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FOR IMMEDIATE RELEASE

Approved by CJZ
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Re: Investigation of Allegations by Members of the Cannabis Industry

On May 24, 2019, District Attorney Cynthia Zimmer announced that the Kern County District Attorney's Public Integrity Unit had completed its investigation into complaints brought by members of Kern County's cannabis industry. The investigation revealed that no evidence supported the complaints, and it was determined that all of the allegations were unfounded. Accordingly, no further action will be taken by the Kern County District Attorney's Office at this time.

The allegations investigated and determined to be unfounded are as follows:

1. Allegations of *Brown Act* violations by the Kern County Board of Supervisors

It has been claimed that two meetings violate California's *Brown Act*, which requires that members of legislative bodies, including a Board of Supervisors, conduct business in public view through noticed hearings. Under the *Brown Act*, at Government Code Section 54952.2, a majority of the members of a legislative body are not permitted to discuss matters pertaining to the legislative body outside of the public hearings required by the law. The law does not preclude a single member of the legislative body discussing issues related to body with other people. (Government Code Section 54952.2(c)(1)).

A. First alleged violation: Alleged conversation between Supervisor Maggard and Chad Garcia:

The allegation is that Supervisor Maggard discussed issues related to cannabis with Chad Garcia at some point in 2017. There is no assertion that any other member of the Board of Supervisors or any of their representatives were present for the meeting. Even assuming the conversation occurred as described, there is no violation of the *Brown Act* when a member of a legislative body speaks with someone about issues pertaining to the body. A *Brown Act*

violation requires a majority of the legislative body meeting and discussing issues in a non-public meeting. This alleged *Brown Act* violation was determined to be unfounded.

B. Second alleged violation: A meeting in November 2018 at Hungry Hunter Restaurant:

The allegation is that several persons, including David Brust, Keith Lawless, Heather Epps, Chad Garcia, and Stacy Jischki were present at a meeting to discuss marijuana regulations. There is no allegation that any members of the Board of Supervisors, nor any of their staff was present. There is no evidence that anything discussed at the meeting was presented any member of the Board of Supervisors. The complete absence of any member of a legislative body is certainly not a “majority” of the legislative body that is required for a meeting to be held in violation of the *Brown Act*. This alleged *Brown Act* violation was determined to be unfounded.

2. Allegations of “evidence tampering” by Supervisor Scrivner:

This allegation relates to the alleged involvement of Supervisor Scrivner in enforcement activities upon four marijuana dispensaries in Rosamond. At one point, Supervisor Scrivner gave statements describing the enforcement activity and types of evidence seized. During the interview, Supervisor Scrivner, along with KCSO Commander Adam Plugge, displayed evidence in a trailer that had been seized for destruction as contraband. The interview remains publicly available on YouTube and shows no “evidence tampering” on the part of anyone. During the interview, Supervisor Scrivner explains how the enforcement action was helping the community address the problems created by the businesses and included examples of the types of contraband seized. This allegation of “evidence tampering” against Supervisor Scrivner was determined to be unfounded.

3. Allegations of bribery of Supervisor Maggard, Lorelei Oviatt, Walter Baldwin, Kim Baldwin, Chuck Lackey, Al Rojas, and Deputy Ramos:

Shortly after the Board of Supervisors denied the first set of appeals on February 5, 2019, Abraham Labbad and David Valencia alleged that in 2010 Valencia had participated in providing bribes to Lorelei Oviatt, Walter Baldwin and Kim Baldwin. Labbad and Valencia could not present any documentary or corroborating evidence to support the allegations, which were also reported to the FBI. No evidence of unusual financial activity was discovered during the investigation. There is no evidence to corroborate any of the accusations made by David Valencia, and the accusations are contrary to previous statements taken by Valencia in 2018, where he denied even *hearing* of any government official being bribed. The only other purported witness to one incident of alleged bribery – another employee of AVDC – could not confirm important details of the alleged event, nor identify any of the officials allegedly involved. Valencia claimed that alleged bribes to Lorelei Oviatt were to be distributed to a group including Supervisor Ray Watson, Chuck Lackey, Al Rojas, and Deputy Ramos. Additional accusations of the bribery of Supervisor Maggard were contradicted by Valencia in a 2018 interview in which he specifically denied that Supervisor had been bribed in any way. The accusations of bribery of Supervisor Maggard, Lorelei Oviatt, Walter Baldwin, Kim Baldwin, Supervisor Watson, Chuck Lackey, Al Rojas, and Deputy Ramos were all determined to be unfounded.

David Valencia has asserted that he provided cash bribes to government officials to affect their behavior, which if true, would be a violation of Penal Code 67.5, which prohibits the offering of bribes. However, conviction for offering a bribe under Penal Code Section 67.5, like all crimes, requires some independent proof that the crime occurred aside from a suspect’s admission to

committing it. Because the investigation did not find any independent evidence that the alleged bribes occurred aside from statements of Valencia, prosecution is precluded under the *corpus delicti* rule, which prohibits conviction of an offense without evidence that a crime occurred independent of the statement of the suspect.

The investigation into the allegations spanned more than two months and involved interviews of more than twenty potential witnesses. Despite a thorough investigation, there was absolutely no evidence revealed to support the claims made by members of the cannabis industry.

District Attorney Cynthia Zimmer commented on the result of the investigation, saying that “The Public Integrity Unit investigates allegations of misconduct of public officials. In this case, the investigation revealed no evidence of misconduct on the part of any of the people accused of wrongdoing by members of the local cannabis industry.”