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COPY TO JUDGE VIA HAND DELIVERY**

The Honorable Owen M. Panner
Senior U.S. District Judge
U.S. District Court for the District of Oregon
James A. Redden U.S. Courthouse
310 West Sixth, Room 201
Medford, OR 97501

Re: *The Church of the Holy Light of the Queen, et al. v. Mukasey, et al.*,
Civil Case No. 08-03095-PA

Dear Judge Panner:

Please consider this our formal response to Defendants' letter to the Court of December 5, 2008, requesting that the Court order Plaintiffs to provide additional information in response to Defendants' First Set Of Interrogatories to Plaintiffs, Interrogatory No. 11 and, secondly, requesting that the Court order Plaintiffs to state whether they seek an exemption from "any Controlled Substances Act regulations." Then follows some concerns of the Plaintiffs with Defendants' responses to their discovery requests. We will address them in that order:

Defendants' Issues:

1. Plaintiffs' Response to Defendants' Interrogatory No. 11 is Complete and Satisfies Their Obligations Under the Federal Rules of Civil Procedure.

The Religious Freedom Restoration Act ("RFRA") of 1993, 42 U.S.C. §§ 2000bb-2000bb(4), instructs that Plaintiffs must establish that they are sincere practitioners of a religion and that the Defendants' actions impose a substantial burden on their practice. Despite Defendants' refusal to stipulate to the fact that the Santo Daime is a recognized

religion and that the banning of the tea is a substantial burden on their religious practice, these facts are beyond dispute.

Having demonstrated through the Declarations and Amended Witness Statements of Plaintiffs, their experts, and by reference to the Defendants' own admissions in the *O Centro v. Ashcroft*, Civ. No. 00-1647 JP/RLP (D. N. M.), litigation that the UDV plaintiffs, by similar showings, established their prima facie case, the Government "may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person--(1) is in furtherance of a compelling government interest . . . The term 'demonstrates' means meets the burdens of going forward with the evidence and of persuasion.)" *Gonzales v. O Centro Espirita*, 546 U.S. 418, 428 (2006). We demonstrate below that Defendants' request is not for critical evidence in support of their affirmative defense and certainly not for evidence dire enough to place innocent people in jeopardy of the Defendants' threats based upon their own erroneous position that importing the tea for sacramental use in religious ceremonies is illegal.

Defendants' Interrogatory No. 11 states:

Describe in detail any and all groups, including but not limited to groups that are recognized and/or registered by CHLQ and/or CEFLURIS, that import, distribute, process, use, and/or consume ayahuasca and describe in detail any and all differences and/or similarities among these groups, including but not limited to those groups' use of ayahuasca.

Plaintiffs responded:

OBJECTION: Plaintiffs will not reveal any information regarding any persons or organization, if any, that might use the sacred Daime tea. *See NAACP v. Alabama*, 357 U.S. 449 (1958).

ANSWER: CHLQ does not "recognize" or "register" any "groups." Furthermore, the only Churches that may use the sacred Daime tea in Oregon are the Oregon Churches mentioned in the Complaint.

Plaintiffs' response was truthful and candid. Plaintiffs properly refused to provide any information that would expose other citizens who may take the Sacred Daime tea to having their sacrament seized, being arrested by Defendants and threatened with criminal prosecution for practicing their religion, as Mr. Goldman was.

The NAACP Court could well have been directing the following to the Defendants in this case, when it stated, at page 458:

The Association both urges that it is constitutionally entitled to resist official inquiry into its membership lists, and that it may assert, on behalf of its members, a right personal to them to be protected from compelled disclosure by the State of their affiliation with the Association as revealed by the membership lists. We think that petitioner argues more appropriately the rights of its members, and that its nexus with them is sufficient to permit that it act as their representative before this Court. In so concluding, we reject respondent's argument that the Association lacks standing to assert here constitutional rights pertaining to the members, who are not of course parties to the litigation.

