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Session Time: 8:00am – 9:00am

Session Name: Roll the Dice: Cannabis Restructuring and Receiverships

Total Minutes: 60

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Roll the Dice:
Cannabis Restructuring and Receiverships
May 20th, 2023



Panelists

Irán Hopkins: Akerman LLP: Los Angeles
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Tim Bossidy: SierraConstellation Partners: Los Angeles
Kevin Singer: Receivership Specialists: Los Angeles

Moderator

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Overview

A cannabis business, whether a plant-touching operation or a provider of goods and services to a plant-touching operation, has limited options when it comes to a wind down, work out, or liquidation. Cannabis remains illegal at the federal level. As a result, companies operating within a state-legal cannabis industry generally cannot seek protection under Title 11 of the United States Code (the Bankruptcy Code). In other words, cannabis companies do not have access to chapter 11 (restructuring) or chapter 7 (orderly liquidation) of the Bankruptcy Code. This session will explore alternative remedies available for failing cannabis businesses, including out-of-court restructurings, receiverships, and assignments for the benefit of creditors.

The panelists will touch upon how the industry is maturing (it is still the Wild West), how the rights of secured and unsecured creditors have evolved, equity partnership disputes, tax liabilities and the licensing and regulatory effects at both a state and local level. The panelists will also discuss recent developments in the case law regarding the availability of protection under the Bankruptcy Code, including *In re The Hacienda Company, LLC*, Case No. 2:22-bk-15163 (C.D. Cal. January 20, 2023 Opinion, **Exh. 10.**).

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Setting the Cannabis Craps Table

- I. The House (always wins): Regulatory Agencies
 - a. Casino Managers-State Agencies
 - i. Cover all the cannabis businesses throughout the State of California
 1. DCC
 2. CDTFA
 - b. Floor Manager-County Agency
 - i. Covers all of the cannabis businesses within unincorporated parts of their county
 - a. Table Manager-Municipal/City Agency
 - i. Covers all of the cannabis business within their municipality/city
 - b. Dealers-Employees/Staff of the State/Municipal/City Agency
 - i. Cover the day-to-day activities of the local authority
 - c. Eye in the Sky-Federal Agencies
 - i. Covers all the of the activities going on with the players, dealers, and managers on the floor
 - ii. Department of Treasury:
 1. IRS
 2. FINCEN

- II. The Players-Participants in the Cannabis Company
 - a. Shooter-Cannabis Ownership
 - i. Sometimes they have skin in the game and sometimes they do not and are just rolling for the table. If business is good, they are rolling a 7 or an 11, and keep on rolling however, if they do not abide by the state, county, or local ordinances they are rolling a 2, 3, or 12 on their first throw, and the round is over before the game has started.
 - b. Player 1(a) – Landlord
 - i. If there is a receivership sale, they may control the table
 - c. Player 1(b)-Secure Lenders (**NOTE** – a state cannabis license cannot be transferred, and thus the consensus is that they cannot be pledged as security. Similarly, it is uncertain whether a creditor can have a security interest in city/municipal cannabis licenses, based on the fact that the local governmental agencies have exclusive authority to approve the issuance or transfer of cannabis licenses)
 - d. Player 1(c) – Employees (certain statutes protect employees as priority claimants)
 - e. Player 2-Unsecure Lenders
 - f. Player 3- Vendors (**NOTE** - may be ahead of unsecured lenders depending on when debts arise – pre/post receivership)
 - i. Includes product providers, service providers, security, etc.
 - g. Player 4 - Equity Investors-Placed their bet, hoping for a 7 or an 11, they are still in the game, as long as the shooter does not crap out.

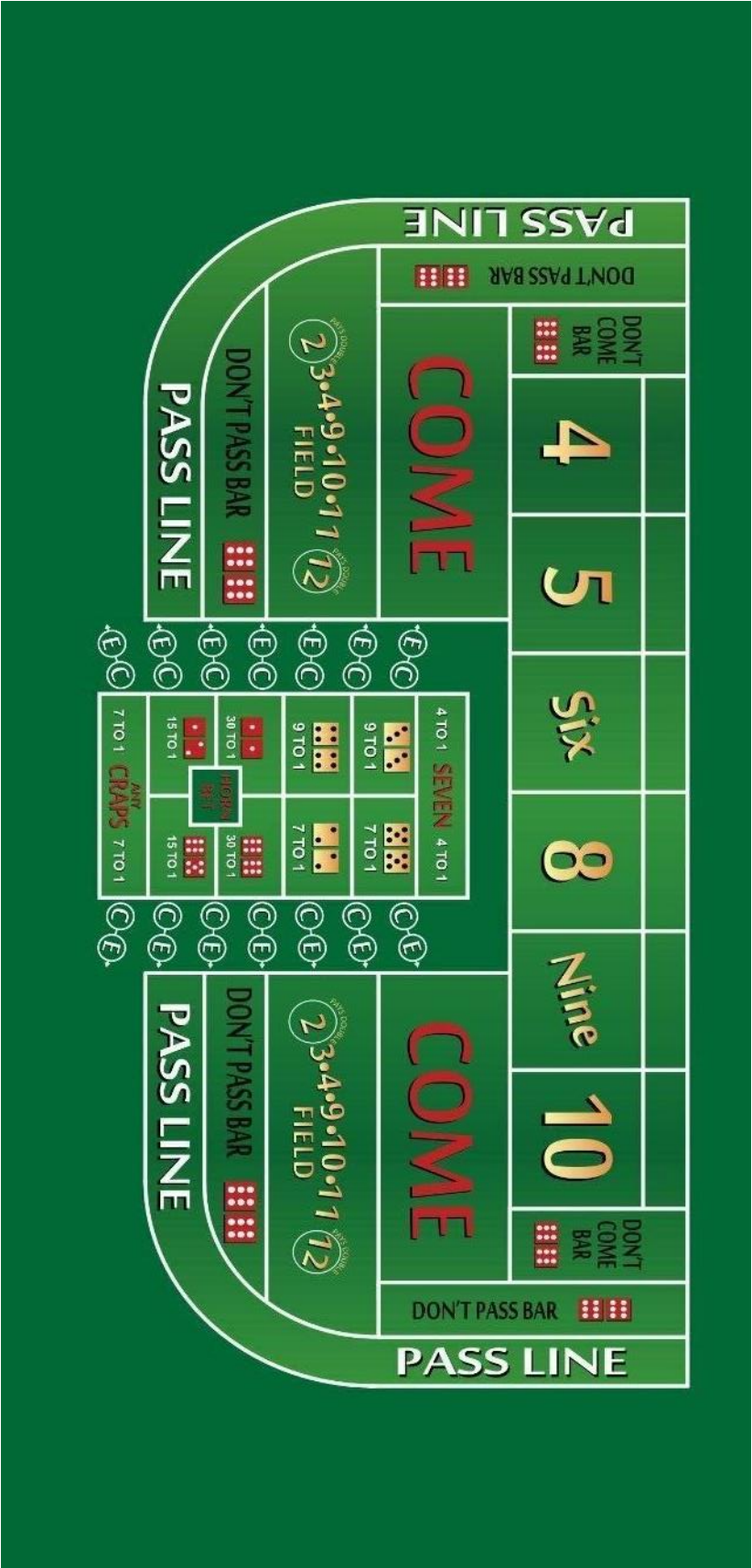


Exhibit 1

**State of California, Department of Cannabis Control
Licensee Notification and Request Form**

Notifications and Requests to Modify a License

This form is for use by licensees who need to provide a notification to the Department or request approval from the Department, as required under the regulations. Directions for completing the form and providing supporting documents can be found below under Form Instructions.

Licensee Name:

License Number:

License Expiration Date:

Email a completed copy of this form and supporting documents to licensechange@cannabis.ca.gov to update any of the following:

Labor Peace Agreement - § 15023(b)

Change in Ownership - § 15023(c)

Change in Financial Interest Holders - § 15023(d)

Change in Contact Information - § 15023(e)(1)

Change in Legal Name of Owner or Legal Business Name - § 15023(e)(2)

Change in Business Trade Name/“Doing Business As” (DBA) or Fictitious Business Name (FBN) - § 15023(e)(3)

Change in Bond - § 15023(e)(4)

Add A or M Designation (excluding cultivators) - § 15023(f)

Microbusiness: Add or Remove an Activity - § 15023(g)

Death, Incapacity, Receivership, Assignment of Creditors, or Other Event Rendering an Owner Incapable - § 15024(a)

Physical Modification of Premises (excluding cultivators) - § 15027

Criminal Conviction of Any Owner - § 15035(a)

Civil Penalty or Judgement Against Licensee or Any Owner - § 15035(b)

Administrative Order or Civil Judgement for Violation of Labor Standards - § 15035(c)

Revocation of a Local License, Permit, or Other Authorization - § 15035(d)

Use the space below for additional information, as needed.

Disclosures

Mandatory Submission

Submission of the requested information is mandatory unless otherwise noted in regulation. Failure to provide any of the required information may result in disciplinary action.

Notifications and Requests to Modify a License – Form Instructions

Pursuant to the provisions in the Department's regulations and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), there are specific instances when licensees are required to notify the Department of changes to business operations. When completing this form, please mark the box next to the item(s) that require Department notification or request and attach any other information required and relevant to the notification requirement(s). The general requirements for each notification or request item are listed below. Specific requirements can be found in the relevant code sections of the Department's regulations. All sections are in reference to the California Code of Regulations, Title 4, Division 19.

Labor Peace Agreement - § 15023(b)

If at the time of licensure, a licensee employed less than 20 employees and later employs 20 or more employees, within 60 days of employing 20 or more employees, the licensee shall provide to the Department a notarized statement that the licensee will enter into a labor peace agreement and will abide by the terms of the agreement.

Change in Ownership - § 15023(c)

If one or more of the owners of a license change, a new license application and fee shall be submitted to the Department within 14 calendar days of the effective date of the ownership change. The business may continue to operate under the active license while the Department reviews the the qualifications of the new owner(s) to determine whether the change would constitute grounds for denial of the license, if at least one owner is not transferring ownership interest and will remain as an owner under the new ownership structure. If all owners will be transferring their ownership interest, the business shall not operate under the new ownership structure until the new license application has been approved by the Department.

A change in ownership occurs when a new person meets the definition of owner in section 15003. A change in ownership does not occur when one or more owners leave the business by transferring their ownership interest to the other existing owner(s). In cases where one or more owners leave the business by transferring their ownership interest to the other existing owner(s), the owner or owners that are transferring their interest shall provide a signed statement to the Department confirming that they have transferred their interest within 14 calendar days of the change.

Change in Financial Interest Holders - § 15023(d)

When there is a change in financial interest holder(s) in the commercial cannabis business who do not meet the requirements for a new license application, the licensee shall submit the information required by section 15002(c)(15) to the Department within 14 calendar days of the change. For financial interest holders that are individuals, this information includes the first and last name of the individual, a contact phone number and email address, and the type and

number of the individual's government-issued identification, such as a driver's license. For financial interest holders that are entities, this information includes the legal business name, the name and phone number and email address of the entity's primary contact, and federal taxpayer identification number of the entity. If an individual who was previously listed as a financial interest holder no longer has a financial interest, provide the first and last name of the individual and indicate that this individual no longer has a financial interest.

Change in Contact Information - § 15023(e)(1)

If there is any change to any contact information from the information provided to the Department in the original application or subsequent notification, the licensee shall provide the Department with the new contact information within 14 calendar days of the change.

Change in Name or Legal Business Name - § 15023(e)(2)

If the licensee is an individual, the licensee shall notify the Department within 14 calendar days of any change to their name. If the licensee is a business entity, the licensee shall notify the Department within 14 calendar days of any change to the legal business name.

Change in Business Trade Name/"Doing Business As" (DBA) or Fictitious Business Name (FBN) - § 15023(e)(3)

If there is any change in DBA or FBN, the licensee shall notify and provide the Department with the new information for the business trade name and/or fictitious business name within 14 calendar days.

Change in Bond - § 15023(e)(4)

If there is any change to the surety bond required under section 15002(c)(22), the licensee shall notify and provide the Department with a copy of the new or changed surety bond within 14 calendar days.

Add A or M Designation (excluding cultivators) - § 15023(f)

A licensee may request to add an A-designation or M-Designation to their license by sending a notification to the Department signed by at least one owner as defined in section 15003. A licensee shall not operate under the requested designation until they have received approval from the Department. The Department will be required to obtain confirmation from the local jurisdiction for the additional designation prior to approval.

Microbusiness: Add or Remove an Activity - § 15023(g)

A microbusiness licensee may add a commercial cannabis activity to their license or remove a commercial cannabis activity from their license if doing so is consistent with the requirement that licensees engage in at least three (3) commercial cannabis activities. The licensee will be required to submit all licensing requirements for the requested new activity.

A licensee shall request the modification by completing a request to modify the licensed premises pursuant to section 15027. A licensee shall not engage in a new commercial cannabis activity until they have paid for the modification and received approval from the Department.

Death, Incapacity, Receivership, Assignment of Creditors, or Other Event Rendering an Owner Incapable - § 15024(a)

In the event of the death, incapacity, receivership, assignment for the benefit of creditors or other event rendering one or more owners incapable of performing the duties associated with the license, the owner or owners' successor in interest (e.g., appointed guardian, executor, administrator, receiver, trustee, or assignee) shall notify the Department in writing, within 14 calendar days.

To continue operations or surrender the existing license, the successor in interest shall submit to the Department the following:

- (1) The name of the successor in interest.
- (2) The name of the owner(s) for which the successor in interest is succeeding and the license number;
- (3) The phone number, mailing address, and email address of the successor in interest; and
- (4) Documentation demonstrating that the owner(s) is incapable of performing the duties associated with the license such as a death certificate, or a court order, and documentation demonstrating that the person making the request is the owner or owners' successor in interest such as a court order appointing guardianship, receivership, or a will or trust agreement.

Physical Modification of Premises (excluding cultivators) - § 15027

A licensee shall not, without the prior written approval of the Department, make a physical change, alteration, or modification of the licensed premises that materially or substantially alters the licensed premises or the use of the licensed premises from the premises diagram originally filed with the license application. A licensee (excluding cultivators) shall request approval of a physical change, alteration, or modification in writing, and the request shall include a new premises diagram, payment of a fee, and any additional documentation as requested by the Department.

Criminal Conviction of Any Owner - § 15035(a)

A licensee shall ensure that the Department is notified in writing of a criminal conviction of any owner, either by mail or electronic mail, within 48 hours of the conviction. The written notification to the Department shall include the date of conviction, the court docket number, the name of the court in which the owner was convicted, and the specific offense(s) for which the owner was convicted.

Civil Penalty or Judgment Against Licensee or Any Owner - § 15035(b)

A licensee shall ensure that the Department is notified in writing of a civil penalty or judgment rendered against the licensee or any owner in their individual capacity, either by mail or electronic mail, within 48 hours of delivery of the verdict or entry of judgment, whichever is sooner. The written notification shall include the date of verdict or entry of judgment, the court docket number, the name of the court in which the matter was adjudicated, and a description of the civil penalty or judgment rendered against the licensee.

Administrative Order or Civil Judgment for Violation of Labor Standards - § 15035(c)

A licensee shall ensure that the Department is notified in writing of an administrative order or civil judgement for violations of labor standards against the licensee or any owner in their individual capacity, either by mail or electronic mail, within 48 hours of delivery of the order. The written notification shall include the date of the order, the name of the agency issuing the order, and a description of the administrative penalty or judgement rendered against the licensee or owner.

Revocation of a Local License, Permit, or Other Authorization - § 15035(d)

A licensee shall ensure that the Department is notified in writing of the revocation of a local license, permit, or other authorization, either by mail or electronic mail within 48 hours of receiving notice of the revocation. The written notification shall include the name of the local agency involved, a written explanation of the proceeding or enforcement action, and the specific violation(s) that led to revocation.

Exhibit 2

**State of California, Department of Cannabis Control
Licensee Notification and Request Form**

Notifications and Requests Regarding Regulatory Compliance

This form is for use by licensees who need to provide a notification to the Department or request approval from the Department, as required under the regulations. Directions for completing the form and providing supporting documents can be found below under Form Instructions.

Licensee Name:

License Number:

License Expiration Date:

Email a completed copy of this form and supporting documents to compliance@cannabis.ca.gov to notify the Department of any of the following:

Purchase of Former Licensee's Cannabis and Cannabis Products Inventory - §15024.1

Distributors and Retailers: Discovery of Significant Discrepancy in Inventory - §15036(a)(1)

Discovery of Diversion, Theft, Loss, or Any Other Criminal Activity Pertaining to Operation of a License - §15036(a)(2) & § 15036(a)(3)

Discovery of Breach of Security - §15036(a)(5)

Cannabis Events: Change of List of Licensees and Employees Participating in Event - §15601(g)

Discovery that Notice of Suspension or Notice of Revocation Has Been Removed or is Damaged and Illegible - §17816(e) and §17817(f)

Use space below for additional information, as needed.

Disclosures

Mandatory Submission

Submission of the requested information is mandatory unless otherwise noted in regulation. Failure to provide any of the required information may result in disciplinary action.

Notifications and Requests Regarding Regulatory Compliance - Form Instructions

Pursuant to the provisions in the Department's regulations and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), there are specific instances when licensees are required to notify the Department of changes to business operations. When completing this form, please mark the box next to item(s) that require Department notification or request and attach any other information required and relevant to the notification requirement(s). The general requirements for each notification or request item are listed below. Specific requirements can be found in the relevant code sections of the Department's regulations. All sections are in reference to the California Code of Regulations, Title 4, Division 19.

Purchase of Former Licensee's Cannabis and Cannabis Products Inventory - § 15024.1

A licensed distributor or licensed microbusiness authorized to engage in distribution may be authorized to procure and distribute a former licensee's entire inventory stock, upon meeting certain requirements, including requesting approval from the Department, within 14 calendar days of the termination of the former licensee's license.

Distributors and Retailers: Discovery of Significant Discrepancy in Inventory - §15036(a)(1)

A licensee shall notify the Department and local law enforcement within 24 hours of discovery of a significant discrepancy, as defined in section 15034. The notification shall be in writing and include the date and time of occurrence of the theft, loss, or criminal activity, the name of the local law enforcement agency that was notified, and a description of the incident including, where applicable, the item(s) that were taken or lost.

Discovery of Diversion, Theft, Loss, or Any Other Criminal Activity Pertaining to Operation of a License - §15036(a)(2) & § 15036(a)(3)

A licensee shall notify the Department and local law enforcement within 24 hours of discovery of diversion, theft, loss, or any other criminal activity pertaining to the operations of the licensee. A licensee shall also notify the Department and local law enforcement within 24 hours of discovery of diversion, theft, loss, or any other criminal activity by an agent or employee of the licensee pertaining to the operations of the licensee.

The notification shall be in writing and include the date and time of occurrence of the theft, loss, or criminal activity, the name of the local law enforcement agency that was notified, and a description of the incident including, where applicable, the item(s) that were taken or lost.

Discovery of Breach of Security - §15036(a)(5)

A licensee shall notify the Department and local law enforcement within 24 hours of discovery of any other breach of security. The notification shall be in writing and include the date and

time of occurrence of the theft, loss, or criminal activity, the name of the local law enforcement agency that was notified, and a description of the incident including, where applicable, the item(s) that were taken or lost.

Cannabis Events: Change of List of Licensees and Employees Participating in Event – §15601(g)

If the list of licensees and employees participating in a temporary cannabis event changes after the application is submitted or after the license is issued, the temporary cannabis event applicant shall submit an updated list of all licensees and employees that will be providing onsite sales of cannabis goods at the temporary cannabis event and an updated diagram, to the Department no less than 72 hours before the event.

Discovery that Notice of Suspension or Revocation Has Been Removed or is Damaged and Illegible - §17816(e) & § 17817(f)

A licensee whose license has been suspended shall notify the Department within 24 hours of discovering that the notice required under section 17816(b) has been removed or damaged to an extent that makes the notice illegible.

A person whose license has been revoked shall notify the Department within 24 hours of discovering that the notice required under section 17817(b) has been removed or damaged to an extent that makes the notice illegible.

Exhibit 3

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Cannabis Under Federal Law – Separating Businesses Is Key for §280E

By Iran Hopkins*
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TRAFFICKING A CONTROLLED SUBSTANCE

While many states now permit legal medicinal or adult use commercial cannabis activity, cannabis remains classified as Schedule I controlled substance under the Controlled Substances Act (CSA).

This classification (1) transforms a “plant-touching” cannabis business compliant under state law into a criminal enterprise “trafficking in a controlled substance” under federal law, (2) treats otherwise compliant business owners and operators as “drug dealers” pandering drugs deemed equivalent to cocaine and heroin, and (3) subjects such businesses to §280E.¹

Section 280E penalizes traffickers of Schedule I or II drugs by disallowing the deduction of “ordinary

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This article may be cited Iran Hopkins, *Cannabis Under Federal Law – Separating Businesses Is Key for §280E*, 38 Tax Mgmt. Real Est. J. No. 5 (May 18, 2022).

¹ All section references herein are to the Internal Revenue Code of 1986, as amended (the Code), or the Treasury regulations promulgated thereunder, unless otherwise indicated.

and necessary” business expenses (aka “below the line deductions”), after reducing gross receipts by cost of goods sold (or “COGS”), essentially resulting in federal income tax liability calculated based on gross income, not net income.

In this environment, seemingly simple business decisions like choice of entity, accounting methods, and ownership structure are critical for purposes of risk management. If a cannabis business is not structured carefully and thoughtfully from a tax perspective, the effect of §280E’s disallowance of deductions can easily result in effective tax rates and tax bills equaling or exceeding the economic profits of the business, often leaving the business operating in the red.

Worse still, for partnerships, §280E exposes upper-tier owners to crushing federal tax liabilities flowing through from their plant touching cannabis partnerships.

Meanwhile, the IRS has issued little guidance on §280E, taxpayer compliance rates are proving low, enforcement of §280E has been slow and inconsistent, and the IRS is said to be at least three years behind in its audit programs, all of which means the IRS is barely getting started auditing cannabis licensees, and we taxpayers have yet to see how extensive and deep those audit trails will reach following “plant-touching” dollars.

SECTION 280E

Section 280E provides:

No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) [that] consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted. (emphasis added)

Section 280E was enacted in 1982 in response to the 1981 Tax Court decision in *Edmondson v. Com-*

missioner,² in which the Tax Court concluded that drug dealer Jeffrey Edmondson was permitted to deduct certain below-the-line expenses (such as home office deduction, auto mileage expenses, telephone, etc.) in calculating the income tax liability of his drug dealing business for the 1974 tax year.

In a typical overreaction to the outcome of a logical process, Congress found this allowance of “ordinary and necessary” business deductions to a “business” illegal by law to be outrageous and against public policy, and enacted §280E in 1982 to reverse the *Edmondson* holding by disallowing ordinary and necessary expenses to those trafficking in Schedule I and II drugs.³

Unfortunately, the “public policy” principles that triggered the scheduling of cannabis as a controlled substance have not continued to evolve with the public’s attitudes and growing acceptance of cannabis for medicinal or adult use.

So what is a cannabis pioneer to do in navigating such treacherous terrain?

The short answer is to proceed with caution, and do not try this at home. The issues and risks at play are highly technical and often counter-intuitive, and require knowledgeable professional guidance.

Ownership and operations should be structured and established with care and deliberation, toward the objectives of optimizing cash flow and tax efficiencies, minimizing the likelihood of future regulatory risks arising, and strengthening chances of surviving scrutiny when they inevitably do.

To that end, this article briefly highlights certain rules, tools, and techniques to keep in mind for cannabis operations, including establishing multiple separate trades or businesses, and an overview of COGS, inventoriable costs, and cost segregation.

MULTIPLE TRADES OR BUSINESSES

Primary and Secondary Trades or Businesses

Cannabis licensees operating more than one license type or licensed location would be wise to conduct each activity and location as a separate trade or business.

Similarly, cannabis businesses disproportionately impacted by §280E might want to seriously consider establishing a separate primary trade or business that is either nonplant touching or a more COGS intensive

plant touching business (like a small retail shop in the same building as a cannabis manufacturing or cultivation facility operated by the same licensee).

This approach could reduce the effect of §280E by permitting deductions for certain ordinary and necessary business expenses that might otherwise be disallowed to a trade or business more heavily impacted by §280E.

For example, in the case *Californians Helping to Alleviate Medical Problems, Inc. v. Commissioner*,⁴ (*CHAMP*), *CHAMP* successfully took the position that its primary trade or business was the provision of caregiving services to the terminally ill, and its secondary trade or business was the supply of medical cannabis to its members.

SEPARATE TRADES OR BUSINESSES

Whether an activity is a separate trade or business is a question of fact that depends on the totality of the circumstances and the degree of economic interrelationship between the two undertakings.

To be respected as truly separate and distinct, each trade or business should be operated as a separate business. While considered on a case by case basis, there are certain steps taxpayers can take to improve the likelihood of surviving scrutiny. For example, each business should:

- (a) Prepare and maintain separate P&Ls, financial statements, comprehensive books and records, separate employee time clocks and HR records, separate insurance policies or insurance coverage, and if possible, a separately defined premises or allocation of square footage, and clearly defined areas with different signage.
- (b) Maintain separate job functions/titles with written job descriptions, and policies treating each business as a separate employer, like clocking in or out of one business before switching to the other, and separate calculations of time worked for break purposes.
- (c) Establish a clearly defined and consistently applied methodology for shared expenses (like a “Tenant’s Share” of common area maintenance charges in multi-tenant buildings).

Although this analysis is open to interpretation of the facts, below are listed some of the questions that courts have considered in making these determinations:

- (1) How does the revenue from each trade or business compare?

² T.C. Memo 1981-623.

³ Tax Equity and Fiscal Responsibility of 1982, Pub. L. No. 97-248, Part II, Subtit. I, §351.

⁴ 128 T.C. 173 (2007).

- (2) Are the undertakings conducted at the same place?
- (3) Were the undertakings formed as separate activities?
- (4) Does one undertaking benefit from the other?
- (5) Does the taxpayer use one undertaking to advertise the other?
- (6) To what degree do the undertakings share management?
- (7) To what degree does the management oversee the assets of both undertakings?
- (8) Do the taxpayers use the same accountant for the undertakings?
- (9) To what degree do the undertakings share books and records?
- And, specifically for cannabis determinations:
- (10) What is the primary purpose of each trade or business?
- (11) Are the additional services and activities incidental to the provision of cannabis?
- (12) Or, is the provision of cannabis ancillary to the primary line of business?

Organizational Structure

Although administratively more burdensome, separate trades and businesses are generally easier to establish and defend if owned and conducted by different entities that abide corporate formalities and transact business at arm's length as though unrelated.

INVENTORY & COGS FOR SCHEDULE I & II DRUGS

For businesses subject to §280E, the calculation and substantiation of COGS are crucial to determine income tax liability.

In CCA 201504011, the IRS indicated a taxpayer “trafficking in Schedule I or Schedule II drugs” determines COGS by using the applicable inventory-costing regulations under §471 as they existed when §280E was enacted in 1982.

At that time, “inventoriable cost” meant a cost capitalized to inventories under §471 (as those regulations existed before the enactment of §263A). In other words, the “full-absorption” method of computing COGS under the pre-1987 §471 rules, which takes into account both direct and indirect production costs.

In other words, the taxpayer will capitalize inventoriable costs when incurred, and will remove these costs from inventory when units of merchandise are sold.

The specific regulations are Reg. §1.471-3(b) for “resellers” of property, and Reg. §1.471-3(c) and Reg. §1.471-11 for “producers” of property, as explained below.

“Inventoriable Costs” for Retailers

For resellers of cannabis like dispensaries, inventoriable costs can be taken into account in COGS only to the extent they are strictly related to the acquisition of cannabis and cannabis products for resale, and the storage and handling of inventory for sale. The disallowance of below the line deductions and the limited availability of costs includible in COGS means that retailers are among the hardest hit by the effects of §280E.

For a reseller of cannabis, inventoriable costs generally are limited to (a) the invoice price of the cannabis or cannabis product, *less* (b) any trade or other discounts, *plus* (c) acquisition costs (including the cost of travel to purchase cannabis, transportation and shipping costs of the cannabis, and other necessary charges required to take possession of the inventory).

Other costs like electricity for designated inventory areas may be includible in COGS, but the cost of electricity used in sales areas is not eligible to be deducted as COGS. To that end, a best practice recommendation is to create a designated inventory space with clearly defined square footage that is closed off from the sales floor and other areas of cannabis business retail premises, and if possible, with separately metered utilities.

“Inventoriable Costs” for Producers – Costs of Production

The term “producer” should be interpreted to include cultivation, manufacturing, assembly, and similar processes where the resulting final inventory product for sale is different from the raw material used to make it as a result of the taxpayer’s trade or business.

For a “producer” of cannabis, inventoriable costs generally include (a) direct production costs (e.g., the cost of materials used directly in production such as plants or seeds), *plus* (b) direct labor costs (e.g., the labor costs associated with planting, harvesting, cultivating, growing, trimming, packaging for pick-up, etc.), *plus* (c) what are known as “Category 1” indirect production costs, and if GAAP financial statements are prepared, potentially “Category 3” indirect production costs.

Direct Costs

“Direct production costs” are costs which are incident and necessary for production or manufacturing

operations or processes, and are components of the cost of either direct material or direct labor.⁵

“Direct material costs” include (1) the cost of raw materials and components used directly in the production process and become an integral part of the specific product, and (2) those materials which are consumed in the ordinary course of manufacturing and can be identified or associated with particular units or groups of units of that product.

“Direct labor costs” include the cost of labor which can be identified or associated with particular units or groups of units of a specific product. The elements of direct labor costs include such items as basic compensation, overtime pay, vacation and holiday pay, sick leave pay, shift differential, payroll taxes, and payments to a supplemental unemployment benefit plan paid or incurred on behalf of employees engaged in direct labor.

“Category 1” Indirect Costs

Below are listed Category 1 indirect production costs that must be taken into account when determining inventoriable costs, but only to the extent the costs are incident and necessary to the production or manufacturing processes:⁶

- (1) Rent;
- (2) Repair expenses;
- (3) Maintenance;
- (4) Utilities, such as heat, power and light;
- (5) Indirect materials and supplies;
- (6) Tools and equipment not capitalized;
- (7) Costs of quality control and inspection; and
- (8) Indirect labor and production, supervisory wages (basic compensation, overtime pay, vacation and holiday pay, sick leave pay, shift differential costs, payroll taxes, contributions to a supplemental unemployment plans, etc.), and presumably certain costs of regulatory compliance required by law, like security, the track and trace program, etc.

“Category 3” Indirect Costs and GAAP Financial Statements

The preparation and use of GAAP financial statements makes available the inclusion of certain Category 3 indirect production costs in calculating COGS.

Below are listed examples of Category 3 indirect production costs that can be taken into account when determining inventoriable costs, but only to the extent

⁵ See Reg. §1.471-11(b)(2)(i).

⁶ See Reg. §1.471-11(c)(2)(i).

the costs are incident and necessary to the production or manufacturing processes:⁷

- (1) Depreciation and cost depletion;
- (2) Costs pertaining to strikes, rework labor, scrap, and spoilage;
- (3) Administrative expenses related to production;
- (4) Officer salaries related to production;
- (5) Insurance costs related to production (e.g., insurance on machinery and equipment);
- (6) Taxes deductible under §164 (other than income taxes such as state and local excise taxes and cultivation taxes paid or accrued in connection with the disposition of property or in an income producing activity); and
- (7) Pension and profit-sharing contributions representing current service costs otherwise allowable as a deduction under §404, and other employee benefits incurred on behalf of labor incident to and necessary for production.

Costs Not Included in Inventoriable Costs

Below are listed costs which are not includible in the computation of inventoriable costs for tax purposes:

- (1) Marketing expenses;
- (2) Advertising expenses;
- (3) Selling expenses;
- (4) Other distribution expenses;
- (5) Interest;
- (6) Research and experimental expenses (includes product development expenses);
- (7) Losses under §165;
- (8) Percentage depletion in excess of cost depletion;
- (9) Depreciation and amortization reported for federal income tax purposes in excess of depreciation reported by the taxpayer in financial reports;
- (10) Income taxes attributable to income received on the sale of inventory;
- (11) Pension contributions to the extent that they represent past services cost;
- (12) General and administrative expenses incident to and necessary for the taxpayer’s activities as a whole rather than to production or manufacturing operations or processes; and

⁷ See Reg. §1.471-11(c)(2)(iii).

(13) Salaries paid to officers attributable to the performance of services for the benefit of the business as a whole rather than to production or manufacturing operations or processes.

ACCOUNTING METHODS FOR CAPITALIZATION AND DEDUCTION OF COSTS

The capitalization and deduction of costs and expenses for purposes of COGS are governed by §471 and the uniform capitalization rules under §263A (aka “UNICAP”), which require taxpayers to capitalize direct and indirect costs allocable to the taxpayer’s property produced or acquired for resale. For purposes of the uniform capitalization rules, to “produce” means to construct, build, install, manufacture, develop, improve, create, raise or grow.⁸

In November 2018, the IRS issued Rev. Proc. 2018-56 and final regulations under the uniform capitalization rules of §263A⁹, which redefine how certain types of costs are categorized (like changing the treatment of negative adjustments for certain costs), introducing a new simplified method of allocating inventoriable costs, and expand qualification for the simplified methods of cost accounting as a “small business taxpayer” (average annual gross receipt for prior three (3) years does not exceed \$25 million per year (adjusted for inflation)).

The UNICAP rules permit different methodologies based on facts and circumstances to allocate capitalizable §263A costs, like the standard cost method, specific identification method, burden rate, or another reasonable allocation method; and offer alternative simplified methods to determine and allocate costs between ending inventory and COGS, adding in 2018 the then newly introduced “modified simple production method” to the existing simplified production method and simplified resale method. Section 263A also requires that computations be made on a tax basis, so book-to-tax differences must also be taken into account and the rules changed in the 2018 final regs.

While changes in the 2018 final regs most directly impacted manufacturers and producers, all taxpayers dealing with inventoriable costs should review their current inventory cost accounting and UNICAP methodologies for compliance purposes. There may be opportunities to improve tax efficiencies, but there could also be methodologies that are no longer permissible under current guidance, or that may require a change in accounting method to comply with current law.

⁸ §263A(g)(1); Reg. §1.263A-2(a)(1)(i).

⁹ T.D. 9843, RIN 1545-BG07, 83 Fed. Reg. 58,476 (Nov. 20, 2018) (2018 final regs).

COST SEGREGATION AND ACCELERATED OR BONUS DEPRECIATION

One popular but somewhat controversial tool that could be used to improve cash flow for cannabis businesses is cost segregation.

Cost segregation “allocates” or “segregates” the component parts of assets by type or class based on useful life (depreciation recovery periods) and placed-in-service dates to more precisely compute depreciation, typically documented in a cost segregation study. The underlying incentive for cost segregation is the significant tax benefits derived from utilizing shorter recovery periods and accelerated depreciation methods for computing depreciation deductions (including bonus depreciation and §179 deduction).

Real property, also known as “§1250 property,” is generally eligible for straight-line depreciation over a recovery period of 39 years for non-residential property, and 27.5 years for residential property.

Building systems, equipment, furniture, and fixtures are tangible personal property referred to as “§1245 property,” having a shorter depreciation recovery period, and is also eligible for accelerated depreciation (i.e., double declining balance, bonus depreciation and §179 deduction).

The actual cost of each individual component should be used when available. Otherwise, if only lump sums are available, cost estimating techniques are employed to allocate costs to the individual components of property (e.g., land, land improvements, buildings, equipment, furniture and fixtures, etc.).

Cost segregation studies can be used for buildings already in service, or recently purchased, constructed, improved, or remodeled, and certain buildings recently sold (if the taxpayer is eligible to file an amended return for the year of sale).

For buildings already in service, depreciation deductions for prior years can be recomputed, and a one time catch up provision known as a §481(a) adjustment allows a current-period deduction for the difference between depreciation deducted to date and that which could have been deducted using cost segregation, instead of having to amend prior year returns.¹⁰

Note however, the IRS has taken the position that a change in recovery period is a change in accounting method, and requires the taxpayer complete and timely file Form 3115, *Application for Change in Accounting Method*, which itself requires careful assessment given the potential effect on accounting methods of other changes in law, like the 2018 UNICAP final regs.

¹⁰ See Rev. Proc. 2002-9.

For more information, see the IRS's *Cost Segregation Audit Technique Guide*.

CONCLUSION

The discrepancy between federal and state law creates significant challenges, risks, and potential pitfalls for cannabis businesses to plan around and guard against, even when operating in compliance with state

law. Chief among these risks is future contingent federal tax liability upon reassessment of §280E adjustments in prior year tax returns on audit, which cannabis businesses are generally advised to expect at every level of government.

Cannabis businesses would be wise to routinely assess their §280E compliance, and promptly amend prior year tax returns to reflect reporting changes.

Exhibit 4

MedMen

MedMen Announces Lender and Landlord Support for Company Turnaround

- *Reached agreement with senior lenders to defer cash interest*
- *Modified lease arrangements with Treehouse REIT to reduce near-term cash commitments*

July 03, 2020 06:00 AM Eastern Daylight Time

LOS ANGELES--([BUSINESS WIRE](#))--MedMen Enterprises Inc. (“MedMen” or the “Company”) (CSE: MMEN) (OTCQX: MMNFF) today announced the execution of definitive agreements with certain lenders, including Gotham Green Partners, Stable Road Capital and affiliates, and the Company’s most significant landlord, Treehouse Real Estate Investment Trust (“**Treehouse**”) as part of a financial restructuring and turnaround plan (the “**Plan**”) to support the expansion of the Company’s industry-leading retail footprint. The Plan will defer approximately US\$32 million in cash commitments over the next 12 months and provide additional balance sheet flexibility.

“Implementing our turnaround plan is the best way to ensure that MedMen continues on its path to building the leading cannabis retailer in the U.S.,” said MedMen Interim Chief Executive Officer Tom Lynch. “We believe the widespread support we have received from our lenders and landlords will allow us to continue execution of the turnaround, continue to grow our best-in-class retail operations and drive towards positive free cash flow.”

Senior Secured Convertible Facility:

On March 30, 2020, MedMen announced the closing of US\$12.5 million in additional gross proceeds under its senior secured convertible facility (“**Convertible Facility**”) led by funds affiliated with Gotham Green Partners (collectively, “**GGP**”). As part of the Plan announced today, the Company and GGP have further amended and restated the securities purchase agreement that governs the Convertible Facility to include, among other things, the following:

- **Interest:** All notes under the Convertible Facility will continue to bear interest at the higher of (i) 2.5%, and (ii) LIBOR, plus 6.0% per annum. However, the payment-in-kind (“**PIK**”) feature on the Convertible Facility has now been extended, such that 100% of the cash interest due prior to June 2021 will be paid-in-kind, and 50% of the cash interest due thereafter for the remainder of the term of the Convertible Facility will be paid-in-kind. The PIK feature will expire if Section 280E tax reform occurs and the Company begins to be taxed similar to other U.S. corporations.

- **Minimum Liquidity:** The threshold for the minimum liquidity covenant, which was previously US\$15.0 million, has been waived until September 30, 2020, resetting to US\$5.0 million thereafter, to US\$7.5 million effective on March 31, 2021 and then to US\$15.0 million effective on December 31, 2021.
- **Non-Core Assets:** GGP has agreed to the release of certain assets from its collateral pool in order to provide the Company with greater flexibility to generate proceeds through the sale of non-core assets. On July 2, 2020, the Company received US\$10.0 million at signing of definitive documents for the sale of one of its retail licenses outside of California.

As consideration for the amendment of the Convertible Facility, the conversion price for 52% of the existing notes outstanding under the Convertible Facility prior to the US\$15.0 million advance under Tranche 4 of the Convertible Facility (including PIK interest accrued on such notes), being 52% of an aggregate principal balance of US\$167.7 million as of June 30, 2020, was amended to US\$0.34 per Class B Subordinate Voting Share of the Company (each, a “**Subordinate Voting Share**”). As additional consideration, a fee of US\$2.0 million was paid to the lenders under the Convertible Facility through the issuance of additional notes, which notes have a conversion price per Subordinate Voting Share equal to US\$0.28, which represents a 30% premium to the 5-day volume-weighted average trading price of the Subordinate Voting Shares as of and including June 30, 2020.

In connection with the amendments to the Convertible Facility, the Company is now subject to certain additional covenants thereunder, which are consistent with the Company’s internal business plan (“**Turnaround Plan**”). The Company is required to adhere to its Turnaround Plan for certain cash expenditures such as corporate expenses, capital expenditures and leases. The covenants expire once the Company achieves two consecutive fiscal quarters of being free cash flow positive.

Senior Secured Term Loan:

On January 14, 2020, the Company announced the closing of definitive documentation for amendments to the terms and conditions of the US\$77.7 million senior secured term loan (“**October 2018 Loan**”) with funds managed by Stable Road Capital and its affiliates (“**Term Loan Lenders**”). As part of the Plan announced today, the Company and the Term Loan Lenders further amended the commercial loan agreement that governs the October 2018 Loan to include, among other things, the following:

- **Interest:** In the amendment to the October 2018 Loan completed in January 2020, the interest rate was increased from a fixed rate of 7.5% per annum, payable monthly in cash, to a fixed rate of 15.5% per annum, of which 12.0% was to be payable monthly in cash based on the outstanding principal and 3.5% was to accrue monthly to the principal amount of the debt as PIK. In connection with the Plan announced today, 100% of the total interest payable prior to June 2021 will be paid-in-kind and 50% of the cash interest due thereafter for the remainder of the term of the October 2018 Loan will be paid-in-kind. The PIK feature will expire if Section 280E tax reform occurs and the Company begins to be taxed similar to other U.S. corporations.
- **Minimum Liquidity:** The threshold for the minimum liquidity covenant, which was previously US\$15.0 million, has been waived until September 30, 2020, resetting to US\$5.0 million thereafter, to US\$7.5 million effective on March 31, 2021 and then to US\$15.0 million effective on December 31, 2021.

As consideration for the amendment of the October 2018 Loan, the Company issued to the Term Loan Lenders a total of 20.2 million warrants, each exercisable at US\$0.34 per share for a period of five years. As additional consideration, a fee of US\$834,000 was paid-in-kind. The Company also canceled 20.2 million warrants of the total 40.4 million warrants already held by the Term Loan Lenders, which were each exercisable at US\$0.60 per share.

In connection with the amendments to the October 2018 Loan, the Company is now subject to certain additional covenants thereunder, which are consistent with those included as a part of the amendments to the Convertible Facility.

Treehouse Real Estate Investment Trust:

The Company currently has lease arrangements with affiliates of Treehouse, which include 14 retail and cultivation properties across the U.S. As part of the Plan, Treehouse has agreed to defer a portion of total current monthly base rent for the 36-month period between July 1, 2020 and July 1, 2023. The total amount of all deferred rent accrues interest at 8.6% per annum during the deferral period. As consideration for the rent deferral, the Company has issued to Treehouse 3,500,000 warrants, each exercisable at US\$0.34 per share for a period of five years. As part of the agreement, the Company will pursue a partnership with a cannabis cultivation company for the Company's Desert Hot Springs and Mustang facilities that are leased from Treehouse in order to continue the Company's focus on retail operations.

Additional Notes:

Please refer to the Company's documents available on the Company's profile at www.sedar.com for additional details as to Convertible Facility, the October 2018 Term Loan and the lease arrangements with Treehouse REIT, including the amendments made thereto.

This press release shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the securities in any jurisdiction in which such offer, solicitation or sale would be unlawful. The securities being offered have not been, nor will they be, registered under the United States Securities Act of 1933, as amended, and may not be offered or sold in the United States absent registration or an applicable exemption from the registration requirements of the United States Securities Act of 1933, as amended, and applicable state securities laws.

Related Party Transaction:

The portions of the Plan agreed to with GGP may constitute "related party transactions" (collectively, the "**Related Party Transaction**") within the meaning of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**"). The Board of Directors of the Company (the "**Board**"), acting in good faith, including all of the independent members of the Board, acting in good faith, have determined that the Company is in serious financial difficulty, that the Related Party Transaction is designed to improve the Company's financial position and that the terms of the Related Party Transaction are reasonable in the Company's circumstances. As such, MedMen is relying on the exemption from the minority approval requirements of MI 61-101 based on the financial hardship exemption set forth in Section 5.7(1)(e) of MI 61-101. The material change report for the Related Party Transaction will not be filed more than 21 days prior to closing of the Plan, as the transactions that constitute the Related Party Transaction were effectively closed upon of execution of the amendments to the Convertible Facility, and until execution, there was no material change that could be disclosed.

ABOUT MEDMEN:

MedMen is North America's premium cannabis retailer with flagship locations in Los Angeles, Las Vegas, Chicago and New York. Through a robust selection of high-quality products, including MedMen-owned brands [statemade], LuxLyte and MedMen Red, and a team of cannabis-educated associates, MedMen has defined the next generation discovery platform for cannabis and all its benefits. MedMen's industry-leading technology enables a fully compliant, owned-and-operated delivery service and MedMen Buds, a loyalty program. MedMen believes that a world where cannabis is legal and regulated is safer, healthier and happier. Learn more at www.medmen.com.

Cautionary Note Regarding Forward-Looking Information and Statements:

This press release contains certain “forward-looking information” within the meaning of applicable Canadian securities legislation and may also contain statements that may constitute “forward-looking statements” within the meaning of the safe harbor provisions of the United States Private Securities Litigation Reform Act of 1995. Such forward-looking information and forward-looking statements are not representative of historical facts or information or current condition, but instead represent only MedMen’s beliefs regarding future events, plans or objectives, many of which, by their nature, are inherently uncertain and outside of MedMen’s control. Generally, such forward-looking information or forward-looking statements can be identified by the use of forward-looking terminology such as “expects”, “believes”, or variations of words and phrases implying that certain actions, events or results “may”, “could”, “would”, “might”, “will be taken”, “will continue”, “will occur” or “will be achieved”. This forward-looking information is based on certain assumptions made by management and other factors used by management in developing such information. The forward-looking statements contained in this release include statements regarding the proceeds from and timing for completion of the sale of non-core assets; statements regarding or suggesting the expected benefits of the Plan, including placing the Company in a position to continue to expand its operations and achieve positive free cash flow from its operations; statements regarding or suggesting the Company will be able to successfully execute the Turnaround Plan; statements regarding or suggesting the Company will be able to comply with the covenants under the Convertible Facility, the October 2018 Loan and its leases; statements regarding the Company and Treehouse pursuing a partner for the Company’s Desert Hot Springs and Mustang facilities; and statements regarding the proceeds from or the effects of the sale of non-core assets.

Forward-looking information and statements are not a guarantee of future performance and are based upon estimates and assumptions of management at the date the statements are made, including among other things, estimates and assumptions about contemplated dispositions being completed on current terms and current contemplated timelines; the ability to satisfy operational and financial covenants under the Company’s existing debt obligations and leases; achieving the anticipated results of the Company’s strategic plans, including the Turnaround Plan; the amount of savings expected from cost-cutting measures and divestitures of non-core assets; the ability to manage anticipated and unanticipated costs; the ability to raise sufficient capital to advance the business of the Company and to fund planned operating and capital expenditures; the ability to sustain negative operating cash flows until profitability is achieved; and political, legislative and regulatory stability.

Forward-looking statements necessarily involve known and unknown risks, including, without limitation, risks and uncertainties related to the recent outbreak of COVID-19 and the impact it may have on the global economy and retail sector, particularly the cannabis retail sector in the states in which the Company operates, and on regulation of the Company’s activities in the states in which it operates, particularly if there is any resurgence of the pandemic in the future; changes in internal and external factors resulting in the inability to satisfy operational and financial covenants under the Company’s existing debt obligations and leases, and other ongoing obligations as they become payable, including the failure to comply with the covenants under the Convertible Facility or the October 2018 Loan leading to defaults or enforcement against Company assets thereunder; the inability of management to successfully execute on the Turnaround Plan on the planned timetable; the inability to complete or delays in completing proposed dispositions, including as a result of the inability to obtain required regulatory approvals and third-party consents or failure to satisfy other conditions to such proposed dispositions; the loss of markets or market share; the permanent or temporary loss of licenses and permits reducing revenues; the dilutive impact of raising additional financing through equity or convertible debt, or from repricing existing share issuance obligations, such as those associated with the Convertible Facility, or issuing new share issuances obligations in connection with the Convertible Facility or the October 2018 Loan, given the decline in the Company’s share price; the inability to access sufficient capital from internal and external sources; the inability to access sufficient capital on favorable terms; adverse future legislative and regulatory developments involving medical and recreational marijuana; the risks of operating in the marijuana industry in the United States; adverse changes in tax laws; increasing competition; interest rate fluctuations; and those other risk factors discussed in the Company’s Annual Information Form filed on November 12, 2019, the Company’s short form base shelf prospectus filed on March 26, 2019, press release dated December 11, 2019, and other continuous disclosure filings, all available under the Company’s profile on www.sedar.com.

The forward-looking information and forward-looking statements contained in this press release are made as of the date of this press release, and MedMen does not undertake to update any forward-looking information and/or forward-looking statements that are contained or referenced herein, except in accordance with applicable securities laws.

Forward-looking statements contained in this news release are expressly qualified by this cautionary note.

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Exhibit 5

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 14, 2022 (November 10, 2022)

THE GREENROSE HOLDING COMPANY INC.
(Exact name of Registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	001-39217 (Commission File Number)	84-2845696 (I.R.S. Employer Identification Number)
111 Broadway Amityville, NY (Address of principal executive offices)	11701 (Zip Code)	

Registrant's telephone number, including area code: (516) 346-5270

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation to the Registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the Registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the Registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Units, each consisting of one share of common stock and one Pink redeemable warrant	OTC
Common stock, par value \$0.0001 per share	OTCQX
Redeemable warrants, exercisable for shares of common stock at an exercise price of \$11.50 per share	OTCQB

Item 1.01 Entry Into A Material Definitive Agreement.**Execution of Transaction Support Agreement, Amendment No. 2 to Credit Agreement and Forbearance Agreement**

On November 10, 2022, The Greenrose Holding Company Inc. (the “Company”), together with its wholly-owned subsidiaries Theraplant, LLC (“Theraplant”) and True Harvest Holdings, Inc. (“TH”, and together with Theraplant and the Company, the “Greenrose Entities”), entered into that certain Transaction Support Agreement with the Note Holders (as defined below) and the Lenders (the “Credit Agreement Consenting Lenders”, and collectively with the Note Holders, the “Consenting Lenders”) party to that certain Credit Agreement dated November 26, 2021 (as amended by that certain Amendment No. 1 to Credit Agreement, dated as of December 31, 2021, and as further amended by Amendment No. 2 to Credit Agreement (as defined below), the “Credit Agreement”) and DXR Finance, LLC (the “Agent”), in its capacity as Agent under the Credit Agreement (the “Transaction Support Agreement”).

The Transaction Support Agreement contemplates that the Greenrose Entities will pursue either a Qualified Alternative Transaction Proposal (as defined below) or a consensual Foreclosure (as defined below), in each case as described in more detail below. To the extent the Greenrose Entities pursue the Foreclosure, the Foreclosure will provide for, among other things: (i) the continuation of the Theraplant and TH businesses as a going concern; (ii) the assumption of employee liabilities, accounts payable and liabilities under assumed contracts; and (iii) NewCo (as defined below) will be obligated to offer each employee of Theraplant and TH employment at NewCo at (but subject to) closing of the Foreclosure on substantially the same terms as such employees’ existing employment arrangements.

For up to 50 days following entry into the Transaction Support Agreement, the Greenrose Entities, with the assistance of their advisors, including Ducera Securities LLC, will use commercially reasonable efforts to market themselves and their assets with the goal of receiving binding transaction proposals for, including but not limited to, a sale, disposition, reorganization, merger, financing or other type of transaction that, among other conditions, satisfies the payment obligations owed by the Greenrose Entities under the Credit Agreement, the DXR Secured Promissory Note (as defined below) and related loan documents (the “Obligations”), or is on such other terms as are acceptable to the Greenrose Entities, the Consenting Lenders and the Agent (such a proposal, a “Qualifying Alternative Transaction Proposal”). If the Greenrose Entities have not received an alternative transaction proposal that reasonably could become a binding Qualifying Alternative Transaction Proposal by not later than 30 days following the entry into the Transaction Support Agreement, then the marketing period shall end and the Greenrose Entities’ obligations under the Transaction Support Agreement with respect to the Foreclosure shall commence from and after the date upon which the Consenting Lenders deliver the Foreclosure Agreement. In the event that the Greenrose Entities receive more than one Qualifying Alternative Transaction Proposal, the Greenrose Entities shall hold an auction to determine the winning proposal.

On November 10, 2022, concurrently with the execution of the Transaction Support Agreement, the Greenrose Entities, as Guarantors, entered into an Amendment No. 2 to the Credit Agreement with the Credit Agreement Consenting Lenders and DXR Finance, LLC, as Agent (“Amendment No. 2 to the Credit Agreement”) pursuant to which the Credit Agreement Consenting Lenders agreed to fund an additional \$10 million of loans, with \$5 million to be borrowed immediately on the effective date of the Amendment No. 2 to the Credit Agreement and \$5 million to be borrowed in one or more draws thereafter on or before December 31, 2022. Amendment No. 2 to the Credit Agreement also provided for certain amendments to the Credit Agreement to facilitate the transactions contemplated by the Transaction Support Agreement. In addition, as consideration for the Credit Agreement Lenders’ entry into Amendment No. 2 to Credit Agreement, the make whole period applicable to the loans under the Credit Agreement was extended by three (3) months to the thirty third month anniversary of the original closing date of the Credit Agreement.

If the Greenrose Entities fail to enter into a binding, fully executed Qualifying Alternative Transaction Proposal within the time periods specified in the Transaction Support Agreement, the Consenting Lenders and Agent will effectuate a foreclosure through the formation of a newly-formed company (“NewCo”) that will transmit an offer, in the form of a foreclosure agreement (the “Foreclosure Agreement”), to the Greenrose Entities to accept the Agent’s collateral (which constitutes substantially all assets of the Greenrose Entities) (the “Foreclosure”). Upon consummation of the Foreclosure, NewCo will also (i) assume certain liabilities of the Greenrose Entities, including employee liabilities, accounts payable and liabilities under assumed contracts and (ii) agree to fund the Greenrose Entities’ anticipated tax liabilities (collectively, the “NewCo Liabilities”). The consummation of the Foreclosure is subject to conditions set forth in the Transaction Support Agreement, including the provision by the Consenting Lenders of sufficient wind-down funding, receipt of required regulatory approvals and the execution of a mutual release agreement between the Greenrose Entities, on the one hand, and NewCo, the Agent and Consenting Lenders, on the other hand, and new indemnification agreements between NewCo and current officers and directors of the Greenrose Entities.

The Transaction Support Agreement may be automatically terminated upon the occurrence of specified events, including, without limitation, the consummation of the Foreclosure, any material breach of the Transaction Support Agreement that is not cured within ten days of receipt of written notice, or the date that is 90 days from the date on which the Greenrose Entities present the Transaction Support Agreement to the Connecticut Department of Consumer Protection. For a period of 25 days after the entry into the Transaction Support Agreement (the “Limited Diligence Out Period”), the Agent and Consenting Lenders may also terminate the Transaction Support Agreement to the extent that the Greenrose Entities (i) breach their obligation to make certain information available to the Agent and Consenting Lenders in connection with their diligence review of the NewCo Liabilities and fail to cure such breach within either five days’ notice of such breach or by the expiration of the Limited Diligence Out Period or (ii) the Agent or Consenting Lenders discover material NewCo Liabilities which were not previously disclosed by the Greenrose Entities.

On November 10, 2022, concurrently with the execution of the Transaction Support Agreement, the Greenrose Entities, as Guarantors, entered into a forbearance agreement with the Lenders party to the Credit Agreement, the holders (the “Note Holders”) of that certain Secured Promissory Note in an original principal amount of \$15,300,000 dated as of October 12, 2022 (the “DXR Secured Promissory Note”) and DXR Finance, LLC, as Agent (the “Forbearance Agreement”). Pursuant to the Forbearance Agreement the parties thereto agreed that that the Lenders, the Note Holders and the Agent will provide a limited forbearance (as set forth in Section 2.02 of the Forbearance Agreement) by terms of which the Lenders and the Agent will forbear from accelerating the Obligations and otherwise exercising any rights, remedies, powers, privileges and defenses under the Credit Agreement, the DXR Secured Promissory Note and related loan documents as a result of the existence of certain types of Events of Default, for the Forbearance Period (as defined in the Forbearance Agreement) that will expire on the Forbearance Termination Date (as defined in the Forbearance Agreement).

In connection with the Transaction Support Agreement, the Company paid to the Agent for the benefit of the Credit Agreement Lenders party to the Forbearance Agreement a forbearance payment equal to 1.00% of the principal amount of loans outstanding under the Credit Agreement immediately prior to the effectiveness of the Forbearance Agreement, and will pay (subject to the occurrence of certain events as more fully described in the Forbearance Agreement) such additional forbearance payments as provided in the Forbearance Agreement.

The foregoing descriptions of the Transaction Support Agreement, Amendment No. 2 to the Credit Agreement and the Forbearance Agreement do not purport to be complete and are subject to and qualified in its entirety by reference to the complete text of such agreement, copies of which are filed as Exhibits 10.1, 10.2 and 10.3, respectively and are incorporated herein by reference.

Although the Greenrose Entities intend to pursue the transactions described herein in accordance with the terms and conditions set forth in the Transaction Support Agreement, there can be no assurance that the Greenrose Entities will be successful in consummating transactions on the terms and conditions set forth in the Transaction Support Agreement.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 above is incorporated by reference into this Item 2.03.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Exhibit Description
10.1	Transaction Support Agreement
10.2*	Amendment No. 2 to Credit Agreement
10.3	Forbearance Agreement
104	Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 10.1)

* Certain schedules and exhibits to this agreement have been omitted in accordance with Item 601(a)(5) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished as a supplement to the SEC upon request.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

THE GREENROSE HOLDING COMPANY INC.

Date: November 14, 2022

By: /s/ Tim Bossidy

Name: Tim Bossidy

Title: Interim Chief Executive Officer

Exhibit 6

EXECUTION VERSION

TRANSACTION SUPPORT AGREEMENT

This TRANSACTION SUPPORT AGREEMENT is made and entered into as of November 10, 2022 (this “Agreement”) by and among The Greenrose Holding Company Inc., a Delaware corporation (“Holdings”), Theraplant, LLC (“Theraplant”), True Harvest Holdings, Inc. (“TH,” and together with Theraplant and Holdings, the “Greenrose Entities” or the “Company”), DXR Finance LLC, in its capacity as Agent under and as defined in the Credit Agreement and the Note referred to below, (the “Agent”), DXR-GL Holdings I, LLC (“DXR-I”), DXR-GL Holdings II, LLC (“DXR-II”), and DXR-GL Holdings III, LLC (“DXR-III,” and together with DXRI and DXR II, the “Consenting Lenders”).

