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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA, UNLIMITED JURISDICTION

11 HARBOR CAREGIVERS, INC., DBA
12 CANNASSEURS CLUB, a California
13 corporation, and VRUIR SHAMIRYAN, an
individual

14 Petitioners,

15 vs.

16 BUREAU OF CANNABIS CONTROL;
17 TAMARA COLSON, in her official capacity
18 as Acting Chief of the Bureau of Cannabis
Control; and Does 1-10,

19 Respondents.
20
21

Case No. RG21100222

**VERIFIED PETITION FOR WRIT OF
TRADITIONAL MANDAMUS (CCP §
1085)**

Action Filed: 05/27/21

Trial Date: TBD

Date: _____

Time: _____

Judge: Hon. Frank Roesch

Dept.: 17

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Superior Court of California,
County of Alameda

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1 **COMES NOW PETITIONERS WHO ASSERT AND ARGUE AS FOLLOWS:**

2 1. Petitioners, HARBOR CAREGIVERS, INC., DBA CANNASSEURS CLUB, a
3 California corporation (“Harbor Caregivers” or “HCI” or “Petitioner HCI”), and VRUIR (“Vic”)
4 SHAMIRYAN, an individual (“Mr. Shamiryan” or “Petitioner Shamiryan”), petition this Court for a
5 writ of mandate under Code of Civil Procedure §1085, directed to Respondents, and by this verified
6 petition allege as follows:
7

8 2. Petitioners, as lawful cannabis operators in the City of Los Angeles (“Los Angeles”
9 or “LA”), are beneficially interested in the outcome of the questions of law presented in this petition.
10 Respondents have a ministerial duty to follow the law and provide constitutionally mandated due
11 process and give Petitioners an appeal hearing on the matters stated herein. Petitioners allege that
12 there is no plain, speedy and adequate remedy at law for the matters alleged herein. Petitioners
13 reserve the right to brief more fully the facts and law germane to this petition, pursuant to the
14 briefing schedule ordered by the court and/or stipulated to by the parties.
15

16 **I. INTRODUCTION & SUMMARY**

17 3. Petitioners have legally operated a legacy cannabis dispensary in Los Angeles since
18 2008, with a microbusiness license from Respondent Bureau of Cannabis Control since June 25,
19 2019. Petitioners have invested and re-invested millions of dollars in the business venture.
20 Respondents summarily revoked that “provisional” license on September 23, 2020, and claim that
21 Petitioners are entitled to no due process whatsoever including no prior notice, no hearing, and no
22 appeal pursuant to the California Business and Professions Code. Over 8,280 such provisional
23 licenses have been issued since January 1, 2018, to businesses that likewise have operated under them
24 for years and have collectively invested billions of dollars in reliance on them. Those licenses are
25 constitutionally protected property rights entitled to procedural due process. To the extent that the
26 Business and Professions Code says otherwise, the Code is unconstitutional on its face, and as
27 applied to Petitioners.
28

II. PARTIES

4. Petitioner HARBOR CAREGIVERS, INC. is a California corporation operating a commercial cannabis microbusiness in North Hollywood, CA. Petitioner holds provisional license No. C12-0000096-LIC, which is the subject of this Petition.

5. Petitioner VRUIR SHAMIRYAN is an individual and the sole shareholder and CEO of HARBOR CAREGIVERS, INC.

6. Respondent BUREAU OF CANNABIS CONTROL is an agency located with the California Department of Consumer Affairs. BCC has sole authority to license cannabis testing laboratories in the state of California.

7. Respondent TAMARA COLSON is the Acting Chief of the Bureau of Cannabis Control.

8. Respondent Does 1-10 are persons or entities whose true identities are unknown as of the time of the filing of this Petition.

9. At all times mentioned in this petition, the above Respondents have been the agencies and officials in charge of administering Petitioners' provisional license to operate as a commercial cannabis laboratory in the state of California. Such agencies and officials also have the authority to grant or deny Petitioners' underlying request for a hearing on Respondent's putative revocation of Petitioners' provisional license.

III. FACTS

10. Petitioner Harbor Caregivers, Inc. is a long-standing Los Angeles cannabis dispensary. HCI was incorporated in in 2008. It dates back to the earliest years of legal medical cannabis collective dispensaries before LA regulated them. As such, LA has long recognized its vested property right status. Petitioner Shamiryan became the sole shareholder of HCI in 2015. Mr. Shamiryan is a naturalized US citizen, who was born in Armenia and is of Armenian descent. As a younger man, Mr. Shamiryan served in the United States Marine Corps.

1 11. On June 25, 2019, Respondents Bureau of Cannabis Control (“BCC”) and Tamara
2 Colson, in her capacity as acting Chief of BCC (“Ms. Colson”), through her predecessor, Lori Ajax,
3 issued Petitioners’ license C12-0000096-LIC to operate a cannabis microbusiness at 11307 Vanowen
4 Street, North Hollywood, CA 91605. Under this license, Petitioners continued their longstanding
5 storefront retail function, and added retail delivery, distribution, and small-scale onsite cultivation.

6
7 12. Over a year later, on July 29, 2020, four law enforcement agents of Respondents’
8 conducted an inspection of the Petitioners’ premises. During the inspection, the agents entered the
9 premises at Mr. Shamiryan’s invitation, and proceeded to his office to discuss their concerns. While
10 two officers directed Mr. Shamiryan’s attention to the delivery records for the business on the
11 computer, another officer discretely made his way into the secure vault, without notice or escort, and
12 commenced recording the inside of the vault on what appeared to be a personal cell phone. Because
13 this was during a time of civil disturbances, including armed robbery of numerous cannabis
14 dispensaries¹, Mr. Shamiryan objected to this recording and asked the agents to leave.

15
16 13. Mr. Shamiryan then called his lawyer, Dana Cisneros (“Ms. Cisneros”), who
17 immediately told him to ask the agents to come back inside the premises and assure them that they
18 were not being denied access. At this point, Mr. Shamiryan put Ms. Cisneros on speaker phone. The
19 Agents and Ms. Cisneros identified themselves. Ms. Cisneros explained that the agents were not
20 being denied access to the premises.

21 14. She also informed the agents that she was unaware of any authority that allowed them
22 to record sound and video of the premises, and specifically the inside of the vault. One agent cited
23 California Code of Regulations § 5800 governing licensed cannabis businesses, which Ms. Cisneros
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26
27 ¹ For context, at least 40 dispensaries were targeted the month prior as part of widespread social disturbances. Concern
28 over dispensary operator safety became so severe that in June 2020, Respondents removed all licensee addresses from its
website.

1 verified was inapplicable, and did not authorize their recording activity, but merely allowed them
2 access to the dispensary's security camera footage and other records.

