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October 6, 2025

City of San Diego

Mr. Chris Penman, Zoning Investigator II Development Services Department

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RE: October 2, 2025, email reply to CE # 0510254 – 6176 Federal Blvd. (CUP Discussion)

Mr. Christoper Penman;

In your email of October 2, 2025, I see by your title "CUP Discussions" and the attachment this inspection has something to do with the withdrawn CUP application at my 6176 Federal Blvd. property.

1.0) 10/02/2025, Penman to Cotton email at https://151farmers.org/wp-content/uploads/2018/04/2025.10.02-Penman-to-Cotton-email-with-attachments-Gmail-CE-0510254-%E2%80%93-6176-Federal-Blvd-CUP-

Discussion.pdf

Per your email and attachment pdf (as shown here) of the Conditional Use Permit ("CUP") withdrawal, that CUP application was not in my name and the fact that it was applied for and withdrawn by Lawrence Geraci, who is not disclosed on the application, but his secretary, Rebecca Berry, a proxy "strawman¹" all under the control and counsel of Geraci and attorney Gina Austin, is listed

¹ The strawman practice and its deleterious implications relative to adult-use cannabis applications can be seen in one of its most egregious forms of non-disclosure which occurred right here in San Diego whereby 2 Conditional Use Permit ("CUP") had applicants using 24 different alter-ego, shell companies to hide the true identities of the applicants and property owners from the reviewing agencies. (See Pg's. 23-34 at A30.0-A30-24)

on the City application. Consequently, I need to revisit these issues and make you aware of the history of what's transpired regarding 6176 Federal Blvd.

On 07/18/2024, the date/time stamp on the email attachment shows the City began investigating something having to do with the GERACI CUP withdrawal over 5 years after Development Services Department ("DSD") had received the withdrawal.

1.1) 02/15/2019, Geraci withdraws the 6716 Federal Blvd. CUP at https://151farmers.org/wp-content/uploads/2017/10/6176-Cycles-8-and-13-2-15-19.pdf

Regarding your 10/02/2025, email to me, what zoning related CUP issues could the City still have that would continue to be an investigative issue after this much time has elapsed? I would really appreciate an answer to that before we schedule your visit as I am genuinely perplexed by this entire communication.

Since 2017, this 6176 CUP application has led to protracted litigation, in both state and federal courts over the strawman practice, i.e. the non-disclosure of applicants and the City's indifference, as noted by the related cases cited in the links below, to the lawful disclosure requirements being ignored by the City. My current appeal is before the 4th DCA, DIV 1 and is in the process of being calendared for oral arguments.

- 2.0) 09/19/2025, COTTON's OPPOSITION TO GERACI's REPLY at https://151farmers.org/wp-content/uploads/2018/04/25-09-19-Cotton-Reply-to-Respondents-Opposition.pdf
- 2.1) 09/19/2025, COTTON's RJN's iso COTTON's OPPOSITION at https://151farmers.org/wp-content/uploads/2018/04/25-09-19-Appellants-RJN-iso-of-REPLY-w-Exhibits.pdf

I have owned this property since February 1998 and until now, 26.5 years later, there were no code enforcement visits by the City prior to my filing suit against the City.

3.0) 03/27/2025, https://151farmers.org/wp-content/uploads/2018/04/Cottons-PWOM-7134C-FULL.pdf

I'm not saying that this CUP investigation zone enforcement activity you're undertaking is a direct result of the appeal or possibly even the Petition for Writ of Mandate I have filed against the City for lack of disclosure of post audit unpaid Cannabis Business Taxes ("CBT") but based on my experiences with the City and attorney Gina Austin and her licensee adult-use clients, it may very well be. Accordingly, I want to bring the following issues to yours and the City Attorneys attention.