WHEREAS, the Greenrose Entities are party to that certain Credit Agreement, dated as of November 26, 2021, as amended by that certain Amendment No. 1, dated as of December 31, 2022, and by that certain Amendment No. 2, dated as of November 10, 2022 (“Amendment No. 2”), and as may be further amended, restated, amended and restated, supplemented and/or otherwise modified from time to time (the “Credit Agreement”) with the Agent and the Consenting Lenders, as Lenders. Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Credit Agreement, as applicable; and

WHEREAS, Holdings issued that certain Secured Promissory Note, dated October 12, 2022 (the “Note”; the Obligations of the Company under the Note together with the Obligations under the Credit Agreement, the “Existing Debt”) in an original principal amount of \$15,300,000.00 to the Agent for the benefit of the Consenting Lenders; and

WHEREAS, the Agent has noticed Events of Default under both the Credit Agreement and the Note as more fully set forth in that certain (i) Notice of Default dated October 2, 2022, (ii) Notice of Additional Default dated October 10, 2022 and (iii) Notice of Additional Default dated October 14, 2022; and

WHEREAS, the Greenrose Entities, Agent and Consenting Lenders are party to that certain Forbearance Agreement, dated as of October 13, 2022 (as extended from time to time); and

WHEREAS, the Greenrose Entities, Agent and Consenting Lenders have entered into that certain Forbearance Agreement, dated as of November 10, 2022, as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time (the “Forbearance Agreement”) pursuant to which, among other things, the Agent and the Consenting Lenders have agreed to forbear from accelerating the obligations and from otherwise exercising any rights, remedies, powers, privileges, and defenses under the Credit Agreement and/or Note as the result of the existence of any Default or Event of Default (whether under the Credit Agreement, the Note, or any Loan Document) other than a Forbearance Termination Event of Default (as defined therein); provided that on and after the execution of the Forbearance Agreement in accordance with Section 4(c) the Agent and the Consenting Lenders shall be permitted to exercise certain remedies that are required to consummate the transactions under the Foreclosure Agreement and otherwise in accordance with this Agreement; and

WHEREAS, the Consenting Lenders constitute all Lenders under the Credit Agreement; and

WHEREAS, the Consenting Lenders, Agent and Greenrose Entities have agreed upon the transactions described herein (collectively, the “Transaction”) subject to the terms and conditions of this Agreement and a foreclosure agreement, which shall be consistent with this Agreement and in form and substance reasonably acceptable to the Greenrose Entities, the Agent, Consenting Lenders and NewCo (as defined below) (the “Foreclosure Agreement”).

In exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Greenrose Entities and each Consenting Lender intending to be legally bound, hereby agree as follows:

1. Effectiveness. This Agreement shall become effective on the date upon which: counterparts of this Agreement have been duly executed by each of the Greenrose Entities, the Agent, and each of the Consenting Lenders.
2. Incremental Funding. The Consenting Lenders shall fund (and the Agent shall consent and facilitate the funding of) an additional \$10 million of loans under the Credit Agreement (the “Incremental Debt”) under Amendment No. 2. The Incremental Debt shall be comprised of (i) \$5 million to be borrowed immediately on the effective date of Amendment No. 2 (the “Initial Incremental Debt”) and (ii) \$5 million to be borrowed in one or more draws after the effective date of Amendment No. 2 (the “Delayed Draw Incremental Debt”). The Incremental Debt proceeds shall be used in accordance with the terms and conditions set forth in Amendment No. 2 including to pay, among other things, (i) operating expenses, (ii) directors and officers insurance (including the funding of a 6-year tail policy), (iii) external professional advisors of the Greenrose Entities, (iv) ongoing expenses of SierraConstellation Partners LLC, (v) the professional fees and expenses of any professional advisor retained by the Agent and the Consenting Lenders, (vi) payment of a license conversion fee to the State of Connecticut, (vii) a contribution to the Connecticut social equity fund, (viii) the Wind-Down Amount, and (ix) certain tax liabilities.
3. Third Party Marketing Process.
 - (a) For up to fifty (50) days after the date of this Agreement (the “Marketing Period”), the Greenrose Entities will use commercially reasonable efforts to market themselves and their assets (such process, the “Marketing Process”) with the goal of receiving a proposal (an “Alternative Transaction Proposal” and the transaction contemplated therein, an “Alternative Transaction”) for a sale, disposition, new-money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, debt investment, equity investment, liquidation, tender offer, recapitalization, share exchange, business combination, or similar transaction involving any one or more Greenrose Entity, any one or more Greenrose Entity’s assets, or the debt, equity, or other interests in any one or more Greenrose Entity that is an alternative to the Foreclosure (as defined herein). During the Marketing Period, the Agent and Consenting Lenders shall forbear from exercising their rights and remedies under the Loan Documents, in accordance with (and subject to) the terms of the Forbearance Agreement (the “Forbearance”).
 - (b) During the first twenty (20) days (or up to thirty (30) days at the election of the Special Committee (as defined below)) of the Marketing Period (“Phase One”), the Greenrose Entities shall solicit non-binding indications of interest from third parties for an Alternative Transaction involving the Greenrose Entities. At the conclusion of Phase One, if the Greenrose Entities receive indications of interest from one or more third parties that the Special Committee of the Board of Directors of Holdings (the “Special Committee”), reasonably determines (after consulting with outside legal counsel and its financial advisors) have the potential to become a Qualifying Alternative Transaction Proposal (as defined below) (each an “Identified Potential Qualified Purchaser”), then such parties will be invited to participate in the second phase (“Phase Two”) of the Marketing Process and the Forbearance shall be automatically extended until the end of Phase Two. If the Special Committee does not identify any Identified Potential Qualified Purchasers during Phase One, then the Marketing Period shall end and there will not be a Phase Two unless the Agent or Consenting Lenders consent to the occurrence of Phase Two.

- (c) During Phase Two, Identified Potential Qualified Purchasers will have until day fifty (50) of the Marketing Period to formalize their indications of interest into binding proposals (such proposal, a “Qualifying Alternative Transaction Proposal” and the transaction contemplated therein, a “Qualifying Alternative Transaction”). Each Qualifying Alternative Transaction Proposal shall: (1) (i) be binding, (ii) provide evidence that such bidder is financially capable of consummating the transactions contemplated in such proposal, (iii) not be subject to any diligence or financing contingencies, (iv) include no additional conditions precedent or termination events than those included in Sections 6 and 15 of this Agreement, (v) be accompanied by a cash deposit equal to 10 percent (10%) of the total consideration included in such proposal (a “Good Faith Deposit”), which shall be held in escrow by an escrow agent (the “Escrow Agent”) mutually selected by the Greenrose Entities, the Agent and the Consenting Lenders on terms and conditions mutually acceptable to the Greenrose Entities, the Agent and the Consenting Lenders; provided that the definitive documents with respect to such Alternative Transaction Proposal shall provide that one-half of the Good Faith Deposit will be forfeited and used to pay down the Obligations (as defined in the Credit Agreement) if the Greenrose Entities sign a Qualifying Alternative Proposal and such Qualifying Alternative Proposal is not consummated due to a failure to receive necessary regulatory approval and (vi) provide for payment in full, in cash of the sum, calculated as of the date of consummation of the transaction contemplated by such Qualifying Alternative Transaction Proposal, (the “Hurdle Amount”) of (a) the Obligations including the Applicable Make-Whole Amount (each as defined in the Credit Agreement); (b) the fees and expenses of any investment banker or similar professional retained by the Greenrose Entities in connection with the Qualifying Alternative Transaction; and (c) the amount necessary to provide for sufficient funding to wind down the Company upon closing of the transactions contemplated in such Qualifying Alternative Transaction Proposal; provided that such amount shall not be less than the Wind-Down Amount; or (2) be on terms otherwise acceptable to the Company, Agent and Consenting Lenders. No proposal will be considered a Qualifying Alternative Transaction Proposal unless the Greenrose Entities retain a right therein to terminate such Alternative Transaction Proposal on the date that is 90 days from the date on which the Alternative Transaction Proposal is first presented by the Greenrose Entities to the Connecticut Department of Consumer Protection in connection with the Connecticut regulatory approval and cannabis licensing process (the “Qualifying Alternative Transaction Outside Date”). If the Greenrose Entities enter into a Qualifying Alternative Transaction Proposal, the Greenrose Entities shall be required to deliver such termination on the date immediately following the Qualifying Alternative Transaction Outside Date unless the Agent consents otherwise.
- (d) The Greenrose Entities shall be entitled to, in their sole discretion, determine how to market their assets so as to maximize (i) the number of Alternative Transaction Proposals (including Qualifying Alternative Transaction Proposals); and (ii) the value of such proposals; provided that at a minimum, the Greenrose Entities shall provide due diligence to reasonably qualified potential bidders, subject to customary exclusions, as determined in good faith by the Greenrose Entities, including such third parties executing a confidentiality agreement, in form and substance acceptable to the Greenrose Entities.
- (e) If the Greenrose Entities have received more than one Qualifying Alternative Transaction Proposal, no later than three (3) business days following the conclusion of Phase Two, the Greenrose Entities shall conduct an in-person auction that is “on the record” (the “Auction”), at which the Agent, on behalf of the Lenders as defined in the Credit Agreement), may “credit bid” the Hurdle Amount, as such amount existed on the last business day prior to the day of the Auction (a “Credit Bid”). The Greenrose Entities shall not adjourn, postpone or cancel the Auction without the prior written consent of the Agent and Consenting Lenders (which consent is not to be unreasonably withheld). If the Greenrose Entities receive no more than one Qualifying Alternative Transaction Proposal, the Greenrose Entities may determine, in their reasonable discretion, not to hold the Auction and instead declare the applicable Qualifying Alternative Transaction Proposal as the highest and best Qualifying Alternative Transaction Proposal. After receipt and review of Qualifying Alternative Transaction Proposals and, in any event, the Agent and/or the Consenting Lenders may elect (such election, the “Credit Bid Election”) to participate in the Auction. If the Agent and Consenting Lenders make a Credit Bid Election, the Agent at the direction of the Consenting Lenders must submit a bid reasonably consistent with the procedures to which all participating bidders are required to comply with to the Greenrose Entities no later than two (2) business days prior to the Auction. For the avoidance of doubt, the Agent and Consenting Lenders shall have the right to include cash consideration, including in excess of the Hurdle Amount, in conjunction with any Credit Bid.

- (f) To the extent there are multiple Qualifying Alternative Transaction Proposals, prior to the conclusion of the Auction, the Greenrose Entities shall (i) determine which Qualifying Alternative Transaction Proposal is the next highest or otherwise best after the winning bid (the “Backup Bid”) and (ii) notify such bidder that such bidder’s Qualifying Alternative Transaction Proposal was selected as the Backup Bid. A Backup Bid shall remain binding on the applicable bidder until the earlier of (A) the closing of transaction(s) contemplated by the winning bid and (B) 90 days after the date of the Auction (the “Back-Up Period”). If the winning bidder fails to consummate the Qualified Alternative Transaction contemplated in its winning bid during the Back-Up Period, the Backup Bidder shall be deemed the new winning bidder, and the Greenrose Entities shall consummate the Qualified Alternative Transaction contemplated by the Backup Bid.
- (g) If the Company receives one or more Qualifying Alternative Transaction Proposals, the Marketing Period and Forbearance shall automatically extend for ten (10) days to allow the Company to conduct the Auction and finalize definitive documentation with respect to such applicable Qualifying Alternative Transaction Proposals.
- (h) If the Company enters into definitive documentation with respect to a Qualifying Alternative Transaction then the Forbearance shall automatically extend until through and including the date on which such Qualifying Alternative Transaction has received all necessary regulatory approvals from the applicable governmental or regulatory authorities and the satisfaction (or waiver) of all other conditions precedent to the consummation of such transaction, but in no event later than the Qualifying Alternative Transaction Outside Date. All Qualifying Alternative Transaction Proposals must terminate on the Qualifying Alternative Transaction Outside Date, as such date may be extended, changed or modified by the Greenrose Entities, subject to the prior consent of the Agent and Consenting Lenders.
- (i) Cash proceeds from a Qualifying Alternative Transaction that is consummated shall be sufficient to satisfy the Hurdle Amount and shall be used to pay the Hurdle Amount in full on the date of closing of such Qualifying Alternative Transaction.
- (j) Notwithstanding anything to the contrary in this Agreement, each Greenrose Entity and its respective directors, officers, employees, investment bankers, attorneys, accountants, consultants and other advisors or representatives shall have the right during the Marketing Period to: (i) consider and respond to any inquiry, proposal, offer, bid, term sheet, discussion, or agreement with respect to any potential Alternative Transaction Proposal; (ii) provide access to non-public information concerning any Greenrose Entity to any entity or provided that such entity enters into a confidentiality agreement or nondisclosure agreement with the Greenrose Entities; or (iii) maintain or continue discussions or negotiations with respect to potential Alternative Transaction Proposals and enter into or continue discussions or negotiations with holders of claims or interests in Greenrose Entity or any other entity regarding the Foreclosure and/or any Alternative Transaction Proposal; provided, that, prior to the Agent and/or Consenting Lenders making a Credit Bid Election, and if the Agent and Consenting Lenders (i) elect not to make a Credit Bid Election or (ii) make a Credit Bid Election and subsequently cease participation in the Auction, the Greenrose Entities shall (x) provide a copy of any written Alternative Transaction Proposal or topping bid (and notice of, and a written summary of, any oral Alternative Transaction Proposal or topping bid) as soon as reasonably practicable under the circumstances after the Greenrose Entities’ or their advisors’ receipt of such Alternative Transaction Proposal to the Agent, Consenting Lenders and their advisors and (y) provide such information to the Agent, Consenting Lenders and each of their advisors as reasonably requested by such parties or as necessary to keep the Agent, Consenting Lenders and their advisors reasonably informed as to the status and substance of such discussions (subject to applicable law and any applicable confidentiality obligations of the Greenrose Entities, if such obligations are not intended to frustrate the rights of the Agent and Consenting Lenders hereunder). If the Agent and/or NewCo make a Credit Bid Election, then the Agent and Consenting Lenders will only be entitled to receive the same information provided to all bidders at the Auction.

4. Foreclosure Agreement.

- (a) If the Marketing Process does not result in a binding, fully executed Qualifying Alternative Transaction Proposal or if such executed Qualifying Alternative Transaction Proposal (including any Backup Bid) fails to close, then the (i) Agent and the Consenting Lenders will transfer the Obligations (as defined in the Credit Agreement) to a newly-formed Delaware limited liability company (“NewCo”), (ii) NewCo shall become party to this Agreement by executing, and delivering to the Greenrose Entities, a joinder to this Agreement, in form and substance reasonably acceptable to the Greenrose Entities and (iii) NewCo will transmit an offer in the form of the Foreclosure Agreement (the transactions contemplated thereby, the “Foreclosure”, and the date such Foreclosure Agreement is transmitted to the Greenrose Entities, the “Foreclosure Agreement Transmittal Date”) to the Greenrose Entities to accept the Designated Collateral (as defined below), on terms consistent with the terms set forth in this Agreement or such different or additional terms as are reasonably acceptable to the Greenrose Entities, NewCo, Agent and the Consenting Lenders, in exchange for the satisfaction (in the aggregate) of the Obligations (as defined under the Credit Agreement).
- (b) [Reserved.]
- (c) Promptly (and in any event not later than one (1) business day) following the execution of the parties of the Foreclosure Agreement, either (X) (1) NewCo will commence a foreclosure proceeding in Connecticut state court with respect to Theraplant’s owned real property (the “Facility”) and (2) NewCo and Theraplant will enter into a stipulation for a consensual foreclosure of the Facility (collectively, the “Judicial Foreclosure”) or, (Y) to the extent the Agent and the Consenting Lenders elect not to pursue the Judicial Foreclosure in their reasonable discretion, the parties shall engage in another method of foreclosure, as determined in the Agent’s and Consenting Lenders reasonable discretion, and subject to the Greenrose Entities’ consent (not to be unreasonably withheld). To the extent the Foreclosure is consummated prior to the completion of the Judicial Foreclosure, and provided that the Consenting Lenders or NewCo provide Theraplant sufficient funding to remain in existence and comply with the following obligations, NewCo (or a subsidiary of NewCo) and Theraplant will enter into and maintain a rent-free lease to allow for use of the real property by NewCo (or a subsidiary of NewCo) pending the completion of the Judicial Foreclosure.
- (i) Within three (3) days of receiving the Foreclosure Agreement (which agreement, for the avoidance of doubt, shall be reasonably acceptable to the Greenrose Entities, Newco, Agent, and Consenting Lenders and be in form and substance consistent with this Agreement or on such additional or different terms as are reasonably acceptable to the Greenrose Entities, Newco, Agent, and Consenting Lenders), duly executed by the Agent and Consenting Lenders, the Greenrose Entities shall, subject to the waiver (in writing by the Greenrose Entities) or satisfaction of the conditions in Section 7(a) below, execute the Foreclosure Agreement by delivering an executed signature page counterpart to the Foreclosure Agreement.
- (ii) After the expiry of the Forbearance and until the Foreclosure Outside Date, the Agent, Consenting Lenders, and NewCo shall continue to forbear in accordance with the terms of the Forbearance Agreement, and shall continue to make the Incremental Debt available to the Company, pursuant to the terms of Amendment No. 2.

- (iii) Subject to the Limited Diligence Out (as defined herein), NewCo shall assume all of the following liabilities in connection with the Foreclosure (the “Assumed Liabilities”): (i) employee liabilities (other than indemnification obligations except as specified below in this Section 4(c)(iii)), (ii) accounts payable and liabilities arising from assumed contracts, and (iii) obligations to Ducera Partners LLC (or any of its affiliates); provided that, in no event shall NewCo (or one or more of its subsidiaries) be liable for more than \$1,000,000 in liabilities in respect of professional fees and expenses related to services rendered by Ducera Partners LLC (or any of its affiliates), and shall only be liable for up to such \$1,000,000 if, and only if, (i) the Agent (on behalf of the Consenting Lenders) submits a Credit Bid, such bid is declared the winning bid at the Auction and the transactions contemplated by such bid are consummated or (ii) if the Foreclosure is consummated. NewCo and the current officers and directors of the Greenrose Entities (the “Current D&Os”) that wish to maintain indemnification from NewCo for matters arising from, related to or otherwise occurring prior to the closing of the Foreclosure shall enter into new indemnification agreements (in form and substance reasonably acceptable to NewCo and the Greenrose Entities) pursuant to which NewCo shall indemnify the Current D&Os for claims related to or arising from the Transactions (as defined in the Release Agreement) (the “Indemnification Agreements”). Such Indemnification Agreements shall provide that, prior to seeking indemnification on a claim, such director or officer must first look to recover under any insurance policy of any of the Greenrose Entities covering such loss and not seek indemnity until there has been a determination under the relevant insurance policy as to their claim. Further, by executing the Indemnity Agreement, each Current D&O shall be required to waive any and all other forms of indemnification, contribution or similar claims against NewCo whether arising under applicable law, contract (including any assumed contract) or otherwise for any and all matters related to or arising from or occurring prior to the consummation of the Foreclosure. Further, NewCo shall enter into an agreement that is reasonably acceptable to NewCo and the Greenrose Entities (the “Tax Funding Agreement”) to fund all of the Greenrose Entities’ anticipated tax liabilities in such amounts as reflected on the schedule delivered by the Greenrose Entities prior to the date hereof (the “Tax Schedule”), and which schedule may be amended following the date hereof, with the reasonable consent of the Agent or the Consenting Lenders (collectively with the Assumed Liabilities, the “NewCo Liabilities”); provided that NewCo shall not be required to pay any federal or state income taxes that are materially in excess of the amounts listed in the Tax Schedule as of the date hereof and, with respect to all other taxes set forth on the Tax Schedule as of the date hereof, shall not be required to pay any amounts in excess of amounts listed on the Tax Schedule.
- (iv) Within fifteen (15) days of the execution by the Company of the Foreclosure Agreement, and in any event no earlier than upon expiration of the Limited Diligence Out Period, NewCo shall offer each employee of the Subsidiaries employment at NewCo effective at (but subject to) closing of the Foreclosure on substantially the same terms (including without limitation position, title, salary, bonus, incentive compensation, location and duties), and with no less favorable benefits, as such employees’ existing employment arrangements; provided that terms of such employee arrangements are not materially amended or modified from the date hereof through and including the date on which such offer of employment is made without the consent of the Agent.
- (v) The assets to be foreclosed upon (the “Designated Collateral”) under the Foreclosure shall constitute all or substantially all of the Collateral provided by the Greenrose Entities other than the equity interests in Theraplant and TH. The Designated Collateral also shall include causes of action and choses in action, whether known or unknown, other than those causes of action and choses in action that are released pursuant to the Release Agreement. Designated Collateral shall not include any Excluded Assets (as defined in the Credit Agreement) or other Collateral identified by the Consenting Lenders with the consent of the Company (not to be unreasonably withheld) by the Foreclosure Agreement Transmittal Date.

5. Mutual Release. As a condition precedent to each parties' obligations to consummate the Foreclosure, the Greenrose Entities, on the one hand, and NewCo, the Agent and Consenting Lenders, on the other hand, will execute the mutual release agreement in substantially the form delivered by the Greenrose Entities' outside legal counsel to the Agent's outside legal counsel, by email, on the date hereof (the "Release Agreement").
6. NewCo Conditions Precedent. The obligation of the Agent and NewCo to consummate the Foreclosure shall be subject to the satisfaction or waiver of the following conditions precedent in the sole discretion of NewCo and the Agent:
- (a) there not occurring or becoming known to NewCo, Agent or the Consenting Lenders any material adverse condition or material adverse change in or affecting the business, operations, property, condition (financial or otherwise) or prospects of the Greenrose Entities, taken as a whole;
 - (b) subject to the Budget, the payment of all license conversion fees necessary to obtain a license for the cultivation of cannabis for the recreational market in Connecticut which shall be paid from the proceeds of the Incremental Debt;
 - (c) receipt of all governmental approvals necessary to consummate the Foreclosure;
 - (d) no injunction or restraining order shall have been issued by any governmental authority, and be in effect, that restrains or prohibits any transaction contemplated hereby;
 - (e) no governmental authority having jurisdiction over any party hereto shall have enacted, issued, promulgated, enforced, or entered any laws or orders, whether temporary, preliminary, or permanent, that make illegal, enjoin, or otherwise prohibit the consummation of the transactions contemplated hereby (other than Federal Cannabis Laws (as defined in the Credit Agreement));
 - (f) no assignment for the benefit of creditors, moratoria, composition, reorganization, arrangement or similar relief has been commenced by or with respect to any Greenrose Entity (excluding, for the avoidance of doubt, the Existing Litigation (as defined in the Forbearance Agreement));
 - (g) payment of all reasonable and documented, invoiced fees and out of pocket expenses of (i) Milbank LLP, (ii) The Ledbetter Law Firm, P.L.C., (iii) Pullman & Comley LLC and (iv) with the consent of the Company (not to be unreasonably withheld), other advisors to the Agent, the Consenting Lenders and NewCo; provided that, in each case, subject to the Budget and sufficient funding having been provided by the Consenting Lenders to pay such fees and expenses;
 - (h) the Forbearance Agreement has been executed and remains in full force and effect; and
 - (i) the Foreclosure Agreement has been executed and remains in full force and effect.
7. Greenrose Entities Conditions Precedent.
- (a) The obligation of the Greenrose Entities to execute the Foreclosure Agreement, shall be subject to the satisfaction or waiver of the following conditions precedent in the sole discretion of the Greenrose Entities:
 - (i) NewCo shall have delivered the Foreclosure Agreement to the Greenrose Entities in form and substance reasonably acceptable to the Greenrose Entities (and consistent with the terms of this Agreement or with such additional or different terms as are reasonably acceptable to the Greenrose Entities, Newco, Agent, and Consenting Lenders);
 - (ii) the Marketing Period shall have terminated and no definitive agreement with respect to a Qualifying Alternative Transaction has been entered into;

- (iii) the Special Committee shall have received an opinion (or equivalent thereof) from the Greenrose Entities' financial advisor that the Foreclosure is fair from a financial point of view to the Greenrose Entities; and
 - (iv) the conditions set forth in Section 7(b)(iv)-(vi) of this Agreement
- (b) The obligation of the Greenrose Entities to consummate the Foreclosure, shall be subject to the satisfaction or waiver of the following conditions precedent in the sole discretion of the Greenrose Entities:
- (i) the Consenting Lenders shall have delivered, and the Greenrose Entities shall have executed, the Foreclosure Agreement and such Foreclosure Agreement remains in full force and effect;
 - (ii) the Consenting Lenders shall have funded, into an account to be used solely to fund the wind-down of the Greenrose Entities, an amount equal to (x) \$500,000 (or such other higher amount with the consent of the Agent that prior to closing, the Greenrose Entities demonstrate a funding need for in order to conduct and complete an orderly wind-down of the Greenrose Entities) *less* (y) any amounts remaining in the Company's bank accounts (other than accounts holding trust fund taxes and withholdings that are used to pay such taxes or satisfy the obligations related to such withholdings) following the consummation of the Foreclosure (and after taking into account the payment of transaction expenses contemplated by the Foreclosure Agreement) (the "Wind-Down Amount");
 - (iii) receipt of all governmental approvals necessary to consummate the Foreclosure;
 - (iv) no injunction or restraining order shall have been issued by any governmental authority, and be in effect, that restrains or prohibits any transaction contemplated hereby;
 - (v) no governmental authority having jurisdiction over any party hereto shall have enacted, issued, promulgated, enforced, or entered any laws or orders, whether temporary, preliminary, or permanent, that make illegal, enjoin, or otherwise prohibit the consummation of the transactions contemplated hereby (other than Federal Cannabis Laws (as defined in the Credit Agreement));
 - (vi) all Lenders under the Credit Agreement shall have assigned the Obligations (as defined under the Credit Agreement) to NewCo and NewCo shall have become party to this Agreement;
 - (vii) subject to the Budget (as defined in the Credit Agreement), the Consenting Lenders shall have provided the Greenrose Entities with funding to bind a 6-year D&O tail policy that covers the Greenrose Entities' existing directors and officers, as well as any parties appointed to oversee the Greenrose Entities' wind-down, and the Company shall have funded and bound such policy;
 - (viii) NewCo and the Greenrose Entities shall have executed and delivered the Tax Funding Agreement;
 - (ix) the Greenrose Entities, NewCo, the Agent and Consenting Lenders, shall have executed and delivered the Release Agreement;
 - (x) NewCo shall have executed the Indemnification Agreements; and
 - (xi) the Forbearance Agreement has been executed and remains in full force and effect.

8. Pursuit/Support of the Foreclosure.

- (a) If a Foreclosure Agreement is delivered to the Greenrose Entities in accordance with the terms of this Agreement and is consented to by the Greenrose Entities, each of the Greenrose Entities agrees and covenants that it shall (i) use commercially reasonable efforts to successfully consummate the Foreclosure in the manner and in accordance with the timeline contemplated by this Agreement, and (ii) assist with all necessary filings with any state regulatory bodies in connection with the Foreclosure;
- (b) The Agent, each Consenting Lender and, to the extent a party hereto, NewCo (i) agrees to take, or cause to be taken, all actions reasonably necessary to facilitate, encourage or otherwise support the consummation of the Foreclosure and (ii) agrees not to take, or cause to be taken, directly or indirectly, any action inconsistent with, or would otherwise delay or impede the consummation of the Foreclosure;
- (c) Regulatory Covenants:
- (i) The Consenting Lenders and Newco shall, and shall cause its Affiliates to make, or enable the Greenrose Entities to make on Newco's behalf, all required filings and use commercially reasonable efforts to promptly obtain, or enable the Greenrose Entities to obtain on Newco's behalf, all consents and approvals of all U.S. federal, state or local, political subdivision, governmental, regulatory or administrative authority, instrumentality, agency, body or commission, self-regulatory organization or any court, tribunal, or judicial or arbitral body (each, a "Government Authority") and all issuances, re-issuances or transfer of all licenses, permits or authorizations (each a "License") that are necessary for the execution and delivery of, and performance of its obligations pursuant to, the Foreclosure Agreement and any agreements contemplated thereby (including consummation of the Foreclosure) or the operation of the business of the Greenrose Entities following the closing of the Foreclosure (collectively, the "Government Approvals").
- (ii) Consenting Lenders and Newco shall, and shall cause its affiliates to, supply as promptly as practicable any additional information and documentary material that may be requested by the Greenrose Entities (to the extent reasonable) or a Governmental Authority (including to promptly make available any information and appropriate personnel in response to any queries made by a Government Authority, which may include, among other things, information regarding the Foreclosure Agreement, Newco's (and Consenting Lenders') capabilities as the potential owner of the business of the Greenrose Entities, Newco's organizational and capital structure, the identity, biographical information, and citizenship of any controlling person(s) thereof, or other matters).
- (iii) To the extent permitted under applicable law, each party shall promptly notify the other parties of any substantive oral or written communication it or any of its representatives receives from any Government Authority relating to the Government Approvals, permit the other parties and their respective representatives to review in advance any substantive communication relating to the matters that are the subject of this Section 8(c) proposed to be made by such party to any Government Authority and provide the other parties with copies of all substantive correspondence, filings or other communications between them or any of their representatives, on the one hand, and any Government Authority or members of its staff, on the other hand, relating to the Government Approvals. For the avoidance of doubt, materials proposed to be submitted in response to any such Government Authority communication: (i) be redacted to remove references concerning the valuation of the Greenrose Entities' business; (ii) be redacted as necessary to comply with contractual arrangements or applicable law; and (iii) redacted or provided on an "outside counsel only" basis as necessary to address reasonable attorney-client or other privilege or confidentiality concerns. No party shall agree to participate in any substantive meeting or discussion (including by phone) with any Government Authority in respect of any such filings, investigation or other inquiry unless it consults with the other parties in advance and, to the extent permitted by such Government Authority, gives such party the opportunity to attend and participate at such meeting or discussion (including by phone);
- (iv) Consenting Lenders, Agent, and NewCo shall not, and shall not permit any of their respective affiliates to, take any action (including acquiring or agreeing to acquire by merging or consolidating with, or by purchasing the assets of or equity in, or by any other manner, any person or portion thereof, or otherwise acquiring or agreeing to acquire any assets) that would reasonably be expected to have the effect of (i) impairing or impeding the receipt of, or increasing the risk of not receiving, any required Government Approval prior to the Foreclosure Outside Date or (ii) increasing the risk of any Government Authority entering an order prohibiting, or impeding the consummation of the Foreclosure prior to the Foreclosure Outside Date (and shall not, without the consent of the Greenrose Entities,

- (d) From the date of this Agreement until the end of the Marketing Period, the Consenting Lenders will promptly draft, deliver to the Greenrose Entities, and negotiate in good faith the terms of the Foreclosure Agreement.
- (e) All definitive documentation in respect of the Foreclosure and Foreclosure Agreement including all related exhibits, schedules, supplements, appendices, annexes, and attachments thereto that are utilized to implement or effectuate, or that otherwise relate to, the Foreclosure shall be consistent in all respects with this Agreement and otherwise reasonably acceptable to the Greenrose Entities, Agent and Consenting Lenders.
- (f) If requested by the Greenrose Entities, NewCo, the Agent, and Consenting Lenders shall make good faith efforts to support (by non-economic means only, unless otherwise agreed by NewCo, the Agent, and Consenting Lenders in their sole discretion) the Greenrose Entities' efforts to gain consensus and support amongst the Greenrose Entities' other stakeholders to support the transactions contemplated by this Agreement, including the Foreclosure.
- (g) The Greenrose Entities shall provide on a timely basis any books, records (including work papers, schedules, memoranda and other documents), agreements, supporting data or other information that are reasonably requested by the Agent or Consenting Lender in connection with the Agent's and Consenting Lenders' diligence review of the NewCo Liabilities, in each case, to the extent such documents exist and are available to the Greenrose (provided, that the Greenrose Entities may provide any such information on an "outside counsel only" basis as necessary to address reasonable attorney-client or other privilege or confidentiality concerns). To the extent that any of the Greenrose Entities breach its obligations under this Section 8(g) prior to the conclusion of the Limited Diligence Out Period, the Agent or the Consenting Lenders shall promptly deliver written notice to the Greenrose Entities of such breach (and in any event prior to the expiration of the Limited Diligence Out Period).

9. Conduct of Business. Each of the Greenrose Entities agrees that, from the date hereof until the earlier of (i) termination of this Agreement, (ii) consummation of a Qualifying Alternative Transaction or (iii) consummation of the Foreclosure, unless otherwise contemplated by this Agreement or agreed to by the Agent and the Consenting Lenders in their sole discretion:

- (a) each of the Greenrose Entities, shall not directly or indirectly do or permit to occur any of the following (other than as contemplated by this Agreement or with the consent of the Agent): (i) issue, sell, pledge, dispose of or encumber any additional shares of, or any options, warrants, conversion privileges or rights of any kind to acquire any shares of, any of its equity interests including, without limitation, capital stock or partnership interests, other than pursuant to existing convertible debt instruments which are convertible at the election of the noteholder without the consent of such Greenrose Entities; (ii) amend or propose to amend its respective articles of incorporation, bylaws or comparable organizational documents in a manner adverse to the Consenting Lenders or that would otherwise prohibit, delay or impede the Foreclosure; (iii) split, combine or reclassify any outstanding shares of its capital stock or other equity interests, or declare, set aside or pay any dividend or other distribution payable in cash, stock, property or otherwise with respect to any of its equity interests; (iv) redeem, purchase or acquire or offer to acquire any of its equity interests including, without limitation, capital stock or partnership interests; (v) acquire or divest (by merger, exchange, consolidation, acquisition of stock or assets or otherwise) any corporation, partnership, limited liability company, joint venture or other business organization or division or assets thereof; (vi) incur any indebtedness for borrowed money or issue any debt securities; (vii) enter into any executive employment agreements (other than ongoing services with SierraConstellation Partners LLC); (viii) enter into any non-executive employment agreements other than employment agreements consistent with past practice, including in terms of compensation and duration; (ix) allow or settle material claims or any material pending litigation; (x) terminate or enter into any material contract outside of the ordinary course of business (including, without limitation, (I) that certain *Cultivation Services Agreement*, dated as of May 2, 2019, as amended, by and between Total Health & Wellness, Inc. and True Harvest, LLC, and (II) that certain *Industrial Lease*, dated as of July 25, 2017, by and between MSCP, LLC and True Harvest, LLC); provided that the Agent's consent shall not to be unreasonably withheld with respect to entry into or amendments to material contracts by or of the Greenrose Entities; or (xi) enter into or modify any agreement with respect to any of the matters set forth in this Section 9(a);

- (b) each of the Greenrose Entities will use commercially reasonable efforts to obtain for Theraplant and/or NewCo, as applicable, a license for the cultivation of cannabis for the recreational market in Connecticut;
 - (c) each Greenrose Entity shall use commercially reasonable efforts to (i) maintain its good standing under the laws of the state in which it is incorporated or organized, (ii) preserve all of its material licenses, including but not limited to, all licenses necessary to operate cannabis establishments in all jurisdictions that the Greenrose Entities operate; (iii) notify the Agent and Consenting Lenders of any governmental or third party complaints, litigations, investigations or hearings (or communications indicating that the same may be contemplated or threatened); (iv) continue to operate its businesses in accordance with past practice; (v) preserve its material relationships with customers, suppliers, licensors, licensees, distributors and others having material business dealings with their business, and (vi) keep available the material services of its officers and employees; and
 - (d) no Greenrose Entity shall adopt or enter into any plan of complete or partial liquidation or dissolution of, or otherwise liquidate, dissolve or wind up, any Greenrose Entity prior to the later of (a) provided that the Consenting Lenders provide the Greenrose Entities sufficient funding to remain in existence and satisfy such obligations, payment to the applicable taxing authority of all taxes (i) owed by such Greenrose Entity or (ii) withheld by such Greenrose Entity on behalf of such taxing authority or (b) the consummation of the transactions contemplated in the Foreclosure Agreement or Qualifying Alternative Transaction, as applicable.
10. Tax Treatment. The parties hereto agree that entry into the Forbearance Agreement and Amendment No. 2 shall not be treated as giving rise to a “significant modification” of the Existing Debt within the meaning of Treasury Regulations section 1.1001-3. The parties will report consistent with the foregoing for U.S. federal, state and local income tax purposes.
11. Assignment of Contracts. The Greenrose Entities will use commercially reasonable efforts to obtain necessary consents to the assignment to NewCo of any material contracts that are to be assumed by NewCo in connection with the Foreclosure. Following the consummation of the Foreclosure, to the extent any such consents are not obtained, solely to the extent that NewCo provides the Greenrose Entities with additional sufficient funding to remain in existence and to comply with the following obligations, the Greenrose Entities, on the one hand, and Agent, the Consenting Lenders and NewCo, on the other hand, will cooperate in a mutually agreeable arrangement under which NewCo (or one more of its subsidiaries) would obtain from the Greenrose Entities the benefits from, and assume the obligations under, the applicable contract(s).
12. Representations and Warranties.
- (a) Each Consenting Lender represents and warrants, severally and not jointly, that, as of the date hereof, such Consenting Lender is the legal owner or beneficial owner and holder of investment and voting authority over, the aggregate amount of the Obligations (as defined in the Credit Agreement) held by it as set forth in the records maintained by the Agent, and legally or beneficially owns, and has investment and voting authority over, no other obligations outstanding under the Credit Agreement.
 - (b) Each Consenting Lender and to the extent NewCo becomes a party hereto, NewCo represents and warrants, severally and not jointly, that such Consenting Lender is a sophisticated investor with respect to the transactions described in this Agreement with sufficient knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of owning and investing in securities (including any securities that may be issued in connection with the transactions contemplated by this Agreement), is making an informed decision with respect thereto and has made its own analysis and decision to enter this Agreement.

- (c) Each Consenting Lender represents and warrants, severally and not jointly, that the Consenting Lenders constitute all Lenders under the Credit Agreement.
- (d) (x) Each Consenting Lender, and to the extent NewCo becomes a party hereto, NewCo severally and not jointly, represents and warrants to each of the Greenrose Entities and (y) each of the Greenrose Entities represents and warrants to each Consenting Lender and to the extent NewCo becomes a party hereto, NewCo, that the following statements, as applicable, are true, correct and complete as of the date hereof:
- (i) Power and Authority. It has all requisite corporate, partnership, or limited liability company power and authority to enter into this Agreement and to carry out the transactions contemplated hereby, and to perform its obligations hereunder.
 - (ii) Due Organization. It is duly organized, validly existing and in good standing under the laws of its state of organization and it has the requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder.
 - (iii) Authorization. The execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary corporate, partnership or limited liability company action on its part.
 - (iv) No Conflicts. The execution, delivery and performance of this Agreement does not and shall not: (1) violate any provision of law, rule or regulation applicable to it, except to the extent the failure to comply therewith could not reasonably be expected to have a material adverse effect on its ability to perform its obligations hereunder; (2) violate its articles or certificate of incorporation, bylaws or other organizational documents; or (3) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any material contractual obligation to which it or any of its subsidiaries is a party.
13. Acknowledgment. Each of the parties acknowledges and agrees that: (i) this Agreement is being executed in connection with negotiations concerning the Foreclosure; and (ii) the rights granted in this Agreement are enforceable by each signatory hereto.
14. Fees and Expenses. The Greenrose Entities shall promptly pay all reasonable and documented, out of pocket, fees and expenses of (i) Milbank LLP, (ii) The Ledbetter Law Firm, P.L.C., (iii) Pullman & Comley LLC and (iv) with the consent of the Company (not to be unreasonably withheld) other advisors to the Agent and the Consenting Lenders ; provided that, in each case, subject to the Budget and sufficient funding having been provided by the Consenting Lenders to pay such fees and expenses; provided further that any fees and expenses in excess of the amounts included in the Budget for such items are not, and shall not be deemed to be, waived and shall be paid at the closing of the Foreclosure solely to the extent the Greenrose Entities have sufficient funding (excluding the Wind Down Amount).
15. Termination.
- (a) This Agreement shall automatically terminate upon the occurrence of the earlier of the following events:
 - (i) the date that is 90 days from the date on which this Agreement is first presented by the Greenrose Entities to Connecticut Department of Consumer Protection in connection with the Connecticut regulatory approval and cannabis licensing process or such other date as mutually agreed in writing by the Parties hereto if consummation of the Foreclosure has not yet occurred (such date, the “Foreclosure Outside Date”); provided that this Agreement must be presented to the Connecticut Department of Consumer Protection no later than five (5) business days from entry into the Foreclosure Agreement;
 - (ii) the consummation of the Foreclosure;
 - (iii) the consummation of a Qualifying Alternative Transaction and payment in full in cash of the Hurdle Amount;
 - (iv) any material breach of this Agreement by any Greenrose Entity which is not cured within 10 days of written notice thereof by a Consenting Lender;

- (v) any material breach of this Agreement by the Agent or any Consenting Lender which is not cured within 10 days of written notice thereof by any Greenrose Entity;
 - (vi) the Forbearance Agreement is validly terminated or is otherwise no longer in full force and effect and is not extended, renewed, or amended and restated within 10 days of written notice of such termination or expiry by the Agent to the Greenrose Entities (or the Greenrose Entities to the Agent).
- (b) For a period of twenty-five (25) days after entry into this Agreement by the parties, the Agent and Consenting Lenders may terminate this Agreement on five (5) days' written notice to the Greenrose Entities (such twenty-five day period, the "Limited Diligence Out Period") to the extent that (i) the Greenrose Entities breach their obligations set forth in Section 8(g) in a manner that prejudiced the Agent's and the Consenting Lenders' due diligence review of the NewCo Liabilities, which breach is not cured upon the earlier of (A) five (5) days following date of notice of such breach and (B) expiration of the Limited Diligence Out Period, or (ii) the Agent or Consenting Lenders discover material NewCo Liabilities that were not previously disclosed in writing by the Greenrose Entities or their representatives prior to the date hereof (the "Undisclosed Liabilities") to the Agent or Consenting Lenders (the "Limited Diligence Out"); provided that upon receipt of a notice of termination from the Agent or Consenting Lenders on account of clause (ii) of the Limited Diligence Out (which notice shall specify in reasonable detail such Undisclosed Liabilities), the Greenrose Entities may elect in writing to proceed with pursuit of the Foreclosure (the "Greenrose Election"), and the Agent and/or Consenting Lenders' termination shall be deemed null and void, solely to the extent that, to the reasonable satisfaction of the Agent and the Consenting Lenders, NewCo will not assume and will not directly or indirectly suffer or incur any liability, loss, damage or cost arising from or in connection with such specified Undisclosed Liabilities.
- (c) Upon a termination of this Agreement in accordance with this Section 16, no party hereto shall have any continuing liability or obligation to any other party hereunder and the provisions of this Agreement shall have no further force or effect, except for the provisions in Sections 13 and 16-25, each of which shall survive termination of this Agreement; and in the case of a termination under Section 15(a)(ii), the provisions in Section 5 shall survive; provided that no such termination shall relieve any party from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination.
16. No Third-Party Beneficiaries. This Agreement shall be solely for the benefit of the parties hereto and no other person or entity shall be a third-party beneficiary hereof.
17. Amendments. Other than as expressly provided in this Agreement, this Agreement (and any annexes, schedules, or exhibits hereto) may only be amended in writing by the Greenrose Entities, the Agent, and the Consenting Lenders.
18. Restrictions on Transfer.
- (a) Except as set forth in Section 18(b), each Consenting Lender hereby agrees that, for so long as this Agreement shall remain in effect, it shall not sell, transfer, assign, pledge, hypothecate or grant any participations or sub-participations in (each, a "Transfer") all or any of the Obligations or Commitments (as defined under the Credit Agreement) without the prior written consent of the Company.
 - (b) Notwithstanding the foregoing, any Consenting Lender may Transfer any or all of its Obligations (as defined under the Credit Agreement), provided that, as a condition precedent, (i) such Consenting Lender reaffirms its Commitments (as defined in the Credit Agreement) or Transfers its Commitments (as defined in the Credit Agreement) to the transferee, (ii) in the case of a Transfer of Commitments, the applicable transferee is a credit worthy entity, (iii) the transferee thereof agrees in writing to be bound by the terms of this Agreement and the Credit Agreement by executing a joinder to this Agreement and the Credit Agreement, (iv) without duplication of the previous clause (i), such Transfer is made in accordance with Section 14.1 of the Credit Agreement, and (v) upon any such transfer, all provisions requiring the consent of the Consenting Lenders shall mean the consent of Consenting Lenders holding a majority of the Obligations outstanding as of the time such consent request is made. Upon execution of such joinder, such joining party shall become a "Consenting Lender" for all purposes hereunder.

- (c) This provision shall in no way prohibit the assignment of any or all of the Obligations (as defined under the Credit Agreement) to NewCo or any subsidiary of NewCo so long as NewCo and any applicable subsidiary executes a joinder to this Agreement and the Credit Agreement in accordance with Section 18(b), and such assignment otherwise complies with the requirements set forth in Section 14.1(a) of the Credit Agreement.
- (d) Any Transfer of any interest that does not comply with the foregoing shall be deemed void *ab initio*.
19. Entire Agreement. As of the date this Agreement becomes effective, this Agreement, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.
20. Governing Law. This Agreement and the rights and obligations of the parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York without the application of any choice of law provisions would require the application of the laws of another jurisdiction. The Greenrose Entities hereby irrevocably and unconditionally: (a) submits for itself and its property in any legal action or proceeding relating to this Agreement to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the courts sitting in the Borough of Manhattan in the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof; provided, that nothing contained herein will prevent any Consenting Lender from bringing any action to enforce any award or judgment in any other forum in which jurisdiction can be established; (b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same; (c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Greenrose Entities, as the case may be at its address set forth in Section 25; (d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law; and (e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 20 any indirect, special, exemplary, punitive or consequential damages.
21. Specific Performance. It is understood and agreed by each party hereto that money damages would be an insufficient remedy for any breach of this Agreement by any party and each non-breaching party shall be entitled to specific performance and injunctive or other equitable relief as a remedy of any such breach.
22. Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts and by facsimile, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.
23. Severability. Any term or provision of this Agreement, which is invalid or unenforceable in any jurisdiction, shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, the provision shall be interpreted to be only as broad as is enforceable.
24. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not affect the interpretation hereof.

Exhibit 7

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

.,
Plaintiff,
vs.
.,
Defendant.

CASE NO. .
Assigned to Honorable .
Department: .

**[PROPOSED] ORDER GRANTING EX
PARTE APPLICATION FOR
APPOINTMENT OF RECEIVER FOR
PERSONAL PROPERTY
COLLATERAL, FOR TEMPORARY
RESTRAINING ORDER, AND ORDER
TO SHOW CAUSE RE INJUNCTION IN
AID OF RECEIVER**

Date:
Time:
Dept.:

Upon the Ex Parte Application for Appointment of Receiver to Preserve Personal Property Collateral, for Temporary Restraining Order, and Order to Show Cause re Injunction in Aid of Receiver (“Application”) filed on behalf of < _____ > (“< _____ >” or “< _____ >”), and good cause appearing therefore, **IT IS HEREBY ORDERED** that:

< _____ >’s Application is hereby **GRANTED**.

1 **I. APPOINTMENT OF RECEIVER**

2 **IT IS FURTHER ORDERED** that:

3 < _____ > (the “Receiver”) is hereby appointed as receiver to take possession,
4 custody and control of the Collateral, as defined herein, and to maintain and conserve the
5 Collateral pending litigation in the above referenced matter. The powers of the Receiver shall be
6 all the usual and customary powers of a receiver to take control of and operate the Collateral,
7 including the duties and powers enumerated in this Order.

8 1. **Collateral.** Includes the following:

9 All assets obtained or owned by or in the possession of < _____ >, a < _____ >
10 (“< _____ >”) and < _____ >, a < _____ > (“< _____ >”) (collectively,
11 “< _____ >”), including without limitation all cash, accounts, inventory, rights to payment,
12 goods, equipment, furnishings, and general intangibles, together with the business operations,
13 marijuana dispensary registration certificates, and all other permits and licenses pertaining to the
14 operation of the business, both tangible and intangible, of whatever kind and description and
15 wherever situated and the revenues, payments, proceeds and profits derived from the Business, as
16 defined herein, (collectively, the “Collateral”), wherever located.

17 2. **Receiver’s Oath and Bond.** Before performing his duties, the Receiver shall
18 execute a receiver’s oath and file a bond in the sum of \$< _____ >, conditioned upon the
19 faithful performance of the Receiver’s duties. The bond shall be from a surety approved by the
20 Court and shall be filed no later than ____:____.m., on < _____ >;

21 3. **Bond.** < _____ > shall immediately file an applicant’s bond under Code of Civil
22 Procedure section 566(b) in the amount of \$< _____ >. The bond shall be filed no later than
23 ____:____.m., on < _____ >;

24 4. **Receiver’s Duties and Powers.** The Receiver shall be vested with the authority to
25 do the following:

26 (a) To assemble and take possession, custody and control of the Collateral,
27 wherever located, and to operate the business of Defendants (the “Business”);
28

- 1 (b) Collect all issues, profits, and income resulting from the operation or sale
2 of the Collateral;
- 3 (c) Care for, safeguard, preserve, operate and maintain the Collateral and incur
4 the expenses necessary for such care, preservation and maintenance of the Collateral;
- 5 (d) The Receiver shall have the ability but not required to interview the parties
6 and decide who shall operate the Business and exclude any all parties from the Business. If the
7 Receiver hires any of the parties, he will still retain financial control over the Business;
- 8 (e) Institute and prosecute all suits that the Receiver, upon obtaining
9 permission of the Court and the Plaintiff, may reasonably believe to be necessary in connection
10 with the management of the Collateral, and defend all such suits and actions as may be instituted
11 against the Collateral or the Receiver;
- 12 (f) Obtain and/or maintain any licenses or permits that the Receiver
13 reasonably believes to be necessary for the operation of the Collateral;
- 14 (g) Obtain and pay for any insurance that the Receiver reasonably believes to
15 be necessary for the operation of the Collateral;
- 16 (h) Tender any suits or claims against the Collateral to any appropriate
17 insurance company.

18 5. **Management and Liquidation of Collateral.** The Receiver shall manage the
19 Collateral and may employ agents, clerks or accountants to administer and liquidate the
20 Collateral. No risk, obligation or expense so incurred shall be the personal risk or obligation of
21 the Receiver, but shall be the risk, obligation and expense of the receivership estate established
22 herein.

23 6. **Sale of the Collateral:**
24 Other than in the ordinary course of business, the Receiver is not authorized to sell the
25 Collateral without prior Court approval.

26 7. **Pending Litigation.** Except for the pending action before this Court involving the
27 parties, any pending litigation or other legal proceeding involving the Defendants herein will be
28 reviewed by the Receiver and, at the Receiver's discretion and with Plaintiffs approval, Receiver

1 can prosecute and defend such claims. Any proceeds or other assets generated from such legal
2 proceedings constitute Collateral.

3 8. **Police Assistance:**

4 Receiver, as agent of the Court (and only when the Receiver deems absolutely necessary)
5 shall be entitled to the assistance of law enforcement officials when taking possession, or at any
6 other time during the term of the Receivership such assistance is necessary to preserve the peace
7 and protect the Receivership assets. This Order shall be presented to local law enforcement,
8 including police, sheriff or marshal and law enforcement will carry out the terms of this Order to
9 assist the Receiver in taking possession of the Collateral without further Court intervention or
10 Order.

11 9. **Advances to Receiver/Receiver Certificates.**

12 (a) < _____ > shall advance \$< _____ > to the Receivership Estate to
13 initially cover the Receiver’s fees and expenses. If there are funds in the Business the Receiver
14 shall immediately reimburse < _____ > for the advance of funds to the Receivership Estate.

15 (b) The Receiver may issue Receivership Certificates upon agreed-upon terms,
16 at its sole discretion, to fund the Receivers’ operations.

17 (c) Funds loaned to the Receiver pursuant to Receivership Certificates are
18 deemed liens of first priority, and, except as provided in the following sentence, shall be repaid
19 prior to all other encumbrances and claims, other than costs of administration.

20 10. **Use of Funds.** All monies coming into the Receiver’s possession shall only be
21 expended for the purposes herein authorized, and the balance of funds shall be held by the
22 Receiver pending further Order of this Court.

23 11. **Receivership Fees and Costs.** The Receiver may charge as interim fees his
24 standard hourly billing rate, which is currently \$< _____ > per hour, plus reimbursement of
25 costs for the Receiver’s services. Associates at the Receiver’s office may charge \$< _____ >
26 per hour and Project Managers may charge \$< _____ > an hour, Accountants may charge
27 \$< _____ > an hour and Administrative Staff may charge \$< _____ > per hour. Where
28 appropriate, the Receiver will have an appropriate staff member handle certain aspects of the

1 Receivership as a cost saving measure.

2 The Receiver is also authorized to employ the services of accountants and attorneys
3 without further Court Order and pay for those services in the amount of the normal fees charged
4 by those professionals.

5 12. **Monthly Statements**. The Receiver shall prepare and serve monthly statements
6 reflecting the Receiver's fees and administrative expenses, including fees and costs of
7 accountants and other professionals authorized by the Court, incurred for each monthly period in
8 the operation and administration of the Collateral. Upon service of each statement, the Receiver
9 may disburse from estate funds, if any, the amount of each statement. Notwithstanding monthly
10 periodic payment of fees and expenses, all fees and expenses shall be submitted to the Court for
11 its approval and confirmation, in the form of either a properly noticed interim request for fees, a
12 stipulation of all parties, or in the Receiver's Final Account and Report.

13 13. **Inventory**. Within thirty (30) days after qualification hereunder, the Receiver shall
14 file an inventory of all of the property of which he has taken possession pursuant to this Order.

15 14. **Opening of Bank Accounts**. The Receiver is empowered to establish bank
16 accounts for the deposit of monies and funds collected and received in connection with the
17 Collateral, at a federally insured banking institution (the "Operating Account") in the name of the
18 Receiver in trust. However, the Receiver shall not be required to put the funds in a federally-
19 insured bank account because it is not possible at this time. Monies coming into the possession of
20 the Receiver and not expended for any purposes herein authorized shall be held by the Receiver
21 in interest-bearing accounts.

22 15. **Insurance**. The Receiver shall determine upon taking possession of the Collateral
23 whether in the Receiver's judgment there is sufficient insurance coverage. With respect to any
24 insurance coverage, the Receiver shall be named as an additional insured on the policies for the
25 period that the Receiver shall be in possession of the Collateral. If sufficient insurance coverage
26 does not exist, the Receiver shall immediately notify the parties to this lawsuit and shall have
27 thirty (30) calendar days to procure sufficient all risk and liability insurance for the Collateral;
28 provided, however, that if the Receiver does not have sufficient funds to do so, the Receiver shall

1 seek instructions from the Court with regard to whether insurance shall be obtained and how it is
2 to be paid for. If consistent with existing law, the Receiver shall not be responsible for claims
3 arising from the lack of procurement or inability to obtain insurance.

4 16. **Entry to Property.** The Receiver shall further be entitled to engage a locksmith
5 for the purposes of gaining entry to Defendants' business locations, wherever located, and
6 through any security system, in order to obtain any Collateral or documents to which the Receiver
7 is entitled pursuant to this Order, as well as giving any notices which may be required in
8 performing the Receiver's duties. The Receiver may have locks or security codes changed, or
9 have keys created that will work for the existing locks.

10 17. **Tax Identification.** The parties shall provide the Receiver with all tax
11 identification numbers utilized in connection with the operation of the Collateral. The Receiver
12 shall also be entitled to utilize the tax identification numbers during his operation of the Collateral
13 or at the Receiver's discretion, the Receiver may obtain new tax identification numbers.

14 18. **Mail.** The Receiver is authorized to have all mail addressed to the < _____ >
15 and < _____ > forwarded to an address to be designated by him and is authorized to open
16 and review such mail.

17 19. **Turnover of Bank Accounts.** All banks and financial institutions which hold any
18 accounts containing Collateral shall turn over all such funds in any such accounts to the Receiver
19 upon presentation of a copy of this Order, and shall provide copies of any requested records
20 regarding any such accounts to the Receiver.

21 20. **Delivery of Revenues.** The parties, on receipt of a copy of this Order, shall deliver
22 to the Receiver immediate possession of all revenues and income generated from the business of
23 the Collateral in Defendants' possession, custody or control. This delivery to the Receiver shall
24 be completed within forty-eight (48) hours of receipt of the above-described documents.

25 21. **Documents in Receiver's Possession.** The parties to this action shall be entitled to
26 have access to, and make copies of, documents in the Receiver's possession—including
27 electronic records.

28 22. **Further Instructions.** The Receiver and the parties to this case may at any time

1 apply to this Court for further or other instructions or Orders and for further powers necessary to
2 enable the Receiver to perform the Receiver's duties.

3 23. **Discharge**. Discharge of the Receiver shall require a Court Order after a properly
4 noticed motion approving the Receiver's Final Report and Account.

5 24. **Plaintiff's Notice to Receiver**. Plaintiff shall promptly notify the Receiver in
6 writing of the names, addresses, and telephone numbers of all parties who appear in the action
7 and their counsel. The parties to this action shall give notice to the Receiver and of all events that
8 affect the receivership, including all Court proceedings in this action.

9 25. **Bankruptcy — Plaintiff's Duty to Give Notice**. If any of the Defendants file a
10 bankruptcy case during the receivership, Plaintiff shall give notice of the bankruptcy case to the
11 Court, to all parties, and to the Receiver by the close of the next business day after the day on
12 which Plaintiff receives notice of the bankruptcy filing.

13 26. **Bankruptcy — Receiver's Duties**. If the Receiver receives notice that a
14 bankruptcy has been filed and part of the bankruptcy estate includes property that is the subject of
15 this Order, the Receiver shall comply with 11 U.S.C. §543. The Receiver may retain legal counsel
16 to assist the Receiver with issues arising out of the bankruptcy proceedings that affect the
17 receivership.

18 **II. INJUNCTIVE RELIEF**

19 Based on California Code of Civil Procedure §§ 526, 527, California Rules of Court
20 3.1200-1207, and for good cause appearing to the Court under Code of Civil Procedure
21 § 527(d)(1),

22 **IT IS ORDERED** that:

23 The Defendants, and their officers, directors, members, managers, agents, partners,
24 employees, assignees, successors, attorneys, representatives, and all persons acting under, in
25 concert with, or for them:

26 Shall immediately relinquish and turn over possession of the Collateral, including but not
27 limited to all of its assets (including any cash) to the Receiver forthwith upon his appointment
28 becoming effective;

1 (a) Shall immediately turn over to the Receiver and direct all other third
2 parties in possession thereof to turn over all keys, books, records, inventory, books of account,
3 ledgers, operating statements, control and passwords to website(s) and/or web domains, budgets
4 and all other records relating to the Collateral, wherever located, and in whatever mode
5 maintained, including information contained on computers and any and all software relating
6 thereto as well as all banking records, statements and cancelled checks;

7 (b) Shall immediately turn over to the Receiver all documents which pertain to
8 all licenses, permits, or government approvals relating to the Collateral and shall immediately
9 advise the Receiver of any social security or taxpayer identification numbers used in connection
10 with the operation of the Collateral;

11 (c) Shall immediately turn over to the Receiver all contracts involving the
12 Collateral;

13 (d) Shall immediately advise the Receiver as to the nature and extent of
14 insurance coverage on the Collateral. The parties shall immediately name the Receiver as an
15 additional insured on the insurance policy(ies) for the period that the Receiver shall be in
16 possession of the Collateral. The parties and their agents and representatives are prohibited from
17 canceling, reducing or modifying any and all insurance coverage currently in existence with
18 respect to the Collateral;

19 (e) Shall cooperate with and reasonably assist the Receiver with respect to his
20 operation of the Collateral, including but not limited to promptly responding to any inquiry by the
21 Receiver for information.