And, at page 462:

This Court has recognized the vital relationship between freedom to associate and privacy in one's associations. When referring to the varied forms of governmental action which might interfere with freedom of assembly, it said in *American Communications Assn. v. Douds, supra*, at 402: "A requirement that adherents of particular religious faiths or political parties wear identifying arm-bands, for example, is obviously of this nature." Compelled disclosure of membership in an organization engaged in advocacy of particular beliefs is of the same order. Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs. Cf. *United States v. Rumely, supra*, 345 US at pp. 56-58 (concurring opinion).

Defendants have failed to offer any evidence or present any legal arguments which could possibly justify this Court ordering the named Plaintiffs in this litigation to reveal any information about other believers who may be practicing their religion underground because of the Defendants' refusal to recognize and honor the religious practices of the Santo Daime.

In their Trial Brief, Defendants argue:

Here, at most, Plaintiffs have the opportunity to demonstrate at trial the sincerity of these six individual named "claimant[s] whose sincere exercise of religion is being substantially burdened. . . . A prima facie case under RFRA can only be established by

demonstrating the sincerity of religious exercise for each individual, and only the six individual named plaintiffs have presented evidence raising even the specter of a valid claim for judicial relief under RFRA from the CSA. . . . Therefore, should the Court determine any relief is appropriate under RFRA, that relief may be limited to those few individuals for whom Plaintiffs succeed in establishing sincerity of religious exercise."

Def. Trial Brief at 8. Defendants' current position is interesting at best. Defendants argue that the Plaintiffs in this case must give out information about other citizens who may be members taking the sacrament in a Santo Daime Church someplace else in the United States because, "If anyone other than the named plaintiffs seek relief from this Court, then they too should respond to discovery and attempt to satisfy their prima facie case under the Religious Freedom Restoration Act". (Emphasis supplied.) First, non-parties to this action would not be responding to discovery under the Federal Rules of Civil Procedure, unless pursuant to subpoena. It simply defies any reading of the Rules to argue a non-party who may have similar interests to a party must seek to intervene and provide evidence of their own prima facie case. Second, while Defendants, on the one hand, are arguing that this case is limited to the six plaintiffs, they, on the other hand, are also arguing that other possible Santo Daime members in the United States must intervene in this litigation, and if they don't do that, then the Plaintiffs in this case must reveal information so the government may pursue these innocent people, because it takes the position that importation and ingestion of the tea for sacramental use in religious ceremonies is illegal.

Defendants next argue that "if Plaintiffs do not provide this information then Defendants cannot reasonably be expected to respond with evidence of the government interests that would be implicated if Plaintiffs were seeking relief for unnamed affiliates and organizations." First, Plaintiffs are not seeking relief for "unnamed affiliates and organizations." Second, Defendants are arguing that if Plaintiffs do not provide information about persons or groups of persons who are not parties to the existing litigation, then the Defendants will be unable to know what interests of theirs might be affected. However, if such parties were to file suit, the Defendants would have an opportunity to discover whether they have compelling governmental interests or not.

Plaintiffs have never indicated that they are representing any Santo Daime people outside of Oregon. Defendants have consistently argued that they cannot do so. Defendants have not demonstrated that the "detailed" information they seek will assist in their affirmative "compelling interest" defense. And even if they had, they would then have to demonstrate that this information was so crucial to that defense that the religious privacy of these people who would be put in jeopardy was secondary.

We respectfully suggest that the Defendants' request be denied in its entirety.

2. Plaintiffs Have Answered Interrogatory No. 12 and their Objections are Valid.

Defendants' Interrogatory No. 12 asks:

State whether you contend that any statutory provision of the Controlled Substances Act, 21 U.S.C. §§ 801-971, or any regulation promulgated pursuant to the Controlled Substances Act, 21 C.F.R. §§ 1300-1316, that does not in and of itself explicitly ban Plaintiffs' use of ayahuasca nonetheless violates any statutory or constitutional rights of Plaintiffs, including but not limited to those rights conferred by the Religious Freedom Restoration Act. Your answer should include the identification of each and every statutory provision and/or regulation that you contend violates any statutory or constitutional right of Plaintiffs and a detailed description of the burden imposed by each and every individual statutory or regulatory provision.

