

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

\_\_\_\_\_ )  
 SHANNON O’BRIEN, Chair of the )  
 Massachusetts Cannabis Control )  
 Commission, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 DEBORAH GOLDBERG, Treasurer )  
 and Receiver General of the )  
 Commonwealth of )  
 Massachusetts )  
 (in her official capacity), )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Civil Action No. 2384CV02183

**AFFIDAVIT OF CHAIR SHANNON O’BRIEN**

I, Shannon O’Brien, hereby depose on oath and state the following based on my personal knowledge:

**My Appointment as Chair**

1. I reiterate my allegations in my Verified Complaint.
2. Prior to my appointment as Chair of the Cannabis Control Commission (“CCC”), Treasurer Deborah Goldberg (“Treasurer Goldberg”) called me to let me know she was not going to choose a new Chair from the pool of applicants she had received (this included Commissioner Nurys Camargo (“Commissioner Camargo”). She asked me to apply and extended the application period so I could apply for the Chair position.
3. I never made public or private statements that Commissioner Camargo was not qualified to serve as Chair of the CCC.

4. During a call in September, Treasurer Goldberg indicated that she was annoyed that Commissioner Camargo and her allies had pressured her to appoint Commissioner Camargo as Chair, and further told me that she never would have appointed Commissioner Camargo as Chair of the CCC.

5. Treasurer Goldberg was criticized by some cannabis activists for failing to appoint a person of color to be the Chair. Treasurer Goldberg expressed annoyance with me during a September call for having truthfully explained to a reporter that I applied for the position because she had asked me to do so.

6. I was recently told by a mutual friend of Treasurer Goldberg that she made a statement separately that she was annoyed at Commissioner Camargo's attempt to put pressure on her to be appointed and she believed she was not qualified to be the Chair.

7. I participated in an interview in January 2023. The reporter asked me about the Treasurer's decision to appoint me instead of the other candidates.

8. In order to protect the Treasurer and avoid embarrassing her, and to avoid embarrassing other applicants, I focused my response on my personal qualifications that met CCC's enabling statute which required the Treasurer's appointee to have a background in corporations, banking and public finance. I focused my answer on my own qualifications and noted that it was my understanding that Treasurer Goldberg felt that I was the only applicant who did not possess one qualification, but I checked all three statutory "boxes."

**First Investigation**

9. On February 10, 2023, Justin Shrader ("Shrader"), the CCC's acting CPO at the time (currently the CCC's Director of Human Resources), informed me that a HR complaint had

been filed against me, that it was being investigated, and the HR complaint is “confidential to protect [me] and others.”

10. Shrader further informed me that he “will work with the investigator to schedule meetings with the parties involved. I will share the initial reports with the outside investigator.”

11. This HR complaint was filed in response to an earlier email I sent to the Executive Director Shawn Collins (the “Executive Director”) and Shrader flagging that Cedric Sinclair—the CCC’s Chief Communications Officer—had repeatedly attempted to undermine me even attempting to have me removed as a Commissioner.

12. On February 22, 2023, Shrader informed me that the CCC was hiring an independent investigator (“Investigator 1”) to investigate the complaint against me, as well as my complaint against Sinclair.

13. I was interviewed by Investigator 1 on March 17, 2023. I was not permitted to have my attorney present or record the interview.

14. After two months passed, with no updates on the status of the HR complaint against me, or my complaint, Shrader informed me on May 26, 2023 that a new HR complaint was filed against me alleging that I made improper comments with “racial undertones[.]” Shrader then informed me that this new complaint would be forwarded to Investigator 1.

15. Commissioner Camargo filed this second complaint against me.

16. I was interviewed by Investigator 1 again on July 26, 2023. I was not permitted to have my attorney present or record the interview.

17. Investigator 1 issued their report of her investigation to the CCC on September 2, 2023. I was not notified.

18. I received a copy of the Investigator 1's report on September 7, 2023 for the first time from Sarah Kim, Deputy Treasurer and General Counsel ("Deputy Treasurer Kim"), and not from anyone at the CCC.

19. I disagree with Investigator 1's findings as it is filled with inaccuracies and improper conclusions.

20. Investigator 1 did not disclose the identity of all witnesses they interviewed, and only interviewed witnesses that Shrader felt would be favorable to Sinclair and Camargo. I gave Investigator 1 a list of individuals that would support my position. None were interviewed.