22 **IT IS FURTHER ORDERED** that Defendants appear in Department ____ of this Court
23 located at < _____ >, on < _____ > ____: ____ .m., or as soon
24 thereafter as the matter may be heard, then and there to show cause, if any they have why
25 Defendants, and their agents, officers, directors, members, servants, employees, and
26 representatives, and all persons and entities acting in concert or participating with them, should
27 not be enjoined from engaging in. committing. or Performing, directly or indirectly, any and all of
28 the following:

1 (f) Committing or permitting any waste of the Collateral or any part thereof, or
2 suffering or committing or permitting any act on the Collateral or any part thereof in violation of
3 law, or removing, transferring, encumbering or otherwise disposing of any of the Collateral or
4 any part thereof;

5 (g) Directly or indirectly interfering in any manner with the discharge of the
6 Receiver's duties under this Order or the Receiver's possession of and operation or management
7 of the Collateral;

8 Expending, disbursing, transferring, assigning, selling, conveying, devising, pledging,
9 mortgaging, creating a security interest in, encumbering, concealing or in any manner whatsoever
10 dealing in or disposing of the whole or any part of the Collateral without prior specific Court
11 Order;

12 (h) Withholding any Collateral assets, books, records, or funds from the
13 Receiver;

14 (i) Destroying or concealing any records, documents, electronic data,
15 electronic equipment or software, or any other medium that contains information related to the
16 Collateral; and

17 Performing any act which will, or which will tend to impair, defeat, divert, prevent or
18 prejudice the preservation of the Collateral.

19 **IT IS FURTHER ORDERED THAT PENDING THE HEARING ON THIS**
20 **MATTER** as set forth above, Defendants and their agents, officers, directors, members, servants,
21 employees, and representatives, and all persons and entities acting in concert or participating with
22 them, **BE AND ARE HEREBY ENJOINED AND RESTRAINED** from engaging in,
23 committing, or performing, directly or indirectly, any and all of the following:

24 (a) Committing or permitting any waste of the Collateral or any part thereof, or
25 suffering or committing or permitting any act on the Collateral or any part thereof in violation of
26 law, or removing, transferring, encumbering or otherwise disposing of any of the Collateral or
27 any part thereof;

28

1 (b) Directly or indirectly interfering in any manner with the discharge of the
2 Receiver's duties under this Order or the Receiver's possession of and operation or management
3 of the Collateral;

4 Expending, disbursing, transferring, assigning, selling, conveying, devising, pledging,
5 mortgaging, creating a security interest in, encumbering, concealing or in any manner whatsoever
6 dealing in or disposing of the whole or any part of the Collateral without prior specific Court
7 Order;

8 (c) Withholding any Collateral assets, books, records, or funds from the
9 Receiver;

10 (d) Destroying or concealing any records, documents, electronic data,
11 electronic equipment or software, or any other medium that contains information related to the
12 Collateral; and

13 (e) Performing any act which will, or which will tend to impair, defeat, divert,
14 prevent or prejudice the preservation of the Collateral.

15 **THE COURT ORDERS** < _____ > to immediately file an injunction bond under Code
16 of Civil Procedure section 529 in the amount of \$ < _____ >.

17 **THE COURT ORDERS** that ANY PERSON WHO INTERFERES WITH THE
18 RECEIVER, WILLFULLY OBSTRUCTS THE CONDUCT OF THE RECEIVER, OR
19 DAMAGES OR CONCEALS THE PROPERTY OF THE RECEIVERSHIP ESTATE MAY BE
20 SUBJECT TO CIVIL OR CRIMINAL CONTEMPT.

21 **III. ADDITIONAL ORDERS**

22 **THE COURT ORDERS** that in addition to the powers set forth herein, the Receiver will
23 have and enjoy the powers otherwise provided by law.

24 **THE COURT ORDERS** that the Receiver will not be liable for any act or omission of
25 the Parties or any of their respective officers, directors, owners, members, shareholders, agents,
26 representatives, professionals, and employees, or be held to any personal liability whatsoever in
27 tort, contract, or otherwise in connection with the discharge of its duties under this Order, except
28 for liabilities arising from the Receiver's bad faith, willful malfeasance, or reckless disregard of

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duty. Without limiting the foregoing, the Receiver shall not be liable to any other party in any way for any damages or liability resulting from the existence or use, discharge, or storage by any person other than the Receiver of any hazardous substance defined in 42 U.S.C. §§ 9601-57.

IT IS SO ORDERED.

Dated: _____

Judge Of The Superior Court

Exhibit 8

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

Plaintiff,

vs.

Defendant.

CASE NO. .
Assigned to Honorable .
Department: .

**STIPULATION AND [PROPOSED]
ORDER APPOINTING A RECEIVER
AND ISSUING A PRELIMINARY
INJUNCTION IN AID OF RECEIVER**

Date:
Time:
Dept.:

WHEREAS < _____ > (“< _____ >”) is a < _____ > that is licensed as
a commercial cannabis business to conduct retailer, cultivator, distributor and manufacturer
activities and is doing business at < _____ >;

WHEREAS < _____ > (“< _____ >”), a < _____ > (a subsidiary of
< _____ >, a < _____ >), and < _____ > agree that the immediate appointment of
< _____ > to serve as Receiver over < _____ > is necessary at this time to preserve
< _____ >'s cannabis licenses and business operation for the benefit of the parties, that a sale
of the business may be necessary, and to maintain the business while the arbitration proceeding
and appeal are ongoing; and

WHEREAS the parties agree that the Court has jurisdiction to appoint a Receiver and
enter a preliminary injunction notwithstanding the arbitration proceeding and pending appeal

1 because the arbitrator does not have the jurisdiction to appoint a receiver and there is no stay of
2 the litigation or arbitration while the appeal is pending.

3 NOW THEREFORE, the parties stipulate as follows and request that the Court enter the
4 stipulation as an order:

5 STIPULATION AND [PROPOSED] ORDER

6 IT IS HEREBY stipulated and agreed by the parties hereto that < _____ > is appointed
7 as Receiver in the above captioned matter.

8 STIPULATED POWERS AND DUTIES OF RECEIVER:

9 1. Appointment of Receiver. < _____ >, as managed by < _____ > (the
10 "Receiver") is hereby appointed as Receiver in *Custodia Legis*, and shall have the following
11 powers and responsibilities:

12 (a) To seize, collect, manage, control, preserve, protect, maintain, liquidate
13 and/or conserve all of the assets, real and personal property, and business
14 operations of < _____ >, located and doing business at
15 < _____ > and wherever else it is located and does
16 business, including all of the books and records of < _____ > and all of
17 its intellectual property, contracts, state or local licenses¹, inventory, chattel
18 paper, bank accounts, safety deposit boxes, deposit accounts, equipment,
19 general intangibles, leases, fixtures, tenant improvements, and all
20 accessions, attachments, additions, replacements, and substitutions relating
21 to any of the foregoing, all records related to any of the foregoing, and all
22 income, proceeds, revenue, and profits derived therefrom (collectively the
23 "Receivership Property");

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25
26 ¹ Said licenses to include but not be limited to:

27 Business Tax Registration Certificate ("BTRC") < _____ > Commercial Retailer < _____ >, Eff.
< _____ >, Exp. < _____ > Commercial Distributor License No. < _____ >, Exp. < _____ >
28 Cultivation — Small Indoor License No. < _____ >, Eff. < _____ >, Exp. < _____ > Manufacturer
License No. < _____ >, Eff., < _____ >, Exp. < _____ >

These licenses are hereby included in "Receivership Property".

- 1 (b) The Receiver is hereby authorized to enter any office or other facility of
2 < _____ > (and use law enforcement or other personnel as necessary) to
3 gain control of the Receivership Property;
- 4 (c) To remove the books, records, and assets of < _____ > to a secure
5 location;
- 6 (d) To demand, collect, and receive all monies, funds, and/or payments owed
7 to < _____ > by any entity or individual;
- 8 (e) To contact each of the customers and vendors of < _____ > in order to
9 advise them not to send further payments to < _____ > and to instruct
10 the customers and vendors to send any and all payments directly to the
11 Receiver;
- 12 (f) To take possession of and use all bank and financial accounts of
13 < _____ >, wherever located, and receive possession of any money on
14 deposit in said accounts, and endorse and sign checks payable to or by
15 < _____ >;
- 16 (g) To execute and prepare all documents and to perform all acts, which are
17 necessary or incidental to preserving, protecting, managing, and/or
18 controlling < _____ >;
- 19 (h) To conduct business of < _____ >, and pay such amounts as needed to
20 continue the operation of < _____ >, as deemed necessary by the
21 Receiver at its discretion;
- 22 (i) Employ servants, agents, employees, appraisers, guards, accountants,
23 attorneys, liquidators, auctioneers, and/or financial consultants to
24 administer the Receivership Estate, and to protect < _____ > as the
25 Receiver shall deem it necessary; to purchase insurance, supplies and
26 services and to pay therefor at the usual rate and prices out of the funds that
27 shall come into the Receiver's possession; to pay the reasonable value of
28 said services out of the proceeds of the Receivership Estate; and that no

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risk or obligation incurred by said Receiver shall be at the personal risk or obligation of the Receiver, but shall be at the risk or obligation of the Receivership Estate;

(j) The Receiver is authorized to institute ancillary proceedings in this State or other States as is necessary to obtain control of the assets of < _____ > and the Receiver may engage the services of counsel if necessary. The Receiver may pay for such services from the funds of the Receivership Estate;

(k) To do all things and incur all risks and obligations ordinarily and reasonably incurred by owners, managers and operators of similar businesses as < _____ >; and, provided the Receiver acts in this manner, no risk or obligation so incurred shall be at the personal risk or obligation of the Receiver, but shall be a risk or obligation solely of the Receivership Estate;

(l) To expend funds to purchase such merchandise, inventory, materials, supplies and services as the Receiver deems necessary and advisable to assist him in performing its duties hereunder and to pay therefore the ordinary and usual rates and to pay for these things from funds within the Receivership Estate;

(m) To exclude the parties (or their agents, representatives or assigns) hereto to manage, possess, control, or operate any of the Receivership Property, or to interfere with any of the Receiver's duties and obligations hereunder;

(n) To use and be authorized to use any and all government or regulatory licenses or permits issued to or for the benefit of the Receivership Property, and to communicate directly with the regulatory agencies for purposes of undertaking its duties and obligations hereunder;

2. Receiver's Oath and Bond. Before performing its duties, the Receiver shall execute a receiver's oath and file a bond in the sum of \$< _____ >, conditioned upon the

1 faithful performance of the Receiver's duties. The bond shall be from a surety approved by the
2 Court and the oath and bond shall be filed in this Department no later than < _____ > ____ .m.,
3 on < _____ >.

4 3. Receiver's Disclosures. The Receiver does not have any financial relationship
5 between itself and any party to this action and is fully compliant with < _____ >.

6 4. Governmental and Regulatory Agencies. The Receiver is authorized to negotiate
7 with and engage with any and all local, state and federal government agencies for and on behalf
8 of the Receivership Property. The Receiver is authorized to apply for, obtain and pay for any
9 lawful license, permit, variance or other governmental approval or fee that the Receiver
10 reasonably believes to be necessary for the maintenance, operation and preservation of the
11 Receivership Property; to confirm the existence of, and, to the extent permitted by law, exercise
12 the privileges of any existing license, permit, variance or governmental approval relating to the
13 Receivership Property; and to do all things necessary to protect and maintain those licenses,
14 permits, variances and approvals, including, but not limited to federal, state, county, municipal or
15 city permits and approvals.

16 5. Security Professionals and Guard Services. The Receiver is authorized, at its sole
17 discretion, to engage and hire any and all security related personnel including, if necessary, a
18 personal security guard for it or its manager, employees or agents at any time during the course of
19 this Receivership as an additional cost of the receivership estate.

20 6. Continued Use of Existing Employees. The Receiver is authorized, at its sole
21 discretion, to retain all existing employees, personnel, or managers of < _____ >, as it deems
22 necessary to continue the operations of the business of < _____ >. Conversely, the Receiver is
23 authorized to terminate any employees, personnel, or managers if the Receiver determines in its
24 sole and absolute discretion would not be in the best interests of the Receivership Estate.

25 7. Receivership Fees and Costs.

26 (a) The Receiver will charge its standard hourly billing rates of \$< _____ >
27 /hr for < _____ > and \$< _____ > /hr to \$< _____ > /hr for the
28 Receiver's administrators and staff, plus reimbursement of any and all

1 costs associated with the Receiver's services. Where appropriate, the
2 Receiver will delegate tasks to its administrators (including, but not limited
3 to, < _____ >) with the appropriate skill level as a cost saving measure.

4 (b) Without further order of this Court, the Receiver is authorized to employ
5 the services of outside accountants/bookkeepers, attorneys, computer
6 consultants, managers, and other professionals in connection with its duties
7 administering the receivership estate. The Receiver is authorized to pay for
8 those services in the amount of the normal fees charged by those
9 professionals.

10 (i) In compliance with < _____ >, this includes attorney
11 < _____ > at his hourly rate of \$< _____ >/hr. (and their
12 colleagues at their usual and customary rates) of < _____ >
13 ("Firm") to assist the Receiver with any and all legal concerns,
14 pleading(s) preparation, court filings, investigations and
15 appearances.

16 8. Inventory. Within thirty (30) days after qualification hereunder, the Receiver will
17 file and serve an inventory of all of the property of which it has taken possession pursuant to this
18 Order, which may be updated from time to time.

19 9. Monthly Statements. The Receiver will prepare, file and serve monthly statements
20 reflecting the Receiver's fees and administrative expenses, including fees and costs of
21 accountants and attorneys and other professionals authorized by the Court, incurred for each
22 monthly period in the operation and administration of the receivership estate. After ten (10) days
23 following service of each statement, the Receiver may disburse from estate funds, the amount of
24 each statement necessary to pay the Receivership Estate expenses, costs, fees, and professionals.
25 Notwithstanding this periodic payment of fees and expenses, all fees and expenses shall be
26 submitted to the Court for its approval and confirmation, in the form of either a properly noticed
27 interim request for fees, by stipulation of all parties, or in the Receiver's Final Account and
28 Report.

1 10. Bank Accounts. The Receiver is empowered and authorized to establish bank
2 accounts for the deposit of monies and funds collected and received in connection with the
3 Receivership Property, at any state or federally chartered banking institution, credit unions or
4 savings associations.

5 11. Utility Providers. The Receiver is authorized to enter into agreements and
6 negotiate with utility providers for and on behalf of the Receivership Estate including the control
7 and right to any and all deposits in possession of such utility providers. No utility or other vendor
8 may terminate service or the provision of other goods or services to the Receivership Estate as a
9 result of the nonpayment of pre-receivership obligations, without prior order of this Court.

10 12. No Pre-receivership Obligations. The Receiver is not responsible for payment of
11 any utility bills, unpaid payroll expenses, taxes, rents or other unpaid invoices for services or
12 utilities incurred by, or for the benefit of, < _____ > or the Receivership Property prior to the
13 Receiver's taking possession of the Receivership Property.

14 13. Further Instructions. The Receiver and the parties to this case may apply to this
15 Court for further or other instructions or orders and for further powers necessary to enable the
16 Receiver to perform its duties properly.

17 14. Use of Funds. All monies coming into the Receiver's possession shall only be
18 expended for the purposes herein authorized, and the balance of funds shall be held by the
19 Receiver pending further order of this Court.

20 15. Insurance.

21 (a) The Receiver shall determine upon taking possession of the Receivership
22 Property whether in the Receiver's judgment there is sufficient insurance
23 coverage. With respect to any insurance coverage, the Receiver shall be
24 named as an additional insured on the policies for the period that the
25 Receiver shall be in possession of the Receivership Property.

26 (b) If sufficient insurance coverage does not exist, the Receiver shall
27 immediately notify the parties to this lawsuit and shall have thirty (30)
28 calendar days to procure sufficient all risk and liability insurance for the

1 Receivership Property; provided, however, that if the Receiver does not
2 have sufficient funds to do so, the Receiver shall seek instructions from the
3 Court with regard to whether insurance shall be obtained and how it is to
4 be paid for. If consistent with existing law, the Receiver shall not be
5 responsible for claims arising from the lack of procurement or inability to
6 obtain insurance and the Receiver's appointment will be null and void.

7 (c) Discharge. Discharge of the Receiver shall require a court order after a
8 properly noticed motion approving the Receiver's Final Report and
9 Account in accordance with < _____ >.

10 (d) Locksmith/Entry to Property. The Receiver shall further be entitled to
11 engage a locksmith for the purposes of gaining entry to any property that is
12 the subject of this receivership (including any safes, cabinets, closets,
13 storage facilities, lockers, vaults, etc.) and through any security system, in
14 order to obtain any property, assets or documents to which the Receiver is
15 entitled pursuant to this Order. The Receiver may have locks or security
16 codes changed, or have keys created that will work for the existing locks.

17 16. Tax Identification. < _____ > shall provide the Receiver with all tax
18 identification numbers utilized in connection with the operation of the Receivership Property. The
19 Receiver shall also be entitled to utilize the tax Identification numbers during its operation of the
20 receivership estate.

21 17. Taxes. The Receiver and its agents, managers, employees and professionals are not
22 responsible for any tax filings or any other tax obligations of the receivership estate or the
23 Receivership Property and the parties are ordered to fully comply with all Federal, State and
24 Local tax filings and obligations on behalf the Receivership Property. The Receiver will provide
25 any and all information in its possession to the parties as needed for any tax filings, reporting,
26 audits or other tax related inquiries. If the Receiver is the subject of any tax investigation, audit or
27 charge, < _____ > agrees to fully indemnify the Receiver and hold it harmless to the full extent
28 available under Federal and State law.

1 18. Mail. The Receiver is authorized to have all mail addressed to the Receivership
2 Property forwarded to an address to be designated by it and the Receiver is authorized to open all
3 such mail.

4 19. Bank Accounts. All banks and financial institutions which hold any Receivership
5 Property accounts, any accounts of < _____ > shall turn over such all funds in any such
6 accounts to the Receiver upon presentation of a copy of this Order, and shall provide copies of
7 any requested records regarding any such accounts to the Receiver.

8 20. Delivery of Revenues. < _____ > on receipt of a copy of this Order shall deliver
9 to the Receiver immediate possession of any accountings, all revenues and income generated
10 from the Receivership Property. This delivery to the Receiver shall be completed within twenty-
11 four hours (24 hours) of the issuance of this Order.

12 21. Court Ordered Law-Enforcement Assistance.

13 (a) In the event that the < _____ > or its agents, assigns or affiliates does not
14 cooperate with this Order and fails to provide access to the Receiver to any
15 and all of the Receivership Property and its associated records required
16 herein, the Receiver, without further order of this Court is authorized to
17 seek the assistance of local law enforcement to enter any premises,
18 sequester any records (whether digital or otherwise) and to otherwise
19 implement this Order.

20 (b) Any law-enforcement officer in receipt of a copy of this Order presented
21 by the Receiver, is presented in the Receiver's capacity as an agent of this
22 Court, and that local law-enforcement agency is thus ordered by this Court
23 to assist the Receiver in obtaining the full cooperation of < _____ > and
24 assisting the Receiver in completing its duties set forth herein.

25 22. Documents in Receiver's Possession. The parties to this action shall be entitled to
26 have access to, and make copies of, documents in the Receiver's possession at their own expense.

27 23. Plaintiff's Notice to Receiver. Plaintiff shall promptly notify the Receiver in
28 writing of the names, addresses, and telephone numbers of all parties who appear in the action

1 and their counsel. The parties to this action shall give notice to the Receiver of all events that
2 affect the receivership, including all court proceedings in this action.

3 24. Receiver Certificates. The Receiver may issue Receivership Certificates in
4 increments of at least \$<_____>bearing interest at eight percent (8%) per annum for up to
5 \$<_____>to any person or parties. All funds loaned to the Receiver pursuant to such
6 Receivership Certificate(s) shall be deemed to be a lien of first priority which shall be repaid prior
7 to all other encumbrances and claims, other than costs of administration.

8 25. Turn Over and Cooperation by the parties and related parties. The parties and their
9 respective officers, directors, shareholders, members, managers, agents, partners, property
10 managers, employees, assignees, successors, attorneys, representatives, and all persons acting
11 under, in concert with, or for them:

12 (a) Shall relinquish and turn over possession of the Receivership Property,
13 including but not limited to all of its assets (including any cash) to the
14 Receiver forthwith upon its appointment becoming effective;

15 (b) Shall turn over to the Receiver and direct all other third parties in
16 possession thereof to turn over all keys, leases, books, records, books of
17 account, ledgers, operating statements, control and passwords to website(s)
18 and/or web domains, budgets, and all other Receivership Property records
19 relating to the Receivership Property, wherever located, and in whatever
20 mode maintained, including information contained on computers and any
21 and all software relating thereto as well as all banking records, statements
22 and cancelled checks;

23 (c) Shall turn over to the Receiver all documents which pertain to all licenses,
24 permits, or government approvals relating to the Receivership Property and
25 shall immediately advise the Receiver of any social security or taxpayer
26 identification numbers used in connection with the operation of the
27 Receivership Property;
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- (d) Shall immediately advise the Receiver as to the nature and extent of insurance coverage on the Receivership Property. The parties shall immediately name the Receiver as an additional insured on the insurance policy(ies) for the period that the Receiver shall be in possession of the Receivership Property. The parties and their agents and representatives are prohibited from canceling, reducing or modifying any and all insurance coverage currently in existence with respect to the Receivership Property;
- (e) Shall cooperate with and reasonably assist the Receiver with respect to its operation of the Receivership Property, including but not limited to promptly responding to any inquiry by the Receiver for information.

PRELIMINARY INJUNCTION

The parties and their respective officers, directors, shareholders, members, agents, employees, assignees, successors, representatives, and all persons acting under, in concert with, or for it, and all other persons with actual or constructive knowledge of this order, and each of them, are enjoined from engaging in, or performing, directly or indirectly, any or all of the following acts:

1. Denying Plaintiff or the Receiver access to any of the books and records of < _____ >;
2. Destroying, altering, or removing any of < _____ >'s books, records, assets, documents, electronic data, electronic equipment or software, or any other medium that contains information related to the Receivership Property;
3. Denying the Receiver access to any office or facility of < _____ >;
4. Committing or permitting any waste of the Receivership Property or any part thereof, or suffer or commit or permit any act on the Receivership Property or any part thereof in violation of law, or remove, transfer, encumber or otherwise dispose of any of the property or of the Receivership Property or any part thereof;
5. Expending, disbursing, transferring, assigning, selling, conveying, devising, pledging, mortgaging, creating a security interest in, encumbering, concealing or

- 1 in any manner whatsoever dealing in or disposing of the whole or any part of the
2 Receivership Property without prior specific Court Order;
- 3 6. Communicating with < _____ >'s customers or vendors, suppliers, managers,
4 employees, or independent contractors;
- 5 7. Communicating or filing any documents, forms, papers, or information, with any
6 State or local regulatory agencies on behalf of < _____ >;
- 7 8. Collecting or maintaining payments from the above-described customers or
8 vendors belonging to < _____ >;
- 9 9. Interfering, hindering, or molesting in any way whatsoever the Receiver in
10 performance of the Receiver's duties herein described and in performance of any
11 duties incidental thereto;
- 12 10. Taking any action which will, or which will tend to impair, defeat, divert, prevent
13 or prejudice the preservation of the assets, books, and records of < _____ >;
- 14 11. Interfering, obstructing, or undermining < _____ >'s rights to access funds at
15 any financial institutions where < _____ > maintains financial accounts, or
16 otherwise communicating with such institutions regarding < _____ >'s
17 accounts;
- 18 12. Filing or substituting any forms, papers, or information related to < _____ >
19 with the Secretary of State for California;
- 20 13. Representing to any third-party that < _____ >are authorized to transact
21 business for, make agreements for, or collect monies on behalf of < _____ >;
- 22 14. < _____ >shall not be authorized to transact any business for, make agreements
23 for, or collect any monies on behalf of < _____ > without express approval of
24 the Receiver in writing;
- 25 15. Receiving, collecting, diverting or otherwise taking any Receivership Property (as
26 that term is defined below) or any income, revenue or profit derived therefrom,
27 expending, disbursing, transferring, assigning, selling, conveying, devising,
28 pledging, mortgaging, creating a security interest in, encumbering, concealing, or

1 in any manner whatsoever dealing in, disposing of, or impairing the value of the
2 whole or any part of the Receivership Property, or proceeds, issues, rents, or other
3 income derived therefrom; and/or

4 16. Doing any act which will, or which will tend to impair, defeat, divert, prevent or
5 prejudice the preservation of the Receivership Property.

6 IT IS FURTHER ORDERED that < _____ > and its officers, directors, shareholders,
7 members, agents, employees, assignees, successors, representatives, and all persons acting under,
8 in concert with, or for it, and all other persons with actual or constructive knowledge of this order,
9 and each of them, shall:

- 10 1. Relinquish and turn over possession of the Receivership Property, including but
11 not limited to all of its assets (including any cash) to the Receiver forthwith upon
12 appointment;
- 13 2. Turn over to the Receiver and direct all other third parties in possession thereof to
14 turn over all keys, combinations, leases, books, records, books of account, ledgers,
15 operating statements, control, user-identifications and passwords to website(s)
16 and/or web domains and bank accounts, budgets, deposits, and all other
17 Receivership Property records relating to the Receivership Property, wherever
18 located, and in whatever mode maintained, including information contained on
19 computers and any and all software relating thereto as well as all banking records,
20 statements and cancelled checks;
- 21 3. Turn over to the Receiver all documents which pertain to all licenses, permits, or
22 government approvals relating to the Receivership Property and shall immediately
23 advise the Receiver of any social security or taxpayer identification numbers used
24 in connection with the operation of the Receivership Property;
- 25 4. Turn over to the Receiver all contracts involving the Receivership Property;
- 26 5. Immediately advise the Receiver as to the nature and extent of insurance coverage
27 on the Receivership Property. The parties shall immediately name the Receiver as
28 an additional insured on the insurance policy(ies) for the period that the Receiver

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shall be in possession of the Receivership Property. The parties and their agents and representatives are prohibited from canceling, reducing or modifying any and all insurance coverage currently in existence with respect to the Receivership Property;

- 6. Cooperate with and reasonably assist the Receiver with respect to its operation of the Receivership Property, including but not limited to promptly responding to any inquiry by the Receiver for information; and/or
- 7. Assist the Receiver as required to renew, protect, or preserve any state or local licenses or permits, and provide all necessary documents and information as required.

The failure of the parties and any of its affiliated persons or entities, and their respective agents, representatives and all persons acting under, in concert with, or for them, as well as all persons with actual or constructive knowledge of this order, to abide by any term or condition of this Order may be, among other things, punishable by contempt.

IT IS FURTHER ORDERED that the landlord of < _____ >'s facility located at < _____ > shall take no action with respect to the current lease for the facility without leave of Court and notice to the Receiver and counsel for the parties.

STIPULATED AND AGREED TO THIS ____ DAY OF _____, _____ BY:

< _____ >

< _____ >

IT IS SO ORDERED

Dated: _____

HON. JUDGE OF THE SUPERIOR COURT
< _____ >

Exhibit 9



Warning

As of: February 24, 2023 6:15 PM Z

Salam Razuki v. Ninus Malan

Court of Appeal of California, Fourth Appellate District, Division One

February 24, 2021, Opinion Filed

D075028

Reporter

2021 Cal. App. Unpub. LEXIS 1168 *; 2021 WL 715002

SALAM RAZUKI, Plaintiff and Respondent, v. NINUS MALAN et al., Defendants and Appellants.

Notice: NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 8.1115(a), PROHIBITS COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 8.1115(b). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 8.1115.

Prior History: [*1] APPEAL from an order of the Superior Court of San Diego County, No. 37-2018-000034229-CU-BC-CTL, Eddie C. Sturgeon, Judge.

Disposition: Affirmed.

Counsel: G10 Galuppo Law, Daniel T. Watts and Louis A. Galuppo; Noonan Lance Boyer & Banach, James R. Lance and Genevieve M. Ruch for Defendants and Appellants Ninus Malan, San Diego United Holdings Group, LLC, Flip Management, LLC, Balboa Ave Cooperative, California Cannabis Group, and Devilish Delights, Inc.

Goria, Weber & Jarvis and Charles F. Goria for Defendants and Appellants Chris Hakim, Mira Este Properties, LLC, and Roselle Properties, LLC.

Law Offices of Steven A. Elia, Steven A. Elia, Maura Griffin and James Joseph; Williams lagmin and Jon R. Williams for Plaintiff and Respondent.

Judges: HALLER, J.; HUFFMAN, Acting P. J., GUERRERO, J. concurred.

Opinion by: HALLER, J.

Opinion

Defendants Ninus Malan and Chris Hakim (and related entities) appeal from an order imposing a receivership over two cannabis businesses: a retail dispensary and a production facility. The trial court imposed the receivership after Salam Razuki sued the defendants, alleging he had interests in the businesses and defendants were diverting money owed to him. The manager of the cannabis businesses, SoCal Building Ventures, [*2] LLC (SoCal), intervened in the lawsuit and also requested the receivership. The court imposed the receivership pending the resolution of the many disputes among the parties in the litigation.

Defendants assert numerous challenges to the court's receivership order. We determine the court acted within its broad discretion and its legal rulings were supported by applicable law. We thus affirm.

OVERVIEW

The proceedings leading to the receivership followed a chaotic and procedurally confusing path before three different trial court judges, and involved thousands of pages of conflicting documentation about the parties' activities and their investments in the real property where these all-cash businesses operated. The allegations included accusations that money and equipment had been stolen from the businesses and claims that Malan's counsel and the receiver had committed malfeasance.

Razuki and Malan's business relationship began with commercial real estate investments in 2009, and eventually expanded into several cannabis businesses. By 2017, however, the relationship was strained, and they entered into a settlement agreement to clarify their ownership of and rights to the expected profits [*3] from three cannabis businesses: (1) A retail dispensary located on Balboa Avenue (Dispensary); (2) a production facility located on Mira Este Court

(Production Facility); and (3) a planned cannabis cultivation facility to be located on Roselle Street (Planned Facility). Malan owned the entity that held title to the Dispensary property, and Malan and Hakim both owned shares in the entities that held title to the Production and Planned Facilities properties. Razuki claimed interests in these businesses through his relationship with Malan.

After the settlement agreement, Malan and Hakim contracted with SoCal to manage the Dispensary and the Production Facility. This contract provided SoCal with options to purchase interests in the businesses. In May 2018, Razuki learned from SoCal that Malan had allegedly failed to disclose profits to him, and SoCal learned that Razuki claimed an interest in the Dispensary and Production Facility properties and/or businesses. After SoCal questioned Malan and Hakim's rights to option the properties, they unilaterally terminated SoCal's management agreements and locked SoCal out of both facilities.

Two months later, Razuki filed the complaint against Malan, [*4] Hakim, and numerous entities formed to operate the three cannabis businesses (detailed below). Within days, Razuki brought an ex parte application requesting the appointment of a receiver over the three businesses and SoCal filed an ex parte request to file a complaint in intervention against the same defendants. SoCal also joined Razuki's request for a receiver. These filings opened two months of intense litigation concerning the appointment of a receiver, generated thousands of pages of briefing, declarations, and exhibits, and resulted in five hearings before three different judges: Judge Kenneth Medel (who initially appointed the receiver and was peremptorily challenged); Judge Richard Strauss (who vacated the receiver and was peremptorily challenged); and Judge Eddie Sturgeon (who appointed the receiver in the challenged order).

After the matter was assigned to Judge Sturgeon, the parties filed voluminous documentation describing wildly different versions of events and competing theories of ownership of the businesses. Judge Sturgeon reinstated the receiver temporarily over the Dispensary and Production Facility, but not the Planned Facility, and set another hearing to confirm [*5] the appointment. By the time of that hearing, the court had before it evidence showing Razuki's significant investment into the businesses at issue; multiple competing claims on the ownership of the assets; at least one separate pending lawsuit to quiet title over the Dispensary; and allegations

that Malan and his counsel had directed Dispensary employees to abscond with thousands of dollars in cash after Judge Medel's initial order appointing the receiver. After an extensive hearing, on September 26, 2018, Judge Sturgeon ordered the receiver to remain in place for an additional 60 days. Malan and Hakim (and related entities) now appeal from this order.¹

Malan contends (1) technical errors in the procedure for the appointment of the receiver require reversal; and (2) his 2017 settlement agreement with Razuki is unenforceable as against public policy because its subject matter, the sale of cannabis, was unlawful when the agreement was made. Malan and Hakim both assert (1) the unclean hands doctrine precludes the equitable receivership remedy; (2) Razuki lacked standing under the receivership statute to pursue his claims; and (3) appointment of the receiver must be reversed because Razuki [*6] failed to show a probable right of possession of the assets, that the balance of harms supported the appointment of a receiver, or that a less drastic remedy was not available. Hakim's arguments concern only the appointment of the receiver over the Production Facility because he claims no ownership interest in the Dispensary.

As we shall explain, the trial court's discretion to appoint a receiver at this preliminary stage of litigation is broad, and to "justify our interference, it must clearly appear that the appointment was an arbitrary exercise of power." (*Maggiore v. Palo Alto Inn, Inc.* (1967) 249 Cal.App.2d 706, 711, 57 Cal. Rptr. 787 (*Maggiore*)). Applying this standard, we reject appellants' arguments that the trial court abused its discretion. We also determine appellants' other contentions lack merit and affirm the receiver appointment.

FACTUAL AND PROCEDURAL BACKGROUND

The contours of the relationship between Malan and Razuki are not clearly spelled out in the record before

¹ On November 16, 2018, after the notices of appeal were filed and before any briefing, federal officers arrested Razuki for plotting to hire a hitman to kidnap and murder Malan in Mexico to put an end to this litigation. At the time of the briefing, Razuki awaited trial on federal charges of conspiracy to murder and kidnap Malan. As explained below, these facts occurred after the challenged September 26 receivership order and thus are not before us in deciding the propriety of this order. But these facts would be relevant to any further court orders in this case.

this court. Their declarations show the business relationship began around 2009 and that Razuki initially hired Malan to manage his struggling Chula Vista commercial shopping center, followed shortly after by another commercial property. Malan excelled in this role, and Razuki brought [*7] him into his real estate investment business, partnering with Malan on the purchase, sale, and rental of commercial properties.

Eventually, the two became partners in the cannabis businesses which ultimately led to this litigation among Razuki, Malan, Hakim, and the various entities. The proceedings leading to the receiver appointment were lengthy and factually disputed. To properly evaluate the appellate contentions, we describe in some detail the facts and procedure leading to the appointment.

A. Allegations in Razuki's First Amended Complaint

On July 13, 2018, three days after filing his initial complaint, Razuki filed an amended complaint against Malan and Hakim and the various entities owned or controlled by them. These entities fall into three categories: (1) the entities holding title to the property where each of the three marijuana businesses was located²; (2) entities created to hold title to the required state licenses for each business³; and (3) the entities created to serve as the operating entity for all the cannabis operations (Flip Management, LLC (Flip) and Monarch Management Consulting (Monarch)). These three category of entities will be collectively referred to as the [*8] Related Entities. The first category entities will be referred as the Property Owner entities.

In the amended complaint, Razuki alleged that when he

² These entities are (1) San Diego United Holding Group, LLC (SD United), property owner of the Dispensary location; (2) Mira Este Properties, LLC (Mira Este), property owner of the Production Facility location; and (3) Roselle Property, property owner of the Planned Facility location. Malan was the sole owner of SD United, and Malan and Hakim held equal interests in the other two property-owning entities.

³ These entities are Balboa Ave Cooperative (Balboa Co-Op) for the Dispensary; California Cannabis Group (CCG) for the Production Facility; and Devilish Delights, Inc. (Devilish) for the Planned Facility. The licenses were required under state laws that closely regulate cannabis businesses. (See [Bus. & Prof. Code, § 26000 et seq.](#)) Cities and counties also regulate these businesses through their land use and police powers, including through conditional use permits (CUP). (See *id.*, § [26200, subd. \(a\)\(1\).](#))

and Malan decided to enter the cannabis industry as partners, they had an oral agreement that "Razuki would provide the initial cash investment to purchase a certain asset while Malan would manage the assets. The parties agreed that after reimbursing the initial investment to Razuki, he would be entitled to seventy-five percent (75%) of the profits & losses of that particular asset and Malan would be entitled to twenty-five percent (25%) of said profits & losses."

According to the complaint, the oral agreement between Razuki and Malan faltered in early 2017, when the entity that held property ownership of the Production Facility (Mira Este) required additional capital for renovations. Malan was able to secure a \$1.08 million loan based in part on Razuki's personal guarantee and real property collateral. According to Razuki, however, the proceeds of the loan were not used on improvements to this property, but were instead taken by Malan and Hakim for their personal use.

On November 9, 2017, Razuki and Malan entered into a written agreement [*9] to settle their interests titled "Agreement of Compromise, Settlement, and Mutual Release" (Settlement Agreement). The Settlement Agreement required the transfer of the partnership assets to a new entity, RM Property Holdings, LLC (RM Property). The agreement describes the partnership assets as consisting of various portions of the three Property Owner entities and Flip, and Razuki's minority interests in two additional assets (Sunrise Property Investments, LLC (Sunrise) and Super 5 Consulting Group, LLC (Super 5)). The Agreement states Razuki and Malan "hereby reaffirm and acknowledge the terms of the Operating Agreement [for RM Property] provide for the repayment of the Partner's Cash Investment prior to any distribution of profits and losses. The Parties further reaffirm that once the partner's cash contribution has been repaid by the Company, then Razuki shall receive [75%] of the profits and losses of the Company and Malan shall receive [25%], all as set forth under the terms of the Operating Agreement."

Under the Settlement Agreement, Razuki and Malan had 30 days to make their best efforts to transfer these assets to RM Property and to perform an accounting of their cash investments [*10] in those assets. Razuki alleges that Malan asked for additional time to perform the accounting and also contracted with SoCal to serve as the operator for the cannabis operations at the Dispensary, the Production Facility, and the Planned Facility.

The SoCal management agreements gave SoCal the right to retain all revenue from the businesses in exchange for a guaranteed monthly payment to Monarch (formed to serve as an operating entity for all cannabis operations). Razuki alleged that although the agreements required payment to Monarch, Malan did not disclose the existence of Monarch to Razuki. Instead Malan told Razuki that SoCal's monthly payments would be deposited into accounts of Flip (the other operating entity) or the Property Owner entities. Also allegedly unknown to Razuki, the management agreements gave SoCal an option to purchase a 50 percent interest in each of the Property Owner entities.

In January 2018, Malan notified Razuki that he was close to completing the sale of the three Property Owner entities to SoCal and that transferring the assets to RM Property, as required by the Settlement Agreement, would unnecessarily complicate the sale. From January to May 2018, Malan [*11] represented he was continuing to negotiate the sale of the Property Owner entities to SoCal and that Razuki would receive 75 percent of Malan's share of the sale proceeds. During this time, Razuki asked for an accounting of the businesses and Malan told him none of the operations were profitable.

Then, in the second week of May 2018, Razuki met with SoCal's principal, Dean Bornstein. Bornstein told Razuki that SoCal had been making monthly payments to Monarch and that the Dispensary and the Production Facility were both profitable. As a result of this conversation, Razuki believed Malan was hiding profits and trying to eliminate Razuki from the businesses. After the meeting, SoCal also became suspicious of Malan and Hakim because SoCal was previously unaware of Razuki's claimed interest in the properties. As a result, SoCal sent a letter to Malan requesting confirmation of his ownership of the three Property Owner entities, and also indicating that SoCal wished to exercise its purchase options.

On July 9, Malan allegedly withdrew \$24,028.93 from RM Property's bank account that had been deposited by Razuki, changed the locks at the Dispensary, and changed passwords for the Dispensary's [*12] security systems. During the next two days, Malan and Hakim terminated SoCal's management agreements, renamed the Dispensary, and told employees there was new management.

Based on these factual allegations, Razuki asserted numerous causes of action against Malan, Hakim and

the Related Entities. These claims included: breach of the Settlement Agreement, the oral agreement, and the good faith implied covenant against Malan; breach of fiduciary duty against Malan, Hakim, and Monarch; fraud against Malan; money had and received against Flip and the Property Owner entities; conversion against Malan, Hakim, and Monarch; an accounting claim against Malan and Hakim; appointment of a receiver against all defendants; injunctive relief to prevent all defendants from selling, transferring, or conveying any asset or property; declaratory relief against Malan; constructive trust against Malan and Monarch; dissolution of RM Property; intentional interference with prospective economic advantage against Malan, Hakim, and the entities holding licenses; and intentional interference with a contractual relationship against Hakim and Monarch.

B. Razuki's Application for Receiver Appointment and SoCal's Application [*13] to File Complaint In Intervention

Three days after the amended complaint was filed, on July 16, Razuki filed his ex parte application for the appointment of receiver and preliminary injunction. The application sought the appointment of Michael Essary as receiver to take possession of the assets of RM Property, and each of the Related Entities.

The same day, SoCal filed an ex parte application to file a complaint in intervention. The proposed complaint named the same defendants, repeated many of the same allegations, and also sought the appointment of a receiver over the Related Entities. SoCal alleged defendants had concealed the existence of Razuki's ownership interest in the three facilities, and defendants had violated the management agreements.

According to SoCal's complaint, after SoCal learned of Razuki's interest and questioned Malan and Hakim, Malan informed SoCal that defendants' ownership of the Dispensary was also disputed in a separate pending case in San Diego Superior Court. SoCal responded with a request that defendants sign a tolling agreement to suspend the option deadlines, but also expressed hope the relationship could be salvaged.

On July 10 (the day Razuki filed his [*14] initial complaint), defendants' counsel sent a letter to SoCal terminating the three management agreements, and asserting SoCal was in breach of the agreements for failing to make contractually required payments and failing to appropriately manage the facilities. By the next

day, Malan and Hakim had locked SoCal out of both the Dispensary and the Production Facility, and had repainted the dispensary and changed its name and signage. SoCal's complaint alleged that defendants "destroyed the facilities' financial records, receipts, printers, barcode scanners, and point of sale tracking information"

C. Hearing on Receiver Appointment and Intervention Complaint

The hearing on Razuki's ex parte application for receivership and on SoCal's ex parte application to file its intervention complaint occurred on July 17. During the brief hearing, Razuki's counsel outlined the basis for the requested relief, explaining that Razuki believed Malan and Hakim had hidden over \$1 million in management fees received from SoCal. He also argued a receivership was needed because defendants had violated their management agreements with SoCal, locking SoCal out of both the dispensary and production facility [*15] and preventing SoCal from accessing its valuable manufacturing equipment. SoCal also joined in the application for a receiver.

Gina Austin specially appeared on behalf of all of the defendants and said she had not yet been retained in the matter, and that none of the defendants had yet been served with the application for receiver or the complaint in intervention. Austin indicated she had briefly reviewed the receiver application before the hearing, and argued there was no urgency identified that required immediate relief.

The court granted SoCal's application to intervene and then without explanation stated it was "going to grant the relief requested. The injunction is granted. Receivership is appointed." The same day, the court issued a minute order confirming its rulings and signed a proposed order submitted by Razuki, which appointed a receiver over RM Property and the Related Entities (encompassing all three businesses). The orders directed both Razuki and the receiver to post a \$10,000 bond within five days. The orders also set an August 10 order to show cause (OSC) to confirm the receiver appointment. Razuki and the receiver, Essary, submitted proof of the requisite undertakings [*16] to the court that day.

D. Malan's Peremptory Challenge and Motion to Vacate Receivership; Razuki's Ex Parte Application

to Reset OSC Hearing

The day of the hearing, Malan filed a peremptory challenge. The OSC hearing was then vacated and, on July 25 the case was reassigned to Judge Strauss. Three days later, on July 28, Razuki filed an ex parte application for an order to reset the OSC hearing. Before the court took action on this application, Malan filed a competing ex parte application to vacate the receivership order. The application also sought a temporary restraining order (TRO) to prevent Razuki from "transferring money or disposing of property obtained from one of the Defendants since the receivership order was issued" or from entering any real property controlled by defendants.

Malan's moving papers presented a version of events completely at odds with those presented by Razuki and SoCal. Malan asserted that Razuki had no ownership interest in the businesses, pointing to grant deeds transferring the Dispensary and Planned Facility properties to the two Property Owner entities (SD United and Roselle). Malan's declaration stated that he and Razuki mutually agreed to rescind the [*17] Settlement Agreement in March 2018 after Razuki was unable to transfer his interests in Sunrise and Super 5 to RM Property. Malan alleged that Razuki filed the lawsuit because "of a large judgment a litigant obtained against him in another lawsuit, which is causing Razuki some cash flow problems."⁴

With respect to SoCal, Malan asserted that in January 2018, the three entities holding the medical marijuana licenses (Balboa Co-op, CCG, and Devilish) hired SoCal to operate the three properties, but SoCal had mismanaged the properties. Malan claimed SoCal had poorly controlled inventory, failed to have sufficient security present and hired a security guard not authorized to carry a firearm, failed "to pay employees correctly," and failed to pay required insurance. Malan also asserted SoCal gave confidential information to Razuki and withheld payments related to the Production Facility property, causing the owner (Mira Este) to default on a loan. Malan said SoCal was conspiring with Razuki "to hijack the three businesses" by filing this

⁴ Malan also said the homeowners association rules governing the Dispensary property prohibit marijuana operations; the association had sued on this issue; and that the lawsuit had resulted in a February 2018 settlement granting a variance to the Property Owner entity (SD United) to operate the Dispensary if certain conditions were met.

lawsuit.⁵

Finally, Malan's declaration detailed dramatic events that unfolded on July 17, the day Essary was appointed. Malan stated that after the hearing, [*18] several SoCal employees, including one carrying a visible gun, accompanied Essary to the Dispensary parking lot. Malan said he called the police when he saw the "gunman" and when the police arrived at the premises, Essary and the SoCal employees "fled." According to Malan, the employees and Essary returned later in the day, "broke down the door and invaded the building," and stole computers and other equipment. Malan stated that Essary's decision to rehire SoCal after his appointment was evidence of negligence and Essary's inability to manage the businesses.

A supporting declaration from Malan's counsel (Austin) corroborated Malan's statements about the receiver's takeover of the Dispensary. Austin also claimed Essary could not lawfully run the businesses because Essary was not properly licensed. Austin also said the Dispensary was under audit by the City of San Diego and both the Dispensary and Production Facility had upcoming hearings related to their conditional use permits that would be jeopardized by Essary's involvement.

SoCal filed an opposition, refuting Malan's allegations and asserting Malan had made material misrepresentations to the court. SoCal stated Malan falsely claimed [*19] Essary had threatened Dispensary employees, when in fact those employees had barricaded themselves into the store "so they could steal the dispensary's money in violation of the [receivership] order, and flee with bags of 'loot' into their attorney's 'getaway car.'" In support, SoCal submitted Essary's declaration stating that after the July 17 hearing, Austin told him she was advising her clients not to follow the court's order and to resist any attempt by Essary to take control of the assets. Essary also described the scene when he went to the Dispensary, explaining the employees locked themselves in a backroom with the safe and security cameras, loaded bags with money, and fled out the back door into Austin's waiting car.

E. July 31, 2018 Hearing Before Judge Strauss

⁵ Malan also noted the entity holding title to the Dispensary property (SD United) had filed a cross-complaint to quiet title to this property in a separate pending case against Razuki.

On July 31, Judge Strauss heard Razuki's ex parte application to re-set the OSC to confirm the appointment of the receiver and Malan's ex parte application to vacate the receivership. Counsel for Malan and the entities argued the receivership order was void because Razuki had failed to provide proper notice, the receiver had a prior relationship with Razuki and SoCal that disqualified him, Razuki had failed to show a [*20] sufficient ownership interest in the entities, and there was no urgency that supported the drastic remedy of a receiver.

Razuki's counsel responded that Razuki's submitted evidence showed that Malan was attempting to steal assets from Razuki and SoCal, which had invested \$2.6 million in equipment and other improvements to the properties. SoCal's counsel asserted there was urgency because Malan had begun to sell SoCal's equipment, and Malan and Hakim had diverted millions of dollars to Monarch that was owed to Razuki. SoCal also asserted a receiver was necessary because the operators hired by the defendants after SoCal's termination threatened the viability of the businesses and the value of its purchase options.

Near the conclusion of the contentious hearing, Hakim's counsel proposed a compromise, suggesting the court issue an injunction returning the parties to the status quo that existed before the receivership order, and that prevented any transfer of funds outside the ordinary course of business. Counsel suggested Razuki could then bring his request for a receiver again, on a noticed motion on shortened time with full briefing and the opportunity to submit evidence. The court adopted [*21] the proposal and directed Hakim's counsel to prepare a final order. The court declined to set a date to hear a new motion, instead instructing the parties "when you're ready to file whatever it is you're going to file, we'll see what kind of date we can give you. And we'll make it as soon as possible, but I don't know what that is exactly."

The court issued a minute order on July 31 stating the request to vacate the receivership was granted and directing "counsel to prepare a proposed order for the [c]ourt's review and approval." The order also granted Essary's request to employ counsel and "as to all other matters; the [c]ourt instructs counsel to proceed via noticed motion for remedies being sought."

F. Peremptory Challenge and Case Reassignment to Judge Sturgeon

After the July 31 hearing, SoCal filed its peremptory

challenge to Judge Strauss and the case was again reassigned, this time to Judge Sturgeon. On his own motion, Judge Sturgeon scheduled an August 14 hearing to revisit the appointment of the receiver.⁶

On August 10, Razuki filed a "supplemental memorandum of points and authorities in support of appointment of receiver and opposition to [Malan's] ex parte application to vacate [*22] receivership order." Razuki argued Judge Strauss's minute order was ineffectual because the court had not signed any final order after the hearing, and he again argued the merits of appointing the receiver. Razuki's counsel outlined in more detail the payments made by SoCal to Monarch that he asserted were misappropriated by Malan and Hakim, and described the potential profitability of the businesses.

In support of his supplemental brief, Razuki filed voluminous records attached to his and other declarations, showing his specific investments into the Dispensary, Production Facility, and Planned Facility properties. For instance, Razuki attached evidence that he invested \$254,780 for the down payment for the Production Facility property and paid \$200,000 for the operation's business tax certificate, while Hakim invested \$420,000 toward the down payment. Razuki also explained that he transferred the Dispensary property from Razuki Investments, LLC, his wholly owned entity, to the Property Owner entity (SD United) because he did not want to violate a settlement agreement he had previously reached with the City after another property he owned was charged with operating a dispensary unlawfully. [*23] That other settlement prohibited Razuki from owning a nonpermitted cannabis facility and Razuki feared the Dispensary's

⁶ The status of Judge Strauss's order vacating the receivership was left in limbo. On August 7, 2018, Hakim's counsel submitted a proposed order to the court, as directed by Judge Strauss, with a letter to Judge Sturgeon explaining the circumstances. Razuki's counsel represented in a declaration filed on August 10, 2018, that Judge Sturgeon's clerk contacted her on August 8, 2018, by telephone and stated that because Judge Strauss had directed counsel to prepare an order after the hearing, and no order was ever signed, the July 31, 2018 minute order vacating the receivership "did not constitute a valid and final order and the receivership was never vacated." Essary submitted a report to the court on August 10, 2018, which stated it was his understanding that the order vacating his appointment was never made final, and that Judge Sturgeon had scheduled an ex parte hearing on August 14, 2018, "to 're-hear' Defendants' ex parte application to vacate the receivership."

violation of the homeowners association rules precluding marijuana operations might constitute a violation.

Malan also filed supplemental briefing, a supporting declaration, and his counsel's declaration. Malan argued the Settlement Agreement was unenforceable because it was in violation of public policy and Razuki had not shown the medical marijuana businesses covered by the agreement were conducted in conformance with the law. Malan also argued that Essary had acted illegally by reinstating SoCal as the operations manager and failing to secure appropriate approval from the state licensing authorities before assuming the receivership.

In his declaration, Malan said that on July 31 (the date of the prior order), he witnessed SoCal employees use a moving truck at the Production Facility to attempt to steal equipment and an office computer. Malan also claimed Essary had stolen \$80,000 from the Dispensary. Hakim's declaration stated he paid more than one-half the down payment for the Production Facility property and that Razuki "was insistent on not wanting to appear of [*24] record on title in connection with [this] acquisition. . . ."

Neither Malan's nor Hakim's declarations disputed Razuki's assertions concerning his specific ownership interests in the various properties, including that he was the source of a large portion of the down payment for the Production Facility property and had paid for the \$200,000 business tax certificate.

G. August 14, 2018 Hearing

On August 14, the parties appeared before Judge Sturgeon for the first time. At the start of the hearing the court rejected the idea that it was conducting a rehearing of the prior orders and stated it would hear the matter anew on August 20. The parties' counsel then disputed whether the receivership had been vacated at the July 31 hearing because no final order had been signed.

After asking questions about the parties' documentation, the court stated it was not reinstating the receiver, and instead would institute a new, temporary order. This order froze all related bank accounts until the next hearing (although it allowed certain product purchases) and enjoined the sale of the three properties at issue.

H. Briefing for August 20, 2018 Hearing

On August 17, 2018, the parties filed additional briefs [*25] and voluminous documentation in support of their positions.

Malan filed a supplemental brief and a 20-page supplemental declaration describing additional facts about his relationship with Razuki and the financing and prior ownership of the properties owned by SD United (the Dispensary property owner). Malan also again alleged malfeasance by Essary, asserting payments of over \$100,000 to "SoCal insiders" and thousands of dollars to himself while in control of the businesses' bank accounts.

Malan continued to refute Razuki's ownership claims, asserting for the first time that SD United purchased the Dispensary property from Razuki in March 2017, subject to a \$475,000 loan held by Razuki that Malan paid off three months later. Malan stated that Razuki abandoned his interest in the Dispensary property because his ownership in another dispensary (Sunrise) was far more lucrative. Malan stated that SD United purchased five other units adjacent to the Dispensary for \$1.6 million with financing that did not involve Razuki. Malan repeated his prior allegations that he was coerced into signing the Settlement Agreement, and that he and Razuki mutually agreed to cancel it around January or February [*26] 2018.

Hakim's supplemental papers pertained mainly to its claims about SoCal's alleged mismanagement and sought to rebut SoCal's assertions it had option rights and rights to its equipment at the facilities. Hakim also noted that the Planned Facility was currently occupied by a tenant whose rent payments could easily be accounted for.

Razuki also submitted a supplemental brief in which he claimed Malan had immediately violated the court's order by contacting the bank for one of the entities, and another declaration with additional documentation showing his involvement in the financing of the three properties.

SoCal filed additional declarations in support of its position that a receiver was needed and that Essary was qualified to serve as the receiver.

I. August 20, 2018 Hearing

At the August 20 hearing, the court stated it would not address whether the July 31 order vacating the receiver was valid, rather the court was "starting fresh." Razuki's

counsel then outlined Razuki's interest in the three businesses, expressing concern that Malan intended to immediately sell the real properties, and asserting Razuki had no confidence a truthful accounting could be done, particularly since the [*27] businesses were operated almost entirely in cash.⁷ SoCal's counsel argued a damage award would be insufficient to remedy the breaches of its options for the real properties.

Malan's counsel repeated his argument that the Settlement Agreement was unenforceable as against public policy and also noted RM Property was never capitalized. He continued to assert there was no urgency requiring a receiver because all the asserted damages could be determined by an accounting. He also said that SoCal's poor management of the Dispensary had resulted in a default by the entity Property Owner (SD United) under the homeowners association settlement, irreparably harming the business. Hakim's counsel refuted the validity of SoCal's options and confirmed the Planned Facility was not currently a marijuana operation.

Essary's counsel explained Essary's activity during his appointment from July 17 to July 31, and refuted defendants' assertions that Essary had not satisfied the regulatory requirements to manage the Dispensary and Production Facility operations.

After the conclusion of arguments, the court imposed a temporary receivership and set a further hearing for Friday, September 7 to consider the continued [*28] need for the receiver. The court stated Razuki had shown a likelihood of prevailing on the merits and that there was a risk of irreparable harm "based on the amount of money that allegedly ha[d] been put into this case." The court again appointed Essary as the receiver and directed him to keep the two existing managers (Synergy and Far West) in place as managers of the Production Facility and the Dispensary, respectively.

The court also entered orders specifying who Essary should hire as the accountant for the entities in the receivership. The court ordered Essary to file a report

⁷Razuki's counsel also asserted there was some indication that Malan and Hakim had given purchase options to Far West Operating, LLC (Far West) (which was the operator hired after Malan terminated SoCal in early July and was reinstated as the operator after July 31, 2018) and Synergy Management Partners, LLC (Synergy) (the company hired after July 31, 2018 to run the Mira Este production facility) that overlapped with SoCal's options, creating the risk of further litigation and additional need for the receiver.

on September 5 and ordered the parties to file any additional supplemental briefing three days before the hearing. The court excluded the Planned Facility from the receivership, but imposed a TRO preventing the sale of this property.

On August 28, the court entered the order appointing Essary as the receiver over the Dispensary and Production Facilities, the entity owners of these properties, and their license holders.

J. Briefing for September 7, 2018 Hearing

One week later, Hakim filed another supplemental brief, arguing the receivership had already caused irreparable harm to the Production Facility because [*29] producers and manufacturers were unwilling to work with the business while it was under the control of the receiver. Hakim also asserted the new manager (Synergy) could soundly manage the facility and keep meticulous records for any required accounting, preventing any harm to Razuki. Finally, Hakim argued a \$10 million dollar bond was appropriate.

In his supplemental brief, Malan continued to refute Razuki's interest in the three businesses.⁸ Malan asserted the receivership was detrimental to the businesses and that the receiver had already proven too expensive. Malan also continued to allege malfeasance by Essary.

Malan's declaration outlined additional details about his relationship with Razuki, explaining that in 2014 he and Razuki began investing in properties together with a 75/25 split in Razuki's favor, and that they purchased 50 properties including a gas station and two marijuana dispensaries. Malan stated Razuki then refused to honor their arrangement and did not share rent proceeds as they agreed, resulting in the 2017 Settlement Agreement. Malan repeated his assertion he was tricked into signing that agreement and that he and Razuki agreed to rescind it in February 2018. Malan [*30] also stated for the first time that he and Razuki had then agreed to keep the properties they

⁸Malan lodged close to 100 exhibits consisting primarily of documents he asserted showed his control of the three businesses and related properties, e.g., cancelled checks, wire transfer receipts, and receipts for various business expenses, as well as documents from other lawsuits that allegedly showed Razuki's manipulation of the justice system to gain an advantage in real estate dealings.

controlled, with Malan taking ownership of all of the assets under the control of the receiver.

Malan's attorney (Austin) submitted a declaration expressing concern over Essary's decision to hire a partner in the law firm representing SoCal, as the receiver's cannabis expert, rather than her recommended independent expert. Austin also said the City's consultant who conducted an audit of the Dispensary had recently discovered an approximate \$100,000 discrepancy while SoCal was the operator.

On September 5, Essary submitted his first receiver's report outlining his activity related to the Dispensary and the Production Facility.

K. September 7 Order Confirming Receiver Appointment for 60 Days

At the September 7 hearing, the parties' counsel reiterated their positions at length.

