

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA

v.

DANIELS, et al.

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Docket No. 2:18-cr-00063-GZS

**DEFENDANT MR, LLC'S NOTICE OF INTENT TO ASSERT
PUBLIC AUTHORITY DEFENSE**

NOW COMES, Defendant MR, LLC ("MR"), by and through its undersigned attorneys, and hereby, pursuant to Fed. R. Crim. P. 12.3, hereby provides Notice of its Intent to Assert a Public Authority Defense at Trial. In support of this Notice, MR states as follows:

1. Pursuant to Fed. R. Crim. P. 12.3, a defendant must provide the Government with notice if it intends to assert an actual or believed exercise of public authority on behalf of a law enforcement agency. Here, the only member of MR, LLC, Kevin Dean, is a licensed caregiver at 586 Lewiston Junction Road in Auburn, Maine. On January 10, 2018, Maine Sheriff's Association Compliant Specialists Matthew A. Clark and Mark Desjardin conducted a site inspection of 586 Lewiston Junction Road. Mr. Dean and Brian Bilodeau were present during the inspection. The inspection found that Mr. Dean, the owner of the property, was in complete compliance with Maine's Medical Use of Marijuana Program, as was Mr. Bilodeau.

2. MR purchased 230 Merrow Road, a warehouse that was being leased by Defendant Brian Bilodeau and sub-leased to two licensed marijuana caregivers for the purpose of cultivating medical marijuana in compliance with Maine law, in the fall of 2016. Understanding the pre-existing cultivation to be an established and legitimate operation, MR intended to have no involvement with the cultivation, other than as a landlord. Apart from \$10,000 monthly rent payments, MR did not receive any proceeds from, or pay any of the expenses associated with,

the marijuana cultivation at 230 Merrow Road. Based on the Maine Sheriff's Association inspection of 586 Lewiston Junction Road, Mr. Dean understood that Mr. Bilodeau, and the caregivers he subleased 230 Merrow Road to, were licensed Maine medical marijuana caregivers that were fully compliant with Maine law.

3. Additionally, on Augusta 29, 2013, Deputy Attorney General James M. Cole issued a memorandum to all United States Attorneys that states, in pertinent part, as follows:

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

See USDOJ Mem. Re Guidance Regarding Marijuana Enforcement at 3 (Aug. 29, 2013) (the "Cole Memorandum"). This policy remained in effect until January 4, 2018. Based on the DOJ policy stated in the Cole Memorandum, MR understood that medical marijuana caregivers, and their landlords, operating in compliance with a "robust" medical marijuana program like Maine's Medical Use of Marijuana Program, would not be prosecuted.

Dated at Portland, Maine this 11th day of July, 2019.

/s/ Thimi R. Mina
Thimi R. Mina

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CERTIFICATE OF SERVICE

I, Alfred C. Frawley IV, hereby certify that on this 11th day of July, 2019, I electronically filed the foregoing **DEFENDANT MR, LLC'S NOTICE OF INTENT TO ASSERT PUBLIC AUTHORITY DEFENSE** which shall send notification of such filing to counsel of record for all parties.

Dated: July 11, 2019

/s/ Alfred C. Frawley IV

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