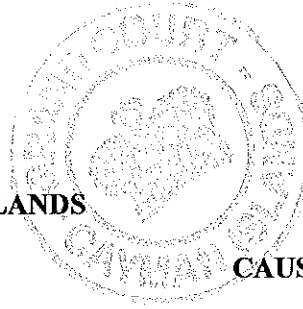


IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



CAUSE NO: 147 OF 2017

BETWEEN:

FARSIDE THERAMED IMPORTS LTD.

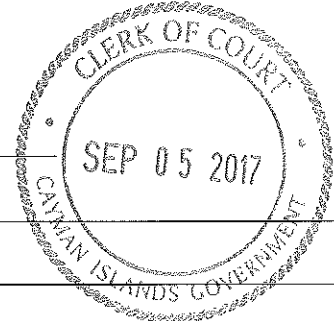
PLAINTIFF

THE TRADE AND BUSINESS LICENSING BOARD

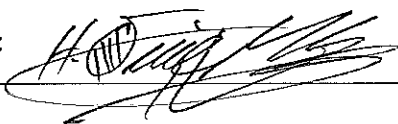
DEFENDANT



EX PARTE APPLICATION FOR LEAVE
TO APPLY FOR JUDICIAL REVIEW



To the Clerk of the Court, Law Courts, George Town, Grand Cayman

<p>Name, address and description of applicant</p>	<p>Farside TheraMed Imports Ltd. P.O. Box 481, Grand Cayman KY1-1106, Cayman Islands</p> <p>Applicant on an expedited basis for the grant of a Trade and Business Licence ("Licence") as an Agent-Importer of cannabis extracts and tinctures of cannabis for medical purposes ("Medical Cannabis").</p>
<p>Judgment, order, decision or other proceeding in respect of which relief is sought</p>	<p>The Defendant's decision ("Decision") to defer (rather than to grant or to refuse within five business days of filing) the Plaintiff's application ("Application") that was filed on 2 June 2017 and accepted as being eligible for processing on an expedited basis and to cause a letter ("Letter") dated 16 June 2017 to be sent by email to the Plaintiff requesting that the Plaintiff provide the Defendant with a letter from the Ministry of Health ("Ministry") and/or from the Health Practice Commission ("HPC") confirming whether the Plaintiff's proposed type of business is regulated through the Ministry and/or through the HPC.</p>
<p>Relief Sought</p> <ol style="list-style-type: none"> 1. An Order of Certiorari to quash the Decision as being contrary to sub-section 21(5) of the Trade and Business Licensing Law, 2014, as amended ("TBLL"), as not being lawful, rational, proportionate and/or procedurally fair for purposes of sub-section 19(1) of the Cayman Islands Constitution Order 2009 ("Constitution") and as being unlawful in accordance with section 24 of the Constitution; 2. An Order of Mandamus to compel the Defendant (without further delay) to grant or to refuse the Application as required in accordance with sub-section 21(5) of the TBLL and (if granted) to issue the Licence that is sought by the Plaintiff, subject only to such conditions in accordance with sub-section 21(4) of the TBLL as are reasonable and properly related to the Plaintiff's business; and 3. A Declaration that neither the Ministry nor the HPC regulates the Plaintiff's proposed business, that its proposed business is lawful and not contrary to the public interest, and that the Plaintiff is not in any way disqualified from holding the Licence that is sought by the Plaintiff. 	
<p>Name and address of applicant's attorneys:</p>	<p>Henry Orren "Orrie" Merren IV, Attorney-at-Law 15 Simmons Way, George Town, Grand Cayman, Cayman Islands P.O. Box 481, Grand Cayman KY1-1106, Cayman Islands</p>
<p>Signed: </p>	<p>Dated: 4 September 2017</p>