Razuki's counsel emphasized the entirely cash nature of the businesses, noting the cash could be easily hidden. Malan's counsel countered that discovery was the proper mechanism for Razuki to obtain financial information about the businesses, and that most of the relevant information was in SoCal's possession. Malan's counsel [*31] continued to challenge Razuki's assertion he had invested millions into the businesses, and argued a remedy less drastic than a receiver would be more appropriate, such as requiring a forensic accountant to assess all of the business accounts and operations.

Hakim's counsel focused on the harm resulting if the receiver remained in place, emphasizing the inability to attract any producers, and citing the uncertainty the property could be sold and the risk that trade secrets would be disclosed. Hakim's counsel also suggested that Razuki's interest in the Production Facility property could be protected by requiring his portion of profits to be deposited into a separate account that the other parties could not access.

In response to the court's inquiry, Essary's attorney stated he did not think the receivership would prevent new producers from contracting at the Production Facility and any concern about the disclosure of trade secrets could be rectified with a nondisclosure agreement.

After considering the voluminous written record and the

parties' oral arguments at the several hearings, the court confirmed its receivership decision. The court concluded Razuki had shown a sufficient probability [*32] of prevailing on his claims, and that based on the documentation submitted to the court there was a risk of irreparable harm requiring protection. The court appointed Essary as the receiver for an additional 60 days, after which it would reconsider the appointment, and ordered Essary to hire an outside accountancy firm to conduct a forensic accounting of the Production Facility, the Dispensary, and all of the interested parties' contributions to those businesses. The court ordered the receivership to remain over the same entities and ordered Razuki to post a bond of \$350,000 within two weeks, with the existing order remaining in place until the bond was posted, and ordered that if the bond was not posted the receivership would be dissolved. The court directed the receiver's counsel to submit a final proposed order.

On September 13, the receiver's attorney submitted a proposed order. Seven days later, on September 20, Razuki filed notice he had posted the receivership bond of \$350,000 on September 18.

On September 26, 2018, the court entered the order challenged in this appeal, entitled "Order Confirming Receiver and Granting Preliminary Injunction" (the September 26 order). The order [*33] confirmed Essary's appointment as receiver over two of the Property Owner entities (SD United and Mira Este); three license holder entities (Balboa Co-op, CCG, Devilish), and the business manager entity (Flip). The order required Essary to retain an independent accountant to conduct "a comprehensive forensic audit of the Marijuana Operations, as well as of all named parties in this matter as it relates to financial transactions between and among such parties related to the issues in dispute." The order excluded the Planned Facility, lifting the prior restraining order preventing its sale.

L. Notices of Appeal From the September 26 Order

Malan, SD United, Flip, and the three license holders (Balboa Co-op, CCG, and Devilish) filed their joint notice of appeal from the September 26 order on October 30, 2018. Hakim and the entities related to the Production Facility (Roselle and Mira Este) filed their joint notice of appeal from the order on November 2, 2018.⁹

⁹ Our references to appellate arguments made by Malan

DISCUSSION

Malan and Hakim challenge the court's imposition of the receiver over the Dispensary and Production Facility related entities (SD United, Mira Este, Balboa Co-op, CCG, Devilish, and Flip).¹⁰ Malan raises several errors in the [*34] process used to appoint the receiver and asserts that Essary is biased against him. Both appellants argue the court abused its discretion by appointing Essary, contending that Razuki did not show a sufficient probable interest in the assets placed under receivership and that the balance of harms did not favor him. Finally, Malan and Hakim assert the doctrine of unclean hands prevents the appointment of a receiver in this case.

I. Legal and Procedural Standards

A. Receivership Standards and Procedure

The appointment of a receiver is a provisional equitable remedy. The receiver's role is to preserve the status quo between the parties while litigation is pending. ([Southern California Sunbelt Developers, Inc. v. Banyan Limited Partnership \(2017\) 8 Cal.App.5th 910, 925, 214 Cal. Rptr. 3d 719.](#)) Further, it is "an ancillary remedy which does not affect the ultimate outcome of the action." (*Ibid.*)

The court's role in supervising a receiver cannot be overstated. "The receiver is but the hand of the court, to aid it in preserving and managing the property involved in the suit for the benefit of those to whom it may ultimately be determined to belong." [Citations.] ([Marsch v. Williams \(1994\) 23 Cal.App.4th 238, 248, 28 Cal. Rptr. 2d 402 \(Marsch\).](#)) The receiver is the agent of the court and not of any party and, as such, is neutral, acts for the benefit of all who may have an interest in [*35] receivership property, and holds assets for the court rather than the parties. ([O'Flaherty v. Belgium](#)

and/or Hakim includes the entities related to each of these parties in their notices of appeal.

¹⁰ Although the court's order appointing Essary is styled "Order Confirming Receiver and Granting Preliminary Injunction," neither Malan's nor Hakim's briefing challenges a preliminary injunction. Rather, appellants' briefing exclusively seeks reversal of the trial court's order appointing the receiver and return to them of the properties, assets, and companies placed under the receiver's control in accordance with that order.

[\(2004\) 115 Cal.App.4th 1044, 1092, 9 Cal. Rptr. 3d 286](#) (O'Flaherty); see [People v. Stark \(2005\) 131 Cal.App.4th 184, 204, 31 Cal. Rptr. 3d 669](#); *Cal. Rules of Court, rule 3.1179(a)*.¹¹ Put another way, appointment of a receiver is a tool for the court to gain control over a chaotic ownership dispute like the turbulent situation Judge Sturgeon found when he was assigned to this case.

"In California, a receiver may not be appointed except in the classes of cases expressly set forth in the statutes or as authorized under established usage of the court's equitable powers.' [Citations.]" ([O'Flaherty, supra, 115 Cal.App.4th at p. 1092](#).) [Code of Civil Procedure section 564](#) generally sets forth the statutory circumstances under which a receiver can be appointed.¹² ([Marsch, supra, 23 Cal.App.4th at p. 248](#).) [Section 564, subdivision \(b\)](#) states: "A receiver may be appointed by the court in which an action or proceeding is pending, or by a judge of that court, in the following cases," and then lists 12 particular circumstances that can support the appointment of a receiver.

Two of these circumstances are relevant here. First, [section 564, subdivision \(b\)\(1\)](#) states: "(1) In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to the creditor's claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose **[*36]** right to or interest in the property or fund, or the proceeds of the property or fund, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured." (Italics added.) Second, [section 564, subdivision \(b\)\(9\)](#) is a catchall, providing for the appointment of a receiver "[i]n all other cases where necessary to preserve the property or rights of any party."

"The requirements of [\[section 564\]](#) are jurisdictional, and without a showing bringing the receiver within one of the subdivisions of that section the court's order appointing a receiver is void." ([Turner v. Superior Court \(1977\) 72 Cal.App.3d 804, 811, 140 Cal. Rptr. 475](#).) To invoke the authority of the court to appoint a receiver under [section 564, subdivision \(b\)\(1\)](#), the plaintiff must establish by a preponderance of the evidence a "joint interest with [the] defendant in the property; that the same was in danger

of being lost, removed or materially injured, and that plaintiff's right to possession was probable." ([Alhambra-Shumway Mines, Inc. v. Alhambra Gold Mine Corp. \(1953\) 116 Cal.App.2d 869, 873, 254 P.2d 599](#) (Alhambra).) Lack of standing (here alleged to be lack of probable possession of the property) to seek a receivership is a jurisdictional defect that subjects the action to dismissal. ([O'Flaherty, supra, 115 Cal.App.4th at p. 1095](#).)

Importantly, "[t]he trial court on the motion for receivership is not required to determine the ultimate issues involving the **[*37]** precise relationship of the parties. At this stage of the proceedings, nothing more than a probable joint or common interest in the property concerned need be shown." ([Maggiore, supra, 249 Cal.App.2d at p. 711](#).) "Evidence to justify the appointment of a receiver may be presented "in the form of allegations in a complaint or other pleading, by affidavit or by testimony."" ([Republic of China v. Chang \(1955\) 134 Cal.App.2d 124, 132, 285 P.2d 351](#), italics removed.)

Procedurally, the Code of Civil Procedure and the Rules of Court set two paths for obtaining a receiver. A party seeking the appointment of a receiver can do so either on an ex parte basis, or by noticed motion. Under either path, the substantive requirements for appointment of the receiver under [section 564](#) are the same. Additional procedural protections, however, are required under the Rules of Court when an applicant proceeds on an ex parte basis.

Under rule 3.1175(a)(1), a plaintiff seeking a receiver on an ex parte basis, must show by declaration "[t]he nature of the emergency and the reasons irreparable injury would be suffered by the applicant during the time necessary for a hearing on notice." In addition, the applicant must show, by declarations or a verified pleading, (1) the names and contact information for "the persons in actual possession of the property"; **[*38]** (2) "[t]he use being made of the property by the persons in possession"; and (3) "[i]f the property is a part of the plant, equipment, or stock in trade of any business, the nature and approximate size or extent of the business and facts sufficient to show whether the taking of the property by a receiver would stop or seriously interfere with the operation of the business." (Rule 3.1175(a)(2)-(4).) If any of this information is "unknown to the applicant and cannot be ascertained by the exercise of due diligence, the applicant's declaration or verified complaint must fully state the matters unknown and the efforts made to acquire the information." (*Ibid.*)

¹¹ All rule references are to the California Rules of Court.

¹² Subsequent undesignated statutory references are to the Code of Civil Procedure.

In addition to the requirements of rule 3.1175, when an applicant proceeds on an ex parte basis, section 566, subdivision (b) requires an undertaking in an amount fixed by the court before imposing the receivership order. At the ex parte hearing, the applicant must propose specific amounts, and the reasons for the amounts proposed, of the undertakings required from the applicant by section 566, subdivision (b) and from the receiver by section 567, subdivision (b). (Rule 3.1178.)

If a receiver is appointed on an ex parte basis, the matter "must be made returnable upon an order to show cause why appointment should not be confirmed." (Rule 3.1176, subd. (a).) The OSC must be set within [*39] 15 days, "or if good cause appears to the court," within 22 days of appointment of the receiver. (*Ibid.*) On an OSC, or a noticed motion, the applicant's moving papers must allege sufficient facts establishing one of the statutory grounds for the appointment, as well as irreparable injury and the inadequacy of other remedies. (*Alhambra, supra, 116 Cal.App.2d at p. 873.*) The court has discretion to require the applicant to post a bond if the receivership is confirmed, but unlike at the ex parte stage, the bond is not statutorily required. Under section 567, subdivision (b) the receiver must maintain a bond under either procedure.

B. Standard of Review

"Where there is evidence that the plaintiff has at least a probable right or interest in the property sought to be placed in receivership and that the property is in danger of destruction, removal or misappropriation, the appointment of a receiver will not be disturbed on appeal." (*Sachs v. Killeen (1958) 165 Cal.App.2d 205, 213, 331 P.2d 735 (Sachs).*) "The discretion of the trial court is so broad that an order based upon facts concerning which reasonable minds might differ with respect to the necessity for the receiver will not be reversed. [Citation.] To justify our interference, it must clearly appear that the appointment was an arbitrary exercise of power [citation]." [*40] (*Maggiora, supra, 249 Cal.App.2d at pp. 710-711; see also Breedlove v. J.W. & E.M. Breedlove Excavating Co. (1942) 56 Cal.App.2d 141, 143, 132 P.2d 239* ["[W]here a finding, based upon conflicting evidence, is to the effect that danger is threatened to property or funds, and the appointment of a receiver is made, it is seldom that the reviewing court will hold that the lower tribunal has been guilty of an abuse of the discretion confided to it."].)

II. Procedural Challenges to the Order Appointing Essay

Because of the peremptory challenges and their attendant judicial reassignments, the procedure followed in this case did not precisely align with the conventional paths laid out by the rules. After Razuki obtained the initial appointment of the receiver on July 17 on an ex parte basis, the confirmation process required by rule 3.1176, subdivision (a) was short-circuited. Before the receivership could be confirmed through the issuance of an OSC, the receivership was vacated by Judge Strauss on July 31. That order was then interrupted by SoCal's peremptory challenge and Judge Sturgeon began the ex parte proceedings anew.

Although no order clarified whether the parties were to proceed by way of noticed motion or on an ex parte basis, the timeline of events generally followed the ex parte and confirmation by OSC procedure set forth in rules 3.1175 and 3.1176. Of note, at [*41] the August 20 hearing, the court stated that the next hearing should occur "within 15 to 20 days" and set the hearing for September 7 to consider the continuation of the receivership and the bond amount that should be required from Razuki. Further, no party filed a noticed motion with respect to the appointment of (or request to vacate) the receiver.

A. Failure to Require Undertaking

Malan first asserts that the initial order imposing the receiver issued by Judge Medel on July 17 was void because it "did not require an undertaking from the applicant *before* the order would take effect," and that every order thereafter was void as a result. (Italics added.) Malan also argues that Razuki failed to post a bond before Judge Sturgeon imposed the receivership a second time on August 20, again violating section 566 and voiding the September 26 order confirming the receivership at issue in this appeal.

Malan's arguments are not well taken. Section 566, subdivision (b) states, "if a receiver is appointed upon an ex parte application, the court, before making the order, must require from the applicant an undertaking in an amount to be fixed by the court, to the effect that the applicant will pay to the defendant all damages the defendant [*42] may sustain by reason of the appointment of the receiver and the entry by the receiver upon the duties, in case the applicant shall

have procured the appointment wrongfully, maliciously, or without sufficient cause." As has been described, Razuki proceeded by ex parte application. The initial order issued by Judge Medel provided Razuki a five-day grace period. Razuki, however, posted the bond *the day the order was issued*, satisfying the statute's requirement.

Even if we were to conclude the initial receivership was invalid because it gave Razuki five days to post an undertaking, we do not agree with Malan's contention that the September 26 order is therefore void.

To advance this argument, Malan relies on [Bibby v. Dieter \(1910\) 15 Cal.App. 45, 113 P. 874](#), which held an order appointing a receiver upon an ex parte application without the required undertaking is void *and all subsequent orders arising from that appointment order are void*. This case is not governed by this rule because the challenged receivership order did not arise from the initial appointment order claimed to be void. Instead, after the two successful peremptory challenges, Judge Sturgeon made clear he was considering the receivership petition anew. The court had the [*43] full authority to vacate the earlier orders and rule on the petition as a matter of first impression. (See, e.g., [Wiencke v. Bibby \(1910\) 15 Cal.App. 50, 53, 113 P. 876](#) ["The power of a court to vacate a judgment or order void upon its face is not extinguished by lapse of time, but may be exercised whenever the matter is brought to the attention of the court. . . . The court has full power to vacate such action on its own motion and without application on the part of anyone."]; [State of California v. Superior Court \(Flynn\) \(2016\) 4 Cal.App.5th 94, 100, 208 Cal. Rptr. 3d 501](#) ["Even without a change of law, a trial court has the inherent power to reconsider its prior rulings on its own motion at any time before entry of judgment."].)

Malan alternatively asserts that Judge Sturgeon's August 20 order appointing Essary for the second time was void because it did not require another undertaking by Razuki before it took effect. However, Malan does not explain why the initial \$10,000 bond filed by Razuki was insufficient to satisfy section 566. While a dispute existed when the case was reassigned to Judge Sturgeon about whether that receivership was vacated by Judge Strauss on July 31 because no final order was signed, the record shows that Razuki's undertaking remained in place through September 19, 2018, when Razuki filed notice he had posted the [*44] \$350,000

undertaking.¹³ We presume the court was aware of the bond, which satisfied section 566. (See [Howard v. Thrifty Drug & Discount Stores \(1995\) 10 Cal.4th 424, 443, 41 Cal. Rptr. 2d 362, 895 P.2d 469](#) ["We uphold judgments if they are correct for any reason, "regardless of the correctness of the grounds upon which the court reached its conclusion.""]; [In re Marriage of Arceneaux \(1990\) 51 Cal.3d 1130, 1133, 275 Cal. Rptr. 797, 800 P.2d 1227](#), ["A judgment or order of a lower court is presumed to be correct on appeal, and all intendments and presumptions are indulged in favor of its correctness."])¹⁴

B. Failure to Timely Serve First Amended Complaint

In a similar vein, Malan argues that Razuki's failure to serve defendants with the first amended complaint within five days of the July 17 order, as required by rule 3.1176(b)-(c), requires reversal of the September 26, 2018 order.

Rule 3.1176(b) states that when a receiver is appointed on an ex parte basis, service of the complaint, notice of the OSC, and any supporting memorandum and declarations "must be made as soon as reasonably practical, but no later than 5 days after the date on which the order to show cause is issued, unless the court orders another time for service." Under rule 3.1176(c), if the applicant fails to "exercise diligence to effect service upon the adverse parties as provided in (b), the court may discharge the receiver."

Razuki provided the trial court with a reasonable [*45] explanation for the delay in serving the first amended

¹³ Despite the lack of a final order after the July 31 hearing, the record also shows Essary and the defendants treated the receivership as being vacated that day. For example, the Dispensary and Production Facility resumed operations that day without any oversight by Essary. On appeal, no party suggests the July 31 order was not effective because it was not final.

¹⁴ Malan also argues the September 26 order violated section 566 because it gave Razuki 14 days to post the \$350,000 bond ordered on September 7, 2018. However, there is no bond requirement on the applicant for an order confirming the receivership. (§ 566, subd. (b); see § 41:7. Undertakings, bonds, receiver's oath, and related claims, 12 Cal. Real Est. § 41:7 (4th ed.) [No similar statutory requirement to file an undertaking where the application for appointment of receiver is made on a noticed motion or for the confirmation of an order appointing a receiver on an ex parte basis.].) Rather a bond may be imposed at the court's discretion.

complaint. He explained he was unable to obtain a conformed copy from the court's business office because of its backlog and that after the case was reassigned to Judge Strauss, his ex parte hearing to obtain an order from the court to require the court's business office to expedite return of the conformed pleading was taken off calendar. Razuki explained to the trial court that after the case was reassigned, he obtained a new ex parte hearing before Judge Strauss to expedite processing of the complaint. This evidence established Razuki's diligence in attempting to serve defendants. Further, any error was mooted by Judge Strauss's July 31 order vacating the receiver and Judge Sturgeon's August 14, 2018 order declining to reinstate Essary. Malan's argument does not support reversal of the September 26 order.

C. Failure to Schedule OSC Hearing Within 22 Days of July 17 Order

Malan also argues the court's failure to make the OSC returnable within 15 days of the July 17 order appointing Essary, as required by rule 3.1176, voids the receivership. This argument lacks merit.

Rule 3.1176(a) requires the OSC to "be made returnable on the earliest date that the business [*46] of the court will admit, but not later than 15 days or, if good cause appears to the court, 22 days from the date the order is issued." (Rule 3.1176 (a).) At the time it instituted the first receivership on July 17, the court did set the hearing on the OSC outside the rule time. The OSC, however, was vacated after Malan filed his peremptory challenge to Judge Medel, mooting the purported violation of rule 3.1176(a). Further, Malan has provided no legal authority or argument to support his assertion that this technical error requires reversal of the later receivership order that is before this court on appeal.¹⁵ (See [Mansell v. Board of Administration \(1994\) 30 Cal.App.4th 539, 545-546, 35 Cal. Rptr. 2d 574 \(Mansell\)](#) [appellate court need not furnish argument or search the record to ascertain whether there is support for appellant's contentions].)

¹⁵ Malan's assertion that the court violated rule 3.1176(a) at the August 20 hearing by setting the next hearing to confirm its appointment of Essary 18 days later is also without merit. The hearing was within the rule limit of 22 days and Malan does not challenge the existence of good cause to set the hearing beyond 15 days.

III. Receiver's Alleged Bias and Rule 3.1179(b)

Malan next contends that Essary was improperly biased against him and that Razuki and Essary violated *rule 3.1179(b)*, which prohibits a receiver from making an agreement with the party seeking the receiver to hire particular service providers. Razuki responds that the trial court considered these allegations, and properly rejected them in view of all of the evidence.

Rule 3.1179(b) states: "The party seeking the appointment of the receiver may not, directly [*47] or indirectly, require any contract, agreement, arrangement, or understanding with any receiver whom it intends to nominate or recommend to the court, and the receiver may not enter into any such contract, arrangement, agreement, or understanding concerning: [¶] (1) The role of the receiver with respect to the property following a trustee's sale or termination of a receivership, without specific court permission; [¶] (2) How the receiver will administer the receivership or how much the receiver will charge for services or pay for services to appropriate or approved third parties hired to provide services; [¶] (3) *Who the receiver will hire, or seek approval to hire, to perform necessary services*; or [¶] (4) What capital expenditures will be made on the property." (Italics added.) The rule contains no remedy for a violation, and does not require the court to void the receivership if it is violated.

The record shows the order issued by the court ensured the receiver was exercising independent authority in determining who to hire and how to manage the assets. Further, Malan points to no evidence of the existence of any agreement or understanding between Razuki and Essary concerning who [*48] Essary would hire if appointed. The court's rejection of Malan's argument that there was an agreement between Razuki and Essary that violated *rule 3.1179(b)(3)* was not an abuse of discretion.

With respect to Malan's assertion that Essary was biased against him, Malan points out that the initial July 17 order signed by Judge Medel authorized the receiver "to bind the Marijuana Operations to the terms of the Management Agreement . . . with SoCal" This order, however, was replaced and is not before this court on appeal.

The record shows that Judge Sturgeon was careful with respect to SoCal's continued role in the businesses. At the August 20 hearing, and as reflected in the court's written orders, Judge Sturgeon specifically prohibited Essary from hiring SoCal, instead directing the receiver

to keep the new managers (Far West and Synergy), who were favored by Malan and Hakim, in place as the operators of the Dispensary and the Production Facility. As the court directed, Essary maintained those entities in place after his August 20 appointment. There is no support in the record for Malan's position that the court abused its discretion by appointing Essary, that Essary's actions showed bias in favor [*49] of Razuki, or that Essary violated *rule 3.1179(b)* after his August 20 appointment.¹⁶

IV. No Abuse of Discretion on [Section 564, subdivision \(b\)\(1\)](#) Issues

Malan and Hakim both argue in different ways that the court was required to determine whether Razuki showed a probability of success on the merits of his claims. Hakim asserts that "the trial court abused its discretion in appointing a receiver because the probability of success at trial between Razuki on the one hand and [the Production Facility entities (Mira Este and CCG)] on the other hand indisputably favors" these entities. Malan argues the Settlement Agreement "is void for violating public policy at the time it was created, so [Razuki] has not shown the requisite likelihood of success on the merits."

To appoint a receiver, however, the trial court was not required to determine the probability of success on any particular claim. Rather, as set forth above, to invoke the court's authority to appoint a receiver under [section 564, subdivision \(b\)\(1\)](#), a plaintiff seeking a receiver must establish by a preponderance of the evidence a "joint interest with [the] defendant in the property; that the same was in danger of being lost, removed or materially injured, and that plaintiff's right to possession was probable." [*50]¹⁷ ([Alhambra, supra, 116 Cal.App.2d at p. 873](#); see [Maggiora, supra, 249](#)

¹⁶ The record does show the cannabis industry in San Diego is relatively small and many of the players in this litigation had existing relationships. For example, as SoCal argued below, Austin introduced Malan and Hakim to her client Jerry Baca, who formed Synergy in late August 2018 with Austin's counsel for the purpose of managing the Production Facility.

¹⁷ Hakim cites one case addressed to the probability of prevailing, [Teachers Ins. & Annuity Assn. v. Furlotti \(1999\) 70 Cal.App.4th 1487, 1493, 83 Cal. Rptr. 2d 455 \(Teachers\)](#). *Teachers*, however, was an appeal of a preliminary injunction requiring the defendant to remove a fence in a shared easement. ([Id. at pp. 1490-1492.](#))

[Cal.App.2d at p. 711.](#))

Contrary to appellants' arguments, the trial court was "not required to determine the ultimate issues involving the precise relationship of the parties. At this stage of the proceedings, nothing more than a probable joint or common interest in the property concerned need be shown [citations]." ([Maggiora, supra, 249 Cal.App.2d at p. 711.](#)) Notably, an interest in the profits of a concern is "a significant factor in determining the necessity of a receiver [citation]. . . ." ([Id. at p. 711, fn. 3.](#))

A. Razuki's Interest in Dispensary and Production Facility Entities

Malan and Hakim argue the receivership order must be vacated because Razuki failed to show a sufficient interest in the entities over which the receiver was appointed to satisfy [section 564, subdivision \(b\)\(1\)](#). Further, they contend that the catchall provision of [section 564, subdivision \(b\)\(9\)](#) is unavailable because Razuki chose to proceed under subdivision (b)(1).

Razuki responds that the Settlement Agreement, enforceable or not, is evidence of an oral partnership agreement with Hakim and his significant interest in the Dispensary and the Production Facility. Further, his declarations and the attached documentation showed his significant financial contributions to these businesses. We agree with Razuki that these facts supported [*51] the trial court's determination that he had standing to pursue a receiver under [section 564, subdivision \(b\)\(1\)](#) over the Dispensary and Production Facility, and the various entities that served the two businesses.¹⁸

The evidence presented to the trial court satisfied the requirement that Razuki show a probable interest in the assets. Razuki's declaration attached the executed Settlement Agreement memorializing his interest in the operations of both the Dispensary and the Production Facility, specifically his right to receive profits from those entities through the mechanism of RM Property. In

¹⁸ Malan makes passing reference in his brief to the inclusion of Devilish in the receivership as improper because the title owner (Roselle) was excluded and Devilish was formed to hold Roselle's licenses. However, despite the exclusion of Roselle, Devilish was explicitly named as a party to the management agreement with SoCal for the Production Facility, bringing Devilish within the purview of the receivership.

addition, Razuki's declaration outlined the background of the Settlement Agreement and the underlying partnership with Malan, which showed their agreement to share the profits from their joint ventures. Indeed, Malan's own declaration recounted his longstanding arrangement with Razuki whereby profits in their real estate investments were split 75/25 in favor of Razuki.

Razuki also submitted documentation showing the collateral he pledged to secure the purchase and refinancing of the Production Facility property; his cash investments of over \$450,000 in this property and the facility's licensure; and documentation showing the transfer [*52] of the Dispensary property from an entity wholly owned by him to SD United. Although Malan and Hakim submitted documentation showing their own investments in the properties and businesses, the documents did not refute Razuki's evidence of his own interest.

These facts distinguish the case from [Rondos v. Superior Court of Solano County \(1957\) 151 Cal.App.2d 190, 311 P.2d 113](#), relied upon by appellants. In *Rondos*, one of two owners of a business licensed by the Department of Alcoholic Beverage Control (ABC), Marvin Caesar, contracted to sell his stake to Edward Essy with the consent of the other owner, George Rondos. When the required application to transfer the business was not approved by ABC within a year, Rondos served Essy with notice of rescission of the contract for sale and notified ABC that he was withdrawing the application for transfer. Essy brought suit and obtained the appointment of a receiver over the business. (*Id.* at p. 193.) The Court of Appeal reversed the receivership order, holding that Essy had failed to establish a probable interest under [section 564, subdivision \(1\)](#) (the identical predecessor to (b)(1)). (*Rondos*, at pp. 194-195.) Critically, the parties' contract explicitly stated the transfer of Caesar's interest to Essy would not occur until ABC approved the transfer. (*Id.* at p. 194.) No similar uncontroverted evidence [*53] exists in this case that would have precluded the trial court's finding that Razuki had shown a probable interest in the assets at issue.

Malan and Hakim point to no evidence showing Razuki's contributions to the businesses did not occur, or that Razuki made them without expectation of sharing in the profits. The trial court was tasked with making a preliminary determination as to whether Razuki was a partner or investor in these assets with a *probable* interest in them. There was sufficient evidence before the court supporting its determination that Razuki had

satisfied this standard. (See [Maggiora, supra, 249 Cal.App.2d at p. 711](#) ["At this stage of the proceedings, nothing more than a probable joint or common interest in the property concerned need be shown"]; see also [Eng v. Brown \(2018\) 21 Cal.App.5th 675, 694, 230 Cal. Rptr. 3d 771](#) ["In general, 'the association of two or more persons to carry on as coowners a business for profit forms a partnership, whether or not the persons intend to form a partnership.' ([Corp. Code, § 16202, subd. \(a\)](#).) With certain exceptions, '[a] person who receives a share of the profits of a business is presumed to be a partner in the business'"). It is not this court's role to second guess that determination.

Appellants' claim that Razuki lacks a sufficient interest [*54] to obtain a receiver bears a resemblance to the issue decided in *Sachs*, an appeal from the confirmation of a receiver after an ex parte appointment. ([Sachs, supra, 165 Cal.App.2d at p. 207](#).) There, the defendants "urge[d] that the written agreement" giving plaintiff, the inventor of a device "to regulate the speed of electric motors," a percentage of net profits in the manufacturing and sale of the device "created neither a partnership nor a joint venture." (*Id.* at p. 213.) The defendants asserted that the plaintiff was "in the position of an unsecured creditor suing at law to recover a debt." (*Ibid.*) The trial court rejected this argument, concluding even if it was an accurate analogy, it did not preclude the receivership because "[t]he action is not one of law, but is essentially an equitable action to obtain an accounting and establish a constructive trust." (*Ibid.*)

In affirming, the *Sachs* court recognized the defendants had submitted conflicting evidence, denying that the plaintiff invented the device and contending he stole it from his employer, and asserting the profit sharing agreement was unenforceable because the plaintiff had failed to uphold his obligation to do certain "experimental and design work." ([Sachs, supra, 165 Cal.App.2d at p. 210](#).) However, the court [*55] concluded the plaintiff's assertion that he entered into the agreement with the defendants was sufficient under the receivership statute to support the trial court's finding that the plaintiff had shown a probable interest in the business. (*Id.* at p. 213.)

As in *Sachs*, defendants here submitted evidence contradicting Razuki's claim to the property and profits of the Dispensary and Production Facility. This conflicting evidence, however, does not establish the court abused its discretion by crediting Razuki over defendants and finding Razuki had shown a probable

right to possession at this stage of the litigation.

For these same reasons, we reject Malan's assertion that Razuki's failure to transfer his pledged interests in Super 5 and Sunrise to RM Property, as contemplated by the Settlement Agreement, precludes appointment of the receiver.¹⁹ This fact does not conclusively establish that Razuki lacked a probable interest in the assets placed in receivership. Rather, it was one fact among many conflicting facts about Razuki's ownership.²⁰

B. Enforceability of Settlement Agreement As Against Public Policy

Malan argues the Settlement Agreement is void because it was against public policy when it was entered [*56] and therefore Razuki "has not shown the requisite likelihood of success on the merits." Malan also argues the explicit protection for contracts involving cannabis businesses afforded by Civil Code section 1550.5 are not applicable because the law became effective after the Settlement Agreement was executed.

As discussed, the law applicable to the appointment of a receiver does not require the plaintiff to show a likelihood of prevailing on the merits of his claims. Rather, Razuki was required to show a probable right to the assets placed in receivership and that "the same was in danger of being lost, removed or materially injured" (*Alhambra, supra, 116 Cal.App.2d at p. 873.*) Further, the trial court "is not required to determine the ultimate issues involving the precise relationship of the parties." (*Maggiora, supra, 249 Cal.App.2d at p. 711.*)

Malan's assertion that the Settlement Agreement is unenforceable because it was against the public policy of this state at the time it was entered, does not convince us the trial court abused its discretion by appointing the receiver. "Anything that has a tendency

¹⁹ We also reject Malan's contention that Razuki's failure to join Super 5 and Sunrise as indispensable parties precludes his claims. Malan fails to provide any legal argument in support of this position. (*Mansell, supra, 30 Cal.App.4th at pp. 545-546.*)

²⁰ We do agree with Hakim and Malan that proceeding under one of the more specific provisions of section 564 precludes reliance on the catchall provision of subdivision (b)(9). (See *Marsch, supra, 23 Cal.App.4th at p. 246, fn. 8.*) However, because we affirm the trial court's finding under subdivision (b)(1), we need not address the issue.

to injure the public welfare is, in principle, against public policy. But to determine what contracts fall into this vague class is exceedingly difficult. It has been frequently observed [*57] that the question is primarily for the Legislature, and that, in the absence of a legislative declaration, a court will be very reluctant to hold the contract void." ([§ 453] General Principle., 1 Witkin, Summary 11th Contracts § 453 (2020); see also *Moran v. Harris (1982) 131 Cal.App.3d 913, 919-920, 182 Cal. Rptr. 519*, quoting *Stephens v. Southern Pacific Co. (1895) 109 Cal. 86, 89-90, 41 P. 783* ["The power of the courts to declare a contract void for being in contravention of sound public policy is a very delicate and undefined power, and, like the power to declare a statute unconstitutional, should be exercised only in cases free from doubt." [Citation.] . . . "No court ought to refuse its aid to enforce a contract on doubtful and uncertain grounds. The burden is on the defendant to show that its enforcement would be in violation of the settled public policy of this state, or injurious to the morals of its people." [Citation.]"].)

As an initial matter, Razuki's claims are not entirely reliant on the enforceability of the Settlement Agreement. Razuki sought the receiver appointment to protect his rights to the real properties and to the past and potential profits derived from the Dispensary and the Production Facility. He seeks to enforce those rights not only by way of the Settlement Agreement, but also by enforcement of his [*58] oral partnership agreement with Malan.

Additionally, the Settlement Agreement on its face does not concern the operations of a recreational marijuana business, which could arguably have been classified as illegal at the time the agreement was executed. The agreement's first recital states: "RAZUKI and MALAN have engaged in several business transactions, dealings, agreements (oral and written), promises, loans, payments, related to the acquisition of real property and interests in various *medical marijuana* businesses. Specifically, RAZUKI and MALAN have each invested certain sums of capital for the acquisition of the following assets" (Italics added.) At the time the contract was entered, business related to the provision of *medical marijuana* was lawful and not against this state's public policy.

In addition, the fact that marijuana use remains a violation of federal law does not necessarily establish the contract is unenforceable. Even if a dispute involves an "illegal contract" it can "be enforced in order to 'avoid unjust enrichment to a defendant and a

disproportionately harsh penalty upon the plaintiff." (*Asdourian v. Araj* (1985) 38 Cal.3d 276, 292, 211 Cal. Rptr. 703, 696 P.2d 95.) "[T]he extent of enforceability and the kind of remedy granted [*59] depend upon a variety of factors, including the policy of the transgressed law, the kind of illegality and the particular facts." (*Ibid.*)

The trial court was tasked with making an early determination concerning the necessity of a receiver to protect the real property and other assets at issue. The court was not charged with determining the ultimate issue of enforceability of the Settlement Agreement and its failure to reach this issue to preclude Razuki's claims at this stage was not an abuse of discretion.²¹

C. Necessity of Derivative Action

Malan also argues that Razuki lacks standing to enforce the Settlement Agreement and that his claims should have been brought as a derivative action on behalf of RM Property. This argument misconstrues the claims asserted by Razuki. Razuki seeks to enforce the Settlement Agreement and his oral partnership agreement. Razuki's claims are not that Malan and Hakim defrauded RM Property. Rather he alleges that Malan breached the Settlement Agreement and that Malan and Hakim otherwise engaged in illegal and fraudulent conduct to prevent Razuki from obtaining the benefits of his partnership with Malan. Contrary to Malan's assertion, these claims are not [*60] necessarily derivative and were properly brought by Razuki on his own behalf. (See *Schuster v. Gardner* (2005) 127 Cal.App.4th 305, 312, 25 Cal. Rptr. 3d 468 [A "'derivative action [is] filed on behalf of the corporation for injury to the corporation for which it has failed or refused to sue.'"].)

V. Imminent Injury and Availability of Less Dramatic Relief

²¹ Malan also relies on [Civil Code section 1550.5](#) (recognizing the lawfulness of certain medicinal and/or adult-use cannabis commercial activity) and the fact that the law did not take effect until January 1, 2018, almost two months after the Settlement Agreement was executed. Although the statute's existence may be a factor in determining the enforceability of the Settlement Agreement and/or the alleged oral agreement, it did not preclude the receiver appointment at this early stage of the litigation.

Malan and Hakim contend the court erred by determining the balance of harms favored Razuki and SoCal's request for a receiver. They primarily argue that events occurring after the appointment—the Production Facility's failure to obtain new clients—demonstrate why the trial court was incorrect in finding there was a risk to Razuki's interest during the pendency of this litigation. Malan also asserts there was no evidence of any risk of destruction to the businesses' operations or the property. Further, Malan and Hakim both contend that lesser remedies were available to protect Razuki's interests.

Razuki responds that the risk of harm to his interest was significant because ownership of the cannabis operations, in particular the property that was permitted for such operations, "is a unique asset that cannot easily be replicated or otherwise replaced with money damages. Specifically, an ownership or equitable [*61] interest in those businesses and related facilities also grants an interest in the licenses and [CUPs] which allow those marijuana businesses to operate legally in San Diego. As the number of such licenses is rigorously restricted, the ownership of those business is a unique and irreplaceable asset." Further, Razuki points to the cash nature of the businesses, which makes accounting for and after-the-fact tracing of profits particularly difficult. Because of these facts, Razuki contends the trial court did not abuse its discretion by finding that a receivership was necessary to protect his stake in the enterprise while his claims proceed through the court. We agree.

To appoint a receiver under [section 564, subdivision \(b\)\(1\)](#), the trial court must determine whether the "property or fund is in danger of being lost, removed, or materially injured." "[T]he availability of other remedies does not, in and of itself, preclude the use of a receivership. (*Sibert v. Shaver* [(1952)] 113 Cal.App.2d 19, 21, 247 P.2d 609.) Rather, a trial court must consider the availability and efficacy of other remedies in determining whether to employ the extraordinary remedy of a receivership." (*City and County of San Francisco v. Daley* (1993) 16 Cal.App.4th 734, 745, 20 Cal. Rptr. 2d 256.)

Contrary to Malan and Hakim's assertions on appeal, at the time the trial court confirmed the receivership, [*62] there was substantial evidence presented by Razuki suggesting that his investment in the dispensary and production facility was in jeopardy as a result of defendants' actions. The court had before it competing claims of ownership by Razuki and SoCal, and at least

one separate pending lawsuit to quiet title over the Dispensary property. In addition, the initial receiver appointment in July had resulted in allegations that Malan and his counsel had directed Dispensary employees to take significant amounts of cash from the businesses.

Other facts before the court also suggested the property itself was in jeopardy of destruction. For instance, SoCal submitted the affidavit of a witness who saw the illegal transportation of cannabis products to the Production Facility, potentially jeopardizing the facility's permit. Malan and Hakim argued that SoCal's employees were also jeopardizing the viability of the dispensary through their mismanagement. There were also competing claims on the valuable equipment in the production facility, and threats it would be sold or destroyed.

When the unique character of this real property is considered in conjunction with the erratic behavior of the various parties [*63] leading to the September 7 hearing, the trial court's determination that there was a significant risk of irreparable harm to these assets requiring a neutral third party to step in was not an abuse of its wide discretion. In addition, the all-cash nature of the Dispensary and Production Facility, combined with a specific claim that cash had already been misappropriated from the Dispensary without proper accounting, supported the trial court's conclusion there was a risk of irreparable harm to the assets during this litigation. (See [Moore v. Oberg \(1943\) 61 Cal.App.2d 216, 221-222, 142 P.2d 443](#) (Moore) ["So broad is the discretion of the trial judge that his order based upon facts concerning which reasonable minds might differ with respect to the necessity for the receivership will not be reversed. We cannot substitute our conclusion for that of the trial court made upon sufficient evidence even if we should be of the opinion that there was no danger of the loss or removal of, or other irreparable injury to, the assets of the joint venture. To justify our interference with the order confirming the appointment herein, it must be made clearly to appear that the order was an arbitrary exercise of power."].)

With respect to Malan and Hakim's argument [*64] that the receivership has harmed the assets since September 26, 2018, it is not this court's role to review the activity that took place after the appealed order. ([Bach v. County of Butte \(1989\) 215 Cal.App.3d 294, 306, 263 Cal. Rptr. 565](#) (Bach).) This information was not before the trial court when it confirmed Essary's appointment and thus is not a proper basis for reversal

of the order.²² Hakim also argues that the appointment was unnecessary because after July 10, the Production Facility had generated no profits, and thus there was nothing for the receiver to manage. This argument does not assist Hakim. Rather it highlights the contradictions that were facing the trial court, including Hakim's and Malan's assertions that Synergy had secured profitable contracts before Essary's appointment. The argument also casts doubt on appellants' assertions that the receiver is the reason for the facility's lack of profit.

In sum, the receivership was an appropriate remedy for the court to track the cash the parties stated was flowing, and that had flowed, through the two operations; control the parties' chaotic ownership disputes; and protect the real property jeopardized by the parties' conduct. While the other remedies appellants suggest might also have protected [*65] Razuki's interest, Malan and Hakim have not shown the court's decision to confirm the receiver was "an arbitrary exercise of power." ([Moore, supra, 61 Cal.App.2d at p. 222.](#))

VI. Unclean Hands

A. Background

Finally, Malan and Hakim ask this court to overturn the September 26 order based on the federal criminal charges that Razuki now faces. In support of their argument, Malan and Hakim included in the Appellants' Appendix briefing and declarations for Hakim's May 8, 2019 "Ex Parte Application to Remove Receiver from [Production] Facility" These documents include Malan's declaration attaching the criminal complaint filed against Razuki in the Southern District of California, *United States of America v. Razuki*, case No. 3:18-mj-05915-MDD (S.D.Cal. 2018) and the related grand jury indictment. The probable cause statement accompanying the complaint describes an FBI sting

²² For the same reason, Hakim's motion to augment the record to include subsequent reports of the receiver and related documentation is denied. (See [In re Marriage of Folb \(1975\) 53 Cal.App.3d 862, 877, 126 Cal. Rptr. 306](#), disapproved on other grounds by [In re Marriage of Fonstein \(1976\) 17 Cal.3d 738, 131 Cal. Rptr. 873, 552 P.2d 1169](#), ["But we must reiterate that matters occurring after judgment are generally not reviewable on appeal The trial court remains the more appropriate forum in which to litigate these subsequent developments."].)

operation in which two women who Malan describes as Razuki's employees, hired the FBI's confidential informant to kidnap and murder Malan.

The statement explains that one of the women, Sylvia Gonzalez, first met with the FBI informant on October 17, 2018, and at a subsequent meeting on November 5, 2018, told the informant that she wanted to get rid of [*66] Malan because it looked like "they [we]re going to appeal" and Razuki "has a lot of money tied up right now, and he's paying attorney fees." The statement describes several additional meetings between the women and the informant where they discussed a plan to kidnap Malan and take him to Mexico where they would murder him. Razuki was alleged to be present at one meeting, but not directly involved in conversations concerning the murder plot.

According to the statement, Gonzalez contacted the informant on November 13, 2018, to tell him that Malan would be at the San Diego Superior Court that day and on November 15, 2018, the informant met with Razuki and told him that he "took care of it." During the November 15, 2018 meeting, the informant requested payment from Razuki, who told the informant to ask Gonzalez. Gonzalez, the other woman, and Razuki were all arrested over the course of the next day. The criminal complaint contains two charges against Razuki, conspiracy to kidnap and conspiracy to murder in a jurisdiction outside the United States.

Hakim also asserts that in June 2017 Razuki threatened "to burn down the Mira Este facility," when Hakim refused to lend Razuki the \$518,000 in [*67] proceeds Hakim received from the cash-out refinance on that property.

B. Analysis

"The defense of unclean hands arises from the maxim, ""He who comes into Equity must come with clean hands."" [Citation.] The doctrine demands that a plaintiff act fairly in the matter for which he seeks a remedy. He must come into court with clean hands, and keep them clean, or he will be denied relief, regardless of the merits of his claim. [Citations.] The defense is available in legal as well as equitable actions. [Citations.] Whether the doctrine of unclean hands applies is a question of fact." (*Kendall-Jackson Winery, Ltd. v. Superior Court* (1999) 76 Cal.App.4th 970, 978, 90 Cal. Rptr. 2d 743 (*Kendall-Jackson*)).

"Any conduct that violates conscience, or good faith, or

other equitable standards of conduct is sufficient cause to invoke the doctrine. [Citations.] [¶] The misconduct that brings the unclean hands doctrine into play must relate directly to the cause at issue. Past improper conduct or prior misconduct that only indirectly affects the problem before the court does not suffice. . . . The misconduct 'must relate directly to the transaction concerning which the complaint is made, i.e., it must pertain to the very subject matter involved and affect the equitable relations between the litigants.'" [*68] (*Kendall-Jackson, supra, 76 Cal.App.4th at p. 979*.)

Without any question, the conduct alleged in the federal complaint as well as the allegation that Razuki threatened to burn down the Mira Este facility is powerful evidence that could form the basis for the unclean hands doctrine defense. Critically, however, none of this information was before the trial court at the time it entered the receivership order challenged in this appeal. Malan and Hakim do not dispute that the kidnap and murder conspiracy allegations first came to light in November 2018, almost two months after the issuance of the appealed order. Additionally, Hakim's only citation in the record to the threat he alleges Razuki made in 2017 to burn down the Production Facility is contained in his declaration in support of his May 8, 2019 ex parte application to remove the receiver, more than six months after the issuance of the appealed order.

This court's role is to evaluate the ruling that was appealed by Malan and Hakim, not events that came later and that were not considered by the trial court. Malan and Hakim present no basis for this court to consider this new information.²³ (See *Bach, supra, 215 Cal.App.3d at p. 306* ["It is elementary that an appellate court is confined in its review to the proceedings [*69] which took place in the trial court. [Citation.] Accordingly, when a matter was not tendered in the trial court, 'It is improper to set [it] forth in briefs or oral argument, and [it] is outside the scope of review.'"]) While the alleged criminal conduct is concerning, to say the least, it is not a proper basis for reversal by this court of the challenged receivership order.

²³ In his reply brief, Malan argues the timing of the conduct does not matter and quotes *Kendall-Jackson*, which states the general maxim that a plaintiff in equity "must come into court with clean hands, and keep them clean, or he will be denied relief, regardless of the merits of his claim." (*Kendall-Jackson, supra, 76 Cal.App.4th at p. 978*, italics added.) *Kendall-Jackson*, however, does not address the situation here, where conduct that was not before the trial court is used as the basis for a request that this court reverse the trial court's order.

DISPOSITION

The order is affirmed. Appellants to bear respondent's costs on appeal.

HALLER, J.

WE CONCUR:

HUFFMAN, Acting P. J.

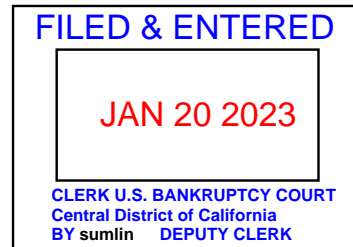
GUERRERO, J.

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Exhibit 10

FOR PUBLICATION

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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:
The Hacienda Company, LLC,

Case No.: 2:22-bk-15163-NB
Chapter: 11

**OPINION ON MOTION TO DISMISS
CANNABIS-RELATED CASE**

Debtor. Hearing Date:
Date: December 20, 2022
Time: 1:00 p.m.
Place: Courtroom 1545
255 E. Temple Street
Los Angeles, CA 90012
(and via Zoomgov per posted procedures)

This Bankruptcy Court has already issued an order (docket no. 71) denying the motion of the United States Trustee’s (“UST”) to dismiss this case (docket no. 53, the “MTD”). This Opinion memorializes and further explains this Court’s reasoning.¹

1. BACKGROUND

The above-captioned Debtor was in the business of wholesale manufacturing and packaging cannabis products under the “Lowell Herb Co.” brand, a/k/a “Lowell Farms,” and it ceased operations on February 25, 2021. At one time, Debtor owned

¹ Unless the context suggests otherwise, a “chapter” or “section” (“§”) refers to the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (the “Code”), a “Rule” means the Federal Rules of Bankruptcy Procedure or other federal or local rule, and other terms have the meanings provided in the Code, Rules, and the parties’ filed papers.

1 land that was intended for use as a cannabis cultivation center, but Debtor did not
2 achieve this goal and the vacant land was sold in 2020 to pay creditors.

3 After Debtor ceased operations, it transferred its value to a publicly traded
4 Canadian company – allegedly by structuring the sale as one of intellectual property,
5 not the sale of an operating cannabis business. The acquirer’s sole business is
6 cannabis growth and sales, which apparently are legal under Canadian law. In return,
7 Debtor received a roughly 9.4% share of the equity shares of the acquiring entity. The
8 acquiring entity changed its name to Lowell Farms, Inc.

9 On September 21, 2022, Debtor filed this bankruptcy case. In Debtor’s initial
10 status report, Debtor stated that it intended “to propose a plan of reorganization that
11 provides for Debtor to sell off the shares of [Lowell Farms, Inc. that] it owns in an orderly
12 fashion and use the proceeds from the stock to pay creditors [or] ... Debtor may elect to
13 distribute the shares it owns to its creditors directly.” At oral argument, Debtor’s counsel
14 elaborated that the stock of Lowell Farms, Inc. is thinly traded and therefore, to avoid
15 flooding the market and depressing the return to creditors, “we’re talking about selling it
16 off in chunks [over time]” Tr. 12/20/23 (docket no. 76), p. 16:19.

17 **2. JURISDICTION, AUTHORITY AND VENUE**

18 This Bankruptcy Court has jurisdiction to decide the MTD, and venue is proper,
19 under 28 U.S.C. §§ 1334 and 1408. This is a “core” proceeding in which this
20 Bankruptcy Court has the authority to enter a final judgment or order under 28 U.S.C.
21 § 157(b)(2)(A) and (O). *See also Stern v. Marshall*, 131 S. Ct. 2594 (2011).²

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23
24
25 ² Although the UST has filed a notice of appeal, that does not divest this Bankruptcy Court of jurisdiction to issue this
26 Opinion for two alternative reasons. First, so far as this Bankruptcy Court is aware, no appellate court has granted
27 the UST’s motion for leave to appeal (docket no. 90). *See In re Rains*, 428 F.3d 893, 903-904 (9th Cir. 2005) (“if the
28 order at issue is interlocutory, any appeal ... would not transfer jurisdiction to an appellate court”) (citations omitted);
In re Bertain, 215 B.R. 438 (9th Cir. BAP 1997) (“The denial of a motion to dismiss is an interlocutory order”) (cleaned
up; citations omitted). Second, this Opinion does not alter or expand any prior rulings, and instead merely provides
further explanation, as anticipated on the record at the above-captioned hearing. *See Rains*, 428 F.3d at 904 (other
exceptions to rule that notice of appeal divests lower court of jurisdiction).

1 **3. DISCUSSION**

2 **a. Legal standards**

3 As the parties acknowledge, the burden of establishing “cause” for dismissal
4 under § 1112(b) rests with the party seeking dismissal. See *In re Rosenblum*, 608 B.R.
5 529, 536 (Bankr. D. Nev. 2019). The movant must show such cause by “a
6 preponderance of the evidence.” *In re Woodbrook Assocs.*, 19 F.3d 312, 317 (7th Cir.
7 1994).

8 If the movant establishes that “cause” exists under § 1112(b)(1), then the
9 opponent can still prevent conversion or dismissal under § 1112(b)(2) if (1) the court
10 “finds and specifically identifies unusual circumstances establishing” that conversion or
11 dismissal is “not in the best interests of creditors”; (2) the opponent shows that “there is
12 a reasonable likelihood” of confirming a plan in a reasonable amount of time; (3) the
13 opponent establishes that the grounds for conversion or dismissal include an act or
14 omission of the debtor for which there is a “reasonable justification”; and (4) the
15 opponent establishes that the act or omission can be “cured within a reasonable time.”
16 See *Rosenblum*, 608 B.R. at 536-37 (summarizing § 1112(b)(2)).

17 If the debtor cannot satisfy the “unusual circumstances” elements under
18 § 1112(b)(2), then the bankruptcy court must choose “between conversion or dismissal
19 based on the best interests of the creditors and the estate.” *In re Nelson*, 343 B.R. 671,
20 675 (9th Cir. BAP 2006) (citation and internal quotation marks omitted).

21 **b. Violations of nonbankruptcy law, generally**

22 A violation of nonbankruptcy law is not expressly listed as “cause” for dismissal
23 under § 1112(b)(1) & (4), but compliance with applicable nonbankruptcy law generally is
24 required both by statute (*e.g.*, 28 U.S.C. § 959) and under the authorities cited by both
25 parties, so it appears to be undisputed that violations of nonbankruptcy law can be
26 cause for dismissal. That said, there are many remedies for any debtor's violations of
27 any law, rule, or procedure, and dismissal is one of the more extreme remedies.

28

1 There are several alternative reasons why violations of nonbankruptcy law might
2 establish cause for dismissal. First, such violations might establish a lack of “good faith”
3 sufficient to warrant dismissal. *See, e.g., In re Arenas*, 535 B.R. 845 (10th Cir. BAP
4 2015) (debtors’ marijuana business, while legal under state law, was illegal under
5 federal law, and thus the debtors could not propose a confirmable plan in good faith).
6 *See generally In re Leavitt*, 171 F.3d 1219, 1224 (9th Cir. 1999) (“cause” for dismissal
7 not defined by the Code, but can include “bad faith”/lack of “good faith”); *Rosenblum*,
8 608 B.R. at 537 (listing common considerations in assessing good faith).

9 Second, violations of nonbankruptcy law might constitute “gross
10 mismanagement” of the estate, within the meaning of § 1112(b)(4)(B), because
11 violations of nonbankruptcy law might expose the estate to financial losses and criminal
12 sanctions, and violating the law might constitute “mismanagement” *per se*. *See, e.g., In*
13 *re Rent-Rite Super Kegs West Ltd.*, 484 B.R. 799, 809 (Bankr. D. Colo. 2012) (Debtor’s
14 decision to continue leasing warehouse space to tenants engaged in the business of
15 growing marijuana exposed Debtor to criminal liability and the risk of forfeiture which
16 amounted to gross mismanagement).

17 In addition, violations of nonbankruptcy law might warrant dismissal under
18 general principles applicable to a bankruptcy court as a court of equity, pursuant to
19 bankruptcy judges’ oath of office to uphold the law, or on other theories. *See, e.g., In re*
20 *Johnson*, 532 B.R. 53, 56-58 (Bankr. W.D. Mich. 2015) (suggesting that authorizing
21 debtor to continue generating income from marijuana operations appears inconsistent
22 with judicial oath to uphold the law, but concluding that Debtor could remain in
23 bankruptcy and avoid dismissal of his case if he ceased marijuana operations). *See*
24 *also* MTD (docket no. 53) pp. 8:18-17:11; Opp. (docket no. 59) pp. 3:6-19:26; *and* Reply
25 (docket no. 63) pp. 7:22-11:14 (discussing authorities).

26 But the authorities cited by the parties also appear to reflect some degree of
27 discretion. Ongoing postpetition violations are far more problematic than prepetition
28 violations; and although indirect connections with illegal activity might violate

1 nonbankruptcy law, the degree of connection appears to be important to deciding
2 whether to dismiss the case. *See e.g., In re Burton*, 610 B.R. 633, 637-638 (affirming
3 dismissal as within bankruptcy court’s discretion, but holding that “the mere presence of
4 marijuana near a bankruptcy case does not automatically prohibit a debtor from
5 bankruptcy relief,” so a “bankruptcy court must be explicit in articulating its legal and
6 factual bases for dismissal in cases involving marijuana”) (citations omitted); *and see*
7 *also Garvin v. Cook Investments NW, SPNWY, LLC*, 922 F.3d 1031, 1036 (9th Cir.
8 2019) (bankruptcy judge is not an “ombudsman without portfolio, gratuitously seeking
9 out ‘illegalities’ ..., a result that would be “inimical to the basic function of bankruptcy
10 judges ...”) (footnote, citations, and internal quotation marks omitted).

11 **c. The Controlled Substances Act, 21 U.S.C. § 801 et seq. (the “CSA”)**

12 The UST has not established any ongoing violation of the CSA by Debtor, as
13 distinguished from any prepetition violations, either (i) by any connection to distributing
14 cannabis or (ii) by stock ownership in a cannabis-related enterprise. Nor has the UST
15 established that, if a chapter 11 trustee were appointed or if this case were to be
16 converted to a chapter 7 liquidation, any trustee would have to engage in a violation of
17 the CSA.

18 **i. No ongoing distribution of cannabis**

19 True, the CSA covers conspiracies with intent to distribute cannabis, and one
20 way to characterize the facts might be that Debtor is effectively conspiring to continue
21 carrying on its California-based cannabis business indirectly, through its ownership
22 interest in a Canadian company operating under Debtor's former name. *See* 21 U.S.C.
23 §§ 846 (conspiracy) *and* 856(a) (illegal to “control any place” or “profit from” a place
24 used to manufacture, store, distribute, or use cannabis), *and* MTD p. 8:1-8.
25 Alternatively, even if (as this Bankruptcy Court finds and concludes) Debtor is *not*
26 effectively carrying on its prepetition cannabis business indirectly, Debtor did structure
27 its own liquidation in a manner designed to maximize the value derived from its
28

1 connection with cannabis, which might be characterized as an indirect way to “profit
2 from” the cannabis business.

3 On the other hand, this interpretation of section 856(a) of the CSA goes too far.
4 Debtor's passive ownership of stock, with intent to liquidate that stock to pay creditors,
5 will *terminate* any connection with cannabis. This appears to be the opposite of an
6 intent to profit from an ongoing scheme to distribute cannabis, at least if Debtor does
7 not maintain its investment in Lowell Farms, Inc. for too long a period of time (which is
8 an issue that can be addressed in connection with confirmation of any chapter 11 plan).
9 Therefore, the UST has not established a violation of section 856(a) of the CSA.

10 **ii. No future investment of profits from cannabis**

11 Similarly, although the UST has shown that Debtor's prepetition receipt of stock
12 in its acquiring entity probably violated section 854 of the CSA, the UST has not
13 established a likelihood of any postpetition violation from use or investment of cannabis
14 proceeds. Section 854 of the CSA makes it illegal for a “person who has received any
15 income derived, directly or indirectly, from [a relevant violation of the CSA]” to “use or
16 invest, directly or indirectly, any part of such income, or the proceeds of such income, in
17 acquisition of any interest in, or the establishment or operation of, any enterprise
18 [engaged in or affecting interstate commerce].” See MTD p. 11:21-28 at n. 5 (quoting
19 statute). Debtor does not propose, postpetition, to use any of its remaining assets to
20 “invest” in any enterprise (cannabis-related or otherwise). Instead, Debtor proposes to
21 sell the stock and distribute the resulting cash to creditors, or else transfer the stock
22 directly to creditors.

23 **iii. No showing that a future trustee would have to violate the CSA**

24 The UST raises the specter that any future bankruptcy trustee would have to
25 engage in illegal activity. But the UST does not explain how a trustee would have to
26 violate the CSA or any other law.

27 For example, even if Debtor still had possession of any cannabis or marijuana
28 products (which it does not), a trustee could “ask[] the responsible federal authorities to

1 dispose of the estate’s marijuana” and then fulfill the trustee’s statutory duty to
2 “liquidat[e] other estate property for distribution to creditors in accordance with the
3 priorities of [§] 726.” Steven J. Boyajian, Just Say No to Drugs? Creditors Not Getting a
4 Fair Shake When Marijuana-Related Cases are Dismissed, 36 Am. Bankr. Inst. J. 24,
5 75 & n. 21 (Sept. 2017).

6 Moreover, it is not a foregone conclusion that the rights of any federal
7 governmental unit to seize assets would supersede creditors’ rights. See *id.* at 75 (text
8 accompanying nn. 28-32). Therefore, not only has the UST failed to show that a future
9 trustee would have to violate the CSA but, to the contrary, it appears that any future
10 trustee probably might have a duty to administer assets rather than simply turn them
11 over to federal authorities.