3 15. At this point, the agents walked away from the phone, and then came back to state
4 that they were relying on § 5044 of the Regulations. Ms. Cisneros advised them that this Regulation
5 applied to Petitioners' video surveillance, and not to theirs. Ms. Cisneros continued to ask the agents
6 what they needed so Mr. Shamiryan could comply. She explained that HCI had provided access, and
7 was willing to fully comply with the law and their inspection of the premises and the dispensary's
8 records, including the security camera footage, computer inventory records, and any other records
9 that they were entitled to inspect. Ms. Cisneros advised them that if they needed copies of records,
10 Mr. Shamiryan would provide them, but Mr. Shamiryan would not have his rights violated. At this
11 point, the agents began yelling at Mr. Shamiryan that he refused to provide access. Then the agents
12 abruptly hung up on Ms. Cisneros.

13 16. The officers refused to remain, and instead left with angry words, mockery, and
14 gestures of grave disrespect to Mr. Shamiryan, a former member of the United States Marine Corps.
15 One agent took his photograph as they drove away.

16 17. On September 23, 2020, agents of Respondents returned to Petitioners' premises with
17 a search warrant based on a clumsily constructed affidavit of probable cause, based on superseded
18 law, styled after the type of affidavit commonly produced by law enforcement to obtain a search
19 warrant for a criminal drug dealer. Nowhere does the affidavit aver that affiant had any expertise,
20 training, or experience related to investigating licensed cannabis businesses regulated under the
21 Business and Professions Code; rather it makes reference to outdated Health and Safety Code
22 provisions superseded over the last five years by voter initiative, legislative statute, and administrative
23 regulations, none of which were referenced therein. They did not serve this search warrant upon
24 Entry. Upon challenge by Ms. Cisneros, they served the warrant as they left the premises.

1 18. When Mr. Shamiryan arrived on the premises that day, he found his security guards in
2 handcuffs and nine, armed, BCC agents inside his business. Mr. Shamiryan cooperated with the
3 agents, and was calm at all times during this raid on his licensed business. He again contacted his
4 attorney, Ms. Cisneros, by phone. The agents informed her that the license was being revoked based
5 on a one-page letter that they hand delivered to Mr. Shamiryan. That letter baldly alleges, in the most
6 conclusory possible terms, that Petitioners had violated applicable statutes and regulations in three
7 ways with no specific details: (1) one sale of a single improper edible product, (2) one failure to check
8 for proof of age, and (3) one “denial of access.” On the basis of the same, Respondents revoked the
9 license pursuant to Business and Professions Code § 26050.2, under which there was to be no
10 hearing or appeal of any kind.

12 19. When the agents indicated that they were seizing all the inventory and growing crops,
13 Ms. Cisneros objected that such a seizure would require a warrant based on probable cause. They
14 then handed Mr. Shamiryan a warrant and proceeded to place him in handcuffs while they seized
15 approximately \$5,500,000 in lawful inventory, which was properly recorded in the state’s inventory
16 tracking system (METRC) including the growing crops. Despite the affidavit containing an explicit
17 “Anticipatory” clause restricting its execution to “**IF AND ONLY IF**” the agents were denied legal
18 access, which they clearly were not, the agents acted on the warrant. Despite repeated inquiries,
19 Petitioners were delayed by Respondents in obtaining the full search warrant supporting affidavit for
20 over two months, until November 25, 2020.

22 20. Following the September 23, 2020 raid and “revocation,” Petitioners repeatedly asked
23 BCC if they should file a new license application. BCC insisted that Petitioners need not file a new
24 application because BCC would process the existing application for an annual license, and that the
25 decision on that application, if denied, would be appealable. Then on December 17, 2020, BCC
26 abruptly “withdrew” Petitioners’ then existing application without Petitioners’ consent. Because of
27
28

1 that unauthorized “withdrawal” BCC thwarted even the modicum of incorrectly calibrated due
2 process that would have accompanied the denial of an allegedly discretionary application.

3 21. Following the December 17, 2020 “withdrawal” of its license application by BCC,
4 Petitioners filed another license application on January 11, 2021. In the months following, BCC
5 requested supplemental documentation which Petitioners provided. More recently, on Friday, May 7,
6 2021, BCC notified Petitioners that the analyst processing that most recent application had
7 completed his review and was forwarding it to his supervisor recommending approval for a new
8 provisional license, “probably today but perhaps Monday.” But in the following weeks, the
9 supervisor requested further documentation, including some related to retail delivery and
10 manufacturing, neither of which were requested in the license application. Petitioners provided all
11 relevant documents. BCC then referred the matter to the Department of Food and Agriculture to
12 review the cultivation portion of the microbusiness license application, an unprecedented procedure
13 given that BCC alone oversees the issuance of such microbusiness licenses.

14 22. BCC has gone out of its way to bury its procedural malfeasance with act after act
15 denying the fundamentals of due process before deprivation—notice and hearing—in an attempted
16 coverup of its initial heavy-handed discriminatory over-reaction. Petitioners have no choice other
17 than to bring this petition to vindicate their protected property interests.

18 **IV. LEGAL QUESTIONS AND STANDARD OF REVIEW**

19 23. Petitioners allege and argue in the underlying writ petition that Petitioners possess a
20 constitutionally protected property right which Respondents seek to revoke without affording
21 constitutionally mandated due process of law. These arguments are meritorious and present
22 important and undecided issues of law and fact.

23 24. Petitioners, therefore, are entitled to a prohibitory injunction that prevents
24 Respondents from taking action and preserves the *status quo ante* until the underlying controversy is
25

1 resolved. This Court has subject matter jurisdiction over the controversy and personal jurisdiction
2 over Respondents. Petitioners have standing to bring the underlying action.

3 25. Petitioners assert that Respondents failed to provide Petitioners due process for the
4 revocation of Petitioners' cannabis license previously conferred by Respondents on Petitioners. That
5 issue, and statutory interpretation, are both legal issues reviewed de novo. *Tafti v. County of Tulare*
6 (2011) 198 Cal.App,4th 891, 896.
7

8 **A. Petitioners are entitled to ordinary mandamus relief to compel Respondents to provide a**
9 **fair and impartial hearing BEFORE revoking their license issued to them by BCC two years**
10 **ago, and to undo BCC's purported revocation of 09/23/20, with which they have complied**
11 **only under protest and duress.**

12 26. Petitioners allege and argue that Petitioners possess a constitutionally protected
13 property right which Respondents revoked without affording constitutionally mandated due process
14 of law.

15 **B. The Court has subject matter jurisdiction over the writ petition.**

16 27. California Code of Civil Procedure § 1085 states in pertinent part:

17 “A writ of mandate may be issued by any court to any inferior tribunal, corporation,
18 board, or person, to compel the performance of an act which the law specially
19 enjoins, as a duty resulting from an office, trust, or station, or to compel the
20 admission of a party to the use and enjoyment of a right or office to which the party
21 is entitled, and from which the party is unlawfully precluded by that inferior tribunal,
22 corporation, board, or person.”

