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FILED
JUL 17 2009
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 OF AMERICA,

No. C 98-00088 CRB

Plaintiff,

ORDER

v.

OAKLAND CANNABIS BUYERS'
COOPERATIVE, et al.,

Defendants.

Now before the Court is defendants' motion to modify the injunction issued on May 19, 1998, or in the alternative, to dissolve the injunction. After carefully considering the papers filed by the parties, and having had the benefit of oral argument, the motion to modify the injunction is GRANTED.

In United States v. Oakland Cannabis Buyers' Cooperative, 190 F.3d 1109 (9th Cir. 1999), the Ninth Circuit reversed the Court's order denying defendants' motion to modify the injunction and instructed the Court "to reconsider the [defendants'] request for a modification that would exempt from the injunction distribution to seriously ill individuals who need cannabis for medical purposes." Id. at 1115. In doing so, the court held that this Court must consider the public interest, and that the evidence in the record "show[s] that the proposed amendment to the injunction clearly related to a matter affecting the public

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1 interest.” *Id.* at 1114. Significantly, the Ninth Circuit also held that the government had not
2 “identif[ied] any interest it may have in blocking the distribution of cannabis to those with
3 medical needs, relying exclusively on its general interest in enforcing its statutes.” *Id.* The
4 court noted that the government “has offered *no* evidence to rebut OCBC’s evidence that
5 cannabis is the only effective treatment for a large group of seriously ill individuals.” *Id.*

6 On remand the government has still not offered any evidence to rebut defendants’
7 evidence that cannabis is medically necessary for a group of seriously ill individuals.
8 Instead, the government continues to press arguments which the Ninth Circuit rejected,
9 including the argument that the Court must find that enjoining the distribution of cannabis to
10 seriously ill individuals is in the public interest because Congress has prohibited such
11 conduct in favor of the administrative process regulating the approval and distribution of
12 drugs. As a result of the government’s failure to offer any new evidence in opposition to
13 defendants’ motion, and in light of the Ninth Circuit’s opinion, the Court must conclude that
14 modifying the injunction as requested is in the public interest and exercise its equitable
15 discretion to do so.

16 Accordingly, the injunction issued on May 19, 1998 will be modified as follows:

17 The foregoing injunction does not apply to the distribution of cannabis by the
18 Oakland Cannabis Buyers’ Cooperative and Jeffrey Jones to patient-members who (1)
19 suffer from a serious medical condition, (2) will suffer imminent harm if the patient-
20 member does not have access to cannabis, (3) need cannabis for the treatment of the
21 patient-member’s medical condition, or need cannabis to alleviate the medical
22 condition or symptoms associated with the medical condition, and (4) have no
23 reasonable legal alternative to cannabis for the effective treatment or alleviation of the
24 patient-member’s legal medical condition or symptoms associated with the medical
25 condition because the patient-member has tried all other legal alternatives to cannabis
26 and the alternatives have been ineffective in treating or alleviating the patient-
27 member’s medical condition or symptoms associated with the medical condition, or
28 the alternatives result in side effects which the patient-member cannot reasonably
tolerate.

24 The Court DENIES defendants’ motion to dissolve the injunction. Nothing in the
25 Ninth Circuit’s decision suggests that the Court should dissolve the injunction, especially in

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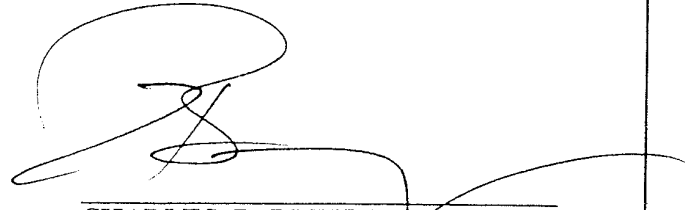
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light of the above modification.

IT IS SO ORDERED.

Dated: July 17, 2000



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

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FILED
JUL 17 2000
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 OF AMERICA,

C 98-0088 CRB

Plaintiff,

v.

**AMENDED PRELIMINARY
INJUNCTION ORDER**

OAKLAND CANNABIS BUYERS'
COOPERATIVE, et al.,

Defendants.

For the reasons stated in its Memorandum and Order dated May 13, 1998 and its Order dated July 17, 2000, it is hereby ORDERED as follows:

1. Defendants Oakland Cannabis Buyers' Cooperative and Jeffrey Jones 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 Oakland Cannabis Buyers' Cooperative and Jeffrey Jones are hereby preliminarily enjoined from using the premises of 1755 Broadway, Oakland, California for the purposes of engaging in the manufacture and distribution of marijuana; and

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

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

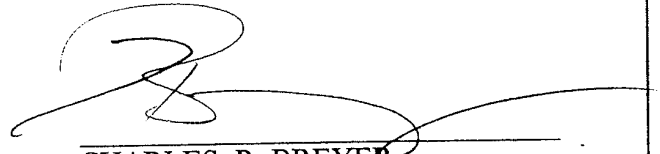
3 4. It shall not be a violation of this injunction for defendants to seek and obtain
4 legal advice from their attorneys.

5 5. Pursuant to Federal Rule of Civil Procedure 65(d), this injunction shall bind
6 the defendants, their officers, agents, servants, employees, successors, and attorneys, and
7 upon those persons in active concert or participation with them who receive notice of the
8 order by personal service or otherwise.

9 6. The foregoing injunction does not apply to the distribution of cannabis by the
10 Oakland Cannabis Buyers' Cooperative and Jeffrey Jones to patient-members who (1) suffer
11 from a serious medical condition, (2) will suffer imminent harm if the patient-member does
12 not have access to cannabis, (3) need cannabis for the treatment of the patient-member's
13 medical condition, or need cannabis to alleviate the medical condition or symptoms
14 associated with the medical condition, and (4) have no reasonable legal alternative to
15 cannabis for the effective treatment or alleviation of the patient-member's medical condition
16 or symptoms associated with the medical condition because the patient-member has tried all
17 other legal alternatives to cannabis and the alternatives have been ineffective in treating or
18 alleviating the patient-member's medical condition or symptoms associated with the medical
19 condition, or the alternatives result in side effects which the patient-member cannot
20 reasonably tolerate.

21 **IT IS SO ORDERED.**

22 Dated: July 17, 2000


23 CHARLES R. BREYER
24 UNITED STATES DISTRICT JUDGE
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