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FEDERAL COURT
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JAN 31 2014

FEDERAL COURT

No. T-2030-13

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

SERVICE OF A TRUE COPY
HEREOF ADMITTED

THIS 31st DAY OF

January 2014

William T. Perkey

Solicitor for

A.C.C.

PLAINTIFFS

AND:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

DEFENDANTS

AFFIDAVIT OF BRIAN ALEXANDER

I, BRIAN ALEXANDER, self employed contractor, c/o Conroy & Company, 2459 Pauline Street, Abbotsford, British Columbia, MAKE OATH AND SAY AS FOLLOWS, THAT:

1. I am the holder of an Authorization to Possess and a Personal Production Licence under the *Marihuana Medical Access Regulations (MMAR)* and I am acquainted with and assist the Plaintiff Shawn Davey who also has an Authorization to Possess and a Personal Production Licence and the latter being at the same production site as my licence, and as such I have personal knowledge of the matters and facts hereinafter deposed to save and except where same are stated to be made on information and belief in which case I verily believe them to be true.

2. I am 43 years of age born in Maple Ridge, British Columbia, Canada. I am married and have three children and am a self employed contractor who does renovations. Now produced and marked as Exhibit "A" to this my affidavit is my Authorization to Possess showing my MMAD number 102108-12 that was issued December 18th, 2012 and

expired on December 18th, 2013 authorizing me to possess 900 grams on my person and now produced and marked as Exhibit "B" to this my affidavit is my Personal Use Production Licence under the same number which authorizes me to produce 146 plants indoors and to store 6,570 grams indoors at the storage site. I have deleted my address as well the production and storage site addresses for reasons of privacy and security on both documents and can make them available if required. I suffer chronic pain from associated traumatic injuries to my joints and fractures of my ankles and hand and suffer from osteoarthritis and sciatica.

3. I live in Mission, British Columbia and discovered through conversations with my neighbour that he had an Authorization to Possess under the *MMAR* but was having difficulty with the persons designated to grow for him and wanted to produce for himself but was concerned about the cost of so doing and consequently we entered into an arrangement whereby he moved in and leases the residence at the production site and we both produce our medicine in an outbuilding/barn at that site thereby sharing the costs and reducing all costs and expenses.

4. Based on my experience as a contractor, I primarily constructed the facility using ½ inch plywood and no drywall and ensuring lots of venting and we also bleach and wash and clean the site constantly and we have never experienced any mold or other significant problems of that nature. Similarly, I ensured that all of the electrical work was reviewed by a certified electrician and installed a "heat kill unit" so that if any power fluctuations of any significance occur or if it gets too hot in the production site, the power will shut down automatically.

5. Similarly to ensure adequate security in the event of attempted break ins or thefts, I ensured that there is a locked gate at the entrance to the property and then as the road divides there is a further steel cable across the road that leads to the shop or outbuilding. There is a steel caged door with double dead bolts on the outside of the shop and then a further steel door with double dead bolts and then a one inch plywood door with double padlocks to go through to get in. Now produced and marked as Exhibit "C" to this my affidavit are six photographs of these doors (3 pages). The

outbuilding is alarmed with a siren alarm upstairs and one downstairs. If there is a breach it rings at the alarm monitoring station and they call my cell phone and I then call Shawn Davey and then either he or I contact the local RCMP.

6. I am also very concerned about the removal of the Personal Production Licence and the estimated cost of obtaining my medicine from a Licenced Producer as based on those estimated prices of \$8-\$12 a gram I would simply not be able to afford to purchase from them and I know that there is a risk of imprisonment of one continuing to produce without a licence therefore would probably have to explore the black market or illicit market to find medicine at a cost that I can afford.

7. I assisted Shawn Davey in establishing production at the same site as indicated above as mine and I help him by telling him what he has to do in relation to the production and he then carries out those instructions. I now also assist him with aspects of his daily living such as assisting him when he needs to go to the store to obtain groceries or things of that nature. Consequently I am acting as his caregiver to some extent as well as assisting him with his production so that he can obtain his medicine at a reasonable cost.

