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**ORIGINAL  
FILED**  
SEP 03 1998  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES,  
Plaintiff,

v.

CANNABIS CULTIVATORS CLUB, et al.,  
Defendants.

No. C 98-00085 CRB  
C 98-00086 CRB  
C 98-00087 CRB  
C 98-00088 CRB  
C 98-00245 CRB

**ORDER TO SHOW CAUSE IN CASE  
NO. 98-00086**

and Related Cases.

This matter comes before the Court on Plaintiff's Motion to Hold Non-Compliant Defendants in Civil Contempt. The United States seeks an order to show cause why the Marin Alliance for Medical Marijuana and Lynnette Shaw, defendants in Case No. C 98-0086 CRB, should not be held in contempt of this Court's May 19, 1998 Preliminary Injunction Order, which provides, in pertinent part:

1. Defendants Marin Alliance for Medical Marijuana and Lynnette Shaw are hereby preliminarily enjoined, pending further order of the Court, from engaging in the manufacture or distribution of marijuana, or the possession of marijuana with the intent to manufacture and distribute marijuana, in violation of 21 U.S.C. § 841(a)(1); and

2. Defendants Marin Alliance for Medical Marijuana and Lynnette Shaw are hereby preliminarily enjoined from using the premises of Suite 210, School Street Plaza, Fairfax, California for the purposes of engaging in the manufacture and distribution of marijuana; and

3. Defendant Lynnette Shaw is hereby preliminarily enjoined from conspiring to violate the Controlled Substances Act, 21 U.S.C. § 841(a)(1) with respect to the

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1 manufacture or distribution of marijuana, or the possession of marijuana with the  
2 intent to manufacture and distribute marijuana.

3 The United States has submitted the following evidence in support of its motion for an  
4 order to show cause:<sup>1</sup>

5 (1) On May 27, 1998, Special Agent Bill Nyfeler of the Drug Enforcement  
6 Administration ("DEA") observed 14 individuals enter the Marin Alliance, located at 6  
7 School Street Plaza, in Fairfax, California, over a two and one-half hour period. Declaration  
8 of Special Agent Bill Nyfeler ("Nyfeler Dec.") ¶ 3. Special Agent Nyfeler further observed  
9 that several of these individuals, upon exiting the Marin Alliance, would roll what appeared  
10 to be marijuana cigarettes and smoke them in the area directly outside the Marin Alliance.  
11 Id.

12 (2) On May 27, 1998, at approximately 3:15 p.m., Special Agent Nyfeler placed a  
13 recorded telephone call to the Marin Alliance, at (415) 256-9328, to confirm that the club  
14 was continuing to engage in the distribution of marijuana. A pre-recorded message stated  
15 that the caller had reached the Marin Alliance, and that the club was still open under the  
16 "medical necessity defense." Id. ¶ 6.

17 (3) On June 16, 1998, Special Agent Dean Arnold of the DEA placed a recorded  
18 telephone call to the Marin Alliance at (415) 256-9328, to again confirm that the Marin  
19 Alliance was still distributing marijuana. An unidentified female answered the telephone by  
20 stating, "Marin Alliance," and further informed the DEA agent about the requirements of  
21 becoming a new member of the Marin Alliance, and that the club was open that day until  
22 "five." Declaration of Special Agent Dean Arnold Dec. ¶ 4.

23 (4) As of August 21, 1998, the Marin Alliance maintained an Internet web site which  
24 indicated that the club was engaged in activities related to "medical marijuana." Exhibit 2 to  
25 August 24, 1998 Declaration of Mark T. Quinlivan.

26 (5) Defendant Lynnette Shaw has publicly stated that, notwithstanding the May 19,  
27 1998 Preliminary Injunction Order, "[w]e are still open seven days a week," and that "[s]how

28 <sup>1</sup> The evidence provided by the United States was contained in sworn declarations  
submitted to the Court and to the defendants.

1 me a jury who will look at our patients and not understand the idea of medical marijuana  
2 being a necessity for these people." Bill Meagher and Peter Seidman, *Federal Shutdown:  
3 Pot clinic could close its doors to sick and dying*, June 3-9 *Pacific Sun*.

4 In reviewing this evidence, the Court notes that admissions of a party-opponent are  
5 admissible under Rule 801(d)(2) of the Federal Rules of Evidence "“for whatever inferences  
6 the trial judge [can] reasonably draw.”” United States v. Warren, 25 F.3d 890, 895 (9th Cir.  
7 1994) (quoting United States v. Matlock, 415 U.S. 164, 172 (1974)). See also United States  
8 v. Singleterry, 29 F.3d 733, 736 (1st Cir. 1994) (“[A] defendant’s own statements are never  
9 considered to be hearsay when offered by the government; they are treated as admissions,  
10 competent as evidence of guilt without any special guarantee of their trustworthiness.”).

11 Accordingly, upon consideration of the moving papers, the opposition and reply  
12 thereto, argument in open court, and the entire record herein, this Court concludes that, based  
13 on the totality of circumstances, the United States has made a prima facie case that  
14 defendants Marin Alliance for Medical Marijuana and Lynnette Shaw have distributed  
15 marijuana, and have used the premises of 6 School Street Plaza, Fairfax, California, for the  
16 purpose of distributing marijuana, both in violation of the Court’s May 19, 1998 Preliminary  
17 Injunction Order.

18 Accordingly, defendants Marin Alliance for Medical Marijuana and Lynnette Shaw  
19 are hereby

20 ORDERED to show cause why they should not be held in civil contempt of the  
21 Court’s May 19, 1998 Preliminary Injunction Order by distributing marijuana and by using  
22 the premises of 6 School Street Plaza, Fairfax, California, for the purpose of distributing  
23 marijuana, on May 27, 1998; and it is hereby further

24 ORDERED that defendants shall have until 12:00 p.m. (Pacific Daylight Time),  
25 September 14, 1998, in which to file their response to this Show Cause Order. Defendants’  
26 response shall include sworn declarations outlining the factual basis for any affirmative  
27 defenses which they wish to offer in response to this Show Cause Order; and it is hereby  
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ORDERED that the United States shall have until 12:00 p.m. (Pacific Daylight Time), September 21, 1998, in which to file a motion in limine regarding any defenses which the defendants might raise in their response; and it is hereby further

ORDERED that the defendants shall have until 12:00 p.m. (Pacific Daylight Time), September 25, 1998, in which to file an opposition to the United States' motion in limine; and it is hereby further

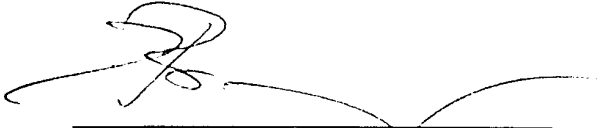
ORDERED that parties shall appear before the Court on September 28, 1998, at 2:30 p.m., for a hearing on the government's motion in limine; and it is hereby further

ORDERED that service by all parties shall be accomplished by overnight delivery and facsimile transmission; and it is further

ORDERED that plaintiff shall produce to defendants by September 9, 1998, copies of all documentary evidence plaintiff intends to introduce into evidence during the contempt proceeding, as well as any reports relating to the alleged violations of the Court's May 19, 1998 injunction. Plaintiff shall produce only those reports prepared by percipient witnesses to the alleged violations.

**IT IS SO ORDERED.**

Dated: September 3, 1998

  
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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE