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8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF SACRAMENTO**

11 WISDOM APPARATUS , a California
12 corporation,

13 Plaintiff & Petitioner,

14 v.

15 LORI AJAX , Chief of the Bureau of
16 Cannabis Control, City of Victorville, and
17 DOES 1 through 10

18 Defendants & Respondents.

CASE NO.

Assigned to
Dept.

PETITION FOR
(1) Peremptory Writ,
(2) Writ of Mandate,
(3) Declaratory Relief

19 Petitioner and plaintiff WISDOM APPARATUS ("WISDOM") brings this petition
20 seeking alternative and peremptory writs of mandate, pursuant to Code of Civil
21 Procedure section 1085 and declaratory relief against defendants and respondents and
22 alleges as follows:

23 1. Wisdom seeks to compel respondents, including LORI AJAX, Chief of
24 the Bureau of Cannabis Control ("BCC") to issue a Temporary Cannabis Event License
25 ("LICENSE") to WISDOM so that it can host the 2018 Chalice California Festival at the
26 San Bernardino County Fairgrounds ("CHALICE FESTIVAL"). WISDOM applied for
27 a LICENSE on May 1, 2018 and has provided and/or is capable of providing all of the
28 necessary documents and approvals necessary for the issuance of the LICENSE. BCC
has failed to exercise its mandatory duty to issue the LICENSE and, despite telling

1 WISDOM it had until July 13, 2018 to withdraw the application, the BCC denied the
2 LICENSE on June 13, 2018.

3 **PARTIES**

4 2. Wisdom Apparatus (“WISDOM”) is a California corporation in good
5 standing that for the last 2 years has hosted an event called the CHALICE FESTIVAL at
6 the San Bernardino County Fairgrounds. WISDOM is the applicant for a Temporary
7 Cannabis Event License to whom BCC owes the duty to fairly exercise its discretion to
8 approve or deny the application.

9 3. Respondent LORI AJAX is the Chief of the Bureau of Cannabis Control
10 (“BCC”) which is a state agency responsible for issuing licenses pursuant to Business
11 and Professions Code § 26200 (e).

12 4. Respondent City of Victorville is a real party in interest since it has
13 refused to either grant authorization for the event and/or recognize the sovereign
14 immunity of the DAA to have events like the CHALICE FESTIVAL on the
15 FAIRGROUNDS.

16 5. Does 1 - 10 are persons or agencies whose identity and interest in this
17 proceeding is currently unknown to plaintiff and are therefore named by these
18 fictitious names.

19 **INTRODUCTION**

20 6. The CHALICE FESTIVAL is the California’s largest Art, Music and
21 Cannabis festival attracting more than 35,000 people to the High Desert Region of
22 Southern California during a three-day period in July each year. Chalice California is
23 in its fifth year of operation, with the past two years being held at the San Bernardino
24 County Fairgrounds (“FAIRGROUND”) in Victorville. To date, there have been no
25 arrests, hospitalizations, incidents of violence, or other issues reported at the event, or
26 due to the event in the surrounding communities. In addition to being an incident free
27 event, CHALICE FESTIVILE has benefitted the local economy and has brought in an
28

1 estimated \$33,580,635 in positive economic impact to the local economy.¹

2 7. The FAIRGROUND is State Property and is under the sovereign
3 jurisdiction of the 28th District Agricultural Association ("DAA"). As a DAA, the
4 Fairground is a "state institution" created by statute and is governed by a volunteer
5 Board of Directors, who are state officers appointed by the Governor. Food &
6 Agricultural Code §§3951, 3953, 3956, 3959. The DAA's governmental purposes are to:
7 Hold fairs and expositions to exhibit all of the industries, resources, and products of
8 every kind or nature of the state; and to construct, maintain, and operate recreational
9 and cultural facilities of general public interest. Food & Agricultural Code § 3954. A
10 DAA, when operating within this governmental capacity, enjoys immunity from local
11 city and county regulations. *Borne v. City of Del Mar* (2001) 86 Cal.App.4th 1346, 1358;
12 see 56 Ops.Cal.Atty.Gen. 210. This immunity further "extends to those private entities
13 with which [a DAA] leases or contracts in order to put on consumer product
14 exhibitions and shows." *Bame v. City of Del Mar* (2001) 86 Cal.App.4th 1349 at 1358.

