

**REPORT TO
MARYLAND MEDICAL CANNABIS COMMISSION**

**REPORT ON INVESTIGATION INTO POTENTIAL BIAS OR UNDUE
INFLUENCE IN THE 2019 MEDICAL MARIJUANA GROWER
AND PROCESSOR LICENSE APPLICATION REVIEW PROCESS**

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MEMORANDUM

TO: Brian Lopez, Chairman
Maryland Medical Cannabis Commission

FROM: Gregg Bernstein
Ezra Marcus
Megan McKoy

DATE: September 3, 2020

RE: Report on Investigation into Potential Bias or Undue Influence in the 2019
Medical Marijuana Grower and Processor License Application Review Process

I. Executive Summary

On June 24, 2019, the Maryland Medical Cannabis Commission (“MMCC” or “the Commission”) accepted applications for new medical cannabis grower and processor licenses as authorized by House Bill 2 (“HB2”), which was signed into law by the Governor on May 15, 2018. Utilizing criteria established by the Commission, these applications were scored, in part, by the Commission and, in part, by individual evaluators employed at Morgan State University (“MSU” or “Morgan State”) pursuant to two Interagency Agreements. Shortly after the Commission approved final applicant rankings by vote on September 18, 2019, and sent rejection notices to unsuccessful applicants, various allegations began to emerge, including in the media and through the Legislative Black Caucus of Maryland, about rumored improprieties in the review process. On September 26, 2019, the Commission announced that it would delay awarding “Stage-

One Pre-Approvals” to the top-ranked applicants in order to address these public allegations. The Commission later decided to engage two outside firms to investigate, respectively: (1) the accuracy of representations by the highest ranking-applicants regarding their ownership and control; and (2) the impartiality of the application review process. The Commission retained Zuckerman Spaeder LLP to conduct an independent investigation into the latter issue, focused on allegations of potential bias and/or undue influence in the license application evaluation process.¹

As part of our investigation, we reviewed thousands of pages of documents and interviewed more than fifty individuals, including: representatives of grower and processor license applicants; members of the Commission and staff; evaluators, employees, and Board members at MSU; and individuals who responded to a hotline that we set up to provide information regarding allegations of bias or undue influence in the application process. Throughout the investigation, the Commission—primarily through its counsel, Assistant Attorney General Heather Nelson, and its Executive Director, William Tilburg—gave us access to any source of evidence that we requested. They did not place any limits on our investigative plan, the interviews that we sought to conduct, or any other aspect of our investigation. MSU, through counsel, was also engaged and responsive to our investigative requests, facilitated our outreach to the individuals at MSU whom we sought to interview, and scheduled our interviews with MSU professors, administrators, and staff. We

¹Concurrently, the Commission hired Verity, LLC, led by Raymond J. Peroutka, Jr., CPA, to review the highest-ranking grower and processor applications to ensure the accuracy of material aspects of information relating to the ownership and control of those entities. From the beginning of the application process, the Commission intended to verify information contained in top-ranked applications consistent with COMAR §§ 10.62.08.04 and 10.62.19.03, and the grower and processor application instructions had required each applicant to give consent for the Commission or persons authorized by the Commission to conduct an investigation for that purpose.

were also able to speak with Delegate Cheryl Glenn and Lance Lucas whose admitted criminal conduct had given rise to concerns about possible corruption in the application evaluation process.

It is important to note at the outset that our investigation was limited in scope to allegations of bias and undue influence in the application evaluation process. We did not investigate the outcome of the process or the methodology utilized in scoring and ranking the applications, nor did we assess the merit of any particular application or analyze the evaluation criteria. Additionally, we did not investigate the accuracy of applicants' representations about ownership and control, including minority ownership; that issue was within the purview of the other independent investigator.

Our factual findings are summarized here and detailed below. **In short, we found no evidence of bias or undue influence in the 2019 license application review process. We did find evidence of conflicts of interest, in that MSU employees and officials were affiliated with license applicants, but we found no evidence that these conflicts resulted in any bias or special favorable treatment in the license application review process.**

Factual Findings

- 1. Former Commission Executive Director Joy Strand does not have any family relative who was affiliated with any license applicant in 2019.** It has been alleged in civil litigation and in a letter from Delegate Darryl Barnes, Chair of the Legislative Black Caucus, that Joy Strand, the former Executive Director of the Commission, had a close relative who was affiliated with an entity seeking a license. We found no evidence to support this allegation and credible evidence to the contrary.
- 2. There was no evidence that any license applicants had improper communications with MSU reviewers, MMCC staff, or MMCC Commissioners.** Our investigation revealed no indication that any improper contacts occurred between any of the license applicants and: any of the MSU faculty and staff who reviewed applications; any of the MMCC staff responsible for sifting and scoring applications; or any MMCC Commissioners. Isolated and inconsequential contacts occurred between applicants and

individuals at MSU, but none were improper and only one occurred during the time period when MSU was reviewing applications.

3. **MSU officials and employees were affiliated with applicants for medical cannabis licenses.** At least three people associated with MSU were affiliated with entities that applied for grower or processor licenses: Shelonda Stokes, a member of the MSU Board of Regents; Joan Carter Conway, a former State Senator and an MSU employee; and Ugonna Anyadike, a technical support specialist at MSU.² These affiliations arguably violated a provision of the Commission's implementing legislation designed to avoid conflicts of interest for third-party evaluators; however, we found no evidence that these applications were scored more, or less, favorably by either the MSU evaluators or Commission staff. Indeed, only one evaluator noticed that an individual affiliated with MSU was referenced in an application.
4. **Applicants' affiliations with MSU were not brought to the attention of MMCC.** Only one evaluator reported bringing an applicant's connection with MSU to the attention of the MSU evaluation project supervisor, Dr. Timothy Akers, which was a reference in the application to a member of the MSU Board of Regents. Although there are conflicting recollections, we find that Dr. Akers did not bring this reference to the attention of the Commission, and that the Commission did not become aware that an application referenced the MSU Board of Regents until after it voted on final applicant rankings on September 18, 2019.
5. **We found no evidence that former Delegate Cheryl Glenn improperly influenced the license application review process.** Delegate Glenn pled guilty to criminal conduct involving the receipt of bribes from a government informant that she believed were designed to obtain her assistance on behalf of particular license applicants. Although these revelations were troubling, Delegate Glenn's communications with MMCC during the 2019 license application review were quite limited, and we found no evidence that she improperly influenced the review process.

II. Investigative Activities

In an open letter to Governor Hogan and legislative leaders on October 8, 2019, MMCC pledged to commission an independent investigation into the 2019 license application evaluation process. On February 20, 2020, MMCC publicly announced that it had retained Zuckerman

² None of these individuals were identified by name in the redacted applications. Ms. Stokes was identified as an MSU Board member; Senator Conway and Mr. Anyadike were identified as employees of MSU. Only the applicant associated with Ms. Stokes was ranked highly enough to be considered for Stage One Pre-Approval for a license. *See* page 27, *infra*.