21. Treasurer Goldberg also blocked an employee at the Office of the State Treasurer and Receiver General from participating in the first investigation. This individual has exculpatory information that would support me.

### **Second Investigation**

22. In August, the CCC—through Shrader—initiated a second investigator to investigate the Executive Director's allegations against me.

23. On August 31, 2023, the Executive Director's counsel served a demand letter on the CCC. I was not provided a copy until September 7, 2023, which I received from the Treasurer's office and not by the CCC.

24. I was interviewed by the second investigator ("Investigator 2") on October 23, 2023.

25. I was permitted to have my counsel present while I was interviewed.

26. Investigator 2, at my request, recorded our interview via audio.

### **Interactions with the Treasurer's Office While Chair**

27. Treasurer Goldberg and I participated in a meeting with the Treasurer on April 27, 2023 in which I was asked to report on the state of the CCC. I recounted a number of troubling problems at the CCC. I informed Treasurer Goldberg of the embarrassing release of private data in March of 55,000 cannabis agents which resulted in the Executive Director terminating the CCC's General Counsel. This, along with failure to improve testing to protect consumers and public safety, were just some of the issues sparking an April Globe editorial pointing toward the need for greater accountability and transparency at the CCC. I also discussed the bill to place an Inspector General within the CCC that many State Representatives and Senators deemed necessary to fix the growing problems at the CCC.

28. During this Zoom meeting I also stated that the Executive Director, although a very capable policy specialist, was an ineffective manager and might ultimately have to be replaced.

29. Deputy Treasurer Kim became visibly upset. She objected, strongly defending the Executive Director.

30. I believe this got right back to the Executive Director through Deputy Treasurer Kim. Deputy Treasurer Kim and the Executive Director had a close professional and personal relationship. They both previously served in Treasurer Goldberg's office at the same time. The Executive Director also reported to Deputy Treasurer Kim when she served as Interim Chair of the CCC before I was appointed.

31. My relationship with the Executive Director deteriorated after this meeting.

32. After the CCC's public meetings on July 27<sup>th</sup> and 28<sup>th</sup>, the following Monday (July 31) Treasurer Goldberg summoned me to meet where the Treasurer complained that I announced

the Executive Director was leaving, alleged that I was “hysterical” at the public meeting (which I deny) and further alleged that I lost the CCC’s staff confidence, which I also deny.

33. Treasurer Goldberg’s comments were directed solely at my treatment of the Executive Director. The first investigation had not been concluded, nor was it discussed at this meeting. Treasurer Goldberg demanded my resignation and I refused.

**Relevant Events Since August**

34. After I brought this lawsuit, on October 4, 2023, Treasurer Goldberg sent me correspondence that states, in part, “[p]ursuant to G.L. c. 10, § 76(d), I write to provide a statement of the reasons for your suspension with pay as a commissioner of the Cannabis Control Commission (“Commission”). As detailed below, you have not been removed as Chair. My consideration of the matters that led to your suspension with pay continues.”

35. A true and accurate copy is attached as *Exhibit 1*.

36. On November 22, 2023 (“November 22 Notice”), through my attorneys, Treasurer Goldberg sent me a new letter.

37. A true and accurate copy is attached as *Exhibit 2*.<sup>1</sup>

38. The November 22 Notice indicates:

- That Investigator 1 will not be available at the December 5 hearing;
- The Treasurer will only consider Investigator 1’s report at the December 5 hearing;
- That Investigator 2 has not completed their report; and
- That Treasurer Goldberg “does not intend to further postpone” the December 5 meeting.

**[SIGNATURE ON NEXT PAGE]**

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<sup>1</sup> The Investigator’s names have been redacted to preserve their anonymity.

Signed under the penalties of perjury this 30<sup>th</sup> day of November, 2023.

DocuSigned by:  
*Shannon O'Brien*  
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Shannon O'Brien

# EXHIBIT

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*Deborah B. Goldberg*  
*Treasurer and Receiver General*

*The Commonwealth of Massachusetts*  
*Office of the State Treasurer*  
*One Ashburton Place*  
*Boston, Massachusetts 02108-1608*

October 4, 2023

*Via Email (shannonpobrien@yahoo.com) and FedEx*

Shannon O'Brien, Chair  
Commonwealth of Massachusetts  
Cannabis Control Commission  
6 Danecca Drive  
Whitman, MA 02382

Dear Chair O'Brien:

Pursuant to G.L. c. 10, § 76(d), I write to provide a statement of the reasons for your suspension with pay as a commissioner of the Cannabis Control Commission ("Commission"). As detailed below, you have not been removed as Chair. My consideration of the matters that led to your suspension with pay continues. Accordingly, no removal will occur until I complete my consideration of the matters and you have been provided an opportunity to be heard as required by § 76(d).