4.0) 02/27/1998, Cotton's 6176 Federal Blvd. Grant Deed at https://151farmers.org/wp-content/uploads/2018/04/1998.02.27-6176-Federal-Blvd.-Darryl-Cotton-Recorded-Grant-Deed.pdf

On April 5, 2017, I entered into a Plea Agreement for what had been a tenant of mine subletting a small portion of my property for the purpose of operating a licensed dispensary. What I came to find out is he did not have the proper licensing. When I learned of this I immediately evicted him. That Agreement was offered to me by Deputy City Attorney Mark Skeels purportedly because I "did not allow the dispensary to reopen." It made sense to agree to this in that it reduced 4 misdemeanors to one.

In the spirit of cooperation, the Agreement was signed by me, Judge Cano, Deputy City Attorney Mark Skeels, and my attorney Robert Bryson. The Agreement set forth that I "retained all legal rights pursuant to Prop 215;" rather than being under than the adult-use law at the time-Prop. 64. Both myself and Bryson were led to believe that this Agreement was my reward not allowing an illegal dispensary to operate on my property².

This Prop-215 language was hand-written into the Agreement by attorney Skeels in the hallway during my arraignment as he wanted us to agree that the matter had settled before we went into court. I signed the Agreement unaware, as neither attorney, nor the Judge, had advised me that this Agreement meant I would be forfeiting my real property to the City. (see ¶ 2 at 5.0)

- 5.0) 04/05/2017, https://151farmers.org/wp-content/uploads/2017/01/14-City-SD-Plea-Agreement-04-05-17.pdf
- 5.1) 01/15/2017, https://151farmers.org/wp-content/uploads/2017/01/15-Bryson-Declaration-seized-assets2.pdf

Since its execution, I have abided by the terms of that Agreement and continue to do so to this day. No City inspections of the type I had agreed to occurred during the 3 year summary probation period stipulated in the Agreement.

5.2) 11/21/2025, https://151farmers.org/wp-content/uploads/2018/04/2025.11.21-Darryl-Cotton-Medical-Card.pdf

Given the fact that I not only abided by the Agreement, I also ended up having to pay the City \$25K to remove the real property forfeiture which was the City's attempt to take my property away from me as a result of my having unknowingly and under improper advice of counsel, accepted a single misdemeanor in that Agreement.

Since the Agreement, I have continued to operate a non-commercial farm that grows traditional crops as well as medical cannabis as per the terms of my Plea Agreement. In short,

² Under California law the maximum financial penalty for a gross misdemeanor is \$4,000. This was my first conviction which means I would likely not have been sanctioned for the maximum gross misdemeanor penalty. This \$25K payment was not restitution as the City never provided any claimed expenses but was instead, and should be seen as, extortion lite.

my business was not a zoning issue in 2017 when the Agreement with the City was entered into, nor was it a zoning issue when I paid the City \$25K to prevent my real property from being stolen from me and my father.

- 5.3) 04/05/2017, https://151farmers.org/wp-content/uploads/2017/01/Petition-for-Forfeiture-of-Property-04-05-2017.pdf
- 5.4) 04/18/2017, https://151farmers.org/wp-content/uploads/2017/01/City-of-San-Diego-Lis-Pendens-04-18-2017.pdf
- 5.5) 10/04/2017, https://151farmers.org/wp-content/uploads/2017/01/Stipulation-For-Entry-of-Forfeiture-Judgement-10-04-17.pdf
- 5.6) 01/02/2018, https://151farmers.org/wp-content/uploads/2017/01/B4-TREASURER-PMT-1-2-18.pdf
- 5.7) 01/11/2018, https://151farmers.org/wp-content/uploads/2017/01/B5-Notice-of-Withdrawal-of-Lis-Pendens-recorded-1-11-2018.pdf

What I find difficult to understand, and maybe you can help me here, is why is the City now, over 5 years after the fact, is tasking a you, a code enforcement officer, with looking into a withdrawn, dead, Geraci CUP application, when Geraci **incontrovertibly held an undisclosed interest**³ in that CUP application?

