's inventory control system (20 points); building plans showing
7 the proposed establishment's adequacy to serve the needs of its customers (20 points); and a proposal
8 explaining likely impact of the proposed marijuana establishment in the community and how it will
9 meet customer needs (15 points).
10

11 15. An applicant was permitted to submit a single application for all jurisdictions in which it
12 was applying, and the application would be scored at the same time.

13 16. By September 20, 2018, the DoT received a total of 462 applications.

14 17. NAC 453D.272(1) required the DoT to determine that an Application is "complete and
15 in compliance" with the provisions of NAC 453D in order to properly apply the licensing criteria.¹³
16

17 18. In evaluating whether an application was "complete and in compliance," the DoT made
18 no effort to verify owners, officers or board members (except for checking whether a transfer request
19 was made and remained pending before the DoT).¹⁴
20

21 19. The DoT announced the award of conditional licenses in December 2018.
22
23

24 ¹³ The Plaintiffs argue that the failure to provide an actual proposed physical address should render many of the
25 applications incomplete and requests that Court remand the matter to the State for a determination of the completeness of
26 each application and supplementation of the record. As the physical address issue has been resolved by the Court in the
Phase 2 decision, the Court declines to take any action on the petition for judicial review with respect to this issue.

27 ¹⁴ As the Plaintiffs (with the exception of THC) have not provided their unredacted applications, the Court cannot
28 make a determination with respect to completeness of this area. As the Court has already granted a permanent injunction on
the ownership issue, the Court declines to take any further action on the petition for judicial review with respect to this
issue.

1 20. Pursuant to NAC 453D.295, the winning applicants received a conditional license that
2 would not be finalized unless within twelve months of December 5, 2018, the licensees receive a final
3 inspection of their marijuana establishment.¹⁵

4 21. Nothing in NRS 453D or NAC 453D provides for any right to an appeal or review of a
5 decision denying an application for a retail recreational marijuana license.

6 22. In 2019, more than three years from the passage of BQ2, Nevada's legislature repealed
7 NRS 453D.200. 2019 Statutes of Nevada, Page 3896.

8 23. With its repeal, NRS 453D.200 was no longer effective as of July 1, 2020.

9 24. Nevada's legislature also enacted statutes setting forth general qualifications for
10 licensure and registration of persons who have applied to receive marijuana establishment licenses.
11 NRS 678B.200.

12 25. The CCB was formed by the legislature and is now the government entity that oversees
13 and regulates the cannabis industry in the State of Nevada. By statute, the CCB now determines if the
14 "person is qualified to receive a license..." NRS 678B.200(1).

15 26. The Plaintiffs have not identified by a preponderance of the evidence any specific
16 instance with respect to their respective applications that the procedure used by the DoT for analyzing,
17 evaluating, and ranking the applications was done in violation of the applicable regulations or in an
18 arbitrary or capricious manner.

19 27. To the extent that judicial review would be available in this matter, no additional relief is
20 appropriate beyond that contained in the decision entered on September 3, 2020.¹⁶

21 ¹⁵ The DoT has agreed to extend this deadline due to these proceedings and the public health emergency. Some of
22 the conditional licenses not enjoined under the preliminary injunction have now received final approval.

23 ¹⁶ The Court recognizes the decision in *State Dep't of Health & Human Services, Div. of Pub. & Behavioral Health*
24 *Med. Marijuana Establishment Program v. Samantha Inc.* ("Samantha"), 133 Nev. 809, 815-16, 407 P.3d 327, 332 (2017),
25 limits the availability of judicial review. Here as the alternative claims not present in that matter have already been decided
26 by written order entered September 3, 2020, regardless of whether the vehicle of judicial relief is appropriate, no further
27 relief will be granted in this matter.
28

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

CONCLUSIONS OF LAW

29. This Court has previously held that the 5 percent rule found in NAC 453D.255(1) was an impermissible deviation from the background check requirement of NRS 453D.200(6) as applied to that statute.

30. This Court has previously held that the deletion of the physical address requirement given the decision in *Nuleaf CLV Dispensary, LLC v. State Dept. of Health and Human Services, Div. of Pub. and Behavioral Health*, 414 P.3d 305, 308 (Nev. 2018) does not form a basis for relief.¹⁷

31. “Courts have no inherent appellate jurisdiction over official acts of administrative agencies.” *Fitzpatrick v. State ex rel., Dept. of Commerce, Ins. Div.*, 107 Nev. 486, 488, 813 P.2d 1004 (1991) (citing *Crane*, 105 Nev. 399, 775 P.2d 705).

