

EXHIBIT

C

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

HW PREMIUM CBD, LLC,
AJ's HEALTH AND WELLNESS d/b/a
AMERICAN SHAMAN, E. KRIEGER
LAND, LLC d/b/a GREENE GOODS
MARKET & GREENHOUSES, GREEN
ONYX INC. d/b/a YOUR CBD STORE,
BEYOND CBD, LLC dba BEYOND CBD,
CAMPBELL'S NUTRITION CENTERS,
INC., TCI ENTERPRISE, INC. d/b/a SKY
HIGH, ICANNA, LLC, YOUR CBD STORES
FRANCHISING LLC,

Case No. 4:24-cv-00210-SHL-HCA

Plaintiffs,

v.

GOVERNOR KIM REYNOLDS in her official
capacity, IOWA DEPARTMENT OF HEALTH
AND HUMAN SERVICES, DIRECTOR OF IOWA
DEPARTMENT OF HEALTH AND HUMAN
SERVICES KELLY GARCIA in her official capacity,
IOWA DEPARTMENT OF PUBLIC SAFETY, and
COMMISSIONER OF IOWA DEPARTMENT OF
PUBLIC SAFETY STEPHAN BAYES in his official
capacity.

Defendants.

DECLARATION OF ASHLEY POWELL

I, Ashley Powell, do hereby attest as follows:

1. I am over the age of majority, am competent to testify, and I have personal knowledge of the matters addressed in this declaration.
2. This Declaration is submitted in support of Plaintiffs' Supplemental Brief in Support of Their Motion for Preliminary Injunction.
3. As previously stated, I am the owner of AJ's Health and Wellness, LLC d/b/a

American Shaman and American Shaman of Greater Des Moines.

4. In order to sell hemp products in Iowa, AJ's Health and Wellness is required to submit products for approval via the DHHS Consumable Hemp Registration Portal ("portal"). It is my understanding that every entity has its own portal. I cannot see other retailers or manufacturers' portals with DHHS to see what products have already been approved by DHHS. And my understanding is that only DHHS officials have access to my portal.

5. As of Friday July 12, 2024, I submitted new products for two of my stores that I am unsure will be compliant, but I am unable to see what previously approved products AJ's Health and Wellness has on the portal. In short, depending on the method used to access the submitted product list, I can either see only the newly submitted products or the portal shows that I have no approved products and no pending products.

6. However, what I can see is all products for the Indianola store, which is now closed, but still retains an active license. It shows that these products are still "approved" despite them now likely being illegal under the new laws based on my understanding from what DHHS sent via draft regulations or FAQ guidance for things like gummies or beverages.

7. Furthermore, the portal itself appears to have a number of technical bugs that is making the portal itself unusable, which is further delaying the 30 day window that DHHS claims they will approve or disapprove products within. When I reached out to DHHS regarding these issues, I did not receive a response.

8. Despite being given no guidance that I would be required to resubmit all products for approval through the portal (including those products that were approved prior to July 1, 2024), I have attempted to resubmit all my products out of an abundance of caution now.

9. It is my understanding that the DHHS is permitted 30 days to approve a submitted product. I am essentially sitting in a limbo stage until the products are approved (or are reapproved) by DHHS.

10. Additionally, when submitting products to the portal, we are required to submit the certificate of analysis for the product.

11. Often, the certificate of analysis does not show the amount (in milligrams) of THC per container because that is not something that is currently required in the industry.

12. Based on the new portal submission as of July 1, 2024, I am required to personally enter the amount of THC per serving and per each container. This means I must “do the math” to figure out the total THC per serving per container myself or request the manufacturer to give their own interpretation of it. This is confusing because this allows for multiple interpretations of how many servings one can add to the portal to make it compliant.

13. The Hemp Amendments’ new requirements, especially the “container” and “serving size” requirements are confusing because they do not have definitions to demonstrate how the state intends to interpret “container” or “serving size” in the context of hemp and consumable hemp products.

14. AJ’s Health and Wellness sells some products, like topical hemp products, which do not have “serving sizes.” How can I know if I am permitted to sell this product if all products must meet certain serving size specifications under the new laws? I do not know the answer to that question. Moreover, over 35% of my total current products do not have “serving sizes.”

15. Additionally, some of the topical products do not have a 21+ label, likely because they are non-intoxicating despite having THC in them. Are these products permissible under the new laws? The answer to this question is not clear.

16. The largest point of frustration for me is that it is unclear what products I can sell in my two stores from now until September when the regulations to enforce the Hemp Amendments may first become final. For example, AJ's Health and Wellness sells Climbing Kites Mixed Berry drinks, which contain 4 servings that are 2.5mg of THC each, thus making the whole can 10mg per can. Is this permissible to sell at this time? I do not know the answer to that question, especially since Climbing Kites testified that their products are not approved at all.

17. For example, I sold approximately \$20,200 worth of Climbing Kites products in June alone. I would like to keep selling these products so that I can keep my business open, but I do not know how to comply with the Hemp Amendments. It is my understanding that the State's position would hold that these types of products, like the one identified above, are legal to sell in Iowa, but those products have been removed from my portal. And the prior guidance from DHHS indicates I cannot sell a product unless it has been approved on my own portal.

18. Further, DHHS cannot even tell me what is legal to sell at this point. Based on my prior conversations with the DHHS Compliance Manager, I was told that I could potentially add my own label to certain existing products, but because there is no direction on what the warning label or other labels require (because the regulations are not yet final), how do I know what to add to the label to ensure that the products are compliant? I do not know the answer to this question. Plus, the FAQ guidance indicated that we could *not* relabel our products.

19. Further, the DHHS Compliance Manager said that she did not know if tinctures and water solubles were still legal or whether drink products that were CBD only had to be in 12 oz cans or larger.

20. Further, the Guidance Documents on the DHHS website state that submitting non-compliant products in the portal is grounds for pending or denial of my entire Consumable Hemp

Registration. I am concerned about submitting products that I am not sure are compliant, but I don't know how else to find out if they are compliant. I am concerned my Registration to sell Consumable Hemp will be revoked based on that statement.

21. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of July 2024.

A handwritten signature in black ink that reads "Ashley Powell". The signature is written in a cursive style with a large, looped "A" and "P".

Ashley Powell