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CATALYST - FRESNO LLC

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FRESNO COUNTY SUPERIOR COURT
By: Marta Sanchez, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

CATALYST - FRESNO LLC,

Petitioner/Plaintiff,

vs.

CITY OF FRESNO; and DOES 1-50, inclusive,

Respondents/Defendants,

1261 WISHON OPCO, LLC, a California limited liability company; TAT FRESNO LLC, a California limited liability company; AUTHENTIC 559, LLC, a California limited liability company; CRESCENT CONQUEST LLC, a California limited liability company; and DOES 51-100, inclusive,

Real Parties in Interest.

CASE NO. 21CECG03543

**[PROPOSED] ORDER GRANTING
CATALYST-FRESNO LLC'S EX PARTE
APPLICATION FOR ISSUANCE OF A
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

Hearing Date: March 29, 2022
Time: 8:30 a.m.
Dept: 402

1 **TO ALL PARTIES AND ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that Catalyst-Fresno LLC's ("Catalyst") Ex Parte Application for
3 Issuance of a Temporary Restraining Order and Order to Show Cause re Preliminary Injunction (the
4 "Application") came on for hearing on an *ex parte* basis on March 29, 2022.

5 The parties appeared through their respective counsel of record.

6 After full consideration of the Application, any submitted opposition and reply papers, and
7 argument of counsel, and good cause appearing therefor, the Court now rules as follows:

- 8 1. Catalyst's Ex Parte Application is **GRANTED** in its entirety;
- 9 2. The Court hereby issues an **Order to Show Cause** ("OSC") why a preliminary injunction
10 should not issue prohibiting the City of Fresno (the "City") from doing any of the following
11 prior to the final determination of this Action:
 - 12 (1) Issuing a commercial cannabis business permit ("CCB Permit") to Real Party in Interest
13 Authentic 559, LLC ("Authentic") to open or operate a cannabis dispensary in Fresno;
14 and
 - 15 (2) Engaging in any act or omission intended to approve, authorize or otherwise permit
16 Authentic to open or operate a cannabis dispensary in Fresno, whether on an informal,
17 limited, conditional, or temporary basis, or based on a decision not to enforce applicable
18 cannabis-related ordinances or requirements against Authentic relating to the operation
19 of an unpermitted dispensary in the City of Fresno.
- 20 3. The Court hereby also issues a **Temporary Restraining Order** prohibiting the City, prior
21 to entry of the Court's Order on the above-mentioned OSC, from:
 - 22 (1) Issuing a commercial cannabis business permit ("CCB Permit") to Real Party in Interest
23 Authentic 559, LLC ("Authentic") to open or operate a cannabis dispensary in Fresno;
24 and
 - 25 (2) Engaging in any act or omission intended to approve, authorize or otherwise permit
26 Authentic to open or operate a cannabis dispensary in Fresno, whether on an informal,
27 limited, conditional, or temporary basis, or based on a decision not to enforce applicable
28

cannabis-related ordinances or requirements against Authentic relating to the operation of an unpermitted dispensary in the City of Fresno;

4. The Court sets the following briefing schedule on Catalyst's OSC:

- a. Catalyst's Opening Brief and all supporting papers shall be filed and electronically served on counsel on or before _____;
- b. Any Opposition Brief and supporting papers shall be filed and electronically served on counsel on or before _____;
- c. Any Reply Brief and supporting papers shall be filed and electronically served on counsel on or before _____;

5. This Order also shall be served on _____ in the following manner and within the following time limits: _____;

6. Movants shall submit a proof of service to the Court for their OSC Opening Brief and supporting papers confirming compliance with this Order by no later than _____;

7. The Temporary Restraining Order issued herein shall expire upon the entry of the Court's Order granting or denying the OSC re Issuance of a Preliminary Injunction.

IT IS SO ORDERED.

DATED: March _____, 2022

Judge of the Superior Court

1 **CERTIFICATE OF SERVICE**

2 I, **Jeff Augustini**, declare as follows:

3 I am employed in the County of Orange, State of California; I am over the age of eighteen years and am
4 not a party to this action; my business address is 9160 Irvine Center Drive, Suite 200, Irvine, California 92618,
in said County and State. On **March 28, 2021**, I served the following document(s):

5 **[PROPOSED] ORDER GRANTING CATALYST-FRESNO LLC'S EX PARTE**
6 **APPLICATION FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND ORDER**
TO SHOW CAUSE RE PRELIMINARY INJUNCTION

7 on the following parties:

8 **SEE ATTACHED SERVICE LIST**

9 by the following means of service:

- 10 ☐ **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on the above-
11 mentioned date. I am familiar with the firm's practice of collection and processing correspondence
12 for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of
business. I am aware that on motion of party served, service is presumed invalid if postal
cancellation date or postage meter date is more than one day after date of deposit for mailing in
affidavit.
- 13 ☐ **BY PERSONAL SERVICE:** I emailed a true copy of this document to a messenger with
14 instructions to personally deliver it to each person[s] named at the address[es] shown before 5:00 p.m.
on the above-mentioned date.
- 15 ☐ **BY OVERNIGHT SERVICE:** On the above-mentioned date, I placed a true copy of the above
16 mentioned document(s), together with an unsigned copy of this declaration, in a sealed envelope or
17 package designated by FedEx with delivery fees paid or provided for, addressed to the person(s) as
indicated above and deposited same in a box or other facility regularly maintained by FedEx or
delivered same to an authorized courier or driver authorized by FedEx to receive documents.
- 18 ☒ **BY ELECTRONIC SERVICE:** On the above-mentioned date, I caused each such document to be
19 transmitted by electronically mailing a true and correct copy through One Legal's electronic service
function to the e-mail address(s) set forth above.
- 20 ☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct. Executed on **March 28, 2021**, at Irvine, California.

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23 **Jeff Augustini**
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<p> Nicole Philis Heather Canner John Goldmark DAVIS WRIGHT TREMAINE LLP 865 South Figueroa Street, 24th Floor Los Angeles, CA 90017 nicolephillis@dwt.com heathercanner@dwt.com johngoldmark@dwt.com Counsel for Authentic 559 LLC </p>	<p> Douglas Sloan Tina Griffin CITY OF FRESNO 2600 Fresno Street, Room 2031 Fresno, CA 93721 douglas.sloan@fresno.gov tina.griffin@fresno.gov Counsel for City of Fresno </p>
<p> James Betts Joseph Rubin BETTS & RUBIN APC 907 Santa Fe Avenue, Suite 201 Fresno, CA br@bettsrubinlaw.com Counsel for the City of Fresno </p>	<p> Edward Pinchiff Jennifer McGrath LAW OFFICES OF JENNIFER MCGRATH 9114 Adams Ave., #264 Huntington Beach, CA 92646 Edward.pinchiff@gmail.com jmcgrath1.atty@gmail.com Counsel for 1261 WISHON OPCO, LLC </p>
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