12 In addition, if any future trustee were concerned about any of these issues, the
13 trustee could seek declaratory relief or other protections to assure compliance with the
14 law and protection from liability. Alternatively, the trustee could always seek dismissal
15 of this case at that point.

16 For all of the foregoing reasons, the UST has not established any ongoing
17 violation of the CSA, nor has the UST established that any future trustee would have to
18 violate the CSA. The lack of any demonstrated illegality, now or in the foreseeable
19 future, is one ground for denial of the MTD.³

20 **d. Alternatively, Congress did not adopt a “zero tolerance” policy under**
21 **§ 1112(b) for any illegality**

22 Supposing for the sake of discussion that the UST could establish a violation of
23 the CSA (which it has not done), that it not enough. Congress did not adopt a “zero
24

25 ³ To be clear, Debtor’s apparent ownership of over 9% of the stock of a cannabis business puts it in uncomfortably
26 close proximity to the cannabis industry. Perhaps, if all the facts and circumstances were known to this Bankruptcy
27 Court, and if this Bankruptcy Court were to engage in independent research beyond the authorities cited by the
28 parties, Debtor’s proposed liquidation actually would be a violation of the CSA or some other criminal statute.

But this Bankruptcy Court has not been asked to render any summary judgment as to purported violations of
criminal law, and this Bankruptcy Court’s rulings above should not be interpreted as any such summary judgment.
Rather, on the present record and solely for purposes of the UST’s MTD, no violation of the CSA has been
established.

1 tolerance" policy that requires dismissal of any bankruptcy case involving violation of the
2 CSA (or other activity that might be proven to be illegal). See *Burton*, 610 B.R. at 637
3 (no per se rule requiring dismissal when marijuana is present).

4 True, Congress has enacted the CSA and this Bankruptcy Court's duty is to
5 follow Congressional directives. On the other hand, Congress has not specified what
6 should be the *bankruptcy-specific* remedy for any violation of the CSA.

7 Congress could have included within the examples of "cause" in § 1112(b)(4) a
8 violation of the CSA, or any other nonbankruptcy laws, but it chose not to do so. This
9 implies that violations of nonbankruptcy laws do not *necessarily* constitute cause for
10 dismissal or conversion.

11 In addition, such a broad reading of "cause" for dismissal could be extremely
12 disruptive in other cases before this Bankruptcy Court, perhaps even the vast majority
13 of all bankruptcy cases. See, e.g., *In re CWNevada LLC*, 602 B.R. 717, 728 n. 25
14 (Bankr. D. Nev. 2019) ("bankruptcy courts have a long history of considering cases
15 whose activities and operations have included past, present and possibly ongoing
16 violations of applicable non-bankruptcy, civil and criminal laws") (citing examples); Hon.
17 Keith M. Lundin (Ret.), *Up in Smoke*, Bankruptcy Workshop, Season 2, Episode 3,
18 available at <https://lundinonchapter13.com/Content/WorkshopVideos> (last visited on
19 January 18, 2023) (noting bankruptcy courts' and trustees' statutory mandate to
20 administer assets, and extensive history of doing so notwithstanding some connection
21 to illegal activity).

22 Dismissing every case that had a connection with illegal activity would be
23 contrary to Congress' directives under the Bankruptcy Code. Consider what would
24 happen if the doors of the bankruptcy courts were closed to any debtor who had
25 crossed the line into illegal activity prepetition, and were attempting to wind up that
26 activity postpetition.

27 Some of the largest business bankruptcy cases, like those of Pacific Gas &
28 Electric Co. of "Erin Brockovich" fame, Enron Corporation, and Bernie Madoff, involve

1 alleged or actual criminal activity. Should those cases have been dismissed? How
2 about cases involving sexual abuse? See *CWNevada*, 602 B.R. at 728 n. 25 (citing,
3 *inter alia*, NCR Staff, Catholic Diocese and Orders that Filed for Bankruptcy and Other
4 Major Settlements, National Catholic Reporter (2018),
5 [https://www.ncronline.org/news/catholic-dioceses-and-orders-filed-bankruptcy-and-
7 other-major-settlements](https://www.ncronline.org/news/catholic-dioceses-and-orders-filed-bankruptcy-and-
6 other-major-settlements) (last visited on January 18, 2023) (listing numerous bankruptcy
8 proceedings to address sexual abuse claims, from July 6, 2004 through approximately
9 February 28, 2018)).

9 On a smaller scale, this Bankruptcy Court takes judicial notice that many small
10 business bankruptcies involve restaurants or small apartment buildings, and most of
11 those businesses have at least some ongoing level of violations of health and safety
12 regulations. When dealing with food and shelter, although it is important to strive for
13 perfection, realistically that goal can be extremely difficult to achieve.

14 Likewise, many individual debtors have crossed the line into illegality in ways
15 both large and small, from engaging in criminal gang activity to failing to pay taxes or
16 parking fines. This Bankruptcy Court takes judicial notice that individuals who are
17 struggling financially may have difficulty paying parking fines, for example, and there are
18 societal debates about the criminalization of nonpayment of such fines, so barring such
19 a debtor from bankruptcy would not be a step to take lightly.

20 If all of the foregoing examples were sufficient “cause” for mandatory dismissal,
21 this Bankruptcy Court might have to dismiss most bankruptcy cases. That would harm
22 the constituencies that Congress attempted to protect using all of the tools of the
23 Bankruptcy Code, including creditors, debtors, employees of debtors, and local
24 governments and communities that depend on debtors’ ability to reorganize their
25 finances and resume making contributions to commerce and society.

26 For example, the automatic stay of § 362(a) protects creditors from a “race to
27 collect”: absent that stay the assets go to anyone who is able to seize them before other
28 creditors. Insiders or other favored creditors might have an advantage in doing so,

1 contrary to Congress attempts to prevent such favoritism. See, e.g., § 547(b)(4) (longer
2 “look back” period for preference recipients who are insiders).

3 In addition, an orderly liquidation in bankruptcy typically maximizes the value of a
4 debtor’s assets. Bankruptcy can preserve going concern value, or can authorize a sale
5 of assets free and clear of liens and other interests, thereby obtaining higher bids than
6 outside of bankruptcy. See, e.g., §§ 363(f) and 1129(b)(2)(A)(ii), and see also *In re*
7 *Olson*, 2018 WL 989263 at *7 (9th Cir. BAP Feb. 5, 2018) (Tighe, J., concurring) (noting
8 the usefulness of sales free and clear, even in cases connected to marijuana).

9 In addition, dismissal of bankruptcy cases would shield recipients of avoidable
10 transfers (e.g., §§ 547, 548) and persons whose misdeeds might only come to light in the
11 bankruptcy forum, with all of its mandated disclosures and investigative tools. See, e.g.,
12 Rules 1007 & 2004; see also Boyajian, Just Say No to Drugs?, *supra*, 36 Am. Bankr. Inst.
13 J. 24 at 75 (text accompanying nn. 22-27) (arguing that dismissal of involuntary chapter
14 7 petition allowed “the alleged debtor to use its own federally proscribed conduct [running
15 a marijuana business] as a shield to protect it from the collection efforts of creditors
16 holding seemingly undisputed claims”). This Bankruptcy Court doubts that Congress
17 intended to shield recipients of avoidable transfers, and wrongdoers, by mandating
18 dismissal of any bankruptcy case that might be connected to violations of criminal law.

19 In fact, in many situations the victims of illegal activity are the persons who might
20 be most severely harmed by dismissal of any bankruptcy case. This is true whether
21 that illegal activity involves releasing carcinogens into the water supply, financial fraud,
22 being a “slumlord,” causing food poisoning, abusing employees, child sexual abuse, or
23 other criminal activity. The victims may be the biggest creditors, or those with the most
24 to lose.

25 One other type of creditor who might well be harmed by any mandated dismissal
26 of any case connected to illegal activity is any government agency charged with
27 enforcing the law, such as the Department of Justice, which encompasses the Office of
28 the UST itself. Such agencies’ funding, and their ability to continue policing against

1 criminal activity, might depend in part on the preservation and recovery of assets,
2 including through bankruptcy.

3 For all of these reasons, this Bankruptcy Court does not interpret Congress'
4 mandate that this Bankruptcy Court “shall” dismiss or convert a bankruptcy case for
5 “cause” under § 1112(b) to mean that any violation of criminal law *requires* dismissal.
6 Rather, this Court interprets the statute as giving discretion to determine whether
7 dismissal is warranted based on all the facts and circumstances. *See generally Burton*,
8 610 B.R. 633, 640 *and passim* (review of various authorities, and referring to bankruptcy
9 courts’ “broad discretion in deciding whether to dismiss a case”).

10 Nor does this Bankruptcy Court interpret the UST's MTD to advocate for such an
11 extreme position. *Cf.* Clifford J. White III and John Sheahan, Why Marijuana Assets
12 May Not Be Administered In Bankruptcy, 36 Am. Bankr. Inst. J. 34, 34-35 (Dec. 2017)
13 (contrasting bankruptcy cases “in which the criminal activity has already been
14 terminated and the principal concern of the bankruptcy court is to resolve competing
15 claims by victims for compensation” from a case involving “a company that is not only
16 continuing in its business, but even seeking the affirmative assistance of the bankruptcy
17 court in order to ... facilitate its violations of the law going forward”) (the authors are
18 listed, respectively, as the director of the Executive Office for U.S. Trustees and as a
19 trial attorney in the Office of the General Counsel).

20 In sum, this Bankruptcy Court interprets both § 1112(b) and the UST's MTD as
21 adopting a middle ground, under which this Bankruptcy Court must exercise its
22 discretion to determine whether, given all of the facts and circumstances, a debtor's
23 connection to cannabis profits and any past or future investment in cannabis enterprises
24 warrants dismissal of this bankruptcy case. Under this standard, the UST has not met
25 its burden to establish sufficient cause for dismissal, for the reasons stated above,
26 including (i) Debtor's indirect connection with any violation of the CSA (assuming,
27 contrary to this Court's analysis in the prior section of this Opinion, that such a violation
28

1 exists), (ii) Debtor's intent to liquidate its assets and pay creditors, and (iii) the benefits
2 of a bankruptcy case for all parties in interest, including creditors.

3 **e. Alternatively, the “unusual circumstances” exception applies**

4 Congress has provided that even when there is “cause” to dismiss or convert a
5 case, this Bankruptcy Court must not to do so under the “unusual circumstances” test
6 described above. See § 1112(b)(2). The elements of this test have been satisfied, at
7 least in the absence of evidence that prosecutors intend to single out Debtor for
8 particularly harsh treatment that would undermine any ability to pay creditors and
9 otherwise make appropriate use of the bankruptcy system.

10 Specifically, the unusual circumstances in this case are as follows. First, Debtor
11 has divested itself, prepetition, of any direct involvement in the cannabis business.
12 Second, unlike most dismissals by this Court, which generally involve situations such as
13 a pending foreclosure of fully-encumbered property and no realistic possibility of a
14 distribution to unsecured creditors, in this case any dismissal would undermine a very
15 realistic possibility of a substantial payment to creditors. That successful outcome
16 appears to be very likely because the only thing for Debtor to do is to sell its stock in the
17 Canadian company, which appears to be legal and feasible under Canadian law, and
18 then to use the proceeds to pay creditors; or alternatively to distribute the stock to
19 creditors.

20 These facts also establish the other elements of the “unusual circumstances”
21 test: conversion or dismissal is not in the best interests of creditors; there is a
22 reasonable likelihood of confirming a plan in a reasonable amount of time; even if
23 Debtor’s acts and omissions in seeking to divest itself of its assets and pay creditors
24 somehow violated the CSA or other law, and would otherwise mandate dismissal,
25 Debtor’s attempt to maximize value and pay creditors establishes a “reasonable
26 justification” for such acts and omissions; and, so long as Debtor’s process of selling or
27 distributing its stock in the Canadian company does not take too long, any violation of
28

1 law can be “cured within a reasonable time.” *Rosenblum*, 608 B.R. at 536-37 (reviewing
2 elements of § 1112(b)(2)).

3 In addition, this Bankruptcy Court is mindful of the fact that there are many other
4 tools to address any wrongful or illegal conduct by any debtor in possession of the
5 bankruptcy estate. For example, in appropriate circumstances a trustee or examiner
6 can be appointed (§ 1104), or sanctions can be imposed. *See, e.g.*, Rule 9011. The
7 availability of such alternatives reinforces a more flexible interpretation of § 1112 as just
8 one of many possible tools, not a tool that this Bankruptcy Court has to use regardless
9 of the consequences.

10 In addition, this Bankruptcy Court notes that there are many non-bankruptcy tools
11 that can be used to address any illegal activity. Remedies can be sought, in appropriate
12 situations, by prosecutors, private attorneys general, class action representatives,
13 individual plaintiffs, and others, such as local, state, and national governments, to
14 address any violations of nonbankruptcy law in a more nuanced and targeted manner
15 than the blunt tool of dismissing bankruptcy cases. Again, the availability of such
16 alternatives reinforces this Bankruptcy Court's interpretation of § 1112(b) as providing
17 some discretion: dismissal is not the only remedy.

18 **f. No intent to condone illegal activity**

19 To be clear, nothing in this Opinion should be interpreted as condoning illegal
20 activity. Illegal activity can be cause for dismissal in appropriate circumstances, both as
21 a matter of interpreting Congress' directives in § 1112(b) and, more generally, to
22 preserve the integrity of the bankruptcy system and the bankruptcy courts that
23 Congress has established. *See, e.g., In re Mattiace Industries, Inc.*, 76 B.R. 44, 47-48
24 (Bankr. E.D.N.Y. 1987) (dismissing chapter 11 bankruptcy case because debtor's
25 continued violations of state environmental regulations endangered public health and
26 conversion was inappropriate due to difficulties a trustee would face in managing
27 debtor's hazardous waste site with limited estate resources)

28

1 But this Bankruptcy Court would be overstepping its role, and acting contrary to
2 Congress' directives within the Bankruptcy Code, if it were to deny creditors, debtors,
3 employees, equity investors, and other constituencies the benefits and protections of
4 bankruptcy based on the facts and circumstances presented. In general this
5 Bankruptcy Court should defer to prosecutors, and all of the other types of persons
6 mentioned above, to use their discretion about whether and how to address any
7 violations of nonbankruptcy law. See *Cook Investments*, 922 F.3d 1031, 1036 (rejecting
8 "ombudsman" role of bankruptcy court). Such parties can pursue remedies in a more
9 nuanced and targeted manner, rather than using the blunt tool of dismissal, which on
10 the record presented is contrary to the best interests of creditors and the estate.

11 **4. CONCLUSION**

12 For all of the foregoing reasons, the MTD has been denied by separate order.

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24 Date: January 20, 2023

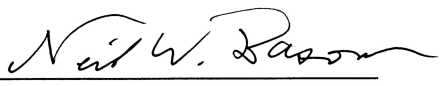

Neil W. Bason
United States Bankruptcy Judge

Exhibit 11

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION**

In re:)	
)	
SCOTT H. BLUMSACK,)	Chapter 13
)	Case No. 21-40248-EDK
Debtor)	
)	

MEMORANDUM OF DECISION

Before the Court is a “Motion to Dismiss Chapter 13 Case and Objection to Confirmation of Debtor’s Chapter 13 Plan” (the “Motion”) filed by the United States trustee (the “Trustee”) and the Debtor’s opposition to the Motion which raise issues of apparent first impression. The debtor in this Chapter 13 bankruptcy case, Scott H. Blumsack (the “Debtor”), is employed by a marijuana¹ dispensary and proposes to use his wages from that employment to fund a Chapter 13 plan of reorganization. While other reported bankruptcy cases have addressed various issues involving the intersection of marijuana businesses and bankruptcy law, the Court has found none that involve facts directly on point to those here. In determining whether the Court should grant the Trustee’s Motion and dismiss the case or deny confirmation of the Debtor’s proposed Chapter 13 plan, the Court must determine whether there is “cause” and/or a lack of “good faith” within the meaning of the United States Bankruptcy Code, notwithstanding the fact that neither term is defined by the Code.² For the reasons set forth herein, the Court concludes that, under the specific facts presented, confirmation of the Debtor’s Chapter 13 plan must be denied and the Debtor’s bankruptcy case

¹ “Marijuana” and “cannabis” will be used interchangeably throughout this Memorandum of Decision.

² See 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code” or the “Code”). All statutory references are to provisions of the Bankruptcy Code unless otherwise stated.

will be dismissed.

I. FACTS AND TRAVEL OF THE CASE³

The Debtor commenced this case on April 1, 2021 by filing a voluntary petition under Chapter 13 of the Bankruptcy Code. On Schedule I, the Debtor listed his occupation as “Sales” at “Green Star Herbal,” a retail cannabis dispensary. In September 2021, the Trustee filed the Motion presently before the Court, primarily seeking dismissal of the case, but also objecting to confirmation of the Debtor’s proposed Chapter 13 plan. The Debtor opposed the Motion. The Court conducted an evidentiary hearing on March 11, 2022, at which only the Debtor testified.

As of September 2021 and at the time of trial, the Debtor no longer worked for Green Star Herbal, but was employed by TYCA Green, Inc. d/b/a Society Cannabis Co. (“TYCA Green”), a retailer, wholesaler, and producer of cannabis products. TYCA Green has a cultivation license, but its cultivation program is not currently underway, so it procures raw cannabis from outside the company which it uses to produce its own product lines. TYCA Green’s products include (1) vaporizer cartridges filled with cannabis concentrate produced in-house; (2) cannabis edibles; and (3) pre-rolled, smokable products. As of December 2021, the Debtor was the general manager of a TYCA Green facility located in Clinton, Massachusetts. The Debtor is involved in all of the different business sectors at the Clinton facility, including retail, wholesale, production, marketing, and human resources. The Debtor is one of three on the Clinton facility’s management team, which includes the Debtor, the chief executive officer, and the chief operating officer. The Debtor supervises the sixteen full-time employees at the Clinton facility. The Debtor set up the retail

³ The following constitute the Court’s findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, made applicable to this matter by Federal Rules of Bankruptcy Procedure 1017(f), 3015(f), 7052, and 9014. The facts are drawn from the Debtor’s testimony, the facts stipulated to by the parties, and matters of record of which the Court may take judicial notice.

operation at the Clinton facility and manages all aspects of the retail operation. The Debtor is licensed under Massachusetts law to dispense cannabis products, and he often covers shifts in the retail operation. The Debtor does not have any ownership interest in TYCA Green, nor has he been promised any. The Debtor is not aware of any profit-sharing plan in the business. The Debtor's paystubs indicate that he earns \$75,000 per year.

The Debtor testified that, during the pandemic, his spouse accessed retirement funds and deposited what the Debtor believed to be more than \$70,000 initially into their joint checking account and then transferred funds to a savings account. The Debtor testified that, in lieu of using the Debtor's wages to fund the Chapter 13 plan, the plan payments could instead be made from the retirement funds.

II. POSITIONS OF THE PARTIES

A. **The Trustee**

Through the Motion and in the Trustee's post-trial brief, the Trustee has argued both that the Debtor's case should be dismissed and that the proposed Chapter 13 plan cannot be confirmed because the Debtor's activities in connection with his employment violate federal law. While Massachusetts state law permits the retail distribution of marijuana, the Trustee notes that marijuana is a Schedule I controlled substance under the federal Controlled Substances Act of 1970, 21 U.S.C. §§ 801 *et seq.* (the "CSA"), it remains a "federal crime 'to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance,'" *In re Way to Grow, Inc.*, 610 B.R. 338, 344 (D. Colo. 2019), and it also remains a crime to aid and abet violations of the CSA, *id.* (quoting 18 U.S.C. § 2(a)).

According to the Trustee, the fact that the Debtor has no ownership interest in TYCA Green

is immaterial, as the Debtor's managerial activities (including the marketing and retail dispensing of cannabis products) violate the CSA. The Trustee notes that liability under the CSA is broadly defined and extends not only to owners of marijuana-related businesses, but also to those persons who possess or dispense marijuana or who assist or conspire with a person or entity to violate the CSA. *See* 21 U.S.C. §§ 841, 846; 18 U.S.C. § 2. The Trustee, citing to *United States v. Gil*, 58 F.3d 1414, 1423 (9th Cir. 1995), says that the Debtor has engaged in such a conspiracy, and violates federal criminal law, by knowingly agreeing to engage in the business of distributing marijuana with the intent to further that distribution.

With respect to confirmation of the Debtor's proposed Chapter 13 plan, the Trustee contends that the Debtor cannot demonstrate that the Chapter 13 plan was proposed in good faith and not by any means forbidden by law as required by § 1325(a)(3) and cannot demonstrate that the filing of the petition was in good faith as required by § 1325(a)(7). Rejecting the Debtor's assertion that this case is distinguishable because the Debtor is a "mere employee" and the argument that the Chapter 13 trustee would not be administering illegal assets, but simply the Debtor's wages, the Trustee maintains that because the Debtor's wages are earned by activities that constitute violations of federal law (and those wages are property of the bankruptcy estate under § 1306), the Debtor cannot meet the good faith requirements for confirmation under either § 1325(a)(3) or (7). The Trustee argues that, regardless of the Debtor's personal motives for seeking bankruptcy relief, the Debtor cannot demonstrate objective good faith in filing the case or proposing a Chapter 13 plan because confirmation of the Chapter 13 plan would necessarily require the Chapter 13 trustee to administer proceeds derived from the Debtor's illegal activities and would require the Court to approve and oversee the administration of "illegal assets."

The Trustee also argues that the Chapter 13 plan cannot be confirmed because it has been

proposed by a “means forbidden by law” within the meaning of § 1325(a)(3), as the plan would be funded with money obtained through activities that violate federal law. The Trustee asks this Court to reject the holding in *Irving Tanning Co. v. Me. Superintendent of Ins. (In re Irving Tanning Co.)*, where the court – interpreting an identical confirmation requirement under § 1129(a)(3)) – held that the statutory language “focuses not on the terms of the plan and its means of implementation but on the manner in which the plan ‘has been proposed.’” 496 B.R. 644, 660 (B.A.P. 1st Cir. 2013). The Trustee instead urges the Court to follow the reasoning in *In re Manchester Oaks Homeowners Ass’n, Inc.*, 2014 WL 961167, 11-12, No. 11-10179-BFK (Bankr. E.D. Va. Mar. 12, 2014), and hold that, because the Debtor’s plan relies on funding from illegal activities, the plan cannot be confirmed because it is proposed by a “means forbidden by law.”

More importantly, the Trustee argues, for the foregoing reasons, not only should confirmation of the Chapter 13 plan be denied, but the case must be dismissed pursuant to § 1307(c)(5) because the Court could not confirm *any* plan filed in this case, and the Debtor is therefore ineligible to be a Chapter 13 debtor. Noting that the enumerated grounds constituting “cause” justifying dismissal under § 1307(c) are not exhaustive, the Trustee also says that cause for dismissal exists here because continuance of the Chapter 13 case would require the Chapter 13 trustee to administer proceeds from illegal activities. Furthermore, although the Debtor now offers to propose a plan that relies solely on the spouse’s income, that option is not available because the Debtor’s wages were commingled with his spouse’s. Finally, the Trustee says the Court could not find that the case was filed in good faith and the case should be dismissed, as the Court should not countenance allowing the Debtor to continue his participation in an enterprise that violates federal criminal law while simultaneously enjoying the benefits of federal bankruptcy law.

B. The Debtor

In his initial opposition to the Motion, the Debtor took issue with the Trustee's representation that the Debtor is committing federal crimes. The Debtor further posited that the Trustee's position in this case is untenable because the Trustee's argument, in the Debtor's view, suggests that *any* employee of a marijuana-involved business, including a warehouse attendant who stacks boxes or a web designer, is committing a crime. Further, the Debtor says that, given the marijuana industry's contribution to a wide spectrum of the Massachusetts economy, the Trustee's position would result in a large swath of the community – including the janitorial agency that cleans a dispensary, a pizza shop where dispensary employees get their lunch, Federal Express that delivers packages for a dispensary, the electric utility company, public schools, and perhaps even 2.3 million Walmart employees – being ineligible for bankruptcy relief because they derive an economic benefit from marijuana-related businesses. Instead, the Debtor contends that, based on the recent case of *Ne. Patients Grp. v. United Cannabis Patients & Caregivers of Me.*, 45 F.4th 542 (1st Cir. 2022), where the First Circuit Court of Appeals held that Maine's restriction on cannabis business ownership to Maine residents was unconstitutional under the dormant Commerce Clause, engagement in cannabis-related activity is not a bar to obtaining relief in federal courts.

With regard to confirmation of the Debtor's Chapter 13 plan and relying on *Irving Tanning*, 496 B.R. 644, the Debtor says that § 1325(a)(3)'s requirement that the plan be “proposed in good faith and not by any means forbidden by law” speaks only to the manner in which the plan is *proposed* and is not focused on the actual terms of the plan. Here, the Debtor argues, the Trustee has not presented any evidence that the proposal of the plan itself was not undertaken in good faith or by any means forbidden by law, so confirmation should not be denied.

With regard to dismissal of the case, the Debtor argues that the Trustee has failed to demonstrate a lack of good faith (or the existence of bad faith) in filing the case that would warrant dismissal under § 1307(c). The Debtor says that the Trustee has not met the Trustee's burden of demonstrating bad faith, because the Trustee did not provide evidence or argue for dismissal based on the factors articulated in *Gonzalez-Ruiz v. Doral Fin. Corp. (In re Gonzalez-Ruiz)*, i.e. "(1) the debtor's accuracy in stating [his] debts and expenses, (2) the debtor's honesty in the bankruptcy process, including whether he or she has attempted to mislead the court and whether he or she has made any misrepresentations, (3) whether the Bankruptcy Code is being unfairly manipulated, (4) the type of debt sought to be discharged, (5) whether the debt would be dischargeable in a Chapter 7, and (6) the debtor's motivation and sincerity in seeking Chapter 13 relief." 341 B.R. 371, 382-383 (B.A.P. 1st Cir. 2006) (citations omitted).

Moreover, the Debtor argues, a debtor's engagement in activities that violate non-bankruptcy law cannot be a *per se* bar to obtaining bankruptcy relief, since other bankruptcy cases have proceeded despite the fact that the debtors had engaged in "past, present, and possibly ongoing violations of applicable non-bankruptcy, civil and criminal laws," citing *In re Cwnevada LLC*, 602 B.R. 717, 728 n. 25 (Bankr. D. Nev. 2019) (collecting cases).

As for the Trustee's concerns about the Chapter 13 trustee administering "illegal assets," the Debtor responds on several fronts. First, the Debtor says this case is distinguishable because the Trustee would not actually be administering illegal assets but would be merely accepting payments from the Debtor's wages. In fact, the Debtor notes, the Chapter 13 trustee has already accepted payments and has not objected to confirmation on grounds that the funds are derived from activities that violate federal law. Next, the Debtor points to prohibition era cases, noting that in one case, a trustee was permitted to pursue a preference from a creditor who illegally sold

liquor to a debtor, citing *Geary v. Schwem*, 280 Pa. 435 (1934), and in another, the court ordered the return of liquor seized by federal agents to the trustee, citing *Keefe v. Clark*, 287 F. 372 (D. Mass. 1923). More recently, the Debtor says, a Chapter 11 case was not dismissed, but was converted “to one under Chapter 7 despite the debtor having maintained a large workforce of undocumented immigrants and committing other crimes pre-petition, leading to numerous federal criminal charges.” Debtor’s Post-Trial Brief, 15, Nov. 18, 2022, ECF No. 190 (citing *In re Nevel Props. Corp.*, 2012 Bankr. LEXIS 551, *2-3, No. 09-00415 (Bankr. N.D. Iowa Feb. 17, 2012); *In re: Agriprocessors, Inc.*, Docket No. 08-02751, Bankr. N.D. Iowa)).

More generally, the Debtor says that the Trustee’s position in this case is “puzzling” due to “clear signals from all three branches of the Federal Government that the current cannabis dichotomy between state and federal laws is untenable,” Debtor’s Post-Trial Brief, 16, pointing to congressional legislation prohibiting the Department of Justice from spending funds to prevent states from implementing state medical marijuana laws, a 2013 executive branch memo in which the Deputy Attorney General encouraged federal prosecutors to decline prosecutions of state-related marijuana dispensaries in most circumstances,⁴ an October 2022 presidential statement in which President Biden asked the Attorney General and the Secretary of Health and Human Services to review how cannabis is scheduled under the Federal law, and Justice Thomas’s observation that “[o]nce comprehensive, the Federal Government’s current approach is a half-in, half-out regime that simultaneously tolerates and forbids local use of marijuana,” *Standing Akimbo, LLC v. United States*, 141 S. Ct. 2236, 2237 (2021), *reh’g denied*, 142 S. Ct. 919 (2021).

In the alternative, the Debtor argues that, instead of dismissal, the Debtor should be permitted to file an amended plan funded by the wages or retirement withdrawal from his non-

⁴ Although the Debtor acknowledges that the memo has been revoked, the Debtor says the level of enforcement has not materially changed.

debtor spouse – income that is wholly unrelated to the cannabis industry. In keeping with other courts that have permitted debtors to continue in bankruptcy so long as the plan did not rely on income received through a violation of CSA,⁵ the Debtor argues that a plan funded solely by his spouse’s noncannabis-related income would essentially render the issue of his employment moot. If the Debtor were to propose such a plan, the Debtor says, dismissal is not in the best interest of creditors and the estate under § 1307(c), as the plan would provide a 100% dividend to unsecured creditors (with the exception of a long-term student loan claim proposed to be paid outside of the plan).

III. DISCUSSION

A. The Debtor’s Violations of Federal Criminal Laws

When determining whether a party’s actions have violated or continue to violate federal criminal laws in the civil context, the civil court applies a preponderance of the evidence standard. *United States v. Chin*, 41 F.4th 16, 25 (1st Cir. 2022), *cert. denied*, 143 S. Ct. 338 (2022). The preponderance of the evidence standard “simply requires the trier of fact to believe that the existence of a fact is more probable than its nonexistence before [she] may find in favor of the party who has the burden.” *Barhoumi v. Obama*, 609 F.3d 416, 424 (D.C. Cir. 2010) (quoting *Concrete Pipe & Prods., Inc. v. Constr. Laborers Pension Trust*, 508 U.S. 602, 622 (1993)). While the Debtor did not dispute any of the facts relevant to an inquiry into whether his current or past activities violate federal criminal laws, the Debtor did not concede any such violations. Accordingly, the Court’s inquiry in this case focuses not on weighing whether a particular relevant

⁵ The Debtor cites to *Olson v. Van Meter (In re Olson)*, 2018 WL 989263, BAP No. NV-17-1168-LTiF (B.A.P. 9th Cir. Feb. 5, 2018); *In re Johnson*, 532 B.R. 53 (Bankr. W.D. Mich. 2015); and *In re McGinnis*, 453 B.R. 770 (Bankr. D. Or. 2011).

fact is more likely than not, but on whether the stipulated facts are sufficient to find federal criminal violations.

The Controlled Substances Act (the “CSA”) provides the relevant Federal legislative backdrop against which the current litigation stands. Passed in 1970, the CSA creates a “closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.” *Gonzales v. Raich*, 545 U.S. 1, 10, 13 (2005). The CSA sets forth five schedules to classify and regulate the use of controlled substances. *Id.* . . . “Schedule I contains the most severe restrictions on access and use, and Schedule V the least.” *Gonzales v. Oregon*, 546 U.S. 243, 250 (2006). Marijuana is classified under schedule I.

Wright's Case, 156 N.E.3d 161, 166 (Mass. 2020). The following federal criminal laws are relevant here:

1. 21 U.S.C. § 841(a)(1): “Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally – (1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance”
2. 21 U.S.C. § 844(a): “It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice”
3. 21 U.S.C. § 856(a):

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful to –

- (1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;
 - (2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.
4. 18 U.S.C. § 2:
 - (a) Whoever commits an offense against the United States or aids, abets, counsels,

commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

5. 21 U.S.C.A. § 846: “Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.”

As reflected in the Debtor’s Schedule I and the parties’ stipulated facts, at the time the Debtor filed this case he worked in “sales” as a “budtender” for a retail dispensary of cannabis. According to *Merriam-Webster.com*, <https://www.merriam-webster.com/dictionary/budtender> (last visited January 17, 2023), a “budtender” is “a person who serves customers at an establishment where cannabis products are sold (such as a medical or recreational marijuana dispensary).” It is reasonable for the Court to infer that this means, at the time the case was filed, as part of his employment, the Debtor provided information about and sold cannabis products to customers. The Court finds, by a preponderance of the evidence, that the Debtor’s actions during his employment selling cannabis as a budtender included distributing cannabis and possessing cannabis with intent to distribute cannabis (a controlled substance) in violation of 21 U.S.C. § 841, and possession of a controlled substance without a prescription in violation of 21 U.S.C. § 844(a). The Court also finds that as a budtender, the Debtor aided and abetted his employer, Green Star Herbal, in the unlawful distribution and possession of cannabis with intent to distribute, without a prescription, in violation of 18 U.S.C. § 2. Further, at the time the case was filed, the Court finds that the Debtor conspired with his employer to commit the crimes of distributing cannabis and possessing cannabis with intent to distribute in violation of 21 U.S.C.A. § 846.

The Court also finds, by a preponderance of the evidence, that the Debtor’s current job responsibilities require that he act in violation of federal criminal statutes. The Debtor’s current

employer, TYCA Green, is a retailer, wholesaler, and producer of cannabis products. TYCA Green procures raw cannabis and uses it to produce its own product lines. Therefore, TYCA Green's business involves manufacturing, distributing, or dispensing a controlled substance or possessing a controlled substance with intent to manufacture, distribute or dispense in violation of 21 U.S.C. § 841 and TYCA Green possesses cannabis without a prescription in violation of 21 U.S.C. § 844(a). The Court also reasonably infers that the TYCA Green facility in Clinton, Massachusetts is used as a "facility for manufacturing, storing, distributing, or using a controlled substance" in violation of 21 U.S.C. § 856.

The Court finds, by a preponderance of the evidence, that when the Debtor covers shifts in TYCA Green's retail operations, the Debtor's responsibilities include manufacturing, distributing, or dispensing a controlled substance or possessing a controlled substance with intent to manufacture, distribute or dispense in violation of 21 U.S.C. § 841. As the manager of the Clinton facility, the Debtor must "manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, **employee**, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance" in violation of 21 U.S.C. § 856 (emphasis supplied). And the Debtor's duties supervising TYCA Green's employees require that the Debtor support and promote all aspects of TYCA Green's business. The Court finds, by a preponderance of the evidence, that those responsibilities entail aiding and abetting and conspiracy to commit violations of federal criminal laws in violation of 18 U.S.C. § 2 and 21 U.S.C. § 846.

B. Good Faith

Multiple provisions of the Bankruptcy Code require the Court to find that a Debtor has

proceeded in good faith to obtain the protections and benefits of a Chapter 13 bankruptcy filing and to achieve confirmation of a Chapter 13 plan of reorganization. In the Code, “[t]he term ‘good faith’ is not specially defined, and the legislative history provides little insight into its meaning.” *Berliner v. Pappalardo (In re Puffer)*, 674 F.3d 78, 81 (1st Cir. 2012). In determining “good faith” (or the absence thereof), courts in this district apply the totality of the circumstances approach. *Id.* at 82; *Sullivan v. Solimini (In re Sullivan)*, 326 B.R. 204, 211 (B.A.P. 1st Cir. 2005) “In all events, good faith is a concept, not a construct. Importantly, it is a concept that derives from equity.” *Puffer*, 674 F.3d at 82. “This matters because equitable concepts are peculiarly insusceptible to per se rules.” *Id.* Since the term “good faith” is not defined in the Code, “the inquiry is necessarily a ‘fact intensive determination.’” *Sullivan*, 326 B.R. at 212 (quoting *In re Love*, 957 F.2d 1350, 1355 (7th Cir. 1992)). Moreover, regardless of a debtor’s subjective intent, a lack of good faith may be found on an objective, rather than a subjective, basis. *See Arenas v. United States Trustee (In re Arenas)*, 535 B.R. 845, 852 (B.A.P. 10th Cir. 2015).

1. § 1325: Plan Confirmation Requirements

With respect to confirmation of a Chapter 13 plan of reorganization, “the burden is on the debtor to prove that each of the statutory criteria for confirmation is met.” *Austin v. Bankowski*, 519 B.R. 559, 563 (D. Mass. 2014). In order to confirm a Chapter 13 plan, § 1325(a)(7) requires the Court to find that “the action of the debtor in filing the petition was in good faith.” And § 1325(a)(3) requires the court to find that “the plan has been proposed in good faith and not by any means forbidden by law.”

The Debtor argues that the Trustee has failed to establish a lack of good faith because the Trustee did not provide evidence regarding the various factors articulated in the *Gonzalez-Ruiz* case, 341 B.R. 371, 382-383 (B.A.P. 1st Cir. 2006). But, in determining whether good faith (or

the lack thereof) has been established, “[t]he hallmark of the totality of the circumstances test is that the factors to be considered may vary in each case.” *Sullivan*, 326 B.R. at 212. The Debtor filed this voluntary Chapter 13 case while engaging in activities in the course of his employment that violate federal criminal laws and, in his new employment, the Court has found that his actions continue to violate federal criminal laws. The Debtor’s Chapter 13 plan as currently proposed is to be funded by the wages derived from those illegal activities, which would require the Chapter 13 trustee to knowingly administer wages derived from an active participant in a criminal enterprise. Regardless of the Debtor’s subjective intent in filing the case or proposing the current Chapter 13 plan (neither of which the Debtor testified to), the Court cannot find, under an objective standard, that the case was filed in good faith or that the plan was proposed in good faith as required by §§ 1325(a)(7) and (a)(3), since, from the inception of this case, the Debtor has engaged in and benefited from, and intends to continue engage in and benefit from, activities that violate federal criminal law. Accordingly, confirmation of the Chapter 13 plan must be denied.⁶

2. § 1307: “Cause” for Dismissal

With regard to the Trustee’s request for dismissal of the case, the Trustee, as the moving party, bears the burden of proof. *Stevenson v. TND Homes I, LP (In re Stevenson)*, 583 B.R. 573, 579 (B.A.P. 1st Cir. 2018). “The decision to dismiss or convert a chapter 13 case for cause is committed to the bankruptcy court’s discretion.” *Benoit v. Deutsche Bank Nat’l Trust Co. (In re Benoit)*, 564 B.R. 799, 805 (B.A.P. 1st Cir. 2017) (citing *Howard v. Lexington Invs., Inc.*, 284 F.3d 320, 322 (1st Cir. 2002)).

⁶ Because the Court finds that the Chapter 13 plan was not proposed in good faith as required by § 1325(a)(3), the Court need not, and does not, decide whether the plan was proposed “by any means forbidden by law” under that section.

11 U.S.C. § 1307(c) provides: “. . . on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, **including** - . . .” 11 U.S.C. § 1307(c) (emphasis supplied). “There is only one element necessary to establish a prima facie case for dismissal of a [c]hapter 13 bankruptcy case or conversion of the case to [c]hapter 7 . . .; the moving party must show ‘cause.’” 70 David M. Holliday, *Causes of Action* 2d 521 (rev. 2016). “Cause” is not defined in the Bankruptcy Code, but § 1307(c) includes a nonexclusive list of circumstances giving rise to “cause” justifying dismissal. *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 373 (2007). However, the enumerated grounds for cause under § 1307(c) do not limit this Court’s authority to take appropriate action, including dismissal of the case, for an “atypical litigant who has demonstrated that he is not entitled to the relief available to the typical debtor.” *Id.* at 374-75; *see also* 11 U.S.C. § 102(3) (in the Bankruptcy Code, the terms “‘includes’ and ‘including’ are not limiting”).

Courts in this circuit have consistently recognized that, “[a]lthough lack of good faith is not specifically enumerated as ‘cause,’ it is well established that lack of good faith (or bad faith) is ‘cause’ for dismissal or conversion of a Chapter 13 case under § 1307(c).” *Sullivan*, 326 B.R. at 211. As the Court has previously found that the Debtor’s actions in both filing the case and proposing the plan demonstrate an objective lack of good faith, the Court also finds that the Debtor’s lack of good faith constitutes cause for dismissal or conversion of the case pursuant to § 1307(c).

Furthermore, the Court rules that dismissal or conversion is warranted under § 1307(c)(5), which provides that cause for dismissal or conversion includes “denial of confirmation of a plan

under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan.” 11 U.S.C. § 1307(c)(5). While the Debtor now says that he can propose a plan that is funded solely by the wages from the Debtor’s spouse (which are not derived from engagement in federal crimes), the Debtor does not suggest that he will cease engaging in activities that violate federal criminal laws. Based on the circumstances here, the Court will not grant the Debtor additional time to file another plan or a modification of the plan, as such amendment or modification would be futile. Even if the plan were amended as proposed, the Court finds that the Debtor objectively lacks good faith in seeking the benefits and protections of federal bankruptcy laws while continuously and contemporaneously undertaking (and earning income from) actions that violate federal criminal laws.

Accordingly, the Court finds and rules that the Trustee has met the Trustee’s burden to establish “cause” for dismissal or conversion of this case both for lack of good faith and pursuant to § 1307(c)(5). Neither party has requested conversion of this case to one under Chapter 7 in the event cause was found, and the Court rules that, having found cause under § 1307(c), dismissal of this case is appropriate.

C. Abuse of process

Even if the facts of this case do not comfortably fit within the confines of §§ 1307(c) and/or 1325, the Court finds and rules that the case also must be dismissed for abuse of process. While conducting illegal activities, either individually or by a business, is not an express bar to filing a bankruptcy case under 11 U.S.C. § 109, bankruptcy courts possess “broad equitable power to ‘issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Code],’” *Johnson v. Home State Bank*, 501 U.S. 78, 88 (1991) (quoting 11 U.S.C. § 105),

and may take any action or make any determination necessary or appropriate to “prevent an abuse of process.” 11 U.S.C. § 105.

As the court in *In re Johnson*, noted “federal judicial officers take an oath to uphold federal law, and countenancing the Debtor's continued operation of his marijuana business under the court's protection is hardly consistent with that oath.” 532 B.R. 53, 56 (Bankr. W.D. Mich. 2015).⁷ In rejecting the proposition that a debtor could continue to derive income from the operation of a marijuana business while using only his Social Security benefits to fund a Chapter 13 plan, the *Johnson* court rightly stated that “irrespective of any segregation of funds, the court and the Standing Trustee carrying out their respective statutory duties will inevitably support the Debtor's criminal enterprise.” *Id.* at 57. Accordingly, the court held that the case would be dismissed if the Debtor did not cease all marijuana business activities, cease using property of the estate connected to the marijuana business and abandoned and destroyed all marijuana plants and by-products. *Id.* at 58-59.

Similarly, in *In re Rent-Rite Super Kegs W. Ltd.*, the court held that where a Debtor's operations violated the Controlled Substances Act, “even if the Debtor is never charged or prosecuted . . . a federal court cannot be asked to enforce the protections of the Bankruptcy Code in aid of a Debtor whose activities constitute a continuing federal crime.” 484 B.R. 799, 805 (Bankr. D. Colo. 2012).

The Debtor “has no constitutional or ‘fundamental’ right to a discharge in bankruptcy.” *Grogan v. Garner*, 498 U.S. 279, 286 (1991). Here, the Debtor has not indicated any intention to forego his federal criminal activities while this case is pending, even if he proposed a plan to be funded solely by his spouse's income. The Court agrees with the sentiments expressed by the

⁷ See 28 U.S.C. § 453 and 5 U.S.C. § 3331.

Johnson and *Rent-Rite* courts and holds that it would be an abuse of process to permit the Debtor to obtain the protections and benefits of the federal bankruptcy laws while continuing to commit federal crimes. Accordingly, dismissal of this case is warranted pursuant to 11 U.S.C. § 105(a).

IV. CONCLUSION

The Debtor warns that a decision to dismiss this case, filed by a “mere employee” with no ownership interest in a marijuana business, may lead to vast denials of bankruptcy relief for other debtors with employment or other relationships with cannabis-related activities that are currently permitted by state law. The Court is unpersuaded by this “slippery slope” argument and does not need to and will not reach the question as to whether other employees, like a warehouse attendant or web designer for a marijuana dispensary, would be eligible for bankruptcy relief.

Today, the Court must decide only the case it has before it – a case involving a Debtor whose ongoing activities in the course of his employment constitute violations of federal criminal laws. For the reasons set forth above, the Court rules only that denial of confirmation of *this* Debtor’s Chapter 13 plan and dismissal of *this* Debtor’s case under § 1307 and § 105 are compelled based on the particular facts and circumstances of this case.

Regardless of whether the Debtor is or is not subject to prosecution under state laws, and regardless of whether the Debtor is ever actually prosecuted under existing federal law, the fact remains that this Court is bound, under the Supremacy Clause, by existing federal law. It is simply untenable that this Court would continue to extend the protections and benefits of the federal bankruptcy laws to a Debtor that continues to commit federal crimes.

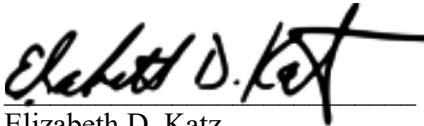
The Debtor’s observations regarding the positive contributions of the cannabis industry to the Massachusetts economy and complaints regarding the seemingly inconsistent policies and

enforcement related to federal crimes involving marijuana in the wake of state-decriminalization may be well-taken. But unless and until congressional action is taken to decriminalize cannabis, this Court is bound by those statutes.

For all the foregoing reasons, confirmation of the Debtor's Chapter 13 plan must be denied, and the Debtor's case must be dismissed. An order in conformity with this Memorandum will issue forthwith.

By the Court,

DATED: January 17, 2023

A handwritten signature in black ink, appearing to read "Elizabeth D. Katz", written over a horizontal line.

Elizabeth D. Katz
United States Bankruptcy Judge

Exhibit 12

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Liam J. O'Connor (State Bar No. 246638)
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8 Attorneys for Plaintiff KLA Daylight, a California
Limited Liability Company
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SANTA CLARA

12 KLA DAYLIGHT, LLC, a California limited
liability company,
13
Plaintiff,
14
v.
15
16 GWS HEALTH, a California mutual benefit
corporation, dba THE GUILD; DFWS, INC., a
California Corporation, dba THE GUILD, and
17 DOES 1 through 50, inclusive,
18
Defendants.

Case No. 18CV333291

19
20
~~Proposed~~ ORDER GRANTING EX PARTE APPLICATION FOR APPOINTMENT OF RECEIVER FOR PERSONAL PROPERTY COLLATERAL, FOR TEMPORARY RESTRAINING ORDER, AND ORDER TO SHOW CAUSE RE INJUNCTION IN AID OF RECEIVER ^{TOR}

Date: August 29, 2018
Time: 8:15 a.m.
Dept: TBD

Action Filed: August 14, 2018

21
22 Upon the Ex Parte Application for Appointment of Receiver to Preserve Personal Property
23 Collateral, for Temporary Restraining Order, and Order to Show Cause re Injunction in Aid of
24 Receiver ("Application") filed on behalf of plaintiff KLY Daylight, LLC ("KLA" or "Plaintiff"),
25 and good casue appearing therefore,

26 **IT IS HEREBY ORDERED** that:
27
KLA's Application is hereby GRANTED.

28

FILED

AUG 29 2018

CLERK OF THE COURT
SUPERIOR COURT OF CA
COUNTY OF SANTA CLARA
FILED BY R. TIEN CLARA
DEPUTY
M

1 **I. APPOINTMENT OF RECEIVER**

2 **IT IS FURTHER ORDERED** that:

3 Kevin Singer (the "Receiver") is hereby appointed as receiver to take possession, custody
4 and control of the Collateral, as defined herein, and to maintain and conserve the Collateral
5 pending litigation in the above referenced matter. The powers of the Receiver shall be all the
6 usual and customary powers of a receiver to take control of and operate the Collateral, including
7 the duties and powers enumerated in this Order.

8 1. **Collateral.** Includes the following:

9 All assets obtained or owned by or in the possession of Defendants GWS Health, a
10 California mutual benefit corporation, dba The Guild ("GWS") and DFWS, Inc., a California
11 corporation dba The Guild ("DFWS") (collectively, "Defendants"), including without limitation
12 all cash, accounts, inventory, rights to payment, goods, equipment, furnishings, and general
13 intangibles, together with the business operations, marijuana dispensary registration certificates,
14 and all other permits and licenses pertaining to the operation of the business, both tangible and
15 intangible, of whatever kind and description and wherever situated and the revenues, payments,
16 proceeds and profits derived from the Business, as defined herein, (collectively, the "Collateral"),
17 wherever located.

18 2. **Receiver's Oath and Bond.** Before performing his duties, the Receiver shall
19 execute a receiver's oath and file a bond in the sum of \$ 5,000, conditioned upon the
20 faithful performance of the Receiver's duties. The bond shall be from a surety approved by the
21 Court and shall be filed no later than 2:00 p.m., on September 5, 2018;

22 3. **Bond.** KLA shall immediately file an applicant's bond under Code of Civil
23 Procedure section 566(b) in the amount of \$5,000.00. The bond shall be filed no later than 2:00
24 p.m., on September 5 2018;

25 4. **Receiver's Duties and Powers.** The Receiver shall be vested with the authority to
26 do the following:

27 (a) To assemble and take possession, custody and control of the Collateral,
28 wherever located, and to operate the business of Defendants (the "Business");

1 (b) Collect all issues, profits, and income resulting from the operation or sale
2 of the Collateral;

3 (c) Care for, safeguard, preserve, operate and maintain the Collateral and incur
4 the expenses necessary for such care, preservation and maintenance of the Collateral;

5 (d) The Receiver shall have the ability but not required to interview the parties
6 and decide who shall operate the Business and exclude any all parties from the Business. If the
7 Receiver hires any of the parties, he will still retain financial control over the Business;

8 (e) Institute and prosecute all suits that the Receiver, upon obtaining
9 permission of the Court and the Plaintiff, may reasonably believe to be necessary in connection
10 with the management of the Collateral, and defend all such suits and actions as may be instituted
11 against the Collateral or the Receiver;

12 (f) Obtain and/or maintain any licenses or permits that the Receiver
13 reasonably believes to be necessary for the operation of the Collateral;

14 (g) Obtain and pay for any insurance that the Receiver reasonably believes to
15 be necessary for the operation of the Collateral;

16 (h) Tender any suits or claims against the Collateral to any appropriate
17 insurance company.

18 5. **Management and Liquidation of Collateral.** The Receiver shall manage the
19 Collateral and may employ agents, clerks or accountants to administer and liquidate the
20 Collateral. No risk, obligation or expense so incurred shall be the personal risk or obligation of
21 the Receiver, but shall be the risk, obligation and expense of the receivership estate established
22 herein.

23 6. **Sale of the Collateral:**

24 Other than in the ordinary course of business, the Receiver is not authorized to sell the
25 Collateral without prior Court approval.

26 7. **Pending Litigation.** Except for the pending action before this Court involving the
27 parties, any pending litigation or other legal proceeding involving the Defendants herein will be
28 reviewed by the Receiver and, at the Receiver's discretion and with Plaintiff's approval, Receiver

1 can prosecute and defend such claims. Any proceeds or other assets generated from such legal
2 proceedings constitute Collateral.

3 8. **Police Assistance:**

4 Receiver, as agent of the Court (and only when the Receiver deems absolutely necessary)
5 shall be entitled to the assistance of law enforcement officials when taking possession, or at any
6 other time during the term of the Receivership such assistance is necessary to preserve the peace
7 and protect the Receivership assets. This Order shall be presented to local law enforcement,
8 including police, sheriff or marshal and law enforcement will carry out the terms of this Order to
9 assist the Receiver in taking possession of the Collateral without further Court intervention or
10 Order.

11 9. **Advances to Receiver/Receiver Certificates.**

12 (a) KLA shall advance \$10,000 to the Receivership Estate to initially cover the
13 Receiver's fees and expenses. If there are funds in the Business the Receiver shall immediately
14 reimburse KLA for the advance of funds to the Receivership Estate.

15 (b) The Receiver may issue Receivership Certificates upon agreed-upon terms,
16 at its sole discretion, to fund the Receivers' operations.

17 (c) Funds loaned to the Receiver pursuant to Receivership Certificates are
18 deemed liens of first priority, and, except as provided in the following sentence, shall be repaid
19 prior to all other encumbrances and claims, other than costs of administration.

20 10. **Use of Funds.** All monies coming into the Receiver's possession shall only be
21 expended for the purposes herein authorized, and the balance of funds shall be held by the
22 Receiver pending further Order of this Court.

23 11. **Receivership Fees and Costs.** The Receiver may charge as interim fees his
24 standard hourly billing rate, which is currently \$275.00 per hour, plus reimbursement of costs for
25 the Receiver's services. Associates at the Receiver's office may charge \$250 per hour and
26 Project Managers may charge \$185 an hour, Accountants may charge \$150 an hour and
27 Administrative Staff may charge \$85.00 per hour. Where appropriate, the Receiver will have an
28 appropriate staff member handle certain aspects of the Receivership as a cost saving measure.

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- 4 -

1 The Receiver is also authorized to employ the services of accountants and attorneys without
2 further Court Order and pay for those services in the amount of the normal fees charged by those
3 professionals.

4 12. **Monthly Statements.** The Receiver shall prepare and serve monthly statements
5 reflecting the Receiver's fees and administrative expenses, including fees and costs of
6 accountants and other professionals authorized by the Court, incurred for each monthly period in
7 the operation and administration of the Collateral. Upon service of each statement, the Receiver
8 may disburse from estate funds, if any, the amount of each statement. Notwithstanding monthly
9 periodic payment of fees and expenses, all fees and expenses shall be submitted to the Court for
10 its approval and confirmation, in the form of either a properly noticed interim request for fees, a
11 stipulation of all parties, or in the Receiver's Final Account and Report.

12 13. **Inventory.** Within thirty (30) days after qualification hereunder, the Receiver
13 shall file an inventory of all of the property of which he has taken possession pursuant to this
14 Order.

15 14. **Opening of Bank Accounts.** The Receiver is empowered to establish bank
16 accounts for the deposit of monies and funds collected and received in connection with the
17 Collateral, at a federally insured banking institution (the "Operating Account") in the name of the
18 Receiver in trust. However, the Receiver shall not be required to put the funds in a federally-
19 insured bank account because it is not possible at this time. Monies coming into the possession of
20 the Receiver and not expended for any purposes herein authorized shall be held by the Receiver
21 in interest-bearing accounts.

22 15. **Insurance.** The Receiver shall determine upon taking possession of the Collateral
23 whether in the Receiver's judgment there is sufficient insurance coverage. With respect to any
24 insurance coverage, the Receiver shall be named as an additional insured on the policies for the
25 period that the Receiver shall be in possession of the Collateral. If sufficient insurance coverage
26 does not exist, the Receiver shall immediately notify the parties to this lawsuit and shall have
27 thirty (30) calendar days to procure sufficient all risk and liability insurance for the Collateral;
28 provided, however, that if the Receiver does not have sufficient funds to do so, the Receiver shall

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- 5 -

1 seek instructions from the Court with regard to whether insurance shall be obtained and how it is
2 to be paid for. If consistent with existing law, the Receiver shall not be responsible for claims
3 arising from the lack of procurement or inability to obtain insurance.

4 16. **Entry to Property.** The Receiver shall further be entitled to engage a locksmith
5 for the purposes of gaining entry to Defendants' business locations, wherever located, and
6 through any security system, in order to obtain any Collateral or documents to which the Receiver
7 is entitled pursuant to this Order, as well as giving any notices which may be required in
8 performing the Receiver's duties. The Receiver may have locks or security codes changed, or
9 have keys created that will work for the existing locks.

10 17. **Tax Identification.** The parties shall provide the Receiver with all tax
11 identification numbers utilized in connection with the operation of the Collateral. The Receiver
12 shall also be entitled to utilize the tax identification numbers during his operation of the Collateral
13 or at the Receiver's discretion, the Receiver may obtain new tax identification numbers.

14 18. **Mail.** The Receiver is authorized to have all mail addressed to the GWS and
15 DFWS forwarded to an address to be designated by him and is authorized to open and review
16 such mail.

17 19. **Turnover of Bank Accounts.** All banks and financial institutions which hold any
18 accounts containing Collateral shall turn over all such funds in any such accounts to the Receiver
19 upon presentation of a copy of this Order, and shall provide copies of any requested records
20 regarding any such accounts to the Receiver.

21 20. **Delivery of Revenues.** The parties, on receipt of a copy of this Order, shall
22 deliver to the Receiver immediate possession of all revenues and income generated from the
23 business of the Collateral in Defendants' possession, custody or control. This delivery to the
24 Receiver shall be completed **within forty-eight (48) hours** of receipt of the above-described
25 documents.

26 21. **Documents in Receiver's Possession.** The parties to this action shall be entitled
27 to have access to, and make copies of, documents in the Receiver's possession—including
28 electronic records.

1 his appointment becoming effective;

2 (b) Shall immediately turn over to the Receiver and direct all other third
3 parties in possession thereof to turn over all keys, books, records, inventory, books of account,
4 ledgers, operating statements, control and passwords to website(s) and/or web domains, budgets
5 and all other records relating to the Collateral, wherever located, and in whatever mode
6 maintained, including information contained on computers and any and all software relating
7 thereto as well as all banking records, statements and cancelled checks;

8 (c) Shall immediately turn over to the Receiver all documents which pertain to
9 all licenses, permits, or government approvals relating to the Collateral and shall immediately
10 advise the Receiver of any social security or taxpayer identification numbers used in connection
11 with the operation of the Collateral;

12 (d) Shall immediately turn over to the Receiver all contracts involving the
13 Collateral;

14 (e) Shall immediately advise the Receiver as to the nature and extent of
15 insurance coverage on the Collateral. The parties shall immediately name the Receiver as an
16 additional insured on the insurance policy(ies) for the period that the Receiver shall be in
17 possession of the Collateral. The parties and their agents and representatives are prohibited from
18 canceling, reducing or modifying any and all insurance coverage currently in existence with
19 respect to the Collateral;

20 (f) Shall cooperate with and reasonably assist the Receiver with respect to his
21 operation of the Collateral, including but not limited to promptly responding to any inquiry by the
22 Receiver for information.

23 **IT IS FURTHER ORDERED** that Defendants appear in Department 6 of this court,
24 located at 191 North First Street, San Jose, California, on September 24, 2018, at 8:45 a.m., or as
25 soon thereafter as the matter may be heard, then and there to show cause, if any they have, why
26 *the Receiver should not be confirmed under CCP § 564 and CPC 3.1176, and why*
27 representatives, and all persons and entities acting in concert or participating with them, should
28 not be enjoined from engaging in, committing, or performing, directly or indirectly, any and all of

1 the following:

2 (a) Committing or permitting any waste of the Collateral or any part thereof, or
3 suffering or committing or permitting any act on the Collateral or any part thereof in violation of
4 law, or removing, transferring, encumbering or otherwise disposing of any of the Collateral or
5 any part thereof;

6 (b) Directly or indirectly interfering in any manner with the discharge of the
7 Receiver's duties under this Order or the Receiver's possession of and operation or management
8 of the Collateral;

9 (c) Expending, disbursing, transferring, assigning, selling, conveying,
10 devising, pledging, mortgaging, creating a security interest in, encumbering, concealing or in any
11 manner whatsoever dealing in or disposing of the whole or any part of the Collateral without prior
12 specific Court Order;

13 (d) Withholding any Collateral assets, books, records, or funds from the
14 Receiver;

15 (e) Destroying or concealing any records, documents, electronic data,
16 electronic equipment or software, or any other medium that contains information related to the
17 Collateral; and

18 (f) Performing any act which will, or which will tend to impair, defeat, divert,
19 prevent or prejudice the preservation of the Collateral.