23 28. Petitioners request in the underlying writ petition that this Court issue a writ
24 compelling BCC to take an act required by law vis the affording of constitutional procedural due
25 process to Petitioners as relates to their constitutionally protected property right. The Superior Court
26 of Alameda County has authority over the BCC in this context. Given the parameters of the relief
27 that Petitioners seek herein, that is, that the BCC provide it due process of law, this Court has subject
28 matter jurisdiction over Respondents.

1 **V. LEGAL ARGUMENT**

2 29. In revoking Petitioners' license without any hearing or opportunity to appeal,
3 Respondents cited B & P § 26050.2.² B & P § 26050.2 provides in pertinent part as follows:

4 (a) A licensing authority may, in its sole discretion, issue a provisional license to an
5 applicant if the applicant has submitted a completed license application to the
6 licensing authority....

7 (b) A provisional license issued pursuant to this section shall be valid for no more
8 than 12 months from the date it was issued. If the licensing authority issues or renews
9 a provisional license, they shall include the outstanding items needed to qualify for an
10 annual license specific to the licensee

11 (f) Except as specified in this section, the provisions of this division shall apply to a
12 provisional license in the same manner as to an annual license....

13 (h) Refusal by the licensing authority to issue a license pursuant to this section or
14 revocation or suspension by the licensing authority of a license issued pursuant to this
15 section shall not entitle the applicant or licensee to a hearing or an appeal of the
16 decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4
17 (commencing with Section 26040) of this division and Sections 26031 and 26058 s
18 hall not apply to licenses issued pursuant to this section....

19 Subdivision (h) denies holders of provisional licenses the right to a hearing on, or an appeal of a
20 decision to revoke or suspend that license. Subdivision (f) provides that aside from the limitations
21 set forth in § 26050.02, which includes subdivision (h)'s denial of due process rights, the provisions
22 in Division 10, commencing with B & P §§ 26000 *et seq.*, apply in the same manner to a
23 provisional license as they do to an annual license. *On its face* B & P § 26050.2 deprived
24 Petitioners of their due process rights to an evidentiary hearing and an appeal in revoking Petitioners'
25 provisional license.

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² All further references to California's Business & Professions Code shall be to "B & P."

1 **A. Under the Fourteenth Amendment to the U.S. Constitution, and under Article I, § 7(a) of**
2 **the California Constitution, BCC is barred from depriving Petitioners of their property**
3 **interest in the license, “without due process of law.”**

4 **1. U.S. (and California) Supreme Court case law recognizes property interests in**
5 **“entitlements” that “are created and... defined by existing rules or understandings that stem**
6 **from an independent source such as State law.”**

7 30. Once the state government authorizes, or “licenses,” a person to engage in a business
8 or profession, it has created an entitlement property interest protected from arbitrary deprivation by
9 both the Fourteenth Amendment to the U.S. Constitution and Article I, §7(a) of the California
10 Constitution (collectively, “the Constitutions”). Such property interests are entitled to procedural due
11 process before deprivation: specifically, detailed notice of the grounds for the deprivation and an
12 opportunity to be heard. *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972); *Perry v. Sinderman* (1972) 408
13 U.S. 593, 601; *Goldberg v. Kelly*, 397 U.S. 254, 263 n.8; 264 (1970); *Saleeby v. State Bar* (1985) 39 Cal.3d
14 547, 564-65.

15 31. The threshold issue before this Court is whether Petitioners have a property interest
16 in their cannabis microbusiness “provisional” license that BCC issued to them two years ago
17 authorizing them to engage in commercial cannabis activity. This issue is also dispositive. If there is a
18 property interest, then such property interest is entitled to due process before deprivation. BCC
19 claims that the license can be revoked without due process implying that Petitioners do not have a
20 property interest. BCC’s repeated justification for this position is that B & P § 26050.2(h) states that
21 no due process is required for the revocation of a provisional license. Section 26050.2(h) cannot
22 preempt the Federal or State constitutions. The State Legislature does not have the authority to
23 legislate away the constitutional protections of a property interest. This rule dates back almost to the
24 dawn of our Republic:

25 “It is emphatically the province and duty of the judicial department to say what the
26 law is.... If then the courts are to regard the constitution; and the constitution is
27 superior to any ordinary act of the legislature; the constitution, and not such ordinary
28 act, must govern the case to which they both apply.”

1 (*Marbury v. Madison* (1803) 5 U.S. 137, 177-178.)

2 32. U.S. Supreme Court case law recognizes property interests in “entitlements” that “are
3 created and... defined by existing rules or **understandings that stem from an independent source**
4 such as state law.” (*Board of Regents v. Roth* (1972) 408 U.S. 564, 577 (emphasis added.) Here, that
5 “understanding” stems from B & P § 26050.2(a), which creates entitlements by issuing “provisional”
6 licenses identical in every way to permanent (annual) licenses, save for their purported lack of due
7 process protections asserted in subsections (c), (d), (e), and (h). Subsection (f) explicitly states that in
8 all other respects the license types are identical.

9 33. Authorization to operate, and to continue operating while meeting evolving
10 regulatory requirements in this regulatory *milieu*, is no different from the entitlement in any other
11 professional or business license that might be nominally “renewable,” but belongs to the individual
12 or business absent some egregious incurable violation. In *Goldsmith v. Bd. of Tax Appeals*, 270 U.S.
13 117 (1926), cited by the Court in *Board of Regents v. Roth, supra*, 408 U.S. at 576, n. 15, the Court
14 addressed the U.S. Board’s discretion, set forth in its rules, to deny applicants admission to practice
15 before it “in its discretion” and to subsequently suspend or disbar admittees. In discussing a
16 “discretionary” denial of an admission application, the *Goldsmith* decision stated that the board’s
17 discretionary power "must be construed to mean the exercise of a discretion to be exercised after fair
18 investigation, with such a notice, hearing and opportunity to answer for the applicant as would
19 constitute due process." *Goldsmith*, 270 U.S. at 123.³

20 34. As in *Goldsmith*, B & P § 26050.2(c) and (d) provide a licensing authority with the
21 “sole discretion” to renew, revoke, or suspend provisional licenses. As in *Goldsmith*, BCC’s
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27 ³ The Court in *Goldsmith* denied the applicant’s petition for writ of mandate because the applicant failed to request a
28 hearing on his denial of admittance to practice in that court, and instead sought summarily admittance to practice.
 Goldsmith, 270 U.S. at 123-124. Here by contrast, Petitioners merely seek due process rights to notice and a hearing.

1 discretion may only be exercised “after fair investigation, with such a notice, hearing and opportunity
2 to answer for the applicant as would constitute due process.” Goldsmith, 270 U.S. at 123.