OBJECTION: This is a contention interrogatory calling for legal opinion and it is vague.

ANSWER: Plaintiffs incorporate by reference Plaintiffs' Memorandum in Support of Motion for Preliminary Injunction, which answers this inquiry. Plaintiffs have not alleged in the Complaint that the CSA violates their rights.

Defendants complain that "it is not clear whether Plaintiffs are seeking relief from any (CSA) regulations that do not, by themselves, constitute a ban on their use of ayahuasca." What could be more clear than the plaintiffs' Answer: "Plaintiffs have not alleged in the Complaint that the CSA violates their rights." This obviously includes CSA's regulations as well. That should be the end of it. Indeed, one need only look at the prayer for relief in the Complaint. The prayer seeks relief from the illegal actions of Defendants in banning the tea. It does not seek any relief regarding the CSA or its regulations. The CSA regulations are irrelevant to Plaintiffs' prima facie case. Plaintiffs do not seek either injunctive or declaratory relief that any CSA regulations apply or do not apply to their sacramental use of the tea in religious ceremonies.

Furthermore, in the *UDV* case, the Defendants have taken the position that the CSA regulations are not an issue when the government is trying to completely ban the tea, which

we think is the case here.¹ Defendants recently argued, in the *UDV* case, that:

A sharp distinction must be drawn between Phase I of this litigation, which concerned the government's attempt to ban Plaintiffs' use of hoasca, and Phase II of this litigation, which concerns a challenge to the government's authority to regulate Plaintiffs' use of hoasca. United States Customs officers had seized a shipment of hoasca to Plaintiffs, thus creating an actual dispute concerning the government's ban on any use of hoasca.²

While Defendants do not advise the Court of it in their letter, Defendants recently took the position in the *UDV* case that all of the regulations apply to the *UDV* plaintiffs. (Emphasis supplied.) The following took place at a hearing before Judge Parker:

Judge Parker: Why is it difficult for the government to have someone tell the plaintiffs "These are the regulations that we intend to apply to your use of hoasca. . . ."

Mr. Beane: The government's position is that all, if someone is a legal importer of a controlled substance, all . . . of the regulations . . . on their face . . . apply regardless of what the purpose for the use of that controlled substance is. It doesn't matter if it's for religious purposes.³

But Defendants' position thus far in this litigation is that Plaintiffs are an illegal importer of the tea and seek to ban it entirely, so there is no need to grapple over which CSA regulations, if any, might or might not apply. In the *UDV* case, Defendants began their arguments over the CSA regulations only after Judge Parker's injunction was affirmed by the Supreme Court.

¹ Because Plaintiffs have still not received Defendants' Answer to their Complaint.

² Def. Motion To Dismiss Amended Complaint, *O Centro*, 00-cv-1647 JP/RLP (D. N. M. November 21, 2007) at 25.

Defendants' Reply Memorandum in Support of Their Motion to Dismiss, No. 00-cv-1647 JP/RLP, April 1, 2008, at 5 (hereinafter "Def. *UDV* Motion").

³ *O Centro v. Ashcroft*, Transcript of Hearing of April 9, 2008 at 19.

Defendants concede that Plaintiffs: "(H)ave argued that the CSA regulations would not apply to them if they were to obtain relief."⁴ See p. 3, Beane December 5th letter.

But defendants add more. It appears as though the Defendants have an agenda that includes goading the Plaintiffs into challenging the CSA rather than the Defendants' actions in banning the tea. Another extraordinary concession, while not entirely clear, follows:

In Defendants' view, the central issue in this case is not whether Plaintiffs engage in 'drug use' or 'non drug use,'⁵ but instead whether RFRA would or would not prohibit the potential application of the CSA and/or its regulations to Plaintiffs."

