

FILED

FEB 12 2002

United States District Court

NORTHERN DISTRICT OF

RICHARD W. WIEKING
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

KENNETH EUGENE HAYES
RICHARD WATTS
EDWARD ROSENTHAL

CRIMINAL COMPLAINT

CASE NUMBER: 3 02 30040

(Name and Address of Defendant)

EMC

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about February 12, 2002 in Alameda county, in the Northern District of California defendant(s) did, (Track Statutory Language of Offense)

See Attachment A

in violation of Title 21 United States Code, Section(s) 841(a)(1), 856

further state that I am a(n) DEA Special Agent and that this complaint is based on the following facts:

See attached Affidavit

Continued on the attached sheet and made a part hereof:

Yes ☐ No ☐

Approved
As To
Form:

AUSA: GEORGE L. BEVAN JR.

Name Signature of Complainant

Sworn to before me and subscribed in my presence,

Date

at

City and State

Edward Chen, U.S. Magis. Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

ATTACHMENT TO COMPLAINT

COUNT ONE: 21 U.S.C. § 841(a)(1)

On or about January 9, 2002, in the Northern District of California, the defendant

**KENNETH EUGENE HAYES, and
RICHARD WATTS**

did knowingly and intentionally manufacture (cultivate) a Schedule I controlled substance, to wit, more than 100 marijuana plants, in violation of Title 21, United States Code, Section 841(a)(1).

Maximum Penalties: 40 years imprisonment, with a 5-year mandatory minimum, \$2 million fine, 5 years supervised release, and a \$100 special assessment.

COUNT TWO: 21 U.S.C. § 841(a)(1)

On or about February 12, 2002, in the Northern District of California, the defendants

**KENNETH EUGENE HAYES, and
RICHARD WATTS**

did knowingly and intentionally manufacture (cultivate) a Schedule I controlled substance, to wit, more than 100 marijuana plants, in violation of Title 21, United States Code, Section 841(a)(1).

Maximum Penalties: 40 years imprisonment, with a 5-year mandatory minimum, \$2 million fine, 5 years supervised release, and a \$100 special assessment.

COUNT THREE: 21 U.S.C. § 856 (a)(1)

On or about and between January 9, 2002 and February 12, 2002, both dates being approximate and inclusive, in the Northern District of California, the defendants

**KENNETH EUGENE HAYES, and
RICHARD WATTS**

did knowingly maintain a place, to wit, the premises known as the Harm Reduction Center at 52 6TH Street, San Francisco, California, for the purpose of manufacturing (cultivating) marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 856(a)(1).

Maximum Penalties: 20 years imprisonment, \$500,000 fine, 3 years supervised release, and a \$100 special assessment.

COUNT FOUR: 21 U.S.C. § 841(a)(1)

On or about and between December 6, 2001 and February 12, 2002, in the Northern District of California, the defendant

EDWARD ROSENTHAL

did knowingly and intentionally manufacture (cultivate) a Schedule controlled

substance, to wit, more than 100 marijuana plants, in violation of Title 21, United States Code, Section 841(a)(1).

Maximum Penalties: 40 years imprisonment, with a 5-year mandatory minimum, \$2 million fine, 5 years supervised release, and a \$100 special assessment.

COUNT FIVE: 21 U.S.C. § 856 (a)(1)

On or about and between November 26, 2001 and February 12, 2002, both dates being approximate and inclusive, in the Northern District of California, the defendant

EDWARD ROSENTHAL

did knowingly maintain a place, to wit, the premises at 1419 Mandela Parkway, Oakland, California, for the purpose of manufacturing (cultivating) marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 856(a)(1).

Maximum Penalties: 20 years imprisonment, \$500,000 fine, 3 years supervised release, and a \$100 special assessment.

AFFIDAVIT OF JON PICKETTE
IN SUPPORT OF CRIMINAL COMPLAINT

1. I, Jon S. Pickette, Special Agent (SA), Drug Enforcement Administration (DEA), United States Department of Justice, being duly sworn, do depose and hereby state the following:
2. I am presently employed by the Drug Enforcement Administration (DEA), United States Department of Justice, San Francisco Field Division. During the course of my employment have received approximately 500 hours of specialized narcotics-related training and have participated and conducted numerous drug trafficking investigations.
3. On February 8, 2002, United States Magistrate Judge Edward M. Chen, issued search warrants, under U.S. District Court, Northern District of California, criminal case CR3-02-30034EMC, incorporated herein by reference and attached hereto, at the HARM REDUCTION CENTER (HARM), 52-6th Street, San Francisco, CA.; 275 King Road, Petaluma, CA.; 582 Bowdoin, San Francisco, CA.; 1635 E.22nd St., Oakland, CA., and 1419 Mandela Parkway, Oakland, CA.
4. On February 12, 2002, DEA, IRS, and U.S. Customs agents executed search warrants at the aforementioned locations.
5. At 52 6th Street, San Francisco, CA: As referenced in the search warrant affidavit attached and incorporated herein; Kenneth Eugene HAYES, Jr., and Richard Buchan WATTS operate and run the HARM REDUCTION CENTER at this location, growing and distributing marijuana. Agents entered the premises this morning, and found large indoor marijuana cultivation operation containing in excess of 100 marijuana plants The investigation is continuing and the final marijuana plant count is not completed at this time. SA J. Brian Padgett,

who has considerable experience in conducting investigations of marijuana cultivation and has personally handled and destroyed thousands of marijuana plants, told me he determined inside the basement of the HARM REDUCTION CENTER there were over at least 600 marijuana plants growing there.

6. At 275 King Road, Petaluma, CA: As referenced in the search warrant affidavit attached and incorporated herein; Kenneth HAYES rents this property and uses it at his residence. This morning, agents entered the premises and found an indoor marijuana cultivation operation. SA Robert Eller, who has experience in conducting investigations of marijuana cultivation operations told me that he determined that inside a barn at 275 King Road there were at least 178 marijuana plants in an indoor cultivation operation. The investigation is continuing and the final marijuana plant count is not completed at this time.

7. At 1419 Mandela Parkway, Oakland, CA; As referenced in the search warrant affidavit attached and incorporated herein; this is a building solely used by Edward ROSENTHAL to cultivate marijuana and is owned by him and all Pacific, Gas & Electric bills for this location are listed in ROSENTHAL's name. This morning, agents entered the premises and found a large indoor marijuana cultivation operation. SA Daniel Tuey, who has extensive experience in conducting investigations of marijuana cultivation operations and has personally handled and destroyed thousands of marijuana plants, told me he determined that inside 1419 Mandela Parkway, there are over 100 marijuana plants growing there. The final marijuana plant count is not completed at this time.

8. Based on the facts of evidence, there is probable cause that Kenneth Eugene HAYES, Jr., Richard Buchan WATTS, and Edward ROSENTHAL committed the offenses set forth in

Attachment A.

I declare under penalty of perjury that the facts contained herein are true and correct to the best of my information and knowledge.