Spaeder to investigate concerns about potential bias or undue influence in the license application evaluation process.

a. Scope of the Investigation

Our investigation covered concerns of bias or undue influence in the 2019 license application review process. At the outset, we focused our investigation on the following questions:

- (1) Whether a close relative of a Commissioner or a Commission employee was affiliated with a license applicant;³
- (2) Whether any current or former employee, independent contractor, or person associated with Morgan State applied for a license, and whether any bias or undue influence resulted;
- (3) Whether any improper contacts occurred between license applicants and MSU evaluators or MMCC commissioners or staff during the application evaluation process;
- (4) Whether Delegate Cheryl Glenn subjected the 2019 license application process to any improper or illegal influence in connection with her admitted criminal conduct or otherwise.

Some of these allegations were contained in a letter from Delegate Darryl Barnes, Chair of the Legislative Black Caucus, to the Commission after the applicants who were not ranked highly enough to be considered for Stage One Pre-Approvals were notified. Additional allegations were raised via a hotline that we established to allow members of the public to advise us of any evidence of bias or undue influence in the license application review process. We also asked many of our

³ Former Executive Director Joy Strand is identified in multiple court filings.

interviewees whether they had any specific concerns about bias or undue influence. Members of the public and interviewees brought several rumors and allegations regarding bias or undue influence to our attention, and we investigated all such allegations.

b. Witness Interviews

We interviewed witnesses involved in every facet of the license application review process. As described more fully below, our interviewees included: MMCC commissioners; current and former MMCC employees involved in reviewing applications and supervising the review process; MSU faculty and staff involved in reviewing applications; MSU administrative leadership; license applicants; and others. We conducted the interviews in-person or by telephone or video, especially when the coronavirus pandemic made in-person interviews impractical.

In light of the concerns that had been raised that applicants may have succeeded in the application review process through undue influence, we interviewed representatives of every applicant that is currently in position to qualify for Stage One Pre-Approval for a grower or processor license based on rankings published by the Commission. This group included three top-ranked applicants for grower licenses, ten top-ranked applicants for processor licenses, and one top-ranked applicant for both grower and processor licenses. The application required applicants to comply with any Commission requests for additional information, and each top-ranked applicant cooperated with us and agreed to be interviewed.

We interviewed all MMCC employees who were directly involved in reviewing license applications, as well as current and former employees who designed, facilitated, and supervised the review process. Our interviewees included MMCC Executive Director William Tilburg; former MMCC Executive Director Joy Strand; MMCC Director of Finance Ugochukwu Osoh;

and the four members of the MMCC policy team who personally reviewed applications. We also interviewed MMCC Chairman Brian Lopez and MMCC Commissioner Tiffany Randolph.

We interviewed Morgan State faculty and staff involved in reviewing applications, Morgan State officials holding relevant senior leadership positions, and Morgan State officials who were referenced in license applications. Specifically, we interviewed 32 of the 33 Morgan State faculty and staff who reviewed applications or supervised the review process,⁴ including all three members of the leadership team: Dr. Timothy Akers, Kimberly Williams, and Ellis Brown. We also interviewed Chairman Kweisi Mfume and Vice-Chairman General Larry Ellis of the Morgan State Board of Regents, and Dr. Willie May, Morgan State's Vice President for Research and Economic Development. Finally, we interviewed two Morgan State officials who were referenced in license applications: Senator Joan Carter Conway, an MSU employee, and Shelonda Stokes, a member of the MSU Board of Regents.⁵

We interviewed Delegate Cheryl Glenn and Lance Lucas, both of whom have pled guilty in federal court to criminal conduct related to medical cannabis licenses in Maryland.

At the outset of each interview, we explained the scope of our investigation, and we encouraged each witness to be forthcoming in answering our questions. We also responded to questions the witness had about the scope of our investigation.

In addition to interviewing top applicants, MMCC Commissioners and employees, MSU evaluators, and local officials, we also sought to speak with individuals who had raised allegations

⁴ One reviewer had subsequently left Morgan State University and did not respond to our attempts to contact him.

⁵ We did not interview Ugonna Anyadike given his position at MSU and the low ranking of the applicant with which he was affiliated.

of bias or undue influence, and we spoke with members of the public who responded to our open invitation to bring any relevant information to our attention. We also set up a hotline phone number and email address to provide a direct line of contact for anyone with information or concerns regarding potential bias or undue influence in the application evaluation process. We received a substantial number of responses through these outlets and conducted interviews of individuals whose emails or calls suggested that they had additional relevant information. We also spoke with Delegate Darryl Barnes, Chair of the Legislative Black Caucus, in light of his prominent role in voicing concerns based on discussions with constituents and applicants about potential bias or undue influence in the license application review process.

c. Collection and Review of Relevant Documents

We requested and reviewed thousands of documents, which included: internal Commission emails related to the application review process; the redacted and unredacted grower and processor license applications; documents and correspondence regarding MSU's bid to be chosen as the third-party evaluator; documents and correspondence reflecting the negotiation and finalization of the Interagency Agreements between MMCC and MSU; documents created by the Commission to guide MSU's evaluation process; and documents reflecting MSU's work, including the evaluation matrix and individual reviewer score cards. We also reviewed public filings from pending civil litigation against the Commission; public statements by the Commission and Legislative Black Caucus; and documents related to the criminal proceedings involving Delegate Glenn and Lance Lucas.

d. Hotline

In order to address all allegations of potential bias and undue influence in the application process, we established a hotline email address and phone number for individuals to provide information regarding these issues. All responses were directed to staff at Zuckerman Spaeder. We received communications from 22 individuals via either email or the phone number who submitted complaints regarding the 2019 licensing process. Of these individuals, 21 were 2019 license applicants; 20 of those applicants were not among the top-ranked applicants.

Many of the complaints were of a general nature regarding the redaction process, technical flaws with the online application portal or specific application components, and the Commission's decision to allow applicants to re-submit their applications after the initial May 24 deadline, all of which were outside the scope of our investigation. The complaints also shared similar themes regarding the role of former Commission Executive Director Joy Strand in the application process; the allegations surrounding the criminal charges filed against former Delegate Cheryl Glenn and Lance Lucas; the expertise of MSU evaluators; the affiliation of an MSU Board of Regent member (Shelonda Stokes) with one of the applicants; the legitimacy of the minority ownership of applicants; and whether an application payment was received after the 5:00 p.m. EST deadline on June 24, 2019. Complainants were contacted by a member of the Zuckerman Spaeder team and telephone interviews were conducted with those individuals who agreed to speak to us; one individual declined to speak to us, instead, relying on his email response; and two individuals did not respond to our requests for an interview.⁶

⁶ Six complainants were not contacted, beyond a standard follow-up email that was sent to all hotline complainants, because their allegations were identical to other individuals we interviewed or were too vague to warrant further inquiry.

During the interviews, a number of additional allegations were raised (e.g., MSU evaluators resigning to work with applicants; “inside information” possessed by applicants regarding the identity of MSU evaluators; applications or application fees were accepted after the deadline; the Commission did not apply the final ten points for diversity-related factors to the applications; and an allegation that the Commission Chairman was directed to “block” certain applications). We found no evidence to support any of these additional allegations.

III. Overview of the 2019 License Application Review Process

On May 15, 2018, Governor Hogan signed HB2 into law. The Maryland General Assembly passed the emergency legislation as an effort to combat discrimination and increase diversity in the medical cannabis industry. HB2 authorized the Commission to issue up to four new medical cannabis grower licenses and ten new medical cannabis processor licenses. HB2 also required the Commission to evaluate whether minorities and women were disadvantaged in the medical cannabis industry.