32. Under NRS 233B.130(1), judicial review is only available for a party who is “(a) [i]dentified as a party of record by an agency in an administrative proceeding; and (b) [a]ggrieved by a final decision in a contested case.”

33. A contested case is “a proceeding . . . in which the legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing, or in which an administrative penalty may be imposed.” NRS 233B.032.

34. A valid petition for judicial review requires a record of the proceedings below to be transmitted to the reviewing court within a certain timeframe. NRS 233B.131. The record in such a case must include:

- (a) All pleadings, motions and intermediate rulings.
- (b) Evidence received or considered.
- (c) A statement of matters officially noticed.

¹⁷ The Court remains critical of the method by which the decision to delete the address requirement was made and the manner by which it was communicated. These issues are fully addressed in the decision entered September 3, 2020.

- (d) Questions and offers of proof and objections, and rulings thereon.
(e) Proposed findings and exceptions.
(f) Any decision, opinion or report by the hearing officer presiding at the hearing.

NRS 233B.121(7).

35. Judicial review under NRS 233B is to be restricted to the administrative record. *See* NRS 233B.135(1)(b).

36. The Record provides all relevant evidence that resulted in the DoT's analysis of Plaintiffs' applications.

37. The Record is limited and Plaintiffs themselves redacted their own applications at issue.

38. The Record in this case does not support Plaintiffs' Petition.

39. Plaintiffs do not cite to any evidence in the Record that supports their substantive arguments.

40. The Plaintiffs have not met their burden of establishing that the DoT's decisions granting and denying the applications for conditional licenses: (1) violated constitutional and/or statutory provisions; (2) exceeded the DOT's statutory authority; (3) were based upon unlawful procedure; (4) were clearly erroneous based upon the Record; (5) were arbitrary and capricious; or (6) generally constituted an abuse of discretion.

41. The applicants were applying for conditional licensure, which would last for 1 year. NAC 453D.282. The license was conditional based on the applicant gaining approval from local authorities on zoning and land use, the issuance of a business license, and the Department of Taxation inspections of the marijuana establishment.

42. The DoT made licensure conditional for one year based on the grant of power to create regulations that develop "[p]rocedures for the issuance, renewal, suspension, and revocation of a license to operate a marijuana establishment." NRS 453D.200(1)(a). This was within the DoT's discretion.

1 43. If any conclusions of law are properly findings of fact, they shall be treated as if
2 appropriately identified and designated.

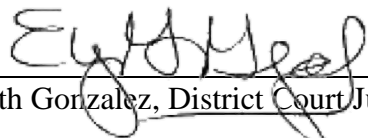
3 **ORDER**

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:**

5 Plaintiffs' Petitions for Judicial Review under NRS 233B.130 is denied in its entirety.

6 All remaining claims for relief raised by the parties in this Phase are denied.

7 DATED this 16th day of September 2020.

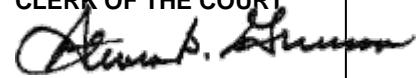
8
9 
10 _____
11 Elizabeth Gonzalez, District Court Judge

12
13 **Certificate of Service**

14 I hereby certify that on the date filed, these Findings of Fact, Conclusion of Law and Permanent
15 Injunction were electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the
16 Eighth Judicial District Court Electronic Filing Program.

17
18 /s/ *Dan Kutinac*
19 Dan Kutinac, JEA Dept XI

EXHIBIT L



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State of Nevada ex rel. its
Department of Taxation

DISTRICT COURT
CLARK COUNTY, NEVADA

In re DOT Litigation,

Case No. A-19-787004-B
Dept. No. XI

Consolidated with:
A-18-785818-W
A-18-786357-W
A-19-786962-B
A-19-787035-C
A-19787540-W
A-19-787726-C
A-19-801416-B

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an Order Denying Motion to Amend and
Countermotion to Clarify Findings of Fact and Conclusions of Law was entered on the 27th
day of October, 2020, a copy of which is attached hereto as Exhibit "A".

DATED this 27th day of October, 2020.

