

ERVIN COHEN & JESSUP PREVAILS IN CONTENTIOUS CANNABIS DISPENSARY

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On this two-year anniversary of the implementation of Prop. 64, the landscape of cannabis regulation – and the industry itself – continues to shift, sometimes with disastrous consequences. When Seattle-based cannabis retailer Have A Heart Compassion Care, Inc. learned that its agreements to acquire the rights to four licenses issued by the City of Maywood would not be accepted by the City, the seller of those rights tried to take advantage of the situation. This would have cost the company dearly, if not for the shrewd attorneys at Ervin Cohen & Jessup, who saved the day.

An arbitrator this month ruled in favor of Have a Heart’s claims against Cana, Inc. and its owner, Elias Shiber, regarding this transaction that the parties entered into roughly two years earlier, whereby Have A Heart would not only obtain these City of Maywood-granted licenses, but also lease the property in which Have A Heart’s first anticipated California dispensary would open. Have A Heart was prepared to invest heavily in repairing and improving Shiber’s dilapidated property as part of this deal.

To honor its obligations under the deal, Have a Heart paid Cana and Shiber more than \$416,000 and invested another \$1 million to renovate the property – only to find out that the City of Maywood was not going to permit Cana’s cannabis licenses to be transferred for Have a Heart’s use. Despite having agreed upon an escape clause requiring Cana and Shiber to rescind the deal if Have A Heart failed to obtain legal approval to operate the store, Cana and Shiber refused, forcing Have A Heart to sue to get its money back. To make matters worse, Cana and Shiber countersued for \$7 million, claiming that Have A Heart had destroyed the licenses and the conditional use permit governing the property, and had engaged in fraud.

Despite various challenging facts and issues with the contract and the buildout, Ervin Cohen & Jessup attorneys turned the tide by aggressively and brilliantly presenting Have A Heart’s case during a hard-fought, five-day arbitration that was a comprehensive win for Have a Heart and ECJ, said Michael D. Murphy, a Partner in the Firm’s Litigation Department.

PROFESSIONALS

Kenneth P. Hsu

Michael D. Murphy

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“Our award from the arbitrator could not have been more resounding,” Mike said. “Every claim proffered by our opponents was rejected, and every factual and legal argument we presented was successful, including rescission of the transaction, as well as an order that Cana and Shiber reimburse Have A Heart for fixing their decrepit property. We were then awarded \$1.3 million, which does not include the attorneys’ fees and costs, to which our clients are entitled, and that are now under consideration by the arbitrator.”

ECJ's trial team included lead trial counsel Michael D. Murphy and attorney Kenneth P. Hsu.