On 07/09/2019, in GERACI v. COTTON, Case No. 37-2017-00010073-CU-BC-CTL, City of San Diego Ms. Firouzeh Tirandazi, City of San Diego Development Project Manager III, confirmed, with a Deputy City Attorney present⁴ in the gallery for her trial testimony, the City required Geraci

³ On 07/03/2019, Geraci attorney Michael Weinstein **admits in his opening statement,** that Geraci used his "administrative assistant," Rebecca Berry as his undisclosed, "...agent [strawman], [who] was the applicant on the conditional use permit application...that was submitted to the City of San Diego." (See GERACI v. COTTON, Case No. 37-2017-00010073-CU-BC-CTL, trial transcript of 07/03/2019 at Pg's. 16:27-17:7)

⁴ Under the doctrine of *respondeat superior*, the City Attorney has always had a responsibility to be sure that all department heads were familiar with the meaning of "shall" and "may" relative to all statutes they are responsible for administrating. Taking this further, under *respondeat superior*, the Mayor has a ministerial duty to be certain that his department heads, which includes the City Attorney, understand the regulations they are tasked with administrating.

In the Geraci CUP and related matters this would be particularly germane in the context of Tirandazi's trial testimony with a Deputy City Attorney present in the gallery. The City had not only a duty of candor to the court but also a duty of due diligence which would have required that all City department heads conformed their administrative interpretations to the California Supreme Court ruling that when used in legal enactments in the State of California, "shall" is mandatory, (The 09/18/2023 unpublished, 4th DCA ruling regarding "shall" versus "may" does not align with the California Supreme Court; which has consistently held that "shall" imposes a mandatory duty, while "may" denotes discretion only within the bounds of statutory compliance.)

⁽McGee v. Balfour Beatty Constr. Co., 247 Cal. App. 4th 235, 245 (2016) (published, Fourth Appellate District, citing Tarrant Bell Prop., LLC v. Super. Ct., 51 Cal. 1st, Div 4, 538, 542 (2011) (published, California Supreme Court))).

to be identified in this CUP application and Geraci did have an "**undisclosed interest**" in the CUP application at my property. This is an incontrovertible fact that under the doctrine of <u>respondeat</u> <u>superior</u> the City had an obligation to correct. They have not.

6.0) 07/09/2019 Tirandazi trial transcript, https://151farmers.org/wp-content/uploads/2017/10/07-09-2019-full-transcript-1.pdf

"Q...but overall, for the CUPs, anyone who has an interest in the property should be disclosed. Correct?

A·· Yes". (at Pg. 109:22-25)

"Q. Is that because his name does not appear anywhere in the applications for the 6176 property?

A. That – that is correct." (Pg. 112:2-5)

I realize you have a job to do, and I have no problem with you inspecting the property. However, based on the timing and my past history with the City as detailed in the links herein, I want at least one of my attorneys here to avoid any misunderstandings in our communications should this be elevated to a federal complaint where these types of public integrity cases belong. Also, since there are a growing number of parties that I wish to serve notice to of these events and activities that have been taking place in the adult-use cannabis licensing scheme here in San Diego, I am including, as an attachment, a list of those parties who will be cc'd on our email.

The Tarrant Bell case set a now-14 year old precedent holding that "shall" is mandatory and "may" is discretionary. In the context of these statutes this is a completely unambiguous interpretation. Insofar as adult-use issues being heard, sadly, the courts have gotten the controlling statutes wrong and their decisions by giving the word "shall" a discretionary meaning. Does this mean inferior courts can disregard Cal. Supreme Court rulings by not publishing their directly contradictory opinions? If so, this means *stare decisis* has a loophole that allows nondifferentiated contradictory rulings as long as those rulings remain unpublished. (See SHERLOCK v. AUSTIN, Case No. D081109,

anti-SLAPP Appeal in the 4th DCA, Unpublished Opinion at Pg. 18, ¶ 2 "It [shall] does not mandate denial.")

