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Attorneys for Defendants Adam Knopf, Justus Henkes IV, and 419 Consulting, Inc.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

KARL BECK, individually and on behalf of all other similarly situated California residents,

Plaintiff,

v.

POINT LOMA PATIENTS CONSUMER COOPERATIVE CORPORATION, a California corporation; ADAM KNOPF, an individual; JUSTUS H. HENKES, IV, an individual; 419 CONSTULTING INC., a California Corporation; GOLDEN STATE GREENS, LLC, a California LLC; FAR WEST MANAGEMENT, LLC, a California LLC; FAR WEST OPERATING, LLC, a California LLC; FAR WEST STAFFING, LLC, a California LLC; and DOES 1 through 50, inclusive.

Defendants.

Case No: 30-2017-00037524-CU-BT-CTL

NOTICE OF ERRATA AND CORRECTION TO DECLARATION OF TAMARA M. LEETHAM IN SUPPORT OF PLPCC'S OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL

[Imaged File]

Judge: Hon. Joel R. Wohlfeil
Dept: C-73
Date: March 23, 2018
Time: 9:00 a.m.

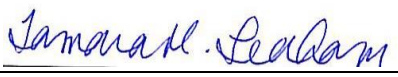
Complaint Filed: October 6, 2017
Trial Date: Not Set

TO THE COURT AND ALL PARTIES TO THIS ACTION: PLEASE TAKE NOTICE that defendant's Point Loma Patients Consumer Cooperative, Golden State Greens, LLC, Far West Management, LLC, Far West Operating, LLC and Far West Staffing, LLC hereby provides notice of errata and correction as follows: On March 12, 2018, Defendants's counsel filed a "Declaration of Tamara M. Leetham In Support of PLPCC's opposition to Plaintiffs Motion to Compel" and, unbeknownst to Defendants' counsel, when the Declaration was converted from Word Perfect to PDF and Exhibits added, the Declaration was produced the exhibits only. A corrected PDF with Declaration of "Declaration of Tamara M. Leetham In Support of PLPCC's opposition to Plaintiffs Motion to Compel" is attached hereto as Exhibit A.

Respectfully Submitted,

Date: March 12, 2018

AUSTIN LEGAL GROUP, APC

By 

Tamara M. Leetham
Attorney for the Defendants

EXHIBIT A

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Defendants.

Case No: 30-2017-00037524-CU-BT-CTL

DECLARATION OF TAMARA M. LEETHAM IN SUPPORT OF PLPCC'S OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL

[Imaged File]

Judge: Hon. Joel R. Wohlfeil
Dept: C-73
Date: March 23, 2018
Time: 9:00 a.m.

Complaint Filed: October 6, 2017
Trial Date: Not Set

I, TAMARA M. LEETHAM, declare as follows:

1. I am a member in good standing of the California state bar and, along with Gina M. Austin, am the attorney for all defendant Point Loma Patients Consumer Cooperative ("PLPCC"). I also work with co-counsel Matthew Dart, who represented the individual defendants and 419 Consulting. I have personal knowledge of the facts stated in this declaration, except as to those facts stated upon information and belief, which facts I believe to be true. If called as a witness, I would testify competently thereto. I make this declaration in support of Defendants' Opposition To Plaintiff's Ex Parte Application To Continue Motion for Summary Judgment.

2. Attached as **Exhibit 1** is a true and correct copy of a letter addressed to my co-counsel, Matthew Dart, received from Plaintiff's counsel Mr. Restis on or about November 3, 2017.

3. Attached as **Exhibit 2** is a true and correct copy of a letter from Mr. Restis to my partner Gina Austin dated October 2, 2017.

4. I have reviewed a blog post on Mr. Restis' law firm website titled "The Wrong Business Plan for a Medical Marijuana Dispensary," dated October 7, 2017, and found at https://restislaw.com/wrong-business-plan-medical-marijuana-dispensary/. That post indicates that Mr. Restis is the author. The publicly-available blog post states in relevant part:

   a. "I'll admit that I've never represented any criminal defendants. But I read a lot of cases detailing their arrests, convictions, and multi-year appears trying to get the benefit of the medical marijuana defense."

   b. "If the defendant cannot establish the elements of the [medical marijuana] defense, they could face prison."

5. Attached as **Exhibit 3** is a true and correct copy of a blog post from Mr. Restis' law firm website titled "PSA: remember California, marijuana is still illegal under federal law." The post is dated January 4, 2018 and indicates Mr. Restis is the author.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 12TH day of March, 2018.

