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*Transmitted via Electronic mail*

**Re: Marijuana Industry – Basic Business Tools Needed to Ensure Sustainable Success**

Dear Director Klinkhart:

As businesses shutter their doors and unemployment climbs to record highs, the Alaska marijuana industry has been a shining bright spot in the Alaskan economy. However, without the State stepping up and filling the gaps left unfulfilled by the private sector, this industry remains hamstrung by the discriminating lack of basic business tools available to marijuana businesses. JDW Counsel is a law firm that specializes in representing marijuana licensed businesses in Alaska and Arizona. Collectively between the two jurisdictions, JDW Counsel represents over 200 licensees, the majority of which are licensed in the State of Alaska. Our Alaskan clients range from sophisticated business owners with complex corporate structures to mom-and-pop shops. These licensees are hard-working, long time Alaskans that have pioneered this space fiercely, with patience, grace and ingenuity. They've jumped the hooks, bobbed and weaved when needed, and have managed to knock down nearly every roadblock on their canna-biz journey.

We, as an industry, appreciate your commitment to the Alaskan marijuana market, and like you, we understand that locally-owned businesses have an incredibly powerful impact on our Alaskan economic health. As you know, marijuana businesses are required by regulation to be 100% Alaskan-owned. Licensees pay excise taxes, city and borough sale taxes, and property taxes. Depending on their corporate structure they also pay Alaska Corporate Income taxes, entity fees, business licensing fees, and marijuana licensing fees. These businesses have generated approximately 7455 direct cannabis jobs<sup>1</sup> and they did it during a recession. In addition, Alaska's marijuana businesses employ other Alaskan businesses such as CPAs, architects, engineers, general contractors, etc., which generates more jobs for these non-marijuana ancillary businesses. These businesses create a lot of revenue for the state, and a lot of revenue in general. However, their lack of access to the most basic business tools, including banking and loans, *stunts* their growth and *weakens* the foundations of their business. Given the current political climate, Federal legalization is likely imminent. If our Alaskan companies are not provided with the most basic

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<sup>1</sup> As of February 2, 2021 there are 7455 active marijuana handler permits, these permits are needed for employment within a licensed marijuana facility.



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business tools prior to legalization, then their ability to compete with out-of-state licensees is going to be significantly impaired. The Alaskan marijuana market needs to strengthen itself, pre-federal legalization, in order to be able to compete with outside operators who will have access to many more resources.

Additionally, the public should demand banking access for these companies – it is a serious public safety risk for these companies, and their employees, when they are forced to stockpile cash, and transport large amounts of currency to pay taxes or purchase inventory. It is also a risk for State employees to be receiving and handling such large amounts of cash.

Due to lack of banking access, compliantly-run marijuana companies struggle to find investors. Who would want to invest in a business that has no banking history? No business credit? That has to pay its utilities in cash? Would you want to invest in a company that can only pay employees with cash? That has no access to regular lending sources and is forced to negotiate with loan sharks and hard money lenders? These are real factors that discount the value of a business.

Other states with recreational marijuana have managed to aid the private sector by coming up with unique ideas and creating support systems to fill the gaps that the private sector simply failed to do – the State of Alaska can do the same – it just needs to think outside the box.

For example, Oregon passed House Bill 4094 in 2014. This bill exempts banks from criminal liability on the state level for accepting marijuana businesses as clients. Admittedly, HB 4094 was largely a symbolic display of support, as most banking regulations are federal. In Washington, credit unions have been providing banking services to marijuana businesses since at least 2014. When asked what finally persuaded them to step up to the plate and serve marijuana businesses, Washington credit unions pointed to the sheer safety risks posed to business owners and their communities when they are forced to operate as cash-only businesses.

Nationwide, there are approximately 710 banks and 150 credit unions serving marijuana businesses. Only one of those institutions are in Alaska, and they only service Fairbanks-based businesses, leaving the rest of the State devoid of basic access to banking services.

For an industry that has generated over 700 new jobs and, on average, pays state excise taxes in excess of two million dollars (\$2,000,000) a month, it would seem that the State would want to support the industry and provide access to some of the most minimum basic business tools that most business owners take for granted. There are a couple of things the State could do to reduce the substantial public safety risks that accompany cash-based businesses, support this industry and aid the long-term sustainability and success of the Alaskan Marijuana industry.