8. It is our understanding that the neighbours on both sides of our production site also have medical marihuana licences but we have not verified that and we have never had any complaints from any neighbours.

9. I swear this Affidavit in support of an Application for an Order under s.24(1) of the *Canadian Charter of Rights and Freedoms* as the appropriate and just interim remedy, in the nature of

- i. An interim constitutional exemption from ss.4,5 and 7 of the *Controlled Drugs and Substances Act* for all persons medically approved under the *Narcotic Control Regulations C.R.C., c.1041 (NCR)*, the *MMAR* or the *MMPR*, including those patients who have a caregiver 'person responsible' for them designated to produce for them, including an exemption for that caregiver 'person responsible' designated producer, pending trial of the merits of the action or such further Order of the court as may be necessary;

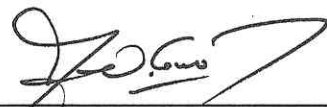
or, alternatively

- ii. an interlocutory exemption/injunction preserving the provisions of the *MMAR* relating to personal production, possession, production location and storage, by a patient or designated caregiver 'person responsible for the patient' and related ancillary provisions, and if necessary, limiting the applicability of certain provisions of the *MMPR* to such patients or designated caregivers that are inconsistent with their s. 7 constitutional right under the *Charter* pending the decision of this Court on the merits of this action.

or alternatively, and together with

- iii. an interim/interlocutory order in the nature of *mandamus* to compel the Defendant to process all applications, renewals and modifications to any licences pursuant to the *MMAR* in accordance with all of its provisions (other than those challenged as unconstitutional herein), notwithstanding ss.230, 233-234, 237-238, 240-243 of the *MMPR* relating to applications under the *MMAR* after September 30th, 2013 as reflected in the amended *MMAR* sections 41-48.

and such further and other relief as the court deems appropriate and just in all of the circumstances.

SWORN BEFORE ME at the City)
of Abbotsford, in the Province of)
British Columbia, this 8th day of)
January, 2014)
)
_____)
A Commissioner for Taking Affidavits in)
and for the Province of British Columbia)



BRIAN ALEXANDER

JOHN W. CONROY, Q.C.
Barrister & Solicitor
Conroy & Company
2459 Pauline Street
Abbotsford, BC V2S 3S1
Telephone: 604-852-5110
Facsimile: 604-859-3361



Health
Canada

Santé
Canada

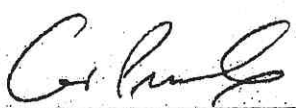
Address Locator: 3503B
Ottawa ON K1A 1B9

MMAD-102108-12

**AUTHORIZATION TO POSSESS
DRIED MARIHUANA FOR MEDICAL PURPOSES**

You have met the requirements to be issued an authorization pursuant to section 11 of the *Marihuana Medical Access Regulations* (MMAR). You are hereby authorized to possess dried marihuana for your medical purpose in accordance with your authorization. This document and/or ID card will serve as proof of your authority to possess marihuana for medical purpose. You should have at least one of these documents with you at all times when you are in possession of the substance in case you are required to show proof to the police.

<u>HOLDER OF AUTHORIZATION INFORMATION</u>		
NAME:	Brian Dudley Alexander	DATE OF BIRTH: 31-May-1970
ADDRESS:		GENDER: Male
MAILING ADDRESS:		
<u>TERMS AND CONDITIONS</u>		
The maximum quantity of dried marihuana that you may possess at any time under this <i>Authorization to Possess</i> is: 900 grams.		
<u>MEDICAL PRACTITIONER INFORMATION</u>		
NAME: Dr. Gerald Owen Mitchell		
<u>EXPIRY DATE</u>		
Please note this <i>Authorization to Possess</i> expires on 18-Dec-2013 Should you wish to renew your <i>Authorization to Possess</i> , please submit your renewal application at least 8 weeks prior to your expiry date.		

