

IN THE MATTER OF
ZIA INTEGRATED, LLC,
PETITIONER.

*** BEFORE THE**
*** MARYLAND MEDICAL**
*** CANNABIS COMMISSION**
*** OAH No.: MDH-MMCC-171-21-04762**

*** * * * ***

FINAL DECISION AND ORDER

INTRODUCTION

On October 1, 2020, the Natalie M. LaPrade Maryland Medical Cannabis Commission (“Commission” or “MMCC”), denied Zia Integrated, LLC’s (“Petitioner”) application for a medical cannabis processor license on two grounds. First, the Commission found that Petitioner had failed to meet its burden of demonstrating that the ownership interest attributed to its Disadvantaged Equity Applicant/Member of the Most Disadvantaged Group (“DEA/MMDG”) member was real, substantial and continuing. *Guidance for Diversity and Socioeconomic Equity Questions*. Second, the Commission found that Petitioner’s application materials contained a misstatement, omission, misrepresentation, or untruth, in violation of COMAR 10.62.19.04B, C; *Guidance for Diversity and Socioeconomic Equity Questions*. On October 6, 2020, Petitioner requested a hearing to review the Commission’s decision.

After a four-day hearing before an Administrative Law Judge (“ALJ”) at the Office of Administrative Hearing (“OAH”), on October 25, 2021, the ALJ issued a proposed decision. The ALJ concluded that the Petitioner met its burden of demonstrating that the ownership interest held by its DEA/MMDG member is real, substantial, and continuing. The ALJ further concluded that the Commission’s conclusion that the application materials Petitioner submitted to the

Commission contained a material misstatement, omission, misrepresentation, or untruth was not supported by the record.

No party filed exceptions to the ALJ's proposed decision.

FINDINGS OF FACT

The Commission adopts the ALJ's Proposed Findings of Fact 2, 4-10 and 12-58, which are incorporated by reference into the body of this document as if set forth in full. *See* attached ALJ Proposed Decision, Exhibit 1. The factual findings were proven by a preponderance of the evidence. The Commission also adopts the ALJ's discussion set forth on pages 17-34 of the ALJ's proposed decision. The findings of facts are summarized below:

In 2019, the Commission opened a race and gender-conscious application process seeking qualified applicants for medical cannabis processor licenses. In particular, the Commission adopted scoring criteria that made up to five points available for those applicants who could demonstrate that one or more DEA/MMDG members hold at least 51% ownership interest in the applicant entity. Applicants who sought up to five points for DEA/MMDG status were instructed to complete Application Attachment B for DEA status and Attachment E for MMDG status, attesting to the percentage of ownership held in the applicant entity as well as attesting whether the DEA/MMDG member sought to certify their economically disadvantaged status by either completing a personal net worth statement and providing supporting documentation of assets and liabilities, or demonstrating that the DEA/MMDG member was an owner of a Maryland certified Minority Business Enterprise.

Petitioner submitted a timely application for a medical cannabis processor license in which Petitioner identified Ciara Dubbe as its sole owner and attested that, as a Native-American woman who is a disadvantaged owner of a Maryland certified Minority Business Enterprise, Ms. Dubbe

qualifies as a DEA/MMDG. After initial review, Petitioner was awarded five points for DEA/MMDG ownership and was highly ranked. The Commission subsequently engaged a consultant to provide recommendations relating to accuracy of applicants' representations relating to ownership. The Commission also formed an Application Evaluation Subcommittee and requested additional supporting documents relevant to DEA/MMDG ownership for further review. Petitioner provided additional supporting documents.

Petitioner's supporting documents reflected that, if awarded a license, Petitioner intended to use two lines of credit ("LOC") totaling \$20,000,000 to fund its operations. Each LOC was comprised of two documents: an LOC Agreement and a Convertible Demand Promissory Note ("Note"). One LOC, with a maximum credit limit of \$5 million, was provided by Gina Dubbe, Ciara Dubbe's mother and the owner of a medical cannabis dispensary named Greenhouse Wellness. The second LOC, with a maximum credit limit of \$15 million, was provided by CGX Life Sciences, Inc. (CGX), a Nevada corporation whose principal is Elizabeth Stavola, a cannabis industry investor and a friend and business associate of Gina Dubbe. The terms and provisions of the documents associated with these two lines of credit are identical except for the language identifying each of the respective lenders and the maximum credit limit available through the respective LOC. The precise terms of these documents are set forth more fully in Exhibit 1, paragraphs 34-43. Each LOC Agreement identifies nine categories of events which would constitute a default by the borrower. Exhibit 1, paragraph 37. Each Note includes a "debt-to-equity conversion" provision that allows the unpaid principal on the Note, or any portion thereof, to be convertible into Zia Class A Units or to the highest preferred form of Zia equity shares that may exist at the election of the Note holder. Each Note also states:

The Parties to this Note recognize, understand and acknowledge that no conversion of debt to ZIA Class A Units, or other preferential

shares that may exist at the time of this Agreement, or that may be created in the future, may occur without the final approval of the Maryland Medical Cannabis Commission (“MMCC”), following the supporting statutes and regulations that prevent ZIA from granting 5% or more of its Units to any party, without MMCC approval.¹

The rights reserved to the Note holder through this provision were of particular interest in the review.

After completing its review, the Application Evaluation Subcommittee presented its recommendations to the full Commission in an open meeting on October 1, 2020. The full Commission voted to deny Petitioner’s application on two bases. First, the Commission determined that the application should be denied because the Petitioner did not meet its burden of demonstrating that the ownership interest held by its DEA/MMDG member was real, substantial, and continuing, where the holder of each Note would have the opportunity to call the obligation due at any time or elect to convert the debt to equity, either of which option could have the effect of diluting the DEA/MMDG member’s ownership interest or divesting her of that ownership interest in a manner beyond her control. *Guidance for Diversity and Socioeconomic Equity Questions*. Second, the Commission concluded that the application should be denied because the application materials contained a material misstatement, omission, misrepresentation, or untruth. COMAR 10.62.19.04B, C; *Guidance for Diversity and Socioeconomic Equity Questions*. The Commission notified Petitioner of the grounds for its denial in a letter sent the following day.

¹ The Notes misstate the actual statutory and regulatory requirements regarding proposed transfers of ownership. While the Notes correctly recognize that issuance of shares or units is a transfer of an ownership interest, the Notes incorrectly suggest that Commission approval of a transfer of an ownership interest in Zia Integrated, LLC would only be required for transfers of 5% or more. In doing so, the Notes incorrectly refer to the regulatory threshold for a transfer of ownership in a publicly traded company. COMAR 10.62.19.07B. At this time, Zia is not a publicly traded company, and therefore, “[n]o ownership interest shall be assignable or transferable” unless the enumerated conditions have been met. COMAR 10.62.19.07A.

LEGAL ANALYSIS

The Commission is an independent commission that functions within the Maryland Department of Health. Md. Code Ann., Health-Gen. § 13-3302. The Maryland General Assembly created the Commission for the express purpose of developing policies, procedures, guidelines, and regulations to implement programs to make medical cannabis available to qualifying patients in a safe and effective manner. *Id.* § 13-3302(c). The Commission is authorized to license medical cannabis dispensaries, *id.* § 13-3307, and a statutorily limited number of medical cannabis growers, *id.* § 13-3306(a)(2)(i), and processors, *id.* § 13-3309(c)(1)(i), in order to make medical cannabis available to Maryland patients. The Commission is also statutorily mandated to “establish an application review process for granting medical cannabis processor licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the Commission.” *Id.* § 13-3309(c)(3).

The Commission established regulations to govern the process by which applications for medical cannabis processor licenses would be reviewed. The burden of proving an applicant’s qualifications rests on the applicant. COMAR 10.62.19.04A. The Commission may deny an application that contains a misstatement, omission, misrepresentation, or untruth. COMAR 10.62.19.04B. The Commission also promulgated regulations governing the evaluation criteria by which applications would be ranked. COMAR 10.62.19.04I.

During the 2018 Legislative Session, the General Assembly amended the Commission’s statutes through passage of House Bill 2, enrolled as 2018 Maryland Laws Ch. 598. One central element of House Bill 2 was to authorize the Commission to work with colleagues across the State in order to determine whether there was a compelling interest to implement remedial measures to assist minorities and women in the medical cannabis industry. *Id.* § 13-3305.2(a)(1). House Bill

2 also expressly authorized the Commission to consider methods that may be used to address the needs of minority and women applicants and those who would qualify as minority-owned businesses seeking to participate in the medical cannabis business, and then to develop and submit emergency regulations to implement those measures. *Id.* § 13-3305.2(a)(2)-(3).

After the Commission completed the work required under Health-Gen. § 13-3305.2, the Commission developed and submitted emergency regulations in October 2018 that amended the evaluation criteria by which applications for licenses applications would be scored and ranked. Among other changes, the amended regulations defined the term Disadvantaged Equity Applicant (“DEA”) as an individual who is a member of a listed minority group and either a) has a personal net worth that does not exceed \$1,713,333, or b) is a disadvantaged owner of a certified minority business enterprise as defined in State Finance and Procurement Article §14-301(d). COMAR 10.62.01.01B. The amended regulations expressly provided scoring consideration to those applicants who could demonstrate that they had a certain percentage of ownership interest held by those who qualified as DEAs or MMDGs. *See* COMAR 10.62.19.04I.(6)(b)-(d).

In conjunction with the applications, the Commission published a document titled *Guidance for the Diversity and Socioeconomic Equity Questions* (the “Guidance”). The Guidance expressly provides that:

The ownership interest, including the contribution of capital or expertise to acquire the ownership interest must be real, substantial, and continuing, going beyond pro forma ownership of the business as reflected in the ownership documents. Proof of contribution of capital must be submitted at the time of the Application. When the contribution of capital is through a loan, there must be documentation of the value of assets used as collateral for the loan.