The Commission unanimously approved emergency regulations implementing HB2 on September 27, 2018, and the regulations went into effect on November 13, 2018. Under the new regulations, 15 out of 100 possible points in the application scoring system would be awarded based on diversity-related criteria. Applicants could be awarded up to five points for submitting a comprehensive plan for developing diversity among their owners, investors, employees, and contractors. Up to five points could be awarded to applicants that either had ownership interests held by disadvantaged equity applicants or made good faith efforts to obtain at least 51% ownership by disadvantaged equity applicants. Another five points could be awarded to applicants

demonstrating that their owners, investors, employees, and/or contractors lived in economically disadvantaged areas in Maryland.

In November and December 2018, the Commission and the Legislative Black Caucus co-hosted twelve free workshops, including one held at MSU on November 13, 2018. The workshops, attended by more than 400 individuals, sought to educate minority and women business owners and entrepreneurs on the medical cannabis industry. In January and February 2019, the Commission and the Legislative Black Caucus co-hosted four additional workshops, including one at MSU on February 6, 2019. The workshops covered various topics related to the new grower and processor license applications, including the application submission process and background on the relevant laws and regulations. In total, more than 500 individuals attended these workshops.

On January 11, 2019, MMCC released draft grower and processor license applications for notice and comment. The Commission received hundreds of questions from the public, and as a result, it postponed the launch of the 60-day application period, originally set to open on March 1, 2019, until March 25, 2019, requiring applicants to submit all application materials by May 24, 2019, at 5:00 p.m. EST.

In furtherance of its goal to increase diversity in the medical cannabis industry, the Commission sought to work with a Historically Black College and University (“HBCU”) in reviewing license applications to assist, as stated by the Commission, “in determining the relative strengths and weaknesses of each application submitted by the prospective medical cannabis growers and processors, and in scoring and ranking the applicants.” On February 15, 2019, Morgan State submitted its proposal to MMCC, and in mid-March, the Commission officially selected MSU as the third-party evaluator and notified MSU of its selection. At a public

Commission meeting on March 28, 2019, MMCC announced MSU's role as the third-party evaluator. On May 24, 2019, the Commission and MSU executed two Interagency Agreements – one governing review of grower license applications, and one governing review of processor license applications.

Following the May 24 application submission deadline, per the Interagency Agreements, the Commission conducted an “initial sift” of the applications, reviewing each one to verify that the application fee was received; that Parts A through D of the application and attachments were completed and submitted;⁷ and that redacted application materials were devoid of identifying information.

The application instructions directed applicants to submit two electronic copies of Parts A through D of the application: one redacted for trade secret and confidential financial data and one devoid of all “identifying information.” The instructions further directed applicants to submit three electronic versions of the application attachments: one unredacted copy; one copy redacted for trade secret and confidential financial data; and one copy redacted for evaluation and devoid of all “identifying information.” The instructions defined “identifying information” to mean: “(i) The Applicant’s name; (ii) The Applicant’s Business/Organization name; (iii) The name of any owner,

⁷ Parts A through C of the application requested the names, addresses, and contact information of applicant members, owners, investors, managing directors, employees, and contractors. Part D, the substantive portion of the application, asked applicants to describe their operational plan; safety and security training; safety and security procedures; horticultural or processor experience and training standards; standard operating procedures; business plan; and diversity plan. Applicants also submitted various attachments and supporting documentation, including a diversity attestation; certification of disadvantaged equity applicant status; personal net worth statement; certification of membership in the most disadvantaged groups in the medical cannabis industry; and owner and investor certification.

investor, agent, employee, contractor, or consultant; and (iv) The name of any corporate parent, subsidiary, and affiliate.”

In the course of their initial sift, Commission staff discovered that 90% or more of the applications did not comply with the redaction rules. On June 6, 2019, in light of the numerous redaction errors, as well as technical problems associated with the online submission portal that caused delays in uploading application materials on the May 24 deadline, the Commission decided to allow applicants to resubmit their applications between June 10, 2019, and June 24, 2019, at 5:00 p.m. EST, and to require all applicants, including those who had submitted applications by the original application deadline, to deliver their materials directly to the Commission’s headquarters on USB drives. The Commission announced the new application window in a press release on June 10 and in an email to each applicant that had submitted an application prior to the May 24 deadline.

The Commission received 213 applications (109 grower applications and 104 processor applications) by the June 24 deadline, all of which were from applicants that had also submitted payment and/or made bona fide attempts to submit an application by the May 24 deadline. The Commission did not accept any applications or application payments after June 24, 2019 at 5:00 p.m.⁸

On July 1, 2019, Commission staff began their initial sift of the resubmitted applications to determine whether they met the minimum requirements for evaluation. Commission staff found that about 40% of the applications had disqualifying redaction errors. The Commission met on

⁸ As noted above, we received an allegation that the Commission accepted an unspecified application after the deadline. We found no evidence to support this allegation.

July 11, 2019 to discuss this issue and voted to disqualify specific application materials containing redaction errors consistent with the instructions in the applications that each applicant was provided. If a document that was part of an application had a redaction error, the Commission rejected the document, and if the error was in Part D, which consisted of mandatory questions that all applicants were required to answer, the entire application was disqualified. Accordingly, the Commission disqualified 11 applications for failure to meet the redaction requirements or submit complete application materials. As a result, of the 213 applications submitted, 202 applications (103 grower applications and 99 processor applications) were accepted for evaluation.

Pursuant to the Interagency Agreements, MSU was responsible for evaluating questions worth up to 90 out of 100 points, which included a maximum of five points awarded to applicants that submitted a comprehensive diversity plan. Commission staff were responsible for scoring the remaining 10 points, which included questions related to Disadvantaged Equity Applicants (“DEA”) and Economically Disadvantaged Areas (“EDA”). The Commission employees involved in reviewing applications attended an in-person training regarding how to conduct the initial sift and how to fill out score cards related to the DEA and EDA questions. The training session lasted over an hour and covered the criteria for awarding points, the appropriate application documents to consult, and workflow among Commission staff. Commission staff also received written step-by-step instructions for conducting the initial sift and scoring the DEA and EDA questions.

The Commission staff completed their evaluations on July 15, 2019 and forwarded the redacted application materials to MSU for review. MSU’s evaluation team was led by Dr. Timothy Akers, Assistant Vice President for Research Innovation and Advocacy, with assistance from

Kimberly Williams, an information/data officer, and Ellis Brown, the Director of Community Related Economic Development.

Prior to receiving the application materials from the Commission, Dr. Akers had solicited 32 faculty, staff, and administrators (including Williams and Brown) across various departments and schools at MSU to serve as reviewers. As required by the Interagency Agreements, the reviewers were subject matter experts (“SMEs”) in the following areas: financial management, business operations; human resources; security; occupational safety; commercial horticulture and agriculture operations; commercial laboratory operations; pharmaceutical manufacturing operations; and communications.

Each reviewer signed a “Certification of Reviewer Expertise” form confirming that the reviewer had prior experience in conducting, serving on, reviewing, evaluating, and/or assessing proposal applications, curriculum reviews, evaluations, and/or other processes that required reviewing and scoring application materials. Each reviewer also signed a “Certification of Eligibility” form confirming that the reviewer did not have a direct or indirect financial interest in any State-licensed medical cannabis grower, processor, or dispensary, or any applicant for a medical cannabis grower, processor, or dispensary license; that the reviewer had no official or familial relationship with any applicant for a medical cannabis grower, processor, or dispensary license; and that the reviewer would not disclose confidential information or share application materials with any other person.