AARON D. FORD
Attorney General

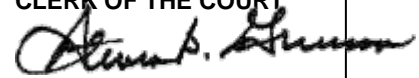
By: /s/ Steve Shevorski
Steve Shevorski (Bar No. 8256)
Chief Litigation Counsel
Attorneys for Defendant
State of Nevada ex rel. its
Department of Taxation

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/s/ Traci Plotnick
Traci Plotnick, an employee of the
Office of the Attorney General

EXHIBIT A

EXHIBIT A



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Attorneys for the State of Nevada

DISTRICT COURT
CLARK COUNTY, NEVADA

IN RE DOT

Case No. A-19-787004-B
Dept. No. XI

CONSOLIDATED WITH:

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

**ORDER DENYING MOTION TO AMEND AND COUNTERMOTION TO CLARIFY
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Two matters came before the Court in chambers on October 15, 2020: (1) TGIG Plaintiffs' Motion to Amend Findings of Fact and Conclusions of Law and Permanent Injunction in which Clark Natural Medicinal Solutions LLC, Nye Natural Medicinal Solutions LLC, Clark NMSD LLC, Inyo Fine Cannabis Dispensary LLC, Green Leaf Farms Holdings LLC, Green Therapeutics LLC, NevCann LLC, Red Earth LLC, Rural Remedies LLC, THC Nevada LLC, and Herbal Choice, Inc. joined ("Motion to Amend"); and (2) Wellness Connection of Nevada, LLC's Countermotion to Clarify and/or for Additional Findings ("Countermotion to Clarify").

...

1 **A. Synopsis of arguments made in support of and in opposition to the**
2 **Motion to Amend**

3 The TGIG plaintiffs asked the Court to amend the September 3, 2020 Findings of
4 Fact and Conclusions of Law and Permanent Injunction (“FFCL”) to clarify that the Court’s
5 permanent injunction—*i.e.*, the Court’s decision “enjoying the State from conducting a final
6 inspection of any of the conditional licenses issued on or about December 2018 for an
7 applicant who did not provide the identification of each prospective owner, officer and board
8 member as required by NRS 453D.200(6)” —applies to the settling and non-settling parties
9 alike. The TGIG plaintiffs further argued that the contemplated license transfers under
10 the Settlement Agreement are unlawful under NAC 453D.315(9) because, *inter alia*, the
11 establishments of the settling plaintiffs receiving conditional licenses may not “meet or
12 exceed” the criteria of the establishments of the settling intervenors whose applications
13 scored (much) higher. The TGIG plaintiffs argued that the Department of Taxation
14 (“Department”) had no “authority to disregard the law in furtherance of any proposed
15 partial settlement” and that the Court should neither dismiss the actions nor the settling
16 defendants.

17 The Department opposed the TGIG Plaintiffs’ motion. Rule 59(e) motions fail unless
18 the moving party demonstrates manifest errors of law or fact, newly discovered evidence
19 or previously unavailable evidence, manifest injustice or the controlling law has changed.
20 *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 582, 245 P.3d 1190, 1193 (2010).
21 The TGIG Plaintiffs seek to amend the permanent injunction order to bar Nevada Organic
22 Remedies, LLC (“NOR”), Greenmart of Nevada NLV, LLC (“Greenmart”), Lone Mountain
23 Partners, LLC (“Lone Mountain”), and Helping Hands Wellness Center, Inc. (“Helping
24 Hands”) from achieving final inspection on their conditional licenses. But Rule 59(e) cannot
25 be misused to regurgitate arguments rejected in the Court’s preliminary injunction and
26 permanent injunction orders. Similarly, the TGIG Plaintiffs assert the license transfers
27 pursuant to the partial settlement are invalid, but ignore that this Court already rejected
28 those arguments when denying THC Nevada, LLC’s motion for temporary restraining

1 order to block administrative approval of that partial settlement agreement. In sum, the
2 Court cannot grant relief against settling parties the TGIG Plaintiffs did not sue and as to
3 whom they provided no evidence. The Settling Plaintiffs, Circle S Farms, LLC (“Circle S”),
4 NOR, and Lone Mountain joined in the Department’s Opposition. Clear River joined in
5 Lone Mountain’s joinder.