15 8. On May 1, 2018, with the approval of the 28th DAA and
16 FAIRGROUND, WISDOM submitted its application for a LICENSE.

17 9. Business and Professions Code § 26200 (e) states:

18 This division does not prohibit the issuance of a state temporary event
19 license to a licensee authorizing onsite cannabis sales to, and consumption
20 by, persons 21 years of age or older at a county fair or district agricultural
21 association event, provided that the activities, at a minimum, comply with
22 the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that
23 all participants are licensed under this division, and that the activities are
24 otherwise consistent with regulations promulgated and adopted by the
25 bureau governing state temporary event licenses. These temporary event
26 licenses shall only be issued in local jurisdictions that authorize such
27 events.

28 10. Between May 1, 2018 and the present, the organizers of the CHALICE

¹ Chalice California 2017 SAFEIC Report, attached as Exhibit __.

1 FESTIVILE have been working to with the BCC to obtain the LICENSE. During that
2 process, the BCC in an email dated May 14, 2018 stated "I also noticed that the local
3 authorization that you provided is from the actual fair grounds that the event will be
4 held at. We are going to need authorization from either the city or the county in which
5 the event will be taking place."

6 11. WISDOM, the CHALICE FESTIVAL promoters, and the FAIRGROUD
7 have all informed the BCC that FAIRGROUND enjoys immunity for events at their
8 property that are designed to carry out the DAA's express governmental purpose,
9 including events like the CHALICE FESTIVAL.

10 12. Despite its belief that the only local approval required is from the
11 FAIRGROUND, WISDOM, the CHALICE FESTIVAL promoters, and the FAIRGROUD
12 have attempted to obtain local approval from the City of Victorville. On May 23, 2018,
13 Geoff Hinds, Chief Executive Officer of the 28th DAA, requested that Chalice California
14 be placed on the agenda for the June 5, 2018 Victorville City Council meeting, so that the
15 Council may receive information and consider authorizing the event. A copy is attached
16 as Exhibit 2.

17 13. Keith Metzler, City Manager of Victorville denied the DAA's request by
18 letter dated May 31, 2018. Mr. Metzler stated that the City did not desire to "formally
19 agendize the matter." A copy is attached as Exhibit 3.

20 14. WISDOM is informed and believes that on June 1, 2018, Victorville
21 contacted the BCC and informed it that Victorville would not grant local approval for
22 the CHALICE FESTIVAL. Victorville made this contact with BCC despite the fact that
23 attempts were still being made to resolve the issue of sovereign immunity with
24 Victorville and the BCC and/or obtain local approval from Victorville by proactively
25 petitioning the local government for assistance.

26 15. On June 1, 2018, WISDOM was informed by the BCC that WISDOM's
27 application was still active and they had "the option to withdraw this application prior
28 to July 13, 2018, the first day of the event, in order to prevent the Bureau from denying

1 the license.” A copy is attached as Exhibit 4.

2 16. On June 5, 2018, WISDOM, the CHALICE FESTIVAL promoters, and
3 member of the 28th DAA attended Victorville’s June 5, 2018 City Council Meeting
4 despite being improperly denied being put on the agenda. During the public comment
5 period, they spoke about the CHALICE FESTIVAL and again requested to be put on
6 the agenda for the next Council Meeting. That request was denied.

7 17. On June 8, 2018, Christine Vana, Staff Counsel for the DAA sent a letter
8 to the Mayor and each Council Member specifically requesting to be put on the June
9 19, 2018 agenda. The letter also provided information regarding the sovereign
10 immunity of the FAIRGROUND. A copy is attached as Exhibit 5.

11 18. On June 13, 2018, the BCC denied WISDOM’s application. A copy of the
12 denial is attached as Exhibit 6.

13 19. During the course of attempting to obtain this LICENSE, WISDOM has
14 learned that the BCC has failed to treat applicants for a Business and Professions Code
15 § 26200 (e) license equally, has issued a temporary cannabis event permit for an event
16 that was not held at a county fair or district agricultural association event, and has
17 failed to provide applicants with clear policies necessary to obtain a license.
18 Specifically, the BCC improperly granted a state temporary event license to Trans
19 High Corporation for an event held at the Cal State Expo, which was neither a county
20 fair nor a DAA event.