Section 76(d) states that "[b]efore removal, the commissioner shall be provided with a written statement of the reason for removal and an opportunity to be heard." This letter sets forth the current reasons, which are sufficiently serious to warrant your suspension with pay as a commissioner and Chair of the Commission. It serves also as a preliminary statement of the reasons that it may be necessary to remove you as a commissioner and Chair pursuant to c. 10, § 76(d). To be clear, before suspending you with pay I notified you directly and through your attorney of my concerns regarding each of the matters set forth below. As you know, you continue to receive the full pay of the office of Chair of the Commission. If ultimately I determine to remove you as a commissioner and as Chair, you will not continue to be paid.

If the currently ongoing investigation, described below, is concluded sufficiently in advance, I will meet with you (and your attorney, if you so desire), on November 7, 2023 to provide you an opportunity to be heard on the matters discussed below. In advance of that meeting, I will notify you of any reasons additional to, or different from, those identified below that I will consider in making a final determination regarding whether to remove you from your position.

Preliminarily, as you know, the Commission's mission is to safely, equitably, and effectively implement and administer the laws enabling access to medical and adult use marijuana

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in the Commonwealth. Significantly, the Commission is charged with remedying the harms of marijuana prohibition and enforcement on disproportionately impacted areas and positively impacting those areas. Fulfilling the Commission's equity mandate extends to developing policies that aim to lower barriers to entry into the legal marketplace for individuals in disproportionately impacted communities.

The Commission is a new state agency, whose inaugural Commissioners were appointed in or about July 2017, charged with the significant mandate to regulate a new industry whose product remains categorized by the Federal Government as a schedule 1 drug. The agency developed its own internal processes and procedures all while crafting regulations affecting an intensely scrutinized product and industry. The onset of the pandemic further challenged the agency, its mission, and its staff. Given the mission of the agency, it is of vital importance that the full leadership of the Commission, which includes senior staff and Commissioners, work collaboratively and productively and not evoke even the appearance of bias or prejudice.

With this backdrop, the findings of a recent independent investigative report to the Commission, which has been forwarded to me by the Commission, your public statements about, and related allegations by, a Commission staff member that led to a second independent investigation that remains in progress, and your other reported actions indicate that, under § 76(d), you may: (1) be unable to discharge the powers and duties of the office, and (2) have committed gross misconduct in office. I note that, with regard to the second investigation, my office has been informed by the Commission that the investigator has made repeated requests to interview you to which you and your lawyer have not responded. Because I believe it prudent to consider the findings of the second investigation in deciding whether reasons exist to remove you as a commissioner and Chair, to expedite my consideration of this matter, I encourage you to sit for the interview as soon as possible or, at a minimum to communicate to the investigator your intentions as to whether you will agree to do so.

First, I was provided with a confidential report prepared by an investigator engaged by the Commission's outside counsel to investigate your allegations against Commission staff and allegations by Commission staff members against you. It is my understanding that you have been provided with a copy of the report. The investigator's report details conduct you acknowledged or volunteered to the investigator that is shocking, deeply disappointing, and unacceptable, especially from an individual charged with leading a Commonwealth agency. The report concluded that you made "racially, ethnically, culturally insensitive statements," including "public statements that could reasonably be perceived as creating the impression that ... diverse candidates were not qualified for the CCC Chair role." As just one example, in response to the allegation that in a meeting in the fall of 2022 you remarked, in reference to a person of Asian heritage, "I guess you're not allowed to say 'yellow' anymore," you did not deny doing so. You said, "I should have cleaned it up. It's difficult sometimes to know how to say the right thing." Based on this and other information contained in the report, the investigator concluded as follows:

[T]he undersigned investigator finds all the witnesses – Agency leadership, management and staff – unanimously experienced multiple negative interactions, problematic behavior and professionally inappropriate conduct during interactions with Chair O'Brien in the workplace. Based on the multitude of credible witness statements – from both BIPOC and

Shannon O'Brien

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non-BIPOC individuals – there is a shared consensus that the comments, remarks and statements made by Chair O'Brien are perceived to be race-based or, at minimum, to be racially, ethnically and culturally insensitive.