The MSU evaluation leadership team provided a two-page instruction sheet to each reviewer explaining how to fill out the evaluation score cards. Each evaluator was required to review and initial the score cards of their assigned grower and/or processor applications,

confirming that they would not conduct additional research on the applicants or applications, and that they would not discuss the applications with anyone, including other SMEs, other MSU staff members, and MMCC commissioners and employees. The reviewers were told that they should raise any questions or concerns with the MSU leadership team, consisting of Dr. Akers, Williams, and Brown.

Dr. Akers assigned three evaluators to each grower and processor application. None of the reviewers knew the identities of the other reviewers assigned to the particular application they were reviewing. After receiving their assigned applications, each reviewer was directed to review the applications and fill out the evaluation score cards; delete all application files from their computer; and email the score cards to Dr. Akers.

The reviewers were given two weeks to review their assigned applications. At some point during the evaluation period, Dr. Akers learned that a handful of reviewers were unable to complete their evaluations in the time allotted, and he reassigned those applications to a “clean-up team” he had formed that was drawn from among the other reviewers and was designed to assist reviewers with their evaluations as needed.

The evaluations were completed by August 15, 2019, at which point Dr. Akers and his team collected and aggregated all the scores. On August 31, 2019, MSU submitted its application evaluation materials to the Commission, including aggregate scores and rankings, individual reviewer scores and sub-scores, and reviewer score cards. MSU also provided the Commission with a final report that detailed its methodology, selection of SMEs, and evaluation criteria. The report also provided score analysis, including information about score distribution in each of the

scoring categories and sample reviewer comments on high- and low-scoring applications in each category.

After receiving the scores and rankings from MSU, Commission staff added the MSU scores (90 maximum points) with the MMCC scores (10 maximum points) to create a combined ranking of the applicants. The addition of MMCC's scores resulted in changes to the rankings; for example, two grower applicants that were top-ranked based on MSU's scores alone fell out of the qualifying range once MMCC's scores were accounted for in the combined rankings. Commission staff then shared the anonymized combined rankings and all redacted application materials with the Commission's final review subcommittee on September 4, 2019.

Over a two-week period, the application evaluation subcommittee reviewed the redacted grower and processor applications, the MSU report, and rankings. The committee had the power to change the rankings based on its review, but it did not do so.

Following this review period, on September 18, 2019, the Commission voted to approve the preliminary rankings submitted by the final review subcommittee. In a press release on September 19, 2019, the Commission announced its vote to approve the preliminary rankings of new grower and processor licenses, noting that minority and women-owned businesses had submitted more than 90 percent of the license applications. That same day, the Commission notified those applicants whose submission was among the highest-ranking applications. Almost immediately, the Commission began to hear that news was spreading regarding the identities of the top-ranked applicants. On September 22, 2019, the Commission sent a letter to each applicant that had not received qualifying rankings advising that the applicant was not in a position to receive pre-approval for a license.

After notifying unsuccessful applicants, the Commission began to hear of complaints regarding the application review process. On September 25, 2019, Delegate Darryl Barnes wrote to the Commission on behalf of the Legislative Black Caucus asking for a delay in the award of Stage One Pre-Approvals for grower and processor licenses. Delegate Barnes cited “significant issues and concerns” about the evaluation process and requested that the Commission verify that all applicants were “truthful in their disclosures about minority ownership, and their financial status.”

After its quarterly meeting on September 26, 2019, MMCC announced that it would delay the award of Stage One Pre-Approvals for grower and processor licenses. Also on September 26, the Commission posted a full list of the applicant rankings on its website, identifying applicants by number. Following the Commission’s announcement, Delegates Barnes and Cheryl Glenn met with close to a hundred license applicants on October 2. On October 4, 2019, the Legislative Black Caucus submitted a letter to the Office of the Attorney General requesting an official inquiry into allegations of bias in the application review process.

IV. Factual Findings

1. Former Commission Executive Director Joy Strand does not have any family relative who was affiliated with any license applicant in 2019.

In his open letter of October 4, 2019, Delegate Darryl Barnes requested that “[a]n official legal inquiry must be made to Joy Strand, former Executive Director [of the Commission], to disclose whether or not she has a relative who is a part of a team that applied for one of the

licenses.”⁹ During the course of our investigation, interviewees reported that they had heard different versions of this rumor; in one version, the relative was Strand’s daughter, and in another version, the relative was Strand’s in-law. In addition, multiple civil complaints filed against the Commission contain allegations that a relative of a Commissioner applied for or obtained a license.

Other than these unsupported allegations, we found no evidence that any relative of Strand’s was affiliated with a license applicant. Strand has stated in a sworn affidavit submitted under penalty of perjury in pending civil litigation that she is unaware of “any family members of mine, whether related by blood or as in-laws, who applied for a grower or processor license at the Maryland Medical Cannabis Commission or who are part of a group, company, or other organization seeking a grower or processor license from the Maryland Medical Cannabis Commission” and that she is “the only person in [her] family associated with the medical cannabis industry.”¹⁰ We interviewed Strand twice and questioned her in detail about the allegation that a relative of hers was affiliated with a license applicant. Consistent with her sworn affidavit, Strand denied that any relative of hers or her husband’s, including any daughter or daughter-in-law, was affiliated with a license applicant in any way, to her knowledge. Indeed, Strand has no living children or children-in-law.¹¹ We found Strand’s statements in this regard to be credible. Finally, we asked Strand’s successor as Executive Director, Will Tilburg, and all members of the Commission staff who were involved in reviewing applications whether they were aware of any

⁹ Letter from Del. Darryl Barnes to Zenita Hurley (Oct. 4, 2019). Ms. Strand formally left the Commission on October 1, 2019, and she later took a position with a licensee from the original application process that was not a candidate for a grower or processor license in 2019.

¹⁰ Affidavit of Joy A. Strand ¶¶ 6-7, *Nature’s Healing Concepts, LLC v. MMCC*, No. C-04-CV-19-000477 (Calvert Cir. Ct. Dec. 18, 2019).

¹¹ Strand had no role in developing evaluation criteria, nor any role in evaluating applications.

relative of Strand's being affiliated with an applicant. Tilburg and all of the Commission staff members that we interviewed were familiar with Strand, and none was aware of any family member of Strand's having been affiliated with a license applicant, nor did they mention being aware of any person affiliated with any applicant having a family relationship with a Commissioner.

2. We found no evidence that any license applicants had improper communications with MSU reviewers, MMCC staff, or MMCC Commissioners.

During our investigation, we heard indirect rumors that unspecified license applicants had had contact with unspecified application reviewers for purposes of improperly influencing the application review process. We thoroughly investigated this allegation through interviews with every top-ranking applicant; interviews with every person involved in reviewing applications at either MSU or MMCC; and review of emails from both MSU and MMCC. Our investigation uncovered no evidence reflecting any improper contacts between license applicants and anyone involved in reviewing applications, either at MSU or at MMCC.

a. Morgan State University

During our investigation, we heard vague rumors that applicants had improper contacts with individuals at MSU who were involved in reviewing applications. In one version of the rumor, a reviewer at MSU allegedly called applicants and demanded money in exchange for favorable treatment in the application process. In another version, an evaluator called an applicant in order to clarify an answer in an application. We found no evidence to substantiate any version of these rumors.