6 Lone Mountain and Helping Hands filed separate oppositions but both argued that
7 there is no legal basis to enjoin them, because: (1) the Department already made a
8 determination that Lone Mountain and Helping Hands should be removed from Tier 3
9 status, to which the Court should and did defer; (2) the TGIG Plaintiffs offered no evidence
10 at trial concerning Lone Mountain’s ownership or that Helping Hands failed to disclose
11 owners, officers or board members to support an injunction; and (3) the TGIG Plaintiffs did
12 not meet any of the four grounds for granting a Rule 59(e) motion to amend. Circle S, NOR,
13 and Greenmart joined in their Oppositions.

14 Finally, the Essence Parties (“Essence”) filed a Limited Opposition, opposing any
15 request to amend or alter a finding invalidating the Department’s ranking of applications.
16 Essence agreed with the TGIG Plaintiffs, however, that the Court’s FFCL apply to and bind
17 all Plaintiffs, including the settling plaintiffs, because the FFCL were entered before any
18 party was dismissed and all Plaintiffs proceeded to trial on their claims. Circle S and
19 Greenmart joined in Essence’s Limited Opposition.

20 **B. Synopsis of arguments made in support of and in opposition to the**
21 **Countermotion to Clarify and for Additional Findings**

22 Wellness Connection of Nevada, LLC (“Wellness Connection”) in its Countermotion
23 to Clarify asked the Court to make clear which of the entities were affected by its injunction
24 because the Court held that, “[t]he DoT did not comply with BQ2 by requiring applicants
25 to provide information for each prospective owner, officer and board member or verify the
26 ownership of applicants applying for retail recreational marijuana licenses. Instead the
27 DoT issued conditional licenses to applicants who did not identify each prospective owner,
28 officer and board member.” Specifically, Wellness Connection asked the Court to identify

1 the applicants who did not identify each prospective owner, officer and board member
2 during the 2018 recreational marijuana application process. Wellness Connection argued
3 clarification or additional findings were necessary to uphold the impartial and numerically
4 scored bidding process, and because Wellness Connection is “numerically ranked as the
5 next most qualified applicant in certain jurisdictions” and would take the place of any
6 enjoined applicant.

7 Lone Mountain filed an opposition (which the Department joined), which argued: (1)
8 there is no basis to subject Lone Mountain to the permanent injunction and the Court
9 should defer to the Department (and now CCB) to determine how licensees are categorized
10 in connection with the Court’s preliminary and permanent injunction; (2) no evidence was
11 adduced at trial concerning Lone Mountain’s ownership, or any alleged failure to properly
12 disclose its owners, officers, and board members; (3) Wellness Connection did not provide
13 evidence at trial to support the specific findings it now seeks in its post-trial motion; and
14 (4) Wellness Connection lacks standing as an intervenor defendant to request specific
15 findings on claims it did not make. The Department, Greenmart, Essence, and NOR joined
16 in Lone Mountain’s Opposition. In their respective joinders, NOR and Greenmart added
17 that the Court had specifically “left it to the State to make an administrative
18 determination” as to whether applicants identified each owner, officer, and board member
19 as required by NRS 453D.200(6). NOR also argued that neither the Plaintiffs nor Wellness
20 Connection had provided the Court with evidence to make an independent determination
21 as to whether they had complied with NRS 463D.200(6).

22 In reply, Wellness Connection argued that it did provide evidence of its own
23 compliance with NRS 453D.200(6), that the Court had evidence to make a determination,
24 that none of the Opposing Parties challenged the Court’s Injunction, and that it had
25 standing as a party to seek clarification. Wellness Connection also argued that based on
26 the district court’s finding that the Department violated BQ2 and the permanent injunction
27 enjoining the Department from granting final approval to any applicant that improperly
28 . . .

1 received a conditional license, clarification or additional findings were necessary to make
2 the permanent injunction meaningful.

3 **C. The Court's findings and order**

4 The Court, having considered the papers filed in support of and in opposition to the
5 Motion to Amend and Countermotion to Clarify, denies both Motions. However, the Court
6 clarifies its FFCL as follows: The order (and its analysis) applies to all Plaintiffs, whether
7 they settled or not. The Court finds that there is no need to specifically identify the entities
8 because the State is the enjoined party—not any of the applicants, whether they settled or
9 not.