Beane December 5th letter, p. 3.

If Plaintiffs were engaged in "drug use," they would not be entitled to protection under RFRA. If, as is the case here, Plaintiffs are engaged in sacramental "non-drug use," they are protected under RFRA. By arguing that this crucial distinction is not a "central issue in the case," Defendants seem to be conceding that whether or not the government has a compelling interest in banning the tea is not the central issue in this case.

Defendants are now arguing that the central issue in this case is whether, as a matter of law, "RFRA would or would not prohibit the potential application of the CSA and/or its regulations to plaintiffs." In view of this, we respectfully suggest that the Court reconsider the posture of the case.

The Defendants further state: "Defendants set forth their compelling interest in full compliance with the CSA regulatory scheme in their trial brief." This has to mean "in Plaintiffs' full compliance with the CSA regulatory scheme." (Emphasis ours.) In other words, Defendants appear to be abandoning the position they stated in Eric Beane's September 15, 2008 letter to Roy Haber that "Defendants can state now that the federal government has a compelling health and safety interest in banning the use of ayahuasca, as well as a compelling interest in preventing the diversion of ayahuasca to non-religious use." That letter did not claim a compelling interest in Plaintiffs' "full compliance with the CSA regulatory scheme." Defendants have consistently argued in the *UDV* case that the CSA regulations are not relevant when the government seeks to ban the tea in its entirety. Therefore, it seems undeniable that Defendants have abandoned the position set forth in the September 15th letter that the government has health, safety and diversion interests in banning the tea.

⁴ Consistent with their Answer to this Interrogatory No. 12.

⁵ In which case the number and type of witnesses may change drastically.

Defendants' insistence that Plaintiffs are required to advise the Court and the Defendants of CSA regulations that Plaintiffs claim burden their religious practice is simply misplaced for this case at this time. Plaintiffs have already answered that they are not challenging CSA regulations. While this is not really the forum for restructuring this litigation, it appears to be the vehicle that Defendants have chosen to use. However, these issues having been raised, prompt attention to them is warranted.

Plaintiffs' Issues:

Defendants' Responses to Plaintiffs' Discovery Requests

INTERROGATORY NO. 7: State what evidence you have, if any, that any Daime or hoasca tea has ever been diverted from sacramental use to non-religious use, including in your answer, without limitation, the witnesses and/or documents that support your answer.

OBJECTIONS: Defendants object to this Interrogatory as overbroad, vague and unduly burdensome, as it is not limited in scope by time or geographical region, and does not adequately define "diverted," "sacramental" or "non-religious" use. Furthermore, the use of the term "sacramental" assumes facts not in evidence, including assuming that all members/participants in tea ceremonies associated with CHLQ are sincere adherents to a religious practice. Defendants further object to this Interrogatory to the extent it seeks information protected by privilege.

RESPONSE: See response to Interrogatories 1 and 5 above and 14 below. Additionally, Plaintiffs' illicit importation of ayahuasca outside of the closed regulatory system created by the CSA has deprived Defendants of sufficient factual basis to form an opinion as to the amount of ayahuasca which has been imported, or to confirm its chain of custody or confirm the nature of its consumption for purportedly religious purposes. Defendants further state that responses to this interrogatory will be addressed in detail through Defendants' witness statements and exhibits.

Defendants' claim that Plaintiffs have deprived them of evidence to answer is non-responsive. Either they have evidence that the tea has been diverted from sacramental use or they do not. Plaintiffs are entitled to a responsive answer.

INTERROGATORY NO. 8: State what evidence you have that any peyote has been diverted by any member of the Native American Church to non-religious use, including in your answer the witnesses and/or documents that support your answer.

