

CANNABIS CONTROL COMMISSION

June 13, 2024

11:00 AM

In-Person and Remote via Microsoft Teams Live

EXECUTIVE MEETING MINUTES

Documents:

- Business Litigation Session Civil Action Cover Sheet
- Memorandum of Law in Support of Plaintiff Patient Centric of Martha's Vineyard LTD's Emergency Motion for a Preliminary Injunction
- Plaintiff Patient Centric of Martha's Vineyard LTD's Motion for Expedited Hearing
- Plaintiff Patient Centric of Martha's Vineyard LTD's Emergency Motion for a Preliminary Injunction
- Preliminary Injunction
- Affidavit of Geoffrey Rose
- Verified Complaint for Declaratory and Injunctive Relief
- Draft Administrative Order
- Administrative Order Allowing Curbside Operations for Medical Marijuana Treatment Centers
- Preliminary State by State Report: Transportation of Marijuana Products Between Marijuana Establishments Over Waterways

In Attendance:

- Acting Chair Ava Callender Concepcion
- Commissioner Nurys Z. Camargo
- Commissioner Kimberly Roy
- Commissioner Bruce Stebbins
- Acting Executive Director Debra Hilton-Creek
- General Counsel Kristina Gasson
- Associate General Counsel Michael Baker
- Associate General Counsel Donald Hubbard
- Legal Assistant Brendan Pauley

Minutes:



1) Patient Centric of Martha's Vineyard, LTD and The Green Lady Dispensary, Inc. v. Cannabis Control Commission

- General Counsel Kristina Gasson (GC Gasson) updated Commissioners on the status of Patient Centric of Martha's Vineyard, LTD and The Green Lady Dispensary, Inc. v. Cannabis Control Commission. She stated that there are concerns the sole cultivator on Martha's Vineyard was going out of business and leaving the island without Marijuana or Marijuana Products. She stated that the plaintiffs had filed suit seeking a preliminary injunction and Patient Centric of Martha's Vineyard LTD had provided the Commission with their proposed Standard Operating Procedure (SOP) on how they would like to conduct transportation to Martha's Vineyard from the mainland. GC Gasson explained that a joint motion to stay proceedings had been filed and authority had been delegated to her to enter settlement negotiations and the Commissioners had decided to resolve the issue by issuing an Administrative Order which Legal had prepared. She stated that today, they would review the Administrative Order to incorporate Commissioner's feedback.
- Commissioner asked questions about testing, transportation, the two-driver rule, and regulations generally. GC Gasson answered all of the questions, explaining that the Administrative Order would retain the character of the current guidance and regulations for the most part and licensees will still be required to follow the current regulations GC Gasson noted the Administrative Order would be valid until rescinded or until new regulations are promulgated.
- GC Gasson described the timeline for when island transportation would occur and noted that the Licensee had submitted video of the vessel to Investigations and Enforcement who would do a virtual inspection after the order was ratified. GC Gasson stated that that Investigations and Enforcement had reviewed the Administrative Order and the licensee's SOP, and they approved. She stated that Investigations and Enforcement had given the Licensee the option to bring the vessel to Union Station or to conduct the inspection virtually. Commissioner Roy asked about randomized routes, a provision for notification of property damage, and edits to the original SOP. GC Gasson stated the intent to create new regulatory sections in the future, that property damage notifications mirrored the current regulations, and noted that the SOP includes the use of three vehicles to complete the transportation. Associate General Counsel Baker (AGC Baker) added that the licensee had adopted the seaworthy vessel definition and delineated the roles of the captain and Registered Agents to ensure Investigations and Enforcement could better track the responsibilities.
- Commissioner Roy asked if she could request changes. GC Gasson stated that if there were glaring issues, opposing counsel was present in another other room and had been responsive to requests for edits. Commissioner Roy requested removing the minimum of \$500.00 on property damage before being reported due to concern that there could be damage to Marijuana. AGC Baker stated that dollar amount came from 935 Code Mass. Regs. § 500.110(1)(n). AGC Baker stated that the intent was to refer to the existing regulations for anything not specifically covered by the Administrative Order. GC Gasson stated that SOPs would be confidential, and the plaintiffs had



expressed concern about that. Commissioner Stebbins asked about how to ensure that no shipments were returned to the originating Licensee. AGC Baker stated that the way it appeared in the SOP mirrored the current requirements with returned packages on vehicles. Commissioner Stebbins stated for the purpose of the Administrative Order, it made sense, but asked if there could be a more specific provision in the SOP which indicated they would triple check orders to ensure that no returns were necessary, which he saw as an unnecessary risk. AGC Baker stated that under the seaworthy vessel inspection section, that the captain was responsible for everything to do with the vessel and Registered Agents would be in charge of anything to do with the marijuana and ensuring its security. Commissioner Stebbins stated that spoke to his concerns.

