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7 **SUPERIOR COURT OF WASHINGTON**
8 **COUNTY OF PIERCE**

9 MMH, LLC, a Washington limited liability
10 company,

11 **Plaintiff,**

12 **and**

13 CITY OF FIFE, a Washington municipal
14 corporation

15 **Defendant.**

No. 14-2-10487-7

**DECLARATION OF MIKE HENERY
IN SUPPORT OF PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

**Hearing Date: August 29, 2014
Time: 8:30 a.m.**

16 I, Michael Henery, subject to penalty of perjury under the laws of the state of
17 Washington, declare as follows:

18 1. MMH, LLC is a Washington limited liability company. Attached as **Exhibit**
19 **1** is a true and correct copy of the Certificate of Formation for MMH, LLC. I am the sole
20 member and manager of MMH, LLC. I am over the age of twenty-one and am
21 competent to testify to the matters addressed herein. I make this declaration from
22 personal knowledge.

23
24 2. In November 2013, I timely submitted to the Washington State Liquor

25 **DECLARATION OF MIKE HENERY IN SUPPORT OF
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

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ATTORNEYS AT LAW
920 FAWCETT -- P.O. BOX 1657
TACOMA, WASHINGTON 98401
TELEPHONE (253) 620-1500
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1 Control Board ("WSLCB") an application for a marijuana retail outlet license. My
2 application included an operating plan as required by the WSLCB that demonstrates I
3 am qualified to hold a marijuana license. The operating plan included all necessary
4 elements in accordance with the applicable standards in the Washington Administrative
5 Code (WAC).
6

7 3. I am qualified in every way to be issued a license by WSLCB: I am over
8 the age of twenty-one, have passed all personal/criminal history background checks,
9 have satisfied all financial investigations, am familiar with WSCLB marijuana laws and
10 rules, have resided in the state of Washington for more than three months, and am
11 current in any tax obligations to the Washington State Department of Revenue.

12 4. In October 2013, WSLCB promulgated rules setting forth the application
13 requirements for a marijuana license and the method by which retail locations would be
14 distributed throughout the state. The number of retail outlet locations was determined
15 using a formula that distributed the number of locations proportionate to the most
16 populous cities within each county. Retail outlets that were not assigned to a specific
17 city were deemed "at large." Under WSLCB rules, an at large license may be used to
18 establish a retail outlet in a city that was not formally assigned licenses in the process
19 described above.
20

21 5. WSLCB determined that there would be seventeen at large retail licenses
22 in Pierce County and zero retail licenses assigned to the City of Fife.

23 6. In April 2014, WSLCB held a lottery to award qualified applicants retail
24

1 outlet licenses. MMH, LLC was awarded a Pierce County at large license. Attached as
2 **Exhibit 2** is a true and correct copy of a letter from the Washington State Liquor Control
3 Board stating that MMH, LLC's application was selected fifth for one of the seventeen
4 Pierce County at large retail locations.
5

6 7. Throughout 2014, I actively participated in the City of Fife's development
7 of marijuana land use ordinances. I carefully reviewed the Planning Commission's
8 recommendations to the Council. I learned that the Planning Commission
9 recommended that Fife's temporary moratorium be repealed and that zoning ordinances
10 permitting marijuana retail outlets be adopted.

11 8. MMH, LLC entered into a lease agreement for the property at 4500 Pacific
12 Highway East, Fife, Washington, for the purpose of operating a retail marijuana outlet.
13 The City of Fife did not object to its application.

14 9. On July 7, 2014, I attempted to submit a business license application for
15 MMH LLC's retail outlet to the Fife City Clerk. The Clerk would not accept the
16 application.
17

18 10. On July 21, 2014, I again attempted to submit a business license
19 application for MMH, LLC's retail outlet to the Fife City Clerk. The Clerk would not
20 accept the application.

21 11. MMH, LLC's WSLCB license will be finalized once they inspect its place of
22 business. Without the City of Fife business license, I am unable to prepare for the
23 inspection.
24

1 12. MMH, LLC has expended an extensive amount of time and money in
2 developing a retail outlet in Fife. But for the City's denial of a business license, it would
3 be licensed by the WSLCB and operating a retail outlet. It has lost and will continue to
4 lose significant revenue due to the City's denial of a business license.
5

6 Signed at Gig Harbor, Washington, this 1st day of August, 2014.

7 MMH, INC,

8 
9
10 MIKE HENERY
11 Plaintiff

EXHIBIT 1

UNITED STATES OF AMERICA

The State of  Washington

Secretary of State

I, KIM WYMAN, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

CERTIFICATE OF FORMATION

to

MMH LLC

a/an WA Limited Liability Company. Charter documents are effective on the date indicated below.