All of this is moot because under <u>either</u> interpretation, "shall' or "may," **disclosure of the applicant is mandatory** for these background checks to occur. Yet the courts have, for whatever reasons, consistently allowed questions regarding the adult-use strawman practice to go unanswered by opposing counsel when asked directly from the bench to explain what strawman practice is as it relates to adult-use cannabis licensing, as if the strawman practice can somehow be made lawful because it's a cannabis application. It's why opposing counsel cannot provide that answer. (See SHERLOCK v. AUSTIN, Case No. D081109, anti-SLAPP in the 4th DCA, hearing transcript at <u>Pg's 13:17-14:23</u>)

- 7.0) 09/30/2025, a Judicially Confirmed Case of Public Corruption in Baldwin Park, California Cannabis Licensing at https://151farmers.org/wp-content/uploads/2018/04/2025.09.30-Baldwin-Park-Case-Steering-Document.pdf
- 7.1) 12/05/2024, US Attorneys Press Release: Former Commerce City Manager and Former Baldwin Park City Attorney Bribery Guilty Pleas and Plea Agreements Unsealed at https://www.justice.gov/usao-cdca/pr/former-commerce-city-manager-and-former-baldwin-park-city-attorney-bribery-guilty
- 7.2) 12/05/2024, UNITED STATES OF AMERICA v. ROBERT TAFOYA, Case No. 2:23-cr-00384-MEMF, Plea Agreement for criminal activities at https://151farmers.org/wp-content/uploads/2018/04/2024.12.05-robert-tafoya-plea-agreement.pdf
- 7.3) 06/01/2018, FBI agents serve search warrant on Adelanto Mayor Rich Kett and City Hall as part of a criminal investigation into pay-to-play cannabis licensing in Adelanto, CA at https://www.sbsun.com/2018/05/08/fbi-agents-serve-search-warrants-at-home-of-adelanto-mayor-city-hall/
- 7.4) 02/07/2024, US DOJ Press Release, MA Attorney is sentenced to two years in prison for bribing the chief of police for a recreational cannabis license at https://www.justice.gov/archives/opa/pr/former-attorney-sentenced-bribery-scheme
- 7.5) 04/19/2024, Cotton's letter to Judge Church in KNOPF v. KNOPF, Case No. 21FL005564C providing evidence of the conspiracy and fraud surrounding attorney Gina Austin, that exists in the SD CUP process whereby applicants are not disclosing their interests in these businesses at https://151farmers.org/wp-content/uploads/2018/04/2024.04.19-Cotton-Letter-to-Judge-Church-w-Exhibits.pdf

I'd also like you to know that that during the time of the Geraci CUP application, Gina Austin also simultaneously represented Amy Sherlock whose husband Michael "Biker" Sherlock was an applicant at the 8863 Balboa Ave., Ste. E CUP application, Adam Knopf at the 3452 Hancock Street CUP application, Aaron Magagna at the 3279 National Avenue and 6220 Federal Blvd. CUP's, Chris Williams for a variety of projects that were located in San Diego and my father Dale Cotton who has provided litigation financing for both mine and the Sherlock cases.

I want you and the City Attorney to know what I and others have attempted to do over the years to remedy these actions. There exists a long and open record of these issues having been brought to the City's attention which I will refer to here;

8.0) 12/13/2016, Attorney Robert Ottillie's letter to Anthony Wagner, City of San Diego Planning Commissioner re conflicts of interest in the CUP appeals process at