The Guidance further explained that the determination of whether a DEA/MMDG member's interest was real, substantial, and continuing was a factual determination made on a case-by-case basis in light of all facts in the record. Finally, the Guidance expressly provides:

The Commission will closely scrutinize Applicant businesses whose ownership changes prior to the final approval of a license to determine the impact of the change and reasons for the timing of the change. If the change results in a reduction in the percentage of disadvantaged ownership, Stage One Pre-Approval may be rescinded if it adversely impacts the scoring of the Application.

Real, Substantial, and Continuing Ownership held by Petitioner's DEA/MMDG Member

Petitioner represented in its application that it was entitled to five points because Ciara Dubbe is a DEA/MMDG and she holds all outstanding ownership interests in the applicant entity. Petitioner therefore had the burden of demonstrating that a) Ciara Dubbe is a DEA/MMDG and b) Ciara Dubbe held a real, substantial, and continuing ownership interest. Petitioner demonstrated that Ciara Dubbe is a Native American woman who is also a disadvantaged owner of a Maryland certified Minority Business Enterprise. Petitioner therefore met its the burden of establishing that Ciara Dubbe is a DEA/MMDG. Petitioner also assumed the burden of demonstrating that Ciara Dubbe's ownership interest is real, substantial, and continuing.

After its review of Petitioner's application and the supporting documents provided, the Commission determined that Petitioner met its burden of demonstrating that its DEA/MMDG member's ownership interest was real and substantial. However, after its review of Petitioner's application and the supporting documents provided, the Commission determined that Petitioner had failed to meet its burden of demonstrating that its DEA/MMDG member's interest was continuing, because each Note provided that each lender had the right to call a debt obligation due at any time and if the debt couldn't be paid, the lender would have the right to claim an ownership

interest in the Petitioner. The terms of each Note, which were identical, were interpreted and applied by the Commission to reach its initial conclusion.

At the hearing, Petitioner presented testimony and argument on the terms of the agreements, their interpretation by the parties to those agreements, and the anticipated application of those terms. Exhibit 1, pages 24-32. The Administrative Law Judge found Petitioner's evidence on the subject to be credible and found Petitioner's argument on the subject to be persuasive. This testimony and argument is especially helpful in informing a legal interpretation of the contractual provisions. After careful consideration, the Commission adopts the ALJ's discussion of the subject which is incorporated by reference into the body of this document as if set forth in full. Exhibit 1, pages 24-32.

Misstatement, Omission, Misrepresentation, or Untruth in Application

Supporting documents submitted by Petitioner reflected that Ciara Dubbe made an initial capital contribution of one hundred dollars when she formed Zia Integrated, LLC. Supporting documents submitted by Petitioner also reflected additional financial resources held by the company, yet provided no context as to the source of those resources. After its review of the documents, the Commission concluded that the capital contribution offered by the sole member was inconsistent with the financial resources held by the Petitioner and the financial resources needed to file the underlying application. The source of each applicants funding in this application cycle was especially important as those inquiries also necessarily relate to who holds ownership or control of an entity. The Commission therefore determined that the application material contained a misstatement, omission, misrepresentation, or untruth in the application materials provided, sufficient to deny the application.

At the hearing before the Office of Administrative Hearings, Ms. Dubbe testified that Zia Integrated, LLC was first formed in 2017 and, since that time, Zia Integrated has earned revenues derived from marketing work performed by Ms. Dubbe for a cannabis industry client. Ms. Dubbe testified that, unlike many first-time applicants for a medical cannabis business license, Zia Integrated was not created for the sole purpose of applying for a cannabis license. Instead, Zia Integrated, LLC had the opportunity to draw revenue for years prior to applying for a license each time Ms. Dubbe performed marketing work for cannabis industry clients. In this way, her testimony explained why the capital contribution offered by the sole member was disproportionate to the financial resources held by the Petitioner. After careful consideration, the Commission adopts the ALJ's discussion of the subject which is incorporated by reference into the body of this document as if set forth in full. Exhibit 1, pages 32-34.

CONCLUSIONS OF LAW

The Commission adopts the ALJ's Proposed Conclusions of Law as if fully set forth herein. The Commission further concludes as a matter of law that Petitioner did meet its burden of demonstrating that its DEA/MMDG member met the requirements for showing that her ownership interest was real, substantial, and continuing. *Guidance for the Diversity and Socioeconomic Equity Questions*. The Commission further concludes as a matter of law that the application materials submitted to the Commission by the Petitioner do not contain a material misstatement, omission, misrepresentation, or untruth. COMAR 10.62.19.04B., C.

ORDER

Pursuant to Health Gen. § 13-3309(b), (c), it is, by an affirmative vote of a majority of a quorum of the Commission, hereby

ORDERED that the prior denial of the application of Zia Integrated, LLC for a medical cannabis processor license is **REVERSED**; and it is further

ORDERED that the application of Zia Integrated, LLC for a medical cannabis processor license will be promptly considered by the Commission at its next open meeting; and it is further

ORDERED that this is a **PUBLIC DOCUMENT**. *See* Md. Code Ann., Gen. Prov. § 4-333(b)(6).

03/31/2022

Date

A handwritten signature in blue ink, appearing to read 'TR', followed by a long horizontal flourish.

Tiffany Randolph, Acting Chair
Maryland Medical Cannabis Commission

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Zia Integrated, LLC has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within 30 days from the date of mailing of this Final Decision and Order. The cover letter accompanying this final decision and order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Zia Integrated, LLC files a petition for judicial review, the Commission is a party and should be served with the court's process at the following address:

**Maryland Medical Cannabis Commission
William Tilburg, Executive Director
848 International Drive, 4th Floor
Linthicum, Maryland 21090**

Notice of any petition should also be sent to the Commission's counsel at the following address:

**Heather B. Nelson
Assistant Attorney General
Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201
Heather.Nelson1@Maryland.gov**

Exhibit 1

IN RE THE MATTER OF:

ZIA INTEGRATED, LLC,

PETITIONER

v.

NATALIE M. LAPRADE

MARYLAND MEDICAL CANNABIS

COMMISSION,

STATE

* BEFORE ROBERT B. LEVIN,

* ADMINISTRATIVE LAW JUDGE

* THE MARYLAND OFFICE

* OF ADMINISTRATIVE HEARINGS

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OAH No.: MDH-MMCC-171-21-04762

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PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

STATEMENT OF THE CASE

ISSUES

SUMMARY OF THE EVIDENCE

PROPOSED FINDINGS OF FACT

DISCUSSION

PROPOSED CONCLUSIONS OF LAW

APPENDIX: FILE EXHIBIT LIST

STATEMENT OF THE CASE

On October 2, 2020, the Natalie M. LaPrade Maryland Medical Cannabis Commission (Commission or Respondent), an independent Commission within the Maryland Department of Health (Department), denied Zia Integrated, LLC's (Petitioner or Zia) application for a medical cannabis processor license. On October 6, 2020, the Petitioner appealed.

The Commission's Delegation to the OAH

On March 3, 2021, the Commission transmitted this matter to the Office of Administrative Hearings (OAH) with the following delegation: for the Administrative Law Judge "to conduct an evidentiary hearing and prepare proposed findings of fact and proposed conclusions of law related to whether the Commission's October 2020 determination regarding

1) whether the Petitioner met its burden of demonstrating that the Disadvantaged Equity Applicant (DEA)/Member of the Most Disadvantaged Group (MMDG) member's ownership interest was real, substantial and continuing and 2) whether the application materials submitted to the MMCC contain a misstatement, omission, misrepresentation or untruth was [sic] supported by the record."¹

Prehearing Proceedings

I conducted an on-the-record, telephone prehearing scheduling conference on April 28, 2021, and issued a scheduling order on May 4, 2021. On May 18, 2021, the Commission filed a Motion for Summary Decision, to which the Petitioner responded on June 7, 2021. On June 17, 2021, I conducted an in-person hearing on the Motion for Summary Decision. I denied the Motion for Summary Decision on the record, on the basis that the reasonable inferences that could be drawn from the material facts were conflicting and therefore precluded the grant of summary decision.²

At the June 17, 2021 hearing, I also ruled on the record with respect to discovery disputes that the parties had briefed by letter submissions pursuant to the scheduling order. I declined to require the Commission to produce to the Petitioner the report of Verity, LLC (Verity), a third-party contractor that the Commission engaged to verify high-ranking applicants' claims of

¹ I slightly rephrased the Commission's delegation stylistically and non-substantively in order to define the acronyms DEA/MMDG and to change the delegation's reference to "Respondent" to "Petitioner," because the parties agreed that the delegation's reference to the Respondent was intended to refer to the Petitioner.

² See *Haas v. Lockheed Martin Corp.*, 396 Md. 469, 478-79 (2007), and *United Services Auto Ass'n v. Rily*, 393 Md. 55, 66-67 (2006).

DEA/MMDG ownership.³ I also did not require the Commission to produce medical cannabis processor application materials submitted by other high-ranking applicants.

On July 12, 2021, the Petitioner filed (1) a Motion to Reconsider Denial of Discovery Requests or, in the alternative, Motion in Limine; and (2) an Omnibus Motion in Limine, to which the Commission responded on July 29, 2021. I conducted a remote hearing on these motions on July 30, 2021, in which, *inter alia*, I required the Commission to provide identity-redacted application documents submitted by four other high-ranking applicants.⁴ The Commission produced the redacted documents to the Petitioner pursuant to a stipulated Order Protecting Confidentiality of Documents and Information that I entered on August 6, 2021.

