

Congress of the United States
Washington, DC 20515

May 20, 2010

The Honorable Timothy Geithner
Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Geithner:

As you know, the voters of Colorado approved a law providing for the use of medical marijuana for qualifying patients with a doctor's recommendation in 2000. Since that time, the provision of this medicine to patients has become more streamlined, with collective non-profit organizations providing marijuana to patients at retail locations. The other 13 states that have medical marijuana laws have similarly made progress to ensure the safe delivery of medical marijuana to qualified patients. Currently many more states are in the process of developing their strategy to address this issue in a manner that is both compassionate and consistent with our shared goal of public safety.

Your counterparts at the Department of Justice are to be commended for issuing formal written guidelines on October 19, 2009, making clear that federal resources should not be used against people in compliance with state law in states that have legalized marijuana for medical use. Following that announcement, on November 16, 2009, Colorado Attorney General John W. Suthers' office issued a formal opinion stating that "Medical marijuana is tangible personal property and is subject to the state sales tax..." and that "[t]he obligation to collect and remit sales tax due is borne by the vendor [emphasis added.]"¹

In attempts to comply with the policy articulated by Attorney General Suthers, many medical marijuana dispensaries have opened or maintained accounts with major national banking institutions or local banks. However, dispensary operators are finding it increasingly difficult to maintain accounts with financial institutions, due to what a spokesman for Chase bank called, "financial operational and compliance risk."²

Thus, it seems clear that legitimate state-legal businesses are being denied access to banking services, which does not serve the public interest. Among other concerns, the effects of this denial of service include: (1) an increased risk to public safety with potential theft or robbery that any cash-only or cash-reliant business faces; (2) a decreased likelihood that medical marijuana vendors will have the ability to accurately account for tax liability; and (3) an affront

¹ State of Colorado, Office of the Attorney General, *Formal Opinion of John W. Suthers, No. 09-06*, November 16, 2009.

² Jefferson Dodge, *Elevations Credit Union Refuses Business with Medical Marijuana Dispensaries*, The Boulder Weekly, February 12, 2010.

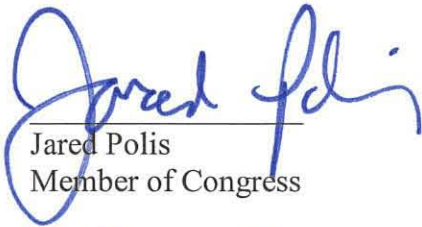
to fundamental fairness, since forcing businesses to operate with cash exposes the owners to greater legal risk under the *Bank Secrecy Act*.³

As individual states move forward with establishing a regulatory framework for how to address the distribution of medical marijuana, it is essential that providers and patients alike are not subjected to undue danger from criminal activity by forcing providers to be "cash-only". To the criminal element these places become soft targets. In a time when local governments are already financially strained; ensuring providers can access banking services has the double benefit of increasing public safety and giving local governments and providers alike the ability to ensure compliance with tax remittance.

Accordingly, we respectfully request that your office issue formal written guidance for financial institutions assuring that Department priorities do not include targeting or pursuing institutions whose account holders are involved in a business ostensibly operating in compliance with a state medical marijuana law. Not only does this remedy a fundamental inequity, it also seems a wise use of the Department's limited resources.

We look forward to hearing from you. Thank you very much for your attention to this matter.

Sincerely,



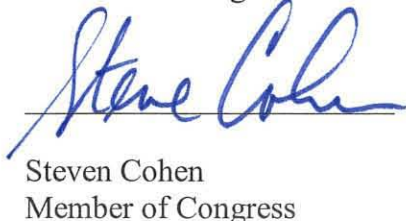
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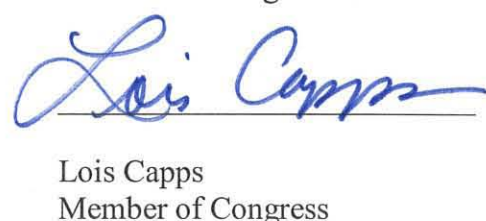
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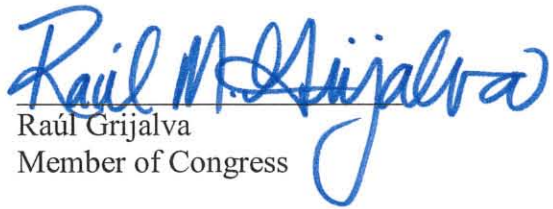


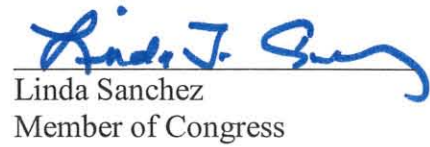
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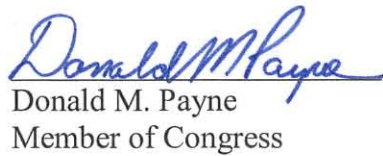


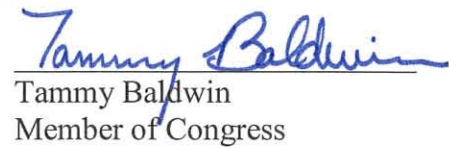
Lois Capps
Member of Congress

³ For example, the *Act* requires depository institutions to file a Currency Transaction Report (CTR) of any cash transaction involving \$10,000 of currency in one business day. Additionally, there are numerous imaginable outcomes under the current circumstances that would cause a dispensary owner to trigger the filing of a Suspicious Activity Report (SAR).


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