- https://151farmers.org/wp-content/uploads/2018/04/2016-12-13_Ottilie-to-Wagner-Letter-re-Recusal.pdf
- 8.1) 12/06/2018, Sue Peerson, Chairperson, City of San Diego Planning Commission, recuses herself from the appeal at 6220 Federal Blvd. (the Aaron Magagna CUP) because she has a financial interest in that project which competed with the Geraci 6176 CUP application at my property. Item 4 at https://www.sandiego.gov/sites/default/files/pcminutes181206.pdf
- 8.2) 06/06/2023, Darryl Cotton's written statement to the City Council re adult-use license application fraud at https://151farmers.org/wp-content/uploads/2018/04/Darryl-Cotton-City-Council-Statement.pdf
- 8.3) 09/04/2024, Darryl Cotton's statement/presentation to the City of San Diego Commission on Police Practices at https://www.justice4amy.org/wp-content/uploads/2023/02/24-09-04-CPP-Cotton-Presentation-Steering-Document.pdf
- 8.4) 09/04/2024, Amy Sherlock's statement/presentation to the City of San Diego Commission on Police Practices at https://www.justice4amy.org/wp-content/uploads/2023/02/24-09-04-CPP-Sherlock-Presentation-and-Steering-Document.pdf
- 8.5) 07/27/2018, Cotton's email to various City of San Diego department heads re CUP application processing irregularities between the 6176 (Geraci) and 6220 (Magagna) Federal Blvd. projects at https://151farmers.org/wp-content/uploads/2016/09/Gmail-Cotton-Cac-7-25-thru-7-27-18.pdf
- 8.6) 02/13/2020, Sherlock's and Cotton's emails to Mayor Faulconer re Request for Documents at https://www.justice4amy.org/wp-content/uploads/2023/02/20-02-04 Sherlock-Cotton-emails-to-Mayor-Faulconer.pdf
- 8.7) 05/26/2025, City of San Diego Public Records Act Requests Steering Document re multiple adult-use projects at https://www.justice4amy.org/wp-content/uploads/2023/02/2025-05-26-MAIN-PRA-STEERING-DOCUMENT.pdf
- 8.8) 05/13/2024, a 2014 2020 Deep Dive of SD Planning Commission Adult-Use Licensing Appeals at https://151farmers.org/wp-content/uploads/2018/04/2024-05-13 Deep-Dive-CUPs-Steering-Document.pdf
- 8.9) 11/19/2023 SDUT article, "Whitburn pushed to relax San Diego cannabis rules as his chief of staff collected tens of thousands from the industry records show" at https://www.justice4amy.org/wp-content/uploads/2023/02/2023-11-19-SDUT-re-Whitburn-and-Blue-Water-Government-Affairs-Dallin-Young.pdf

- 8.10) 12/18/2024, Darryl Cotton filed County of San Diego Grand Jury Complaint form at https://www.justice4amy.org/wp-content/uploads/2023/02/24-12-18-Cotton-GJC-re-2023-2024-GJ-Report.pdf
- 8.11) 2023, a total of 21 filed County of San Diego Grand Jury Complaints re City of San Diego adult-use licensing issues at https://www.justice4amy.org/wp-content/uploads/2023/02/GJC-Combined-1-21-Redacted.pdf

This "CUP application process" and in my case the resulting Geraci withdrawal because Magagna "beat me" to this finish is replete with fraud that I will not go into here. Collectively the City's actions have created years' worth of anguish within our families and the personal and financial turmoil that has been inflicted on myself, Amy Sherlock, Tiffany Knopf (Adam's former wife), Chris Williams, my 87 year old father, Dale Cotton and the City of San Diego taxpayers simply because the City's CUP process has been hijacked by a small group of corrupt attorneys and lobbyists working in concert with those in government who self-enrich and the judicial requiem this scheme evokes. We are ALL victims of this ongoing abuse.

Considering that on 06/21/2019, in CADENA et al. v. CITY OF SAN DIEGO et al, Case no. 37-2019-00032076-CU-MC-CTL, you, personally, along with other plaintiffs' sued the City for **Fraudulent Concealment of Injury and Intentional Infliction of Emotional Distress**. You and your fellow City plaintiff/employees are already keenly aware that if the City will conspire against their own employees what makes you believe that **you** are now not acting as unwitting accomplices in what amounts to an adult-use licensing scheme perpetrated by higher ranking City Department heads, who apparently will go to any length necessary to avoid being exposed for their venal and unlawful acts. There is proof that certain higher-up bad actors within the City, are receiving cash payments from an adult-use industry, that is not fully accountable⁵ in an ENTIRELY cash based industry!

