



November 27, 2018

The Honorable Members of the Los Angeles Cannabis Regulatory Commission  
Ms. Cat Packer  
201 N. Figueroa Street  
Los Angeles, CA 90012

Re: November 27, 2018 - CRC Agenda Item No. 1 – Enforcement - CF 14-0366-S5

Dear Honorable Members of the Cannabis Regulatory Commission and Ms. Packer:

Our organizations are writing today to suggest that future enforcement actions include the participation of all taxing agencies normally involved in a retail business. For the reasons stated below, we hope that the Cannabis Regulatory Commission (the CRC) will recommend, and the Department of Cannabis Regulation (the DCR) will adopt, a policy which adds the participation of all relevant taxing agencies in the investigation and closure of unlicensed retail entities.

Serious enforcement has been on-going since 2013. The City Attorney and his staff came up with a clever formula for closing rogue retailers, which involved indicting both the operators of the business and the landlord listed on the lease. Our understanding is that over a thousand retailers have been closed in this manner.

Both the Southern California Coalition and Americans for Safe Access have endorsed not only these efforts but additional mechanisms meant to strengthen the effect of these efforts.<sup>1</sup> However, to the best of our knowledge, notifying taxing of entities of a city investigation were never part of this package. We are hopeful that future efforts will include notifying all relevant taxing agencies.

There are potentially seven relevant taxing agencies, depending on what corporate form a business uses:

- EDD – Payroll Taxes
- State Sales Taxes
- State Franchise Board Taxes
- State Excise Taxes
- Corporate Taxes
- City Taxes
- Federal IRS Taxes

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<sup>1</sup> \$20,000.00 a day fines, shutting off utilities, barricading the location, special enforcement officers were several of the methods endorsed by both ASA and the Coalition.



Sales are the trigger for taxation, rather than a designation as a legal business. All unlicensed cannabis businesses in the City of Los Angeles (the City) are required to pay relevant taxes. Illegal entities have often escaped doing so because the taxing agencies were unaware of their existence.

But, as demonstrated above, the City has developed cases and brought them into court for over half a decade, and those investigations would provide the taxing entities the information they need to pursue a tax scoff-law.

Some of these taxing entities award percentages of the tax recovered to those reporting the malfeasance and all may be capable of issuing tax liens.

This is extremely important. As retailers attempt to gain licensure in a new jurisdiction, there may be very little in the record that would show problems in a previous jurisdiction. Even a court case could be easily obscured, most convictions are misdemeanors and often the name of the business or its principals changes from town to town.

But a tax lien? Liens tend to stay on the record of whoever it is levied against, showing up on credit reports and sending up a red flag impossible for regulators to ignore. A scoff-law may well find it more advantageous to pay back taxes than leave the cannabis industry forever.

At least one council member has expressed distaste for collecting taxes from illegal operations, the idea being that the taxes collected came from an unclean source. We would ask the Commission to consider the following facts:

- Paying taxes is contingent on sales, not legality. And sometimes, it's the only way to rid a community of a very bad actor. Al Capone went to jail for tax evasion, not the mayhem he committed.
- Closing unlicensed cannabis retailers is expensive. Collecting taxes or getting a percentage of taxes collected, would help offset this expense.
- Tax cheats burden the City's infrastructure. These unlicensed entities use city streets and services but pay no taxes.
- Bringing all taxes current and keeping them current is one of the criteria for licensure in Los Angeles. Auditing and imposing a lien stops tax cheats from getting licensed in the City of Los Angeles or the State of California.
- Tax liens make it more difficult for illegal entities to rent commercial spaces, acquire private loans or investors, or obtain banking services. A lien may also affect the ability to finance a car or home.



As demonstrated above, even if all that results from auditing a rogue entity is a tax lien, this is quite helpful and should not be disregarded. An entity with assets who is forced by a taxing agency to give up those assets means they have not escaped the duty of every business engaging in sales. The impact on the City is minimal, 6 of the 7 taxing agencies listed above would only be seeking information from the City. The seventh agency, the Los Angeles Department of Finance, could be granted the discretion to pursue, or not pursue, collecting taxes for unregulated retailers, depending on the likelihood of collection, or the utility of imposing a lien.

We are deeply hopeful that the CRC will recommend adding notification of relevant taxing agencies to the suite of options in the City's enforcement toolbox and we look forward to working with the City on this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ad Sp".

Adam Spiker  
Executive Director  
Southern California Coalition

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Sarah Armstrong JD  
Director of Industry Affairs  
Americans for Safe Access

Cc: President Herb J. Wesson, Jr.  
The Honorable Marqueece Harris-Dawson  
Mr. Andrew Westall  
Mr. Solomon Rivera  
Ms. Michelle Garakian  
Mr. Alex Freedman