On August 9, 2021, at 4:29 p.m., the day before the first day of the merits hearing, the Commission filed a Motion to Preclude Testimony and Documents from Petitioner's Designated Experts, to which the Petitioner responded by email later that day. I heard argument on this motion at the outset of the August 10, 2021 merits hearing. I denied the motion for the reasons stated on the record at that time and permitted the Petitioner's expert, Julia Taylor, Esquire, to testify.⁵

³ See *Maryland Board of Physicians v. Geier*, 451 Md. 526, 569-70 (2017) (confidential governmental communications of an advisory or deliberative nature are presumptively privileged, with the burden upon those seeking to compel disclosure to overcome the presumption; where the requesting party has not articulated any specific necessity for access to the presumptively privileged information, nondisclosure will not impact the fair administration of justice), and *Judicial Watch, Inc. v. U.S. Dept. of Transp.*, 950 F. Supp. 2d 213, 218-19 (D.D.C. (holding that the D.C. Circuit rule is that when communications between an agency and a non-agency aid the agency's decision-making process and the non-agency did not have an outside interest in obtaining a benefit that is at the expense of competitors, the communication must be considered an intra-agency communication shielded by the deliberative process privilege.)

⁴ I ordered the Commission to produce the four redacted sets of financing and/or corporate organizational documents that other high-ranking applicants had submitted with their applications because the Commission filed as an exhibit to its opposition to the Petitioner's motion for reconsideration the affidavit of its executive director, William Tilburg, which described (but did not attach) the four other applicants' financing and/or corporate organizational documents. As the documents themselves were not submitted with the affidavit, I determined that considerations of due process and fairness required an opportunity for the Petitioner to review the actual documents, rather than just the opposing party's characterization of those documents. I incorporate my on-the-record bench rulings with respect to the Commission's Motion for Summary Decision, the parties' discovery disputes, the Petitioner's July 12, 2021 motions, and the Commission's August 9, 2021 motion as if fully set forth herein.

⁵ The Petitioner later elected not to call its other designated expert.

Merits Hearing

I held an evidentiary hearing on the merits on August 10, 11, 12, and 24, 2021. Francesca Gibbs, Assistant Attorney General and Matthew McCarthy, Assistant Attorney General, appeared on behalf of the Commission. Stuart A. Cherry, Esquire, and Scott Livingston, Esquire, Rifkin Weiner Livingston LLC, appeared on behalf of the Petitioner. On September 17, 2021, the parties filed post-hearing briefs and the record closed.

The contested case provisions of the Administrative Procedure Act, the procedures for hearings conducted by the Department Secretary and the Rules of Procedure of the OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 9-1607.2, 10-201 through 10-226 (2021); COMAR 10.01.03; COMAR 28.02.01.

ISSUES

1. Whether the Petitioner met its burden of demonstrating that the DEA/MMDG member's ownership interest of the Petitioner was real, substantial and continuing.

2. Whether the Commission's determination that the application materials that the Petitioner submitted to the Commission contained a misstatement, omission, misrepresentation, or untruth was supported by the record.

SUMMARY OF THE EVIDENCE

Exhibits

A complete list of exhibits offered and admitted into evidence is attached to this Decision as an Appendix.⁶

⁶ The descriptions of the exhibits in the Appendix are as shown in the parties' respective exhibit lists.

Testimony

The Petitioner presented testimony from the following five witnesses:

- Ciara Dubbe, sole owner and the President of the Petitioner, Zia Integrated, LLC, a marketing and consulting firm certified by the Maryland Department of Transportation (MDOT) as a minority business enterprise (MBE)
- Gina Dubbe, engineer/entrepreneur, cannabis dispensary owner, and the mother of Ciara Dubbe
- Elizabeth Stavola, investor in the cannabis industry
- Ashley Leighton, attorney and consultant in the cannabis industry
- Julia Taylor, attorney with the law firm of Offit Kurman, P.A., who was accepted as an expert in lending practices, corporate formation, capitalization, and related customs and usages in the cannabis industry in the State of Maryland

The Commission presented the testimony of William Tilburg, J.D., M.P.H., the

Commission's Executive Director.

PROPOSED FINDINGS OF FACT

Having considered all of the evidence presented, I find the following facts by a preponderance of the evidence:

Legislative Background

1. In 2013, the Maryland General Assembly established the Commission as an independent commission within the Department to study the use of medical cannabis. Md. Code Ann., Health-Gen. § 13-3301, *et seq.* (2019 & Supp. 2021). The Commission was tasked with issuing licenses for medical cannabis growers and processors. Health-Gen §§ 13-3306 (2019) and 13-3309 (Supp. 2021).
2. In conformity with the Maryland General Assembly's legislative efforts to promote diversity in the Maryland cannabis industry, the Commission established a race and gender-conscious application process for medical cannabis grower and processor licenses.

3. On May 15, 2018, the General Assembly passed an emergency amendment to Health-General Article, section 13-3301, *et seq.* (2019 & Supp. 2021), designed to ameliorate inequality in the medical cannabis industry. Under the amended statutes, the Commission was directed to “seek to achieve racial, ethnic, gender, and geographic diversity when licensing” medical cannabis growers and processors and to “encourage ... minority business enterprise[s] ... to apply for licenses” as medical cannabis growers and processors. Health-Gen. § 13-3306, 13-3309.
4. Pursuant to the General Assembly’s statutory mandate, the Commission instituted a gender and race-conscious grower and processor license application process. COMAR 10.62.08.05; COMAR 10.62.19.04. Under this process, the Commission conducts a preliminary review of the applications for purposes of awarding pre-approval licenses. Applicants are ranked based on a 100-point system that is designed to account for several weighted criteria, including “Operational Factors” and “Safety and Security Factors.”

DEA/MMDG Requirements

5. These criteria also include up to five points for an applicant who can demonstrate that at least 51 percent of its ownership interest was held by an individual or individuals who qualified as a DEA/MMDG. An individual can qualify as a DEA/MMDG under COMAR 10.62.01.01.B(11) if they demonstrate that they are (1) African American, American Indian/Native American, Asian, Hispanic, or Women, and (2) qualify under the personal net worth cap. The personal net worth cap is defined by COMAR 10.62.01.01B(11)(b)1) as “a personal net worth that does not exceed \$1,713,333, as adjusted annually for inflation according to the Consumer Price Index.”

6. Alternatively, a person may qualify as a DEA/MMDG by demonstrating they are the “disadvantaged owner of a certified [MBE] as defined in State Finance and Procurement Article, §14-301(d), Annotated Code of Maryland [Supp. 2020].”

7. In connection with the June 2019 grower and processor application process, the Commission published its application and guidance process and its answers to numerous questions submitted by the public between January and February 2019. The Commission hosted public events where the requirements for DEA/MMDG status were explained, including the personal net worth threshold and documentation required to support claims for disadvantaged status.

8. The application deadline was June 24, 2019. After the deadline passed, the Commission transmitted applicant-identity redacted applications to evaluators it engaged from Morgan State University (Morgan State) for review and evaluation. The evaluators reviewed and scored the sections of the applications other than the sections related to DEA/MMDG status (five points) and Economically Disadvantaged Areas (five points). Those sections were reviewed by Commission staff.

9. The Commission was authorized to award up to ten cannabis processor licenses. The evaluation of DEA/MMDG status by Commission staff did not constitute a final determination as to whether a particular applicant properly demonstrated DEA/MMDG ownership interests.

10. Applicants who sought up to five points for DEA/MMDG status were instructed to complete Application Attachment B (for DEA status) and Attachment E (for MMDG status), attesting to (1) their percent ownership of the applicant entity and (2) whether they sought to certify their economically disadvantaged status by (a) completing a personal net worth statement (Attachment C) and providing supporting

documentation of assets and liabilities, or (b) demonstrating certification as a disadvantaged owner of a certified MBE.

Petitioner Zia

11. On or about May 23, 2019, the Petitioner submitted its application for a processor license.

12. Pursuant to Articles of Organization filed with the State of Maryland Department of Assessments and Taxation on December 12, 2017, Ciara Dubbe caused Zia to be formed as a Maryland limited liability company (LLC).

13. Zia is a single member LLC, of which Ciara Dubbe is the sole member, the 100 percent owner and the President. Zia has a single class of membership interests. It does not have a separate class of preferred membership interests.

14. Ciara Dubbe qualifies as a DEA/MMDG in that she is American Indian/Native American, the disadvantaged owner of an MDOT-certified MBE (*i.e.* Zia), and her personal net worth does not exceed \$1.713 million.

15. Upon Zia's formation, Ciara Dubbe made an initial capital contribution of \$100.00 to Zia.

16. Since Zia's formation, before Zia's May 2019 application to the Commission for a medical cannabis processor license, Zia had operated as a marketing consulting company. It provides marketing services, including social media and email campaigns and website development. Zia has clients in the medical cannabis and beauty industries. If awarded a processor license, Ciara Dubbe hopes that Zia will be involved in marketing Blissiva, a cannabis product line promoted to female consumers.

17. Ciara Dubbe is also the director of marketing for Greenhouse Wellness, a medical cannabis dispensary owned by her mother, Gina Dubbe. Zia is paid \$5,000.00 per month by Greenhouse Wellness for Ciara Dubbe's marketing services.

18. Zia realized net profits of \$8,560.00 in 2017, net profits of \$14,991.00 in 2018 and net profits of approximately \$68,000.00 in 2019.

19. Zia paid the required \$2,000.00 processor license application fee to the Commission when it submitted its processor application.

20. Zia's \$2,000.00 application fee was paid with a \$2,000.00 cashier's check that Zia purchased. Ciara Dubbe caused the cashier's check to be purchased from Zia's funds. Those Zia funds derived from Zia's prior business operations and revenue.