As an initial matter, it would have been logistically almost impossible for an applicant to contact an MSU reviewer for the purpose of influencing the review process. Other than the three

members of the leadership team – Dr. Akers, Williams, and Brown – who were introduced at a public MMCC meeting in March 2019, none of the MSU faculty and staff who reviewed applications were ever publicly identified. Some of the MSU reviewers did not even agree to participate in the review until shortly before mid-July when MMCC sent the applications to MSU. Even if an applicant somehow learned the identity of a reviewer, there would have been no way for an applicant to know which of the reviewers was assigned to review any particular application.

It would also have been difficult for an MSU reviewer to contact an applicant. All identifying information was redacted in the versions of applications that were sent to MSU by Commission staff.¹² An MSU reviewer would have needed to do substantial outside research to identify and contact an applicant. Although we cannot say that this would have been logistically impossible, we reviewed sample redacted applications and concluded that it would have been very difficult for a reviewer to identify license applicants and contact them directly.

Further, our investigation yielded no evidence that any such improper communications ever occurred. We questioned each of the top-ranked license applicants about whether they had had any communications with MSU reviewers. Each applicant credibly denied having had any communications with MSU reviewers – whether initiated by the applicant or by the reviewer. We also questioned 32 of the 33 MSU faculty and staff involved in reviewing applications,¹³ and we corroborated these interviews by reviewing relevant emails from each reviewer. Without

¹² One evaluator advised us that they saw the name of an applicant in one of the grower license applications they were reviewing, which they brought to the attention of Dr. Akers (none of the other evaluators who reviewed this particular application saw the reference, which was in an attachment to the application). The applicant was ranked 56th in the final scoring.

¹³ See *supra* note 4.

exception, each MSU evaluator denied not only having had any contacts with any applicants, but also having heard about any other reviewers contacting applicants. We found these denials to be credible.

The MSU leadership team emphasized to each reviewer that they should not conduct any outside research regarding applicants and that there would be consequences to doing so. At the top of every score card used by MSU reviewers to grade each application, a bolded warning appeared as follows:

THE EVALUATOR MAY NOT CONDUCT ANY ADDITIONAL RESEARCH ON THE APPLICANT OR THE APPLICATION. THIS INCLUDES CONDUCTING AN INTERNET SEARCH RELATED TO ANY APPLICANT OR APPLICATION. ANY OUTSIDE RESEARCH ON THE APPLICANT OR APPLICATION WILL RESULT IN A DISQUALIFICATION OF THE EVALUATOR FROM REVIEWING MEDICAL CANNABIS APPLICATIONS.

Dr. Akers reported to us that he and the other members of the MSU leadership team also told reviewers “a hundred times” not to contact anyone about the review process other than the three members of the leadership team. Several reviewers echoed this refrain in interviews with us.

In sum, we found no evidence of MSU reviewers improperly communicating with license applicants. To the contrary, we found substantial evidence giving us confidence that no such communications occurred, even if they could have occurred.

We did identify three communications between license applicants and MSU officials, but we did not find that they were improper or that they influenced the application review process.

Those communications were as follows:

1. On May 7, 2019, before the initial application deadline, an individual named Joe Amprey sent an email to Dr. Willie May, MSU’s Vice President for Research and Economic Development, asking for a call “to briefly update [him] on the status of our application.” Dr. May

supervised Dr. Akers and his team in his position as Vice President, but Dr. May was not personally involved in the application review project. Amprey and Dr. May spoke by phone, and on May 9, 2019, Amprey emailed Dr. May again and asked him to fill out certain forms such that Amprey could identify Dr. May as affiliated with Amprey's license application. Later the same day, Dr. May replied to Amprey's email, noting that he had recently learned that MSU would be evaluating the applications, and therefore, because of his position, he could not be affiliated with an applicant. Dr. May later forwarded the email exchange to Dr. Akers, and the two of them agreed that May should not affiliate with any license applicant. Other than a disappointed follow-up email from Amprey on May 10, there were no further communications between Amprey and Dr. May. Amprey's applicant entity, Mayorga Medicinals, ended up being the 48th-ranked grower applicant and the 72nd-ranked processor applicant.

2. On May 14, 2019, Dr. May and Jiangnan Peng, an MSU Professor of Chemistry, received an email from an individual named Marcus McKay on behalf of ViolaMD, a prospective license applicant. The email stated that ViolaMD was "pursuing licensure in Maryland to cultivate and process medical cannabis" and proposed a partnership between ViolaMD and MSU's Industrial Hemp Program that would involve ViolaMD sponsoring a scholarship program. The email stated that ViolaMD hoped to reference the proposed partnership with the MSU Hemp Program in its license application. A representative of ViolaMD stated to us that, at the time of this email, ViolaMD did not know of MSU's involvement in the license application review process and did not write the email with any intent to influence the review. We found these statements to be credible.

Dr. May's assistant replied to McKay with a standard email offering information about MSU's Hemp Program, including information about applying to that Program. Dr. May stated to us in an interview that he believed ViolaMD had been asking about applying to MSU's Hemp Program, which accepts applications from hemp growers. Dr. May told us that he did not connect the email from ViolaMD with the MMCC license application process or MSU's role in that process, and he did not communicate about the email with Dr. Akers. ViolaMD ended up being the 1st-ranked grower applicant and the 20th-ranked processor applicant.

3. Finally, on or around July 30, 2019, an individual named Herb Thompson had a phone conversation with Ellis Brown of MSU, in which Thompson stated that he and his partners had submitted a license application to MMCC. Thompson referenced MSU's role in reviewing applications.¹⁴ Brown immediately stopped the phone conversation, stating that he was not able to discuss anything related to license applications given MSU's role in the review process. At Dr. Akers' suggestion, Brown wrote a confirmatory email to Thompson, Akers, Williams, and Tilburg, in which he documented what had been said on the call and reiterated that he could not discuss any aspect of the application process. Although this communication occurred while MSU's review of applications was ongoing, in light of Brown's prompt, appropriate reaction and response, we do not find that the communication was improper.¹⁵

b. MMCC

We also investigated the possibility of any improper communications between license applicants and MMCC staff or Commissioners, although no one brought any specific allegations

¹⁴ There had been press coverage of MSU's role in the license application review process on July 18, 2019, shortly before Thompson's email.

¹⁵ Thompson's name did not appear in any of the redacted applications reviewed by MSU.

in this regard to our attention. We investigated this possibility with a significant piece of context in mind: in March 2019, Delegate Cheryl Glenn, in cooperation with the FBI, told at least one prospective license applicant that she could help his application get approved by bribing an MMCC employee. This supposed MMCC employee was completely fictitious, as the United States Attorney's Office explained in its plea agreement with Lance Lucas. At the government's direction, Delegate Glenn invented the fictional MMCC employee and referenced the employee in her conversations with Lucas, who had indicated that he was willing to (and ultimately did) bribe Delegate Glenn in exchange for her help obtaining a license. Delegate Glenn confirmed to us in an interview that she never had any actual communications with any MMCC employee about influencing the application review process. Nonetheless, apparently per FBI instructions, Delegate Glenn told at least one prospective license applicant – Lucas – that a corrupt MMCC employee was willing to influence the application process in exchange for money.