Jon S. Pickette, Special Agent
Drug Enforcement Administration

SWORN and SUBSCRIBED to before me
this 12th day of February 12, 2002.


Edward M. Chen
United States Magistrate Judge

SEALED BY ORDER OF COURT
United States District Court
 SEALED BY COURT ORDER

NORTHERN

CALIFORNIA

In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

52 6th St., San Francisco, Ca.; 275 King Rd.,
 Petaluma, Ca.; 582 Bowdoin, San Francisco,
 CA; 1419 Mandela Parkway, Oakland, Ca; 1635
 E 22nd St, Oakland, CA & vehicles (Att. A)

APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

CASE NUMBER:

3-02-30034 EMC

Special Agent Jon Pickette

being duly sworn depose and say

I am a(n) Special Agent for the Drug Enforcement Administration (DEA) and have reason to believethat ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

See Attachment A

ORIGINAL
FILED

FEB - 8 2002

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

in the Northern District of California

there is now concealed a certain person or property, namely (describe the person or property to be seized)

See Attachment B

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

Property that constitutes evidence of a criminal offense; contraband, fruits of a crime,
 things criminally possessed; or property designed or intended for the use of an offense
 concerning a violation of Title 21 United States Code, Section(s) 841(a)(1), 846

The facts to support a finding of Probable Cause are as follows:

See Attached Affidavit

Approved as to form: *[Signature]*
 2/7/02

Continued on the attached sheet and made a part thereof:

☒ Yes ☐ No

Signature of Affiant

Sworn to before me, and subscribed in my presence,

Date

2/8/02

at San Francisco, California

EDWARD M. CHEN, U.S. MAGISTRATE JUDGE

Name and Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF SEARCH WARRANTS

I, Special Agent Jon Pickette, Drug Enforcement Administration (DEA), United States Department of Justice, being first duly sworn, hereby state as follows

A. Introduction

1 This Affidavit is in support of an application for search warrants in connection with the investigation of Kenneth Eugene HAYES "HAYES") and the conspiracy to cultivate and distribute marijuana. HAYES operates the HARM REDUCTION CENTER (hereinafter "HARM" which dispenses "medical" marijuana pursuant to California Health & Safety Code Section 11362.5 (California's Proposition 215. HAYES heads an organization which is cultivating and distributing large quantities of domestically-grown marijuana; importing and distributing marijuana from Canada; as well as laundering drug proceeds in the U.S. and Canada. HAYES cultivates marijuana at HARM and his residence at 275 King Road, Petaluma, California.1 Edward ROSENTHAL

"ROSENTHAL") is a marijuana cultivator, producing domestically grown marijuana for HAYES, at 1419 Mandela Parkway, in Oakland. Richard WATTS ("WATTS" is an employee of HARM, who distributes marijuana for HAYES, and resides at 582 Bowdoin, in San Francisco. HAYES, WATTS, ROSENTHAL, and others are subjects of this criminal investigation

2. The following is an index (as fully described in

Attachment A to this affidavit of requested search warrants,
listed by the name of the subject:

Kenneth HAYES

52 6th Street, San Francisco, CA. HARM)
275 King Road, Petaluma, CA. (HAYES' residence)
1986 Ford Pick-up, California License 5V60884
1989 Mazda, 2-door, California License 2PKJ217

Richard WATTS

Bowdoin, San Francisco, CA. (WATTS' residence)
2000 Dodge Pick-up, California License 6K68017

Edward ROSENTHAL

1419 Mandela Parkway, Oakland, CA. (commercial
structure)
1635 East 22nd St., Oakland, CA. (ROSENTHAL'S
residence)
1999 Mercury, 2-door, California License 4DXX351

3. The DEA, Internal Revenue Service IRS), and U.S
Customs Service are presently investigating the marijuana
cultivation and distribution organization of Kenneth Eugene
HAYES. Through this investigation, I have reviewed police
reports involving HAYES and co-conspirators, spoken with other
law enforcement officers regarding HAYES' marijuana distribution
organization, directed undercover operations in which marijuana
was purchased from HAYES' business, HARM, and other co-

1 All locations are in California, unless otherwise noted

conspirators, conducted surveillance on the distribution organization and reviewed information from several sources regarding HAYES and co-conspirators.

4. Assisting me with this investigation are other federal law enforcement officers including IRS Special Agent John Baker of the IRS Criminal Investigation Division. S/A Baker has been an Special Agent since August 1995, having attended the Federal Enforcement Training Center at Glynco, Georgia. His expertise involves violations of Title 26 (U.S. tax law violations) and Title 18 U.S.C. violations relating to money laundering and other financial crimes involving the concealment of illegally derived monies.

5. There is probable cause to believe that at the locations to be searched there will be found evidence of violations of 21 U.S.C. §§ 841(a) and 846, and 18 U.S.C. § 1952 (interstate travel in aid of racketeering), and §§ 1956 and 1957 (money laundering). The evidence to be seized is more specifically described in Attachment B to this affidavit. The statements contained in this affidavit are based upon my own personal knowledge, as well as information provided to me other law enforcement officers. Because this affidavit is written for the limited purpose of setting forth probable cause for the requested search warrants, I have not included every fact known to me through this investigation. I have set forth the facts

that I deem necessary to establish probable cause that evidence, fruits, or instrumentalities of the these offenses will be found at the locations to be searched

Affiant's Background

6. I have been employed by the DEA since May 1997. Prior to employment with DEA, I was employed as a Deputy Sheriff at the Bernalillo County Sheriff's Department, Albuquerque, New Mexico from October 1993 until May 1997. During this time I accumulated the following training and experience:

- a) I graduated from the DEA Academy located at the FBI Academy, Quantico, Virginia. I received approximately 500 hours of specialized narcotics related training. The training included controlled substances identification, narcotics related investigative techniques, interview and interrogation training, preparation of search warrants, tactical application of narcotics enforcement, surveillance and electronic monitoring techniques, money laundering investigations and various forensic subjects including latent fingerprint collection and analysis.
- (b) As a DEA agent, I have participated in the execution of approximately eighty search warrants at the residences of narcotic traffickers, safe houses, crack houses and have participated in over 250 arrests for the drug related offenses. I have drafted in excess of fifteen federal DEA

search warrants, and have participated in the seizure and/or eradication of more than 85,000 growing marijuana plants being cultivated either indoors or outdoors. During these activities, I have personally viewed, touched, examined and detected the odor of marijuana plants.

As a DEA agent, I have participated in investigations targeting individuals and organizations trafficking heroin, cocaine, cocaine base "crack"), marijuana, methamphetamine and other controlled substances as defined in 21 U.S.C.

Section 801. I know that marijuana is a controlled substance under 21 U.S.C. Section 801

Prior to being a DEA agent, I graduated from the Bernalillo County Regional Training Academy. I received twenty weeks of general police investigation and techniques including controlled substance identification and investigation.