The Petitioner's Financing Arrangement Under the Line of Credit Agreements and Notes

21. Many banking institutions will not lend to medical cannabis businesses because cannabis remains illegal under federal law. Other persons or non-bank institutions, however, are willing to lend to medical cannabis businesses.

22. In response to Part D, Section V, Question 3 of the application, Zia stated that it would use two lines of credit (LOC) totaling \$20,000,000.00 to capitalize its cannabis processing business if awarded a license. (Joint Exhibit (JE) p. 146).⁷

23. The Commission considers LOCs an acceptable form of capitalization of a licensee. (*Id.*).

24. Zia would be the borrower under the two LOCs, which are contingent upon Zia's obtaining the award of a processor license. Each LOC credit facility consists of two documents: an LOC Agreement and a Convertible Demand Promissory Note (Note).

⁷ JE references are to the parties' Joint Exhibits followed by the cited page number of the parties' Joint Exhibit binder.

25. Zia has not yet drawn down funds under either LOC.

26. One LOC, with a maximum credit limit of \$5 million, was provided by Gina Dubbe, the mother of Ciara Dubbe. The Gina Dubbe LOC Agreement was made as of May 22, 2019, and was signed by Gina Dubbe personally, and by Ciara Dubbe, in her capacity as Zia's President/Managing Director. (JE p. 247).

27. The second LOC, with a maximum credit limit of \$15 million, was provided by CGX Life Sciences, Inc. (CGX), a Nevada corporation whose principal is Elizabeth Stavola, a cannabis industry investor and a friend and business associate of Gina Dubbe. The CGX LOC Agreement was made as of May 23, 2019, and was signed by Ms. Stavola, CGX's President, and by Ciara Dubbe, as Zia's President/Managing Director. (JE p. 241).

28. The two LOCs were arranged in connection with Zia's separate applications for both a medical cannabis grower license as well as a processor license. The Commission denied Zia's grower application. Zia did not appeal the denial of its application for a grower license. This appeal relates solely to the Commission's denial of Zia's application for a medical cannabis processor license.

30. A cannabis grower operation is significantly more costly to set up than a cannabis processor facility. A processor operation would cost between \$2 million and \$5 million to establish. Twenty million dollars in potentially available financing is substantially more than sufficient to capitalize a processor operation.

31. The terms and provisions of the Gina Dubbe LOC Agreement and Note and the CGX LOC Agreement and Note are identical, except for the insertion of the respective lender's name and maximum credit limit as applicable to each of the two LOC Agreements and Notes.

32. Gina Dubbe has the financial resources necessary to extend credit to Zia under her LOC Agreement.

33. CGX has the financial resources necessary to extend credit to Zia under its LOC Agreement.

Pertinent LOC Agreement Provisions

34. Both LOC Agreements identically provide that in order to draw down against the credit facility, the borrower shall “(a) obtain the consent of the Lender; and (b) provide the Lender with a written request at least ten (10) days prior to the date of the requested advance, specifying: (i) the date of such requested borrowing, which shall be a business day, (ii) the amount of such requested borrowing, and (iii) a description of the use of the proceeds of the Advance.” (JE pp. 241; 247).

35. Each LOC Agreement provides that the lender shall not be required to advance funds. Rather, the borrower may request advances and the lender for any or no reason may grant or deny each request.

36. The LOC Agreements identically provide that loans made thereunder will bear interest as determined pursuant to the Note, a copy of which is attached to each LOC Agreement. Each Note provides that the interest rate is the lesser of twelve percent (12%) or the maximum interest rate permitted under applicable federal and state law.

37. The LOC Agreements identically provide that the following events shall constitute a default by the borrower: (a) default in the payment of any obligation of the borrower under the LOC Agreement or the Note; (b) the failure of the borrower to perform or observe the provisions of any agreement or document evidencing or creating any security for the payment of the Note; (c) any false representation or warranty of the borrower in connection with the LOC Agreement or the Note; (d) the borrower’s failure to pay, when

due, any amount due under the Note or the failure of the borrower to pay, when due, any obligation of the borrower to the Lender; (e) the borrower's insolvency or bankruptcy or similar event not dismissed within thirty days; (f) the insolvency of any guarantor of the LOC Agreement or the Note; (g) the dissolution or failure in business of the borrower; (h) the admission in writing of the borrower's insolvency, inability to pay debts when due, or the deterioration of the borrower's financial condition which the Lender deems, in good faith, insecure[;] (i) ninety (90) days after demand is made pursuant to the Note, unless the borrower has satisfied the Note in full. (JE 241-42; 247-48).

Pertinent Provisions of the Notes

38. Each Note identically provides that the borrower shall pay the holder of the Note (*i.e.* the lender) all advances made from time to time under the LOC Agreement, together with 12 percent interest. The Notes each provide that the holder shall from time to time record on a grid schedule attached to each Note all payments made by the borrower on account of the amounts outstanding under the Note and all advances made by the holder to the borrower from time to time. (JE 244; 251).

39. The Notes are demand notes, and provide for no prepayment penalty, as follows:

All Advances, principal and accrued but unpaid interest under this Note shall be due and payable upon demand by the Holder at any time. ... Prepayment of the principal, together with accrued interest, may be made at any time without penalty or premium.

(JE pp. 245; 252).

40. The Notes include a "debt-to-equity conversion" provision, as follows:

The unpaid principal on this Note (or any portion thereof) shall be convertible at the election of the Holder into shares of ZIA Class A Units, or to the highest preferred form of ZIA equity shares that may exist at the time of this Agreement, or as may be created in the future, pursuant to the terms and conditions set forth in the Agreement. The Parties to this Note recognize, understand and acknowledge that no conversion of debt to ZIA Class A Units, or other preferential shares that may exist at the time

of this Agreement, or that may be created in the future, may occur without the final approval of the Maryland Medical Cannabis Commission ("MMCC"), following the supporting statutes and regulations that prevent ZIA from granting 5% or more of its Units to any party, without MMCC approval.

(*Id.*).

Gina Dubbe

41. Gina Dubbe, the mother of Ciara Dubbe, is an engineer and entrepreneur. She founded a company that she took public and also founded and ran a venture capital fund. Gina Dubbe is an owner of the Blissiva company; the owner of Growing Ventures d/b/a Greenhouse Wellness, a medical cannabis dispensary in Columbia, Maryland; the owner of a cannabis license in West Virginia; and is bidding on a cannabis license in New Jersey. If Zia is awarded a processor license, Ciara Dubbe plans to have her mother Gina Dubbe serve as Zia's interim CEO. Gina Dubbe plans to retire and Ciara Dubbe (as Zia's owner) could then become Zia's CEO. Gina Dubbe expects her loans to Zia pursuant to the Gina Dubbe LOC Agreement and Note to be repaid by Zia.

42. In Gina Dubbe's experience in running a venture fund, she engaged in approximately 200 loans that involved an LOC and a convertible loan provision.

43. At one time, Gina Dubbe inquired of the Commission in an email as to whether any processor licenses would be available for her to acquire upon the renewal of any licenses.

Elizabeth Stavola and CGX

44. Elizabeth Stavola entered the cannabis business ten years ago as an investor and operator after working on Wall Street in institutional equity sales. She is the President of CGX, the lender under the CGX LOC Agreement and the

CGX Note. She plans to loan her own personal or trust funds to CGX for purposes of CGX then lending the money to Zia under the CGX LOC Agreement and Note. She has previously provided her own personal or trust assets to CGX for purposes of CGX lending to other borrowers. She expects CGX's loans to Zia to be repaid.

45. Ms. Stavola is a high net worth individual with the financial capacity to loan her funds to CGX and for CGX then to lend money to Zia under the CGX LOC Agreement and Note.

46. Ms. Stavola desires to support and mentor female and minority owners of cannabis businesses, because it is difficult for women and minorities to obtain funding from traditional lenders such as banks. She does not expect to have a role in Zia other than providing guidance.

The Commission's Assessment of the Petitioner's Application

47. Zia received five points for its DEA/MMDG ownership in the scoring that the Commission approved in September 2019. The Commission initially ranked the Petitioner's application as the fifth highest scorer on the list of processor license applicants.

48. The September 2019 score rankings did not constitute a Stage One Pre-Approval of any applicant. Rather, the rankings enabled the Commission to conduct a preliminary investigation of the highest ranking applicants to verify the information contained in the applications.

49. The Commission engaged a third-party contractor, Verity, the principal of which is Raymond Peroutka, Jr., CPA, to review the unredacted application materials and investigate the highest ranking applications to determine whether DEA/MMDG claims of real, substantial, and continuing ownership were truthful and accurate.

50. On February 21, 2020, the Commission sent the Petitioner and other high-ranking applicants a form letter requesting twelve categories of additional information. (JE p. 294).

51. Zia responded to the Commission's letter on March 2, 2020, and provided additional documents and information. (JE pp. 296-311).

52. The Commission established an Application Review Subcommittee to review the application materials submitted by each applicant and Verity's recommendations. The subcommittee evaluated whether each applicant provided accurate and truthful information on its application, including accurate and truthful information regarding claims that 51 percent of an applicant's ownership was held by DEA/MMDG individuals.

53. In evaluating Verity's report and the applications, the subcommittee applied the application requirements outlined in COMAR 10.62.19 and guidance documents provided to all applicants (*e.g. General Instructions; Guidance for the Diversity and Socioeconomic Questions [Guidance], and Frequently Asked Questions Received during the January 11 to February 11 Question Period [FAQs]*).

54. The Commission held an open meeting on October 1, 2020, at which it was presented with findings with respect to each high-ranking applicant.