3 35. California provides comparable, if not more, protection to applicants like Petitioners.
4 In *Trans-Oceanic Oil Corp. v. City of Santa Barbara* (1948) 85 Cal.App.2d 776, Trans-Union’s
5 predecessor obtained an oil lease on which Trans-Oceanic operated seven wells, then applied for a
6 permit to operate an 8th well on the lease. The City granted the permit in June 1941. Trans-Oceanic
7 incurred \$4,500 in expenses to build “substantial concrete foundations for a derrick, erected an oil
8 derrick, dug a sump hole, erected a powerhouse, moved boilers into place, and laid necessary
9 pipelines to the site.” *Trans-Oceanic*, 85 Cal.App.2d at 780. A few months later, the United States
10 entered World War II after the attack on Pearl Harbor. The U.S. Army soon thereafter took
11 possession of the entire well area until early 1945, by which time the oil derrick was destroyed,
12 leaving Trans-Oceanic’s other buildouts in place. *Trans-Oceanic*, *supra*.

13 36. In March 1946 the City instituted an oil drilling ban within the City, except for
14 industrial areas. The City rezoned the parcel where Trans-Oil’s wells were located into a residential
15 area. The City did not act to revoke Trans-Oil’s permit on Well No. 8 until April 1947, soon after
16 Trans-Oceanic began drilling again. Trans-Oceanic could not resume drilling operations until March
17 1947 due to a shortage of labor, materials, and drilling equipment. *Ibid.*, 85 Cal.App.2d at 771.

18 37. In April 1947 the City revoked Trans-Oceanic’s permit as to Well No. 8 without
19 notice or hearing. *Trans-Oceanic*, *supra*. The Trial Court denied mandate to Trans-Oceanic and the
20 appellate court reversed. The Court in *Trans-Oceanic* reversed and held that:

21 If a permittee has acquired a vested property right under a permit, the permit cannot
22 be revoked. The principle is stated in 9 American Jurisprudence, section 8, page 204:
23 “By the weight of authority, a municipal building permit or license may not arbitrarily
24 be revoked by municipal authorities, particularly where, on the faith of it, the owner
25 has incurred material expense. Such a permit has been declared to be more than a
26 mere license revocable at the will of the licensor. When, in reliance thereon, work
27 upon the building is actually commenced and liabilities are incurred for work and
28 material, the owner acquires a vested property right to the protection of which he is
entitled.” *Trans-Oceanic*, 85 Cal.App.2d at 784.

1 The Court in *Trans-Oceanic* further held that:

2 A permit may not be revoked arbitrarily “without cause.” (53 C.J.S. § 44, p. 651.) It is
3 conceded that in revoking the permit granted to appellant, the City Council of Santa
4 Barbara did so without prior notice to appellant, without a hearing, and without
5 evidence. In determining that a permit, validly issued, should be revoked, the
6 governing body of a municipality acts in a quasi-judicial capacity. In revoking a permit
7 lawfully granted, due process requires that it act only upon notice to the permittee,
8 upon a hearing, and upon evidence substantially supporting a finding of
9 revocation. *Trans-Oceanic*, 85 Cal.App.2d at 795.

10 Trans-Oceanic expended \$4,500 to set up its drilling operations on Well No. 8, and after the
11 war, spent another \$5,600 to move equipment to and from the property, and incurred
12 \$360/day standby costs for crew and equipment, reduced to \$193/day after the purported
13 revocation. *Trans-Oceanic*, 85 Cal.App.2d at 780, 781. The Court held in *Trans-Oceanic* that:
14 “The resolution of revocation in the instant case, adopted without notice or hearing or
15 reception of competent evidence, was inoperative and of no legal force.” *Ibid.* at 797.

16 38. Here Petitioners invested and re-invested approximately \$2,000,000 or more in the
17 business venture. If \$10,100 in 1940’s dollars in *Trans-Oceanic* comprise substantial expenses, then
18 \$2,000,000 would surely comprise substantial sums today.

19 **2. The state’s inability to process annual licenses in a timely fashion does not deprive
20 Petitioners of their due process property rights in their businesses despite the “no appeal”
21 language of B & P § 26050.2 provisional licenses which were originally supposed to last only
22 120 days, but now suffer a four-year backlog, which applies to 83% of all licenses.**

23 39. As in *Trans-Oceanic*, Petitioners and thousands of other applicants who applied for
24 annual cannabis licenses with state licensing authorities like BCC, but who have provisional licenses
25 while they work through their huge backlog, are being deprived of their due process rights through
26 delays not of their own making. In *Trans-Oceanic* the 4-5 year delay in which the company was
27 prevented from operating the oil well in question was due to the outbreak of World War II and when
28 their property was returned to them near the end of the war, they faced labor, material and
equipment shortages. *Trans-Oceanic*, 85 Cal.App.2d at 770-771. Here, Petitioners and others similarly
situated have faced lengthy delays following the passage of Proposition 64 in 2016 and the

1 Legislature's on-going struggle to fuse together the existing medical cannabis system with a brand-
2 new regulatory scheme for adult use and medical-use cannabis.

3 40. Following the passage of Proposition 64 in 2016, in which the voters of this State
4 elected to legalize adult recreational use of cannabis, the Legislature made its initial attempt to
5 regulate both the existing medical marijuana use and the newly approved adult use. The result was
6 SB 94. Section 1(d) of SB 94 provided in pertinent part that:
7

8 The intent of Proposition 64 and MCRSA was to ensure a comprehensive regulatory
9 system that takes production and sales of cannabis away from an illegal market and
curtails the illegal diversion of cannabis from California into other states or countries.

10 Newly-amended B & P § 26050(a) created twenty different license categories depending on
11 whether the licensee was a cultivator (including size, indoor/outdoor lighting), retailer, tester,
12 distributor, or microbusiness. Subdivision (c) made these licenses 12 months long, renewable
13 annually.
14

15 41. Section 26050 created temporary licenses, good for 120 days, renewable for no more
16 than 90 additional days. While § 26050.1(b)(3) provided no opportunity for notice and hearing for
17 the licensing authority's refusal to issue or renew a temporary license and § 26050.1(b)(4) states that a
18 temporary license grants no vested rights in the temporary license, § 26050.1 provided for issuance of
19 the temporary licenses if the applicant made a written request to the licensing authority, the licensing
20 fee, and "A copy of a valid license, permit, or other authorization, issued by a local jurisdiction, that
21 enables the applicant to conduct commercial cannabis activity at the location requested for the
22 temporary license." B & P § 26050.1(a)(2). The temporary license promulgated in SB 94
23 **contemplated that the applicant already had a business license, which presumably created its**
24 **own due process rights.** In that context due process rights in a temporary license would have been
25 duplicative and their short duration under § 26050.1(b)(3), (4) might make spending considerable
26 amounts in that time period more unlikely, as these businesses were on-going concerns and not start-
27 ups.
28

1 42. Effective January 1, 2019, the state legislature created, via B & P § 26050.2, its
2 “provisional” licensing system. Section 26050.1, including its provision for issuance of a temporary
3 license based in large part on an existing license was repealed by its own terms effective January 1,
4 2019. B & P § 26050.1(c). Unfortunately, the language stating that temporary licenses would have
5 no due process rights carried over to § 26050.2(h). Originally intended to last for only a year, §
6 26050.2 was then extended through 2021. Over 9,720 such licenses have been issued since January 1,
7 2018. As of March 2021, 83% of all licenses are provisional. These businesses, the great bulk of the
8 entire legal cannabis industry, have operated under their licenses for years and have collectively
9 invested billions of dollars in reliance on them. The legislature is now considering a bill to extend it
10 through 2027, *or perhaps indefinitely* (to give the agencies as much time as needed to process the huge
11 backlog of applications), marking at least a full decade of temporary and provisional licensing.