As Deputy Sheriff, I drafted and/or participated in over thirty search warrants for residences, including those of narcotics traffickers, safe houses, and crack houses, and I participated in over 100 arrests for drug related offenses.

f I also received training conducted by the Bernalillo County Sheriff's Department regarding advanced criminal investigations. I also received forty hours of training conducted by the Rio Rancho Department of Public Safety regarding advanced criminal investigations, including

controlled substance investigations and techniques

B. Relevant Facts

SEARCH LOCATION 1: 52 6th STREET, SAN FRANCISCO, CALIFORNIA

A. PROBABLE CAUSE TO SEARCH

Informant 1:

7 During April 2001 a cooperating defendant, hereinafter referred as "Informant 1"² was arrested in Northern California for cultivation of marijuana. Seized were approximately 400 marijuana plants and a substantial amount of U.S. currency. Approximately \$159,000 in U.S. currency from Informant 1's car. Informant 1 told DEA Special Agents that the money located in his³ vehicle was from the HARM REDUCTION CENTER (HARM), a medicinal marijuana distribution organization located in San Francisco. Informant 1 said the money was derived from the sale of approximately 50 pounds of "B.C. Bud" marijuana to HARM and the currency was destined for Canada.

8. In June 2001, DEA Special Agents arrested several individuals involved in a marijuana smuggling organization in Washington State for conspiracy to distribute marijuana. At the time of the arrest, \$240,000 U.S. currency and a loaded handgun were seized. One of the individuals was Informant 1.

² Informant 1's has an extensive criminal history for narcotics (including marijuana) violations and for a false statement on a loan application in 1962. He was convicted of the false statement on a loan application and for federal narcotics violations.

³ The pronoun references in this affidavit with respect to Informants are masculine, irrespective of the gender of each Informant.

9. DEA Special Agents in Washington interviewed Informant 1 further, who is providing information to receive a reduced sentence pursuant to a plea agreement.

Informant 1 indicated that in July 1999, he was introduced to a medical marijuana distribution organization known as the HARM REDUCTION CENTER (HARM), located in San Francisco. Informant 1 indicated that HARM was located at 6th St. and Howard. Informant 1 indicated that HAYES was the individual responsible for HARM.

Informant 1 began getting 10-20 pound shipments of marijuana and delivering it to HAYES, the owner of HARM, shortly after meeting HAYES. Informant 1 indicated that the marijuana would be provided to HARM and payment would be received at a later date. Informant 1 said HAYES resided in Petaluma.

Public records show that HARM is listed as a limited liability corporation with the executive office being 275 King Road, Petaluma, which is HAYES' residence (see section 2, below).

Pacific Bell records show telephone number (415) 575-9796 is in the name of HAYES and the MARY JANE RATHBURN WELLNESS, located at 52 6th St., San Francisco. HAYES gave this telephone number to police when officers investigated the theft of marijuana from his Petaluma residence.

PG&E records show that utility service at 52 6th St., San Francisco is in the name of HOWARD STREET HARM REDUCTION

CENTER. Usage over a five month period is as follows:

May 2001:	4,376 kilowatt hours ⁴
June 2001:	10,835 kilowatt hours
July 2001:	11,221 kilowatt hours
August 2001:	10,326 kilowatt hours
September 2001:	9,878 kilowatt hours.

From my training and experience as well as that from individuals employed by PG&E, I believe HAYES is cultivating marijuana at HARM. This amount of power usage is irregular for a commercial building and business as HARM is portraying itself to be (a medicinal marijuana dispensary). I know that marijuana cultivation sites require substantial energy to power lights fans and other equipment and necessary to maintain the cultivation site. The high amount of kilowatt-hours could be representative of a marijuana cultivation site being operated in HARM.

Other officers and I have surveilled HARM many times I have seen at 52 6th St., San Francisco, a small handwritten sign with the name "HARM" written on it.

Informant 2:

In November 2001, DEA Special Agent J. Brian Padgett and I interviewed an individual indicating who wished to give information regarding medical marijuana distribution organizations in the Bay Area. This individual (herein referred to as Informant 2)⁵ is providing information for monetary gain.

⁴ Service transferred to HARM on May 25, 2001.

⁵ Informant 2's has an extensive criminal history including narcotics

Informant 2 has provided the DEA information in the past that led to narcotics seizures..

17. Informant 2 said HAYES operates HARM along with Richard Buchan WATTS. Informant 2 said HAYES and WATTS sell marijuana out of HARM for profit, and that there is a marijuana cultivation operation in the basement of HARM. Informant 2 also said HAYES operates a marijuana cultivation operation at his residence in Petaluma. According to Informant 2, HARM does not have a membership card, but does maintain a computer database of members

18. During the week of November 26, 2001, I directed Informant 2 to go to HARM and purchase marijuana from HAYES or WATTS using DEA funds. When Informant 2 arrived at HARM, spoke with WATTS and requested to purchase approximately an ounce of marijuana. Informant 2 observed various strains of marijuana in a display case and on the counter, as well as scales. WATTS told Informant 2 he did not want to sell the amount of marijuana at HARM, told Informant 2 to follow him home and they would do the transaction at WATTS' residence. Informant 2 and WATTS left HARM and drove to WATTS' residence in separate cars

19. Agents followed both WATTS and Informant 2. WATTS drove a 2000 Dodge Dakota pick-up California license 6K68017

violations, property crimes, weapons violations, driving while under the influence and battery. Informant #2 has been convicted of burglary, possession of dangerous drugs, receiving stolen property, possession of a sawed off shotgun, possession of marijuana, driving while under the influence and theft. The most recent conviction, according to NCIC, is in 1985 for driving

(registered to WATTS at 582 Bowdoin, San Francisco) and departed with Informant 2 following. WATTS went directly to 582 Bowdoin San Francisco. WATTS and Informant 2 entered the residence through the garage that WATTS opened. Once inside, WATTS sold Informant 2 approximately one ounce of marijuana, plus additional unmanicured marijuana, for \$300. Inside the residence, Informant 2 observed marijuana laying on the coffee table and observed a scale in the kitchen WATTS remained at the residence while Informant 2 left

20. After Informant 2 left WATTS' residence, agents observed a number of individuals enter and exit the location on foot at HARM. One subject exited the location carrying a box measuring approximately 10"x 18"x 9" The amount of amount of foot traffic and time spent in the location is consistent with that of other locations I have observed which traffic narcotics.

21. During the week of December 3, 2001, I directed Informant 2 to go to HARM and purchase marijuana utilizing DEA funds. An "employee" of HARM advised Informant 2 that WATTS had been in and out of HARM throughout the day. Informant 2 told the employee that they needed a half-ounce of marijuana. Informant 2 observed marijuana in a display case and on the counter. Two "employees" of HARM weighed out 1/4th of an ounce of low-grade Mexican marijuana and 1/4th an ounce of high-grade marijuana Informant 2 was advised that the total would be \$120. Informant

2 provided HARM with \$120 in DEA funds and left. Later that day, S/A Padgett saw WATTS' vehicle parked in front of HARM

During the week of December 25, 2001, I again directed Informant 2 to go to HARM and purchase marijuana utilizing DEA funds and order 400 marijuana "clones".⁶ Informant 2 arrived at the location and entered. Just after Informant 2 entered HARM, a male subject and female left HARM and walked to a Mazda 2-door, California license 2PKJ217 (registered to Cheryl SEQUEIRA, 275 King Road, Petaluma.) SEQUEIRA is HAYES' girlfriend. The male entered the driver's side and the female returned to HARM. As the female returned to HARM, WATTS' Dodge pick-up, California 6K68017, left from in front of HARM. SEQUEIRA's vehicle never left.