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### Treasury Warrants:

The State of Alaska often issues payments to vendors and residents in the form of an instrument called Treasury Warrants. A Treasury Warrant looks and feels like a check, so most Alaskans assume it is one, but it is not – it is a warrant that is drawn from the State of Alaska general fund, and not from an institutional bank account. With the help of banks/credit unions, utilizing Treasury Warrants could be a solution to the marijuana industry’s ‘cash problem.’ Treasury Warrants would remove the mass amounts of cash circulating in the licensed marijuana industry and give banking access to marijuana companies. If the State of Alaska worked with banks/credit unions to provide marijuana businesses with a depository account and got the banks/credit unions to agree to accept only Treasury Warrants from marijuana businesses, then the banks/credit unions would feel more secure and less at risk when providing services to marijuana companies, and marijuana companies could exchange their cold hard cash for Treasury Warrants and deposit those Warrants in a bank/credit account.

The idea works like this:

1. A licensed marijuana business makes an appointment with the State (likely the Dept. of Revenue would be the most apt to provide this service),
2. the licensee takes their cash to the appointment,
3. the parties count the funds that the marijuana business wishes to exchange,
4. the State takes the cash and in return provides a Treasury Warrant in the same amount (minus a reasonable administrative fee) and;
5. the marijuana business takes the Warrant to the bank/credit union and deposits it in their business account.

Yes, it does sound like the State would be “washing” the marijuana money, but the State does this anyways when it takes and deposits mass amounts of cash from excise taxes and licensing fees into its general fund account. This is just further extending the concept. This could work exceptionally well for the marijuana industry and for the State, but the State needs to work with local credit unions/banks to get them onboard. The risk to these financial institutions is substantially lowered, and arguably eradicated, by the State extending its existing practice of taking marijuana cash and depositing it into its general fund.



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Utilizing this method would allow the State of Alaska to increase its revenue, by charging administrative fees for the service, as well as saving money by no longer need to count, process, and store large amounts of cash paid to fulfill excise tax duties.

*Alaska Industrial Development and Export Authority (“AIDEA”):*

AIDEA could also serve as solution to one of the biggest hurdles marijuana-related businesses face – the complete lack of access to traditional business loans for (1) startup operations and/or expansion funding; and (2) real estate mortgages for marijuana facilities. Marijuana businesses in Alaska lack all access to the traditional business loan funding that all other businesses enjoy. – Alaskan marijuana businesses are either self-funded, or funded with currency borrowed from family and friends, or loan shark-type lenders that have exploited the fact that marijuana businesses have very limited options. These loan sharks have gouged marijuana businesses, charging egregious interest rates and holding them to outrageous payback terms. AIDEA could provide direct funding to marijuana businesses and could refinance outstanding debt owed to loan sharks and save Alaskan marijuana businesses millions in unfair interest rates and fees. AIDEA could provide real property loans, secure the financing with deeds of trust on the property, which would help Alaskan businesses strengthen their ability to compete with out of state operators post-federal legalization.

If AIDEA was willing to engage with the industry and provide this type of support, it would be a game changer for the Alaskan marijuana industry. Remember, most states did not have the same residency restrictions on ownership when they launched their marijuana programs, which means industry participants in those states had a much wider pool of entities to use to raise funds to build out their businesses’ facilities and to invest in high tech equipment. Having access to this type of lending support as soon as possible would make it possible for the Alaska industry to compete on a national level.

*Division of Agriculture – Agricultural Revolving Loan Fund:*

The Alaska Division of Agriculture has an excellent loan fund for property development, for purchasing equipment, irrigation systems, product processing and short-term funding between harvests. The Division has noted that it will entertain loans to marijuana businesses, however, due to all the issues outlined in this letter, its very difficult for a marijuana business to meet the

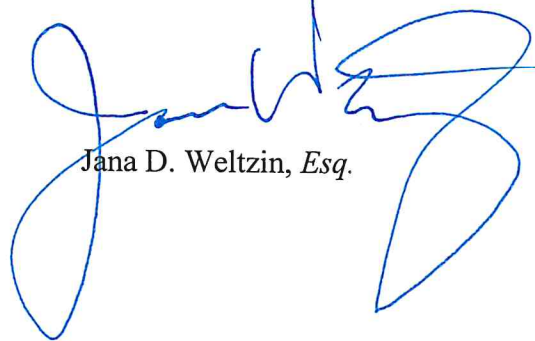


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collateral threshold required by the Division. If the minimum collateral thresholds were reduced, then more marijuana businesses could seek financing from the Division of Agriculture.

Thank you for your service to AMCO and our industry, we hope you stick around for many more years to come – please pass on this letter to whomever you feel appropriate and to whomever you feel would aid the progress of obtaining these basic business tools for the marijuana industry.

Truly and Sincerely Yours,



Jana D. Weltzin, *Esq.*