Date: 12/5/2013

UBI Number: 603-354-861



Given under my hand and the Seal of the State of Washington at Olympia, the State Capital



Kim Wyman, Secretary of State

Date Issued: 12/5/2013



SOS

Office of the Secretary of State
Corporations & Charities Division

Limited Liability Company

See attached detailed instructions

- Filing Fee \$180.00
- Filing Fee with Expedited Service \$230.00

This Box For Office Use Only

UBI Number:

603-354-861

CERTIFICATE OF FORMATION

Chapter 25.15 RCW

ARTICLE 1

NAME OF LIMITED LIABILITY COMPANY:

MMH LLC

(Must contain one of the following designations: Limited Liability Company, Limited Liability Co or one of these abbreviations: L.L.C. or LLC. If the designation is omitted, it will default to LLC when processed)

ARTICLE 2

ADDRESS OF THE PRINCIPAL PLACE OF BUSINESS:

Street Address 10461 Boverham Dr. NW City Gig Harbor State WA Zip 98332

PO Box _____ City _____ State _____ Zip _____

ARTICLE 3

EFFECTIVE DATE OF FORMATION: *(Please check one of the following)*

- Upon filing by the Secretary of State
- Specific Date: _____ *(Specified effective date must be within 90 days AFTER the Certificate of Formation has been filed by the Office of the Secretary of State)*

ARTICLE 4

TENURE: *(Please check one of the following and indicate the date if applicable)*

- Perpetual existence
- Specific term of existence _____ *(Number of years or date of termination)*

ARTICLE 5

THE LIMITED LIABILITY COMPANY IS MANAGED BY: Members or Managers
(see instructions)

ARTICLE 6

NAME AND ADDRESS OF THE WASHINGTON STATE REGISTERED AGENT:

Name: DAVID E. PEARSON P.C.

Physical Location Address (required):

920 FAUCETT AVE.

City TACOMA State WA Zip Code 98401

Mailing or Postal Address (optional):

City _____ State _____ Zip Code _____

CONSENT TO SERVE AS REGISTERED AGENT:

I consent to serve as Registered Agent in the State of Washington for the above named Limited Liability Company. I understand it will be my responsibility to accept Service of Process on behalf of the Limited Liability Company; to forward mail to the Limited Liability Company; and to immediately notify the Office of the Secretary of State if I resign or change the Registered Office Address.

X [Signature] 37833 MARK NELSON 12/4/13
Signature of Registered Agent Printed Name Date

ARTICLE 7

NAME, ADDRESS AND SIGNATURE OF EACH EXECUTOR:

(If necessary, attach additional names, addresses and signatures)

Name: Michael Monroe Henry c/o

Address: 4615 Saddleback Dr. NW City Gig Harbor State WA Zip Code 98532

This document is hereby executed under penalties of perjury, and is, to the best of my knowledge, true and correct.

X [Signature] Michael M. Henry 12/2/13 360-307-0950
Signature of Executor Printed Name Date Phone

Name: _____

Address: _____ City _____ State _____ Zip Code _____

This document is hereby executed under penalties of perjury, and is, to the best of my knowledge, true and correct.

X _____
Signature of Executor Printed Name Date Phone

EXHIBIT 2



Washington State
Liquor Control Board

May 1, 2014

MMH LLC
920 FAWCETT AVE
TACOMA, WA 98401

RE: Marijuana Retail Lottery Results
Trade name: MMH LLC
License No.: 413813
UBI No.: 6033548610010001

Dear Sir or Madam:

The marijuana retail license lottery for Pierce at large is complete. Pierce at large has been allotted 17 retail locations.

Your application was selected number 5.

We will begin processing applications for the allotted number of stores in the coming weeks. If an application is disqualified for any reason or withdrawn by the applicant, the next application on the lottery list will take its place. If an application appears to not qualify, a statement of Intent to Deny will be issued with the right to appeal that decision. Once all licenses have been issued in a jurisdiction the remaining applications will be administratively closed.

Applicants selected in the lottery to move forward in the licensing process are not guaranteed to receive a license. The application must undergo our rigorous investigation process and pass a final inspection prior to issuance.

Sincerely,

WSLCB Marijuana Licensing Unit