ISSUED BY:		DATE OF ISSUE: 18-Dec-2012
<small>Louis Prouk A. Directeur, Bureau du cannabis médical / A. Director, Bureau of Medical Cannabis Contrôle des Substances & Tabac Direction Direction des substances contrôlées et de la lutte au tabagisme Health Canada / Santé Canada</small>		

PLEASE READ ALL ENCLOSED
DOCUMENTS

ENCLOSED DOCUMENTS:

Information you should know about your
Authorization to Possess dried marihuana

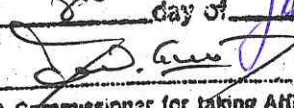
c.c.: Dr. Gerald Owen Mitchell

<i>ID CARD AFFIXED HERE</i>

All inquiries regarding this authorization should be directed to the *Marihuana Medical Access* Division toll-free number: 1-866-337-7705.

Canada

This is a true and correct copy of the affidavit of Brian Alexander sworn before me at Abbotsford, BC this 8th day of January 2014


A Commissioner for taking Affidavits
for British Columbia



Health
Canada

Santé
Canada

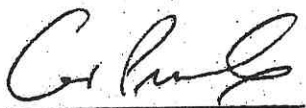
Address Locator: 3503B
Ottawa ON K1A 1B9

MMAD-102108-12

PERSONAL - USE PRODUCTION LICENCE
DRIED MARIHUANA FOR MEDICAL PURPOSES

You have met the requirements to be issued a licence pursuant to section 29 of the *Marihuana Medical Access Regulations* (MMAR). You are hereby licenced to produce dried marihuana for your medical purpose in accordance with your licence. This document and/or ID card will serve as proof of your authority to produce marihuana for a medical purpose. You should have at least one of these documents with you at all times in case you are required to show proof to the police.

<u>HOLDER OF LICENCE INFORMATION</u>	
NAME:	Brian Dudley Alexander
DATE OF BIRTH:	31-May-1970
ADDRESS:	_____ } GENDER: Male
MAILING ADDRESS:	_____
<u>TERMS AND CONDITIONS</u>	
PRODUCTION SITE:	_____
MODE OF PRODUCTION:	Indoor
PRODUCTION QUANTITIES:	The maximum number of marihuana plants that you may have under production at the production site at any time under this <i>Personal-Use Production Licence</i> is 146 PLANTS (indoor) or 0 PLANTS (outdoor) .
STORAGE SITE:	_____
STORAGE QUANTITIES:	The maximum quantity of dried marihuana that you may keep at the storage site at any time under this <i>Personal-Use Production Licence</i> is: 6570 grams and it must be stored indoors.
<u>EXPIRY DATE</u>	
Please note this <i>Personal-Use Production Licence</i> expires on 18-Dec-2013 Should you wish to renew your <i>Personal-Use Production Licence</i> , please submit your renewal application at least 8 weeks prior to your expiry date.	

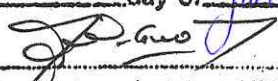
ISSUED BY:		DATE OF ISSUE:	18-Dec-2012
<small>Louis Prook A. Directeur, Bureau du cannabis médical / A. Director, Bureau of Medical Cannabis Controlled Substances & Tobacco Directorate / Direction des substances contrôlées et de la lutte au tabagisme Health Canada - Santé Canada</small>			

PLEASE READ ALL ENCLOSED DOCUMENTS CAREFULLY.

ENCLOSED DOCUMENTS: Information you should know about your *Personal-Use Production Licence*

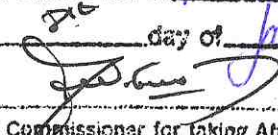
NOTE: Details of this *Personal-Use Production Licence* are summarized on your ID card attached to your *Authorization to Possess*.

All inquiries regarding this authorization should be directed to the Marihuana Medical Access Division toll-free number: 1-866-337-7705.

This is Exhibit "B" referred to in
the affidavit of Brian Alexander
sworn before me at Abbotsford, BC
this 8th day of January 2014

A Commissioner for taking Affidavits
for British Columbia

Canada



This is Exhibit "C" referred to in
the affidavit of Brian Alexander
sworn before me at Abbotsford BC
this 26th day of Jan. 2014

A Commissioner for taking Affidavits
for British Columbia