12
13 43. Cannabis legalization created a difficult regulatory conundrum: shut down an existing
14 multi-billion-dollar legacy medical-use industry of thousands of operators and take years to license
15 and re-open it or allow it to continue operating while simultaneously licensing it. The §26050.2
16 system is the solution the legislature devised to that problem.

17
18 44. SB 1459, the senate bill that created §26050.2 justified its “urgency” status as follows:

19 SEC. 4. This act is an urgency statute necessary **for the immediate preservation of the**
20 **public peace, health, or safety** within the meaning of Article IV of the California
21 Constitution and **shall go into immediate effect**. The facts constituting the necessity are:
22 **The significant number of cultivation license applications pending** with local authorities
23 that do not have adequate resources to process these applications before the applicants’
24 temporary licenses expire on January 1, 2019, **threatens to create a major disruption in the**
25 **commercial cannabis marketplace**. (Stats. 2018, Chapter 857, Section 4, emphases added.)

26 45. Expiration of the previous “temporary” licenses (issued starting at the beginning of
27 regulation, January 1, 2018), would have rendered almost the entire industry illegal and collapsed the
28 entire regulatory scheme.

 46. A year later, AB 97 extended the provisional licensing workaround for two more
years, through the end of 2021. Its urgency clause put the matter even more bluntly:

1 In order to have a thriving and legal cannabis market in California, it is necessary that
2 this act take effect immediately. (Stats. 2019, Chapter 40, Section 20, emphasis
added.)

3 47. § 26050.2(a) grants “the licensing authority” (here, BCC) discretion to issue
4 provisional licenses (or not). That was clearly necessary. Without authorized licensed operators the
5 entire \$3.5 billion legal cannabis market would have instead operated underground, as many
6 unlicensed operators did at that time, and still do today. Current estimates are that the legal
7 aboveground California cannabis industry has annual gross receipts of around \$3.5 billion. The
8 underground market is almost triple that at an estimated \$8.7 billion as of 2019.

10 48. No legal marketplace of thousands of businesses is possible without authorizing them
11 to legally engage in “commercial cannabis activity,” as the code defines it at B & P § 26001(k). They
12 must be authorized, legal, and entitled to continue operating—otherwise “the immediate preservation
13 of the public peace, health, or safety” is threatened (SB 1459 (Stats. 2018, Chapter 857, Section 4),
14 *supra*), and California is in danger of having **no** “legal cannabis market.” AB 97. (Stats. 2019, Chapter
15 40, Section 20, emphasis added.), *supra*).

17 49. That is the only logical way of understanding the provisional system created by SB
18 1459 and extended by AB 97: it must be swift and sustainable, and it must authorize and license
19 businesses to operate legally and in compliance with all applicable regulations, or face enforcement
20 measures coupled with due process protections, like any other licensed business. Otherwise, the
21 system cannot work as intended by B & P § 26050.2(a). Unfortunately, B & P § 26050.2(h) contains
22 an unconstitutional flaw that impacts Petitioners and many, if not all, of the thousands of businesses
23 that hold provisional licenses while waiting for approval of their applications for annual licenses.
24 Under §26050.2, the government authorizes, licenses, entitles, and encourages businesses to operate
25 in the legal aboveground industry to save it from “major disruption”—*but it would prefer not to give them*
26 *any due process rights*. (Stats. 2018, Chapter 857, Section 4), *supra*.) That preference is impermissible
27
28

1 under the Due Process Clauses of the federal and state Constitutions and is an unconstitutional
2 attempt to evade judicial review. *Marbury, supra*, 5 U.S. at 147-48.

3 50. Under California constitutional law, even an “expectancy is entitled to some modicum
4 of due process protection” with required “findings” to ensure that the government acts in a
5 nondiscriminatory and nonarbitrary manner.” *Saleeby v. State Bar* (1985) 39 Cal.3d 547, 564, 566-68.
6 The BCC’s position is that not a shred of process is due before the deprivation of this valuable
7 license, which has been substantially relied on, and into which significant capital investment has been
8 made. That position is no different than that held in *Trans-Oceanic*.

9
10 51. B & P § 26050.2 is unconstitutional on its face, and as applied to Petitioners. It
11 purports to grant to the cannabis licensing authorities two irreconcilable powers: (1) the power of the
12 agencies to exercise their discretion to issue “provisional” licenses that authorize licensees to engage
13 in commercial cannabis activity; and (2) the power subsequently to revoke or suspend those
14 entitlements in their “sole discretion” without notice and hearing.

15
16 52. In the BCC letter of September 23, the agency claims that its revocation is effective
17 immediately, and that pursuant to BPC §26050.2, Petitioners are “not entitled to a hearing or appeal
18 of this decision.”

19 53. While B & P §26050.2(a) creates the only possible system that can work in the
20 circumstances recognized by the legislature in its stated findings of urgency and necessity, B & P §
21 26050.2(h) purports to deny legally operating licensees the same procedural due process afforded
22 other business entitlements: notice and an opportunity to be heard before revocation. *Goldberg*, 397
23 U.S. at 262 (privilege/right distinction no bar to due process); *Goldsmith*, 270 U.S. at 123-124.

24
25 54. Both subsections (c) and (d) use the phrase “in its sole discretion” in authorizing a
26 licensing agency to suspend or revoke the “provisional” licenses (subsection (d)), and to renew them
27 until they issue or deny the licensee’s “annual” license (subsection (c)). However, as shown above,
28 *Goldsmith* stated that a licensing board’s discretionary power “must be construed to mean the exercise

1 of a discretion to be exercised after fair investigation, with such a notice, hearing and opportunity to
2 answer for the applicant as would constitute due process." *Goldsmith*, 270 U.S. at 123.