GROUNDS ON WHICH RELIEF IS SOUGHT

1. On 24 October 2016, the Misuse of Drugs Law was amended to allow for lawful importation of cannabis oil and for dispensing of it for medical and therapeutic purposes and this amendment has been incorporated into the Misuse of Drugs Law (2017 Revision) (“MDL”). In accordance with sub-section 2(1) of the MDL, “authorised” means authorised by this or any other Law, and includes ... “(b) a person lawfully conducting the business of a retail pharmacy or of an importer, acting in either case in the capacity as such”. Sub-section 2(1) goes on to provide that “in relation to cannabis extracts and tinctures of cannabis an authorised person is ... (iii) a person lawfully conducting the business of a retail pharmacy or of an importer, acting in either case in the capacity as such”.
2. A person who is so “authorised in that behalf” may now *inter alia* import, supply, distribute, sell, buy or otherwise deal in Medical Cannabis without committing an offence pursuant to sub-section 3(1) of the MDL. Since neither sub-section 3(1) nor section 4 of the MDL is being contravened by any such person who is so “authorised in that behalf,” he or she would also not come within the meaning of “drug trafficking” as defined in sub-section 2(1) of the MDL.
3. When referencing a “medical doctor” or a “pharmacist” acting in the course of their lawful duties as such, sub-section 2(1)(b) of the MDL expressly states that they must be “licensed in accordance with the Health Practice Law (2017 Revision)” (“HPL”). However, in the same context, either a “retail pharmacy” or “an importer” must be “lawfully conducting [their] business ... acting in either case in the capacity as such”. Thus, the lawful business of a “retail pharmacy” or of “an importer” acting in the relevant capacity as such is not licensed and regulated in accordance with the HPL.
4. To be lawfully conducting their business, such “retail pharmacy” or such “importer” must be duly licensed in accordance with the TBLL. Although not expressly so stated, it is implied in sub-section 2(1) of the MDL because (if not duly licensed in accordance with the TBLL) such “retail pharmacy” or such “importer” would be unlawfully carrying on an unlicensed business within the Islands contrary to sub-section 17(1) of the TBLL. However, when duly licensed under the TBLL, the Plaintiff would be functioning much like an agent-importer for a foreign pharmaceutical company and would be supplying retail pharmacies and medical doctors with lawfully imported Medical Cannabis for lawful uses.
5. The Defendant failed (within five business days from the date of filing on 2 June 2017) to grant or to refuse the Plaintiff’s eligible Application as mandated (by “shall”) in accordance with sub-section 21(5) of the TBLL. After the said five days had expired, the Defendant’s actions ceased to be lawful, rational, proportionate and/or procedurally fair for purposes of sub-section 19(1) of the Constitution and thus became unlawful in accordance with section 24 of the Constitution. The Defendant thereby unreasonably, wrongfully and without any proper factual and/or legal basis unlawfully deprived the Plaintiff of its right to trade and to undertake its lawful business pursuant to a duly granted Licence.
6. The Defendant unreasonably, wrongfully and without any proper factual and/or legal basis decided to request (in effect, require) the Plaintiff to provide the Letter from the Ministry and/or from the HPC. The HPC regulates various professions, including medical doctors and pharmacists. However, “a person lawfully conducting the business of a retail pharmacy or of an importer, acting in either case in the capacity as such” is not one of those professions. Moreover, although the Ministry is constitutionally responsible for the HPC, it also does not regulate the type of business that the Plaintiff company is proposing to undertake.
7. The Defendant also unreasonably, wrongfully and without any proper factual and/or legal basis has decided to defer and/or delay processing of the Plaintiff’s Application and (except for the Letter) has also failed to respond in writing to any of the Plaintiff’s written communications respecting its Application (whether such communications were sent directly to the Defendant and/or to its Chairman or whether such communications were sent to the Hon. Minister of Health, the HPC or the Hon. Attorney General and copied to the Defendant and/or to its Chairman).

Note – These grounds are supported by an affidavit of Michael John Hurlstone which verifies the facts relied on.