21 20. Business and Professions Code § 26200 (e) limits state temporary event
22 licenses to events held at either a county fair or district agricultural association event.
23 Given this restriction, there are only 74 possible locations for cannabis events to take
24 place. However, should the BCC be allowed to continue to ignore the DAA’s
25 sovereign immunity and require local approval other than the DAA’s, there are only
26 two possible locations where DAA could have cannabis events to fulfill part of their
27 state mandate. The myriad city and county bans on cannabis events is having a direct
28 impact on the DAA’s ability to carry out its purpose. Bans on cannabis events at

1 county fairs or DAA events must take into account the regional impact of such a ban.

2 **JURISDICTION AND VENUE**

3 21. This Court has jurisdiction to issue writs of mandate pursuant to Code
4 of Civil Procedure section 1085

5 22. Venue is proper because BBC's main office is located in this county, and
6 petitioner's application was denied in this county. CCP § 393(b) and CCP § 401.

7 23. Petitioner has a clear, present and beneficial right to the performance of
8 BBC to issue a temporary license for the event.

9 24. Petitioner has no plain, speedy and adequate remedy at law.

10 25. Petitioner has exhausted all available administrative remedies. BBC
11 does not have procedures to appeal a denial of a temporary license.

12 **FIRST CAUSE OF ACTION**

13 **Peremptory Writ of Mandate**

14 **Against all respondents**

15 26. Petitioner realleges and incorporates by reference all allegations set forth
16 above.

17 27. Petitioner has met all requirements under the law for BCC to issue a
18 temporary license to petitioner, but BCC has failed and refuses to issue the temporary
19 license.

20 28. The only reason BCC has given for its failure to issue the temporary
21 license is that BCC believes that the City in which the Fairground is located must give
22 approval for the event before the BCC may issue the license.

23 29. BCC's reason is based on an incorrect interpretation of the law and is
24 contrary to the law. Based on the sovereign rights of the DAA/FAIRGROUND,
25 authorization from the DAA/FAIRGROUND on which the event will be held is the
26 only authorization needed for the BCC to issue the temporary license under the law.

27 30. Petitioner is damaged by the BCC's failure and refusal to issue the
28 temporary license.

1 event and issuance of the license.

2 40. Petitioner contends that under the law, the BCC may issue a temporary
3 license to petitioner, regardless of whether the local city authorizes the event; and to
4 the contrary petitioner contends that based on the sovereign rights of the
5 DAA/FAIRGROUND, authorization from the DAA/ FAIRGROUND on which the
6 event will be held is the only authorization needed for the BCC to issue the temporary
7 license under the law. Petitioner further contends that if the agency regulations
8 provide otherwise, the regulations must be held to be invalid because they are
9 contrary to the above stated law that gives sovereignty in these matters to the
10 DAA/Fairgrounds on which the event will be held.

11 41. Respondents disagree with petitioner's contentions.

12 42. Petitioner therefore requests that the court make a declaration of the
13 rights and duties of the parties under the laws of the State of California, and declare
14 that the BCC does not need to get approval from any county or city to issue a
15 temporary event license as long as the DAA/FAIRGROUND where the event will be
16 held has approved of the event.

17 **PRAYER**

18 **WHEREFORE, Petitioner pray for judgment as follows:**

- 19 1. Under the First Cause of Action, that this Court issue [*either* a peremptory writ
20 of mandate *or* alternative and peremptory writs of mandate] commanding
21 Respondent BCC to issue a temporary event license for petitioner's event at the
22 San Bernardino County Fairgrounds.
- 23 2. Under the Second Cause of Action, Petitioner requests that the court make a
24 declaration of the rights and duties of the parties under the laws of the State of
25 California, and declare that the BCC does not need to get approval from any
26 county or city to issue a temporary event license as long as the
27 DAA/FAIRGROUND where the event will be held has approved of the event.
- 28 3. That this Court grant Petitioner such other, different, or further relief as the

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Court may deem just and proper.

DATED: June 18, 2018

Law Office of Daniel S. Miller

Daniel S. Miller, Esq.,
Counsel for Petitioner
Wisdom Apparatus

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VERIFICATION

I, Doug Dracup, am an officer of petitioner WISDOM APPARATUS in this action and am authorized to sign this verification on its behalf. I have read the foregoing Answer and it is true of my own knowledge except as to those matters stated on information and belief which I believe to be true.

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

Executed this 18 day of June, 2018

Declarant
Doug Dracup