In addition, the report described your conduct as “causing turmoil internally” and “creating a challenging environment in which to foster cohesion within the agency.” Multiple witnesses interviewed at all levels of the Commission described having experienced “multiple negative interactions, problematic behavior and professionally inappropriate conduct during interactions with Chair O'Brien in the workplace.”

Moreover, the investigation report highlights the extent to which your behavior contravened the Commission's mandate of “providing a safe and collegial work environment based on mutual respect, allowing all employees to carry out their work free from discrimination or harassment,” as articulated in the Commission's Employee Handbook. The Handbook applies to Commission employees and Commissioners. In addition to anti-harassment policies, the Handbook sets forth Standards of Conduct, which provide that “each employee has an obligation to observe and follow the Commission's policies and to maintain proper standards of conduct at all times.” Behavior that “interferes with the orderly and efficient operation of ... the Commission” will result in disciplinary measures being taken.

Your admitted comments, and the investigator's conclusions, raise concerns that you have engaged in gross misconduct, and/or are unable to discharge the powers and duties of a commissioner and the Chair, and support my decision to suspend you with pay.

Second, I have learned of various allegations concerning your conduct with regard to Shawn Collins, the Commission's Executive Director, and an independent investigation into these allegations (separate from the independent investigation described above and conducted by a different investigator). While I await the conclusions of the second independent investigator regarding these allegations to decide whether reasons exist warranting your removal (and I again encourage you to meet with the investigator as soon as possible), my decision to suspend you was based in part on the facts that are not in dispute on this issue. Principal among these facts are the statements you made in a public meeting that concerned Mr. Collins's employment and highly personal matters. The context for your discussion of the matters includes your statement to the first investigator that, “My only blunt instrument to fix this place is to fire [Executive Director] Shawn [Collins], bring people back to the office and create a culture of respect,” and your admission that you made such statements regularly in the presence of the Commission's staff members.

In the Commission's public meeting on July 28, 2023, you made a detailed statement about comments Mr. Collins allegedly made to you about his plan to leave his job with the Commission after taking parental leave. You referred to the Commission as being “in crisis” and you implied that Mr. Collins had gone back on a commitment to remain in his job to see through the regulatory process before taking parental leave. This is in addition to having referred to Mr. Collins being on leave for “personal issues” at the July 13, 2023 public meeting. These public statements had the effect of interfering with Mr. Collins's leave rights. During your remarks, you twice referred to having consulted with labor counsel, implying that you had legal authority for your comments.

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While your concern about these issues is understandable, your detailed discussion of them in a public meeting is not. As an experienced public manager who claimed, on the record, to have consulted with labor counsel before making the statements, you knew or should have known that by law such matters cannot be discussed in public meetings and must only be discussed in executive session. In this vein, my office advised you previously that Commission discussions about Mr. Collins' performance should be conducted in executive session. Even if it required delaying the discussion with the other Commissioners, and whether your information was accurate or not (and I understand there is some question about its accuracy), you were legally – and I believe ethically – bound not to reveal any employee's sensitive personnel information to the public.

There are additional allegations of unlawful treatment by you toward Mr. Collins that I understand are being investigated. As an example, Mr. Collins alleges that you interfered with his ability to take parental leave by repeatedly and impermissibly contacting him while he was on leave. Mr. Collins contends that you reported to staff that he was "MIA" and unavailable while on parental leave. Such disparaging comments could be deemed part of a larger effort to retaliate against him for taking leave to which he is legally entitled. Mr. Collins asserts that his former supervisor and other current legislators have reported that you have been contacting them concerning Mr. Collins's work performance.

Third, I have been provided with information from Commission staff that raises further concerns about your ability to discharge the powers and duties of the office and gross misconduct. On July 28, 2023, I was informed by Commission senior staff (excluding Mr. Collins) of conduct that they found "egregious" and "created a hostile work environment," including subjecting your Executive Assistant to "distressing yelling episodes." Staff reported that, despite advice to the contrary, you contacted another employee, who was on protected leave, to perform Commission work. Later, on August 3, 2023, I was advised that you were removed from the search process for selecting a new General Counsel – a key member of the Commission's leadership team – due to potential conflicts of interest and your being the subject of ongoing personnel investigations. A few days later, I was advised that your Executive Assistant would no longer be working with you. And, in the ensuing days, I was also advised that the Commission had engaged outside counsel to investigate additional complaints lodged against you by Commission staff.