Once inside the location, Informant 2 observed marijuana and scales on the counter and in a display case. There were also several individuals inside HARM smoking marijuana. Informant 2 also saw HAYES, who was working on a computer and spoke with him. Informant 2 spoke to a female "employee" behind the counter. Informant 2 told her he needed a half-ounce of marijuana and that he only had \$200. The female said \$200 was not enough for a half-ounce, so she sold Informant 2 slightly less than a half-ounce of marijuana

⁶ A marijuana "clone" is a cutting from a mature plant placed in a growing medium in order to reproduce a replica of the mature plant. Once the "clone" has rooted and stabilized, it is transplanted and matures into a usable product.

24. Informant 2 stayed and spoke to people inside HARM including HAYES. Informant 2 went into the office with HAYES and told him HAYES he would need 400 marijuana "clones". HAYES told Informant 2 it would not be a problem, and the clones would cost \$10 per plant. HAYES told Informant 2 he would have pay cash on delivery and that Informant 2 could pick them up whenever he needed them. Shortly thereafter, Informant 2 left HARM.

25. During this meeting, agents surveilled several individuals enter HARM, stay a brief period of time and then depart. Agents also observed boxes, similar to the boxes seen on the previous surveillance, being loaded into a vehicle. Based on my training experience, the traffic observed at HARM is consistent with that of a location where narcotics are trafficked.

26. During the week of December 31, 2001, DEA Special Agent Robert Eller, acting in an undercover capacity, went to HARM to purchase marijuana utilizing DEA funds. In an undercover capacity, S/A Eller previously obtained a marijuana "recommendation" from Dr. Stephen ELLIS in San Francisco. S/A Eller went to Dr Ellis' office, complaining of migraine headaches, and wanted marijuana for relief. Dr. ELLIS asked him for proof (a prescription or medication of his condition, which S/A Eller did not have, prior to recommending marijuana. Dr. ELLIS provided a written recommendation to S/A Eller and charged

a \$200 fee. S/A Eller then obtained a City of San Francisco Medical Marijuana card.

27. S/A Eller entered HARM and was allowed into the main room of the business. There is the exterior door and a secondary door before entering the room where the marijuana is displayed

sold. S/A Eller described this room as being similar to a bar. There was a counter where the marijuana was displayed and several tables with chairs where individuals were sitting and smoking marijuana. S/A Eller spoke with a female employee and asked for an eighth ounce of marijuana. S/A Eller chose which variety of marijuana he wanted and she weighed it out and gave it to S/A Eller. S/A Eller gave the employee \$60 in DEA funds.

28(a). During the week of January 7, 2002, S/A Christopher Fay, acting in an undercover capacity, and Informant 2 went to HARM to purchase the 400 marijuana clones that Informant 2 had ordered during the week of December 25, 2001 from HAYES. S/A Fay and Informant 2 entered HARM and Informant 2 asked for HAYES. The employee behind the counter went to the back of the business and came out with an unidentified male who introduced himself as "Steve" and said he would help them. Informant 2 told "Steve" that some "babies" (marijuana clones) had been ordered from HAYES. "Steve" asked many and S/A Fay and Informant 2 told him 400

28(b). "Steve" took them to a back room where S/A Fay saw

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like a bar with a counter and several tables and chairs. S/A Fay observed marijuana, drug paraphernalia and other marijuana products displayed for sale, and saw several people smoking marijuana inside this room. Informant 2 later told me while he in HARM with S/A Fay, FATHER NAZARIN arrived and was spoke to different people there.

28(e) I counted and examined each marijuana plant purchased. There were a total of 405 marijuana plants which appeared to be "clone" plants. All plants had intact root structures.

28(f) While S/A Fay and Informant 2 were inside, surveillance agents again saw a considerable amount of foot traffic in and out of HARM. In one instance, before S/A Fay and Informant 2 arrived at HARM, agents saw a vehicle arrive and the driver enter HARM. After a brief period of time, this person left with "Steve," who carried three boxes (measuring 18" x 30" x and place them in the vehicle. These boxes were identical to those containing the 405 clone plants S/A Fay purchased from "Steve." I submitted these 405 marijuana plants to the DEA Western Regional Laboratory, where they were examined and found to be marijuana plants, as defined by Schedule I of the Controlled Substances Act.

Informant 3:

29. In early January 2002, a DEA Special Agent received a

telephone call from an individual who wished to remain anonymous, herein referred to as informant 3. Informant 3 indicated that he had received a medicinal marijuana recommendation for chronic pain. He obtained a card from the City of San Francisco and went to HARM to obtain marijuana. Informant 3 was let into HARM by "Bill", "Rick" photocopied the registration, and "Deborah" sold an eighth of an ounce of marijuana for \$60. Informant 3 said "Ken" is the owner of HARM and he owns property in Petaluma where he cultivates marijuana.

30. During a trip to HARM, Informant 3 observed an exchange of a briefcase to "Ken" who put the briefcase in a green duffle bag. According to Informant 3, "Ken" is also "cloning" marijuana plants for buyers. Informant 3 indicated that they owed money to HARM.

31. Shortly after receiving this information, I learned Informant 3 had spoken with a different DEA Special Agent a few days prior. Informant 3 relayed similar information, with the addition of HARM selling bulk marijuana (over 10 pounds at a time) out the "back door" and "Ken" and "Rick" have guns for protection at the center. Informant 3 said there are "parties" where marijuana is smoked at HARM where anyone can gain access for \$5. I have never spoken with Informant 3, nor is Informant 3 receiving any consideration for providing this information.

FATHER NAZARIN:

32(a). On approximately January 9, 2002, I received a letter from an individual who identifies himself as FATHER NAZARIN. The letter was addressed to S/A Richard Meyer (DEA's public information officer and was dated December 17, 2001. FATHER NAZARIN said in the letter he is a member of a church that dispenses medical marijuana. FATHER NAZARIN said there are medical marijuana dispensaries, which are "owned and operated by greedy, professional drug dealers who hide behind the shield of Proposition 215" As noted in Paragraph 1 herein, Proposition 215 is California's medical marijuana law.

32(b). FATHER NAZARIN also indicated that there is a local doctor that provides medical marijuana recommendations for marijuana for \$200 without any medical history or systematic inquiry into their complaints. FATHER NAZARIN said Rick WATTS, who owns one third of HARM, had recently been arrested for possession of illegal drugs including marijuana.