Aside from the fictitious MMCC employee, we found no evidence of any improper contacts between license applicants and MMCC staff or Commissioners. We questioned every top-ranked applicant for grower or processor licenses about any contacts with MMCC. We interviewed each of the four MMCC staff directly involved in reviewing applications: Christi Megna, Marla Rosado, Rebecca Jackson, and Aurash Soroosh. We also interviewed MMCC Executive Director Will Tilburg and reviewed a substantial number of his emails. And we interviewed MMCC Chair Brian Lopez as well as Commissioner Tiffany Randolph, who was involved in the Commission's final review of top-ranked applications in September 2019. None of these interviews or documents yielded any suggestion of improper contacts between license applicants and MMCC staff or Commissioners.

While the review process was ongoing, with the exception of Tilburg, none of the MMCC staff or Commissioners had access to applicant identities. At no point prior to voting on the rankings on September 18, 2019, were Commissioners advised of applicant identities,¹⁶ nor, in fact, were Commissioners ever advised of applicant identities.¹⁷ As a result, with the single exception of Tilburg, no individual Commissioner or Commission employee was in a position to influence the review process in favor of (or against) any specific applicant, and at no point in our investigation did we hear any allegation that Tilburg had improperly influenced the review process, nor did we find any evidence of such influence in our interviews with Tilburg and extensive review of his emails.

License applicants did have appropriate contacts with MMCC in several respects. First, before the license application window opened, MMCC hosted several public information sessions about the process, and Chairman Lopez provided similar general information about the application process to individual prospective applicants upon request. Neither the public information sessions, nor Chairman Lopez's briefings, continued once the license application review was underway. Second, several applicants sent emails to the email account that MMCC set up to accept applicant inquiries. Many of these emails related to problems that applicants encountered with submitting their applications around the time of the initial application deadline on May 24, 2019. Neither of

¹⁶ The Commissioners were not directly involved in reviewing applications at all until September 2019, after MSU and Commission staff had completed scoring their respective portions of the applications. From the time that Commissioners were presented with proposed rankings (which reflected both the 10 points awarded by Commission staff and the 90 points awarded by MSU), the rankings did not change before being finalized and publicly announced.

¹⁷ When MMCC staff conducted their initial sift of applications, if they saw a person's or an entity's unredacted name in an application, they needed to consult with Tilburg to determine whether it was the name of an applicant.

these types of applicant contacts with MMCC amounted to efforts to improperly influence the application review process.

3. Persons associated with MSU applied for medical cannabis licenses, but we found no indication that applicant affiliations with MSU resulted in any bias in the review process.

At least three persons associated with MSU applied for grower and/or processor licenses during the 2019 application process. Shelonda Stokes, a member of the MSU Board of Regents, is an owner of Objectiv, one of the top-ranking applicants for grower licenses, and also was listed as Objectiv's Chief Marketing Officer and Director of Diversity. Joan Carter Conway, a former State Senator and an MSU employee, was listed as the diversity coordinator for applicant Maryland Alternative Medicine, which was not a top-ranked applicant. And Ugonna Anyadike, a technical support specialist at MSU, was identified as the Director of IT for applicant Diversified Processing, which also was not a top-ranked applicant.

Objectiv's redacted application materials, which Stokes advised us she reviewed before their submission, omitted Stokes' name but contained multiple references to her appointment to, and membership on, MSU's Board of Regents. For example, Objectiv's diversity plan in Part D of its application noted that Stokes "currently serves on the Board of Regents for Morgan State University." In the application attachments, Stokes' biography also noted that she was "appointed" to the Board.

Stokes advised that she decided to include her Board membership in Objectiv's applications because she wanted to list her signature accomplishments and build her credibility as Objectiv's Director of Diversity. There was no discussion among the Objectiv team of removing the references to her service on the Board.

During her interview, Stokes said that she did not view her position on the MSU Board as a potential conflict because she did not learn that MSU would be responsible for evaluating the applications until after the initial Objectiv application was submitted on May 24, when it was announced in an article in the Baltimore Business Journal on July 18, 2019. She also said that she did not believe there was an issue with her position on the Board because her name had been redacted from the application. Stokes stated that she did not consider the possibility of a conflict by virtue of her Board membership until lawsuits were filed by some applicants in various circuit courts raising the issue after the list of applicants who were not highly ranked was published by the Commission on September 26, 2019. At that time, Stokes reported her status as an applicant to the Chairman of the MSU Board of Regents.¹⁸

Stokes was unable to reconcile her explanation, however, with a text message exchange with a former business associate, Terra Greene, on April 4, 2019, seven weeks before submitting the Objectiv application and more than three months before Stokes claimed to have first learned about MSU's role. Beginning in December 2018, Stokes and Greene had been discussing the possibility of associating themselves with prospective license applicants. In the text exchange on April 4, 2019, Stokes raised the possibility of a conflict of interest if she were to be referenced in an application while also serving as an MSU Regent. Specifically, after Greene texted Stokes to ask for Stokes's biographical information for possible inclusion in an application for a particular

¹⁸ Stokes's delay in notifying the Board of her role as an applicant arguably violated the MSU Board of Regents protocol, which provides in relevant part:

Regents at all times have a fiduciary duty to serve the best interests of the University as a whole, rather than any personal interest or that of a particular internal or external constituency. In this regard, Regents should avoid any situation that could cause even the appearance of a conflict of interest and any potential or actual conflict should be disclosed to the Board Chair.

applicant, Stokes responded: “I’m not sure that u need to send my bio. If they r using Morgan, I should not be listed on the team cuz it would disqualify y’all.”¹⁹

When asked about this text exchange, Stokes acknowledged that her position on the Board could create a potential conflict of interest if she were to be referenced in an application. However, Stokes maintained that, at the time of the text exchange with Greene on April 4, and when Objectiv submitted its application on May 24, she had heard only in some undefined manner that MSU *might* be involved in reviewing applications – not that its role was official.²⁰ Regardless, as noted above, Stokes’ realization that there might be a conflict did not crystallize until the Fall of 2019, when the lawsuits were filed raising the allegation.

We also interviewed former State Senator Joan Carter Conway who was listed as the diversity coordinator for applicant Maryland Alternative Medicine, which had applied for both grower and processor licenses, but was not highly ranked for either license. The application did not reference Senator Conway by name or title, but it referenced a diversity coordinator who “currently works at Morgan State University.”²¹ Senator Conway told us that she gave the principals of Maryland Alternative Medicine permission to list her as the diversity coordinator,

¹⁹ Terra Greene declined our request to be interviewed, but she did respond to written questions we submitted to her through counsel for an applicant that she is associated with. Greene confirmed the April 4 text exchange with Stokes, and she said that she learned that MSU would be evaluating the applications in a meeting with Stokes and this applicant earlier that day to discuss their possible association with the applicant.

²⁰ As noted above, MSU’s role in evaluating applications was announced at a public MMCC meeting on March 28, 2019, although the announcement did not receive press coverage at the time. In addition, MSU’s role in evaluating applications was mentioned at a meeting of the Finance and Facilities Committee of the MSU Board of Regents on May 7, 2019. Stokes was on the Finance and Facilities Committee and was present at the meeting.