OBJECTIONS: This Interrogatory is not reasonably calculated to lead to the production of admissible information. It seeks information which is not relevant and is therefore *per se* burdensome.

The evidence sought is not irrelevant. In the *UDV* case, Defendants were asked the identical question and did not object. *See*:

INTERROGATORY NO. 17: State what evidence you have that any peyote has been diverted by any member of the Native American Church to non-religious use, including in your answer the witnesses and/or documents that support your answer.

RESPONSE: Defendants respond that, without having searched the files of the 94 U.S. Attorneys Offices, Defendants have no evidence of any peyote having been diverted by any member of the Native American Church to non-religious use.

O Centro v. Ashcroft, (D. N. M., Civ. No. 00-1647 JP/RLP). Defendants Response to Plaintiffs First Set of Interrogatories, October 19, 2001.

Plaintiffs believe that evidence regarding diversion or lack thereof of peyote and hoasca tea is relevant to the validity of Defendants' claims that they have a compelling interest in banning the tea from the State of Oregon.

Defendants have acknowledged that they "bear the burden of demonstrating a compelling interest as part of its affirmative defense at trial on the merits. (The term 'demonstrates' means meets the burdens of going forward with the evidence and of persuasion.)" *Gonzales v. O Centro Espirita*. 546 U.S. 418, 428 (2006). The mere invocation by the Defendants that they have a compelling interest in the diversion of the Daimon tea is insufficient to satisfy the evidentiary requirements to carry the heavy burden imposed by RFRA.

It is relevant and indeed crucial to an enlightened decision regarding Defendants' affirmative defense for the court to obtain evidence of how the government previously acted under similar circumstances regarding those specific interests that Defendants now allege are compelling. Plaintiffs thus have the related right to elicit facts regarding how the

government acted with regard to the *UDV* case and the peyote exemption. By way of example, the government argues the utterly novel theory that each and every citizen who desires to become a member of the Santo Daimé Church and receive the sacrament must first satisfy the DEA of their sincerity. Def. Trial Brief at 7-9. If, on the other hand, the Defendants did not make such demands regarding the UDV or members of the Native American Church, the Court might well determine that the Defendants have failed to demonstrate any compelling interest in making such a unique demand.

In examining health issues in the *UDV* case, the District Court permitted testimony from a witness who had attended many Native American Church services that he had never observed that any Indian children who took peyote in the Native American Church services had been harmed in any way. *O Centro v. Ashcroft*, (D. N. M., Civ. No. 00-1647 JP/RLP). Transcript of Hearing of November 1, 2001 at 1654.

The Supreme Court in *O Centro* compared the UDV to the Native American Church on both the health and safety issues to conclude that permitting the NAC members to consume peyote (mescaline) did not result in the sky falling in. This comparison and others persuaded the District Court, Court of Appeals and the Supreme Court that the Defendants' compelling interests pleas were not supported by the facts.

"Everything the Government says about the DMT in hoasca—that, as a Schedule I substance, Congress has determined that it "has a high potential for abuse," "has no currently accepted medical use," and has "a lack of accepted safety for use . . . under medical supervision," 21 U. S. C. § 812(b)(1)—applies in equal measure to the mescaline in peyote, yet both the Executive and Congress itself have decreed an exception from the Controlled Substances Act for Native American religious use of peyote. If such use is permitted in the face of the congressional findings in § 812(b)(1) for hundreds of thousands of Native Americans practicing their faith, it is difficult to see how those same findings alone can preclude any consideration of a similar exception for the 130 or so American members of the UDV who want to practice theirs."

546 U.S. at 434. The Court went on:

In other words, if any Schedule I substance is in fact always highly dangerous in any amount no matter how used, what about the unique relationship with the Tribes justifies allowing their use of peyote? Nothing about the unique political status of the Tribes makes their members immune from the health risks the Government asserts accompany any use of a Schedule I substance,

nor insulates the Schedule I substance the Tribes use in religious exercise from the alleged risk of diversion."