10 Wherefore, IT IS HEREBY ORDERED that the Motion to Amend and the
11 Countermotion to Clarify are DENIED.

12 Dated this 26th day of October, 2020

13
14
15 
16 DISTRICT COURT JUDGE

17 Submitted by:

18 AARON D. FORD
19 Attorney General

20 By: /s/ Steve Shevorski
21 Steve Shevorski (Bar No. 8256)
22 Chief Litigation Counsel
23 Akke Levin (Bar No. 9102)
24 Senior Deputy Attorney General
25 Kiel B. Ireland (Bar No. 15368C)
26 Deputy Attorney General
27 *Attorneys for the State of Nevada*
28

Traci A. Plotnick

Subject: FW: In re DOT-draft order on motion to amend and counter motion to clarify
Attachments: 2020-10-26 Order re Motion to Amend and Counter motion to Clarify.docx
Importance: High

From: Akke Levin

Sent: Monday, October 26, 2020 12:09 PM

To: 'Kirill V. Mikhaylov' <kvm@h2law.com>; 'Gentile, Dominic' <dgentile@ClarkHill.com>; 'Hunt, John A.' <jhunt@clarkhill.com>; 'Amy Sugden' <amy@sugdenlaw.com>; 'clarence@ramoslaw.com' (<clarence@ramoslaw.com>) <clarence@ramoslaw.com>; 'Todd Bice' <tlb@pisanellibice.com>; 'Jordan T. Smith' <JTS@pisanellibice.com>; 'Nathanael Rulis' <n.rulis@kempjones.com>; 'Pat Stoppard' <p.stoppard@kempjones.com>; 'Dennis Prince' <dprince@thedplg.com>; 'Bult, Adam K.' <ABult@BHFS.com>; 'Fetaz, Maximilien' <MFetaz@BHFS.com>; 'Teddy Parker' <TParker@pnalaw.net>; 'David R. Koch' <dkoch@kochscow.com>; 'Jared Kahn' <jkahn@jk-legalconsulting.com>; 'Eric Hone' <eric@h1lawgroup.com>; 'Alina' <Alina@nvlitigation.com>; 'Rusty Graf' <rgraf@blacklobello.law>; 'rgraf@blackwadhams.law' <rgraf@blackwadhams.law>; 'bhiggins@blackwadhams.law' <bhiggins@blackwadhams.law>; 'chattahlaw@gmail.com' <chattahlaw@gmail.com>; 'nick@nrdarelaw.com' <nick@nrdarelaw.com>; 'Joel Schwarz' <joel@h1lawgroup.com>; 'Jamie Zimmerman' <jamie@h1lawgroup.com>; 'afulton@jfnvlaw.com' <afulton@jfnvlaw.com>; 'Jennifer Braster' <jbraster@nblawnv.com>; 'Andrew Sharples' <asharples@nblawnv.com>; 'L. Christopher Rose' <lcr@h2law.com>
Cc: Steven G. Shevorski <sshevorski@ag.nv.gov>; 'Miller, Ross' <rmiller@ClarkHill.com>; 'Dzarnoski, Mark' <mdzarnoski@clarkhill.com>; 'sscow@kochscow.com' <sscow@kochscow.com>; 'Gail@ramoslaw.com' <Gail@ramoslaw.com>; Traci A. Plotnick <TPlotnick@ag.nv.gov>

Subject: RE: In re DOT-draft order on motion to amend and counter motion to clarify

Importance: High

All:

I have not received any additional comments from anyone since circulating the revised order Friday. Unless we hear from you by **2 p.m.** today, we will assume all parties approve and submit the attached order to the Court.