²¹ Senator Conway serves as “deputy special assistant” to the President of MSU, a position she took in January 2019.

telling them that if they were awarded a license, she would make a final decision on whether to serve in the role. Senator Conway reported that she had no involvement in preparing the license application, nor did she review it before it was submitted, although she understood that identifying information would be redacted. Senator Conway did not learn that MSU would be evaluating applications until after the application was submitted.²² Maryland Alternative Medicine’s grower license application was ultimately ranked 34th, and its processor license application was ranked 30th.

The affiliations between applicants and these three MSU employees and officials – Stokes, Conway, and Anyadike – may have violated a provision of the Commission’s enabling legislation, Health-General, § 13-3302(h) (“Third Party Assistance in Evaluation of Applicants”), which was added as part of HB2, and provides:

(h) If the Commission retains a third party to assist the Commission in the evaluation or ranking of applications for licensure under this subtitle, the Commission may not retain the services of a person that:

...

(2) *Has an official relationship with a person who holds a license under this subtitle or an applicant for licensure under this subtitle.* (emphasis added).

The term “official relationship” is not defined in § 13-3301 or in the implementing regulations. However, the statutory section clearly is designed to avoid any potential conflicts for third-party reviewers, and MSU arguably has an “official relationship” with Stokes in her capacity as a

²² Senator Conway said that after the application was submitted, Dr. Akers’ office reached out to her to schedule an interview regarding what she assumed was a topic unrelated to cannabis license applications. In an abundance of caution, she declined to meet with him. She later learned that, in fact, the purpose of the meeting was unrelated to the license evaluation process.

member of the Board of Regents, and with Conway and Anyadike in their capacity as MSU employees.²³

Several other applications contained references to Morgan State that did not suggest any possible “official relationship.” These references most often appeared in the “Diversity Plan” section of the application, and included proposed partnerships with MSU’s Industrial Hemp Program, the Division of Research and Economic Development, and the Tea Pad Scholarship, among other offices and programs. Multiple applications proposed career fairs, scholarships, internship programs, and other recruitment efforts at HBCUs, including Morgan State. For example, top-ranked grower applicant ViolaMD stated in its Diversity Plan that it had created a scholarship program in partnership with an HBCU in Florida and was committed to creating a similar program in partnership with MSU’s Hemp Program.²⁴ One application included a letter from a development officer at Morgan State, acknowledging a charitable donation to the MSU Scholarship Fund. We found these types of references to MSU and other HBCUs to be unremarkable given that the application expressly encouraged applicants to demonstrate their commitment to diversity, including “diversity-related outreach or events the Applicant will conduct to support its diversity goals.”

²³ We note that there are practical issues with applying this statutory provision when, as was the case here, MMCC retained MSU as the third-party evaluator before the applications had been submitted. At the time MMCC “retain[ed] the services of” MSU, neither MMCC nor MSU could have known who all of the “applicant[s] for licensure” would be, or whether any of the applicants would have “an official relationship” with MSU. § 13-3302(h)(2). Further, an applicant with a relationship with MSU may not have known about MSU’s role until after the application was submitted; although MSU’s role was announced at an MMCC meeting before the application deadline, *see supra* note 20, MSU’s role did not receive press coverage until July, after the application deadline.

²⁴ As noted above, a representative of ViolaMD emailed two MSU officials about this proposed scholarship program. ViolaMD credibly told us that, at the time, it did not know MSU would be reviewing applications.

We found no evidence that any of these MSU references affected how applications were evaluated and scored.²⁵ We studied scoring trends among each of the evaluators who graded applications referencing MSU, and we found no apparent indications that MSU references resulted in more favorable scoring.²⁶ Only a few innocuous MSU references were even noticed by any of the reviewers assigned to read the application, and only one evaluator noticed a reference to an applicant's affiliation with MSU. Evaluators told us they understood they were supposed to raise any issues that arose while evaluating applications with the leadership team, and with one exception, none of the evaluators recalled raising any MSU references with the leadership team.

The one exception was evaluator Kimberly Williams, herself a member of the leadership team, who noticed the reference to a member of the MSU Board of Regents in the Objectiv application.²⁷ Williams brought this reference to the attention of Dr. Akers, who told her to continue scoring the application and that he would handle the issue. Williams credibly told us that the MSU Board reference did not affect her scoring. Williams did not know the identity of the referenced Board member, and she told us that she would not have recognized the name "Shelonda Stokes" even if it had been unredacted.

²⁵ Some evaluators told us that a reference to an HBCU could have been relevant to their assessment of an applicant's commitment to diversity, but that they would have viewed Morgan State no differently from any other HBCU in that respect.

²⁶ Indeed, applicants Maryland Alternative Medicine and Diversified Processing were ranked far below the cutoffs to be considered for Stage One Pre-Approvals.

²⁷ Brown and MMCC Executive Director Tilburg both recall Dr. Akers calling Tilburg to advise about a different reference to MSU in an application: a proposed internship program in partnership with MSU. *See infra* page 34 & note 30.

4. Applicants' affiliations with MSU were not brought to MMCC's attention before the Commissioners voted to approve the applicant rankings.

During their initial sift of the applications designed to redact any identifying information before sending them to MSU to review, MMCC staff did not search for references to MSU and each of the three references to current MSU officials or employees (who, again, were not identified by name) was unredacted in the version of the application that MMCC sent to MSU to review.²⁸ Prior to the applications being transmitted, MMCC and MSU did not discuss the possibility that applications might reference current MSU employees or officials, or whether any such reference would present a conflict of interest. MMCC and MSU did discuss potential conflicts of interest, generally, but those discussions were focused on the MSU reviewers, each of whom was required to sign a form certifying that the reviewer had no relationship with any cannabis licensee or license applicant.²⁹ Nonetheless, leadership of both MMCC and the MSU review team told us that it would have been their shared expectation that MSU would alert MMCC if any applications referenced affiliations with MSU.

As noted above, only Williams recalled advising Dr. Akers of a reference to MSU in an application: the reference to MSU Board of Regents membership in the Objectiv application. Dr. Akers vaguely recalled relaying the information to Tilburg at the Commission, and that Tilburg told him to continue scoring the application. But Dr. Akers told us that he could not remember whether he spoke with Tilburg directly or instructed Williams to do so, and he could not recall

²⁸ Also unredacted were many of the more innocuous and unremarkable references to MSU noted above. See *supra* page 31.

²⁹ The certification form was modeled on Health-General, § 13-3302(h), the provision referenced above, and it required each reviewer to certify the absence of an "official relationship" with any license applicant.

whether the conversation happened by phone or email. There is no email record of any such communication. Williams told us that, after she initially brought the MSU Board reference to Dr. Akers' attention and he told her that he would handle it, she does not recall discussing it again. She does not recall participating in any communication to Tilburg about the issue.

Tilburg remembers that Dr. Akers called him about a different reference to MSU in an application: an applicant had proposed to create an internship program in partnership with MSU.³⁰ Tilburg said that he did not learn that an application referenced a member of the MSU Board of Regents until receiving a phone call from an Assistant Attorney General on September 25, 2019, after the evaluation process was completed and applicants had been notified whether or not they were highly-ranked. In the call, the Assistant Attorney General advised Tilburg that she had been told that Stokes, a Board of Regents member, was one of the highly-ranked applicants. Considering all the evidence, we conclude that no one at the Commission was aware of the Stokes relationship, or any relationship between MSU employees and applicants, until September 25, which was after the Commission had voted on the final application rankings.

