

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 169 OF 2019

BETWEEN:

- 1) CAYMAN ISLANDS URGENT CARE LTD. T/A DOCTORS EXPRESS
- 2) KAISER DAY CANNACEUTICALS, LTD.
- 3) KAISER DAY PHARMACEUTICALS, LTD.

APPLICANTS

AND:

- 1) HM DIRECTOR OF CUSTOMS
- 2) CATHERINE O'NEIL JP
- 3) COMMISSIONER OF THE ROYAL CAYMAN ISLANDS POLICE SERVICE
- 4) CHIEF MEDICAL OFFICER

RESPONDENTS



AMENDED EX-PARTE APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To the Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and description of applicant	Cayman Islands Urgent Care Ltd. T/A Doctors Express, Kaiser Day Cannaceuticals, Ltd. and Kaiser Day Pharmaceuticals, Ltd. c/o Campbells, Attorneys for the Applicants Floor 4, Willow House, Cricket Square George Town Grand Cayman Aggrieved entities
Judgment, order, decision or other proceedings in respect of which relief is sought	The search warrant procured by the First Respondent, issued by the Second Respondent and executed by the Second and Third Respondents at the request of Customs Officer Schneider on 17 September 2019, a copy of which is attached to this application (" the Warrant ")

Relief Sought:

1. Orders of *certiorari* in respect of the search warrant issued by the Second Respondent at the request of the First Respondent, on 17 September 2019.
2. A Declaration that the issuance of a Cease Notice on or around 14 September 2019 (the “Cease Notice”), by the Fourth Respondent was unlawful.
3. Declarations that the entry of Customs and Police officers, whether named in the Warrant or otherwise, into the Applicants’ premises at 81 Godfrey Nixon Way, George Town, Grand Cayman, (“**the Premises**”) and the search conducted at the Premises on 17 September 2019 were unlawful.
4. Delivery up of all items seized from the Premises.
5. Damages, including exemplary and aggravated damages, for the unlawful issuance of the Cease Notice, unlawful procurement of a warrant, abuse of process, trespass to land and goods, unlawful interference with goods and damage to reputation.
6. An Order that the costs of and incidental to this application be paid, on an indemnity basis by the Respondents or such other person or persons as this Honourable Court thinks fit.
7. Such further or other relief as this Honourable Court thinks fit.

Name and address of the Applicant’s attorneys	Campbells Floor 4, Willow House Cricket Square George Town Grand Cayman Ref: JAS/18053-31643
Signed 	Dated: 9 October 2019 <u>3rd December 2019</u>

AMENDED GROUNDS ON WHICH THE RELIEF IS SOUGHT:

Background

1. The Applicants, Cayman Islands Urgent Care Ltd. T/A Doctors Express (“**Doctors Express**”), Kaiser Day Cannaceuticals, Ltd., and Kaiser Day Pharmaceuticals, Ltd. (together “**Kaiser Day**”) are three firms who between them hold, variously:
 - i. Import Certificates permitting the importation and possession of Cannabis, issued by the Chief Medical Officer (“**the CMO**”) (issued to Kaiser Day Cannaceuticals and Doctors Express);

- ii. A Trade and Business Licence, authorising the carrying on of business as an “*agent importer of cannabis extracts and tinctures for medical purposes*” (issued to Kaiser Day); and
- iii. a Certificate of Operation of a Health Care Facility (including a pharmacy), issued in accordance with the Health Practice Law (2013 Revision) (issued to Doctors Express).

Collectively these certificates and licences allow the Applicants, lawfully to import, possess and (for doctors working at Doctors Express) prescribe medical cannabinoids in accordance with the provisions of, *inter alia*, section 2A of the Misuse of Drugs Law (2017 Revision).