Id. at 435. The Court noted that:

The well-established peyote exception also fatally undermines the Government's broader contention that the Controlled Substances Act establishes a closed regulatory system that admits of no exceptions under RFRA. The Government argues that the effectiveness of the Controlled Substances Act will be "necessarily . . . undercut" if the Act is not uniformly applied, without regard to burdens on religious exercise. Brief for Petitioners 18. The peyote exception, however, has been in place since the outset of the Controlled Substances Act, and there is no evidence that it has "undercut" the Government's ability to enforce the ban on peyote use by non-Indians.

Id. at 435.

The Defendants themselves have compared the UDV's performance in handling the tea to that of the Native American Church. They voiced "concern" about the trustworthiness of the UDV because there was a lack of candor when the UDV was acting underground. DEA's Chief of Diversion, Terrance Woodworth, testified in the *UDV* case as follows:

24 Q. You mentioned a history of working with
25 the Native American Church. Do you have any reason

1 to doubt that you could cooperate with the UDV in
2 the same manner?
3 A. Yes, some, based on their lack of candor
4 with regard to what has been brought in for the last
5 ten years. They have never contacted DEA. They
6 have never attempted to get registered with DEA.
7 They have never tried to have hoasca exempted from
8 controlled status. And in the seizures, the
9 documentation clearly was either disguised or
10 mislabeled. So there was -- there is significant
11 lack of candor. So there is some doubt there.

Transcript at 1423-1424.⁶

⁶ Of course Defendants do not advise the Court that many members of the Native American Church were forced to take their sacrament underground before the government changed its

By comparing Defendants' behavior regarding the UDV with their permissive attitude toward the use of peyote by the Native American Church, including the "unprohibited" growing, transport and use of the peyote sacrament free of security measures, the Defendants' veiled threats of drug epidemics, and illicit diversion of the hoasca tea, were seen by the Supreme Court for what they are . . . undifferentiated speculation.

In *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 547, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993) ("It is established in our strict scrutiny jurisprudence that a law cannot be regarded as protecting an interest 'of the highest order' . . . when it leaves appreciable damage to that supposedly vital interest unprohibited"). Cited in *O Centro*, 546 U.S. at 433.

Similarly, it is only by examining how the Defendants in this case protected these so-called "vital interests" in the real world by reference to the peyote exemptions and the *UDV* case that this Court can decide if Defendants' permitting such interests to go "unprohibited" also undercuts their affirmative defense in this case as it did in the *O Centro* litigation.

INTERROGATORY NO. 14: Do you contend that the religious use of hoasca by O Centro Espirita Beneficiente Uniao do Vegetal or of the Daime tea by members of the Santo Daime presents a significant risk of diversion to non-religious use? If so, identify the specific facts, witnesses, and documents on which you base your contentions. To answer this question properly, identify specific facts that you have regarding each of the teas and do not rely on general findings of Congress that substances on Controlled Substance Schedules are drugs with a high potential for abuse. *O Centro Espirita Beneficiente Uniao Do Vegetal*, 546 U.S. 418 (2006).

OBJECTIONS: To the extent this Interrogatory purports to require a response with respect to the practices of the UDV or Santo Daime Churches of Brazil or of the UDV Church in the United States, as opposed to the specific practices of Plaintiffs, Defendants object to the Request as not reasonably calculated to lead to the production of admissible information. This Request also assumes facts not in evidence. Defendants further object to

illegal policies toward them. No amount of rhetoric changes the reality that all three Churches have had to conduct services underground as a result of the Defendants so-called closed system and total disregard for the fundamental First Amendment principles now embodied in the RFRA.

the instruction not to "rely" on "general findings of Congress." As such findings inform all policy and enforcement considerations regarding all Schedule I controlled substances, they cannot be disregarded.