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⁵ In the 2023 City of San Diego Annual Comprehensive Financial Report ("ACFR" at Pg. 40) cites "Licenses and permits were under budget by \$9,987 which was primarily due to a reduction in recreational cannabis business tax caused by a continued decline in monthly gross receipts reported by outlets. This decline is due to increased competition in neighboring municipalities and delivery services." Yet this all cash industry does not show Cannabis Business Tax ("CBT") revenues, or delinquent licensee taxes, as a line item in the General Fund. What could possibly go wrong here?

In a classic case of hiding in plain sight, Mayor Todd Gloria actually addressed this **failure to account CBT revenues** in his 08/28/2024 letter to the Honorable Maureen F. Hallahan, Presiding Judge of the Superior Court whereby Gloria replies to the Grand Jury's findings, "That the City does not report all revenue, expenses and impacts associated with cannabis legalization, leaving citizens unaware of the full fiscal impact on Measure N" by stating that "...the Grand Jury is correct that the City does not currently provide a comprehensive report detailing expenditures and other impacts associated with cannabis legalization...there are several reasons why the City does not agree that a comprehensive report is necessary...." (Finding 3 at Pg. 4) and "...statewide initiatives would be more effective than isolated city-

9.0) 10/22/2019, CADENA et al, First Amended Complaint at https://voiceofsandiego.org/wp-content/uploads/2020/02/First-Amended-Class-Action-Complaint-CONFORMED.pdf

"Evidence of the City's knowing concealment was a series of employment meetings wherein the City hired a well-cast group of professionals to misinform and mislead City employees into believing the employees' exposure to asbestos and other toxins did not present any health risks." (Pg. 5:15-17)

Lastly, I must tell you that at 65 years of age I would never have predicted that my extended entanglement with Geraci and the City would result in the personal and financial distress I find myself in today. My family will no longer speak to me, and my father has obtained a lawyer to sue me in Illinois for a breach of contract in the litigation financing he has provided me with for these cases. That amount currently stands at \$14,868,721.00 and counting.

I am also faced with a jury trial award in favor of Geraci that currently stands at \$450,927.53. There are numerous other people who initially believed that I was correct in my interpretation of the law whereby disclosure of the applicant was a mandatory function of the application process.

Over the course of 9 years most no longer believe in me, or my cause. I've lost count of how many times I've been told to just take my lumps and move on. But I can't. I won't. What's happened here to me, and so many others is wrong. It was wrong in 2016, and it continues to be wrong now. Thus, I really have nothing left to lose from a zoning violation, be it real or imagined, that hasn't already been taken away from me.

- 10.0) 08/19/2025, Attorney Jerome Urbik's demand letter for payment on behalf of Dale L. Cotton at http://151farmers.org/wp-content/uploads/2018/04/2025.08.19-Urbik-to-Darryl-Cotton-Demand-Letter.pdf
- 10.1) 02/07/2025, Attorney Michael Weinstein Judgment Renewal on behalf of Larry Geraci at https://151farmers.org/wp-content/uploads/2018/04/Notice-of-Renewal-of-Judgment.pdf

In consideration of the above, my attorney's limited availability and the extensive battery of daily stage 4 chemotherapy, radiation and infusion appointments I must attend, if you would like to visit on 10/29/2025 at 10:00 AM we can accommodate that. If not, I would respectfully ask that you propose another time via email instead of by phone.

specific reporting." "Cui Bono" means "who benefits" and would certainly apply here. (Attachment 1, RESPONSE TO RECOMMENDATIONS, Recommendation 2 at Pg. 3 of 4)

Thank you.

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Attachment: List of parties who have been cc'd in this Reply

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