Akke

From: Akke Levin

Sent: Friday, October 23, 2020 10:18 AM

To: 'Kirill V. Mikhaylov' <kvm@h2law.com>; 'Gentile, Dominic' <dgentile@ClarkHill.com>; 'Hunt, John A.' <jhunt@clarkhill.com>; 'Amy Sugden' <amy@sugdenlaw.com>; 'clarence@ramoslaw.com' (<clarence@ramoslaw.com>) <clarence@ramoslaw.com>; 'Todd Bice' <tlb@pisanellibice.com>; 'Jordan T. Smith' <JTS@pisanellibice.com>; 'Nathanael Rulis' <n.rulis@kempjones.com>; 'Pat Stoppard' <p.stoppard@kempjones.com>; 'Dennis Prince' <dprince@thedplg.com>; 'Bult, Adam K.' <ABult@BHFS.com>; 'Fetaz, Maximilien' <MFetaz@BHFS.com>; 'Teddy Parker' <TParker@pnalaw.net>; 'David R. Koch' <dkoch@kochscow.com>; 'Jared Kahn' <jkahn@jk-legalconsulting.com>; 'Eric Hone' <eric@h1lawgroup.com>; 'Alina' <Alina@nvlitigation.com>; 'Rusty Graf' <rgraf@blacklobello.law>; 'rgraf@blackwadhams.law' <rgraf@blackwadhams.law>; 'bhiggins@blackwadhams.law' <bhiggins@blackwadhams.law>; 'chattahlaw@gmail.com' <chattahlaw@gmail.com>; 'nick@nrdarelaw.com' <nick@nrdarelaw.com>; 'Joel Schwarz' <joel@h1lawgroup.com>; 'Jamie Zimmerman' <jamie@h1lawgroup.com>; 'afulton@jfnvlaw.com' <afulton@jfnvlaw.com>; 'Jennifer Braster' <jbraster@nblawnv.com>; 'Andrew Sharples' <asharples@nblawnv.com>; 'L. Christopher Rose' <lcr@h2law.com>
Cc: Steven G. Shevorski <sshevorski@ag.nv.gov>; 'Miller, Ross' <rmiller@ClarkHill.com>; 'Dzarnoski, Mark' <mdzarnoski@clarkhill.com>; 'sscow@kochscow.com' <sscow@kochscow.com>; 'Gail@ramoslaw.com' <Gail@ramoslaw.com>; Traci A. Plotnick

<TPlotnick@ag.nv.gov>

Subject: RE: In re DOT-draft order on motion to amend and countermotion to clarify

Please see attached a revised draft order incorporating Wellness Connection's substantive changes and fixing a few typos (thanks Max). My only counter-suggestions are to omit repeating the full title of Wellness Connection's countermotion, because we already identify and define it on page 1

From: Kirill V. Mikhaylov <kvm@h2law.com>

Sent: Thursday, October 22, 2020 1:16 PM

To: Akke Levin <ALevin@ag.nv.gov>; 'Gentile, Dominic' <dgentile@ClarkHill.com>; 'Hunt, John A.' <jhunt@clarkhill.com>; 'Amy Sugden' <amy@sugdenlaw.com>; 'clarence@ramoslaw.com' (clarence@ramoslaw.com) <clarence@ramoslaw.com>; Todd Bice <tlb@pisanellibice.com>; Jordan T. Smith <JTS@pisanellibice.com>; Nathanael Rulis <n.rulis@kempjones.com>; Pat Stoppard <p.stoppard@kempjones.com>; Dennis Prince <dprince@thedplg.com>; Bult, Adam K. <ABult@BHFS.com>; 'Fetaz, Maximilien' <MFetaz@BHFS.com>; 'Teddy Parker' <TParker@pnalaw.net>; David R. Koch <dkoch@kochscow.com>; Jared Kahn <jkahn@jk-legalconsulting.com>; Eric Hone <eric@h1lawgroup.com>; Alina <Alina@nvlitigation.com>; Rusty Graf <rgraf@blacklobello.law>; rgraf@blackwadhams.law; bhiggins@blackwadhams.law; chattahlaw@gmail.com; nick@nrdarelaw.com; Joel Schwarz <joel@h1lawgroup.com>; Jamie Zimmerman <jamie@h1lawgroup.com>; 'afulton@jfnvlaw.com' <afulton@jfnvlaw.com>; Jennifer Braster <jbraster@nblawnv.com>; Andrew Sharples <asharples@nblawnv.com>; L. Christopher Rose <lcr@h2law.com>

Cc: Steven G. Shevorsi <SShevorsi@ag.nv.gov>; Miller, Ross <rmiller@ClarkHill.com>; Dzarnoski, Mark <mdzarnoski@clarkhill.com>; sscow@kochscow.com; 'Gail@ramoslaw.com' <Gail@ramoslaw.com>; Traci A. Plotnick <TPlotnick@ag.nv.gov>

Subject: RE: In re DOT-draft order on motion to amend and countermotion to clarify

Good Afternoon Akke,

Attached please find Wellness Connection's changes to the proposed Order. Please let us know if you have any comments or concerns.

