



U. S. Department of Justice
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, Virginia 22152

www.dea.gov

DEC 21 2016

Derek B. Brett
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Dear Mr. Brett:

The Drug Enforcement Administration (“DEA”) is in receipt of your December 6, 2016, letter regarding the Soul Quest Church of Mother Earth. Your letter references DEA’s August 22, 2016, letter to your client in which we informed them that DEA was aware that they were offering “retreats” involving substances listed in Schedule I of the Comprehensive Drug Abuse Prevention and Control Act of 1970, also known as the “Controlled Substances Act” (“CSA”). As we noted in that August 22 letter, under the CSA and its implementing regulations, Congress prohibits the importation and distribution of Schedule I Controlled Substances except as authorized by law, Title 21, United States Code, Sections 841(a), 952(a)(2), 960 (21 U.S.C. §§ 841(a), 952(a)(2), 960). DEA informed your client that, if they were purporting to distribute or use controlled substances for the purposes of religious exercise, the Religious Freedom Restoration Act (“RFRA”) may be applicable. For your clients’ information, DEA included a copy of its guidance for those who seek to petition DEA for an exemption from the CSA pursuant to RFRA.

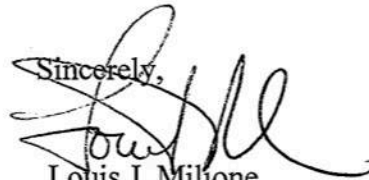
Your December 6, 2016, letter seeks “elaboration on what criteria are utilized by the DEA in scrutinizing exemption applications” and indicates your view that DEA is using “enhanced authority . . . to wield absolute discretion over the process.” I wish to assure you that DEA implements its petition process in full compliance with the requirements of RFRA. DEA exercises no “enhanced authority” and has no “absolute discretion.” Rather, we apply the criteria set forth in the statute, as interpreted by the Supreme Court in *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. § 418 (2006), and subsequent case law. As we noted in our August 22, 2016, letter, RFRA provides that the “[g]overnment shall not substantially burden a person’s exercise of religion” unless the Government can demonstrate that “application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest,” 42 USC § 2000bb-1. To establish a *prima facie* case under RFRA, a claimant must demonstrate that application of the CSA’s prohibitions on use of the specified controlled substances to the claimant would (1) substantially burden, (2) religious exercise (as opposed to a philosophy or way of life), (3) based on a belief that is sincerely held by the claimant. *O Centro Espirita*, 546 U.S. at 428. Once a claimant has established these threshold requirements, the burden shifts to the government to demonstrate that the challenged prohibition furthers a compelling governmental interest by the least restrictive means. RFRA requires DEA to demonstrate that the compelling interest test is satisfied on a case by case basis, through application

of the CSA to the particular claimant who believes that this sincere exercise of religion is being substantially burdened. 546 U.S. at 430-31.

Section 2 of DEA's "Guidance Regarding Petitions for Religious Exemption" provides further information about the contents of a petition, should you require it. Once a petition is received, DEA fully considers the information provided and evaluates it in light of the statutory RFRA criteria noted above. If necessary, DEA may request additional information from a petitioner as set forth in section 5 of the Guidance. After the petition and any supplemental submissions have been evaluated, DEA provides a written response that either grants or denies the petition as provided in section 8 of the Guidance.

We trust this letter addresses your inquiry. For information regarding the DEA Diversion Control Division, please visit www.DEAdiversion.usdoj.gov. If you have additional questions on this issue, please contact the Diversion Control Division Liaison and Policy Section at (202) 307-7297.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis J. Milione", written over the word "Sincerely,".

Louis J. Milione
Assitant Administrator
Diversion Control Division