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15 OAKLAND CANNABIS BUYERS' COOPERATIVE
AND JEFFREY JONES
16

17 IN THE UNITED STATES DISTRICT COURT.
18 FOR THE NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION
20

21 UNITED STATES OF AMERICA,
22 Plaintiff,
23 v.
24 OAKLAND CANNABIS BUYERS'
COOPERATIVE and JEFFREY JONES,
25 Defendants.
26
27 AND RELATED ACTIONS.
28

No. C 98-0088 CRB

**SUPPLEMENTAL DECLARATION
OF ANNETTE P. CARNEGIE IN
SUPPORT OF DEFENDANTS'
MOTION AFTER REMAND TO
DISSOLVE OR TO MODIFY
PRELIMINARY INJUNCTION
ORDER**

(Fed. R. Civ. P. 60(b), Local Rule 7-11)
Date: April 19, 2002
Time: 10:00 a.m.
Hon. Charles R. Breyer

1 I, ANNETTE P. CARNEGIE, declare as follows:

2 1. I am a member of the law firm of Morrison & Foerster LLP and am admitted to practice
3 before this Court. I am one of the counsel of record for defendants OAKLAND CANNABIS
4 BUYERS' COOPERATIVE and JEFFREY JONES (collectively "OCBC"). If called as a witness, I
5 could and would testify to the facts set forth below.

6 2. Exhibit Q submitted with the Declaration of Annette P. Carnegie In Support of
7 Defendants' Motion to Dissolve and In Opposition To The Government's Motion for Summary
8 Judgment and Permanent Injunction erroneously failed to identify a July 22, 1983 letter from William
9 Pollin, Director of the National Institute on Drug Abuse, although the letter was in fact included as
10 part of Exhibit Q. The July 22, 1983 letter requested that librarians purge their shelves of purportedly
11 "outdated" materials, many of which contained "equivocal" findings concerning the negative effects
12 of marijuana and may reflect the government's efforts to suppress research unfavorable to its
13 position. For the Court's convenience, a copy of the July 22, 1983 letter is attached hereto as
14 Exhibit A.

15 3. Recently declassified Oval Office tapes from 1971 and 1973 indicate that the foundation
16 of the federal government's policy concerning marijuana may have been the prejudice and
17 misinformation of President Nixon. As the Court is aware, it was at the request of the Nixon
18 administration that marijuana was placed in Schedule I "at least until the completion of certain
19 studies." 1970 U.S. Code Cong. & Admin. News 4579. The Presidential Commission on Marihuana
20 and Drug Abuse (the "Shafer Commission") was established to "aid in determining the appropriate
21 disposition of this question." *Id.* Public Law 91-513, § 601(3). As reflected in the Common Sense
22 for Drug Policy ("CSDP") Research Report dated March 2002, attached hereto as Exhibit B,
23 President Nixon rejected the sound scientific findings of the Shafer Commission favoring
24 decriminalization of marijuana and instead sought to perpetuate myths based on bias and prejudice
25 concerning the effects of marijuana.

26 4. To the extent that the federal government's prohibition on medical cannabis is based on
27 Richard Nixon's prejudices and misinformation regarding the effects of marijuana use, and not on
28 scientific evidence, this Court should reject that prohibition as lacking a rational basis, and to the

1 extent this ill-conceived prohibition infringes on citizens' fundamental rights, this Court should
2 declare that prohibition unconstitutional.

3 5. Attached as Exhibit C hereto are true and correct copies of a transcript of the relevant
4 portions of the Nixon tapes. A copy of the relevant excerpts of tape itself has been lodged with the
5 Court for the Court's convenience, as Exhibit D.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing
7 is true and correct.

8 Executed this 15th day of April, 2002, at San Francisco, California.

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11 Annette P. Carnegie
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PROOF OF SERVICE BY OVERNIGHT DELIVERY
(CCP 1013c, 2015.5)

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California, 94105; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course of Morrison & Foerster's business practice the document described below will be deposited in a box or other facility regularly maintained by United Parcel Service or delivered to an authorized courier or driver authorized by United Parcel Service to receive documents on the same date that it is placed at Morrison & Foerster for collection.

I further declare that on the date hereof I served a copy of:

• **SUPPLEMENTAL DECLARATION OF ANNETTE P. CARNEGIE IN SUPPORT OF DEFENDANTS' MOTION AFTER REMAND TO DISSOLVE OR TO MODIFY PRELIMINARY INJUNCTION**

on the following by placing a true copy thereof enclosed in a sealed envelope with delivery fees provided for, addressed as follows for collection by United Parcel Service at Morrison & Foerster LLP, 425 Market Street, San Francisco, California, 94105, in accordance with Morrison & Foerster's ordinary business practices.

Mark T. Quinlivan
U.S. Department of Justice
901 E Street, N.W., Room 1048
Washington, D.C. 20530

Gerald F. Uelmen
Santa Clara University
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Santa Clara, CA 95053

Robert A. Raich
A Professional Law Corporation
1970 Broadway, Suite 1200
Oakland, CA 94612

Randy Barnett
Harvard Law School
1525 Massachusetts Avenue, Griswold 308
Cambridge, MA 02138

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at San Francisco, California, this 15th day of April, 2002.

Lisa Sangalang
(typed)

(signature)

PROOF OF SERVICE BY MAIL
(CCP 1013(a), 2015.5)

I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California, 94105; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of Morrison & Foerster's business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at Morrison & Foerster with postage thereon fully prepaid for collection and mailing.

I further declare that on the date hereof I served a copy of:

- **SUPPLEMENTAL DECLARATION OF ANNETTE P. CARNEGIE IN SUPPORT OF DEFENDANTS' MOTION AFTER REMAND TO DISSOLVE OR TO MODIFY PRELIMINARY INJUNCTION**

on the following by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California, 94105, in accordance with Morrison & Foerster's ordinary business practices:

SEE ATTACHED LIST

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at San Francisco, California, this 15th day of April, 2002.

Lisa Sangalang
(typed)

(signature)

SERVICE LIST

United States of America

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