3 55. The only difference between a provisional license and an annual license is the denial
4 of due process found throughout B & P §26050.2. B & P §26050.2(f) states: "Except as specified in
5 this section, the provisions of this division shall apply to a provisional license in the same manner as
6 to an annual license." A provisional licensee is fully authorized to engage in commercial cannabis
7 activity and is required to follow the hundreds of pages of applicable statute and regulations as an
8 annual licensee. B & P. § 26050.2(f). The annual license is a permanent license that the Bus. & Prof.
9 Code, and the agencies in their regulations, concede is a property interest entitled to notice and
10 hearing before deprivation. Of the approximately 9,950 licenses issued by the state since January
11 2018, approximately 8,280 licenses (or 83% of the licenses) are "provisional". These "provisionally"
12 licensed businesses currently make up the bulk of the multi-billion dollar California cannabis
13 industry, representing that much in investment and in annual gross receipts, and employing many
14 thousands of Californians. They cultivate, manufacture, test, distribute, and sell cannabis—subject to
15 hundreds of pages of administrative regulation.
16

17 56. Statutory authorization to act "in its sole discretion" does not authorize an agency to
18 deprive any person of their property without due process of law. U.S. Const., XIV Am.; Cal. Const.
19 Art. I, §7(a). In *Board of Regents v. Roth*, the U.S. Supreme Court cited *Goldsmith*, *supra*, in which the
20 U.S. Board of Tax Appeals' rules allowed it to deny applicants admission to practice before it "in its
21 discretion" and to likewise subsequently suspend or disbar admittees. In discussing "discretionary"
22 denial of an admission application, *Goldsmith* holds that the board's discretionary power "must be
23 construed to mean the exercise of a discretion to be exercised after fair investigation, with such a
24 notice, hearing and opportunity to answer for the applicant as would constitute due process." (*Board*
25 *of Regents*, *supra*, 408 U.S at 577, n15.)
26
27
28

1 57. Given that due process is required in the context of an *application* for a “discretionary”
2 reimbursement award, logically, due process is certainly required for the *revocation* of a license issued
3 and relied on for almost two years with a multi-million investment. *Saleeby, supra*, 562-68.

4 58. The BCC’s practice as to the renewal process has been to make it a simple and
5 straightforward *pro forma* “rubberstamping,” exactly as one would expect of a recognized entitlement.
6 The annual renewal process typically takes about an hour online filling in the same basic information
7 and affirming that there have been no changes in operations. BCC then approves promptly and
8 issues an invoice for the substantial annual licensing fee. Once paid, the license is renewed, as
9 expected. The whole process takes a week or so, most of which is waiting time. Counsel for
10 Petitioners recently had a revoked provisional license restored by *ex parte* order of the Alameda
11 County Superior Court. That license, near expiration, was renewed within 48 hours, *over a weekend*.
12

13 59. Inserting the word “sole” into the phrase “in its discretion” does not alter the
14 protections long set forth in the Constitutions. The licensing authorities have issued 8,280
15 provisional licenses (out of 9,950 total licenses, the rest are annual licenses) as of March 4, 2021—
16 over three years after commencing the licensing process. The government issued these licenses with
17 the clear understanding that the licensees would actually operate licensed businesses thereunder to
18 further the government’s purpose of bringing cannabis into control and regulation, and that they
19 would rely on them by investing significant sums of money and by employing workers.
20

21 60. Petitioners, and all other provisional licensees, have a legitimate right to assume that,
22 barring any glaring unresolvable issues, their applications for “annual” (i.e., permanent) licenses will
23 be granted in due course, and that in the meantime, while waiting for the licensing authorities to
24 process the 8,000-plus pending license applications,⁴ their provisional licenses will be renewed
25

26
27 ⁴ Under the terms of §26050.2(a), to obtain a provisional license the licensee must have a complete application for an
28 annual license pending.

1 regularly in due course—as they are and have been. If Respondents take issue with any provisional
2 licensee’s compliance with the statutes and regulations, they are free to take disciplinary action against
3 them provided that they first provide notice and a hearing.

4 61. The plain language of B & P §26050.2(f) makes the case for due process, save for the
5 initial phrase, “Except as specified in this section.” That phrase purports to deny due process
6 through other sub-sections and, on that basis, must be held unconstitutional for the reasons given.

7 62. B & P §26050.2(h) is the crux of the matter. The statute is invalid as to the purported
8 revocation of a license to operate a business granted and relied on. § 26050.2(h) is two sentences
9 long. The first states that revocation or suspension of a provisional license “shall not entitle the
10 applicant or licensee to a hearing or an appeal of the decision.” The second sentence specifies four B
11 & P sections that shall not apply to provisional licenses—all related to due process, thus the denial
12 thereof. To the extent that § 26050.2(h) allows deprivation of the property interest in the provisional
13 license through revocation without prior notice and hearing, it offends the due process clauses of the
14 Constitutions and is impermissible.

15 63. These licensed businesses and individuals who have staked liberty (time) and treasure
16 (property) in carrying out the state’s mandate to rescue the “commercial cannabis marketplace” from
17 “major disruption,” earned the due process rights that come with that authorization. No businesses
18 will invest capital in a system that gives them authorization and a license, lures them into detrimental
19 reliance at grand scale, and then pulls the plug at its “discretion.” This is neither the object nor
20 purpose of government.

21 64. Such a result would destroy the very goal sought by the legislation enacted on this
22 topic since 2017: The creation and encouragement of an aboveground, regulated California cannabis
23 market. Rather, the logical understanding that stems from the provisional licensing system is that
24 licensed legally operating cannabis businesses merit the same measure of well-settled constitutional
25 due process protection as everyone else like situated. *Board of Regents v. Roth, supra* at 577; *Perry v.*

1 *Sinderman, supra* at 601; *Goldberg v. Kelly, supra* at 263 n.8; 264; *Goldsmith*, 270 U.S. at 123-124; *Saleeby v.*
2 *State Bar, supra* at 564-65; *Trans-Oceanic*, 85 Cal.App.2d at 795, 796-797.

3 **B. California’s due process protections are broader and more nuanced than their federal**
4 **counterparts, recognizing property and liberty interests even where the government has**
5 **“discretionary” powers, through a 4-part balancing test.**

6 65. In *Saleeby v. State Bar*, 39 Cal.3d 547 (Cal. 1985) the California Supreme Court applied
7 procedural due process requirements to the exercise of discretionary decision-making powers granted
8 to the State Bar by the legislature in statute, similarly to that discretion facially apparent in B & P §
9 26050.2. The Court found that the California Constitution required that they:

10 “inquire whether the present procedures adequately assure that the bar, having elected to
11 exercise the discretion conferred upon it by the Legislature, will exercise that discretion in a
12 nonarbitrary, nondiscriminatory fashion. We conclude that in order to comport with due
13 process requirements applicants must be afforded an opportunity to be heard and respond to
14 the bar's determinations and the bar must issue sufficient findings to afford review.”

15 *Saleeby v. State Bar* (1985) 39 Cal.3d 547, 565.

