



U.S. Department of Justice

*United States Attorney's Office
District of Nevada*

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February 23, 2017

Duke Rodriguez
Ultra Health, LLC

**Re: Marijuana Manufacturing Operation on Moapa Indian
Reservation**

Dear Mr. Rodriguez:

Our office is aware of an upcoming event scheduled to take place on the Moapa Indian Reservation on March 4-5, 2017, that involves the transport, possession, use, and distribution of marijuana. As you are aware, the Moapa Indian Reservation is "Indian Country" as defined by 18 U.S.C. § 1151. The transport, possession, use and distribution of controlled substances, including marijuana, is prohibited by 21 U.S.C. § 841. Additionally, 21 U.S.C. § 856 prohibits, inter alia, profiting from, using, maintaining, managing, or controlling, any place for the purpose of manufacturing, distributing, storing or using a controlled substance.

I am informed that the tribal council approved the planned marijuana event referred to as the 2017 High Times Cannabis Cup because it was under the impression that the so-called "Cole Memorandum" and subsequent memoranda from the Department of Justice (the "Department") permit marijuana use, possession and distribution on tribal lands when the state law also permits it. Unfortunately, this is an incorrect interpretation of the Department's position on this issue.

The Cole Memorandum of 2013 and the subsequent memorandum to United States Attorneys dated October 28, 2014 (the "Guidance Memorandum") are merely meant to aid the various United States Attorney's offices and provide them guidance in the exercise of their prosecutorial discretion on a case-by-case basis. The memoranda are not laws or regulations, and they do not create any rights that may be relied upon by any person. Marijuana remains illegal under federal law. The

Department's guidance to United States Attorneys in these memoranda does not (and cannot) authorize the production, cultivation, transport, distribution or sale of marijuana on tribal lands. Instead, it sets forth federal priorities to be considered by United States Attorney's offices in determining whether to prosecute a particular marijuana case. Moreover, both the Guidance Memorandum and the Cole Memorandum to which it refers explicitly state that even where none of the listed factors are present, federal investigation and prosecution may still be appropriate. Nothing in either the Policy Statement or the Cole Memorandum alters the authority or jurisdiction of the United States to enforce federal law in Indian Country.

The Department remains committed to enforcing the Controlled Substances Act consistent with its enforcement priorities and in a manner that seeks to focus limited investigative and prosecutorial resources to best address the most significant public health and public safety threats. Pursuant to the Guidance Memorandum, I have consulted with the tribal governments on a government-to-government basis about this issue to determine an appropriate local enforcement response in line with the priorities described in guidance issued by then-Deputy Attorney General James M. Cole to all United States Attorneys' Offices regarding marijuana enforcement and taking into account local circumstances.

Following our discussions with members of the Moapa Band of Paiutes and their attorneys, I was informed that the event organizers, including High Times, reached an agreement with the tribe to scale back the event and prohibit the use/distribution of cannabis and cannabis products. It is my understanding that pursuant to this agreement, the event will include the scheduled musical events, seminars, arts and crafts, but no cannabis or cannabis products will be at the event. It is also my understanding that this change in the event has been communicated to attendees.

As of the writing of this letter, the website for the event (<https://www.cannabiscup.com/las-vegas>) does not mention the prohibition on cannabis and cannabis products. In fact, the website advertises several activities at the event that, if they proceed, would be contrary to our understanding of the agreement between the Tribe and the festival promoters and would violate federal law. It appears High Times social media accounts continue to promote the event without mentioning that cannabis will no longer be permitted.

Because of the contradiction between what we understand to be your agreement with the tribe and your promotional information about the event, I respectfully request that you confirm that you have agreed with the tribe not to allow cannabis and cannabis products at the event. I also request information about how the narrowed "non-cannabis" scope of the festival has been communicated to attendees and vendors. Please respond no later than Tuesday, February 28, 2017.

Please be advised that nothing in the Guidance Memorandum or the Cole Memorandum alters the authority or jurisdiction of the United States to enforce federal law in Indian Country or elsewhere. Accordingly, the United States Attorney's Office for the District of Nevada will apply the eight factors in the Guidance Memorandum to the production, cultivation, transport, distribution or sale of marijuana, whether for medical or any other purpose, on the Moapa Indian Reservation.

Sincerely,



DANIEL G. BOGDEN
United States Attorney

cc. Michael Mushkin