- Commissioners expressed concern about ascertaining the background of the captain. GC Gasson offered that the Administrative Order requires an up-to-date captain's license and identification, that an age requirement could be added, and that the identify of the captain would be available to Commissioners upon request.
- Commissioners asked about delivery hours and methods including concern of using a public dock. GC Gasson and AGC Baker confirmed that the same regulatory requirements for other licensees would apply to instances of island transportation including inspections. The ability to modify the Administrative Order was discussed. GC Gasson reiterated that all regulations are still in effect.
- Commissioner Roy asked about submitting SOPs to local law enforcement. GC Gasson mentioned that the existing regulations govern that requirement. Commissioner Roy asked about whether environmental police, sheriffs, and police being notified of alternative security provisions. AGC Baker clarified that the waiver process is available to all licensees.
- At 12:05 PM the Commissioners agreed to take a five-minute break. They returned at 12:13 PM.
- GC Gasson reiterated that unless something is explicitly provided for in the Administrative Order, it was provided for under regulations. Commissioner Camargo asked if it would be a problem to include paragraph eight from the curbside Administrative Order. Commissioner Roy stated that she did not want to be over prescriptive as many situations could not be foreseen. Commissioner Camargo stated that she was not trying to be over prescriptive, but just to remind the plaintiffs and other Licensees of the regulatory requirements. GC Gasson stated she had edited in the section from the curbside order indicating that they are expected to act in accordance with regulations.
- Commissioner Camargo asked how the order will be communicated to plaintiffs. GC Gasson stated that it would be on the Commission's website and Communications had already begun preparing a statement. GC Gasson walked the Commissioners through the revisions which had been made to the Administrative Order and suggested not including the titles of the regulations. GC Gasson stated that Acting Executive Director Debra Hilton-Creek (AED Hilton-Creek) would sign the Administrative Order and the settlement agreement. Commissioners expressed concerns about whether the Administrative Order would unfairly benefit one licensee



and GC Gasson explained that the intent is to provide an option for any licensee to participate in island transportation.

- Commissioner Stebbins asked about requiring a dry run where Commission agents could witness everything without any Marijuana present. Commissioner Roy stated they could direct staff to do that. Commissioner Camargo noted Commission staff had not been present for the first sales when Cannabis first became legal, but many Licensees already do dry runs for their internal practices. GC Gasson stated that Investigations and Enforcement had had the SOP and video of the vessel for the past week in preparation for the virtual inspection. GC Gasson stated that Acting Chief of Investigations and Enforcement Nomxolisi Khumalo (Acting Chief Khumalo) and Acting Enforcement Counsel Timothy Goodin were aware of and anticipating these actions. Commissioner Camargo stated that it was not unreasonable to have Commission staff on the first run and could be issued as a directive to staff. Commissioner Roy stated that public safety must be considered. GC stated that, while the Administrative Order would be effective tomorrow night, Commission staff would still need to do the inspection before island transportation could happen. The AC asked GC Gasson to communicate the changes to opposing counsel. GC Gasson stated that opposing counsel wanted an inspection date before dismissing the case.
- Commissioner Camargo suggested speaking to Acting Chief Khumalo as resources would have to shift for personnel to be present for first trip. The Commissioners invited Acting Chief Khumalo to discuss staffing resources and plans for inspections. Acting Chief Khumalo indicated that the inspection could be completed and the licensee could be approved as soon as the next afternoon.
- Commissioners expressed concern that a virtual inspection would not be sufficient. Acting Chief Khumalo committed to finding staff members to conduct the inspection in-person. GC Gasson insisted on an inspection date being identified to appease opposing counsel. Acting Chief Khumalo confirmed it would take place the next day. Commissioners asked for confirmation that staff could witness the first delivery and Acting Chief Khumalo explained deficiencies could change the timeline but they would be there if provided notice.
- At 1:30 p.m. Acting Chief Khumalo left the meeting
- GC Gasson brought the discussion back to the Administrative Order and asked for any other requested edits. She said she would discuss the changes with opposing counsel and tell him about the inspection. The AC noted that she should not communicate that there would be an NOD. Commissioner Roy asked that the Administrative Order require a government issued ID for the captain. AGC Hubbard suggested adding a minimum number of years of experience. GC Gasson applied the edits to the Administrative Order. GC Gasson noted for Commissioners that Acting Chief Khumalo had sent her a message that there may be an issue with staff being present for the first voyage if the vessel was at capacity. She stepped out to discuss with opposing counsel. Commissioners discussed having a member of staff where the boat departs and another on the island when they unload. Commissioner Stebbins stated he would like to see it all the way through. Commissioner Camargo noted that



Commission staff's safety should be a concern as not everyone can get on a boat and this activity was not in their job description.