Your conduct in the public meeting, as well as the allegations described above, have raised additional concerns that you have engaged in gross misconduct, and/or are unable to discharge the powers and duties of a commissioner and the Chair, and support my decision to suspend you with pay.

Please contact Sandra DeSantis Lynch, Deputy General Counsel, or have your attorney do so, to confirm arrangements for me to meet with you (and your attorney, if you so desire), on November 7, 2023, at 11:00 a.m., or such other date as we agree, to provide you an opportunity to be heard on the matters discussed above. Attorney Lynch may be reached at 617.367.9333 x568 or via email at [sandra.d.lynch@tre.state.ma.us](mailto:sandra.d.lynch@tre.state.ma.us).

The meeting will take place at One Ashburton Place, 12th Floor, Boston, Massachusetts. If you do not appear at this time or communicate with my office as requested, you will be deemed

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to have waived your opportunity to be heard. In advance of that meeting, I will notify you of any reasons additional to or different from those identified above, that I will consider in making a final determination regarding whether to remove you from your position.

Pending such hearing, you remain suspended with pay from your position as Chair of the Commission.

Sincerely,



Deborah B. Goldberg

State Treasurer & Receiver General

cc: Sarah G. Kim, General Counsel

Deborah Hilton-Creek, Chief People Officer (Cannabis Control Commission)

John Hitt, Esq., Assistant Attorney General

Andrea Kramer, Esq.

Howard Cooper, Esq.

# EXHIBIT

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*Deborah B. Goldberg*  
*Treasurer and Receiver General*

*The Commonwealth of Massachusetts*  
*Office of the State Treasurer*  
*One Ashburton Place*  
*Boston, Massachusetts 02108-1608*

November 22, 2023

*Via Email c/o Max Stern, Esq. (mdstern@toddweld.com)*

Shannon O'Brien, Chair  
Commonwealth of Massachusetts  
Cannabis Control Commission  
6 Danecca Drive  
Whitman, MA 02382

Dear Chair O'Brien:

This letter is to provide you with an update on the status of the meeting scheduled for December 5, 2023, at which you will have an opportunity to be heard regarding your potential removal from your position. I also want to alert you to an unforeseen scheduling conflict.

In my letter to you of October 4, 2023, I explained that I received an investigation report that, among other things, described "racially, ethnically, [and] culturally insensitive statements" made by you. I also explained that I had received allegations regarding your conduct toward Shawn Collins, which are the subject of a second investigation by the Commission, as well as additional allegations about your conduct.

While I understand that you met with the second investigator, [REDACTED], it is also my understanding that [REDACTED] has yet to complete a report. The pendency of this second report led our lawyers to agree to postpone the meeting regarding your potential removal from November 7, 2023, to December 5, 2023. This date was chosen in deference to your attorneys' request that the new date be as soon as possible. Other factors also warrant avoiding a lengthy delay in advancing the process. Pursuant to the meeting protocol shared with your lawyers on November 17, 2023, there may be additional facts ongoing, that are relevant of consideration, and may contribute to the ultimate outcome of these proceedings. As our attorneys discussed last week, however, we do not intend to further postpone the initial meeting.

The meeting on December 5 will focus primarily on matters addressed in the first investigation, including but not limited to the aspects of the investigation discussed beginning on page one through the third full paragraph of page three of my October 4, 2023, letter to you. (It is my understanding that you received a copy of the report of that investigation, prepared by

investigator [REDACTED], several months ago.) Absent notification to you otherwise, I will consider only the first report at the December 5, 2023, meeting.

I have just learned that [REDACTED]s will be out of the country and unavailable to participate in the meeting on December 5. Accordingly, the focus of the December 5 meeting will be on providing you with an opportunity to be heard as to the issues raised in the first investigative report, including the descriptions of the insensitive statements made by you as noted in the report. [REDACTED]s will be made available for questioning in a subsequent meeting as soon thereafter as schedules permit.

Sincerely,



Deborah B. Goldberg  
State Treasurer & Receiver General

cc: Sarah G. Kim, General Counsel  
Howard Cooper, Esq.  
William Gildea, Esq.