16 66. The Court even mentioned, in contrast to federal law, that even an “expectancy is
17 entitled to some modicum of due process protection.” *Id.* at 564. Under these standards, Petitioners
18 property interest and due process rights are even clearer. The BCC on behalf of the state used its
19 “discretion” in a manner so general and vague as to fail to give notice even of what specific violations
20 from what time period were the grounds for the revocation, let alone opportunity to be heard and
21 respond in even the most informal and settlement-oriented manner. Such slipshod practice does not
22 pass muster under California law as detailed below. The *Saleeby* Court set forth the 4-part balancing
23 test used not only to determine the type of due process required in each situation, but also to
24 determine if a property or liberty interest is implicated in the government action. *Id.* at 565.

25 **1. “the private interest that will be affected by the official action”**

26 67. The private interest affected by the BCC letter and forcible deprivation of the right to
27 engage in cannabis economic activity has a monetary value of approximately \$24 Million dollars, the
28

1 estimated market value before revocation. Mr. Shamiryan's personal and professional reputation is at
2 stake, as is his standing, his position, and his business interests. The September 23 letter accuses Mr.
3 Shamiryan of deceit, concealment, and failure to cooperate with the BCC in allegedly "denying full
4 and immediate access" in violation of law. Even at the federal level, such accusations trigger due
5 process protection:

6
7 The State, in declining to rehire the respondent, did not make any charge against him
8 that might seriously damage his standing and associations in his community. It did
9 not base the nonrenewal of his contract on a charge, for example, that he had been
10 guilty of dishonesty, or immorality. Had it done so, this would be a different case. For
11 '(w)here a person's good name, reputation, honor, or integrity is at stake because of
12 what the government is doing to him, notice and an opportunity to be heard are
13 essential.'

14 *Roth*, 408 U.S. at 573. (Citations omitted.)

15 The property interest at stake is highly significant on several different levels. Petitioners meet this
16 part of the *Saleeby* test and are entitled to due process under the California Constitution.

17 **2. "the risk of an erroneous deprivation of such interest through the procedures used,**
18 **and the probable value, if any, of additional or substitute procedural safeguards"**

19 68. BCC's September 23 letter offered one short paragraph of conclusory allegations with
20 a blunt assertion that no due process applied per the untested language of B & P §26050.2. Without
21 any due process "procedures used" whatsoever, any additional "safeguards" would be hugely
22 valuable. As it is, the risk of erroneous deprivation has zero checks and balances on it. BCC offered
23 no specific factual findings nor conclusions of law. None. The allegations might be entirely arbitrary
24 and capricious and there would be no way to know, and even if known, there would be no way to
25 challenge capricious or inadvertent error by state actors and agents.

26 69. BCC has a robust disciplinary and appeal hearing process with clear notice and
27 hearing requirements under the Administrative Procedures Act. B & P §§ 26031, 26040. If any
28

modicum of that process were available to Petitioners, they would be vastly better off.⁵ Petitioners also meet this part of the Saleeby test and are entitled to due process under California's Constitution.

3. “the dignitary interest in informing individuals of the nature, grounds and consequences of the action and in enabling them to present their side of the story before a responsible governmental official”

70. For both HCI and for Mr. Shamiryan as an individual, this revocation has deep wounding significance. They are mystified as to what they did to deserve the swift death sentence without notice or warning. Petitioners have been subjected to an abrupt and egregious violation of the norms of fairness. Their public reputations have been harmed and their treatment by BCC in this case has violated their dignitary interests in a substantial and demonstrable way. This alone triggers due process rights. *Roth*, 408 U.S. at 573. For Mr. Shamiryan in particular, there are free speech issues. He exercised those rights by questioning the authority of BCC agents to record video and audio without his consent at their July 29, 2020 inspection for which the September 23 raid (for that is all it can be called) is clearly retaliatory.

71. Additionally, there is the issue of discrimination based on national origin. As a naturalized citizen of the U.S., born in Armenia, Mr. Shamiryan attributes some of the agents' animus and hostility to his national origin. He has previously been subjected to this kind of discrimination by local law enforcement. Both of these fundamental rights issue give rise to further concern for due process under both the federal and state constitutions. Even if, arguably, there were no “right” to a provisional license, the government cannot revoke it for impermissible reasons: interference with constitutional rights, especially free speech, or discrimination based on suspect classification such as national origin; due process must therefore be provided. *Perry v. Sinderman* (1972) 408 U.S. 593, 596-98. BCC humiliated Mr. Shamiryan before his peers by placing him in handcuffs during the raid

⁵ If BCC would even communicate with Petitioners, they are eager to find common ground and understand the agency's concerns (or the concerns of its investigators).

1 which was predicated on impermissible reasons. The agency utterly disregarded his dignity in its
2 callous, abusive, unilateral “revocation” without notice and hearing. The free speech and national
3 origin issues are deeply disturbing. Petitioners meet this part of the *Saleeby* test and are entitled to due
4 process under the California Constitution.

5 **4. the governmental interest, including the function involved and the fiscal and**
6 **administrative burdens that the additional or substitute procedural requirement would entail.**

7 72. The government has an interest in licensing and regulation, enforcing regulations, and
8 in successfully implementing the legal cannabis system. The underground market is still three times
9 larger than the aboveground market. The government function is critical. Petitioners support it and
10 wish to contribute to its success. This relationship can be collaborative. It need not be adversarial. As
11 for fiscal and administrative burdens, BCC already has a whole division committed to enforcement,
12 discipline, appeals, hearings, and due process, with many pages of specific regulation, and of course
13 the Administrative Procedures Act. See, B & P Chapter 2 (commencing with Section 480) of
14 Division 1.5, Chapter 4 (commencing with Section 26040) of Division 10, and Sections 26031 and
15 26058. BCC bears no additional burden in affording Petitioners with reasonable notice and an appeal
16 hearing. That is all that Petitioners ask: the basic level of respect and due process for a government-
17 authorized-and-licensed professional organization and for a Petitioner who has served the country in
18 the military. Petitioners meet this part of the *Saleeby* test and are entitled to due process under the
19 California Constitution.

20
21
22 73. Petitioners meet the 4-part test set forth in *Saleeby* and have both property and liberty
23 (including individual dignitary) interests at stake. Petitioners must therefore be extended the basic
24 elements of due process: notice and hearing prior to revocation.

25 74. The question before the court is not whether such a property right might be revoked
26 in the course of such due process, only whether due process is required. Petitioners will likely prevail
27
28

1 on this question based on the clear, extensive law that government deprivation of a property right
2 necessarily requires procedural due process under both the State and Federal constitutions.