55. The Commission voted at the October 1, 2020 meeting to remove the five DEA/MMDG owner points from Zia's score. This change dropped Zia from the rank of five to the rank of thirty-seven. (JE pp. 355-56).

The Commission's Grounds for Denying Petitioner's Application

56. In its October 2, 2020 letter (Denial Letter), the Commission denied Zia's application for a processor license. The Commission made "findings" with respect to

Zia's application. The findings are set forth in the Denial Letter, labeled as findings (a) through (r). (JE pp. 433-35).

57. After reciting its findings, the Commission stated in the Denial Letter its "Decision on [the Petitioner's] Application." The Commission determined that: (a) Zia failed to demonstrate that the DEA/MMDG member's ownership interests presented by Zia in its application meet the criteria set forth by the Commission in the relevant regulations and the *Guidance for the Diversity and Socioeconomic Equity Questions*, (b) specifically, while Zia met its burden that Ciara Dubbe meets the requirements for Disadvantaged Equity Applicant, as set forth in COMAR 10.62.01.01 and as explained in the *Guidance for the Diversity and Socioeconomic Equity Questions*, Zia did not meet its burden of demonstrating that Ciara Dubbe's ownership interest is real, substantial and continuing, as required by the MMCC's regulations and as further explained in the *Guidance for the Diversity and Socioeconomic Equity Questions*, (c) according to the documents submitted to the MMCC, the funding for Zia will come exclusively from two outside lenders, each of which has the power to call the loan due at any time and to convert the loan into equity/ownership of Zia at the lender's sole discretion, thus Ciara Dubbe's ownership interest can be diluted or eliminated at any time and in a manner that is beyond her control, (d) accordingly, Zia did not meet its burden to demonstrate that it is entitled to the five (5) points previously awarded for DEA/MMDG ownership, and (e) additionally, the MMCC found that the application materials and supporting documentation submitted by Zia contained a misstatement, omission misrepresentation, or untruth, in that Zia presented inconsistent and/or misleading information to the MMCC regarding the extent of its assets and/or capital contributions made to date,

which the MMCC asserted was an independent basis for denial of the application. (JE 435).

The Commission's Stated Ability to Scrutinize Ownership Transfers of Applicants Who Have Received Stage One Pre-Approval But Not Yet Final License Approval

58. The Commission's *Guidance* on medical cannabis grower and processor applications provides: "**Important:** The Commission will closely scrutinize Applicant businesses whose ownership changes prior to the final approval of a license to determine the impact of the change and reasons for the timing of the change. If the change results in a reduction in the percentage of disadvantaged ownership, Stage One Pre-Approval may be rescinded if it adversely impacts the scoring of the Application." (JE p. 88, *bolding in original*).

DISCUSSION

Applicable Law

All applicants for processor licenses must submit an application to the Commission. COMAR 10.62.19.02A. The applicant must use the Commission's application form and must submit as addenda materials that include, but are not limited to: a list identifying each individual investor with five percent or more investment known at the time of application; documentation and source of adequate capitalization; and, if the applicant is a corporation, a copy of the articles of incorporation and authorization to do business in Maryland. COMAR 10.62.19.02B(2), (4) and (5). Additional factors to which the Commission will afford 15 percent weight to the application include:

- (a) A diversity plan as defined in COMAR 10.62.01.01; (b) Documentation that the applicant (i) Has at least 51 percent of its ownership interest held by one or more individuals who are disadvantaged equity applicants; or (ii) Made good faith efforts to have at least 51 percent of its ownership interest held by disadvantaged equity applicants, including a list of the names and addresses of all potential owners interviewed and identifying those who qualify as disadvantaged equity

applicants and whether any of those potential owners have purchased an equity share in the entity submitting an application.

COMAR 10.62.19.04I(6)(a) and (b)(i) and (ii).

“Disadvantaged equity applicant” (DEA) means an applicant who:

- (a) Is a member of any of the following minority groups:
 - (i) African American — an individual having origin in any of the black racial groups of Africa;
 - (ii) American Indian/Native American — an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which the individual claims to be a part, but does not include an individual of Eskimo or Aleutian origin;
 - (iii) Asian — an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the individual claims to be a part;
 - (iv) Hispanic — an individual of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race, and who is regarded as such by the community of which the individual claims to be a part; or
 - (v) Women — a woman, regardless of race or ethnicity; and
- (b) Meets the following requirements:
 - (i) Has a personal net worth that does not exceed \$1,713,333, as adjusted annually for inflation according to the Consumer Price Index; or
 - (ii) Is a disadvantaged owner of a certified minority business enterprise as defined in State Finance and Procurement Article, §14-301(d), Annotated Code of Maryland.

COMAR 10.62.01.01B(11).

Pursuant to the Commission’s *Guidance* applicants meeting these requirements may receive *three* points on the DEA applicant question of the Application. (JE p. 80). In addition, the *Guidance* provides that a “member of the most disadvantaged groups” (MMDG) in the medical cannabis industry is an applicant who: (1) “Is African American or Native American Indian and (2) Has a personal net worth that does not exceed \$1,713,333.” (*Id.*). Applicants satisfying these criteria may receive *five* points on the DEA question on the application. (*Id.*).

“The [DEA/MMDG] ownership interest, including the contribution of capital or expertise to acquire the ownership interest must be *real, substantial and continuing*, going beyond pro forma ownership of the business as reflected in the ownership documents.” *Guidance for Diversity & Socioeconomic Equity Questions*. (JE p. 86, emphasis added). The *Guidance* further provides that “[i]n determining ownership status, all facts in the record will be considered as a whole, including the origin of all assets and how and when they were used in obtaining the business. All transactions for the establishment and ownership must be in the normal course of business, reflecting commercial and arm’s length practices.” (*Id.*). The Commission’s *Guidance* noted that “[o]wnership is a factual determination which will be decided on a case-by-case basis, in consideration of all facts in the record.” (JE p. 88).

Burden and Standard of Proof

“The burden of proving an applicant’s qualifications rests on the applicant.” COMAR 10.62.19.04A. “The Commission may deny an application that contains a misstatement, omission, misrepresentation, or untruth.” COMAR 10.62.19.04B. “An application shall be complete in every material detail.” COMAR 10.62.19.04C. “The Commission may request any additional information the Commission determines is necessary to process and fully investigate an application.” COMAR 10.62.19.04D.

COMAR 10.62.19.04A expressly allocates the burden of proof in this matter to the Petitioner, as an applicant for a processor license. But even if this regulation did not so provide, the burden of proof generally lies with the party asserting the affirmative of an issue before the administrative tribunal or seeking to change the status quo. *Comm’r of Labor & Indus. v. Bethlehem Steel Corp.*, 344 Md. 17, 34 (1996) (quoting *Bernstein v. Real Estate Comm’n*, 221 Md. 221, 231 (1959) (the burden of proof lies with the party asserting the affirmative of an issue)); *Garrett v. State*, 124 Md. App. 23, 28 (1998) (“[t]he general practice is to allocate the

burden of proof to the party asserting the affirmative of an issue, or seeking to change the status quo”); *see Schaffer v. Weast*, 546 U.S. 49, 56 (2005) (absent clear legislative intent to the contrary, the burden of proof is with the party seeking relief).

Here, the Petitioner asserts the affirmative of an issue: that it is entitled to the five DEA/MMDG points. It seeks to change the status quo by obtaining the five points. Therefore, I conclude that the Petitioner, as an applicant seeking to establish eligibility for a cannabis processor license and to change the status quo, bears the burden of proof.

When not otherwise provided by statute or regulation, the standard of proof in a contested case hearing before the OAH is a preponderance of the evidence. Md. Code Ann., State Gov’t § 10-217 (2014). To prove something by a “preponderance of the evidence” means “to prove that something is more likely so than not so” when all of the evidence is considered. *Coleman v. Anne Arundel Cty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002) (quoting *Maryland Pattern Jury Instructions* 1:7 (3d ed. 2000)).

The Petitioner’s Contentions

Zia argued that Ciara Dubbe’s sole ownership of Zia is both *real* and *substantial*, in that she is a disadvantaged owner of 100 percent of Zia, a certified MBE, and her net worth is below the personal net worth cap. Zia further contended that, contrary to the Commission’s determination, the provisions of the two LOC Agreements and Notes (those from Gina Dubbe and CGX) did not undermine the *continuing* nature of Ciara Dubbe’s ownership of Zia. Zia argued:

- Zia has no Class A or other form of preferred equity interests, but only a single class of ownership interests, so that in the absence of Class A or preferred interests the debt-to-equity conversion provision in the Notes could never be effectuated.
- The Notes and the Commission’s Guidance recognize the Commission’s power to prevent the transfer of Zia’s ownership.

- The Commission's criticism of the LOCs in its Finding (m), *i.e.* that neither lender is obligated to loan money to Zia, is misplaced. This provision is commercially reasonable because before lenders advance funds, they are entitled to assess the borrower's financial condition and evaluate the purpose of a requested advance of funds, to assure that the requested advance is for a legitimate business purpose.
- Zia's lenders could not properly convert Zia's debt into the lenders' equity at any time, as the Commission found, because Zia would not be in default under the Notes until ninety days after the lender(s) made a demand for payment, and this grace period would afford Zia time to refinance and pay off the loans and, thus, prevent the conversion of any unpaid Zia debt into lender equity.
- The Notes permit Zia to prepay its debt to the lenders at any time without penalty, which would also enable Zia to prevent a forced conversion of Zia debt into lender equity.
- Zia disputed the Commission's finding (l) (that "Zia did not provide documentation that either lender has the financial resources to extend...credit to Zia" (JE p. 434), on the grounds that (a) such documentation was never required, (b) in any event, Gina Dubbe and CGX (through Ms. Stavola) each have ample financial resources to enable them to extend credit to Zia, and (c) the Commission is on constructive notice of the lenders' ability to lend because they or (their affiliated entities) previously submitted evidence of their financial resources to the Commission in connection with earlier applications to the Commission.
- A forced conversion of debt to equity by Zia's lenders is unlikely to occur. Both Gina Dubbe and Elizabeth Stavola are committed to supporting Ciara Dubbe's processor venture because they are motivated to support the entry of women and minorities into the legal cannabis industry.
- The Commission approved other applicants, particularly the so-called "Applicant C",⁸ whose ownership structure and financing documents Zia suggested are similar to Zia's. Therefore, Zia contended the Commission failed to treat similarly-situated applicants equally.