32(c). FATHER NAZARIN also stated the Ed ROSENTHAL sublets the basement at HARM to cultivate marijuana for sale. FATHER NAZARIN said ROSENTHAL moved his marijuana cultivation operation from Oakland to San Francisco.

WATTS' Colma arrest:

33(a). On December 13, 2001, WATTS was arrested by the Colma Police Department for possession of narcotics, possession

of concentrated cannabis, possession of marijuana and possession of a stun gun. After police officers observed marijuana in plain view in WATTS' white 2000 Dodge Pick-up, California 6K68017, officers seized a small amount of marijuana and a stun gun. Officers waited for the truck owner to return, and WATTS arrived back at the vehicle, officers contacted him. WATTS told Officer Hensley the vehicle and the marijuana were his. WATTS told officers he had a prescription for the marijuana.

33(b). WATTS also said he did not use drugs when asked if there was any other drugs on his person. While being pat-searched, WATTS said he had his pills in his pocket for which he had a prescription. Officer Hensley found morphine sulphate, oxycontin and oxycodone pills in a plastic baggie in WATTS' pocket. From my training and experience, I believe that this is an unusual method for carrying prescription medication. In WATTS' vehicle, Officer Hensley located a small brown bottle containing suspected concentrated cannabis. Above the driver's side visor a small plastic bag containing a white powder that WATTS said was crushed pills. The substance presumptively tested positive for cocaine.

33(c). WATTS showed Officer Hensley two forms that he said allowed him to possess marijuana. Officer Hensley noticed that the forms were incomplete and improperly filled out. One of these forms was dated December 19, 2001 (six days later). One of

these was a Doctor's Recommendation from Dr. Thomas O'CONNELL, in Daly City, listing WATTS' address as 582 Bowdoin, San Francisco. When booked in jail, WATTS told officers he lived at another address, which is where his brother, Mark Watts, lives. A review of WATTS' criminal history shows he has previously lied to police and used his brother's name as an alias. WATTS told Officer Hensley he was a "counselor" at HARM

Financial Records:

34. IRS S/A Baker and I reviewed BANK OF AMERICA records in the name of HAYES and HARM. Analysis of these records shows substantial deposits into four separate accounts. On three of the accounts, HAYES is a signatory (one account does not have a signature card, but it is in the HAYES' name). On one of the accounts, HAYES and WATTS are signatories. On another account, HAYES and an individual named Jeffrey SANBORN are signatories. HAYES is the sole signator on a third account

35. For account #1 in HAYES' name with no signature card. During the period June 2000 to July 2001, in excess of \$634,000 was deposited into the account. For account #3 in the name of HARM with HAYES and SANBORN as signatories, there was approximately \$42,000 deposited between June 2001 to October 2001. For Account #4 in the name of HARM with HAYES as the sole signatory, approximately \$6,700 was deposited between August and October 2001. Total deposits to these accounts exceeded

\$900,000. However, this does not account for inter-account transfers

Telephone Toll Analysis:

36(a). Analysis of outgoing calls from HAYES' home telephone, 707-789-9415, shows 11 calls to telephone 510-385-6187, subscribed to Jeff SANBORN, 10700 Wilshire, Los Angeles, California, during the two-month period between June 2001 and August 2001.

36(b). Analysis of outgoing calls from 415-975-9796, one of HARM'S telephone lines, shows approximately 89 telephone calls to HAYES' Petaluma residence from April to July, 2001. Calls were also made from HARM to the MARIN ALLIANCE, another medical marijuana organization. Records show that there are several telephone lines subscribed to HARM at 52 6th St., San Francisco.

Canadian Investigation:

37(a). On January 12, 2002, HAYES was arrested in Canada after he landed at a remote airfield south of Vancouver, Canada. HAYES had chartered the plane, a Cessna 172, in Seattle, Washington, and was the sole passenger. HAYES had approximately \$13,000 in U.S. currency hidden in his pants, a small amount of marijuana, drug paraphernalia and a UHF transceiver capable of plane-to-plane communication.

37(b). HAYES was held by the Royal Canadian Mounted Police (RCMP) and deported by Canadian Immigration to the custody

of the USCS. HAYES was interviewed by USCS S/A George Dolce. HAYES said he was the sole proprietor of HARM in San Francisco. HAYES described HARM as a business that provides a safe haven for medical marijuana users. HAYES also sells drug paraphernalia to his clients, and said the money he possessed was derived from the sale of drug paraphernalia and donations made by his "clients. HAYES refused to answer any questions regarding the sale of marijuana at his business. HAYES said his residence address was King Road in Petaluma. USCS records reflect that HAYES has numerous border crossings into British Columbia, Canada, most recently in December 2001.

37(c). In his luggage, S/A Dolce located a rental agreement for a residence in Vancouver, B.C., Canada, which lists HAYES, SEQUEIRA and their child. I have conferred with RCMP Corporal Ron Harrison in Vancouver, Canada, who told me the RCMP has surveilled the residence listed on the agreement and conducted thermal imaging. Corporal Harrison said the observations of the residence in Vancouver, B.C., Canada, are consistent with a structure that houses an indoor marijuana cultivation site

37(d). The RCMP continues to investigate and plans to search this residence pursuant to Canadian law in conjunction with this investigation.

Jesse IRWIN Arrest:

38(a). On January 17, 2002, I received a copy of a letter that HAYES sent to a San Francisco County Deputy District Attorney. The letter was dated August 29, 2001 and signed by HAYES. In the letter HAYES said that the marijuana (approximately 2 pounds) seized from Jesse IRWIN on August 7, 2001, was destined for HARM. HAYES said that IRWIN was to deliver the marijuana to HAYES. HAYES is requesting the return of the marijuana seized from IRWIN to HAYES, and claims in the letter the marijuana was his. This letter is on HARM letterhead and was faxed from "Cheryl SEQUEIRA 707 789-9499" on August 29, 2001.

38(b). San Francisco Police officers seized marijuana from IRWIN on August 7, 2001. Officers were working in a plainclothes capacity when they observed two individuals acting suspiciously. The officers stopped one of the vehicles associated with the subjects. Officers also secured a second vehicle associated with the subjects. Officers located marijuana and approximately \$7,000 in U.S. currency.

38(c). Follow-up search warrants were executed at two residences. One of the residences was 3431 Quintara, San Francisco. This is IRWIN'S residence. Inside IRWIN'S vehicle officers located approximately two pounds of marijuana. In IRWIN'S bedroom, officers seized approximately \$17,000 in U.S. currency. Officers also located a small indoor marijuana

cultivation site at the residence.

Based upon my training and experience, surveillance observations, undercover purchases, and information obtained from other law enforcement agencies, I believe that marijuana is being trafficked at HARM. Not only are individual user quantities being sold, but larger quantities, including marijuana plants, are being sold. The amounts of marijuana and plants could be used for resale and further distribution.