5. We found no evidence that Delegate Glenn improperly influenced the license application review process, including to help any particular license applicant.

In January 2020, former Delegate Cheryl Glenn pled guilty to multiple federal crimes in which she admitted that she accepted bribes in exchange for using her position of influence to help

³⁰ Brown similarly recalls participating in a phone call in which Dr. Akers told Tilburg about an application referencing a "partnership" of some sort. Tilburg recalls telling Dr. Akers that there was no problem with an application referencing an internship program in partnership with MSU, but that Dr. Akers had done the right thing in bringing it to the Commission's attention. Tilburg told us that, at the end of the call, he believed the clear understanding between himself and Dr. Akers was that, if Dr. Akers became aware of any additional references to MSU in applications, he should bring them to the Commission's attention as well.

individuals obtain favorable legislation and other benefits related to medical cannabis. Delegate Glenn has long been an advocate for medical cannabis in Maryland, and her advocacy often intertwined with MMCC in addition to her legislative duties. Delegate Glenn sponsored the original legislation that created MMCC, and pursuant to that legislation, the Commission is named for Delegate Glenn's mother, Natalie M. LaPrade. Delegate Glenn also sponsored HB2, the 2018 legislation designed to increase diversity in the medical cannabis industry, which triggered the 2019 license application process.

Many of the individuals we interviewed expressed a general concern that Delegate Glenn may have used her position to improperly influence the 2019 license application process. We investigated two areas of possible concern with respect to Delegate Glenn: her purported role in creating the emergency MMCC regulations that implemented HB2, and any efforts to influence the process on behalf of specific applicants. After a thorough investigation, which included an interview of Delegate Glenn with her counsel and an Assistant United States Attorney present, we found no evidence suggesting any improper influence by Delegate Glenn in connection with either of these two areas of possible concern.

a. Emergency Implementing Regulations for HB2

During the summer of 2018, the Commission developed emergency implementing regulations to govern review of applications for the grower and processor licenses that had been authorized by HB2. The regulations were approved by the Commission on September 27, 2018 and took effect on November 13, 2018.³¹ The regulations allocated 15 percentage points in the

³¹ The regulations are codified at COMAR §§ 10.62.08.05(I)(6) (grower applicants) and 10.62.19.04(I)(6) (processor applicants).

application review process across three categories aimed at diversifying the pool of licensees: five points were to be awarded based on an applicant's "diversity plan," five points were to be awarded to "disadvantaged equity applicants," and five points were to be awarded to applicants whose owners, employees, and contractors live in an "economically disadvantaged area."³² These categories, and the method by which the points were to be awarded in each category, are described in greater detail in the regulations themselves and in a press release that the Commission issued when it voted to approve the regulations.³³ The committee that developed the emergency regulations consisted of MMCC Executive Director Will Tilburg, MMCC Commissioners Brian Lopez, Tiffany Randolph, and Sandy Washington, and Delegate Glenn, who participated "ex officio."

We focused on Delegate Glenn's role in creating the emergency regulations because the agreed statement of facts in support of her guilty plea indicates she sought and accepted payments in exchange for working to ensure that the emergency regulations gave priority to local Maryland businesses.³⁴ Our investigation revealed, however, that Delegate Glenn's promises to ensure the regulations provided this priority were only that—promises designed to extract bribes. In fact, she was not involved in the development of the regulations, nor did she exert any influence in their

³² The other 85 points were carried over from existing regulations.

³³ See Maryland Medical Cannabis Commission, *MMCC Diversity Regulations* (Sept. 27, 2018), https://mmcc.maryland.gov/Documents/10.25.2018%20WT%20MMCC%20Emergency%20Regs_Website%20Posting.pdf

³⁴ In her plea agreement, Delegate Glenn admitted that an associate told her in August 2018 that a certain businessperson would be willing to pay her in exchange for getting laws changed so as to give priority to local Maryland businesses when competing for medical marijuana licenses. Plea Agreement at 13-14. In October 2018, shortly after the emergency regulations had been approved by the Commission, Delegate Glenn brought a copy to a meeting with the associate, claimed "'I got this shit done' and 'it took a lot of work,'" and requested a "personal loan" of \$20,000 from the businessperson. *Id.* at 15.

ultimate substance. According to other participants on the committee that developed the emergency regulations, Delegate Glenn played no actual role in developing the regulations in spite of her formal *ex officio* position. Draft versions of the emergency regulations were not shared with Delegate Glenn, and she was deliberately excluded from communications while the regulations were being developed out of a concern that her presence might endanger the Commission's deliberative process and attorney-client privileges.

Further, the final, approved emergency regulations actually *removed* language giving priority to Maryland residents, which had been in the original regulations, but was removed after a disappointed applicant sued the Commission, challenging this preference for Maryland residents under the Dormant Commerce Clause of the U.S. Constitution. The 2018 emergency regulations removed the preference for Maryland residents, among other factors, and reallocated the 15 percent to the three diversity categories referenced above.

b. Actions on Behalf of Individual License Applicants

We investigated the possibility that Delegate Glenn may have influenced the license application review process on behalf of specific applicants. We questioned Delegate Glenn regarding any contacts she may have had with any license applicants or with anyone affiliated with the Commission during the period when applications were being reviewed. We asked each of the top-ranked license applicants whether they had had any discussions with Delegate Glenn regarding their applications or had heard of any other applicants doing so. We asked each of the MMCC staff members who reviewed license applications whether they had had any communications with Delegate Glenn. We questioned Executive Director Will Tilburg and Chairman Lopez at length about their communications with Delegate Glenn, both before and during the license application

review process. And we questioned Lance Lucas, who recently pled guilty to federal offenses arising from his efforts to bribe Delegate Glenn on behalf of potential cannabis license applicants, about whether he had any direct contacts with MMCC staff or Commissioners, or any other discussions with Delegate Glenn about outreach to MMCC.

Our investigation uncovered no evidence that Delegate Glenn improperly influenced the license application review process to favor any applicants, including those who were brought to her attention by Lucas.³⁵ Before applications were submitted on the May 24 deadline, Delegate Glenn corresponded frequently with Executive Director Tilburg and Chairman Lopez, including arranging for prospective license applicants to receive general information about the application process. And after many applicants experienced problems submitting their applications at the initial submission deadline of May 24, 2019, Delegate Glenn communicated with Executive Director Tilburg about applicants' concerns. But from the time applications were submitted on June 24, 2019 until the review process was complete – during which time Delegate Glenn was already cooperating with the FBI – Delegate Glenn's communications with MMCC about the application process were limited to receipt of an email from Executive Director Tilburg to Delegate Darryl Barnes and Delegate Glenn with a general update after the applications had been sent to MSU that did not reference any individual applications.

Finally, in late September and early October 2019, after the application review process was complete, Delegate Glenn advised Tilburg of a series of concerns about the process, many of which had been raised with her by individual applicants, but these communications occurred after the

³⁵ Other than his meetings and conversations with Delegate Glenn, Lucas had no communications with any Commission member designed to influence the award of a license.

final applicant rankings had been publicized and the review process was no longer subject to influence.

V. Conclusion

As noted earlier, the Commission and its staff were forthcoming and transparent in providing us with all the information we requested and being available for interviews, as well as helping to facilitate interviews of other third parties. The same applies to MSU and its representatives who were equally transparent and helpful. We thank them for their cooperation in preparing this report.

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