20 **IT IS FURTHER ORDERED THAT PENDING THE HEARING ON THIS**
21 **MATTER** as set forth above, Defendants and their agents, officers, directors, members, servants,
22 employees, and representatives, and all persons and entities acting in concert or participating with
23 them, **BE AND ARE HEREBY ENJOINED AND RESTRAINED** from engaging in,
24 committing, or performing, directly or indirectly, any and all of the following:

25 (a) Committing or permitting any waste of the Collateral or any part thereof, or
26 suffering or committing or permitting any act on the Collateral or any part thereof in violation of
27 law, or removing, transferring, encumbering or otherwise disposing of any of the Collateral or
28 any part thereof;

1 (b) Directly or indirectly interfering in any manner with the discharge of the
2 Receiver's duties under this Order or the Receiver's possession of and operation or management
3 of the Collateral;

4 (c) Expending, disbursing, transferring, assigning, selling, conveying,
5 devising, pledging, mortgaging, creating a security interest in, encumbering, concealing or in any
6 manner whatsoever dealing in or disposing of the whole or any part of the Collateral without prior
7 specific Court Order;

8 (d) Withholding any Collateral assets, books, records, or funds from the
9 Receiver;

10 (e) Destroying or concealing any records, documents, electronic data,
11 electronic equipment or software, or any other medium that contains information related to the
12 Collateral; and

13 (f) Performing any act which will, or which will tend to impair, defeat, divert,
14 prevent or prejudice the preservation of the Collateral.

15 **THE COURT ORDERS** KLA to immediately file an injunction bond under Code of
16 Civil Procedure section 529 in the amount of \$5,000.00.

17 **THE COURT ORDERS** that ANY PERSON WHO INTERFERES WITH THE
18 RECEIVER, WILLFULLY OBSTRUCTS THE CONDUCT OF THE RECEIVER, OR
19 DAMAGES OR CONCEALS THE PROPERTY OF THE RECEIVERSHIP ESTATE MAY BE
20 SUBJECT TO CIVIL OR CRIMINAL CONTEMPT.

21 **III. ADDITIONAL ORDERS**

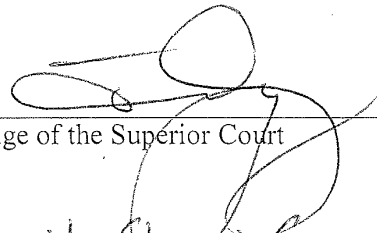
22 **THE COURT ORDERS** that in addition to the powers set forth herein, the Receiver will
23 have and enjoy the powers otherwise provided by law.

24 **THE COURT ORDERS** that the Receiver will not be liable for any act or omission of
25 the Parties or any of their respective officers, directors, owners, members, shareholders, agents,
26 representatives, professionals, and employees, or be held to any personal liability whatsoever in
27 tort, contract, or otherwise in connection with the discharge of its duties under this Order, except
28 for liabilities arising from the Receiver's bad faith, willful malfeasance, or reckless disregard of

1 duty. Without limiting the foregoing, the Receiver shall not be liable to any other party in any
2 way for any damages or liability resulting from the existence or use, discharge, or storage by any
3 person other than the Receiver of any hazardous substance defined in 42 U.S.C. §§ 9601-57.
4

5 **IT IS SO ORDERED.**

6 Dated: 8/29/18



7 Judge of the Superior Court

8
9 Ex Parte Order, Order to Show Cause, and
10 Restraining Orders shall be served on or
11 before 8/29/18.

12 Any pleadings in opposition must be filed
13 and served no later than 9/12/18.

14 Any pleadings in reply must be filed and
15 served no later than 9/19/18.
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Exhibit 13

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Michael J. Muse-Fisher (SBN 253232) Buchalter, A Professional Corporation 500 Capitol Mall, Suite 1900 Sacramento, CA 95814 TELEPHONE NO.: 916-945-5170 FAX NO. (Optional): E-MAIL ADDRESS (Optional): mmuse-fisher@buchalter.com ATTORNEY FOR (Name): Court-Appointed Receiver Kevin Singer	FOR COURT USE ONLY Electronically Filed by Superior Court of CA, County of Santa Clara, on 8/31/2020 9:24 AM Reviewed By: R. Tien Case #18CV333291 Envelope: 4853234
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 161 North First Street MAILING ADDRESS: 161 North First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Old Courthouse	
PLAINTIFF/PETITIONER: KLA Daylight, LLC DEFENDANT/RESPONDENT: GWS Health, et al.	
<p style="text-align: center;">NOTICE OF ENTRY OF JUDGMENT OR ORDER</p> <p>(Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeded \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded was \$25,000 or less)</p>	CASE NUMBER: 18CV333291

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on (date): August 27, 2020
2. A copy of the judgment, decree, or order is attached to this notice.

Date: August 28, 2020

Michael J. Muse-Fisher

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

/s/ Michael J. Muse-Fisher

(SIGNATURE)

NOTICE OF ENTRY OF JUDGMENT OR ORDER

PLAINTIFF/PETITIONER: KLA Daylight, LLC	CASE NUMBER: 18CV333291
DEFENDANT/RESPONDENT: GWS Health, et al.	

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:
See attached proof of service

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and *(check one)*:

- a. deposited the sealed envelope with the United States Postal Service.
- b. placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:

- a. on *(date)*:
- b. from *(city and state)*:

4. The envelope was addressed and mailed as follows:

<p>a. Name of person served:</p> <p>Street address:</p> <p>City:</p> <p>State and zip code:</p>	<p>c. Name of person served:</p> <p>Street address:</p> <p>City:</p> <p>State and zip code:</p>
<p>b. Name of person served:</p> <p>Street address:</p> <p>City:</p> <p>State and zip code:</p>	<p>d. Name of person served:</p> <p>Street address:</p> <p>City:</p> <p>State and zip code:</p>

Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

5. Number of pages attached _____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

<p>(TYPE OR PRINT NAME OF DECLARANT)</p>	<p> (SIGNATURE OF DECLARANT)</p>
--	---

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

FILED
AUG 27 2020

Clerk of the Court
Superior Court of CA County of Santa Clara
D. O. HARRIS DEPUTY

KLA DAYLIGHT, LLC, A California
limited company,

Plaintiff,

v.

GWS HEALTH, a California mutual
benefit corporation, dba THE GUILD;
DFWS, INC., a California corporation, dba
THE GUILD; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 18CV33329

ORDER GRANTING COURT-APPOINTED
RECEIVER KEVIN SINGER'S MOTION
RE: NEW AGREEMENT WITH URBN
LEAF

The Court-Appointed Receiver Kevin Singer ("Receiver")'s motion for an order approving the sale of assets of the Receivership Estate and approving (1) the amendments and addendum to the revised asset purchase agreement, note, and security agreement with URBN LEAF, 2) the lease assignment agreement, and 3) the transition services agreement ("Receiver's Motion") came on for hearing on August 27, 2020, at 9:00 a.m., in Department 21, before Judge Thang Nguyen Barrett. Plaintiff KLA DAYLIGHT, LLC ("KLA DAYLIGHT") joined in the Receiver's

Motion.¹ Secured Judgement Creditor and Real Party in Interest TONTO INVESTMENTS LLC (“TONTO INVESTMENTS”), which had objected to the Receiver’s previous request, also joined in the Receiver’s Motion. The matter having been submitted, the court now rules as follows:

The Receiver’s request for judicial notice, filed on August 6, 2020, is granted in its entirety.

Although the Receiver’s reply brief addressed an opposition by M&H CA, LLC, J & R San Jose, LLC, and Samuel Stout, no such opposition was filed. Accordingly, the Court deems the Receiver’s Motion to be unopposed.

Under the totality of the circumstances, the Court finds that the course of action proposed by the Receiver in the Receiver’s motion represents the most viable option available to maximize funds for the Receivership Estate’s debts and creditors. The totality of circumstances includes the following factors: The Receiver was able to negotiate an increase of the amended purchase price by \$250,000 with UL Holdings, Inc. d/b/a Urbn Leaf (“Urbn Leaf”); the Receiver has been unable to pay rent since May 2020, and is now facing the prospect of imminent eviction if the Amended Sale is not approved; no objections have been filed with the Court with regard to the Receiver’s Motion, and prior Objector TONTO INVESTMENTS has now joined in the Receiver’s Motion; no previously objecting investors has proposed an alternative plan, found another buyer, or offered continued funding of the Receivership Estate; the Receiver’s efforts to date in exploring all options available; the risk that the cannabis licenses

¹ The joinder by KLA DAYLIGHT was placed on calendar separately although it was not a motion. To the extent KLA DAYLIGHT’s joinder is to be considered a request to join in the Receiver’s Motion, KLA DAYLIGHT’s request is GRANTED.

will be revoked; and the Receiver's assessment that a new sale will not result in a better outcome for the Receivership Estate.

Accordingly, the Receiver's Motion, joined by KLA DAYLIGHT and TONTO INVESTMENTS, is GRANTED. The Court hereby approves:

- 1) The First Amendment to Revised Asset Purchase Agreement (the "APA Amendments") between Urbn Leaf and GWS Health and DFWS, Inc. (collectively, "The Guild");
- 2) The First Amendment of Secured Promissory Note and Specific Waiver of Past Defaults (the "Note Amendment") between Urbn Leaf and The Guild;
- 3) The First Amendment of Security Agreement (the "Security Amendment") by and between Urbn Leaf and The Guild;
- 4) The Addendum to the First Amendment to Revised Asset Purchase Agreement, First Amendment of Secured Promissory Note and Specific Waiver of Past Default, and First Amendment of Security Agreement (the "Addendum");
- 5) The Transition Services Agreement between Urbn Leaf and The Guild;
- 6) The APA Amendment which modifies and amends certain terms June 7, 2019 Revised Asset Purchase Agreement (the "APA") between Urbn Leaf and the Receiver, which was approved by Court order on June 7, 2019. Except as specifically amended by the APA Amendment, the terms and conditions of the APA are in all other respects ratified and confirmed and remain in full force and effect without modification or limitation;

7) The Assignment and Assumption of Lease (the "Lease Assignment") between UL San Jose, LLC ("UL San Jose"), and The Guild; and

8) The reduced sale price for the receivership property (defined in the APA as the "Acquired Assets," hereinafter referred to as the "Receivership Property" or "Acquired Assets") of the Guild to Urbn Leaf or its assignee in the sum of \$,500,000.00 as the most viable option available to maximize funds for the Receivership Estate's debts and creditors.

The Receiver is authorized to sell the Receivership Property to Urbn Leaf or its assignee in accordance with and pursuant to the terms and conditions of the APA, as modified or amended by the Amendments.

The Receiver is authorized to take all actions and execute all documents necessary to carry out and effectuate the sale of the Receivership Property including, but not limited to, the APA, the Amendments, the Lease Assignment, Transition Services Agreement, a bill of sale, and any other documents related to the transfer of any and all licenses (including but not limited to city and state cannabis license(s)), documents related to the transfer of stock shares Of GWS Health, Inc. and/or DFWS, Inc. (if required), and all other transfer and conveyance documents consistent with selling and conveying title to the Receivership Property as provided in the APA as amended by the Amendments. The Receiver shall execute all documents necessary to carry out and effectuate the sale of the Receivership Property as "Kevin Singer, solely in his capacity as the Court-Appointed Receiver pursuant to Court Order in KLA Daylight, LLC v. GWS Health, et al., in Santa Clara Superior Court Case NO. 18CV33329."

The Receiver is authorized to amend or modify the APA, the Amendments, and any related sale documents as necessary to complete the sale of the Receivership Property if the Receiver in good faith believes such modification is reasonable and required to serve the interests of the Receivership Estate.


The Court authorizes the sale of the Receivership Property of GWS Health Inc. and/or DFWS Inc. to Urbn Leaf or its assignee in accordance with APA and Amendments, to be free and clear of all liens, claims, and encumbrances (collectively, "liabilities") with all liabilities attaching to the sale proceeds.

The Court authorizes a certified copy of the Order requested by the Receiver's Motion to be recorded in Santa Clara County or any other County in the State of California, at any time, provided, however, that the failure to record such Order will not affect the enforceability of the Order or the validity or enforceability Of the APA, as amended by the Amendments.

Pursuant to Code of Civil Procedure §§ 917.2, 917.4-917.5, the amount of an undertaking to stay the enforcement of an appeal of the Court's order on the Receiver's Motion is set at \$11,000,000, unless given by an admitted surety insurer in which event it shall be set at \$8,250,000.00.

IT IS SO ORDERED.

DATED: August 27, 2020



THANG NGUYEN BARRETT
JUDGE OF THE SUPERIOR COURT



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**
DOWNTOWN COURTHOUSE
191 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95113
CIVIL DIVISION

FILED
AUG 27 2020

RE: **KLA DAYLIGHT, LLC vs GWS HEALTH et al**
Case Number: **18CV333291**

Clerk of the Court
Superior Court of California, County of Santa Clara
BY Donna O'Hara DEPUTY

PROOF OF SERVICE

ORDER GRANTING COURT-APPOINTED RECEIVER KEVIN SINGER'S MOTION RE: NEW AGREEMENT WITH URBN LEAF was delivered to the parties listed below the above entitled case as set forth in the sworn declaration below.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line (408) 882-2690 or the Voice/TDD California Relay Service (800) 735-2922.

DECLARATION OF SERVICE BY MAIL: I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose, CA on August 27, 2020. CLERK OF THE COURT, by Donna O'Hara, Deputy.

cc: **GWS HEALTH/DFWS INC 2943 Daylight Way San Jose CA 95111**
Michael Muse-Fischer Buchalter 50 Capital Mall Suite 1900 Sacramento CA 95814
Breck E Milde Hopkins & Carley 70 S First Street San Jose CA 95113

John Kelly Pierson 1801 Century Park E Ste 2400 Los Angeles CA 90067
Sauda S Johnson 515 S Flower St 36th Fl Los Angeles CA 90071
John Alfred Mills 11835 W Olympic Blvd Ste 900 Los Angeles CA 90064
John Gregory Downing Downing Law Offices 2021 The Alameda Suite 200 San Jose CA 95126
Robert Sherwood Nelson 345 W Portal Ave Ste 110 San Francisco CA 94127

1 BUCHALTER
A Professional Corporation
2 MICHAEL J. MUSE-FISHER (SBN: 253232)
500 Capitol Mall, Suite 1900
3 Sacramento, CA 95814
Telephone: 916.945.5170
4 Email: mmuse-fisher@buchalter.com

5
6 Attorneys for Court-Appointed Receiver Kevin Singer

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**

10
11 KLA DAYLIGHT, LLC, a California limited
liability company,

12 Plaintiff,

13
14 v.

15 GWS HEALTH, a California mutual benefit
corporation dba THE GUILD; DFWS, INC., a
California Corporation, dba THE GUILD, and
16 DOES 1 through 50, inclusive,

17 Defendants.

CASE NO. 18CV333291

PROOF OF SERVICE

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PROOF OF SERVICE

The undersigned declares:

I am employed in the County of Sacramento, State of California. I am over the age of 18 and am not a party to the within action; my business address is c/o Buchalter, 500 Capitol Mall, Suite 1900, Sacramento, CA 95814.


On this date, I served the foregoing

NOTICE OF ENTRY OF JUDGMENT OR ORDER

on parties to the within action as follows:

- BY EMAIL** On the same day, I personally electronically served from my electronic address asmith@buchalter.com in "PDF" format, the document(s) described above, to the individual(s) stated above to their known email/electronic addresses as shown above. The transmission was reported as complete and without error. (CCP §1010.6; CRC §2.251, *et seq.*)
- (By U.S. Mail) On the same date, at my said place of business, Copy enclosed in a sealed envelope, addressed as shown on the attached service list was placed for collection and mailing following the usual business practice of my said employer. I am readily familiar with my said employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service, and, pursuant to that practice, the correspondence would be deposited with the United States Postal Service, with postage thereon fully prepaid, on the same date at Sacramento, California.
- BY OVERNIGHT DELIVERY** On the same date, I placed the Federal Express package for overnight delivery in a box or location regularly maintained by Federal Express at my office, or I delivered the package to an authorized courier or driver authorized by Federal Express to receive documents. The package was placed in a sealed envelope or package designated by Federal Express with delivery fees paid or provided for, addressed to the person(s) on whom it is to be served at the address(es) shown on the attached service list, as last given by that person on any document filed in the cause; otherwise at that party's place of residence.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed on August 28, 2020 at Davis, California.



Amy Smith

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SERVICE LIST

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onn_tabak@yahoo.com; hillbilly160@hotmail.com; mikek.northlight@gmail.com;
serianna.jenab@gmail.com; john@downinglaw.com; bca@paslaw.com;
tbeam@rochester.rr.com; sidebysideog@gmail.com; bplean@gmail.com; stout221@gmail.com;
mmsayyah@gmail.com; usan.bennet@gmail.com; brycepease@yahoo.com;
whkredel@comcast.net; abarulich@mac.com; jtproducer34@gmail.com; zane2382@gmail.com;
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Exhibit 14

Department of Cannabis Control
Medicinal and Adult-Use Commercial Cannabis Regulations
California Code of Regulations Title 4
Division 19. Department of Cannabis Control

Chapter 1. All Licensees

Article 1. Division Definitions and General Requirements

§15000. Definitions.

- (a) “Act” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified in Business and Professions Code section 26000, et seq.
- (b) “Adulterated” or “adulteration” has the meaning stated in section 26039.6(a) of the Act.
- (c) “Allergen” means a major food allergen as defined in 21 U.S.C § 321(qq).
- (d) “Appellation of Origin” means a designation to indicate that the cannabis meets the requirements developed by the program established pursuant to section 26063 of the Act.
- (e) “Applicant” means an owner that is applying for a Department-issued license.
- (f) “Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:
- (1) “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.
 - (2) “Manufactured cannabis batch” or “production batch” means either:
 - (A) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures; or
 - (B) An amount of a type of cannabis product produced in one production cycle using the same formulation and standard operating procedures.
- (g) “Cannabis accessories” has the meaning stated in Health and Safety Code section 11018.2.
- (h) “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. For purposes of this division, “cannabis concentrate” includes, but is not limited to, the separated resinous trichomes of cannabis, tinctures, capsules, suppositories, extracts, vape cartridges, inhaled products (e.g., dab, shatter, and wax), and tablets as defined in subsection (nnn).
- (i) “Cannabis goods” means cannabis and cannabis products in final form. For the purposes of section 15311, “cannabis goods” includes all cannabis and cannabis products in any form.

rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2,” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot; or

(2) Natural light and either of the models listed below:

(A) “Mixed-light Tier 1,” the use of artificial light at a rate above zero, but no more than six watts per square foot;

(B) “Mixed-light Tier 2,” the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.

(tt) “Nonmanufactured cannabis goods” means final form items that contain only cannabis.

(uu) “Nonvolatile solvent” means any solvent used in the extraction process that is not a volatile solvent. “Nonvolatile solvent” includes carbon dioxide, ethanol, and nonhydrocarbon-based or other solvents such as water, vegetable glycerin, vegetable oil, animal fat, and glycerin.

(vv) “Nursery” means all activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(ww) “Orally consumed concentrate” means a cannabis concentrate that is intended to be consumed by mouth and is not otherwise an edible cannabis product. “Orally consumed concentrate” includes tinctures, capsules, and tablets as defined in subsection (nnn).

(xx) “Outdoor cultivation” means the cultivation of mature cannabis without the use of artificial lighting or light deprivation in the canopy area at any point in time.

(yy) “Package” or “packaging” means any container or wrapper that may be used for enclosing or containing any cannabis or cannabis product. “Package” does not include a shipping container or outer wrapping used solely for the transport of cannabis or cannabis products in bulk quantity to a licensed premises.

(zz) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(aaa) “Pest” means an undesired insect, rodent, nematode, fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism (except microorganisms on or in living humans or other living animals) that is, or is liable to become, injurious, dangerous, or detrimental to health, the environment, or the agricultural environment of the state.

(bbb) “Pre-roll” means any combination of the following rolled in paper: flower, shake, leaf, or kief that is obtained from accumulation in containers or sifted from loose, dry cannabis flower or leaf with a mesh screen or sieve.

(ccc) “Premises” means the designated structure(s) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee

(qqq) “Tincture” means a solution of cannabis extract, derived either directly from the cannabis plant or from a manufactured cannabis extract, dissolved in alcohol, glycerin, or vegetable oils.

(rrr) “Topical cannabis product” means a cannabis product intended to be applied to the skin rather than ingested or inhaled.

(sss) “Track and trace system” means the program for reporting the movement of cannabis and cannabis products through the distribution chain established by the Department in accordance with section 26067 of the Act.

(ttt) “Transport” means the physical movement of cannabis or cannabis products from one licensed premises to another licensed premises.

(uuu) “Unique identifier” or “UID” means an alphanumeric code or designation used for reference to a specific plant and any cannabis or cannabis product derived or manufactured from that plant.

(vvv) “Universal symbol” means the symbol developed by the Department pursuant to section 26130(c)(7) of the Act to indicate that a product contains cannabinoids.

(www) “Vehicle alarm system” is a device or series of devices installed to discourage theft of the vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the vehicle.

(xxx) “Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

(yyy) “Watts per square foot” means the sum of the maximum wattage of all lights identified in the designated canopy area(s) in the premises diagram divided by the sum of the dimensions in square feet of the same designated canopy area(s).

(zzz) “Wholesale cost” has the meaning stated in title 18, California Code of Regulations, section 3700.

Authority: Section 26013, Business and Professions Code. Reference: Section 26013, Business and Professions Code.

§15000.1. General Requirements.

(a) Every person who conducts commercial cannabis activity shall obtain and maintain a valid license from the Department for each separate premises at which commercial cannabis activity is conducted.

(b) Commercial cannabis activity shall only be conducted between licensees. Licensed retailers and licensed microbusinesses authorized to engage in retail sales may conduct commercial cannabis activity with customers or nonprofits in accordance with this division.

(c) The licensee shall only conduct commercial cannabis activities authorized by the license and on the premises licensed for the activity.

(d) All transfers of cannabis and cannabis product shall be conducted by a licensed distributor.

(e) Licenses shall not be transferrable or assignable to another person or premises, except as provided in section 26050.2 of the Business and Professions Code. In the event of the sale or other transfer of the commercial cannabis business, changes in ownership shall be made in accordance with section 15023.

(f) Applicants and licensees shall use their legal business name on all documents related to commercial cannabis activity.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012, 26053, 26057 and 26070, Business and Professions Code.

§15000.2. A- and M- Designations.

(a) Licensees may conduct business with other licensees irrespective of the A-designation or M-designation on their licenses.

(b) Licensees authorized to engage in distribution shall only transport and sell cannabis goods designated as “For Medical Use Only” to M-designated retailers or M-designated microbusinesses authorized to engage in retail sales.

(c) Licensees authorized to engage in retail sales shall only sell cannabis goods designated as “For Medical Use Only” to medicinal customers.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26013, 26050 and 26053, Business and Professions Code.

§15000.3. Premises Location.

(a) A licensed premises shall not be in a location that requires persons to pass through a business that sells alcohol or tobacco or a private residence to access the licensed premises.

(b) A licensed premises shall not be in a location that requires persons to pass through the licensed premises to access a business that sells alcohol or tobacco or a private residence.

(c) A licensed premises shall not be located within a private residence. This subsection does not apply to cultivation licensees.

(d) Licensees shall ensure that the Department has immediate access to their licensed premises. If the Department is denied access to a licensee’s premises for any reason, the licensee shall be held responsible and subject to discipline. If the Department is denied access to one licensee’s premises because of another licensee’s refusal to grant access when the only access to one licensed premises is through another licensed premises, all licensees shall be held responsible and subject to discipline.

(2) If the written request for a hearing is not received within the required timeframe, the applicant's right to a hearing is waived.

(3) Upon timely receipt of the written request for hearing, the Department shall set a date for hearing to be conducted in accordance with chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code.

(d) If a license application is denied due to an owner's conviction history, the Department shall notify the applicant of the process for the owner to request a copy of their complete conviction history and question the accuracy or completeness of the record pursuant to Penal Code sections 11122 through 11127.

Authority: Section 26013, Business and Professions Code; Reference: Sections 26012, 26057 and 26058, Business and Professions Code.

§15023. Business Modifications.

Business modifications shall be made in accordance with the following:

(a) Changes to standard operating procedures may be made without providing notification to the Department, except as required by the Act or this division. Licensees shall maintain a copy of all current and prior operating procedures as required by section 15037 of this division.

(b) If at the time of licensure, a licensee employed less than 20 employees and later employs 20 or more employees, within 60 days of employing 20 or more employees, the licensee shall provide to the Department a notarized statement that the licensee will enter into a labor peace agreement and will abide by the terms of the agreement.

(c) Licenses are not transferrable or assignable to another person or owner. In the event of the sale or other transfer of the business or operations covered by the licensee, changes in ownership shall be made in accordance with the following:

(1) If one or more of the owners change, the new owners shall submit the information required under section 15002(c)(16) for each new owner to the Department within 14 calendar days of the effective date of the ownership change. The business may continue to operate under the active license while the Department reviews the qualifications of the new owner(s) in accordance with the Act and these regulations to determine whether the change would constitute grounds for denial of the license, if at least one existing owner is not transferring his or her ownership interest and will remain as an owner under the new ownership structure. If all owners will be transferring their ownership interest, the business shall not operate under the new ownership structure until a new license application has been submitted to and approved by the Department, and all application and license fees for the new application have been paid.

(A) A change in ownership occurs when a new person meets the definition of owner in section 15003 of this division.

(B) A change in ownership does not occur when one or more owners leave the business by transferring their ownership interest to the other existing owner(s).

(2) In cases where one or more owners leave the business by transferring their

ownership interest to the other existing owner(s), the owner or owners that are transferring their interest shall provide a signed statement to the Department confirming that they have transferred their interest within 14 calendar days of the change.

(d) When there is a change in financial interest holder(s) in the commercial cannabis business who do not meet the requirements for a new license application under this section, the licensee shall submit the information required by section 15002(c)(15) of this division to the Department within 14 calendar days of the change.

(e) When any of the following changes occur, the licensee shall notify the Department within 14 calendar days of the change:

(1) Any change to contact information from the information provided to the Department in the original application.

(2) Any change in name if the licensee is an individual, or any change in legal business name if the licensee is a business entity.

(3) Any change in business trade names, fictitious business names, or doing business as (“DBA”).

(4) Any change in the bond required under section 15002(c)(22) of this division.

(f) Licensees for all activities except cultivation may request to add an A-designation or M-designation to their license by sending a notification to the Department signed by at least one owner as defined in section 15003 of this division. A licensee shall not operate under the requested designation until they have received approval from the Department.

(g) Microbusiness licensees may add a commercial cannabis activity to their license or remove a commercial cannabis activity from their license if doing so is consistent with the requirement set forth in section 15500(a) of this division that licensees engage in at least three (3) commercial cannabis activities. Licensees shall request the modification by completing a request to modify the licensed premises pursuant to section 15027 of this division. A licensee shall not engage in a new commercial cannabis activity until they have paid for the modification and received approval from the Department.

(h) Except as permitted under Business and Professions Code section 26050.2(h), licensees may not be transferred from one premises to another. Licensees shall not operate out of a new premises until they have been issued a new license.

(i) For any business modification or notification under this section, licensees shall use and submit to the Department the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference, unless the change relates to contact information and can be made through the Department’s online system.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

§15024. Death, Incapacity, or Insolvency of a Licensee.

(a) In the event of the death, incapacity, receivership, assignment for the benefit of creditors or other event rendering one or more owners incapable of performing the duties associated with the license, the owner or owners' successor in interest (e.g., appointed guardian, executor, administrator, receiver, trustee, or assignee) shall notify the Department in writing, within 14 calendar days, by submitting the Licensee Notification and Request Form, Notifications and Requests to Modify a License, DCC-LIC-027 (Amended 9/21), which is incorporated herein by reference.

(b) To continue operations or surrender the existing license, the successor in interest shall submit to the Department the following:

(1) The name of the successor in interest.

(2) The name of the owner(s) for which the successor in interest is succeeding and the license number;

(3) The phone number, mailing address, and email address of the successor in interest; and

(4) Documentation demonstrating that the owner(s) is incapable of performing the duties associated with the license such as a death certificate or a court order, and documentation demonstrating that the person making the request is the owner or owners' successor in interest such as a court order appointing guardianship, receivership, or a will or trust agreement.

(c) The Department may give the successor in interest written approval to continue operations on the licensed business premises for a period of time specified by the Department:

(1) If the successor in interest or another person has applied for a license from the Department for the licensed premises and that application is under review;

(2) If the successor in interest needs additional time to destroy or sell cannabis or cannabis products; or

(3) At the discretion of the Department.

(d) The successor in interest is held subject to all terms and conditions under which a state cannabis license is held pursuant to the Act.

(e) The approval creates no vested right to the issuance of a state cannabis license.

Authority: Section 26013, Business and Professions Code. Reference: Section 26012, Business and Professions Code.

§15024.1. Cannabis and Cannabis Products After Termination of License.

In the event a license is terminated for any reason while cannabis or cannabis products remain on the premises, the following actions may be taken:

(a) The cannabis or cannabis products may be destroyed by the former licensee; or

(b) A licensed distributor or licensed microbusiness authorized to engage in distribution

Exhibit 15



BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 10. Cannabis [26000 - 26260] (*Heading of Division 10 amended by Stats. 2017, Ch. 27, Sec. 3.*)

CHAPTER 5. Licensing [26050 - 26059] (*Chapter 5 added November 8, 2016, by initiative Proposition 64, Sec. 6.1.*)

26050.2. (a) (1) Until June 30, 2022, except as provided in paragraphs (3) and (4), the department may, in its sole discretion, issue a provisional license to an applicant if the applicant has submitted a completed license application to the department, including the following, if applicable:

(A) If compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) is not complete, evidence that compliance is underway.

(B) If compliance with local ordinances enacted pursuant to Section 26200 is not complete, evidence that compliance is underway.

(C) Compliance with paragraphs (5) and (11) of subdivision (a) of Section 26051.5.

(D) For a license application that includes cultivation activities, any of the following documents:

(i) A final streambed alteration agreement.

(ii) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife.

(iii) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(iv) Written verification by the Department of Fish and Wildlife that the applicant has submitted a notification described in Section 1602 of the Fish and Game Code, submitted payment of applicable fees pursuant to Section 1609 of the Fish and Game Code, and is responsive to the Department of Fish and Wildlife. For purposes of this subparagraph, an applicant is not responsive to the Department of Fish and Wildlife if either of the following apply:

(I) The notification has been deemed incomplete a second time.

(II) After a notification has been deemed incomplete once, the Department of Fish and Wildlife has not received requested information from the applicant for more than 60 days.

(E) The application is submitted to the department on or before March 31, 2022.

(2) If an application for a cultivation license is submitted on or after January 1, 2022, the department shall not issue a provisional license pursuant to this section if issuing the provisional license would cause a licensee to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(3) Until June 30, 2023, the department may, in its sole discretion, issue a provisional license for a local equity license application, provided that the applicant meets the following requirements:

(A) The local equity applicant is not a cultivation license applicant for a premises that exceeds one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(B) Issuing the license would not cause the applicant to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(C) The local equity applicant satisfies all of the requirements in subparagraphs (A) to (D), inclusive, of paragraph (1).

(D) The local equity applicant submits an application to the department on or before March 31, 2023.

(4) Until September 30, 2022, the department may, in its sole discretion, issue a provisional license to a cultivation license applicant, provided that the applicant meets the following requirements:

(A) The applicant is not a cultivation license applicant for a premises that exceeds 20,000 square feet of total canopy for outdoor cultivation.

(B) Issuing the license would not cause the applicant to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation, or 22,000 square feet for mixed-light or indoor cultivation.

(C) The cultivation license applicant satisfies all of the requirements in subparagraphs (A) to (D), inclusive, of paragraph (1).

(D) The cultivation license applicant submits an application to the department on or before June 30, 2022.

(b) A provisional license issued pursuant to this section shall be valid for no more than 12 months from the date it was issued or renewed. If the department issues or renews a provisional license, it shall include the outstanding items needed to qualify for an annual license specific to the licensee.

(c) The department may, in its sole discretion, renew a provisional license until it issues or denies the provisional licensee's annual license, subject to the requirements of this section.

(d) For a renewal of a provisional license beginning July 1, 2022, through June 30, 2023, the department shall not renew a provisional license unless the following criteria are met:

(1) For cultivation licenses, to illustrate progress with compliance with Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code, one of the following documents:

(A) A final streambed alteration agreement issued by the Department of Fish and Wildlife.

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife by the provisional licensee.

(C) Written verification by the Department of Fish and Wildlife that the provisional licensee has submitted a complete notification described in Section 1602 of the Fish and Game Code.

(D) Written verification by the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(2) If compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) is not yet complete, a determination from the department that one of the following requirements has been met:

(A) The lead agency is in the process of preparing a site-specific initial study, addendum, or checklist pursuant to Section 15063, 15164, 15168, or 15183 of Title 14 of the California Code of Regulations to demonstrate whether it is consistent with a previously circulated and adopted negative declaration, mitigated negative declaration, or environmental impact report.

(B) If a local jurisdiction is the lead agency, the lead agency has made substantial progress during the previous 12-month licensure term toward completing project-specific environmental review by drafting, preparing, or circulating for public

review an environmental document pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) If the department is the lead agency, information requested by the department of the provisional licensee that demonstrates the furtherance of environmental review.

(D) Information submitted to the department by the provisional licensee applicant that demonstrates evidence of substantial progress toward compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) during the previous 12-month licensure term.

(e) On or after July 1, 2023, the department shall not renew a provisional license unless the following criteria are met:

(1) For cultivation licenses, to illustrate progress with compliance with Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code, one of the following documents:

(A) A final streambed alteration agreement issued by the Department of Fish and Wildlife.

(B) A draft streambed alteration agreement provided by the Department of Fish and Wildlife and signed and returned to the Department of Fish and Wildlife by the provisional licensee.

(C) Written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not needed.

(2) If compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) is not yet complete, to illustrate progress with compliance, a determination from the department that one of the following has been met:

(A) The lead agency for the license has prepared and circulated for public review a negative declaration or a mitigated negative declaration.

(B) The lead agency for the license has determined that an environmental impact report is required pursuant to Section 21157 of the Public Resources Code and has either made substantial progress in preparing that environmental impact report or has a contract or contracts with consultants in place for the preparation of that environmental impact report.

(C) The lead agency has certified to the department that it has conducted a reasonably comprehensive site-specific review and has reviewed, prepared, and deemed complete an initial study, addendum, or checklist pursuant to Section 15063, 15164, 15168, or 15183 of Title 14 of the California Code of Regulations, which demonstrates consistency with a previously circulated and adopted negative declaration, mitigated negative declaration, or environmental impact report, in preparation for approval of an annual license.

(D) The lead agency for the license has reviewed, prepared, and deemed complete a notice of exemption pursuant to Section 21108 or 21152 of the Public Resources Code, except for ministerial projects not subject to the California Environmental Quality Act pursuant to paragraph (1) of subdivision (b) of Section 21080 of the Public Resources Code.

(f) A provisional license authorizing cultivation activities shall not be renewed if the department is notified of either or both of the following:

(1) The State Water Resources Control Board has notified the department that the provisional licensee is not in compliance with subdivision (a) or (b) of Section 26060.1 or the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.

(2) The Department of Fish and Wildlife has notified the department that the provisional licensee is not in compliance with any final streambed alteration agreement, any conditions set forth in a signed draft streambed alteration agreement, or a condition established pursuant to subdivision (a) or paragraphs (1) and (2) of subdivision (b) of Section 26060.1.

(g) (1) After January 1, 2023, the department shall not renew a license pursuant to this section for cultivation activities if renewing the license would cause a licensee to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation or 22,000 square feet for mixed-light or indoor cultivation.

(2) After January 1, 2024, no provisional license that causes a licensee to hold multiple cultivation licenses on contiguous premises to exceed one acre of total canopy for outdoor cultivation or 22,000 square feet for mixed-light or indoor cultivation shall be in effect.

(h) The department, in its sole discretion, may allow a provisional licensee to move locations after the date provisional licenses can no longer be issued provided that the new location is approved in compliance with California Environmental Quality Act, and Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code. If all other renewal requirements are satisfied, the department may also renew the license at the new location.

(i) The department may, in its sole discretion, revoke or suspend a provisional license if it determines the licensee failed to actively and diligently pursue requirements for the annual license. The department shall adopt regulations clarifying what constitutes actively and diligently pursuing requirements for the annual license.

(j) The department shall cancel a provisional license upon issuance of an annual license, denial of an annual license, abandonment of an application for licensure, or withdrawal of an application for licensure.

(k) Except as specified in this section, the provisions of this division shall apply to a provisional license in the same manner as to an annual license.

(l) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the issuance of a license pursuant to this section by the department, except as otherwise provided in this section.

(m) Refusal by the department to issue a license pursuant to this section or revocation or suspension by the department of a license issued pursuant to this section shall not entitle the applicant or licensee to a hearing or an appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division and Sections 26031 and 26058 shall not apply to licenses issued pursuant to this section.

(n) For purposes of this section, “streambed alteration agreement” has the same meaning as the term “agreement” is defined in Section 1601 of the Fish and Game Code, which includes both individual agreements and general agreements under Section 1617 of the Fish and Game Code.

(o) The Department may not renew a provisional license after January 1, 2025 and no provisional license shall be effective after January 1, 2026.

(p) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(q) It is the intent of the Legislature that no further exemptions from annual licenses be adopted and that any licenses issued under this division after January 1, 2025, be issued in compliance with all relevant environmental laws.

(r) It is the intent of the Legislature that funds appropriated in Item 1115-101-0001 of the Budget Act of 2021 shall be promptly deployed to allow local jurisdictions to meet the deadlines in this Act.

(Amended by Stats. 2021, Ch. 260, Sec. 1. (SB 166) Effective September 23, 2021. Repealed as of January 1, 2026, by its own provisions.)

Exhibit 16


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CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 6.5. ATTACHMENT [481.010 - 493.060] (Title 6.5 added by Stats. 1974, Ch. 1516.)

CHAPTER 13. Effect of Bankruptcy Proceedings and General Assignments for the Benefit of Creditors [493.010 - 493.060] (Chapter 13 added by Stats. 1977, Ch. 499.)

493.010. As used in this chapter, "general assignment for the benefit of creditors" means an assignment which satisfies all of the following requirements:

- (a) The assignment is an assignment of all the defendant's assets that are transferable and not exempt from enforcement of a money judgment.
- (b) The assignment is for the benefit of all the defendant's creditors.
- (c) The assignment does not itself create a preference of one creditor or class of creditors over any other creditor or class of creditors, but the assignment may recognize the existence of preferences to which creditors are otherwise entitled.

(Amended by Stats. 1982, Ch. 1198, Sec. 61. Operative July 1, 1983, by Sec. 70 of Ch. 1198.)

493.020. Notwithstanding any other provision of this title, the defendant may make a general assignment for the benefit of creditors.

(Added by Stats. 1977, Ch. 499.)

493.030. (a) The making of a general assignment for the benefit of creditors terminates a lien of a temporary protective order or of attachment if the lien was created within 90 days prior to the making of the general assignment.

(b) The filing of a petition commencing a voluntary or involuntary case under Title 11 of the United States Code (Bankruptcy) terminates a lien of a temporary protective order or of attachment if the lien was created within 90 days prior to the filing of the petition.

(c) Subdivisions (a) and (b) do not apply unless all liens of attachment on the defendant's property in other states that were created within 90 days prior to the making of a general assignment for the benefit of creditors or the filing of a petition commencing a case under Title 11 of the United States Code (Bankruptcy) have terminated.

(Amended by Stats. 1979, Ch. 177.)

493.040. (a) Where a lien of attachment terminates pursuant to Section 493.030, the assignee under a general assignment for the benefit of creditors or, in the case of a bankruptcy, the trustee, interim trustee, or the debtor in possession if there is no trustee or interim trustee, may secure the release of the attached property by filing with the levying officer a request for release of attachment stating the grounds for release and describing the property to be released, executed under oath, together with a copy thereof.

(b) In the case of an assignee, the request shall include two copies of the general assignment for the benefit of creditors.

(c) In the case of a trustee, interim trustee, or debtor in possession, the request shall include a certified copy of the petition in bankruptcy, together with a copy thereof.

(d) If immediate release of the attachment is sought, the request shall be accompanied by an undertaking to pay the plaintiff any damages resulting from an improper release of the attachment, in the amount to be secured by the attachment, executed by an admitted surety insurer.

(e) Within five days after the filing of the request for release of attachment, the levying officer shall mail to the plaintiff:

- (1) A copy of the request for release of the attachment, including the copy of the document filed pursuant to subdivision (b) or (c).
- (2) If an undertaking has not been given, a notice that the attachment will be released pursuant to the request for release of attachment unless otherwise ordered by a court within 10 days after the date of mailing the notice.
- (3) If an undertaking has been given, a notice that the attachment has been released.

(f) Unless otherwise ordered by a court, if an undertaking has not been given, the levying officer shall release the attachment pursuant to the request for release of attachment after the expiration of 10 days from the date of mailing the papers referred to in subdivision (e) to the plaintiff. If an undertaking has been given, the levying officer shall immediately release the attachment pursuant to the request for release of attachment.

(g) Where the attached property has been taken into custody, it shall be released to the person making the request for release of attachment or some other person designated in the request. Where the attached property has not been taken into custody, it shall be released as provided in subdivision (c) or (d) of Section 488.730.

(h) The levying officer is not liable for releasing an attachment in accordance with this section nor is any other person liable for acting in conformity with the release.

(Amended by Stats. 1982, Ch. 1198, Sec. 62.5. Operative July 1, 1983, by Sec. 70 of Ch. 1198.)

493.050. (a) The lien of a temporary protective order or of attachment, which has terminated pursuant to Section 493.030, is reinstated with the same effect as if it had not been terminated in the following cases:

- (1) Where the termination is the result of the making of a general assignment for the benefit of creditors and the general assignment for the benefit of creditors is set aside otherwise than by the filing of a petition commencing a case under Title 11 of the United States Code (Bankruptcy).
- (2) Where the termination is the result of the filing of a petition commencing a case under Title 11 of the United States Code (Bankruptcy) and the petition is dismissed.
- (3) Where the termination is the result of the filing of a petition commencing a case under Title 11 of the United States Code (Bankruptcy) and the trustee abandons property which had been subject to the lien of the temporary protective order or of attachment.

(b) The period from the making of a general assignment for the benefit of creditors until reinstatement of the lien of the temporary protective order or of attachment is not counted in determining the duration of the temporary protective order or the lien of attachment.

(Amended by Stats. 1979, Ch. 177.)

493.060. (a) Upon the making of a general assignment for the benefit of creditors that terminates a lien under this chapter, the assignee is subrogated to the rights of the plaintiff under the temporary protective order or attachment.

(b) Upon the filing of a petition commencing a case under Title 11 of the United States Code (Bankruptcy), a lien terminated pursuant to this chapter is preserved for the benefit of the estate.

(Amended by Stats. 1979, Ch. 177.)

Exhibit 17


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CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 7. OTHER PROVISIONAL REMEDIES IN CIVIL ACTIONS [501 - 574] (Heading of Title 7 added by Stats. 1974, Ch. 1516.)

CHAPTER 5. Receivers [564 - 570] (Chapter 5 enacted 1872.)

564. (a) A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which the court is empowered by law to appoint a receiver.

(b) A receiver may be appointed by the court in which an action or proceeding is pending, or by a judge of that court, in the following cases:

(1) In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to the creditor's claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds of the property or fund, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured.

(2) In an action by a secured lender for the foreclosure of a deed of trust or mortgage and sale of property upon which there is a lien under a deed of trust or mortgage, where it appears that the property is in danger of being lost, removed, or materially injured, or that the condition of the deed of trust or mortgage has not been performed, and that the property is probably insufficient to discharge the deed of trust or mortgage debt.

(3) After judgment, to carry the judgment into effect.

(4) After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010)), or after sale of real property pursuant to a decree of foreclosure, during the redemption period, to collect, expend, and disburse rents as directed by the court or otherwise provided by law.

(5) Where a corporation has been dissolved, as provided in Section 565.

(6) Where a corporation is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights.

(7) In an action of unlawful detainer.

(8) At the request of the Public Utilities Commission pursuant to Section 1825 or 1826 of the Public Utilities Code.

(9) In all other cases where necessary to preserve the property or rights of any party.

(10) At the request of the Office of Statewide Health Planning and Development, or the Attorney General, pursuant to Section 129173 of the Health and Safety Code.

(11) In an action by a secured lender for specific performance of an assignment of rents provision in a deed of trust, mortgage, or separate assignment document. The appointment may be continued after entry of a judgment for specific performance if appropriate to protect, operate, or maintain real property encumbered by a deed of trust or mortgage or to collect rents therefrom while a pending nonjudicial foreclosure under power of sale in a deed of trust or mortgage is being completed.

(12) In a case brought by an assignee under an assignment of leases, rents, issues, or profits pursuant to subdivision (g) of Section 2938 of the Civil Code.

(c) A receiver may be appointed, in the manner provided in this chapter, including, but not limited to, Section 566, by the superior court in an action brought by a secured lender to enforce the rights provided in Section 2929.5 of the Civil Code, to enable the secured lender to enter and inspect the real property security for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security. The secured lender shall not abuse the right of entry and inspection or use it to harass the borrower or tenant of the property. Except in case of an emergency, when the borrower or tenant of the property has abandoned the premises, or if it is impracticable to do so, the secured lender shall give the borrower or tenant of the property reasonable notice of the secured lender's intent to enter and shall enter only during the borrower's or tenant's normal business hours. Twenty-four hours' notice shall be presumed to be reasonable notice in the absence of evidence to the contrary.

(d) Any action by a secured lender to appoint a receiver pursuant to this section shall not constitute an action within the meaning of subdivision (a) of Section 726.

(e) For purposes of this section:

(1) "Borrower" means the trustor under a deed of trust, or a mortgagor under a mortgage, where the deed of trust or mortgage encumbers real property security and secures the performance of the trustor or mortgagor under a loan, extension of credit, guaranty, or other obligation. The term includes any successor in interest of the trustor or mortgagor to the real property security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed upon.

(2) "Hazardous substance" means any of the following:

(A) Any "hazardous substance" as defined in subdivision (h) of Section 25281 of the Health and Safety Code.

(B) Any "waste" as defined in subdivision (d) of Section 13050 of the Water Code.

(C) Petroleum including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof.

(3) "Real property security" means any real property and improvements, other than a separate interest and any related interest in the common area of a residential common interest development, as the terms "separate interest," "common area," and "common interest development" are defined in Sections 4095, 4100, and 4185 of the Civil Code, or real property consisting of one acre or less that contains 1 to 15 dwelling units.

(4) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including continuing migration, of hazardous substances into, onto, or through soil, surface water, or groundwater.

(5) "Secured lender" means the beneficiary under a deed of trust against the real property security, or the mortgagee under a mortgage against the real property security, and any successor in interest of the beneficiary or mortgagee to the deed of trust or mortgage.

(Amended by Stats. 2020, Ch. 27, Sec. 1. (SB 350) Effective January 1, 2021.)

565. Upon the dissolution of any corporation, the Superior Court of the county in which the corporation carries on its business or has its principal place of business, on application of any creditor of the corporation, or of any stockholder or member thereof, may appoint one or more persons to be receivers or trustees of the corporation, to take charge of the estate and effects thereof, and to collect the debts and property due and belonging to the corporation, and to pay the outstanding debts thereof, and to divide the moneys and other property that shall remain over among the stockholders or members.

(Amended by Code Amendments 1880, Ch. 15.)

566. (a) No party, or attorney of a party, or person interested in an action, or related to any judge of the court by consanguinity or affinity within the third degree, can be appointed receiver therein without the written consent of the parties, filed with the clerk.

(b) If a receiver is appointed upon an ex parte application, the court, before making the order, must require from the applicant an undertaking in an amount to be fixed by the court, to the effect that the applicant will pay to the defendant all damages the defendant may sustain by reason of the appointment of the receiver and the entry by

the receiver upon the duties, in case the applicant shall have procured the appointment wrongfully, maliciously, or without sufficient cause.

(Amended by Stats. 1982, Ch. 517, Sec. 127.)

567. Before entering upon the duties of a receiver:

(a) The receiver must be sworn to perform the duties faithfully.

(b) The receiver shall give an undertaking to the State of California, in such sum as the court or judge may direct, to the effect that the receiver will faithfully discharge the duties of receiver in the action and obey the orders of the court therein. The receiver shall be allowed the cost of the undertaking.

(Amended by Stats. 1982, Ch. 517, Sec. 128.)

568. The receiver has, under the control of the Court, power to bring and defend actions in his own name, as receiver; to take and keep possession of the property, to receive rents, collect debts, to compound for and compromise the same, to make transfers, and generally to do such acts respecting the property as the Court may authorize.

(Enacted 1872.)

568.1. Any securities in the hands of a receiver may, under the control of the court, be deposited by the receiver in a securities depository, as defined in Section 30004 of the Financial Code, which is licensed under Section 30200 of the Financial Code or exempted from licensing thereunder by Section 30005 or 30006 of the Financial Code, and such securities may be held by such securities depository in the manner authorized by Section 775 of the Financial Code.

(Added by Stats. 1972, Ch. 1057.)

568.2. (a) A receiver of real property containing rental housing shall notify the court of the existence of any order or notice to correct any substandard or unsafe condition, as defined in Section 17920.3 or 17920.10 of the Health and Safety Code, with which the receiver cannot comply within the time provided by the order or notice.

(b) The notice shall be filed within 30 days after the receiver's appointment or, if the substandard condition occurs subsequently, within 15 days of its occurrence.

(c) The notice shall inform the court of all of the following:

(1) The substandard conditions that exist.

(2) The threat or danger that the substandard conditions pose to any occupant of the property or the public.

(3) The approximate cost and time involved in abating the conditions. If more time is needed to approximate the cost, then the notice shall provide the date on which the approximate cost will be filed with the court and that date shall be within 10 days of the filing.

(4) Whether the receivership estate is likely to contain sufficient funds to abate the conditions.

(d) If the receivership estate does not contain sufficient funds to abate the conditions, the receiver shall request further instructions or orders from the court.

(e) The court, upon receipt of a notice pursuant to subdivision (d), shall consider appropriate orders or instructions to enable the receiver to correct the substandard conditions or to terminate or limit the period of receivership.

(Amended by Stats. 2005, Ch. 595, Sec. 3. Effective January 1, 2006.)

568.3. Any tenant of real property that is subject to receivership, a tenant association or organization, or any federal, state, or local enforcement agency, may file a motion in a receivership action for the purpose of seeking further instructions or orders from the court, if either of the following is true:

(a) Substandard conditions exist, as defined by Section 17920.3 or 17920.10 of the Health and Safety Code.

(b) A dispute or controversy exists concerning the powers or duties of the receiver affecting a tenant or the public.

(Amended by Stats. 2005, Ch. 595, Sec. 4. Effective January 1, 2006.)

568.5. A receiver may, pursuant to an order of the court, sell real or personal property in the receiver's possession upon the notice and in the manner prescribed by Article 6 (commencing with Section 701.510) of Chapter 3 of Division 2 of Title 9. The sale is not final until confirmed by the court.

(Amended by Stats. 1982, Ch. 497, Sec. 35. Operative July 1, 1983, by Sec. 185 of Ch. 497.)

568.6. A receiver appointed at the request of the Public Utilities Commission pursuant to Section 1825 of the Public Utilities Code shall control and operate Pacific Gas and Electric Company upon such terms and conditions as the court prescribes.

(Added by Stats. 2020, Ch. 27, Sec. 2. (SB 350) Effective January 1, 2021.)

569. Funds in the hands of a receiver may be deposited in one or more interest bearing accounts in the name and for the benefit of the receivership estate with one or more financial institutions, provided that all of the following conditions are satisfied:

(a) The deposits are fully guaranteed or insured under federal law.

(b) The financial institution in which the funds are deposited is not a party to the action in which the receiver was appointed.

(c) The receiver does not own 1 percent or more in value of the outstanding stock of the financial institution, is not an officer, director, or employee of the financial institution, and is not a sibling, whether by the whole or half-blood, spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an owner, officer, employee, or director.

(Amended by Stats. 1998, Ch. 932, Sec. 16. Effective January 1, 1999.)

570. A receiver having any funds in his hands belonging to a person whose whereabouts are unknown to him, shall, before receiving his discharge as such receiver, publish a notice, in one or more newspapers published in the county, at least once a week for four consecutive weeks, setting forth the name of the owner of any unclaimed funds, the last known place of residence or post office address of such owner and the amount of such unclaimed funds. Any funds remaining in his hands unclaimed for 30 days after the date of the last publication of such notice, shall be reported to the court, and upon order of the court, all such funds must be paid into the State Treasury accompanied with a copy of the order, which must set forth the facts required in the notice herein provided. Such funds shall be deemed to have been received by the State under Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of this code and may be recovered in the manner prescribed therein.

All costs and expenses connected with such advertising shall be paid out of the funds the whereabouts of whose owners are unknown.

(Amended by Stats. 1963, Ch. 1762.)

Exhibit 18



Effective September 26, 2022 (Revised October 4, 2022)

Regulation No. 1. Definitions.

The definitions set forth in Los Angeles Municipal Code Section 104.01 apply to these Rules and Regulations. In addition, the following definitions shall apply to these Rules and Regulations:

1. **“Application Date”** means the date the Applicant pays all Pre-Application Review or Modification Request Form Review fees associated with a Business Premises relocation request, whichever is applicable, required under Los Angeles Municipal Code Section 104.19.
2. **“Authorized Agent”** means a natural person who is a Primary Personnel of the Applicant and/or Licensee and who is authorized to submit and sign certain forms and documents, as identified on each form or document, and to communicate with DCR on behalf of an Applicant and/or Licensee.
3. **“Cannabis Goods”** means Cannabis, including dried flower, and products containing Cannabis, as currently defined in Section 5000 of Title 16, Division 42 of the California Code of Regulations, or as may be amended.
4. **“City”** means the City of Los Angeles.
5. **“DCR”** means the City of Los Angeles Department of Cannabis Regulation.
6. **“LAMC”** means the Los Angeles Municipal Code.
7. **“Legal Business Entity Record”** means a record submitted to DCR through the DCR Licensing Portal that contains: (i) business entity information, forms, and documents, including, but not limited to, business formation and organization documents, articles of incorporation, bylaws, operating agreements, partnership agreements, and fictitious business name statements; and (ii) information, forms, and documents pertaining Owner(s), Primary Personnel, and, if applicable, an Authorized Agent.
8. **“Limited-Access Area”** means an area of the Business Premises in which cannabis goods are stored or held or through which cannabis goods will be moved, except for a retail area in which cannabis goods are sold or displayed.

9. **“Neighborhood Liaison”** means a natural person specifically designated by the Applicant and/or Licensee to interact with the community on behalf of the Applicant and/or Licensee.

10. **“Owner”** means a Person with at least a 20 percent aggregate ownership stake or equity interest in the Applicant or Licensee, unless the interest is solely a security, lien, profit sharing, or encumbrance. Aggregate means the total ownership interest held individually or through an entity. For example, an individual owning 50% of an entity that owns 50% of a cannabis business would have a 25% aggregate ownership interest in the cannabis business.

11. **“Primary Personnel”** means any of the following: (i) a natural person with at least a 20 percent aggregate ownership stake or equity interest in the Person applying for a License or a Licensee, unless the interest is solely a security, lien, profit sharing, or encumbrance; (ii) a natural person who manages, directs, or controls the operations of the commercial cannabis business, including but not limited to: a chief executive officer, president, vice president, officer, general manager, a member of the board of directors, a general partner, a managing member or a non-member manager, and/or a trustee(s) or persons who have control of the trust; (iii) if the Applicant or Licensee is owned in whole or in part by an entity and the entity includes natural persons who manage, direct, or control the operations of the Applicant or Licensee, those natural persons shall also be disclosed as Primary Personnel; and (iv) DCR may determine, in its sole discretion on a case-by-case basis, that additional natural persons have the ability to manage, direct, or control the commercial cannabis business and meet the criteria of Primary Personnel. Upon notification by DCR, the Applicant or Licensee must disclose the natural person(s) as a Primary Personnel.

12. **“Publicly Available”** in reference to a Sensitive Use means identified on an official list posted on the official websites maintained by or on behalf of the respective responsible governmental agencies listed in the LAMC.

13. **“Sensitive Use”** means an Alcoholism or Drug Abuse Recovery or Treatment Facility, Day Care Center, Public Library, Public Park, School, and/or Permanent Supportive Housing.

14. **“State”** means the State of California Department of Cannabis Control or other relevant State of California agency.

15. **“Track and Trace System”** means a system as described in Section 26067 of the California Business and Professions Code which reports the movement of cannabis products throughout the distribution chain using a unique identifier.

16. **“Verification Date”** means the first business day of the calendar quarter beginning February 1, May 1, August 1, or November 1, which immediately precedes the Application Date.

Regulation No. 2. Licenses.

A. The Licenses available for Commercial Cannabis Activity are the same as those listed in LAMC Section 104.02. Applicants shall follow the requirements of these Rules and Regulations, all relevant LAMC provisions, and all applicable County of Los Angeles and State of California rules when applying for a License.

B. DCR shall not issue Licenses or other authorization for temporary events in the City of Los Angeles.

C. Licensees shall engage only in the Commercial Cannabis Activity(ies) for which a License has been issued and only at the Business Premises location for that License. DCR may suspend or revoke a license(s) if it determines that a Licensee is conducting unlicensed Commercial Cannabis Activity.

Regulation No. 3. Application Procedure.

A. General

1. DCR accepts Pre-Application Review records, Applications, modification requests, and other requests for service through the DCR Licensing Portal. Fee payments required under LAMC Section 104.19 and any outstanding taxes are due before DCR may process any record, Application, modification record or other request for service.

2. All required information, forms and/or documents shall be submitted in completed form through the DCR Licensing Portal at the time a record, Application, modification request, or other request for service is created.

3. A Legal Business Entity Record shall be submitted in completed form through the DCR Licensing Portal before a Pre-Application Review, Application, modification request, or other licensing request for service is created.

4. DCR shall consider an Application filed following: (i) the completion of a Legal Business Entity Record; (ii) a Pre-Application Review determination of eligibility; (iii) the submission of all required and completed License or Temporary Approval information, forms, and documents through DCR's Licensing Portal; and (iv) the payment of the applicable Application fee(s) for each Commercial Cannabis Activity pursuant to Section 104.19.

5. An Application or modification request may be deemed abandoned if DCR determines, at any time and in its sole discretion, that an Application or modification request is incomplete, fee payments required under Section 104.19 are not timely paid, or information, forms or documents have not been provided within the time allotted by DCR. DCR shall notify the Applicant or Licensee by electronic mail when a record is deemed abandoned.