B. DESCRIPTION OF PREMISES

452 6th Street, San Francisco is a three-story commercial building. The upper two floors are brown brick. The first floor consists of the entry to the building. There is a plate glass window and a glass door that provides access into the building. Next to the glass door there is a metal roll up door. Above the door, there is a green sign that says HARM REDUCTION CENTER with the address of 52 6th Street written on it. The business is located on the west side of 6th Street approximately halfway between Mission and Market.

SEARCH LOCATION 2: 275 KING ROAD, PETALUMA, CALIFORNIA

A. PROBABLE CAUSE TO SEARCH

41. Evidence establishes that HAYES utilizes this address as his residence. Per the statement of expertise herein at paragraphs 87 to 115, traffickers of narcotics often store narcotics in and around their residence as well as other items of

evidence that are indicative of the individuals trafficking of narcotics. As established in the previous section (see paragraphs 7 through 40), HAYES lists this as his primary residence and Informants 2 and 3 say he cultivates marijuana there.

Seizure of 899 marijuana plants:

Through the review of police reports and state search warrant affidavits, I learned that on May 14, 1999, Sonoma County Sheriff's Detective Steve Gossett and other deputies executed a state search warrant at 275 King Road, Petaluma. This was the residence of HAYES and other individuals. Located during the search was an indoor and outdoor marijuana cultivation site containing approximately 899 marijuana plants. Also at the residence were processed marijuana, hashish, and equipment to manufacture hashish, scales, packaging material, a loaded .22 caliber rifle and U.S. currency.

Investigators seized indicia and electronic data indicating HAYES was associated with a medical marijuana distribution organization located in San Francisco known as CALIFORNIANS HELPING ALLEVIATE MEDICAL PROBLEMS (CHAMP). Paperwork also indicated that CHAMP employs HAYES' girlfriend Cheryl SEQUEIRA, and co-defendant Michael FOLEY. HAYES, SEQUEIRA and FOLEY were charged with various violations of the California's Health and Safety Code.

44. HAYES told officers the marijuana was grown for his own use and 1,200 other individuals. HAYES indicated that he had a medical necessity for marijuana. HAYES also said SEQUEIRA lived at the residence. HAYES indicated that he could not discuss whom the 1,200 people were that he was growing for and would not talk about the distribution of marijuana. Receipts were located at the residence indicating that HAYES both bought and sold marijuana.

45. HAYES and FOLEY took the case to trial. During trial, HAYES and FOLEY claimed a "medical necessity defense" and were later acquitted in Sonoma County Superior Court in the spring of 2001. Just prior to trial, charges were dismissed against SEQUEIRA. In preparation for the trial, the Sonoma County District Attorney's Office subpoenaed documents from CHAMP concerning HAYES' employment. CHAMP reported HAYES had been employed, but he had been terminated on March 31, 2000, following his arrest.

Seizure of \$4,425

46. On or about June 6, 1999, California Highway Patrol (CHP) officers seized approximately \$4,425 in U.S. Currency from HAYES. Officers stopped a car driven by HAYES on Highway 101 in Marin County. The officers located less than one ounce of marijuana in HAYES' pocket and \$4,425 in his waistband and pocket. Officers used a narcotics canine which alerted to the

currency. HAYES was cited and released and the currency seized asset forfeiture. Officers identified SEQUEIRA as a passenger along with another male passenger.

47. California Department of Motor Vehicles (DMV) records reflect that HAYES' lists his address as 275 King Road, Petaluma on his driver's license. HAYES also has a 1986 Ford Pick-Up truck, California license 5V60884, registered to him at 275 King Road, Petaluma. DMV records also show that SEQUEIRA has two vehicles registered to her at that address- a 1989 Mazda California license 2PKJ217, and a 1991 Toyota, California license 2WHN424

48. Pacific Bell records show that telephone service at 275 King Road, Petaluma, is listed to HAYES. Both HAYES and SEQUEIRA also have a Verizon Wireless cellular telephone with their listed address as 275 King Road. PG&E records show utility service at King Road is in the name of FOLEY

Marijuana theft investigation

49(a). On September 28, 2001, HAYES called the Sonoma County Sheriff's Department claiming that an unknown male stole marijuana being cultivated at his property at 275 King Road, Petaluma. HAYES told deputies he cultivates, processes and uses marijuana as well as supplies marijuana to his business, HARM located at 52 6th St., San Francisco, telephone number (415) 575-9796. HAYES said SEQUEIRA does not use marijuana. HAYES

estimated the value of the stolen marijuana to be \$30 and the value of marijuana cut, but left by the thief to be \$2,000

49(b). SEQUEIRA told deputies she noticed movement in the marijuana garden and as she approached it she saw a male cutting plants. SEQUEIRA called for James KYNE, a roommate, and confronted the man. When confronted, he stopped, grabbed a "bud" of marijuana and ran away. The investigating officer reported he saw approximately 50 to 60 marijuana plants on the property ranging in size from 18 inches to five feet.

Telephone Toll analysis:

50. Analysis of going calls from HAYES' home telephone 707-789-9415) shows over 500 calls to HARM in San Francisco from April through October 2001. There are also many calls to other medical marijuana organizations including CHAMP in San Francisco, the MARIN ALLIANCE in Fairfax and the OAKLAND CANNABIS BUYERS' COOPERATIVE, during the same time period. Also, there are calls to Dr. ELLIS in San Francisco, and to Edward ROSENTHAL'S company, Quick Trading, at 1635 E. 22nd St., Oakland.

B. DESCRIPTION OF PREMISES

51(a). 275 King Road, Petaluma, California is a single-story, single-family residence. The residence is comprised of wood siding painted red with white trim. The residence has a pitched, wood shingle roof. There is a two-car garage door that faces the side road that the residence is located. The door to

the garage is white in color. There is a wire fence on both sides of the residence.

51(b). Behind the residence is a detached barn structure painted red with white trim. The barn has a pitched roof and appears to have composite shingles

51(c). The residence and barn are located on a small side road from King Road. At the intersection of this side road there is a sign that has the address of 275 King Road written on it. Across from this sign is a row of mailboxes. One of the mailboxes also has the numbers 275 written on it.

SEARCH LOCATION 3: 1986 FORD PICK-UP, CALIFORNIA LICENSE

PLATE 5V60884

A. PROBABLE CAUSE TO SEARCH

52. According to DMV, this is the sole vehicle registered to HAYES. HAYES has registered this vehicle to his residence at 275 King Road, Petaluma. Per the statement of expertise herein at paragraphs 87 to 115, narcotics traffickers often store and transport narcotics in vehicles.

B. DESCRIPTION OF VEHICLE

53. Vehicle bearing California license number 5V60884 is described as a 1986 Ford Pick-up, registered to Kenneth HAYES, 275 King Road, Petaluma, California.

