

Name: _____

Street: _____ No. _____

City: _____, CA

Zip Code: _____

Phone: [_____] _____ - _____

**BEFORE THE FRESNO COUNTY BOARD OF SUPERVISORS
APPEAL OF ADMINISTRATIVE FINES AND PENALTIES**

In the matter of

) Case No.: _____

)

) Citation No.: _____

)

_____,
[Print name]

)

) **REQUEST TO DISQUALIFY THE FRESNO
COUNTY BOARD OF SUPERVISORS**

)

Appellant

)

)

)

)

Appellant requests that the Fresno County Board of Supervisors (“Board” hereinafter) issue a resolution, recusal or staff order disqualifying the Board, and its individual members, from participating in this matter. This request is made on the grounds that Fresno County Supervisors Debbie Poochigian, Andreas Borgeas, Henry Perea, Brian Pacheco and Buddy Mendes, sitting as a hearing body in their official capacities as Board members, and also as individuals, cannot accord a fair and impartial hearing or consideration in this matter, as set forth in the supporting declaration, which is attached hereto.

Dated: _____, 2015

By: _____

[Sign your name here]

[Print your name here]

//

//

DECLARATION IN SUPPORT OF REQUEST FOR DISQUALIFICATION

I, _____ [name of appellant], the appellant in this matter, declare that Fresno County Supervisors Debbie Poochigian, Andreas Borgeas, Henry Perea, Brian Pacheco and Buddy Mendes, sitting as the Board or hearing officers in their official capacities, and also as individuals, cannot accord a fair and impartial hearing or consideration on this matter, for the following reasons:

1. Based on past practice, the above-named individuals can and will attempt to ascertain facts and/or initiate criminal investigations that fall outside the limited scope of review in Ordinance 15-003. Such Board interrogation in my case could violate my Fifth Amendment right against self-incrimination.

2. I will not receive equal treatment under the law because the Board has previously reduced cannabis cultivation fines based on the Board's shifting legal definitions of "culpability" and "responsible party." Such arbitrary reductions are not authorized by the specific language of Ordinance 15-003.

3. I will not receive equal treatment under the law because the Board members named above enacted Ordinance 15-003, which the Board claims to authorize summary abatement without advance notice; issuance of fine citations without notice, including the citation listed above; and adversarial appeal hearings that are heard by Board members instead of by a neutral hearing officer, which violates California statutes and the California and U.S. constitutions.

4. I will not receive equal treatment under the law because the Board has previously imposed excessive fines on medical cannabis patients, non-cultivating residents and non-resident property owners, regardless of whether any evidence exists that they actually "caused or contributed to" the violation.

5. My due-process rights will be violated because no notice to abate the alleged nuisance condition was issued before the plants were removed and the fine was imposed, and the evidence against me will primarily consist of unsworn, hearsay testimony, as has been the case at previous Board appeal hearings.

6. The above-named individuals expressed actual bias toward medical cannabis patients during the enactment of Ordinance 15-003, and subsequent appeal hearings, by accusing them of illegal drug sales without providing evidence in support of such allegations, and without advising appellants that their statements can be used against them in later criminal and/or civil proceedings.

7. I hereby claim and assert that Ordinance 15-003 is unconstitutional, both facially and as applied.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Fresno County, California, on this date.

_____, 2015 [date] _____ [signature]

Appellant