Zia also disputed the Commission's Finding (f), *i.e.* that Ciara Dubbe's initial capital contribution of \$100.00 to Zia "is inconsistent with the fact that Zia paid a medical cannabis

⁸ The identities of the four other applicants whose financing or other documents were produced by the Commission to Zia in discovery were redacted to preserve confidentiality.

processor license fee of \$2,000, which is significantly more than the amount of Ciara Dubbe's contribution" (JE p. 434), on the ground that Ciara Dubbe did not form and organize Zia simply to apply for the processor license. Rather, Zia was an ongoing business, formed before it applied for a processor license. Before it ever applied for the license Zia realized sufficient revenue from its regular business operations to enable it to pay the \$2,000.00 application fee with Zia's own funds. Therefore, Zia denied any inconsistency between Ciara Dubbe's \$100.00 capitalization of Zia and Zia's subsequent payment of the \$2,000.00 application fee from its operating revenue.

The Commission's Response

The Commission responded that in light of the debt-to-equity conversion clause in the two Notes, Zia had not met its burden of demonstrating that Ciara Dubbe's ownership interest in Zia was real, substantial and—particularly—*continuing*. Specifically, the Commission argued that:

- Contrary to Zia's interpretation of the Notes, their plain language would permit either lender, at the lender's sole discretion, to call their loan due at any time and convert their loans into equity/ownership of Zia, notwithstanding either that Zia would have a ninety day grace period under the LOC Agreements to cure a default or that Zia has the right to prepay the Notes and refinance its debt to the lenders without penalty.
- The lenders can convert Zia debt to lender equity in Zia regardless whether Class A or preferred equity units currently exist.
- Zia misplaces reliance on the so-called "savings clause" in the loan agreements, which provides that no conversion of debt to equity may occur without the Commission's approval of such transfer of ownership from Ciara Dubbe to the lender, because the Commission gives no weight to savings clauses, and because under Maryland law there is no statutory or regulatory prohibition against the transfer of the ownership of an entity that has received Stage One pre-approval but which has not yet received final processor license approval.
- The provisions of the operating agreement of another applicant that received Stage One approval (Applicant C) are distinguishable from the debt-to-equity provision contained in Zia's Notes. Therefore, the Commission did not arbitrarily or unreasonably treat Zia in an unfairly disparate or discriminatory manner as compared to its approval of similarly-situated applicants.

The Commission also argued as a second, independent basis for its denial of Zia's application that Zia's application contained a misleading or inconsistent statement regarding Ciara Dubbe's capital contributions to Zia, in that Zia's representation that Ciara Dubbe's initial capital contribution of \$100.00 to Zia was inconsistent with Zia's payment of the \$2,000.00 application fee. The Commission further contended that Zia did not prove that the application fee was actually paid with revenues from Zia's preexisting marketing/consulting business.

Analysis

The Commission based its denial of Zia's application on two key findings. First, the Commission's Finding (n) was that either lender may, at any time and at their sole discretion, convert their loans into equity/ownership of Zia, in a manner inconsistent with Ciara Dubbe's continuing ownership of Zia. Second, as an independent basis for the denial, the Commission's Finding (e) was that Zia's representation that Ciara Dubbe's \$100.00 capital contribution to Zia represented the totality of the capital contributions made to Zia to the date of the application was inconsistent with Zia's payment of the application fee of \$2,000.00, an amount significantly more than Ciara Dubbe's \$100.00 initial capital contribution.

For the reasons that follow, I find, based on consideration of all of the evidence in the record, and the reasonable inferences drawable therefrom, that the Petitioner has met its burden of proof with regard to the issues in the Commission's delegation. I conclude (a) that the Petitioner demonstrated that Ciara Dubbe's ownership of Zia, is real, substantial, and continuing, and (b) that the Petitioner's application materials did not contain a misstatement, omission, misrepresentation, or untruth that would warrant denial. These two grounds for the Commission's denial of the Petitioner's application will be addressed in turn.

Whether Ciara Dubbe's Ownership of Zia is Real, Substantial, and Continuing

Zia's Single Member Operating Agreement shows that Ciara Dubbe, who caused Zia to be formed, is the sole member of Zia. (JE p. 301). While Ciara Dubbe's ex-husband Blake Chidester is shown as a member of Zia on a Bank of America signature card for a Zia bank account (JE p. 328), Ciara Dubbe credibly explained that that he had no involvement in the business, is not and was not an owner of Zia, and that she regrets allowing him to use this bank account in 2017. Zia's never-amended Operating Agreement and Ciara Dubbe's testimony sufficiently establish that she is in fact Zia's sole owner. Accordingly, I conclude that Ciara Dubbe's ownership of Zia is "*real*." And as Ciara Dubbe owns 100 percent of Zia, I further conclude that her ownership of Zia is "*substantial*."

Therefore, the dispositive issue with respect to Ciara Dubbe's claimed MMDG ownership of Zia is whether, in view of the identical debt-to-equity conversion provisions in the two Notes, Ciara Dubbe's ownership is and will be "*continuing*." As noted, Zia argued that conversion could never occur because Zia has no Class A or preferred membership units. Zia also argued that the lenders could only exercise the conversion right upon Zia's default, and that under the LOC Agreements Zia would have a ninety-day grace period to cure a default by refinancing its debt and paying off the lender before any conversion could occur. In addition, under the Notes there is no prepayment penalty, so Zia could pay the Notes in full before any forced conversion could occur.

As also noted, the Commission responded that Ciara Dubbe's ownership of Zia will not be "*continuing*," because the lenders have the unconditional right to convert their loans into Zia equity at any time, at their sole election, and they are not even constrained by any requirement that Zia must have defaulted in payment before the lenders' right to convert debt to equity version could be invoked. The Commission argued that the ninety-day grace period and lack of

prepayment penalty under the LOCs are thus irrelevant. The Commission further argued that even though Zia has no Class A or other preferred class of membership interests, Zia's sole class of ownership unit could nevertheless be subject to conversion.

At bottom, the Commission's position is that the debt-to-equity conversion clause in Zia's LOC financing arrangement categorically or *per se* undermined the *continuous* ownership requirement with respect to Zia as a putative MMDG ownership of a processor applicant. It should be noted, however, that while the Commission's *Guidance* allows for a letter of credit financing, it does not prohibit (or even mention at all) the inclusion of a debt-to-equity conversion clause in a LOC credit facility as disqualifying.

And significantly, the Commission's *Guidance* permits a DEA owner to secure a loan with the applicant's own ownership interest in the applicant entity: "Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a business ineligible, *even if the debtor's ownership interest is security for the loan.*" (*Guidance*, JE p. 86, emphasis added). If Gina Dubbe or Ms. Stavola/CGX had been provided notice that Commission would object to a debt-to-equity conversion clause in a LOC credit facility, those lenders could have secured Zia's obligations under the LOCs and Notes by a Uniform Commercial Code security interest in Ciara Dubbe's membership interests in Zia (as the *Guidance* would have permitted), rather than through the debt-to-equity conversion provision. Absent notice in the *Guidance* that such conversion clauses were prohibited, these lenders may have reasonably believed that the conversion clauses were permissible, as a functionally equivalent method for the lenders to secure their loans with Ciara Dubbe's ownership interest in Zia.

The Commission's position that the existence of the conversion clauses categorically or *per se* destroys Ciara Dubbe's continuing ownership of Zia necessarily ignores any consideration

of the actual intention of the parties—Ciara Dubbe, Zia, and the two lenders—with respect to how the conversion might be used and for what purpose. Gina Dubbe and Ms. Stavola each testified credibly that they intend for their loans to be repaid. Each Note contains a so-called “savings clause,” which provides that no conversion of debt to equity may occur without the Commission’s approval of such transfer of ownership from Ciara Dubbe to the lender. While the Commission argued that it has an unwritten policy to give no consideration to “savings clauses,” the presence of the clause in these Notes corroborated the lenders’ testimony that they do not, in fact, intend to use the conversion provision to eliminate Ciara Dubbe’s majority ownership and control of Zia. The Commission’s position that the debt-to-equity conversion clause *per se* undermined Ciara Dubbe’s continuing ownership of Zia is inconsistent with the *Guidance*’s instruction that the continuing nature of an applicant’s DEA ownership is a factual matter that must be assessed on a case-by-case basis.

Moreover, the conversion clause could be used for “benign” purposes, not inconsistent with the Commission’s legitimate interest in assuring an applicant’s “continuous” DEA/MMDG ownership. For example, as previously noted, the conversion clause could be used to secure the borrower’s repayment obligation. Using the conversion clause as a remedy for the borrower’s payment default is functionally equivalent to the borrower securing the debt with the borrower’s ownership interest in the borrower entity which the *Guidance* permits.

If Zia is correct that the conversion of debt-to-equity may only be triggered by Zia’s uncured payment default, the lenders’ right to convert debt to equity would be functionally indistinguishable from Zia’s collateralization of the loans with Ciara Dubbe’s equity ownership interest in Zia. As the State noted in its Post-Hearing brief (at page 13, n. 3), “[i]n order to ensure that their loans would be paid back, Gina Dubbe and Beth Stavola/CGX—both of whom professed to be sophisticated lenders—included conversion clauses in the promissory notes.”