SEARCH LOCATION 4: 1989 MAZDA, CALIFORNIA LICENSE PLATE

2PKJ217

A. PROBABLE CAUSE TO SEARCH

54. Per the statement of expertise herein at paragraphs 87 to 115, narcotics traffickers often store and transport narcotics in vehicles. Moreover, this vehicle was observed during surveillance of HARM during the week of December 25, 2001. During this surveillance, a DEA directed purchase of marijuana was conducted. HAYES was inside HARM during the purchase and DEA's observation of the vehicle.

55. The vehicle is registered to HAYES' girlfriend, Cheryl SEQUEIRA. SEQUEIRA was charged with the cultivation of marijuana seized by the Sonoma County Sheriff's Department in 1999. Charges were later dismissed. On September 28, 2001, when police investigated the marijuana theft at HAYES residence, SEQUEIRA was a witness and resided at the property where marijuana was being cultivated. SEQUEIRA was also present when HAYES was cited for possession of marijuana and money was seized.

56. On January 30, 2002, I observed this vehicle parked in the driveway of 275 King Road, Petaluma.

B. DESCRIPTION OF VEHICLE

57. Vehicle bearing California license number 2PKJ217 is

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SEARCH LOCATION 5 582 BOWDOIN, SAN FRANCISCO CALIFORNIA

A PROBABLE CAUSE TO SEARCH

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indicate that a David C. HOYE has a 1984 motorcycle registered at 582 Bowdoin address. I did locate a driver's license for a David Charles HOYE with an address of PO Box 217, Creston, California

From my training and experience I know that those that traffic in narcotics often place properties, assets and utilities in fictitious names or names other than their own in an attempt to avoid detection by law enforcement.

C. DESCRIPTION OF PREMISES

62(a). 582 Bowdoin, San Francisco is a two story, single family residence. The residence is cream in color with light cream trim. The residence has a pitched roof with brown composite shingles. The roof in the rear of the residence is flat. The bottom floor of the residence has two, single car garage doors. To the left of the garage doors is a staircase that leads to the residence's entry

62(b). The numbers 582 are attached to the structure in two-inch white with a black ground numbers. The address is attached between the garage door and the staircase. The residence faces east on Bowdoin.

SEARCH LOCATION 6: 2000 DODGE PICK-UP, CALIFORNIA LICENSE

PLATE 6K68017

A. PROBABLE CAUSE TO SEARCH

Evidence establishes that WATTS owns and drives this vehicle. Per the statement of expertise herein at paragraphs 87

to 115, narcotics traffickers often store and transport narcotics in vehicles.

During the week of November 26, 2001, WATTS was observed driving this vehicle. WATTS drove from HARM to 582 Bowdoin in this vehicle and then sold Informant 2 marijuana from inside his residence

65. During the week of December 3, 2001, this vehicle was parked in front of HARM after Informant 2 purchased marijuana from HARM

66. On December 13, 2001, WATTS was arrested by Colma police officers while in his vehicle. Seized from the vehicle were marijuana, cocaine, and a stun gun. WATTS also had illegal prescriptions on his person.

During the week of December 25, 2001, WATTS' 2000 Dodge pick-up was observed in front of HARM. WATTS drove the vehicle away from the location

B. DESCRIPTION OF VEHICLE

Vehicle bearing California license 6K68017 is described as a white, 2000 Dodge Pick-up, registered to Richard WATTS, 582 Bowdoin, San Francisco.

SEARCH LOCATION 7: 1419 MANDELA PARKWAY, OAKLAND, CALIFORNIA

A. PROBABLE CAUSE TO SEARCH

Informant 2 stated that Edward ROSENTHAL operates a marijuana cultivation operation across the street from an old

Carnation dairy in Oakland, California. An Oakland Police officer told me the old Carnation Dairy is located at 14th and Mandela Parkway in Oakland. A property check indicated ROSENTHAL owned a property located at 1419 Cypress (now known as Mandela Parkway), in Oakland. 1419 Mandela Parkway is across the street from the old Carnation Dairy

70. On November 26, 2001, I surveilled 1419 Mandela Parkway, and observed a brown Mercury, California license 2MEY425 registered to Gary SCHWARTZ, parked directly in front of the structure. I observed light leaking from around the front door to the structure and that the door had an additional hasp attached to it with no lock on it at the time.

71. I walked in front of the structure on the sidewalk and detected a strong odor of marijuana directly in front of the building. I also observed what appeared to be an air conditioner attached directly above the door. This air conditioner running despite the outside temperature being approximately 50 degrees. From my training and experience, I know that indoor marijuana cultivation operations generate a vast amount of heat. To maintain an optimum growing environment for the marijuana plants, the temperature inside the cultivation site must be maintained at a certain level. Air conditioners and fans are often utilized to cool the environment and provide fresh air from outside the cultivation room.

72(a). On December 6, 2001, agents surveilled 1419 Mandela Parkway, where I observed a red Geo, California license 4SPL539 (registered to Brian LUNDEEN), parked in front of 1419 Mandela Parkway. There were also two other vehicles parked there- a white BMW, California 4NUE060 (registered to Douglas CHURCH) and a brown Mercury, California 2MEY425 (registered to SCHWARTZ). I saw a white male exit and walk around on the sidewalk and re-enter 1419 Mandela Parkway. Surveillance was suspended for a period of time.

72(b). When I returned to the area, the white BMW was gone, and in its place was a silver BMW, California 2ASW192 (registered to Etienne FONTAN) and a silver Mercury, California 4DXX351 registered owner Edward ROSENTHAL). I observed ROSENTHAL and another male exit 1419 Mandela Parkway. ROSENTHAL walked to the silver Mercury carrying a white bag, opened driver's side door and placed the bag into the rear seat. The other went to the silver BMW, then walked to the Mercury and entered the passenger seat. ROSENTHAL got into the vehicle and drove away. I recognized ROSENTHAL from a DMV photograph

72(c). ROSENTHAL drove to San Francisco and proceeded to HARM. ROSENTHAL and the unidentified male exited the Mercury and walked into HARM. ROSENTHAL was carrying the bag that I had observed him place in his vehicle in Oakland. Approximately 30 minutes later, ROSENTHAL and the other subject left HARM and

returned to ROSENTHAL'S vehicle. Neither was carrying anything at that time.

72(d). The two entered the vehicle and left HARM heading back towards Interstate 80. Before entering the freeway, ROSENTHAL returned to HARM. ROSENTHAL parked across the street from HARM. Surveillance did not see either men leave the vehicle. Approximately five minutes later the vehicle departed again, and about twenty minutes later, ROSENTHAL returned to 1419 Mandela Parkway. The passenger exited the vehicle and entered the silver BMW on the driver's side. Both vehicles then departed the area.