6. If an Applicant or Licensee loses site control of its proposed Business Premises, including, but not limited to, termination of the Applicant's commercial lease, or termination of the right to occupy the Business Premises, the Applicant or Licensee shall submit a Business Premises Surrender Form (LIC-4019-FORM) within ten (10) days of losing site control. The associated application record may be subject to abandonment pursuant to LAMC Section 104.03(h).

7. If DCR determines that an Application or modification request is incomplete, DCR shall notify the Applicant. DCR may request additional information and documents from the Applicant not listed in the Rules and Regulations to determine if an Application is complete. If the Applicant fails to correct the deficiencies within the time allowed by DCR, the Application shall be deemed abandoned. Unless another period of time is specified, all required information, forms and/or documents shall be submitted

through the DCR Licensing Portal within 30 days, and all fees shall be paid within 30 days of the date of the invoice issuance.

8. Material misrepresentations, false statements, or the failure to disclose a material fact in any type of submission to DCR, including, but not limited to, a Pre-Application Review record, Temporary Approval Application, or modification request, may result in the issuance of a Notice of Correction, Notice of Violation, denial of Temporary Approval or a License, suspension of Temporary Approval or License, and/or revocation of a Temporary Approval or License.

9. Applicants and Licensees shall follow the instructions on DCR's forms, including, but not limited to, instructions related to signature or processing requirements. Failure to follow instructions on DCR forms may result in the rejection of the form, or denial or abandonment of the relevant request or application. Resubmitted forms may be subject to additional fees pursuant to LAMC Section 104.19.

B. Legal Business Entity Record and Pre-Application Review

1. A prospective Applicant shall email a completed application for a Business Tax Registration Certificate (BTRC) to dcrlicensing@lacity.org.

2. Once the City of Los Angeles Office of Finance issues a BTRC account number, a prospective Applicant may submit a Legal Business Entity Record through the DCR Licensing Portal. A sole proprietorship is not required to submit a Legal Business Entity Record. A sole proprietorship may submit a Pre-Application Review record and later convert to a different entity type by submitting a Legal Business Entity Record prior to the submission of an Application.

(i) Legal Business Entity records must include:

A. The Accela Citizen Access (ACA) Reference Contact ID of the legal business entity.

B. The name of the legal business entity. If applicable, the business trade name ("DBA") of the Applicant must be also disclosed.

C. The Business Tax Registration Certificate (BTRC) number issued by the City of Los Angeles Office of Finance (Office of Finance) to the legal business entity. DCR may approve changes to the BTRC number when processing certain modification requests. Any changes to a BTRC number after an Application has been filed or a License issued must have written approval from DCR and/or the Office of Finance.

D. The unique entity number issued by the State of California Secretary of State to the legal business entity.

E. Identify and provide the ACA Reference Contact ID for the following Persons: all Owner(s); all Primary Personnel; and, if applicable, an Authorized Agent.

F. The following forms: Financial Information Form; List of Primary Personnel and Owner(s) (LIC-4003-FORM); Primary Personnel and Owner Attestation (LIC-4004-FORM); Ownership Disclosure Form (LIC-4008-FORM); Authorized Agent Acknowledgement (LIC-4009-FORM), if applicable; Initial Inspection Attestation (LIC-4021-FORM); and, Social Equity Program - Owner Compliance Attestation (SEP-6001-FORM), if applicable.

G. The following documents: stamped County of Los Angeles fictitious name (DBA) filing, if applicable; business records evidencing compliance with the Equity Share requirements in LAMC Section 104.20, if applicable; business formation and organization documents, which may include articles of incorporation, bylaws, operating agreements, partnership agreements, and fictitious business name statements. The Applicant shall also provide all documents filed with the State of California, which may include, but are not limited to, articles of incorporation, certificates of stock, articles of organization, certificates of limited partnership, and statements of partnership authority.

H. DCR may request additional or updated information, forms, or documents from the legal business entity at any time, subject to payment of any additional fees under LAMC Section 104.19(h).

3. After a prospective Applicant has submitted a Legal Business Entity Record, the prospective Applicant may submit a Pre-Application Review record through the DCR Licensing Portal, including all information, forms and documents as described in this subsection, and pay a Pre-Application Review Fee pursuant to LAMC Section 104.19 for DCR to determine the eligibility of a proposed Business Premises location pursuant to LAMC Section 104.03(a)(3) and Article 5 of Chapter X of the LAMC.

(i) Pre-Application Review records must include the following:

A. The physical address(es) of the Business Premises where Commercial Cannabis Activity is proposed to be conducted.

B. All Commercial Cannabis Activity or Activities and License type(s) the prospective Applicant would like to apply for and whether the proposed Commercial Cannabis Activity will involve medical (M-Type) and/or adult use (A-Type).

C. Landowner Attestation for Location Eligibility (LIC-4016-FORM).

D. Legal Business Entity Record number.

E. Business Tax Registration Certificate (BTRC) number.

F. DCR may request additional information, forms, or documents from the Applicant at any time during the Pre-Application Review, subject to payment of any additional fees under LAMC Section 104.19(h). Unless another period of time is specified, all required information, forms and/or documents shall be submitted through the DCR Licensing Portal within 30 days, and all fees shall be paid within 30 days of the date of the invoice issuance.

(ii) Within 30 days of payment of the Pre-Application Review Fee, DCR shall complete its review of the Pre-Application Review record.

(iii) The Business Premises address submitted on the Pre-Application Review record through the DCR Licensing Portal shall not be amended or modified while the Pre-Application Review is pending.

5. Legal Business Entity Record or Pre-Application Review records that are incomplete or missing required information, forms or documents shall not be eligible for further processing.

6. An Applicant whose Business Premises location is deemed ineligible under Section 104.03(a)(3) or Article 5 of Chapter X of the LAMC shall not be permitted to amend their Pre-Application Review record, but may submit a new Pre-Application Review record subject to the payment of applicable fee(s) in LAMC Section 104.19.

7. A proposed Business Premises location shall be deemed compliant with the required distances specified in LAMC Section 105.02 from Sensitive Uses if the proposed Business Premises location complies with the required distances from all Sensitive Uses that are Publicly Available to the Department of Cannabis Regulation on the Verification Date.

8. If the Pre-Application Review record is deemed eligible for further processing, the Applicant shall submit a Temporary Approval Application or annual License Application through the DCR Licensing Portal, including all required information, forms, and documents, within one (1) calendar year of the date DCR notifies the Applicant by electronic mail that the Pre-Application Review record is eligible for further processing.

C. Public Convenience or Necessity (PCN)

1. If the proposed Business Premises is located in a Community Plan Area that has reached Undue Concentration, the prospective Applicant must request that the City Council find that approval of the Application would serve the public convenience or necessity pursuant to LAMC Section 104.03(a)(4). If the City Council finds that approval of the Application would serve the public convenience or necessity, the Applicant shall pay a Temporary Approval Application Fee pursuant to Section 104.19 within 30 days of the City Council's action becoming final.

2. PCN records shall include the following:

(i) Public Convenience or Necessity Finding Request (LIC-4001-FORM); and

(ii) Copies of the completed Stakeholder Input Request forms submitted to the following key stakeholders for the area in which the proposed Business Premises will be located: area Neighborhood Council; Los Angeles Police Department (LAPD) Division; local chamber of commerce; and at least one substance abuse intervention, prevention and treatment organization within the Community Plan Area.

D. Temporary Approval Application

1. Within one (1) calendar year of the date DCR notifies the Applicant by electronic mail that the Pre-Application Review record is eligible for further processing, an Applicant shall submit a Temporary Approval Application record through the DCR Licensing Portal, including all information, forms and documents as described in subsection (2).

(i) The Business Premises address deemed eligible for further processing shall not be amended or modified while the Temporary Approval Application is pending.

(ii) Within 60 days of the filing of a Temporary Approval Application through the DCR Licensing Portal, DCR shall conduct its initial review of the Temporary Approval Application for completeness.

(iii) An Applicant has 60 days from the date of submitting a Temporary Approval Application to submit a modification request through the DCR Licensing Portal. Thereafter, DCR shall have 30 days from the date of the filing of the modification request to complete a review of the request.

A. If an Applicant files a modification request through the DCR Licensing Portal within 60 days of the submission of a Temporary Approval Application, DCR shall temporarily suspend its processing of the Temporary Approval Application.

B. If the modification request is approved, DCR shall complete its initial review of the Temporary Approval Application within 60 days of the approval of the modification request.

C. If the modification request is ineligible or abandoned, DCR shall complete its initial review of the Temporary Approval Application within 60 days of the closure of the modification request.

2. In addition to materials submitted earlier in the application process, Temporary Approval Application records must include:

(i) The name of the Applicant. For Applicants who are Individuals, the Applicant shall provide both the first and last name of the Individual. For Applicants who are business entities, the Applicant shall provide the legal Business name of the Applicant. If applicable, the business trade name (“DBA”) of the Applicant must be also disclosed.

(ii) Contact information and provide the ACA Reference Contact ID for the following Persons, including name, address, phone number, and email address: all Neighborhood Liaison(s); and all optional contact types, such as consultants or attorneys. Neighborhood Liaison(s) shall have a phone number and email to receive and address complaints 24 hours a day.

(iii) The following forms: Indemnification Agreement (LIC-4005-FORM); Labor Peace Agreement Attestation Form (LIC-4006-FORM); Evidence of Legal Right to Occupy (LIC-4007-FORM); Temporary Approval Attestation (LIC-4010-FORM); No Alcohol or Tobacco Applicant Attestation (LIC-4020-FORM); and, Initial Inspection Attestation (LIC-4021-FORM).

(iv) The following documents: Business Premises diagram; and, executed lease or property deed.

(v) Testing Lab Applicants shall also provide proof of ISO 17025 accreditation or proof that the Applicant is in the process of applying or is preparing to apply for ISO 17025 accreditation, as well as laboratory-employee qualifications as required by the State of California.

3. DCR shall consider a Temporary Approval Application filed following: (i) a determination of eligibility; (ii) the submission of all required and completed Temporary Approval information, forms, and documents through DCR's Licensing Portal; and (iii) and the payment of the applicable Temporary Approval Application Fee(s) for each Commercial Cannabis Activity pursuant to Section 104.19.

(i) Within 60 days of payment of the Temporary Approval Application Fee(s), DCR shall complete its initial review of the Temporary Approval Application record.

A. If DCR determines the Temporary Approval Application is incomplete, DCR shall notify the Applicant. DCR shall request additional information, forms, and/or documents from the Applicant to complete the Temporary Approval Application and issue an invoice for applicable fees. All fees shall be paid within 30 days of the date of the invoice issuance and all required information, forms and/or documents shall be submitted through the DCR Licensing Portal within 30 days, unless another period of time is specified in writing by DCR.

(ii) Within 30 days of submission of additional information through the DCR Licensing Portal or payment of applicable fee(s), whichever occurs later, DCR shall complete its second review of the Temporary Approval Application record.

A. If DCR determines the Temporary Approval Application is still incomplete, DCR shall notify the Applicant. DCR shall request additional information, forms, and/or documents from the Applicant to complete the Temporary Approval Application and issue an invoice for applicable fees. All fees shall be paid within 30 days of the date of the invoice issuance and all required information, forms and/or documents shall be submitted through the DCR Licensing Portal within 30 days, unless another period of time is specified in writing by DCR.

(iii) Within 30 days of submission of additional information through the DCR Licensing Portal or payment of applicable fee(s), whichever occurs later, DCR shall complete its third review of the Temporary Approval Application record.

A. If DCR determines the Temporary Approval Application is still incomplete, DCR shall abandon the Temporary Approval Application and notify the Applicant.

4. If DCR determines that the Application is complete, DCR shall update the Application status to “Local Compliance Underway” within seven (7) days of its determination.

5. DCR shall conduct an Initial Inspection within 45 days of a request for an Initial Inspection submitted by email to DCRLicensing@lacity.org or through the DCR Licensing Portal.

6. Within 15 days of an Applicant passing the Initial Inspection or DCR determining that all Temporary Approval information, forms and documents have been submitted and are complete, whichever occurs last, DCR shall issue Temporary Approval.

7. If an Applicant receives Temporary Approval, the Applicant shall adhere to all applicable rules and regulations as would be required if the Applicant held a non-temporary License of the same type.

E. Environmental Clearance

1. Prior to the submission of an annual License Application containing a complete project description for a License and payment of all applicable fees, DCR shall consider whether the Application has been subject to prior environmental review under the California Environmental Quality Act (CEQA) and, if not, what form of environmental review for the License is appropriate.

2. If DCR proposes to act as the local Lead Agency under CEQA, DCR shall prepare, or oversee the preparation of, the appropriate CEQA document which may include: reliance on one or more categorical or statutory exemptions, a negative declaration or mitigated negative declaration, an environmental impact report, a sustainable communities environmental assessment, or an addendum or other document provided by CEQA.

3. If DCR acts as a Responsible Agency under CEQA, the Commission or its designee, prior to approval of a License, shall consider the Lead Agency's environmental document and make the findings required by California Public Resources Code Section 21081, and CEQA Guidelines Sections 15096(g)-(h) and 15050(b).

4. In addition to materials submitted earlier in the application process, to begin the environmental review process a Project-Specific Information Form must be submitted. DCR will use this form to determine whether the Application has the potential to generate significant adverse environmental impacts that might require preparation of a CEQA document or the need for additional information.

5. If DCR determines the Project, as defined in LAMC section 104.06(e), has the potential to generate a significant effect on the environment that might require preparation of a CEQA document or the need for additional information, DCR will notify the Applicant.

6. If the Applicant's Project, as defined in LAMC section 104.06(e), does not qualify for a categorical exemption under CEQA, the Applicant, at their own cost, shall be required to hire an environmental consultant to prepare the CEQA document or provide the additional information needed to complete the environmental review.

F. Determination of Completeness

1. A determination of completeness shall include an Initial Inspection, environmental clearance, Los Angeles County Department of Public Health permit, and, if applicable, a review for compliance of the Social Equity Program requirements under LAMC Section 104.20 for the Person applying for a License.

(i) Prior to receiving a determination of completeness, Tier 3 Applicants shall enter into a Social Equity Agreement with the City.

2. An Annual License Application Fee for each Commercial Cannabis Activity pursuant to LAMC Section 104.19 shall be paid within 30 days of DCR's determination that the Application is complete. If the fees are not paid within the allotted time, the application shall be deemed abandoned.

G. Annual License Application - Storefront Retailer

1. Within 90 days of the date DCR deems the Application complete, DCR shall make a recommendation to the Commission whether to issue a License.

2. The date of the recommendation shall be the date when DCR transmits its report to the Commission for consideration to be scheduled at a future Commission meeting.

3. The Commission shall make the determination of whether to issue the License after it conducts a public hearing. The Commission shall accept and consider written information submitted and oral testimony.

4. The Commission shall consider the decision by DCR to recommend approval of the Application, the written summary of the community meeting prepared by DCR, the record before DCR, and any written information and oral testimony timely provided to the Commission.

H. Annual License Application - Non-Storefront Retailer

1. Within 90 days of the date DCR deems the Application complete, DCR shall approve or deny the issuance of the License with no hearing. DCR's decision shall be based on written findings and evidence in the record to support that the Applicant and Business Premises meet the restrictions of Article 5 of Chapter X of the Los Angeles Municipal Code.

2. DCR shall consider written information submitted by the public and other interested parties.

I. Annual License Application - Non-Retailer 30,000 Square Feet or Larger

1. Within 90 days of the date DCR deems the Application complete, DCR shall make a recommendation to the Commission whether to issue a License.

2. The date of the recommendation shall be the date when DCR transmits its report to the Commission for consideration to be scheduled at a future Commission meeting.

3. The Commission shall make the determination whether to issue the License after it conducts a public hearing. The Commission shall accept and consider written information submitted and oral testimony.

4. The Commission shall consider the decision by DCR to recommend approval of the application, the written summary of the community meeting prepared by DCR, the record before DCR, and any written information and oral testimony timely provided to the Commission to support that the Applicant and Business Premises meet the restrictions of Article 5 of Chapter X of this Code.

J. Annual License Application - Non-Retailer Under 30,000 Square Feet

1. Within 90 days of the date DCR deems the Application complete, DCR shall approve or deny the issuance of the License with no hearing. DCR's decision shall be based on written findings and evidence in the record to support that the Applicant and Business Premises meet the restrictions of Article 5 of Chapter X of the Los Angeles Municipal Code.

2. DCR shall consider written information submitted by the public and other interested parties.

K. Application Modification

1. The Business Premises location deemed eligible for further processing pursuant to LAMC Section 104.03(a)(3) and Article 5 of Chapter X of the LAMC through the Pre-Application Review process shall not be amended while the Pre-Application Review or Temporary Approval Application is pending.

2. Applicants may submit modification requests through the DCR Licensing Portal for a period of 60 days after the submission of a Temporary Approval Application to amend information, forms and/or documents submitted as part of the Temporary Approval Application record, subject to the payment of any required modification fee(s) in LAMC Section 104.19. The types of modification requests an Applicant may submit during the 60-day window after submission of a Temporary Approval Application are listed in subdivisions 3 through 11.

(i) DCR shall consider a modification request filed following: (i) the creation of a modification record through DCR's Licensing Portal; (ii) the submission of all required and completed Application information, forms, and documents that are required by the modification request type through DCR's Licensing Portal; and (iii) and the payment of the applicable modification fee(s) pursuant to Section 104.19.

(ii) Within 30 days of payment of the modification fee(s), DCR shall complete its initial review of the modification request.

A. If DCR determines the modification request is incomplete, DCR shall notify the Applicant. DCR shall request additional information, forms, and/or documents from the Applicant to complete the modification request and issue an invoice for applicable fees. All fees shall be paid within 30 days of the date of the invoice issuance and all required information, forms and/or documents shall be submitted through the DCR Licensing Portal within 30 days, unless another period of time is specified in writing by DCR.

B. Within 30 days of payment of applicable fee(s), DCR shall complete its second review of the modification request.

C. If DCR determines the modification is still incomplete, DCR shall abandon the modification request and notify the Applicant.

3. Legal name change modification records shall include the following:

(i) Application Modification Request Cover Page (LIC-4001-MOD).

(ii) All information, forms and/or documents required to demonstrate the Applicant's legal name has been updated with the California Secretary of State. The entity number assigned by the California Secretary of State at the time the entity formed, qualified, registered or converted in California must remain the same.

(iii) If the entity number assigned by the California Secretary of State at the time the entity formed, qualified, registered or converted in California does not remain the same, then the Applicant must submit an entity substitution modification record.

4. Fictitious Business Name (FBN)/Doing Business As (DBA) modification records shall include the following:

(i) Application Modification Request Cover Page (LIC-4001-MOD).

(ii) All information, forms and/or documents required to demonstrate the Applicant has filed and met all filing requirements for a Fictitious Business Name Statement with the Los Angeles County Registrar-Recorder/County Clerk.

5. Entity Substitution modification records shall include the following:

(i) The following forms: Application Modification Request Cover Page (LIC-4001-MOD); Applicant Entity Substitution Form (LIC-4006-MOD); Financial Information Form; List of Primary Personnel and Owner(s) (LIC-4003-FORM); Primary Personnel and Owner Attestation (LIC-4004-FORM); Indemnification Agreement (LIC-4005-FORM); Labor Peace Agreement Attestation Form (LIC-4006-FORM); Evidence of Legal Right to Occupy (LIC-4007-FORM); Ownership Disclosure Form (LIC-4008-FORM); Temporary Approval Attestation (LIC-4010-FORM); No Alcohol or Tobacco Applicant Attestation (LIC-4020-FORM); Initial Inspection Attestation (LIC-4021-FORM); Social Equity Program - Owner Compliance Attestation (SEP-6001-FORM), if applicable.

(ii) The following documents: Business Premises diagram; executed lease or property deed; business records evidencing compliance with the Equity Share requirements in LAMC Section 104.20; business formation and organization documents, which may include articles of incorporation, bylaws, operating agreements, partnership agreements, and fictitious business name statements. The Applicant shall also provide all documents filed with the State of California, which may include, but are not limited to articles of incorporation,

certificates of stock, articles of organization, certificates of limited partnership, and statements of partnership authority.

(iii) The Business Tax Registration Certification (BTRC) number issued by the City of Los Angeles Office of Finance (Office of Finance) to an Applicant or Licensee. DCR may approve changes to the BTRC number when processing certain modification requests. Any changes to a BTRC number after an Application has been filed or a License issued must have written approval from DCR and/or the Office of Finance.

(iv) After an Entity Substitution modification request is approved, DCR may require that the Applicant submit a new Pre-Application Review record, subject to the requirements of Regulation 3(B), for DCR to determine the eligibility of the Business Premises location pursuant to LAMC Section 104.03(a)(3) and Article 5 of Chapter X of the LAMC. The Business Premises location shall be deemed compliant with the required distances specified in LAMC section 105.02 from Sensitive Uses if the Business Premises location complies with the required distances from all Sensitive Uses that are Publicly Available to the Department of Cannabis Regulation on the Verification Date, as defined in LAMC section 105.01.

6. Remove Commercial Cannabis Activity modification records shall include the following:

(i) The following forms: Application Modification Request Cover Page (LIC-4001-MOD); and, Application Withdrawal/License Cancellation Form (LIC-4015-FORM).

7. Business Premises diagram modification records shall include the following:

(i) The following forms: Application Modification Request Cover Page (LIC-4001-MOD); Evidence of Legal Right to Occupy (LIC-4007-FORM); Initial Inspection Attestation (LIC-4021-FORM).

(ii) The following documents: Business Premises diagram; executed lease or property deed.

8. Ownership structure modification records shall include the following:

(i) The following forms: Application Modification Request Cover Page (LIC-4001-MOD); Ownership Structure Form (LIC-4004-MOD); Removal of Owner(s) Form (LIC-4005-MOD), if applicable; Financial Information Form, if applicable; List of Primary Personnel and Owner(s) (LIC-4003-FORM); Primary Personnel and Owner Attestation (LIC-4004-FORM); Indemnification Agreement

(LIC-4005-FORM), if applicable; Labor Peace Agreement Attestation Form (LIC-4006-FORM), if applicable; Evidence of Legal Right to Occupy (LIC-4007-FORM), if applicable; Ownership Disclosure Form (LIC-4008-FORM); Temporary Approval Attestation (LIC-4010-FORM); No Alcohol or Tobacco Applicant Attestation (LIC-4020-FORM); Initial Inspection Attestation (LIC-4021-FORM); Social Equity Program - Owner Compliance Attestation (SEP-6001-FORM), if applicable.

(ii) The following documents: business records evidencing compliance with the Equity Share requirements in LAMC Section 104.20, if applicable; business formation and organization documents, which may include articles of incorporation, bylaws, operating agreements, partnership agreements, and fictitious business name statements. The Applicant shall also provide all documents filed with the State of California, which may include, but are not limited to articles of incorporation, certificates of stock, articles of organization, certificates of limited partnership, and statements of partnership authority.

9. Addition of Owner(s) modification records shall include the following:

(i) The following forms: Application Modification Request Cover Page (LIC-4001-MOD); Financial Information Form, if applicable; List of Primary Personnel and Owner(s) (LIC-4003-FORM); Primary Personnel and Owner Attestation (LIC-4004-FORM); Ownership Disclosure Form (LIC-4008-FORM); No Alcohol or Tobacco Applicant Attestation (LIC-4020-FORM); Social Equity Program - Owner Compliance Attestation (SEP-6001-FORM), if applicable.

(ii) The following documents: business records evidencing compliance with the Equity Share requirements in LAMC Section 104.20, if applicable; business formation and organization documents, which may include articles of incorporation, bylaws, operating agreements, partnership agreements, and fictitious business name statements. The Applicant shall also provide all documents filed with the State of California, which may include, but are not limited to articles of incorporation, certificates of stock, articles of organization, certificates of limited partnership, and statements of partnership authority.

10. Removal of Owner(s) modification records shall include the following:

(i) The following forms: Application Modification Request Cover Page (LIC-4001-MOD); Removal of Owner(s) Form (LIC-4005-MOD); Financial Information Form, if applicable; List of Primary Personnel and Owner(s) (LIC-4003-FORM); Primary Personnel and Owner Attestation (LIC-4004-FORM), if applicable; Ownership Disclosure Form (LIC-4008-FORM); No Alcohol or Tobacco Applicant Attestation (LIC-4020-FORM), if applicable; Social Equity Program - Owner Compliance Attestation (SEP-6001-FORM), if applicable.

(ii) The following documents: business records evidencing compliance with the Equity Share requirements in LAMC Section 104.20, if applicable; business formation and organization documents, which may include articles of incorporation, bylaws, operating agreements, partnership agreements, and fictitious business name statements. The Applicant shall also provide all documents filed with the State of California, which may include, but are not limited to articles of incorporation, certificates of stock, articles of organization, certificates of limited partnership, and statements of partnership authority.

11. Withdrawal modification records shall include the following:

(i) The following forms: Application Modification Request Cover Page (LIC-4001-MOD); and, Application Withdrawal/License Cancellation Form (LIC-4015-FORM).

12. If an Applicant files a modification request through the DCR Licensing Portal within 60 days of the submission of a Temporary Approval Application, DCR shall temporarily suspend its processing of the Temporary Approval Application.

L. License Modification

1. An Applicant with Temporary Approval and/or a Licensee may submit a modification request(s) through the DCR Licensing Portal after the issuance of Temporary Approval or License to amend information, forms and/or documents submitted as part of the Temporary Approval Application record, subject to the payment of any required fee(s) pursuant to LAMC Section 104.19. Licensees may submit relocation modification requests and all other types of modifications listed in subsection K(3) through (11).

(i) DCR shall consider a modification request filed following: (i) the creation of a modification record through DCR's Licensing Portal; (ii) the submission of all required and completed Temporary Approval Application information, forms, and documents through DCR's Licensing Portal; and (iii) and the payment of the applicable modification fee(s) pursuant to Section 104.19.

(ii) Within 30 days of payment of the modification fee(s), DCR shall complete its initial review of the modification request.

A. If DCR determines the modification request is incomplete, DCR shall notify the Applicant. DCR shall request additional information, forms, and/or documents from the Applicant to complete the modification request and issue an invoice for applicable fees. All fees shall be paid within 30 days of the date of the invoice issuance and all required

information, forms and/or documents shall be submitted through the DCR Licensing Portal within 30 days, unless another period of time is specified in writing by DCR.

B. Within 30 days of payment of applicable fee(s), DCR shall complete its second review of the modification request.

C. If DCR determines the modification is still incomplete, DCR shall abandon the modification request and notify the Applicant.

2. Relocation modification records shall include the following:

(i) The following forms: Application Modification Request Cover Page (LIC-4001-MOD); Landowner Attestation for Location Eligibility (LIC-4016-FORM); Business Premises Relocation Form (LIC-4002-MOD); Evidence of Legal Right to Occupy (LIC-4007-FORM); Business Premises Surrender Form (LIC-4019-FROM); and Initial Inspection Attestation (LIC-4021-FORM).

(ii) The following documents: Business Premises diagram; executed lease or property deed.

(iii) If the relocation modification request is deemed eligible for further processing, the Applicant or Licensee shall submit a new Temporary Approval Application.

M. Refiling

1. To refile a Temporary Approval Application, the Applicant shall submit a new Pre-Application Review record.

2. If DCR determines the proposed Business Premises location complies with LAMC Section 104.03(a)(3) and Article 5 of Chapter X of the LAMC, the Applicant shall submit a Temporary Approval Application. The Temporary Approval Application shall include all required information, forms and documents contained in subsection D, including all agreements necessary to demonstrate that the Social Equity Individual Applicant(s) owns the minimum Equity Share required under LAMC Section 104.20(a)(2).

3. The refiled Temporary Approval Application shall be submitted within one (1) calendar year of the date DCR notifies the Applicant by electronic mail that the Pre-Application Review record is eligible for further processing.

Regulation No. 4. Inspections.

A. General

1. An Applicant or Licensee shall allow DCR access to a proposed or licensed Business Premises for any of the following purposes:

(i) Prior to the issuance of a Temporary Approval, annual License, or the renewal of a License or Temporary Approval to verify compliance with the LAMC and/or Rules and Regulations;

(ii) To inspect the Business Premises to determine compliance with the requirements of these Rules and Regulations or the LAMC;

(iii) To audit or inspect records; or

(iv) To conduct an inspection or investigation in response to a complaint received by DCR regarding the Applicant or Business Premises.

2. DCR shall, in its sole discretion, decide whether the inspection shall be in-person or virtual. Prior to a virtual inspection, an Applicant or Licensee shall verify that the following technology requirements are met: access to a mobile device (i.e., iPhone, iPad, Android Phone); wireless internet (wifi) or a strong 4G or 5G signal throughout the entire Business Premises; the ability to download the Google Meet app on the mobile device; and the ability to access the security system to perform video playback.

3. Applicants shall request inspections by email to DCRLicensing@lacity.org.

4. DCR may record the inspection, investigation, or audit.

5. All inspections, investigations and audits of the Business Premises shall be conducted during regular business hours, during times of apparent or alleged activity, or as otherwise agreed to between DCR and the Applicant or Licensee.

6. No Licensee, agent of the Licensee, or employees shall interfere with, obstruct or impede DCR's inspection, investigation or audit, including, but not limited to, the following actions: denying the DCR access to the Business Premises; providing false or misleading statements; providing false, falsified, fraudulent or misleading documents and records; and/or failing to provide records, reports, and other supporting documents.

7. Any act, omission, or failure of an agent, officer, or other Person acting for or employed by a Licensee, within the scope of his or her employment or office, shall in every case be deemed the act, omission, or failure of the Applicant or Licensee.

B. Initial Inspection

1. An Applicant shall schedule an Initial Inspection of a Business Premises prior to DCR's issuance of a Temporary Approval.

2. An Initial Inspection shall not be requested until the Applicant receives an Initial Inspection notification via email from DCR. Initial inspections shall be requested by email to DCRLicensing@lacity.org with the subject line "*Request for Initial Inspection - [DCR Record Number]*" or through the DCR Licensing Portal. The Applicant shall follow the Initial Inspection procedure outlined in the Temporary Approval Information and Procedure Bulletin.

3. The Applicant shall complete and submit the Initial Inspection Attestation Form to DCR to confirm that the Business Premises is ready for an Initial Inspection.

4. The Applicant shall grant DCR inspectors unrestricted access to Business Premises to conduct the inspection. No Licensee, agent or employees shall interfere with, obstruct, or impede DCR's inspection.

5. At a minimum, the Initial Inspection shall include an inspection of the following requirements:

(i) All entry points to the Business Premises are accurately reflected on the Business Premises diagram.

(ii) All interior doorways, rooms, and walkways are accurately reflected on the Business Premises diagram.

(iii) Whether there are any changes from the Business Premises diagram initially submitted to DCR and, if so, whether these changes received written approval from DCR.

(iv) The property and all associated parking under the control of the Applicant or Licensee and any adjacent sidewalk or alley is well maintained and kept free of obstruction, trash, litter and debris.

(v) Limited-access areas are securely locked utilizing commercial-grade, nonresidential door locks, including points of entry and exit to the Business Premises.

(vi) There is a functioning alarm system which is permitted by the Los Angeles Police Department, and alarm information is provided upon request if not displayed.

(vii) The Business Premises has a digital video surveillance system with a minimum camera resolution of 1280 × 720 pixels with each camera permanently mounted and in a fixed location.

A. Video surveillance cameras record 24 hours per day. The storage device for the recordings is secured in a manner to prevent tampering or theft. Surveillance recordings are kept for a minimum of 90 days.

B. All entrances and exits to the Business Premises are recorded by the video surveillance system from both the indoor and outdoor vantage points.

C. All limited access areas, including security rooms, areas of storage, etc., are recorded by the video surveillance system from both interior and exterior.

D. If applicable, point-of-sale areas and areas where cannabis goods are displayed for sale are recorded by the video surveillance system.

(viii) For businesses with retail sales, there is an electronic age verification device to determine the age of any Individual attempting to purchase Cannabis goods.

(ix) No portion of the Business Premises has been sublet without written approval from DCR.

(x) A records retention system and a Track and Trace Inventory system are in place.

(xi) Procedures are in place to notify DCR within 24 hours of any of the following: inventory discrepancy; suspicion of theft or other loss; suspicion of change or alteration of records; and suspicion of any breach in security.

C. Final Inspection

1. An Applicant shall schedule a Final Inspection of a Business Premises prior to DCR's issuance of an Annual License.

2. A Final Inspection shall not be requested until the Applicant receives a Final Inspection notification by email from DCR. Final inspections shall be requested by email to DCRLicensing@lacity.org with the subject line "*Request for Final Inspection - [DCR Record Number]*". The Applicant shall follow the Final Inspection procedure outlined in the Annual License Information and Procedure Bulletin.

3. The Applicant shall grant DCR inspectors unrestricted access to Business Premises to conduct the inspection. No Licensee, agent or employees shall interfere with, obstruct, or impede DCR's inspection.

4. At a minimum, the Final Inspection shall include an inspection of the same requirements as the Initial Inspection listed in section B(5).

D. Other Inspections

1. A Licensee's Business Premises shall be subject to inspection, investigation, or audit at any time without notice, and may include a review of any books, records, accounts, inventory, or on-site operations specific to the Business Premises. Inspections, investigations or audits may be conducted by employees or agents of the following agencies: DCR, Los Angeles Department of Building and Safety, Los Angeles Police Department, Los Angeles Fire Department, the Los Angeles Office of Finance, and/or Los Angeles County Department of Health, or any combination thereof.

2. All inspections, audits or investigations shall be charged to the Applicant or Licensee at full cost recovery.

Regulation No. 5. Operational Requirements and Violations

A. General

In addition to the requirements set forth in Article 4 of Chapter X of the LAMC, all Licensees must adhere to the requirements listed below. The indicated characterizations of violations, if any, are suggestions only and may vary depending upon the circumstances of the violation. DCR may issue a separate violation for each subsection or subdivision.

1. Responsible Management.

(i) **Licenses Required.** Every Applicant shall obtain a License from DCR and the State for each Commercial Cannabis Activity and Business Premises location where it engages in Commercial Cannabis Activity. (Violation Type – Major)

(ii) **Transacting Only with Other Licensees.** A Licensee shall only transact or engage in Commercial Cannabis Activity with a Person who possesses a local License and a State license for the relevant Commercial Cannabis Activity. (Violation Type – Major)

(iii) **Cooperation.** Applicants and Licensees shall fully cooperate with inspections, investigations or audits. Applicants and Licensees must provide any information, surveillance recordings, or other data to the City upon request and in the form or manner requested. (Violation Type – Major)

(iv) **DCR Access to Business Premises.** Agents or employees of DCR with City identification requesting entry to the Business Premises shall be given unrestricted access during regular business hours. (Violation Type – Major)

(v) **Cannabis/Product Testing.** A Licensee shall have all Cannabis and Cannabis products tested as required by the State, and adhere to the State's requirements concerning sampling, chain of custody, and labeling. (Violation Type – Major)

(vi) **Use of Business Name or Legal Entity Name.** A Licensee shall use the name of the licensed business entity and/or Business Premises location, whichever is applicable, for the submission of all other permits, certificates, or documents issued by the City of Los Angeles. In addition, Applicants and/or Licensees must use the same business entity name and Business Premises location applying to the State of California for corresponding Commercial Cannabis Activity licenses. (Violation Type – Major)

(vii) **Operational Status.** Licensees shall notify DCR of the initial start date of commercial cannabis activity for the licensed business within 30 days of that start date. (Violation Type – Minor)

(viii) **Use of DBA.** A Licensee shall submit all information concerning the use of a “Doing Business As” name (DBA), if any, to DCR. The Licensee must submit a modification request to record or change a DBA within ten (10) days of the change. (Violation Type – Minor)

(ix) **Violations of State Cannabis Law.** A Licensee shall comply with all State regulations concerning Commercial Cannabis Activity. DCR may cite violations of the State’s regulations for Commercial Cannabis Activity not specifically listed herein. (Violation Type – Major)

(x) **Compliance with Notices to Correct and/or Notices of Violation.** A Licensee shall comply with all Notices to Correct, Notices of Violation or administrative holds issued by DCR. DCR may issue a new Notice of Violation for the failure to timely correct violations cited by an earlier Notice to Correct, Notice of Violation, and/or the failure to timely pay any associated administrative penalties or fines. A Notice of Violation that is issued for failure to timely correct prior violations and/or pay administrative penalties or fees from an earlier Notice of Violation shall be the next violation type, e.g., if the first violation was Minor, the second shall be Moderate. DCR may issue a Notice of Violation for failure to comply with a Notice to Correct.

(xi) **Catch-all.** A Licensee, its employees, agents and officers must obey all applicable commercial cannabis laws of the City of Los Angeles, the State of California, and any other relevant agencies. DCR may issue Notices to Correct, Notices of Violation, and/or Administrative Holds, including penalties and fines, against a Licensee for any acts or omissions that are in violation of any provision of the Los Angeles Municipal Code or these regulations, or any another California laws applicable to cannabis licensees including, but not limited to, state labor law. (Violation Type – Major)

2. **Responsible Management of the Business Premises**

(i) **Display of License.** A Licensee shall prominently display any License, State license, BTRC, Emblem Placard (storefront retailers only), designated Neighborhood Liaison, including the phone number and email address to receive complaints, and emergency contact information on the licensed Business Premises where it can be viewed by state and local agencies. If the licensed Business Premises is open to the public, the aforementioned documents shall be displayed in an area that is within plain sight of the public. (Violation Type – Minor)

(ii) **Identification of Employees.** All agents, officers, or other Persons acting for or employed by a Licensee shall display an identification badge all times while conducting business operations. The identification badge shall include: the Licensee's business entity name or DBA, DCR record number, the employee's first name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height. (Violation Type – Minor)

(iii) **Employee Age.** All employees of the Licensee at the Business Premises shall be at least twenty-one (21) years of age. (Violation Type – Moderate)

(iv) **Conduct at the Business Premises.** A Licensee shall be responsible for monitoring employee and customer conduct at their Business Premises, and other areas which customers or employees frequent, including parking areas. Employee and customer conduct at the Business Premises shall not adversely affect or detract from the quality of life for nearby residents, property owners, and businesses. A Licensee shall discourage illegal activity, criminal conduct, nuisance activity and loitering on the Business Premises. (Violation Type – Minor)

(v) **Graffiti.** All graffiti, as referenced in LAMC Section 49.84.3, shall be removed or painted over to match the color of the surface within 72 hours of its occurrence. The property and all adjacent areas, including parking areas, under the control of the Licensee and any adjoining sidewalk or alley, shall be maintained in an attractive condition and shall be kept free of obstruction, trash, litter, and debris at all times. (Violation Type – Minor)

(vi) **Debris.** Trash pick-up, compacting, loading, and unloading and receiving activities shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 4:00 p.m. on Saturday; and no deliveries or trash pick-up shall occur on Sunday. Waste receptacles shall be kept secure and accessible only to authorized personnel. (Violation Type – Minor)

(vii) **Compliance Attestation.** Licensees are required to complete the Licensee Attestation: Operational Requirements and Violations, ENF-3003-FORM to declare the Licensee received, read, and understands all applicable operational regulations. ENF-3003-FORM must be signed by, at a minimum, (1) a simple majority of the Licensee's Owner(s) or the Authorized Agent and, if applicable, (2) the Social Equity Individual Applicant. The Licensee is required to provide a copy of the Rules and Regulations for Cannabis Procedures to any and all Primary Personnel, managers, and the person-in-charge. (Violation Type – Minor)

(viii) **Code of Conduct.** Licensees shall develop and implement a code

of conduct for employees and a code of conduct for patrons. The License shall provide training for the employees on the employee code of conduct. The Licensee shall post the patron code of conduct in a visible and public area on the Business Premises. At minimum, the employee code of conduct shall address workplace behavior, employee accountability, compliance with State and City's operational rules and regulations, and other internal operational procedures. The patron code of conduct shall include at minimum, prohibitions against loitering, littering, abusive or offensive behavior, and encourage patrons' mindfulness of the surrounding neighbors. (Violation Type – Minor)

3. **Unauthorized Modifications**

(i) **No Physical Changes without Approval.** Unless given written approval by DCR, a Licensee shall not make physical changes, alterations, or modifications to the Business Premises, including adjustments that alter the originally-approved Business Premises diagram, such as the removal, creation, or relocation of a common entryway, doorway, passage, or a means of public entry or exit, when such common entryway, doorway, or passage alters or changes limited-access areas within the Business Premises. (Violation Type – Moderate)

(ii) **No Changes to Ownership Structure or Licensed Entity Without Approval.** Licensees and Applications shall request approval from DCR for all of the following: a change to the Licensee's organizational structure or ownership pursuant to LAMC Section 104.11(a), including the removal of Owner, or a change of a majority of officers or stockholders or a controlling ownership interest; or licensed entity name; substitution of the licensed entity for another entity. Licenses are not transferable or assignable to any other person, entity, or property without written approval from the DCR. (Violation Type – Moderate)

(iii) **No Relocation without Approval.** The location of the Business Premises may not be changed without the approval of DCR. (Violation Type – Major)

(iv) **No Activity Modifications without Approval.** A Licensee shall request approval for any change to the licensed Commercial Cannabis Activity type, including the removal, cancellation, or expansion of the activity. (Violation Type – Major)

4. **Security Measures**

(i) **Surveillance System and Cameras.** All Business Premises shall be equipped with a surveillance system. (Violation Type – Moderate)

(ii) **Surveillance System Resolution.** All Licensees' Business Premises shall have a digital video surveillance system with a minimum camera

resolution of 1280 × 720 pixels. (Violation Type – Moderate)

A. **General - Security System Location.** The surveillance system shall at all times clearly record images within 20 feet of all points of entry and exits on the Business Premises. Cameras shall be permanently mounted and in a fixed location. Areas that shall also be recorded include, but are not limited to: (a) areas where Cannabis goods are weighed, packed, stored, loaded and unloaded for transportation, prepared, or moved within the Business Premises; (b) I-access areas; (c) security rooms; (d) areas storing a surveillance-system device with at least one camera recording the access points to the area; and (e) entrances and exits to the Business Premises, which shall be recorded from both indoor and outdoor vantage points.

B. **Retailers - Surveillance System Location.** Retailers shall record point-of-sale areas and areas where Cannabis goods are displayed for sale on the video surveillance system. At each point of sale location, camera placement must allow for the recording of the facial features of any Person purchasing or selling Cannabis goods, and any Person in the retail area.

C. **Surveillance System Recording and Storage.** Cameras shall record continuously, 24 hours per day and at a minimum of 15 frames per second (FPS). The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect against tampering or theft and shall be kept for a minimum of 90 days. Recorded images shall clearly and accurately display the time and date. Time is to be measured in seconds, minutes and hours using Pacific Standard Time. The surveillance system shall be equipped with a failure notification feature that provides notification to the Licensee of any interruption or failure of the equipment or its storage.

D. **Surveillance System Inspection.** Recordings are subject to inspection and shall be maintained in a manner that allows the City to view the recordings immediately upon request. The Licensee shall also copy and send recordings to the City upon request within the time specified.

(iii) **Security Personnel.** All Licensees with onsite retail sales shall hire or contract security personnel licensed by the Bureau of Security and Investigative Services to provide security services for the Business Premises during operating hours. Security personnel shall be at least 21 years of age. (Violation Type – Moderate)

(iv) **Security Plans.** A Licensee shall develop and implement a written security plan. At a minimum, the security plan shall include a description of how the Licensee meets the requirements below. (Violation Type – Moderate)

A. Licensees shall prevent access to the Business Premises by unauthorized persons and protect the physical safety of the public and employees. This includes, but is not limited to, establishing physical barriers to secure perimeter access and all points of entry into the Business Premises, such as locking primary entrances with commercial-grade, non-residential door locks, providing fencing around the grounds and driveway, and securing any secondary entrances including windows, roofs, and ventilation systems.

B. Licensees shall install a security alarm system to notify and record incident(s) where physical barriers have been breached.

C. Licensees shall implement an identification and sign-in/sign-out procedure for authorized personnel, individuals, suppliers, and visitors.

D. Licensees shall maintain the premises such that visibility and security monitoring of the premises is possible.

E. Licensees shall establish procedures for the investigation of suspicious activities and to deter theft or loss of cannabis and cannabis products. This includes, but is not limited to:

(i) Establishing an inventory system to track cannabis and cannabis products and the personnel responsible for processing it throughout the manufacturing process;

(ii) Limiting access of personnel within the premises to those areas necessary to complete job duties, and to those time frames specifically scheduled for completion of job duties, including access by outside vendors, suppliers, contractors or other individuals conducting business with the licensee that requires access to the premises;

(iii) Supervising tasks or processes with high potential for diversion, including the loading and unloading of cannabis and cannabis products from transportation vehicles; and,

(iv) Providing areas in which personnel may store and access personal items that are separate from the manufacturing areas.

F. Licensees shall secure and back up electronic records in a manner that prevents unauthorized access and ensures that the integrity of the records is maintained.

(v) **Alarm System.** A Licensee shall maintain an alarm system as required by the State of California. A Licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system. Upon request, a Licensee shall make available to the City all information related to the alarm system, monitoring, and alarm activity. A Licensee must apply for, and maintain in good standing, an Alarm System Permit issued pursuant to LAMC Section 103.206. (Violation Type – Moderate)

(vi) **Limited-Access Areas.** A Licensee shall ensure Limited-Access areas can be securely locked using commercial-grade, nonresidential door locks in accordance with the approved security plan. Additionally, commercial-grade, nonresidential locks shall be used on all points of entry and exit to the Business Premises in accordance with the approved security plan. (Violation Type – Moderate)

(vi) **Access to Limited-Access Areas.** A Licensee shall only permit authorized individuals who are at least twenty-one (21) years of age to enter the Limited-Access Areas. Authorized individuals include: the Licensee's employees, outside vendors, contractors, labor representatives, or other individuals who have a bona fide business reason for entering the area. An individual who enters a Limited-Access Area and is not employed by the Licensee shall be escorted by an employee of the Licensee at all times while within the Limited-Access Area. Additionally, a log shall be maintained which tracks those entering areas with limited access and will provide DCR access to those records when requested. Licensees shall not receive consideration or compensation for permitting an individual to enter a Limited-Access Area. (Violation Type – Moderate)

5. **Business Premises Equipment.**

(i) **Ventilation/Exhaust Systems.** A Business Premises shall be properly ventilated and the exhaust air filtered to neutralize the odor from cannabis so that it cannot be detected on the exterior of Business Premises. Operable windows or vents shall not abut a residential use or zone and shall direct exhaust away from said spaces/locations. (Violation Type – Moderate)

(ii) **Exterior Lights.** Outdoor lights used for safety or security purposes shall be shielded and downward facing. All exterior portions of the Business Premises shall be adequately illuminated beginning at dusk so as to make discernible the faces and clothing of persons utilizing the space during evening hours. (Violation Type – Minor)

(iii) **Equipment Location.** All rooftop equipment, including air conditioning units, ventilation and mechanical equipment, shall be screened from view of the public. (Violation Type – Minor)

6. **Prohibited Activities.**

(i) **Subletting.** A Licensee shall not sublet any portion of the identified Business Premises without written approval from DCR. (Violation Type – Major)

(ii) **Physician’s Recommendations Onsite.** No recommendations or approvals by a physician to use medical cannabis or medical cannabis products shall be issued at any Business Premises. (Violation Type – Moderate)

(iii) **Consumption of Cannabis or Alcohol at Business Premises.** A Licensee shall not allow the consumption of Cannabis, Cannabis products, or alcohol on the Business Premises. No employee or agent of the Licensee shall solicit or accept any Cannabis, Cannabis products or alcohol from any customer or vendor while on the Business Premises. (Violation Type – Moderate)

(iv) **Loitering.** Loitering is prohibited on and around the Business Premises and the area under control of the Licensee. “No Loitering, Public Drinking, or Public Smoking/ Consumption of Cannabis” signs shall be clearly posted inside and outside of the Business Premises. (Violation Type – Minor)

(v) **Onsite Party Events.** No special events or parties of any type shall be held at the Business Premises, including, but not limited to, events for which a Temporary Special Event Permit has been issued by the Building and Safety Commission or any other City department. (Violation Type – Moderate)

7. **Required Notifications.**

(i) **Notification of Convictions, Judgments and Revocations.** A Licensee or Applicant shall notify DCR in writing of any criminal conviction entered against the Licensee or Applicant, any Owner of the Licensee or Applicant, any Primary Personnel of the Licensee or Applicant, or Management

Company, by electronic mail, within 48 hours of the entry of the conviction. A Licensee or Applicant shall notify DCR in writing of any judgment or civil penalty entered against the Licensee or Applicant, any Owner of the Licensee or Applicant, any Primary Personnel of the Licensee or Applicant, or Management Company, by electronic mail, within 48 hours of delivery of the verdict or entry of judgment, whichever is sooner. Additionally, a Licensee or Applicant shall provide written notice to DCR of the revocation or suspension of any State license, or other permit, clearance or authorization within 48 hours of such revocation or suspension. (Violation Type – Minor)

(ii) **Notification of Irregularities and Criminal Activity.** A Licensee, Owner, or Primary Personnel shall notify DCR within 24 hours of discovery of any of the following situations: a significant discrepancy in its inventory; suspected or actual diversion, theft, loss, or any other criminal activity pertaining to the operation of the Licensee’s business; suspected or actual diversion, theft, loss, or any other criminal activity by an agent or employee pertaining to the operation of the Licensee’s business; the loss or unauthorized alteration of records related to Cannabis, Cannabis goods, registered medical cannabis patients or primary caregivers, or dispensary employees or agents; and any other breach of security. (Violation Type – Moderate)

B. Records

1. Record Retention.

(i) **Maintenance.** Each Licensee shall keep and maintain the following records for at least seven years:

A. Financial records including, but not limited to, bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization, other State of California agencies, the Office of Finance, or DCR;

B. Personnel records, including each employee’s full name, Social Security or individual taxpayer identification number, date of beginning employment, and date of termination of employment, if applicable;

C. Training records, including, but not limited to, the date and content of the training provided and the names of the employees that received the training;

D. Contracts with other Licensees;

E. Permits, licenses, and other local or state authorizations to conduct Commercial Cannabis Activity. (Violation Type – Minor)

2. **Audits.** DCR, Los Angeles Department of Building and Safety, Los Angeles Police Department, Los Angeles Fire Department, the Los Angeles Office of Finance, Los Angeles County Department of Health, and/or other government agencies may make any examination of the books and records of any Licensee as it deems necessary to perform its duties. Records shall be kept in a manner that allows the records to be viewed in either hard copy or in electronic form. A Licensee may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the Licensee of its responsibilities under these regulations. (Violation Type – Minor)

C. Retailer Commercial Cannabis Activity

1. **Age Requirement.** Except as otherwise provided by state law, access to the Business Premises shall be limited to Individuals who are at least 21 years old and have a bona fide business reason for entering the Business Premises. Age verification must occur at each entrance to the Business Premises. An Individual younger than 21 years of age may enter the Business Premises to purchase medical Cannabis goods only if the Individual is a medical Cannabis patient. Any medical Cannabis patient younger than 18 years old shall be accompanied by their parent, legal guardian, or primary caregiver. The Licensee shall verify the Individual has valid proof of identification as required by the State. (Violation Type – Major)

2. **Medical Cannabis Sales.** A Licensee shall only sell medical Cannabis goods to medical Cannabis patients or the primary caregivers of medical Cannabis patients as authorized by the State. (Violation Type – Major)

3. **Monitor Retail Area.** The Licensee or its employees shall be physically present at all times when non-employees are in the retail area. (Violation Type – Moderate)

4. **Business Hours.** A Licensee conducting Retailer Commercial Cannabis Activity may only sell Cannabis goods during the hours allowed by the State. At any time the Licensee is not open for retail sales, the Licensee shall ensure the following:

(i) The Business Premises shall be securely locked with commercial-grade, non-residential door locks;

(ii) The Business Premises shall be equipped with an active alarm system;

(iii) Only authorized employees and contractors of the Licensee shall be allowed to enter the Business Premises after hours; and

(iv) All patrons exit the Business Premises no later than 15 minutes after closing. (Violation Type – Moderate)

5. **Display of Cannabis and Cannabis Goods.** The display of Cannabis and Cannabis goods shall comply with the following:

(i) Cannabis and Cannabis goods shall only be displayed in the retail area and shall not be displayed in a place where it is visible from outside the Business Premises.

(ii) Cannabis and Cannabis goods may be removed from their packaging and placed in containers to allow for customer inspection. The containers shall not be readily accessible to customers without the assistance of the Licensee's personnel. A container must be provided to the customer by the retailer who shall remain with the customer at all times.

(iii) Cannabis and Cannabis goods removed from their packaging for display shall not be sold or consumed, and when no longer used for display shall be destroyed pursuant to State requirements. (Violation Type – Moderate)

6. **Cannabis Sales.** A Licensee shall not sell more than the established maximum daily limit for medical Cannabis goods, including edibles, or adult use Cannabis goods, including edibles per Individual, as required by the State. (Violation Type – Moderate)

7. **Product Samples.** A Licensee shall not provide free samples of any type, including Cannabis goods and non-Cannabis, to customers. A Licensee shall not allow representatives of other companies or organizations to provide free samples of any type, including Cannabis goods, to customers on the Business Premises. (Violation Type – Moderate)

8. **Product Packaging.** Cannabis goods purchased by a customer shall not leave the Business Premises unless they are placed in an exit package as required by the State. (Violation Type – Moderate)

9. **Product Inventory and Sales.** A Licensee shall maintain an accurate record of its inventory and every sale as required by the State. (Violation Type – Minor)

10. **Training Program.** Within the first three months of the establishment of the training program, all employees of a Licensee conducting Retailer Commercial Cannabis Activity shall enroll in the DCR and Los Angeles Police Department's

standardized training for Cannabis retailers. Upon completion of such training, the Licensee shall request that DCR issue a letter identifying which employees completed the training. The training shall be conducted for all new hires within two months of the start of their employment. A refresher course is required of all employees every 24 months after the initial training is completed. Online or in-person training is at the discretion of DCR and Los Angeles Police Department. (Violation Type – Moderate)

11. **Age Verification Device.** An electronic age verification device shall be purchased and retained on the Business Premises to determine the age of any individual attempting to purchase Cannabis goods and shall be installed at each point-of-sales area. The device shall be maintained in operational condition and all employees shall be instructed in its use. Cannabis products shall not be sold to the public without a functioning electronic age verification device. (Violation Type – Moderate)

12. **Business Premises Access.** All doors not intended for customer access shall be kept closed at all times other than to permit access for deliveries and trash removal. Exterior doors shall not consist of a screen or ventilated security door and shall be solid. (Violation Type – Moderate)

13. **Prohibited Activities.** The following activities are prohibited:

(i) **Drive Through or Walk Up Windows.** There shall be no sales through exterior openings, such as drive through or walk-up windows. (Violation Type – Major)

(ii) **Adult Entertainment.** There shall be no adult entertainment of any type pursuant to LAMC Section 12.70 or alcohol or tobacco sales of any type. (Violation Type – Moderate)

(iii) **Entertainment.** No entertainment of any type shall be allowed to take place, except for ambient music. No disc jockey, karaoke, or performances of any kind shall be allowed. Any music, sound, or noise emitted from the Business Premises shall comply with the noise regulations of the LAMC and shall not extend beyond the Business Premises. (Violation Type – Moderate)

(iv) **Billiards.** There shall be no pool or billiard tables, dart games, video games, coin operated game machines or similar game devices maintained upon the Business Premises at any time. (Violation Type – Minor)

(v) **Outdoor Speakers.** There shall be no outdoor speakers, or paging system on the exterior portions of the Business Premises or attached to the façade of the building. (Violation Type – Moderate)

(vi) **Temporary or Special Events.** Licensees shall not host a special

or temporary event at any location in the City of Los Angeles, or sell Cannabis or Cannabis Goods at a special or temporary event at any location in the City of Los Angeles. (Violation Type – Major)

14. **Display of Emblem.** When available, a Licensee shall post an emblem as required under LAMC Section 104.23. A Licensee shall protect an emblem placard from damage, theft or tampering. A Licensee shall inform the Los Angeles County Department of Public Health within 24 hours of when an emblem placard is damaged, stolen, or otherwise lost. (Violation Type – Moderate)

D. Delivery Commercial Cannabis Activity

1. **Delivery Employees.** All deliveries of Cannabis and Cannabis goods must be performed by an employee of a Licensee. Each delivery employee shall be at least 21 years of age. Only authorized employees shall be in the delivery vehicle during the time of delivery. Delivery Employees shall display an identification badge at all times while conducting delivery business operations. The identification badge shall include: the Licensee's business entity name or DBA, DCR license/record number, the employee's name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height. (Violation Type – Moderate)

2. **Delivery Requirements.** All deliveries of Cannabis and Cannabis goods shall be made in person. A delivery of Cannabis and/or Cannabis goods shall not be made through the use of an unmanned vehicle or device. (Violation Type – Moderate)

3. **Delivery Orders.** As required by the State, Cannabis and Cannabis goods shall be ordered, packaged for sale, labeled, and/or placed in packaging prior to being delivered to a customer. (Violation Type – Moderate)

4. **Delivery Request Receipt.** At the time of the delivery, the delivery employee of the retailer shall provide the customer who placed the order with a hard or electronic copy of the delivery request receipt. The delivery employee shall retain a hard or electronic copy of the signed delivery request receipt for the licensed retailer's records. (Violation Type – Moderate)

5. **Age Verification.** An electronic age verification device shall be utilized to determine the age of any Individual attempting to purchase cannabis or cannabis goods for delivery and shall be required at the point-of-sale(s) and at the point of delivery. All employees shall be instructed in its use. Cannabis and cannabis products shall not be sold to the public without age verification by an electronic age verification device. The Licensee shall provide a copy of the specifications of the age verification device or devices used by delivery employees to DCR within 30

days of receiving a delivery license but prior to any delivery of cannabis or cannabis goods. (Violation Type – Moderate)

7. **Product Transport.** A delivery employee of a Licensee carrying Cannabis or Cannabis goods for delivery shall only operate and travel in an enclosed motor vehicle. During delivery and transport, an employee of a Licensee shall ensure Cannabis or Cannabis goods are not visible to the public. A licensed retailer's delivery employee shall not leave Cannabis or Cannabis goods in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system. The Licensee shall equip all vehicles used for delivery of Cannabis and Cannabis goods with a Global Positioning System (GPS) device dedicated to each vehicle which can identify the geographic location of the delivery vehicle during business hours. Licensees shall GPS information to the City upon request. A personal or business phone or tablet is not an acceptable GPS device. The device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle during business hours. . (Violation Type – Major)

8. **Delivery Hours.** A Licensee shall only deliver Cannabis and Cannabis goods between the hours of 6 a.m. to 10 p.m. daily. (Violation Type – Major)

9. **Delivery Product Amount.** Delivery employees shall not carry Cannabis or Cannabis goods in excess of the amount permitted by the State. (Violation Type – Moderate)

10. **Consumption.** Delivery employees shall not consume Cannabis or Cannabis goods or be under the influence of any substance that impairs the ability of the employee while delivering Cannabis or Cannabis goods. (Violation Type – Major)

11. **Required Notice by Licensee.** A Licensee shall notify the DCR in writing of an arrest or criminal conviction of an employee involving a delivery vehicle, either by mail or electronic mail, within 48 hours of the arrest or entry of conviction. (Violation Type – Minor)

12. **Delivery Fleet Information and Delivery Vehicle Placard (DVP).** The Licensee shall register with DCR all motor vehicles used for the delivery of Cannabis and Cannabis goods, including the vehicle's make, model, color, Vehicle Identification Number, and license plate number within 30 days of DCR's issuance of a delivery License. Vehicles must be registered with DCR to obtain a DVP prior to their use for delivery of Cannabis or Cannabis goods. DCR shall issue a DVP for each vehicle used in deliveries which shall be kept in the vehicle at all times and provided upon request to DCR, LAPD, or any other agencies. DVPs will be reissued upon License renewal. The Licensee shall notify DCR via email at DCRcompliance@lacity.org when a new vehicle is added to or removed from the

fleet. The Licensee shall return any and all DVPs for vehicles which have been removed from the fleet. Delivery vehicles are subject to inspection by the DCR or LAPD at the Business Premises or during delivery. DVPs for vehicles that are no longer in the delivery fleet can be mailed or dropped off at:

Department of Cannabis Regulation
Compliance and Enforcement Division
221 N. Figueroa Street
Suite 1245
Los Angeles, CA 90012

(Violation Type – Moderate)

13. **Motor Carrier Permit.** All vehicles transporting Cannabis or Cannabis goods for delivery shall carry a California Motor Carrier Permit as required under Section 34620 of Chapter 2, Division 14.85 of the California Vehicle Code. (Violation Type – Minor)

E. Microbusiness Commercial Cannabis Activity

1. **Operational Requirements.** A Licensee conducting Microbusiness Commercial Cannabis Activity shall meet all operational requirements for Retailer Commercial Cannabis Activity and all other non-retail Commercial Cannabis Activity for which DCR has issued a License. (Violation Type – Major)

F. Testing Lab Commercial Cannabis Activity

1. **Restrictions.** No owner or employee of a Licensee may be employed by, or have any ownership or financial interest, in any other category of Commercial Cannabis Activity. (Violation Type – Major)

Regulation No. 6. Renewals.