(Emphasis added). As previously noted, the Commission's *Guidance* does not prohibit an applicant's putting up its ownership interests as security for a loan. (JE p. 86).

Or the lender's conversion of unpaid debt into a *minority* interest in the borrower entity could put the borrower on a stronger financial footing, by relieving it of the burden of the debt, while still maintaining the Ciara Dubbe as a DEA/MMDG majority owners of Zia, the applicant entity. As a hypothetical example, if one of the lenders extended a loan to Zia in an amount equal to ten percent of Zia's valuation, a conversion of that unpaid loan into ten percent of Zia's equity could actually further Ciara Dubbe's continuing majority ownership of Zia by relieving Zia of the debt, putting Zia in a better position to secure permanent financing at an interest rate lower than 12 percent, and Ciara Dubbe would *still hold a ninety percent DEA ownership of Zia*. Though the Commission is commendably motivated to prevent dilution or elimination of DEA ownership by non-DEA persons, the Commission paints the conversion clause here with too broad a brush.

Both Gina Dubbe and CGX/Ms. Stavola have substantial experience in making venture capital loans in the ordinary course of their businesses. *See* Findings of Fact 42 and 44. If the conversion provision may only be triggered by a payment default, the lender's use of the provision as a remedy for the default would be the equivalent in substance (if not in form) of Zia's securing the loans with Ciara Dubbe's ownership interest—an arrangement the Commission's *Guidance* permits.

As the Commission's executive director explained at the hearing:

Q. So I think earlier in your cross you mentioned there being a security interest the entity versus a security interest in the license. Can you explain that, what the difference is there?

A. Sure. Within the guidance, it was permissible to -- it was made clear that it was permissible in the application process for a disadvantaged individual as part of an application to -- and receiving funding from a

non-disadvantaged individual or entity to use a security for that, the disadvantaged individual's equity within the applicant entity.

Contrasted with, as a security interest, the license itself, which, one, doesn't exist at the time of application. And, two, under current Maryland law is not something that a security interest can be granted.

Q. Okay.

A. Was that --

Q. Yeah, I think that explains it for me. Thank you.

A. So an interest could be granted in Zia in exchange, but not for a license that Zia was applying to win.

Q. Okay.

(August 12, 2021 Tr. at 590-91).

But even assuming that the lenders could invoke the conversion clause *at any time*, absent a payment default by Zia, the Commission's own *Guidance* would strongly disincentivize the lenders from converting Zia's unpaid debt into lenders' equity. The Guidance states:

"Important: The Commission will closely scrutinize Applicant businesses whose ownership changes prior to the final approval of a license to determine the impact of the change and reasons for the timing of the change. If the change results in a reduction in the percentage of disadvantaged ownership, Stage One Pre-Approval may be rescinded if it adversely impacts the scoring of the Application." (JE p. 88, bolding in original).

The Commission thus already possesses the tools necessary to *prevent* the very interruption of Ciara Dubbe's continuing ownership it was concerned the conversion provision could cause. Even if one ignored the credible testimony of Gina Dubbe and Ms. Stavola that they were willing to extend *bona fide* loans to Zia in order to support and mentor Ciara Dubbe as a woman and Native American owner in the cannabis industry, and even if one further assumes (though I do not) that Gina Dubbe and Ms. Stavola would attempt to wrest control of Zia from Ciara Dubbe by converting their loans into Zia equity, the Commission has already put the

lenders and Zia on notice in its “Important” *Guidance* that it will closely scrutinize any ownership change (including by a conversion of debt to equity) and may *rescind* Zia’s Stage One Pre-Approval if the conversion would adversely impact the DEA/MMDG scoring of Zia’s application.

So if Gina Dubbe or CGX/Ms. Stavola sought to acquire all or the majority of Ciara Dubbe’s one hundred percent ownership of Zia through the conversion clause, the Commission can readily step in and rescind Zia’s Stage One Pre-Approval. And, the same result would obtain even if (hypothetically) Ciara Dubbe herself acquiesced or participated in an attempt by her mother or Ms. Stavola to transfer Ciara Dubbe’s majority DEA ownership of Zia to them.

It would be beyond the scope of the Commission’s delegation to the OAH for me to render what would amount to an advisory opinion as to how the conversion clause might be interpreted by the courts in the hypothetical event of litigation between borrower and lender or otherwise. Instead, in assessing whether the conversion clauses undermine Ciara Dubbe’s continuing ownership of Zia, I assume for purposes of this discussion that the lenders *could* invoke the conversion clause at any time, even if Zia did not default in a payment or other obligation, and notwithstanding the borrower’s ninety day grace period and right to prepay the debt without penalty. And, I further assume *arguendo* that the lenders *could* attempt to convert Ciara Dubbe’s current membership interests even if Zia does not have and never creates any Class A or otherwise preferred membership interests. But even under these “worst case” assumptions, I conclude that the continuing nature of Ciara Dubbe’s ownership of Zia is not undermined because the Commission retains the power, explicitly stated in its “Important” *Guidance*, to rescind an applicant’s Stage One Pre-Approval if a pre-licensure transfer of ownership reduced a DEA owner’s majority ownership.

Accordingly, the evidence does not support an inference that the conversion provision defeats Ciara Dubbe's continuing ownership of Zia, because there is no reason to believe that Zia's lenders or Ciara Dubbe herself would engage or acquiesce in self-defeating behavior that would merely result in the Commission's rescinding Zia's Stage One Pre-Approval. The lenders and Ciara Dubbe are clearly disincentivized by the *Guidance* from diluting Ciara Dubbe's majority ownership and, if they tried to do so, the Commission could prevent step in and rescind Zia's Stage One Pre-Approval.⁹

The Commission's ability to scrutinize any problematic use by the lenders of the conversion clause, and rescind Zia's Stage One Pre-Approval, clearly exists under the *Guidance*, even though the Commission's governing statute and its regulations do not prohibit the transfer of ownership of an entity that holds a *Stage One Pre-Approval*, as distinguished from an entity that holds a *license*. Rather, the statute and regulations restrict the transfer of an entity that holds a *license*. See Md. Code Ann., Health-General § 13-3311.1 (2019 Repl. Vol.); COMAR 10.62.19.07.

Thus, under Health-General section 13-1311.1(a)(1), "[t]he holder of a medical cannabis...processor...license may sell or transfer ownership of the license *if the licensee was physically and actively engaged in the...processing...of medical cannabis for at least 3 years immediately preceding the sale or transfer of the ownership of the license.*" (Emphasis added). And under COMAR 10.62.19.07A(1) and D(3), the Commission must be notified of and approve the proposed transfer of an ownership interest in a licensee, and may deny any transfer if it would violate Health-General sections 13-3301—13-3316, or for other "good cause."

⁹ As the Commission did not argue in its Post-Hearing Brief, as a ground for denial that the Petitioner's application, that Zia failed to show that the lenders had the financial capacity to lend, I consider that issue abandoned. In any event, as the Petitioner noted, there is no requirement in the statute, regulations or *Guidance* that a lender's ability to lend is a required element in an application. And I find that the evidence at the hearing established that both lenders have the financial ability to make the loans.

In light of the Commission's "Important" *Guidance* regarding the Commission's ability to scrutinize pre-licensure transfers and rescind Stage One Pre-Approval, as well as Health-General section 13-1311.1(a)(1) and COMAR 10.62.19.07A(1) and D(3), Ciara Dubbe's continuing DEA ownership of Zia (if Zia were licensed) would be doubly protected from dilution or elimination by the lenders for at least three years after Zia began processing medical cannabis,

The first layer of protection is the Commission's ability under the "Important" *Guidance* provision to rescind Zia's Stage One Pre-Approval during the *pre-licensure* period. This ability disincentivizes the lenders from diluting Ciara Dubbe's majority DEA ownership, because doing so would trigger the Commission's right to rescind Zia's Stage One Pre-Approval.

The Commission argued that the onus of taking action to prevent dilution or elimination of Ciara Dubbe's ownership should not be placed on the Commission. But, the legislature placed the onus of promoting DEA ownership on the Commission, and the "Important" *Guidance* empowers the Commission to protect Ciara Dubbe's majority ownership by rescinding Zia's Stage One Pre-Approval *if* the lenders attempted through the conversion clause to acquire majority ownership.

The second layer of protection for Ciara Dubbe's continuing ownership of Zia arises from Health-General section 1311.1(a)(1) and COMAR 10.62.19.07A(1) and D(3). If Zia were awarded a license, these provisions would prevent the transfer of Zia's ownership interests for *three years after* Zia was physically and actively engaged in the processing of medical cannabis.

While the parties devoted much effort at the hearing and in their briefing to comparing Zia's loan documents with the loan and organizational documents of four successful Stage One applicants, I find that none of the four other applicants (including Applicant C) are situated so similarly to Zia to establish that the Commission failed to treat similar applicants in like fashion. None of the other four applicants' documents included a conversion clause identical or

substantially identical to Zia's. The comparison of Zia to the four other applicants revealed a mixed bag of similarities and differences, and do not establish, without more, that the Commission treated Zia differently than other similarly-situated applicants who received five DEA/MMDG points in the scoring.

Therefore, in determining that Ciara Dubbe's ownership of Zia is continuing, I do not give substantial weight to the other applicants' documents. Rather, I conclude that Zia established on its own merits that Ciara Dubbe's majority ownership of Zia is real, substantial, and continuing. In sum, for the reasons stated above I conclude that the Petitioner established that the conversion clauses in the Notes did not invalidate Ciara Dubbe's continuing ownership of Zia.