Thank you.



Kirill V. Mikhaylov
Attorney

3800 Howard Hughes Pkwy., Ste. 1000, Las Vegas, NV 89169

D: 702.667.4831 | F: 702.567.1568

kvm@h2law.com | Bio | vCard

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Sent: Wednesday, October 21, 2020 11:49 AM

To: 'Gentile, Dominic' <dgentile@ClarkHill.com>; 'Hunt, John A.' <jhunt@clarkhill.com>; 'Amy Sugden' <amy@sugdenlaw.com>; 'clarence@ramoslaw.com' (clarence@ramoslaw.com) <clarence@ramoslaw.com>; Todd Bice <tlb@pisanellibice.com>; Jordan T. Smith <JTS@pisanellibice.com>; Nathanael Rulis <n.rulis@kempjones.com>; Pat Stoppard <p.stoppard@kempjones.com>; Dennis Prince <dprince@thedplg.com>; Bult, Adam K. <ABult@BHFS.com>; 'Fetaz, Maximilien' <MFetaz@BHFS.com>; 'Teddy Parker' <TParker@pnalaw.net>; David R. Koch <dkoch@kochscow.com>; Jared Kahn <jkahn@jk-legalconsulting.com>; Eric Hone <eric@h1lawgroup.com>; Alina

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Jamie Zimmerman <jamie@h1lawgroup.com>; 'Chris Rose' <LCR@juvlaw.com>; Kirill V. Mikhaylov <kvm@h2law.com>;
'afulton@jfnvlaw.com' <afulton@jfnvlaw.com>; Jennifer Braster <jbraster@nblawnv.com>; Andrew Sharples
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<TPlotnick@ag.nv.gov>

Subject: In re DOT-draft order on motion to amend and countermotion to clarify

CAUTION: EXTERNAL EMAIL

All:

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Thank you,

Akke Levin
Senior Deputy Attorney General
Office of the Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas NV 89101
Tel.: 702-486-8727

Traci A. Plotnick

From: Akke Levin
Sent: Monday, October 26, 2020 12:52 PM
To: Traci A. Plotnick
Subject: FW: In re DOT-draft order on motion to amend and countermotion to clarify

From: David Koch <dkoch@kochscow.com>
Sent: Thursday, October 22, 2020 8:17 AM
To: Akke Levin <ALevin@ag.nv.gov>
Subject: Re: In re DOT-draft order on motion to amend and countermotion to clarify

Looks great to me. Thanks, Akke.

David R. Koch

Koch & Scow LLC
11500 S. Eastern Ave., Suite 210
Henderson, NV 89052
Tel: (702) 318-5040
Fax: (702) 318-5039
[e-mail: dkoch@kochscow.com](mailto:dkoch@kochscow.com)

On Oct 21, 2020, at 11:49 AM, Akke Levin <alevin@ag.nv.gov> wrote:

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<2020-10-21 Order re Motion to Amend and Countermotion to Clarify.docx><Minute Order 10-15-20.pdf>

Traci A. Plotnick

From: Akke Levin
Sent: Monday, October 26, 2020 12:52 PM
To: Traci A. Plotnick
Subject: FW: In re DOT-draft order on motion to amend and counter-motion to clarify

From: Amy Sugden <amy@sugdenlaw.com>
Sent: Friday, October 23, 2020 1:43 PM
To: Akke Levin <ALevin@ag.nv.gov>
Subject: Re: In re DOT-draft order on motion to amend and counter-motion to clarify

Thanks Akke. I have no suggested changes.

Have a nice weekend.