3 **C. Petitioners have no adequate remedy at law.**

4 75. Injunctive relief is available when future pecuniary compensation would not provide
5 adequate relief or it would be difficult to ascertain such damages. (Cal. Code Civ. Proc. § 526(a)(4)-
6 (5); *Dodge, Warren & Peters Ins. Servs. V. Riley* (2003) 105 CA4th 1414). In the present case, it is unclear
7 whether the legal remedy sought even provides Petitioners with an avenue to recover damages, and
8 on this basis alone, injunctive relief is proper. Even if Petitioners were entitled to pecuniary relief,
9 many of the elements of the harm they face, such as loss of long-term contracts, are impossible to
10 meaningfully quantify in advance. Even if the government ultimately had to pay the \$24 million
11 market value of the business prior to the illegal revocation, Petitioners do not want to sell their
12 business. Nor has the government followed the proper procedures to exercise eminent domain,
13 condemn, appraise, and purchase the business at fair market value. On the basis that the harm faced
14 is difficult or impossible to monetarily quantify, Petitioners are entitled to injunctive relief.
15

16 **D. Balancing the equities reveals that the risk of public harm is low, while the risk of**
17 **irreparable harm to Petitioners is high.**

18 76. Respondents have alleged no public harm at any point in the factual record. The BCC
19 letter generally alleges, without any specific facts as to details, dates, persons involved, number of
20 occurrences, or any other circumstances, three general types of regulatory violations as grounds for
21 revocation in a conclusory fashion. None of these include any allegation that HCI in any way
22 threatens the public health and safety through alleged deficiencies in ongoing practices.
23

24 77. The alleged grounds for revocation include only the following three, from the second
25 paragraph of the three-paragraph BCC letter here numbered, listed, and with clarifying explications,
26 but otherwise quoted verbatim:
27
28

- 1 [1. *alleged*] an individual was sold a cannabis infused edible with a THC limit of 1,000
2 mg, which is 10 times over the legal limit of 100mg per edible [sic; and person
3 who allegedly made the sale not identified];
4 [2. *alleged*] [unidentified] employee failed to perform age verification on the individual
5 purchasing the cannabis goods;
6 [3. *alleged*] failed to cooperate with and participate in a Bureau investigation by denying
7 full and immediate access of the licensed premises to Bureau representatives
8 in violation of Business and Professions Code Section 26160 subdivision (e);

7 78. None of these general allegations impugn the overall compliance and safety of HCI's
8 operations as a licensed and regulated cannabis retailer, cultivator, and distributor. At most they
9 hazily allege two violations by a disgruntled employee on a frolic and a lark their own (since
10 dismissed) and a dispute between the licensee and BCC agents as to their authorization to make
11 unconsented video and audio recordings (nowhere specified in the statute or regulations, including
12 the ones they cited).

14 79. HCI refutes each of these allegations as either being false, too vague to be admitted
15 or denied, previously cured, or easily cured if given specific details of violation actually occurring.
16 And this refutation is not relevant to the immediate issue of whether there is any imminent harm to
17 Respondents or the public in maintaining the *status quo ante* while the Court determines if Respondent
18 must allow Petitioners an opportunity to have these issues heard by an impartial decision maker prior
19 to revocation of their valuable license and the execution of the death sentence on their corporate
20 business entity and their individual professional reputation, standing, position, and salary.

22 80. Vested property rights have value at least in part because of the confidence among
23 the people that such rights will be protected by the government, not taken by the government
24 without due process. Due process rights serve *both* the accused and the public, on whose behalf the
25 regulatory authority purports to act:

26 Professor Gellhorn put the argument well: 'In my judgment, there is no basic division
27 of interest between the citizenry on the one hand and officialdom on the other. Both
28 should be interested equally in the quest for procedural safeguards. I echo the late
Justice Jackson in saying: 'Let it not be overlooked that due process of law is not for

1 the sole benefit of an accused. It is the best insurance for the Government itself
2 against those blunders which leave lasting stains on a system of justice’—blunders
3 which are likely to occur when reasons need not be given and when the
4 reasonableness and indeed legality of judgments need not be subjected to any
5 appraisal other than one's own....' Summary of Colloquy on Administrative Law, 6 J.
6 Soc. Pub. Teachers of Law, 70, 73 (1961).” *Board of Regents*, 408 U.S. at 592 (Douglas,
7 J., dissenting.)

8 81. Allowing Petitioners to continue their operations, while their writ petition is properly
9 heard and decided, poses no public harm. Petitioners have operated with a license for almost two
10 years with no such allegation.

11 **WHEREFORE, PETITIONERS PRAY FOR RELIEF AS FOLLOWS:**

- 12 1. A peremptory writ of mandate be issued ordering Respondents to provide Petitioners
13 with an administrative hearing for the purposes of hearing Petitioners’ appeal of
14 Respondents’ revocation letter;
- 15 2. And that such writ further order Respondents to return Petitioners’ property improperly
16 and unlawfully seized without due process of law;
- 17 3. An *ex parte* order (application filed, or to be filed, under separate cover) be issued
18 providing a stay of enforcement against Petitioners to preserve the *status quo ante* on the
19 basis of the arguments therein and that such stay be in effect until final disposition of this
20 petition for writ of mandate and any timelines for appeal thereof have elapsed;
- 21 4. Renewal of Petitioners’ Provisional Cannabis Microbusiness License # C12-0000096-
22 LIC, currently set to expire on June 24, 2021;
- 23 5. Petitioners recover their costs in this action, including attorney fees according to law; and
- 24 6. Such other relief be granted that the Court considers proper.

25 //

26 //

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28 //

//.

1 **Respectfully submitted,**

2
3 Date: January 13, 2022

ANTHONY LAW GROUP, PC

4
5 

6 James M. Anthony,
7 Drew M. Sanchez,
8 Attorney for Petitioners, Harbor Caregivers Inc. and
for Mr. Shamiryan

VERIFICATION

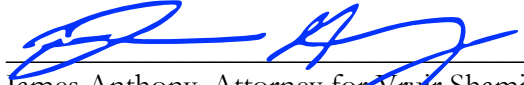
I, James Anthony, declare:

I have read the foregoing Verified Petition for Writ of Mandate and know its contents.

I am one of the attorneys for Harbor Caregivers, Inc. and Vruir Shamiryan, Petitioners in this action. Petitioners are absent from the County of Alameda where our offices are located, and are not available to verify this Petition, and I make this verification for and on behalf of Petitioners for that reason pursuant to Code Civ. Proc. 446(a).

I am informed and believe, and on that ground allege, that the matters stated in foregoing document are true.

Executed on January 13, 2022, at Oakland, California.


James Anthony, Attorney for Vruir Shamiryan
and Harbor Caregivers, Inc. Petitioners

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I, Hannah K. Young declare: I am over the age of 18 years, and am not a party to this

PETITIONERS' VERIFIED PETITION FOR WRIT OF MANDATE


☐ **VIA U.S. MAIL** – CCP § 1013(a) I caused the above documents to be placed in an envelope with postage thereon fully prepared to be placed in the United States Postal Service with the fully prepaid and addressed to Plaintiff's counsel: and

☒ **VIA ELECTRONIC MAIL** The documents were transmitted in PDF format to each of the following email addresses as indicated on the service list.

Attorney General of California
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I declare under penalty of perjury under the laws of the State of California that the foregoing

Executed on January 13, 2022 at Oakland, California.



Hannah K. Young