72(e). I saw a male subject exit 1419 Mandela Parkway and go to the red Geo and enter the vehicle through the passenger's door. The subject exited the vehicle and went back into the structure. Shortly thereafter I observed another white male exit 1419 Mandela Parkway talking on a cellphone, then go back inside

73. Information obtained from a public records show that ROSENTHAL purchased 1419 Mandela Parkway from Lesley and Gloria Wilmer for \$150,000 in April 1996. In July 2000, ROSENTHAL quit-claimed the property to Jane KLEIN. Public records indicate ROSENTHAL and KLEIN co-own 1635 E. 22nd St., Oakland, California This is where ROSENTHAL'S vehicle is registered. According to DMV, ROSENTHAL and KLEIN also have a 1994 Honda, California 3LYK162, registered at 1635 22nd St. KLEIN has an additional vehicle, a 1992 Lexus, California 3GCR384, registered to 1635

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mailing address of P.O. Box 777, Oakland.

77. The second meter for this location is noted as "rear"

The following is the usage for this meter:

May 2001:	13,267 kilowatt hours
June 2001:	9,921 hours
July 2001:	8,810 hours
August 2001:	9,322 hours
September 2001:	8,499 hours
October 2001:	14,736 hours
November 2001:	13,442 hours

This structure is a commercial building with no windows or any indications of being a legitimate business. Based on my observations during the course of this investigation, the significant amount of kilowatt hours being utilized at 1419 Mandela Parkway is indicative of a marijuana cultivation site being operated within the structure.

78(a). On January 14, 2002, S/A Baker saw the white BMW, California license 4NUE060 registered to CHURCH) in front of 1419 Mandela Parkway. This car had previously been seen parked in front of 1419 Mandela Parkway. S/A Baker also observed ROSENTHAL'S vehicle a silver Mercury, CA 4DXX351 parked in front. S/A Baker noted that the hasp lock was not on the door.

78(b). On February 6, 2002 Group Supervisor Michael Delaney surveilled 1419 Mandela Parkway. G/S Delaney observed a adult male in a silver Jeep, California license 6F63126 registered to JD PETRAS), drive away from the location. The vehicle then turned around and returned to 1419 Mandela Parkway.

adult male exited the Jeep, took a large rectangular fan from vehicle, and walk towards the front door to the location. A few minutes later, the male walked back to the vehicle and left G/S Delaney observed several gray horticultural trays inside the vehicle.⁷ G/S Delaney was able to observe items immediately inside the door of 1419 Mandela Parkway.

B. DESCRIPTION OF PREMISES

79. 1419 Mandela Parkway, Oakland, California is a single story commercial building painted white. There is a red brick base that is approximately three feet up the front of the structure. The structure has a flat roof and no visible windows door is the same color as the building. Above the door, on the frame, are the numbers 1419 in gold. Mounted above the door is an air conditioning unit. The building also has a small overhang off the front of the structure

SEARCH LOCATION 8: 1635 EAST 22ND STREET, OAKLAND, CALIFORNIA

A. PROBABLE CAUSE TO SEARCH

80. Evidence establishes that ROSENTHAL utilizes this address as his residence. Per the statement of expertise herein at paragraphs 87 to 115, traffickers of narcotics often store narcotics in and around their residence as well as other items of evidence that are indicative of the individuals trafficking of narcotics. Reference is made to the preceding paragraphs

⁷ Horticultural trays are used in the propagation of marijuana clones.

regarding the probable cause to search 1419 Mandela Parkway, Oakland, and incorporated into this section.

81. As stated previously, ROSENTHAL and KLEIN co-own 1635 E. 22nd St., Oakland. This is the location that ROSENTHAL'S vehicle, which was seen during surveillance, is registered. According to California DMV ROSENTHAL and KLEIN also have a 1994 Honda, California license 3LYK162, registered to 1635 22nd St KLEIN has an additional vehicle, a 1992 Lexus, California license 3GCR384, registered to 1635 22nd St. Both ROSENTHAL and KLEIN list 1635 E. 22nd St., Oakland, on their California driver's licenses. According to PG&E records, utility service at 1635 E. 22nd Street is in ROSENTHAL's name.

B. DESCRIPTION OF PREMISES

82(a) 1635 East 22nd Street, Oakland, is a two-story single-family residence. The building is Victorian architecture and painted cream in color with pink and blue trim. The numbers 1635 is in gold and attached to the residence. The roof is pitched with brown composite shingles. There is a large porch to the rear of the structure

82(b). The residence has a detached garage, which is also painted cream in color. The numbers 1635 are attached to the garage in white numbers. The garage has steel bars over the windows.

82(c). There is a wire fence in front of the residence with a wire gate. There is also a large amount of shrubbery shielding the house from the street

SEARCH LOCATION 9: 1999 MERCURY, CALIFORNIA LICENSE 4DXX351

A. PROBABLE CAUSE TO SEARCH

83. Evidence establishes that ROSENTHAL owns and drives this vehicle. Per the statement of expertise herein narcotics traffickers often store and transport narcotics in vehicles.

84. As stated previously, this vehicle was observed at 1419 Mandela Parkway, Oakland. ROSENTHAL was observed driving this vehicle to HARM and then bringing a white bag into HARM. ROSENTHAL then drove back to 1419 Mandela Parkway.

85. On January 14, 2002, this vehicle was observed at 1419 Mandela Parkway, Oakland

B. DESCRIPTION OF VEHICLE

86. Vehicle bearing California license 4DXX351 is described as silver, 1999 Mercury, 2-door, registered to Edward ROSENTHAL, 1635 East 22nd Street, Oakland

Statement of Expertise

87. Based on my training and experience, and on my consultation with other law enforcement officers experienced in investigations regarding conspiracy to manufacture, distribute

and possession with intent to distribute controlled substances, I have learned the following:

- a. Individuals involved in illegal trafficking of controlled substances often conceal evidence of their drug trafficking in their residences and businesses, or the residences of friends or relatives, and in surrounding areas to which they have ready access such as garages, carports and Outbuildings. They also conceal evidence in vehicles, including vehicles outside of their residences, so that they have ready access to it and so that they can hide it from law enforcement, including law enforcement officers executing search warrants at their residences or businesses. Evidence also may be found in other areas to which a drug dealer has ready access, such as rented storage areas and safety deposit boxes. This evidence, which is discussed in detail in the following paragraphs, includes drugs paraphernalia for weighing, packaging, and distributing drugs, other contraband, records and evidence of drug transactions, proceeds from drug sales, and valuables obtained from proceeds.

- b. Individuals involved in illegal drug trafficking of narcotics often keep quantities of controlled substances on their person, in their residences, garages, outbuildings, storage areas, carports and yards, in their businesses, in the residences of friends or relatives, in their vehicles, and in other areas to which they have ready access
- c. Individuals involved in drug dealing commonly use certain paraphernalia to package and prepare controlled substances for distribution. The paraphernalia includes packaging materials such as plastic baggies, wrapping paper, cellophane, condoms, and film canisters) and scales to weigh controlled substances. Drug dealers commonly store these items on their person, in their residences, in their businesses, in the residences of friends or relatives, in their vehicles, and in other areas to which they have ready access.
- d. Drug dealers often maintain records of their transactions in a manner similar to the record keeping procedures of legitimate businesses. Even after the drugs are sold, documentary records often remain for long periods of time, even years, to memorialize past transactions, the status of