By Tamara M. Leetham
TAMARA M. LEETHAM

Exhibit 1

RESTIS
LAW / FIRM

November 3, 2017

Via Electronic Mail

Matthew B Dart
12526 High Bluff Drive, Suite 300
San Diego, 92130
matt@dartlawfirm.com

Re: Your Threat to Present Administrative or Disciplinary Charges to the State Bar

Dear Mr. Dart,

I received your letter accusing me of violating State Bar Rule 5-100. But the entire premise of your letter is ridiculous. I never made any threat "to present criminal, administrative, or disciplinary charges."

Our (factually supported) view that your clients appear to be operating a criminal enterprise, and that incriminating facts will necessarily come to light in civil litigation is not a threat, but a statement of fact. Simply stating the obvious – that your clients appear to be violating very serious criminal laws – does not violate Rule 5-100. I have carefully reviewed the case law surrounding the Rule, and suggest you take a closer look.

I never stated, nor inferred, an intent to refer this matter to criminal authorities. Nor do I ever intend to do so. Every word in my October 2nd letter indicates that the last thing my clients (and myself) want is to file a criminal complaint. To put it plainly, we are concerned that your clients will be arrested and their assets seized under civil forfeiture laws so as to render them judgment-proof.

I remain concerned that this litigation "will unleash a chain of events outside of [our] control." To again state the obvious, how long before this case draws attention from law enforcement? To emphasize my point, a prominent local attorney approached me in the gym stating that our complaint was picked up by a legal reporting service. I also know that the Honorable Judge Trapp is a former District Attorney, and that her husband is a County Sherriff. And what happens when your clients have to "plead the fifth" in their depositions? If your clients "are greatly concerned with [my] assertions of criminality," it is the fruit of their own misconduct.

And instead of trying to "gain an advantage in civil litigation," I laid out a roadmap for your clients to submit their books and records to an independent accountant, disgorge any excess amounts back to the cooperative, and pay those monies back out to class members in accordance with the Corporation Code. I stated that it would appear to "right[] all wrongs, both against PLPCCC members, and against the State." I threw your clients a softball because we wanted to give them an opportunity to *privately* make things right. As I said in my blog - which did not mention your clients and will not be taken down – we never wanted anyone to go to prison.

But no one representing Defendants wanted to talk. So we litigate.

Irrespective of the above, your threat to report me to the State Bar is clearly for the purpose of gaining advantage in this civil litigation. Thus, it is you Mr. Dart, who has violated Rule 5-100.

Whether you chose to report me is up to you, but I am very comfortable defending my conduct in front of any review committee. Please include a copy of your November 3rd letter, and this letter in response, with any complaint to the State Bar.

Sincerely,

William R. Restis, Esq.
THE RESTIS LAW FIRM, P.C.
william@restislaw.com

Cc: Jeffrey R. Krinsk, Esq.

Exhibit 2

RESTIS
LAW / FIRM

October 2, 2017

PRIVILEDGED CONFIDENTIAL COMMUNICATION PURSUANT TO CALIFORNIA EVIDENCE CODE SECTION 1152 AND FEDERAL RULE OF EVIDENCE 408

Via Electronic Mail

Gina M Austin
3990 Old Town Avenue, Suite A-112
San Diego, 92110
gaustin@austinlegalgroup.com

Re: **SETTLEMENT DEMAND**

Dear Ms. Austin,

I have been giving considerable thought recently to our pre-suit letter writing campaign. It is sticking out in my mind because this is the first time I have engaged in such an endeavor, and for that reason has taken up too much mental space.

The only reason a defendant ever received a demand letter from me was to perfect a statutory cause of action. You see, I know that if I go to a bully politely asking for my money back, he will tell me to shove it. But if I ask for my money back with a baseball bat, or a gun, the bully is likely to oblige. So in litigation I always file the complaint, and discuss settlement (if at all) thereafter.

But I have been very reluctant to do that in this matter, against all my instincts, and have been trying to figure out why. Well, I think I put my finger on it. Frankly, I feel sorry for your clients. I am afraid your posturing is putting them precariously on the edge some potentially very serious criminal exposure.

To be perfectly honest, I and my clients do not think that medical marijuana is such a terrible thing. At the very least, criminal penalties are grossly disproportionate to any harm caused. And I am very concerned that filing the attached complaints will unleash a chain of events outside of our control. The complaint will be part of the public record, and a case of this nature will likely gain significant publicity. I am not sure you realize that the (apparent) structure of their marijuana business falls squarely within the ambit of criminal cases finding defendants guilty.[1] So instead of filing the attached complaints this morning, I am sending them for your review in hopes you won't walk your clients off a cliff.

[1] In addition, I'm sure your clients are poised to apply for the new recreational marijuana licenses set to be issued by the Bureau of Cannabis Control early next year. One of the requirements for an operating medical marijuana dispensary is to demonstrate compliance with prior medical cannabis law. It appears likely that evidence uncovered in litigation could also make its way into the public record and impact issuance of the new license, and the golden ticket that comes with it.

