

UNITED STATES DEPARTMENT OF JUSTICE

Drug Enforcement Administration

In the Matter of

**Schedules of Controlled Substances:
Proposed Rescheduling of Marijuana**

**DEA Docket No. 1362
Hearing Docket No. 24-44**

**ORDER REGARDING DRUG ENFORCEMENT ASSOCIATION OF FEDERAL
NARCOTICS AGENTS' MOTION FOR LEAVE**

Today,¹ the Drug Enforcement Association of Federal Narcotics Agents (DEAFNA) filed a motion (Motion for Leave or Mot.) with this tribunal which petitions for, *inter alia*, leave to amend the proposed exhibit list submitted with its prehearing statement. Mot. at 1. The Motion for Leave seeks to submit an affidavit in place of the previously-noticed in-person testimony of DEAFNA's president-elect, Gregory Cherundolo (Cherundolo).² *Id.* DEAFNA represents that Cherundolo "will not appear at the hearing on the date specified for in-person testimony" as a result of "deeper consideration of its financial position[.]" *Id.*

While the Motion for Leave avers that some form of financial considerations³ supply the required good cause to justify this requested relief, there is no notice of appearance or additional indication that it seeks to supplement its representation or notice any additional/substitute witness(es). The theory appears to be that the already-noticed proposed exhibits and the new affidavit would somehow drift into the record without additional effort on the part of DEAFNA, thereby eliminating the admittedly tedious undertakings of laying a foundation or defending against potential objections.

¹ The Motion for Leave is dated December 23, 2024. Mot. at 1. Earlier this morning, chambers staff received an inquiry regarding the status of DEAFNA's filing. Upon discussion with DEAFNA, it came to light that a copy of the Motion for Leave was not sent to the Electronic Case File inbox (filing platform for motions submitted to the tribunal) and DEAFNA subsequently supplied a copy of its Motion to the tribunal. Thus, the Motion for Leave was filed today and will be considered as such.

² More specifically, the Motion for Leave would substitute DEAFNA's previously-noticed witness's *curriculum vitae* with an affidavit.

³ Inasmuch as DEAFNA is currently represented by its president-elect, the potential impact of the organization's "financial position" by substituting an affidavit for its witness/representative is not altogether clear, but that is what the Motion for Leave said.

As has been made abundantly clear during the prehearing proceedings conducted in this matter, no proposed exhibit will be admitted into the record without an adequate foundation laid by the proponent of that proposed exhibit. Thus, DEAFNA's Motion for Leave, at least as currently styled, constitutes a motion to withdraw its sole witness, its sole (*pro se*) representative, and consequently, its case on the merits.

Accordingly, DEAFNA's Motion for Leave, which has been deemed a **motion to withdraw**, is herein **GRANTED**.

Dated: January 2, 2025

JOHN J. MULROONEY, II
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

This is to certify that the undersigned, on January 2, 2025, caused a copy of the foregoing to be delivered to the following recipients: (1) Julie L. Hamilton, Esq., Counsel for the Government, via email at julie.l.hamilton@dea.gov; James J. Schwartz, Esq., Counsel for the Government, via email at james.j.schwartz@dea.gov; Jarrett T. Lonich, Esq., Counsel for the Government, via email at jarrett.t.lonich@dea.gov; and S. Taylor Johnston, Esq., Counsel for the Government, via email at stephen.t.johnston@dea.gov; (2) the DEA Government Mailbox, via email at dea.registration.litigation@dea.gov; (3) Shane Pennington, Esq., Counsel for Village Farms International, via email at spennington@porterwright.com; and Tristan Cavanaugh, Esq., Counsel for Village Farms International, via email at tcavanaugh@porterwright.com; (4) Nikolas S. Komyati, Esq., Counsel for National Cannabis Industry Association, via email at nkomyati@foxrothschild.com; William Bogot, Esq., Counsel for National Cannabis Industry Association, via email at wbogot@foxrothschild.com; and Khurshid Khoja, Esq., Counsel for National Cannabis Industry Association, via email at khurshid@greenbridgelaw.com; (5) Dante Picazo for Cannabis Bioscience International Holdings, via email at ir@cbih.net; (6) Andrew J. Kline, Esq., Counsel for Hemp for Victory, via email at AKline@perkinscoie.com; and Abdul Kallon, Esq., Counsel for Hemp for Victory, via email at and AKallon@perkinscoie.com; (7) Timothy Swain, Esq., Counsel for Veterans Initiative 22, via email at t.swain@vicentellp.com; Shawn Hauser, Esq., Counsel for Veterans Initiative 22, via email at s.hauser@vicentellp.com; and Scheril Murray Powell, Esq., Counsel for Veteran's Initiative 22, via email at smpesquire@outlook.com; (8) Kelly Fair, Esq., Counsel for The Commonwealth Project, via email at Kelly.Fair@dentons.com; Joanne Caceres, Esq., Counsel for The Commonwealth Project, via email at joanne.caceres@dentons.com; and Lauren M. Estevez, Esq., Counsel for The Commonwealth Project, via email at lauren.estevez@dentons.com; (9) Rafe Petersen, Esq., Counsel for Ari Kirshenbaum, via email at Rafe.Petersen@hkllaw.com; (10) David G. Evans, Esq., Counsel for Cannabis Industry Victims Educating Litigators, Community Anti-Drug Coalitions of America, Kenneth Finn, International Academy on the Science and Impacts of

Cannabis, and National Drug and Alcohol Screening Association, via email at thinkon908@aol.com; (11) Patrick Philbin, Esq., Counsel for Smart Approaches to Marijuana, via email at pphilbin@torridonlaw.com; and Chase Harrington, Esq., Counsel for Smart Approaches to Marijuana, via email at charrington@torridonlaw.com; (12) Eric Hamilton, Esq., Counsel for the State of Nebraska, via email at eric.hamilton@nebraska.gov; and Zachary Viglianco, Esq., for the State of Nebraska, via email at zachary.viglianco@nebraska.gov; (13) Gene Voegtlin for International Association of Chiefs of Police, via email at voegtlin@theiacp.org; (14) Gregory J. Cherundolo for Drug Enforcement Association of Federal Narcotics Agents, via email at executive.director@afna.org and afna.org@gmail.com; (15) Reed N. Smith, Esq., Counsel for the Tennessee Bureau of Investigation, via email at Reed.Smith@ag.tn.gov; and Jacob Durst, Esq., Counsel for Tennessee Bureau of Investigation, via email at Jacob.Durst@ag.tn.gov; and (16) Matthew Zorn, Esq., Counsel for OCO *et al.*, via email at mzorn@yettercoleman.com.

Quinn Fox
Staff Assistant to the Chief Judge
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