Amy

From: Akke Levin <ALevin@ag.nv.gov>
Date: Friday, October 23, 2020 at 12:19 PM
To: "Kirill V. Mikhaylov" <kvm@h2law.com>, "Gentile, Dominic" <dgentile@ClarkHill.com>, "Hunt, John A." <jhunt@clarkhill.com>, Amy Sugden <amy@sugdenlaw.com>, "clarence@ramoslaw.com" (clarence@ramoslaw.com) <clarence@ramoslaw.com>, Todd Bice <tlb@pisanellibice.com>, "Jordan T. Smith" <JTS@pisanellibice.com>, Nathanael Rulis <n.rulis@kempjones.com>, Pat Stoppard <p.stoppard@kempjones.com>, Dennis Prince <dprince@thedplg.com>, "Bult, Adam K." <ABult@BHFS.com>, "Fetaz, Maximilien" <MFetaz@BHFS.com>, 'Teddy Parker' <TParker@pnalaw.net>, "David R. Koch" <dkoch@kochscow.com>, Jared Kahn <jkahn@jk-legalconsulting.com>, Eric Hone <eric@h1lawgroup.com>, Alina <Alina@nvlitigation.com>, Rusty Graf <rgraf@blacklobello.law>, "rgraf@blackwadhams.law" <rgraf@blackwadhams.law>, "bhiggins@blackwadhams.law" <bhiggins@blackwadhams.law>, "chattahlaw@gmail.com" <chattahlaw@gmail.com>, "nick@nrdarelaw.com" <nick@nrdarelaw.com>, Joel Schwarz <joel@h1lawgroup.com>, Jamie Zimmerman <jamie@h1lawgroup.com>, "afulton@jfnvlaw.com" <afulton@jfnvlaw.com>, Jennifer Braster <jbraster@nblawnv.com>, Andrew Sharples <asharples@nblawnv.com>, "L. Christopher Rose" <lcr@h2law.com>
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Subject: RE: In re DOT-draft order on motion to amend and counter-motion to clarify

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Subject: RE: In re DOT-draft order on motion to amend and countermotion to clarify

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Thank you.



Kirill V. Mikhaylov
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Las Vegas NV 89101
Tel.: 702-486-8727

Traci A. Plotnick

From: Akke Levin
Sent: Monday, October 26, 2020 12:53 PM
To: Traci A. Plotnick
Subject: FW: In re DOT-draft order on motion to amend and counter motion to clarify

From: Joel Schwarz <joel@h1lawgroup.com>
Sent: Wednesday, October 21, 2020 12:18 PM
To: Akke Levin <ALevin@ag.nv.gov>
Cc: Eric Hone <eric@h1lawgroup.com>; Jamie Zimmerman <jamie@h1lawgroup.com>; Karen Morrow <karenscott2morrrows@gmail.com>
Subject: RE: In re DOT-draft order on motion to amend and counter motion to clarify

Thanks Akke, looks okay from our perspective.

Joel Schwarz

Attorney

H1 Law Group

Joel@H1LawGroup.com
701 N Green Valley Parkway, Suite 200
Henderson, Nevada 89074
p. 702-608-5913 f. 702-608-5913
www.H1LawGroup.com

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Traci A. Plotnick

From: Akke Levin
Sent: Monday, October 26, 2020 1:09 PM
To: Traci A. Plotnick
Subject: FW: In re DOT-draft order on motion to amend and countermotion to clarify

From: Alina <Alina@nvlitigation.com>
Sent: Monday, October 26, 2020 1:07 PM
To: Akke Levin <ALevin@ag.nv.gov>
Subject: RE: In re DOT-draft order on motion to amend and countermotion to clarify

Good afternoon Akke:

I don't have any issues regarding the last version of the proposed order you circulated. I hope all is well with you!

Alina

Alina M. Shell



ATTORNEYS AT LAW
701 E. Bridger Ave., Ste. 520
Las Vegas, NV 89101
(702)728-5300 (T) / (702)425-8220 (F)
www.nvlitigation.com

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<TPlotnick@ag.nv.gov>

Subject: RE: In re DOT-draft order on motion to amend and counter-motion to clarify

Importance: High

All:

I have not received any additional comments from anyone since circulating the revised order Friday. Unless we hear from you by **2 p.m.** today, we will assume all parties approve and submit the attached order to the Court.

Akke

From: Akke Levin

Sent: Friday, October 23, 2020 10:18 AM

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From: Akke Levin <ALevin@ag.nv.gov>

Sent: Wednesday, October 21, 2020 11:49 AM

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Subject: In re DOT-draft order on motion to amend and countermotion to clarify

CAUTION: EXTERNAL EMAIL

All:

Attached is the DOT's proposed order on the Motion to Amend and Countermotion to Clarify for your review and approval. It is due Monday under the Minute Order (also attached), so if possible, please return any comments to us by the close of business **Friday October 23**.

Thank you,

Akke Levin
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