A. Licensees shall renew Licenses and Temporary Approvals annually. At a minimum, the renewal application shall include the following information:

- (i) The first and last name of the individual(s) listed as Licensees;
- (ii) If the Licensee is a business entity, the Licensee seeking renewal shall list its legal business name and DBA;
- (iii) Licensee's Business Premises address;
- (iv) An attestation that all information, forms and documents provided to DCR in the original application remain accurate and current, or a detailed explanation of any changes or discrepancies.

B. DCR and its agents may conduct an on-site inspection prior to issuing a renewal License or Temporary Approval.

C. A Licensee seeking renewal must be current on all City of Los Angeles taxes and DCR fees before a renewal application may be considered by the DCR.

Regulation No. 7. Administrative Violations, Penalties and Appeals.

DCR shall be the lead agency for any enforcement investigations and actions with respect to Article 4 of Chapter X of the LAMC and these Rules and Regulations.

A. Notices to Correct (NTC)

1. Where permitted by the Rules and Regulations, DCR may issue a Notice to Correct in lieu of a Notice of Violation. Unless otherwise indicated on the Notice to Correct, a Licensee shall comply with all Notices to Correct within 30 days of its issuance by DCR. DCR may issue a Notice of Violation for the failure to timely correct violations cited by a Notice to Correct.

B. Notices of Violation (NOV)

1. Licensees shall correct violations within 30 days of the issuance of a Notice of Violation, unless an extension of time is granted or the Licensee requests an administrative appeal pursuant to subsection B.

2. Licensees may request an extension of time to correct violations and pay the associated penalties prior to the expiration of the 30 day period by submitting the Request for an Extension of Time to Comply with NOV Form (ENF-3002-FORM). DCR shall have the sole discretion to grant or deny any request for an extension. Licensees shall justify the request for the extension and provide a proposed timeline for compliance.

3. After the Notice of Violation or administrative appeal thereof becomes final, Licensee shall comply with the Notice of Violation or appellate decision, whichever is applicable, within 30 days. After the Notice of Violation or appellate body's decision becomes final, DCR shall issue an invoice for the associated administrative penalty or fine, if any, which shall be due within 30 days.

4. DCR may issue a new Notice of Violation for the failure to timely correct violations cited by an earlier Notice of Violation and/or the failure to timely pay any associated administrative penalties or fines.

5. DCR shall not reinstate any suspended License where the Licensee has open or uncorrected violations.

6. While a Notice of Violation is open or administrative appeal is pending, an Applicant shall not submit Entity Substitution modification record, Removal of Owner(s) modification record, or Ownership structure modification record, or request cancellation of the License or withdrawal of the Application.

C. Administrative Appeals

1. When authorized by LAMC Section 104.14(a)(1)-(4), an Applicant or Licensee may request an administrative appeal by submitting the Administrative Hearing Request Form (ENF-3001-FORM) through the DCR Licensing Portal and paying the associated Administrative Appeal Filing Fees, pursuant to LAMC Section 104.19(f), within 15 days of the date of the DCR action(s) subject to appeal.

2. When authorized by LAMC Section 104.14(a)(5), an Applicant or Licensee may request an administrative appeal by submitting the Administrative Hearing Request Form (ENF-3001-FORM) through the DCR Licensing Portal and paying the associated Administrative Appeal Filing Fees, pursuant to LAMC Section 104.19(f), within 5 days of the date of Notice of Suspension.

3. Payments for Administrative Appeal Filing Fees pursuant to LAMC Section 104.19(f) must be paid by credit card, cash, money order, or cashier's check in-person at the Office of Finance in accordance with the instructions included on the invoice. Payments for Administrative Appeal Filing Fees cannot be made by mail.

4. The notice of the administrative appeal hearing shall contain, at a minimum, the date, location, and time of the hearing.

5. In exigent circumstances where a violation poses an immediate and serious threat to public health and/or safety, DCR may take corrective action prior to an administrative appeal hearing. DCR may simultaneously suspend or impose conditions upon some or all of the Licenses held by the Licensee by taking any one of, or a combination of, the following actions: suspension of the License for a specified period of time; imposition of more restrictive conditions; or order an administrative hold of cannabis or cannabis products.

6. If a License is revoked at an administrative appeal hearing or after the appeal process has been exhausted, the Owner(s) shall not be allowed to apply for any type of License for a period of 5 years after the date of revocation.

Regulation No. 8. Social Equity Program.

1. “Disproportionately Impacted Area” in LAMC Section 104.20 means Police Reporting Districts as established in the [Expanded Social Equity Analysis](#), or as established using the same methodology and criteria in a similar analysis provided by an Applicant for an area outside of the City. The Expanded Social Equity Analysis identified the following Police Reporting Districts in the City of Los Angeles.

Police Reporting Districts						
111	269	455	1035	1268	1377	1834
138	275	457	1124	1269	1383	1836
146	311	463	1149	1307	1385	1837
147	314	467	1203	1313	1393	1838
148	326	473	1204	1321	1504	1842
155	333	497	1205	1323	1505	1844
156	334	507	1207	1333	1506	1846
157	354	525	1208	1342	1513	1849
158	355	557	1215	1343	1515	1862
166	356	564	1218	1345	1526	1863
185	357	565	1235	1347	1538	1981
192	361	647	1239	1351	1633	1982
195	362	649	1241	1352	1802	1983
236	375	667	1248	1353	1803	1984
238	376	668	1249	1361	1804	1985
245	377	769	1251	1362	1821	1994
246	378	774	1256	1363	1822	1995
247	397	775	1258	1365	1823	2115
256	398	776	1259	1367	1824	2136
257	415	932	1265	1371	1826	
265	424	933	1266	1373	1827	
266	448	935	1267	1375	1829	

Regulation No. 9. Financial Grant Program.

A. Subject to the availability of funds, and pursuant to LAMC Section 104.20(c)(4)(iv), DCR may implement a financial grant program, hereinafter referred to as the Social Equity Entrepreneur Development Grant Program (“SEED Grant Program”) for Social Equity Individual Applicants.

B. To the extent funding is allocated for the SEED Grant Program, DCR shall administer the Program in accordance with the following:

1. Subject to the availability of funds, up to \$5 million in grant funds from the California Governor’s Office of Business and Economic Development may be disbursed by DCR to Applicants with retail (Type 10) Applications deemed eligible for further processing under LAMC 104.06.1(b). Applicants eligible for grant funds under this subsection may receive \$25,000 in grant funds in one lump sum payment. DCR shall accept applications for grant funds under this subsection for a period of 120 days. Funds shall be disbursed on a first come, first served basis. Any remaining funds not awarded by 90 days prior to the end of the City’s Agreement with the California Governor’s Office of Business and Economic Development, or any extension thereof, may be disbursed on a pro rata basis to Applicants who applied by August 20, 2021 and who are eligible for grant funds under this subsection.

2. Subject to the availability funds, up to \$1 million in grant funds from the Bureau of Cannabis Control’s California Local Equity Grant Program may be disbursed by DCR to any Social Equity Individual Applicant with an Application deemed eligible for further processing that did not receive grant funds under subsection (1). DCR shall accept applications for grant funds under this subsection for a period of 120 days. Applicants eligible for grant funds under this subsection may receive available grant funds in two disbursements upon meeting the following licensing milestones: (1) \$5,000 when DCR deems the Pre-Application eligible for further processing; and (2) \$5,000 when the Applicant is eligible for a Notice of Local Compliance Underway. Funds shall be disbursed on a first come, first served basis. Any remaining funds not awarded by 90 days prior to the end of the Grant Term of the City’s Agreement with the Bureau of Cannabis Control, or any extension thereof, may be disbursed on a pro rata basis to Applicants who applied by August 20, 2021 and who are eligible for grant funds under this subsection.

3. Applicants must apply for grant funds. DCR shall have sole and absolute discretion to determine application requirements, if an Applicant is eligible for grant funds, and if applicable, whether and when the requirements for any disbursement of funds are met.

4. DCR may disburse funds to an Applicant at any time after the Applicant has been determined eligible for grant funds.

5. Grant recipients shall enter into a contract with DCR prior to receipt of any grant funds. The contract shall specify the permissible use of the funds, and method and timing of payment.

6. Grant funds shall be used only for expenses incurred to launch and operate a licensed commercial cannabis business in the City of Los Angeles.

7. Applicants with Applications that have been deemed abandoned or denied shall not receive grant funds.

C. Notwithstanding Section (B), the Executive Director may make adjustments to this Regulation and/or allocate available grant funds in any manner required to maximize utility of the funds, including but not limited to using SEED Grant Program funds to reimburse or pay licensing and regulatory fees for Social Equity Individual Applicants due under LAMC Section 104.19.

D. To the extent grant funds are provided by a funding source outside the City, DCR may administer the SEED Grant Program for those funds in compliance with the requirements of that source. To the extent the terms do not conflict, this Regulation shall govern.

Regulation No. 10. Fee Deferral and Fee Waiver Program.

A. Subject to the availability of funds, and pursuant to LAMC Section 104.20(c)(4)(ii), DCR may implement a fee deferral or fee waiver program for Social Equity Individual Applicants.

B. To the extent funding is allocated for fee waivers, DCR may implement fee waivers in accordance with the following:

1. Subject to the availability of funds, up to \$1,625,034 may be applied to Social Equity Application (SEIA) Eligibility Verification (Section 104.06.1) Fees pursuant to LAMC Section 104.19 as fee waivers for individuals who submit a complete eligibility verification application to be verified as a Social Equity Individual Applicant.

2. Funds shall be disbursed on a first come, first served basis. Any remaining funds not awarded after the Eligibility Verification window closes pursuant to Section 104.06.1(c), may be disbursed in accordance with the terms of the fee deferral program in subsection (C).

C. To the extent funding is allocated for fee deferrals, DCR may implement fee deferrals in accordance with the following:

1. Subject to the availability of funds, DCR may defer the Social Equity Program (SEP) Temporary Approval Application Fees pursuant to LAMC Section 104.19 for Applicants who were deemed eligible for further processing under LAMC 104.06.1(c), LAMC 104.06.1(e), or LAMC 104.06.1(f).

2. Fees shall be deferred on a first come, first served basis.

3. Social Equity Individual Applicants are limited to one outstanding fee deferral at a time.

4. Fees may be deferred for a maximum period of six months from the effective date of a Fee Deferral Agreement, until a modification request is deemed eligible for further processing, or until Temporary Approval is granted, whichever occurs earlier.

5. Fees shall not be deferred unless and until a Fee Deferral Agreement is entered into to the satisfaction of the Executive Director or their designee.

D. Notwithstanding Sections (B) and (C), the Executive Director may make adjustments to this Regulation and/or allocate available grant funds in any manner required to maximize utility of the funds.

Regulation No. 11. SEED Rental Grant Program.

A. Subject to the availability of funds, and pursuant to LAMC Section 104.20(c)(4)(iv), DCR may implement a financial grant program, hereinafter referred to as the Social Equity Entrepreneur Development Rental Assistance Grant Program (“SEED Rental Grant Program”) for Social Equity Individual Applicants.

B. To the extent funding is allocated for the SEED Rental Grant Program, DCR shall administer the Program in accordance with the following:

1. Subject to the availability of funds, up to \$4 million in grant funds from the California Governor’s Office of Business and Economic Development may be disbursed by DCR to Applicants with retail (Type 10) Applications deemed eligible for further processing under LAMC 104.06.1(b) and Licensees with Temporary Approval to operate a Type 10 commercial cannabis license, who have executed leases or a binding Letter of Intent for Business Premises on which to conduct non-retail commercial cannabis activity. Applicants eligible for grant funds under this subsection may receive \$50,000 in grant funds in three disbursements. The first disbursement of \$25,000 shall be made available upon completion of the grant agreement and the Applicant’s submission of an Education Course Completion Certificate demonstrating completion of the Commercial Leases and Contract Negotiations I and II courses available on the Business, Licensing and Compliance Program (BLC) Learning Management System (LMS). The second disbursement of \$15,000 shall be made available on upon the Applicant’s submission of evidence demonstrating how the first disbursement was used and an Education Course Completion Certificate demonstrating completion of the Business Planning & Operational Development course available on the LMS. Submission of these requirements must be received prior to July 31, 2023 in order to be eligible for a second disbursement. The third disbursement of \$10,000 shall be made upon the Applicant’s submission of evidence demonstrating how the second disbursement was used and an Education Course Completion Certificate demonstrating completion of any additional course available on the LMS. Submission of these requirements must be received prior to August 31, 2023 in order to be eligible for a second disbursement. DCR shall accept applications for grant funds under this subsection beginning September 30, 2022 until March 30, 2023. Funds shall be disbursed on a first come, first served basis. Any remaining grant funds not awarded by August 31, 2023, may be disbursed on a pro rata basis to Social Equity Individual Applicants who have previously received funds through the SEED Rental Grant Program until October 31, 2023.

2. Subject to the availability of funds, \$1 million in grant funds from the California Governor’s Office of Business and Economic Development may be disbursed by DCR to verified Social Equity Individual Applicants deemed eligible for further processing, and Licensees, who have executed leases or a binding

Letter of Intent for Business Premises on which to conduct non-retail commercial cannabis activity. Applicants may apply to receive a financial grant of \$10,000 to be disbursed in a single disbursement of \$10,000 upon completion of the grant agreement and the Applicant's submission of an Education Course Completion Certificate demonstrating completion of the Commercial Leases and Contract Negotiations I and II courses available on the Business, Licensing and Compliance Program (BLC) learning management system (LMS). Applicants shall submit receipts demonstrating use of funds within 60 days of the use of funds.

3. Applicants and Licensees must apply for grant funds. DCR shall have sole and absolute discretion to determine application requirements, if an Applicant or Licensee is eligible for grant funds, and if applicable, whether and when the requirements for any disbursement of funds are met.

4. DCR may disburse funds to an Applicant or Licensee at any time after being determined eligible for grant funds and receiving an Education Course Completion Certificate.

5. Grant recipients shall enter into a contract with DCR prior to receipt of any grant funds. The contract shall specify the permissible use of the funds, and method and timing of payment.

6. Grant funds shall be used only for the following purposes: to pay rent or a security deposit pursuant to a fully executed commercial lease for the purposes of operating a licensed commercial cannabis storefront retail location; to finance up to one month of back rent due on a fully executed commercial lease for the purposes of operating a licensed commercial cannabis storefront retail location; to secure a binding Letter of Intent by paying the required security deposit for the purposes of operating a licensed commercial cannabis storefront retail location; to assist with building or construction costs for the purposes of renovating a location to operate a licensed commercial cannabis storefront retail location, as long as estimates and/or unpaid invoices totalling the grant amount are submitted with the grant application.

7. Applicants with Applications that have been deemed abandoned or denied shall not receive grant funds.

C. Notwithstanding Section (B), the Executive Director may make adjustments to this Regulation and/or allocate available grant funds in any manner required to maximize utility of the funds, including but not limited to allowing Approved Applicants to use SEED Rental Grant Program funds to pay licensing and regulatory fees due under LAMC Section 104.19.

D. To the extent grant funds are provided by a funding source outside the City, DCR may administer the SEED Grant Program for those funds in compliance with the requirements of that source. To the extent the terms do not conflict, this Regulation shall govern.

Exhibit 19

Regulation No. 5. Operational Requirements and Violations

A. General

In addition to the requirements set forth in Article 4 of Chapter X of the LAMC, all Licensees must adhere to the requirements listed below. The indicated characterizations of violations, if any, are suggestions only and may vary depending upon the circumstances of the violation. DCR may issue a separate violation for each subsection or subdivision.

1. Responsible Management.

(i) **Licenses Required.** Every Applicant shall obtain a License from DCR and the State for each Commercial Cannabis Activity and Business Premises location where it engages in Commercial Cannabis Activity. (Violation Type – Major)

(ii) **Transacting Only with Other Licensees.** A Licensee shall only transact or engage in Commercial Cannabis Activity with a Person who possesses a local License and a State license for the relevant Commercial Cannabis Activity. (Violation Type – Major)

(iii) **Cooperation.** Applicants and Licensees shall fully cooperate with inspections, investigations or audits. Applicants and Licensees must provide any information, surveillance recordings, or other data to the City upon request and in the form or manner requested. (Violation Type – Major)

(iv) **DCR Access to Business Premises.** Agents or employees of DCR with City identification requesting entry to the Business Premises shall be given unrestricted access during regular business hours. (Violation Type – Major)

(v) **Cannabis/Product Testing.** A Licensee shall have all Cannabis and Cannabis products tested as required by the State, and adhere to the State's requirements concerning sampling, chain of custody, and labeling. (Violation Type – Major)

(vi) **Use of Business Name or Legal Entity Name.** A Licensee shall use the name of the licensed business entity and/or Business Premises location, whichever is applicable, for the submission of all other permits, certificates, or documents issued by the City of Los Angeles. In addition, Applicants and/or Licensees must use the same business entity name and Business Premises location applying to the State of California for corresponding Commercial Cannabis Activity licenses. (Violation Type – Major)

(vii) **Operational Status.** Licensees shall notify DCR of the initial start date of commercial cannabis activity for the licensed business within 30 days of that start date. (Violation Type – Minor)

(viii) **Use of DBA.** A Licensee shall submit all information concerning the use of a “Doing Business As” name (DBA), if any, to DCR. The Licensee must submit a modification request to record or change a DBA within ten (10) days of the change. (Violation Type – Minor)

(ix) **Violations of State Cannabis Law.** A Licensee shall comply with all State regulations concerning Commercial Cannabis Activity. DCR may cite violations of the State’s regulations for Commercial Cannabis Activity not specifically listed herein. (Violation Type – Major)

(x) **Compliance with Notices to Correct and/or Notices of Violation.** A Licensee shall comply with all Notices to Correct, Notices of Violation or administrative holds issued by DCR. DCR may issue a new Notice of Violation for the failure to timely correct violations cited by an earlier Notice to Correct, Notice of Violation, and/or the failure to timely pay any associated administrative penalties or fines. A Notice of Violation that is issued for failure to timely correct prior violations and/or pay administrative penalties or fees from an earlier Notice of Violation shall be the next violation type, e.g., if the first violation was Minor, the second shall be Moderate. DCR may issue a Notice of Violation for failure to comply with a Notice to Correct.

(xi) **Catch-all.** A Licensee, its employees, agents and officers must obey all applicable commercial cannabis laws of the City of Los Angeles, the State of California, and any other relevant agencies. DCR may issue Notices to Correct, Notices of Violation, and/or Administrative Holds, including penalties and fines, against a Licensee for any acts or omissions that are in violation of any provision of the Los Angeles Municipal Code or these regulations, or any another California laws applicable to cannabis licensees including, but not limited to, state labor law. (Violation Type – Major)

2. **Responsible Management of the Business Premises**

(i) **Display of License.** A Licensee shall prominently display any License, State license, BTRC, Emblem Placard (storefront retailers only), designated Neighborhood Liaison, including the phone number and email address to receive complaints, and emergency contact information on the licensed Business Premises where it can be viewed by state and local agencies. If the licensed Business Premises is open to the public, the aforementioned documents shall be displayed in an area that is within plain sight of the public. (Violation Type – Minor)

(ii) **Identification of Employees.** All agents, officers, or other Persons acting for or employed by a Licensee shall display an identification badge all times while conducting business operations. The identification badge shall include: the Licensee's business entity name or DBA, DCR record number, the employee's first name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height. (Violation Type – Minor)

(iii) **Employee Age.** All employees of the Licensee at the Business Premises shall be at least twenty-one (21) years of age. (Violation Type – Moderate)

(iv) **Conduct at the Business Premises.** A Licensee shall be responsible for monitoring employee and customer conduct at their Business Premises, and other areas which customers or employees frequent, including parking areas. Employee and customer conduct at the Business Premises shall not adversely affect or detract from the quality of life for nearby residents, property owners, and businesses. A Licensee shall discourage illegal activity, criminal conduct, nuisance activity and loitering on the Business Premises. (Violation Type – Minor)

(v) **Graffiti.** All graffiti, as referenced in LAMC Section 49.84.3, shall be removed or painted over to match the color of the surface within 72 hours of its occurrence. The property and all adjacent areas, including parking areas, under the control of the Licensee and any adjoining sidewalk or alley, shall be maintained in an attractive condition and shall be kept free of obstruction, trash, litter, and debris at all times. (Violation Type – Minor)

(vi) **Debris.** Trash pick-up, compacting, loading, and unloading and receiving activities shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 4:00 p.m. on Saturday; and no deliveries or trash pick-up shall occur on Sunday. Waste receptacles shall be kept secure and accessible only to authorized personnel. (Violation Type – Minor)

(vii) **Compliance Attestation.** Licensees are required to complete the Licensee Attestation: Operational Requirements and Violations, ENF-3003-FORM to declare the Licensee received, read, and understands all applicable operational regulations. ENF-3003-FORM must be signed by, at a minimum, (1) a simple majority of the Licensee's Owner(s) or the Authorized Agent and, if applicable, (2) the Social Equity Individual Applicant. The Licensee is required to provide a copy of the Rules and Regulations for Cannabis Procedures to any and all Primary Personnel, managers, and the person-in-charge. (Violation Type – Minor)

(viii) **Code of Conduct.** Licensees shall develop and implement a code

of conduct for employees and a code of conduct for patrons. The License shall provide training for the employees on the employee code of conduct. The Licensee shall post the patron code of conduct in a visible and public area on the Business Premises. At minimum, the employee code of conduct shall address workplace behavior, employee accountability, compliance with State and City's operational rules and regulations, and other internal operational procedures. The patron code of conduct shall include at minimum, prohibitions against loitering, littering, abusive or offensive behavior, and encourage patrons' mindfulness of the surrounding neighbors. (Violation Type – Minor)

3. **Unauthorized Modifications**

(i) **No Physical Changes without Approval.** Unless given written approval by DCR, a Licensee shall not make physical changes, alterations, or modifications to the Business Premises, including adjustments that alter the originally-approved Business Premises diagram, such as the removal, creation, or relocation of a common entryway, doorway, passage, or a means of public entry or exit, when such common entryway, doorway, or passage alters or changes limited-access areas within the Business Premises. (Violation Type – Moderate)

(ii) **No Changes to Ownership Structure or Licensed Entity Without Approval.** Licensees and Applications shall request approval from DCR for all of the following: a change to the Licensee's organizational structure or ownership pursuant to LAMC Section 104.11(a), including the removal of Owner, or a change of a majority of officers or stockholders or a controlling ownership interest; or licensed entity name; substitution of the licensed entity for another entity. Licenses are not transferable or assignable to any other person, entity, or property without written approval from the DCR. (Violation Type – Moderate)

(iii) **No Relocation without Approval.** The location of the Business Premises may not be changed without the approval of DCR. (Violation Type – Major)

(iv) **No Activity Modifications without Approval.** A Licensee shall request approval for any change to the licensed Commercial Cannabis Activity type, including the removal, cancellation, or expansion of the activity. (Violation Type – Major)

4. **Security Measures**

(i) **Surveillance System and Cameras.** All Business Premises shall be equipped with a surveillance system. (Violation Type – Moderate)

(ii) **Surveillance System Resolution.** All Licensees' Business Premises shall have a digital video surveillance system with a minimum camera

resolution of 1280 × 720 pixels. (Violation Type – Moderate)

A. **General - Security System Location.** The surveillance system shall at all times clearly record images within 20 feet of all points of entry and exits on the Business Premises. Cameras shall be permanently mounted and in a fixed location. Areas that shall also be recorded include, but are not limited to: (a) areas where Cannabis goods are weighed, packed, stored, loaded and unloaded for transportation, prepared, or moved within the Business Premises; (b) I-access areas; (c) security rooms; (d) areas storing a surveillance-system device with at least one camera recording the access points to the area; and (e) entrances and exits to the Business Premises, which shall be recorded from both indoor and outdoor vantage points.

B. **Retailers - Surveillance System Location.** Retailers shall record point-of-sale areas and areas where Cannabis goods are displayed for sale on the video surveillance system. At each point of sale location, camera placement must allow for the recording of the facial features of any Person purchasing or selling Cannabis goods, and any Person in the retail area.

C. **Surveillance System Recording and Storage.** Cameras shall record continuously, 24 hours per day and at a minimum of 15 frames per second (FPS). The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect against tampering or theft and shall be kept for a minimum of 90 days. Recorded images shall clearly and accurately display the time and date. Time is to be measured in seconds, minutes and hours using Pacific Standard Time. The surveillance system shall be equipped with a failure notification feature that provides notification to the Licensee of any interruption or failure of the equipment or its storage.

D. **Surveillance System Inspection.** Recordings are subject to inspection and shall be maintained in a manner that allows the City to view the recordings immediately upon request. The Licensee shall also copy and send recordings to the City upon request within the time specified.

(iii) **Security Personnel.** All Licensees with onsite retail sales shall hire or contract security personnel licensed by the Bureau of Security and Investigative Services to provide security services for the Business Premises during operating hours. Security personnel shall be at least 21 years of age. (Violation Type – Moderate)

(iv) **Security Plans.** A Licensee shall develop and implement a written security plan. At a minimum, the security plan shall include a description of how the Licensee meets the requirements below. (Violation Type – Moderate)

A. Licensees shall prevent access to the Business Premises by unauthorized persons and protect the physical safety of the public and employees. This includes, but is not limited to, establishing physical barriers to secure perimeter access and all points of entry into the Business Premises, such as locking primary entrances with commercial-grade, non-residential door locks, providing fencing around the grounds and driveway, and securing any secondary entrances including windows, roofs, and ventilation systems.

B. Licensees shall install a security alarm system to notify and record incident(s) where physical barriers have been breached.

C. Licensees shall implement an identification and sign-in/sign-out procedure for authorized personnel, individuals, suppliers, and visitors.

D. Licensees shall maintain the premises such that visibility and security monitoring of the premises is possible.

E. Licensees shall establish procedures for the investigation of suspicious activities and to deter theft or loss of cannabis and cannabis products. This includes, but is not limited to:

(i) Establishing an inventory system to track cannabis and cannabis products and the personnel responsible for processing it throughout the manufacturing process;

(ii) Limiting access of personnel within the premises to those areas necessary to complete job duties, and to those time frames specifically scheduled for completion of job duties, including access by outside vendors, suppliers, contractors or other individuals conducting business with the licensee that requires access to the premises;

(iii) Supervising tasks or processes with high potential for diversion, including the loading and unloading of cannabis and cannabis products from transportation vehicles; and,

(iv) Providing areas in which personnel may store and access personal items that are separate from the manufacturing areas.

F. Licensees shall secure and back up electronic records in a manner that prevents unauthorized access and ensures that the integrity of the records is maintained.

(v) **Alarm System.** A Licensee shall maintain an alarm system as required by the State of California. A Licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system. Upon request, a Licensee shall make available to the City all information related to the alarm system, monitoring, and alarm activity. A Licensee must apply for, and maintain in good standing, an Alarm System Permit issued pursuant to LAMC Section 103.206. (Violation Type – Moderate)

(vi) **Limited-Access Areas.** A Licensee shall ensure Limited-Access areas can be securely locked using commercial-grade, nonresidential door locks in accordance with the approved security plan. Additionally, commercial-grade, nonresidential locks shall be used on all points of entry and exit to the Business Premises in accordance with the approved security plan. (Violation Type – Moderate)

(vi) **Access to Limited-Access Areas.** A Licensee shall only permit authorized individuals who are at least twenty-one (21) years of age to enter the Limited-Access Areas. Authorized individuals include: the Licensee's employees, outside vendors, contractors, labor representatives, or other individuals who have a bona fide business reason for entering the area. An individual who enters a Limited-Access Area and is not employed by the Licensee shall be escorted by an employee of the Licensee at all times while within the Limited-Access Area. Additionally, a log shall be maintained which tracks those entering areas with limited access and will provide DCR access to those records when requested. Licensees shall not receive consideration or compensation for permitting an individual to enter a Limited-Access Area. (Violation Type – Moderate)

5. **Business Premises Equipment.**

(i) **Ventilation/Exhaust Systems.** A Business Premises shall be properly ventilated and the exhaust air filtered to neutralize the odor from cannabis so that it cannot be detected on the exterior of Business Premises. Operable windows or vents shall not abut a residential use or zone and shall direct exhaust away from said spaces/locations. (Violation Type – Moderate)

(ii) **Exterior Lights.** Outdoor lights used for safety or security purposes shall be shielded and downward facing. All exterior portions of the Business Premises shall be adequately illuminated beginning at dusk so as to make discernible the faces and clothing of persons utilizing the space during evening hours. (Violation Type – Minor)

(iii) **Equipment Location.** All rooftop equipment, including air conditioning units, ventilation and mechanical equipment, shall be screened from view of the public. (Violation Type – Minor)

6. **Prohibited Activities.**

(i) **Subletting.** A Licensee shall not sublet any portion of the identified Business Premises without written approval from DCR. (Violation Type – Major)

(ii) **Physician’s Recommendations Onsite.** No recommendations or approvals by a physician to use medical cannabis or medical cannabis products shall be issued at any Business Premises. (Violation Type – Moderate)

(iii) **Consumption of Cannabis or Alcohol at Business Premises.** A Licensee shall not allow the consumption of Cannabis, Cannabis products, or alcohol on the Business Premises. No employee or agent of the Licensee shall solicit or accept any Cannabis, Cannabis products or alcohol from any customer or vendor while on the Business Premises. (Violation Type – Moderate)

(iv) **Loitering.** Loitering is prohibited on and around the Business Premises and the area under control of the Licensee. “No Loitering, Public Drinking, or Public Smoking/ Consumption of Cannabis” signs shall be clearly posted inside and outside of the Business Premises. (Violation Type – Minor)

(v) **Onsite Party Events.** No special events or parties of any type shall be held at the Business Premises, including, but not limited to, events for which a Temporary Special Event Permit has been issued by the Building and Safety Commission or any other City department. (Violation Type – Moderate)

7. **Required Notifications.**

(i) **Notification of Convictions, Judgments and Revocations.** A Licensee or Applicant shall notify DCR in writing of any criminal conviction entered against the Licensee or Applicant, any Owner of the Licensee or Applicant, any Primary Personnel of the Licensee or Applicant, or Management

Company, by electronic mail, within 48 hours of the entry of the conviction. A Licensee or Applicant shall notify DCR in writing of any judgment or civil penalty entered against the Licensee or Applicant, any Owner of the Licensee or Applicant, any Primary Personnel of the Licensee or Applicant, or Management Company, by electronic mail, within 48 hours of delivery of the verdict or entry of judgment, whichever is sooner. Additionally, a Licensee or Applicant shall provide written notice to DCR of the revocation or suspension of any State license, or other permit, clearance or authorization within 48 hours of such revocation or suspension. (Violation Type – Minor)

(ii) **Notification of Irregularities and Criminal Activity.** A Licensee, Owner, or Primary Personnel shall notify DCR within 24 hours of discovery of any of the following situations: a significant discrepancy in its inventory; suspected or actual diversion, theft, loss, or any other criminal activity pertaining to the operation of the Licensee’s business; suspected or actual diversion, theft, loss, or any other criminal activity by an agent or employee pertaining to the operation of the Licensee’s business; the loss or unauthorized alteration of records related to Cannabis, Cannabis goods, registered medical cannabis patients or primary caregivers, or dispensary employees or agents; and any other breach of security. (Violation Type – Moderate)

B. Records

1. Record Retention.

(i) **Maintenance.** Each Licensee shall keep and maintain the following records for at least seven years:

A. Financial records including, but not limited to, bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization, other State of California agencies, the Office of Finance, or DCR;

B. Personnel records, including each employee’s full name, Social Security or individual taxpayer identification number, date of beginning employment, and date of termination of employment, if applicable;

C. Training records, including, but not limited to, the date and content of the training provided and the names of the employees that received the training;

D. Contracts with other Licensees;

E. Permits, licenses, and other local or state authorizations to conduct Commercial Cannabis Activity. (Violation Type – Minor)

2. **Audits.** DCR, Los Angeles Department of Building and Safety, Los Angeles Police Department, Los Angeles Fire Department, the Los Angeles Office of Finance, Los Angeles County Department of Health, and/or other government agencies may make any examination of the books and records of any Licensee as it deems necessary to perform its duties. Records shall be kept in a manner that allows the records to be viewed in either hard copy or in electronic form. A Licensee may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the Licensee of its responsibilities under these regulations. (Violation Type – Minor)

C. Retailer Commercial Cannabis Activity

1. **Age Requirement.** Except as otherwise provided by state law, access to the Business Premises shall be limited to Individuals who are at least 21 years old and have a bona fide business reason for entering the Business Premises. Age verification must occur at each entrance to the Business Premises. An Individual younger than 21 years of age may enter the Business Premises to purchase medical Cannabis goods only if the Individual is a medical Cannabis patient. Any medical Cannabis patient younger than 18 years old shall be accompanied by their parent, legal guardian, or primary caregiver. The Licensee shall verify the Individual has valid proof of identification as required by the State. (Violation Type – Major)

2. **Medical Cannabis Sales.** A Licensee shall only sell medical Cannabis goods to medical Cannabis patients or the primary caregivers of medical Cannabis patients as authorized by the State. (Violation Type – Major)

3. **Monitor Retail Area.** The Licensee or its employees shall be physically present at all times when non-employees are in the retail area. (Violation Type – Moderate)

4. **Business Hours.** A Licensee conducting Retailer Commercial Cannabis Activity may only sell Cannabis goods during the hours allowed by the State. At any time the Licensee is not open for retail sales, the Licensee shall ensure the following:

(i) The Business Premises shall be securely locked with commercial-grade, non-residential door locks;

(ii) The Business Premises shall be equipped with an active alarm system;

(iii) Only authorized employees and contractors of the Licensee shall be allowed to enter the Business Premises after hours; and

(iv) All patrons exit the Business Premises no later than 15 minutes after closing. (Violation Type – Moderate)

5. **Display of Cannabis and Cannabis Goods.** The display of Cannabis and Cannabis goods shall comply with the following:

(i) Cannabis and Cannabis goods shall only be displayed in the retail area and shall not be displayed in a place where it is visible from outside the Business Premises.

(ii) Cannabis and Cannabis goods may be removed from their packaging and placed in containers to allow for customer inspection. The containers shall not be readily accessible to customers without the assistance of the Licensee's personnel. A container must be provided to the customer by the retailer who shall remain with the customer at all times.

(iii) Cannabis and Cannabis goods removed from their packaging for display shall not be sold or consumed, and when no longer used for display shall be destroyed pursuant to State requirements. (Violation Type – Moderate)

6. **Cannabis Sales.** A Licensee shall not sell more than the established maximum daily limit for medical Cannabis goods, including edibles, or adult use Cannabis goods, including edibles per Individual, as required by the State. (Violation Type – Moderate)

7. **Product Samples.** A Licensee shall not provide free samples of any type, including Cannabis goods and non-Cannabis, to customers. A Licensee shall not allow representatives of other companies or organizations to provide free samples of any type, including Cannabis goods, to customers on the Business Premises. (Violation Type – Moderate)

8. **Product Packaging.** Cannabis goods purchased by a customer shall not leave the Business Premises unless they are placed in an exit package as required by the State. (Violation Type – Moderate)

9. **Product Inventory and Sales.** A Licensee shall maintain an accurate record of its inventory and every sale as required by the State. (Violation Type – Minor)

10. **Training Program.** Within the first three months of the establishment of the training program, all employees of a Licensee conducting Retailer Commercial Cannabis Activity shall enroll in the DCR and Los Angeles Police Department's

standardized training for Cannabis retailers. Upon completion of such training, the Licensee shall request that DCR issue a letter identifying which employees completed the training. The training shall be conducted for all new hires within two months of the start of their employment. A refresher course is required of all employees every 24 months after the initial training is completed. Online or in-person training is at the discretion of DCR and Los Angeles Police Department. (Violation Type – Moderate)

11. **Age Verification Device.** An electronic age verification device shall be purchased and retained on the Business Premises to determine the age of any individual attempting to purchase Cannabis goods and shall be installed at each point-of-sales area. The device shall be maintained in operational condition and all employees shall be instructed in its use. Cannabis products shall not be sold to the public without a functioning electronic age verification device. (Violation Type – Moderate)

12. **Business Premises Access.** All doors not intended for customer access shall be kept closed at all times other than to permit access for deliveries and trash removal. Exterior doors shall not consist of a screen or ventilated security door and shall be solid. (Violation Type – Moderate)

13. **Prohibited Activities.** The following activities are prohibited:

(i) **Drive Through or Walk Up Windows.** There shall be no sales through exterior openings, such as drive through or walk-up windows. (Violation Type – Major)

(ii) **Adult Entertainment.** There shall be no adult entertainment of any type pursuant to LAMC Section 12.70 or alcohol or tobacco sales of any type. (Violation Type – Moderate)

(iii) **Entertainment.** No entertainment of any type shall be allowed to take place, except for ambient music. No disc jockey, karaoke, or performances of any kind shall be allowed. Any music, sound, or noise emitted from the Business Premises shall comply with the noise regulations of the LAMC and shall not extend beyond the Business Premises. (Violation Type – Moderate)

(iv) **Billiards.** There shall be no pool or billiard tables, dart games, video games, coin operated game machines or similar game devices maintained upon the Business Premises at any time. (Violation Type – Minor)

(v) **Outdoor Speakers.** There shall be no outdoor speakers, or paging system on the exterior portions of the Business Premises or attached to the façade of the building. (Violation Type – Moderate)

(vi) **Temporary or Special Events.** Licensees shall not host a special

or temporary event at any location in the City of Los Angeles, or sell Cannabis or Cannabis Goods at a special or temporary event at any location in the City of Los Angeles. (Violation Type – Major)

14. **Display of Emblem.** When available, a Licensee shall post an emblem as required under LAMC Section 104.23. A Licensee shall protect an emblem placard from damage, theft or tampering. A Licensee shall inform the Los Angeles County Department of Public Health within 24 hours of when an emblem placard is damaged, stolen, or otherwise lost. (Violation Type – Moderate)

D. Delivery Commercial Cannabis Activity

1. **Delivery Employees.** All deliveries of Cannabis and Cannabis goods must be performed by an employee of a Licensee. Each delivery employee shall be at least 21 years of age. Only authorized employees shall be in the delivery vehicle during the time of delivery. Delivery Employees shall display an identification badge at all times while conducting delivery business operations. The identification badge shall include: the Licensee's business entity name or DBA, DCR license/record number, the employee's name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height. (Violation Type – Moderate)

2. **Delivery Requirements.** All deliveries of Cannabis and Cannabis goods shall be made in person. A delivery of Cannabis and/or Cannabis goods shall not be made through the use of an unmanned vehicle or device. (Violation Type – Moderate)

3. **Delivery Orders.** As required by the State, Cannabis and Cannabis goods shall be ordered, packaged for sale, labeled, and/or placed in packaging prior to being delivered to a customer. (Violation Type – Moderate)

4. **Delivery Request Receipt.** At the time of the delivery, the delivery employee of the retailer shall provide the customer who placed the order with a hard or electronic copy of the delivery request receipt. The delivery employee shall retain a hard or electronic copy of the signed delivery request receipt for the licensed retailer's records. (Violation Type – Moderate)

5. **Age Verification.** An electronic age verification device shall be utilized to determine the age of any Individual attempting to purchase cannabis or cannabis goods for delivery and shall be required at the point-of-sale(s) and at the point of delivery. All employees shall be instructed in its use. Cannabis and cannabis products shall not be sold to the public without age verification by an electronic age verification device. The Licensee shall provide a copy of the specifications of the age verification device or devices used by delivery employees to DCR within 30

days of receiving a delivery license but prior to any delivery of cannabis or cannabis goods. (Violation Type – Moderate)

7. **Product Transport.** A delivery employee of a Licensee carrying Cannabis or Cannabis goods for delivery shall only operate and travel in an enclosed motor vehicle. During delivery and transport, an employee of a Licensee shall ensure Cannabis or Cannabis goods are not visible to the public. A licensed retailer's delivery employee shall not leave Cannabis or Cannabis goods in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system. The Licensee shall equip all vehicles used for delivery of Cannabis and Cannabis goods with a Global Positioning System (GPS) device dedicated to each vehicle which can identify the geographic location of the delivery vehicle during business hours. Licensees shall GPS information to the City upon request. A personal or business phone or tablet is not an acceptable GPS device. The device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle during business hours. . (Violation Type – Major)

8. **Delivery Hours.** A Licensee shall only deliver Cannabis and Cannabis goods between the hours of 6 a.m. to 10 p.m. daily. (Violation Type – Major)

9. **Delivery Product Amount.** Delivery employees shall not carry Cannabis or Cannabis goods in excess of the amount permitted by the State. (Violation Type – Moderate)

10. **Consumption.** Delivery employees shall not consume Cannabis or Cannabis goods or be under the influence of any substance that impairs the ability of the employee while delivering Cannabis or Cannabis goods. (Violation Type – Major)

11. **Required Notice by Licensee.** A Licensee shall notify the DCR in writing of an arrest or criminal conviction of an employee involving a delivery vehicle, either by mail or electronic mail, within 48 hours of the arrest or entry of conviction. (Violation Type – Minor)

12. **Delivery Fleet Information and Delivery Vehicle Placard (DVP).** The Licensee shall register with DCR all motor vehicles used for the delivery of Cannabis and Cannabis goods, including the vehicle's make, model, color, Vehicle Identification Number, and license plate number within 30 days of DCR's issuance of a delivery License. Vehicles must be registered with DCR to obtain a DVP prior to their use for delivery of Cannabis or Cannabis goods. DCR shall issue a DVP for each vehicle used in deliveries which shall be kept in the vehicle at all times and provided upon request to DCR, LAPD, or any other agencies. DVPs will be reissued upon License renewal. The Licensee shall notify DCR via email at DCRcompliance@lacity.org when a new vehicle is added to or removed from the

fleet. The Licensee shall return any and all DVPs for vehicles which have been removed from the fleet. Delivery vehicles are subject to inspection by the DCR or LAPD at the Business Premises or during delivery. DVPs for vehicles that are no longer in the delivery fleet can be mailed or dropped off at:

Department of Cannabis Regulation
Compliance and Enforcement Division
221 N. Figueroa Street
Suite 1245
Los Angeles, CA 90012

(Violation Type – Moderate)

13. **Motor Carrier Permit.** All vehicles transporting Cannabis or Cannabis goods for delivery shall carry a California Motor Carrier Permit as required under Section 34620 of Chapter 2, Division 14.85 of the California Vehicle Code. (Violation Type – Minor)

E. Microbusiness Commercial Cannabis Activity

1. **Operational Requirements.** A Licensee conducting Microbusiness Commercial Cannabis Activity shall meet all operational requirements for Retailer Commercial Cannabis Activity and all other non-retail Commercial Cannabis Activity for which DCR has issued a License. (Violation Type – Major)

F. Testing Lab Commercial Cannabis Activity

1. **Restrictions.** No owner or employee of a Licensee may be employed by, or have any ownership or financial interest, in any other category of Commercial Cannabis Activity. (Violation Type – Major)

Exhibit 20



CITY OF LOS ANGELES DEPARTMENT OF

CANNABIS REGULATION

AUTHORIZED AGENT ACKNOWLEDGEMENT

LIC-4009-FORM

Applicant Entity Name: _____

Business Premises Location: _____

DCR Record No.: _____

Instructions: This form allows Applicants or Licensees to designate an individual to sign and submit forms and documents to DCR on behalf of an Applicant or Licensee, including modification, renewal, or amendment records, and communicate with DCR about the Application or License. The Authorized Agent must be one individual who is also an Applicant's or Licensee's Primary Personnel, as defined in Los Angeles Municipal Code Section 104.01(a). Authorization shall expire based on the selection made in Part 1 of this form. Authorization may also be revoked at any time by completing Part 2 of this form.

Please note: Authorized Agents will be granted access to information concerning the Application, License, and/or commercial cannabis business, including personal identifying information, business records, and any records submitted as part of an application or renewal. Additionally, an Authorized Agent may also receive communications about the License or Application, including notices concerning the application or license status.

PART 1

ADD AUTHORIZED AGENT

The following individual is permitted to sign certain forms, submit documents and communicate with DCR on behalf of an Applicant Entity. Only **one** natural person may be designated as an authorized agent.

Name of the Authorized Agent: _____

ACA Reference Contact ID: _____

Affiliation to Applicant Entity (i.e. president, CEO): _____

Authorize this agent (Check **one** box):

- Immediately, and through the end of the current calendar year.
- Immediately, and through the end of the renewal filing period.
- Immediately for the current year and through the end of the next calendar year.
- For the next calendar year only.
- For the next calendar year and through the end of the next renewal filing period.
- Until the Authorized Agent Acknowledgement is revoked, the Authorized Agent is replaced, or a majority of the equity ownership changes, whichever comes earlier.

Check the box below if this authorized agent is replacing an individual named in part 2.

- The authorized agent listed in Part 1 replaces the individual named in Part 2 below.

Department of Cannabis Regulation
221 N. Figueroa Ave., Suite 1245, Los Angeles, CA 90012
(213) 978 - 0738 - cannabis@lacity.org
www.cannabis.lacity.org

PART 2

REMOVE AUTHORIZED AGENT

Please note: this individual will be removed as an Authorized Agent and is no longer permitted to sign certain forms, submit documents or communicate with DCR on behalf of an Applicant Entity.

Name of Authorized Agent to be removed: _____

ACA Reference Contact ID: _____

Prior affiliation to Applicant Entity (i.e. president, attorney, consultant): _____

ATTESTATION

I attest that the information provided in this form is true, correct, and complete as of the date of my signature below. I have the authority to make the attestations contained within this form on behalf of the Applicant Entity identified above. I understand that submission of false or misleading information or the failure to disclose material facts may result in denial of the application, the suspension or revocation of the license, and/or any other penalties allowed by law.

Please check one of the following and sign below.

I am: Owner Social Equity Individual Applicant Authorized Agent

<i>Name / Title</i>	<i>Signature</i>	<i>Date</i>

Signature instructions: This form confers significant authority to the designated Authorized Agent. For that reason, notarized signatures from a sufficient number of Level 1 Owners to constitute **sixty percent (60%)** of the ownership of the Applicant or Licensee are required on this form. "Level 1 Owners" are the natural persons or entities that own the Applicant or Licensee entity directly without any intervening entities or persons. If a Level 1 Owner is an entity, the CEO or President, or equivalent executive position, may sign on behalf of the entity. If this is a Social Equity Application, all Social Equity Individual Applicants must also sign this form; their ownership interest(s) will count towards the 60% total ownership requirement.

Example #1: If the Applicant is an entity that is owned by John Doe (51%), who is a Tier 1 Social Equity Individual Applicant, ABC Corporation (29%), and XYZ Corporation (20%), John Doe and the President(s) of either ABC Corporation or XYZ Corporation may sign this form. In this example, the form could not be executed by any individual Owner on their own, or by ABC Corporation and XYZ Corporation alone.

Example #2: If the Applicant is an entity that is owned by Jane Doe (33%), who is a Tier 2 Social Equity Individual Applicant, ABC Corporation (42%), and XYZ Corporation (25%), Jane Doe and the President of ABC Corporation may sign this form together. In this example, the form could not be executed by any individual Owner on their own, or by Jane Doe and XYZ Corporation, or by ABC Corporation or XYZ Corporation alone.

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

On _____ before me, _____ (insert name and title of the officer)

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Name: Daniel Miggins
Company: Hilco Real Estate
Title: Vice President
Role: Receiver & Broker
Geography: San Diego, California
Email: dmiggins@hilcoglobal.com



Daniel Miggins is responsible for developing and growing client relationships to support the advancement of Hilco Real Estate's business channels. From receiverships and workouts, to lease restructuring and appraisals, Dan is closely involved with Hilco's clients, partners, and assignments from inception through disposition. Hilco Real Estate is a national commercial real estate firm that provides strategic advisory and transactional services designed to minimize costs and maximize the value of commercial real estate assets.

Dan's expertise within Hilco involves working closely with CRE stakeholders to maximize their recovery and preserve collateral value. This includes, Special Servicers, Creditor's Rights and Bankruptcy Attorneys, Balance Sheet Lenders, Asset Managers, Special Asset Groups, B-Piece Investors, Hedge Funds, Private Equity Firms, Life Insurance Companies, as well as, Accounting, Consulting, and Advisory Firms.

Mr. Miggins is a graduate of Lehigh University and currently sits on the Membership Committee of CREFC. Mr. Miggins is also a Board Member of the Turnaround Management Association for Southern California, the California Receiver's Forum, and the Delbarton Alumni Association.

Name: Aram Ordubegian
Company: ArentFox Schiff LLP
Title: Partner
Role: Attorney
Geography: Los Angeles & San Francisco, California
Email: aram.ordubegian@afslaw.com



Aram has broad-based reorganization and bankruptcy litigation and appellate experience in a wide area of insolvency matters, from various perspectives, including: representation of businesses and high net-worth individuals facing financial distress, purchasers of assets, individual and corporate creditors, creditors' committees, trustees, and parties to out of court work-out transactions with debtors, before, during and after bankruptcies.

Aram has advised businesses in connection with debt restructuring, securitization, trust formation, acquisitions, divestitures, and wind-downs in connection with financially distressed assets, and has advised corporations, limited liability companies and partnerships on creditors' rights, governance, and control issues.

Aram is the Chair of the Firm's Cannabis Industry Practice Group and West Coast Team Leader of the Bankruptcy & Financial Restructuring Group.

Name: Michael Muse-Fisher
Company: Buchalter LLP
Title: Partner
Role: Attorney
Geography: Sacramento & Los Angeles, California
Email: mmuse-fisher@buchalter.com



Michael Muse-Fisher represents public and private companies in a variety of state, federal and administrative cases involving contract disputes, commercial litigation, real estate disputes, licensing and intellectual property matters, eminent domain/inverse condemnation, government tort liability, breach of fiduciary duty, as well as land-related torts. Mr. Muse-Fisher also represents regional and national lenders, banks, financial institutions, and REITs. Mr. Muse-Fisher has extensive experience in secured transactions, creditor's rights, loan workouts and restructuring, provisional remedies, receiverships, collections and post-judgment enforcement.

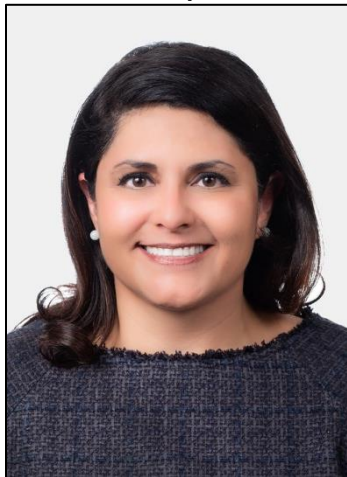
Mr. Muse-Fisher's practice includes expertise in:

- Receivers, fiduciaries, and provisional directors (and other remedies)
- Creditor's rights and secured transactions
- Loan workouts and restructuring
- U.S. Small Business Administration (SBA) loan litigation
- Real Estate Litigation
- Commercial and Residential Leasing
- Commercial/Business Litigation
- Corporate and Partnership Disputes
- Liquor License sales and acquisitions
- Licensing Disputes
- Alternatives to Bankruptcy

He has been recognized by *Super Lawyers* as a Southern California Rising Star from 2013-2017. Mr. Muse-Fisher has been recognized as one of *Sacramento Magazine's* Top Lawyer in the field of Commercial Litigation since 2021, and "One to Watch" from 2022-2023 by *Best Lawyers*.

Mr. Muse-Fisher is the Chair Elect and Board Member of the California Receiver's Forum State Organization, Board Member of the Los Angeles/Orange County and Sacramento Regional Councils for the California Receiver's Forum, and Member of the Executive Committee for the Los Angeles County Bar Association, Remedies Section (Former Chair, *Ex Officio*)

Name: Irán Hopkins
Company: Akerman LLP
Title: Partner
Role: Attorney
Geography: Los Angeles, California
Email: iran.hopkins@akerman.com



Irán Hopkins is a partner in Akerman LLP’s Real Estate Practice Group, where she focuses on complex transactions, structuring tax efficient ownership and operations, and regulatory compliance for clients across a range of industries, including real estate private equity, healthcare leasing, hospitality, professional sports, public-private partnerships, IP licensing and franchising, storage for hire, digital records management, commercial agriculture, and climate controlled facilities and services.

Irán began her career in International Corporate Tax at KPMG and has substantial experience advising upon renewable energy incentives and business tax credits, California energy efficiency standards and financing programs, qualified opportunity zones, new markets tax credit structures, and Section 280E.

Ranked by Chambers USA and The National Law Journal as a go-to resource in California and throughout the United States for the cannabis industry, Irán advises clients on California cannabis regulatory compliance. She serves on Akerman’s national cannabis team, working with landlords, tenants, lenders, operators, investors, and other stakeholders in the cannabis industry, advising on cannabis land use permits, business licensing and operations, getting products to market, and regulatory compliance on a state and local level. She has been ranked by Chambers USA for Cannabis Law Nationwide between 2019-2022, which notes her as “brilliant; she knows the regulations and is very talented at corporate formation and tax implications.” She was also recognized as a “Trailblazer in Cannabis Law” by The National Law Journal (2018-2019).

Irán serves as a Commissioner on the Commission on Disability for the City of Los Angeles, appointed by Los Angeles Mayor Eric Garcetti to a term ending June 30, 2023.

Name: Kevin Singer
Company: Receivership Specialists
Title: Founder & President
Role: Receiver
Geography: Los Angeles, California
Email: kevin@receivershipspecialists.com



Kevin Singer is founder and president of Receivership Specialists, and with his business partner John Rachlin, specializes in state and federal court receiverships, referee assignments, partition sales, provisional director assignments, and Bankruptcy Trustee assignments. The alliance of these two professionals brings together their vast knowledge and experience in the areas of law, real estate, business management, construction, and conflict resolution. Today, Receivership Specialists has offices in Los Angeles, Orange County, San Francisco, Sacramento, San Diego, Ventura/Santa Barbara, Phoenix, Reno, and Las Vegas and handles assignments throughout the Southwest.

Mr. Singer first started getting appointed as a rents & profits receiver due to his extensive real estate, property management and construction experience as founder and co-owner of a diversified real estate and consulting company. He is both a real estate broker and licensed building contractor. After selling that company in 2000, Mr. Singer once again joined forces with his long time counsel, friend, and business partner, Mr. Rachlin, to specialize in receivership assignments. Mr. Rachlin is co-founder and CEO of Receivership Specialists and has been a licensed attorney for 30 years. Mr. Rachlin has practiced in various areas of real estate and general business law, as well as serving as in-house counsel for a large real estate company. Over the past seventeen years, Mr. Singer and Mr. Rachlin have handled over 471 cases for large and small banks, private lenders, private investors, and municipalities. They have also managed and transitioned over a billion dollars in assets. Mr. Singer has served as a receiver, referee, and bankruptcy trustee over all different types of real estate, businesses, gas stations, hotels, assisted living facilities, restaurants, bars, liquor licenses, family estates/trusts, commodities, and construction projects. Mr. Singer is currently President and on the Board of Directors for the California Receivers Forum (CRF), an Associate Publisher for Receivership News, seven time participant and panelist at the CRF in Conjunction with Loyola Law School Receivers Education Program. Mr. Singer lectures and writes on various topics in the receivership field.

Name: Jason Rosell
Company: Pachulski Stand Ziehl & Jones
Title: Partner
Role: Attorney
Geography: San Francisco, California
Email: jrosell@pszjlaw.com



Jason Rosell represents debtors and creditors in complex chapter 11 cases. Mr. Rosell is also a recognized thought leader on the intersection of cannabis and insolvency law and leads the firm's Cannabis Restructuring Group, which advises cannabis industry companies, lenders, and investors in out-of-court restructurings and related merger and acquisition transactions. Mr. Rosell regularly represents ad hoc groups in connection with cannabis-related restructurings.

Mr. Rosell received his B.S. in Computer Information Systems and M.B.A at Arizona State University's W.P. Carey School of Business; he received his J.D. at Sandra Day O'Connor College of Law, also part of Arizona State University. He served as a legal extern for the Honorable Redfield T. Baum, Bankruptcy Court for the District of Arizona, and is admitted to practice in California and New York. Mr. Rosell has been named a "Rising Star" in *Super Lawyers* every year since 2014. Mr. Rosell is resident in the San Francisco office.

Name: Tim Bossidy
Company: SierraConstellation Partners
Title: Managing Director
Role: Chief Restructuring Officer
Geography: Los Angeles, California
Email: tbossidy@scpllc.com



Tim Bossidy is a Managing Director at SierraConstellation Partners with a significant track record of financial and operational consulting services to companies in transition. His advisory experience extends across turnaround management, mergers and acquisitions, capital raising and conducting financial modeling and forecasting across a variety of industries including: cannabis, consumer/retail, agriculture, media/entertainment, oil and gas, healthcare tech and healthcare services. Tim was also interim COO at MedMen and led a successful recapitalization in August 2021. He is currently interim CEO at The Greenrose Holding Company.

Prior to joining SCP, Tim worked as an investment banker at Goldman Sachs. There he focused on mergers and acquisitions, alongside initial public offerings, other equity transactions and debt financing. Prior to Goldman Sachs, Tim worked as a credit analyst at The Travelers Companies, where he covered high yield and investment grade bonds across the oil and gas and municipal sectors.

In 2020, Tim received the M&A Advisor's Emerging Leader Award, which recognizes leading M&A, financial and turnaround professionals who have reached a significant level of success while still under the age of 40.

Tim holds a bachelor's degree in economics and English from the University of Notre Dame and an MBA from Kellogg School of Management. He is originally from Connecticut and currently lives in Los Angeles.