RESPONSE: Subject to and without waiving these Objections, Defendants respond:

Defendants do not have present knowledge to respond fully to this Interrogatory, and Defendants' response will be provided primarily through their witness statements and exhibits. However, initial information collected regarding Plaintiffs suggests that the practices of Plaintiff CHLQ present a significant risk of diversion to non-religious use. See Responses to Interrogatories 1, 5, and 7 above; Complaint; Dep. of Jonathan Goldman.

With respect to the Defendants' claim that the UDV experience is irrelevant, Plaintiffs submit that the UDV tea, containing the identical composition as the Santo Daime tea, having the same foul taste and purgative characteristics that Daime has, considered sacred by the faithful as the Daime is, taken only in structured ceremonial rituals as the Daime is, and protected like Daime by church elders against sacrilegious uses of any kind, is at the core of a constellation of circumstances so similar to those in the case before the Court that its history with respect to the diversion issue cannot reasonably be dismissed as irrelevant.

Just as the District, Circuit and Supreme Courts considered the sacramental use of peyote by the Native American Church relevant to evaluate the DEA's claims of "compelling health, safety and diversion interests" and its unbreachable need for its "closed regulatory system," so the UDV as well as the NAC histories have relevance here.

Moreover, Defendants' response with respect to the Plaintiffs themselves is insufficient. It makes veiled references to unspecified "practices" of the CHLQ which "suggest" a significant risk. We submit that this is an argumentative opinion, not "specific facts" as requested.

INTERROGATORY NO. 15: Do you contend that the use of Daime tea in the Santo Daime religious services or the hoasca tea in the religious services of O Centro Espirita Beneficiente Uniao do Vegetal present a significant health risk? If so, identify the fact(s), witness(es) and document(s) that support your contention. Do not base your answer upon Congressional findings generally regarding Schedule I substances.

OBJECTIONS: Defendants object to the Request on grounds of vagueness and overbreadth, in that it does not adequately define "Daime," "Santo Daime," "religious services," or "O Centro Espirita Beneficiente Uniao do Vegetal" sufficiently so as to allow for a response. Defendants further object to the instructions not to "base" any response "upon Congressional findings generally regarding Schedule I substances." As such findings inform all policy and enforcement considerations regarding all Schedule I controlled substances, they cannot be disregarded.

RESPONSE: Subject to and without waiving these Objections, Defendants respond:

Defendants do not have present knowledge to respond fully to this Interrogatory, and Defendants' response will be provided primarily through their witness statements and exhibits. However, initial information collected regarding Plaintiffs suggests that the reported practices of Plaintiffs present significant health risks. See response to Interrogatories 5, 7, and 14 above.

Defendants failed to answer the question at all regarding the UDV. Suggesting that use of the term "religious services" is "vague" is to ignore meanings of the term in common parlance and a mere artifice to avoid a direct answer. Plaintiffs' position here is similar to the preceding Interrogatory and Response.

REQUEST FOR ADMISSION NO. 6: Admit that the Santo Daime is a religion.

OBJECTIONS: Defendants object to this Request on grounds of vagueness. The Request does not identify what is meant by "religion" (*i.e.*, a legally-recognized church, a religious corporate entity registered with the government, a set of shared beliefs held by specified groups of individuals), nor what is meant by "Santo Daime." Defendants also object to the extent the Request asks Defendants to state a conclusion regarding the allegedly sincere religious practices of plaintiffs in this litigation—a matter relating to controverted legal conclusions to be litigated in this case.

RESPONSE: Subject to and without waiving the foregoing Objections, Defendants admit that various organizations in Brazil identify themselves as "Santo Daime."

Plaintiffs submit that Defendants' disclaimer regarding the meaning of "religion" is another example of their playing word games with the Federal Rules. We respectfully ask the Court to direct Defendants to either admit or deny that the Santo Daime is a religion.

Respectfully yours,



Don H. Marmaduke

DHM:jc

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