I want to stress that my clients feel strongly that any wrongs must be righted. Any money your clients have taken beyond "reasonable compensation" and payment of costs must be disgorged, and credited back to the PLPCCC for the benefit of member patrons. This accomplishes two things that incidentally benefit all parties. First, it ensures that neither the PLPCCC members, nor any of your clients, have been illegally transacting medical marijuana in for-profit transactions. Second, it ensures Plaintiff and other members receive the patronage distributions to which they are legally entitled as members of a medical marijuana cooperative. It rights all wrongs, both against PLPCCC members, and against the State.

Accordingly, I propose the following as part of a full and complete settlement of Mrrs Beck and Bobo's individual claims:

(1) The PLPCCC, Mrrs. Knopf and Henkes, 419 Consulting, Inc., Far West Consulting, LLC, Far West Management, LLC, and Far West Operating, LLC will each provide full unrestricted access to their books and records to an "independent accountant"[2] chosen by us and paid for by your clients;

(2) The independent accountant will determine what, if any, amounts have been paid to Mrrs. Knopf and Henkes, 419 Consulting, Inc., Far West Consulting, LLC, Far West Management, LLC, and/or Far West Operating, LLC beyond "reasonable compensation" and reimbursement for out of pocket costs;

(3) All "excess" amounts will be disgorged to the PLPCCC and credited to the accounts of all member patrons in accordance with the formulas provided by Corporations Code §§ 12201.5, and 12243. These credited amounts will be redeemable for free or discounted purchases from the PLPCCC for 12 months. Any credits unclaimed within that time will revert to the PLPCCC to be used for the general welfare of member patrons. This will be accomplished under the supervision of the independent accountant.

(4) Defendants will settle Mssrs Beck and Bobo's individual damage claims, and pay their reasonable attorneys fees and costs.

Because this would be a private, pre-litigation settlement, we cannot offer your clients a class wide release of claims. We need court involvement for that. But, implementation of the above terms will ensure your clients are in compliance with the law. It will also ensure that other PLPCCC members have no claims against your clients, and no standing to sue. You will be able to safely point to the conclusions of the independent accountant, and the actions taken pursuant to the settlement as what appears to be a complete defense. You can even use the credits as an advertising tool and to differentiate yourselves from competitors.

I'm sure this will sound expensive. But it is far less costly than potential worst case scenarios described above. **This offer will expire at noon on October 6, 2017**.

William R. Restis, Esq.
THE RESTIS LAW FIRM, P.C.

[2] *See* CORP. CODE § 12218.

Exhibit 3

RESTIS
LAW / FIRM

PSA: remember California, marijuana is still illegal under federal law

by
William Restis

published
January 4, 2018

FACEBOOK TWITTER LINKEDIN EMAIL

Now that **marijuana is legal for recreational use in California**, individuals and businesses can forget that marijuana is still illegal under the **Controlled**

Substances Act (CSA). And federal law trumps state law. Not only that, the Department of Justice **may be enforcing federal law in California**.

Now, I'm not a criminal attorney, and you aren't **my client**, and this isn't legal advice. BUT, there are certain things to remember that may help keep the federal government out of your business.

Rule Number 1: keep activities *within California.*

Federal law generally applies to activities involving "interstate commerce." That means between different states. Imagine California's physical boundaries as an invisible line you cannot cross. And when you do cross those lines, the feds are more likely to care.

How do people and businesses generally cross those lines? Airplanes, cars, and shipping. I'm sure there are others, but this blog is to help you understand general principles. Another thing in California is the ocean, and bays and inlets. Federal law applies there as well. Also (obviously) on military bases and federal parks. So it helps to ask the question: am I crossing state lines or onto federal property? If not, it becomes harder for the federal government to claim jurisdiction over your activities.

Rule Number 2: don't use the "*instrumentalities of interstate commerce*."

Generally speaking, federal law governs the "instrumentalities of interstate commerce." This has some overlap with the previous category, but includes shipping, transportation, payments and communication. Think of the mail, the internet, email, text messages, phone calls, payment processors, and airports and airlines. If you're using one of these in connection with your business or personal use of marijuana, the feds are more likely to care. I know that covers a lot of activities, and people use them every day without issue, but the possibility for legal trouble is still there. What does that mean in practice? Be smart. Don't take your marijuana **to the airport**. Don't ship it through the **postal service**. Avoid paying for marijuana using services like credit cards, **Venmo**, and **Paypal**. They don't want your money, trust me. Email, texts and phone calls still

technically bring the CSA into play, but unless you involve other prohibited interstate activities, these activities should be less of a priority for the feds (I said I'm not a criminal lawyer right?).

Stay safe out there!

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William Restis

Bill is a seasoned litigator specializing in class actions, mass tort personal injury, and business litigation. He also provides class action consulting to help companies minimize the risks from class litigation.

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