Alleged Misstatement, Omission, Misrepresentation, or Untruth in Zia's Application

The Commission contended that Zia's statement in its application that the entirety of the capital contributions made to Zia, in the form of Ciara Dubbe's initial \$100.00 capital contribution, appeared inconsistent with Zia having paid the required \$2,000.00 fee to apply for a processor license.

The Commission's perception of an inconsistency was belied, however, by the uncontradicted evidence presented at the hearing that Zia had been operating and earning revenue from its pre-existing and on-going marketing/consulting business before Zia ever applied for a license. As a business's operating revenue is not properly considered as a capital contribution, there was no inconsistency in the application.

The Petitioner's expert witness, Ms. Taylor, cogently explained the difference between Ciara Dubbe's \$100.00 capital contribution and Zia's operating revenue. But expert testimony was not even required to show that that Ciara Dubbe's initial \$100.00 capital contribution is not inconsistent with Zia's use of money received from its operating revenue to pay the \$2,000.00

application fee. The distinction between a company's initial capital contribution upon its formation and its subsequent operating revenue is obvious: the former is money paid by the organizer of an entity into the entity upon its formation, while the latter is money paid to an operating entity by its clients or customers.

The Petitioner produced tax returns showing 2017 profits of \$8,560.00 and 2018 profits of \$14,991.00. (JE 309, and 320). Ciara Dubbe testified that Zia earned \$68,000.00 in profits in 2019. Clearly, Zia had sufficient funds to pay the \$2,000.00 application fee in May 2019. Therefore, I conclude that there is no inconsistency between Ciara Dubbe's initial capital contribution to Zia of \$100.00 and Zia's subsequent payment of the application fee.

The Commission argued that the "Petitioner did not, however, present evidence demonstrating that the application was in fact paid with revenues from its consulting business." (State's Post-Hearing Brief, p. 23). But Ciara Dubbe credibly testified that Zia paid the \$2,000.00 application fee from the revenue derived from its operations as a business before it applied for the license. (August 10, 2021 Tr., at p. 89-90). The Petitioner introduced the \$2,000.00 Bank of America cashier's check used to pay the application fee. (JE 430-31).

In an effort to undermine Ciara Dubbe's testimony on this point the Commission argued that the Petitioner did not establish the origin of the money used to purchase the cashier's check from Bank of America. The Commission noted that Ciara Dubbe's \$100.00 initial capital contribution check was deposited into a Bank of America account with a different account number than the Bank of America account from which the \$2,000.00 application fee originated. In addition, the Commission noted that Ashley Leighton, a lawyer and cannabis industry consultant, testified that she assisted in the preparation of Zia's application, was compensated by that work by Greenhouse Wellness (Gina Dubbe's dispensary) for which Ms. Leighton also

works, but that she (Ms. Leighton) expects to receive a \$25,000.00 “success fee” if Zia obtains a processor license. (August 10, 2021 Tr., at p. 223).

I found Ms. Leighton to be a credible witness. She was forthcoming about her relationship with Ciara Dubbe and Gina Dubbe, that she is being compensated by Gina Dubbe’s dispensary company, that she helped write Zia’s application, that she hopes to receive a success fee from Zia if Zia is licensed, that she (Ms. Leighton) filed Zia’s appeal from the license denial, and that she is Zia’s authorized representative for communications with the Commission. But Ms. Leighton did not suggest that Zia’s application fee came from a source other than Zia itself.

The Commission, at best, raised speculative, unsubstantiated suspicions about the source of the \$2,000.00 cashier’s check Zia used for the application fee. The issue was addressed directly by Ciara Dubbe, who testified unambiguously that the \$2,000.00 came from Zia. Absent evidence to the contrary, the Commission’s speculation about the source of the \$2,000.00 is insufficient to overcome Ciara Dubbe’s credible testimony that the funds came from Zia. I also give weight to the fact that Ms. Leighton, heavily involved in the preparation of Zia’s application, did not contradict Ciara Dubbe’s testimony in that regard. Accordingly, I conclude that the application fee was in fact paid by the Petitioner.

For the foregoing reasons, I conclude that the Petitioner established that the Commission’s determination that Zia’s application should be denied because it contained inconsistent information or a misstatement, misrepresentation, omission, or untruth, is not supported by the record.

PROPOSED CONCLUSIONS OF LAW

Based upon the foregoing proposed Findings of Fact and discussion, I conclude as a matter of law that the Petitioner met its burden of demonstrating that the DEA/MMDG member’s ownership interest of the Petitioner was real, substantial, and continuing as defined under

COMAR 10.62.01.01B(11) and the Commission's *Guidance for Diversity & Socioeconomic Equity Questions*.

I further conclude as a matter of law, based upon the foregoing proposed Findings of Fact and discussion that the Commission's determination that the application materials that the Petitioner submitted to the Commission contained a misstatement, omission, misrepresentation or untruth was not supported by the record. COMAR 10.62.19.04A; 10.62.19.04B; 10.62.19.04C; *Guidance for Diversity & Socioeconomic Equity Questions*.

October 25, 2021
Date Order Mailed

Robert B. Levin

Robert B. Levin
Administrative Law Judge

RBL/emh
#194468

RIGHT TO FILE EXCEPTIONS

Any party adversely affected by these Proposed Findings of Fact and Conclusions of Law has the right to file written exceptions with the Chair of the Maryland Medical Cannabis Commission (Commission) within twenty-one (21) days of receipt of this decision. Md. Code Ann., State Gov't §§ 10-216, 10-220 (2014); *cf.* COMAR 10.01.03.18A. The Commission or the Commission's designee will review timely exceptions before rendering the final Commission decision. Md. Code Ann., State Gov't §§ 10-216, 10-220, 10-221 (2021). The Office of Administrative Hearings is not a party to any review process.

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IN RE THE MATTER OF:

ZIA INTEGRATED, LLC,

PETITIONER

v.

NATALIE M. LAPRADE

MARYLAND MEDICAL CANNABIS

COMMISSION,

STATE

* BEFORE ROBERT B. LEVIN,

* ADMINISTRATIVE LAW JUDGE

* THE MARYLAND OFFICE

* OF ADMINISTRATIVE HEARINGS

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* OAH No.: MDH-MMCC-171-21-04762

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APPENDIX: FILE EXHIBIT LIST

The following exhibits were admitted as Joint Exhibits:

Exhibit	Page Number	Description
1	JE 001-020 JE 021-026	<ul style="list-style-type: none">• MMCC PROCESSOR APPLICATION GENERAL INSTRUCTIONS(MAY 2, 2019)• APPLICATION GUIDANCE
2	JE 027-076	GROWER & PROCESSOR APPLICATION Q&A UPDATED (April 29, 2019)
3	JE 077-092	GUIDANCE FOR DIVERSITY & SOCIOECONOMIC, EQUITYQUESTIONS (April 1, 2019)
4		ORIGINAL APPLICATION MATERIALS SUBMITTED BY APPLICANTIN UNREDACTED FORM (June 2019)
	JE 093-100	Processing Application Parts A to C
	JE 101-158	Part D
	JE 159-216	Attachment A
	JE 217-218	Attachment B
	JE 219-220	Attachment E
	JE 221-225	Part C Continued
	JE 226-232	Part D Section III Question 1
	JE 233-239	Part D Section V Question 2
	JE 240-253	Part D Section V Question 3
	JE 254-260	Part D Section VI Question 1

Exhibit	Page Number	Description
	JE 261-287	Part D Section VI Question 3
5	JE 288-293	MMCC PROCESSOR PRELIMINARY RANKING & METHODOLOGY (Sept. 2019)
6	JE 294-295	MMCC LETTER REQUESTING ADDITIONAL INFORMATION (Feb. 21, 2020)
7	JE 296-331 JE 303A JE 328	SUPPLEMENTAL MATERIALS SUBMITTED BY ZIA (March 2, 2020) Color copy of Bank of America screenshot Partially redacted Bank of America document (replacement for original JE 328)
8	JE 332-429	MMCC MEETING TRANSCRIPT (Oct. 1, 2020)
9	JE 430-431	ZIA'S CASHIER'S CHECK FOR ITS APPLICATION (April 16, 2019)
10	JE 432-436	DENIAL LETTER (OCT. 2, 2020)
11	JE 437-471	OWNERSHIP EVALUATION SUBCOMMITTEE REPORT --HIGH RANKING PROCESSOR APPLICANTS -- REDACTED (Admitted over Petitioner's objection.)

The following exhibit was admitted as a State's Exhibit:

1	Redacted 7/28/21 affidavit of William Tilburg, Executive Director for the MMCC	
Not admitted	Email correspondence between Gina Dubbe and William Tilburg regarding Mrs. Dubbe acquiring a processor license	

The following exhibits were admitted as Petitioner's Exhibits:

1	Julia Taylor CV ADMITTED	ZIA000001-000003
2	Kris Hallengren CV WITHDRAWN	ZIA000004
3	Grower Rankings NOT ADMITTED	ZIA000005-000009
4	Stavola Financial Information ADMITTED	ZIA000010-000013

5	Gina Dubbe Financial Information ADMITTED	ZIA000014-000017
6	Peroutka Bio WITHDRAWN	ZIA00018-000023
7	Verity Website Re Services WITHDRAWN	ZIA000024-000026
8	MMCC Guidance Ownership and Control Requirements ADMITTED	ZIA000027-000034
9	Cannabis Commission RFP WITHDRAWN	ZIA000035-000036
10	Verity Contract WITHDRAWN	ZIA000037-000053
11	May Guidance ADMITTED	ZIA000054-000061
12	August Guidance ADMITTED	ZIA000062-000069