- At 1:58 Acting Chief Khumalo returned to the Executive Session. The AC asked about having an investigator on the mainland and another on the island was feasible. Acting Chief Khumalo said that may be feasible, but she would need to check. Acting Chief Khumalo stated she had checked with staff and they had asked why they were treating this differently than a typical delivery. The AC stated that this was uncharted territory, and it was a request from the Commissioners. Acting Chief Khumalo agreed that staff would be involved. She left the Executive Session at 2:06 PM.
- GC Gasson re-entered the Executive Session at 2:08 PM and she stated that had communicated everything to opposing counsel. She said that the Licensee had not planned on waiting until Monday for their first voyage and noted that the captain would be a Registered Agent. The AC stated that they had chosen not to have a member of staff on the boat. Commissioner Stebbins asked about if it was necessary to include anything relating to Coast Guard mandates on capacity. GC Gasson responded that was covered by "sea-worthy" where the Administrative Order stated that the vessel would be "fit for the intended voyage" and AGC Baker stated that had been incorporated into the Licensee's SOP. The AC asked for confirmation that opposing counsel had agreed to everything. GC confirmed and the only thing was to ratify the documents. She said that the settlement agreement could be voted on in Executive Session and Administrative Order would be in public session. She summarized the settlement agreement and stated that the plaintiffs would dismiss the matter with prejudice. Commissioner Roy asked about what the Commission could do in the event of an incident. GC Gasson stated that would fall under the exigent circumstances and the Commission would be free to address the issue. Commissioner Roy asked about if Third-party Transporters could sue the Commission because the plaintiffs were given an unfair advantage. GC Gasson stated that a provision of the settlement agreement was that nothing within the document was admitting to any wrongdoing or was arbitrary or capricious. The AC asked GC Gasson about motion language to ratify the documents. GC Gasson provided the motion language through the chat.
- Commissioner Roy moved to ratify and approve the designation of the Acting Executive Director to execute the Settlement Agreement with the Plaintiffs in PATIENT CENTRIC OF MARTHA'S VINEYARD, LTD; and THE GREEN LADY DISPENSARY, INC., v. CANNABIS CONTROL COMMISSION, which includes Administrative Order No. 3 and the SOP submitted by Plaintiff Patient Centric and the Originating Licensee.
- Commissioner Stebbins seconded the motion.
- The AC took a roll call vote:
 - Commissioner Camargo – Yes
 - Commissioner Roy – Yes
 - Commissioner Stebbins – Yes
 - AC Concepcion – Yes
- The Commission unanimously approved the motion.



- The Commissioners discussed whether it was necessary to vote on directing enforcement to conduct an in-person inspection. GC Gasson stated that it would be safer.
- Commissioner Camargo moved to direct the Acting Chief of Investigations and Enforcement or her designee to conduct an in-person inspection of the Seaworthy Vessel at the port of origin within in the next seven days.
- Commissioner Roy seconded the motion.
- The AC took a roll call vote:
 - Commissioner Camargo – Yes
 - Commissioner Roy – Yes
 - Commissioner Stebbins – Yes
 - AC Concepcion – Yes
- The Commission unanimously approved the motion.

- Commissioner Stebbins moved to direct the Acting CIE or her designee to have an investigation team present for the first and initial transportation of Marijuana and Marijuana Products from the Originating Licensee to the Plaintiff's Marijuana Establishment.
- Commissioner Camargo seconded the motion.
- The AC took a roll call vote:
 - Commissioner Camargo – Yes
 - Commissioner Roy – Yes
 - Commissioner Stebbins – Yes
 - AC Concepcion – Yes
- The Commission unanimously approved the motion.

2) Adjourn and Return to Open Session – 2:39 PM

- Commissioner Camargo moved to adjourn executive session and return to open session.
- Commissioner Stebbins seconded the motion.
- The AC took a roll call vote:
 - Commissioner Camargo – Yes
 - Commissioner Roy – Yes
 - Commissioner Stebbins – Yes
 - AC Concepcion – Yes
- The Commission unanimously approved the motion.