2. Since June 2017 Doctors Express has operated an urgent care medical facility, providing on-site x-ray facilities an in-house laboratory and pharmacy. Doctors, licenced under the Health Practice Law (2017 Revision) provide medical diagnosis, advice and treatment to members of the public, including prescribing medications. Pharmacists, also licenced under the Health Practice Law fill and dispense these prescriptions at Doctors Express’ onsite pharmacy.
3. In January 2019 the Applicants applied for and received permission to import, possess and prescribe medical cannabinoids in accordance with the provisions of the Misuse of Drugs Law. There is no restriction on the manner in which these are dispensed, the dosage or the method of administration, which are a matter solely for the medical judgment of the prescribing physician. (Specifically, in the case of medical cannabinoids, there was no restriction on the prescription of these for administration by vapourisation (or any other method) until a notice was issued by the CMO on Saturday 14 or Sunday 15 September 2019 (“**the Cease Notice**”).¹)
4. On 10 September 2019 a text message advertising the availability of vapourisable medical cannabinoids at Doctors Express was sent to users of Digicel telephones (“**the 10 September Text**”). Although that message was factually accurate, lawfully sent and referred to prescription medications about which HM Customs (“**Customs**”) was fully aware (since duty had been paid on

¹ Indeed, given the evidence already disclosed of the circumstances surrounding the issue of the CMO’s Cease Notice on 14th September 2019, it is strongly arguable that there is still no such prohibition and the Applicants reserve the right to amend these pleadings if necessary to add the CMO as a Respondent and challenge this prohibition on receipt of full disclosure.

them), unbeknown to the Applicants, Customs Officers decided to commence a criminal investigation. The officer in charge of this investigation was Customs Officer Schneider (“**the OIC**”).

5. At around 4.30pm on Tuesday 17 September 2019, approximately 15 Customs and Royal Cayman Islands Police Service officers (“**the Officers**”) entered the medical facility and offices of Doctors Express and Kaiser Day (“the Search”). The Officers claimed to be acting under the authority of a search warrant (“**the Warrant**”) issued by Justice of the Peace Catherine O’Neil (“**the JP**”) to the OIC earlier that day.
6. During the search a representative of the Applicants, Mr Samuel Banks, asked the OIC why they were raiding the surgery and offices (as the Warrant did not specify the purpose of the search). The OIC replied they were *“there for the THC vape cartridges that had been advertised”*. It was explained by Mr Banks to the OIC that the Applicants were fully licenced by the Health Practice Commission (“**the HPC**”) and other relevant bodies and that the cannabinoids had been imported under the authority of certificates issued by the CMO. The OIC replied (inaccurately) that *“although the CMO had granted such permission, he also had the power to rescind such permission, which he had indicated that he had”*.²
7. The Officers searched the medical facility and offices for several hours and seized property belonging to the Applicants. Approximately 30 minutes after the search had started the Applicants were sent the Cease Notice by the Health Practice Commission with an apology that they had not received it previously.
8. Following the raid of their medical facility and offices the Applicants wrote repeatedly to Respondents and their attorneys setting out why they regarded the Warrant as unlawfully issued and the Officers as acting unlawfully. Repeated requests were made for:
 - i. A copy of the information laid before the JP at the application for the Purported Warrant;
 - ii. The identity of the individual who made the application for the Warrant;

² First Customs Statement para 20. This statement by Customs is factually inaccurate as the CMO had never “rescinded” the Applicants’ right to possess the medical cannabinoids which he had previously granted them.

- iii. A complete note of the evidence given on oath in support of the application for the Warrant;
 - iv. Copies of all materials placed before the JP at the application to grant the Warrant; and
 - v. A copy of the JP's written record of the application for the Warrant.
9. Despite being personally served the JP has ignored all correspondence from the Applicants' lawyers. On 1 October 2019, the Applicants' attorneys received an email from the OIC which attached an unsigned statement purporting to provide answers to the questions above and exhibiting certain materials ("**the First Customs Statement**"). Later that day the OIC emailed a further unsigned statement ("**the Second Customs Statement**") and a request for information from the Applicants.
10. From the disclosure provided it is apparent that no note was made of the evidence given on oath in support of the Warrant by either the OIC or the JP. Aside from the Information form itself the JP was provided with no other evidence.

The Grounds for Judicial Review

11. The Applicants' case is that the Respondents actions were unlawful for a number of reasons:
- i. Customs themselves had procured the Cease Notice, which they claimed the Applicants were acting in breach of, *after* they had commenced their investigation on 10 September;
 - ii. The OIC failed to make full and frank disclosure to the JP at the application for the Warrant;
 - iii. The OIC had no reasonable grounds to suspect that the Applicants had committed any crime;
 - iv. The JP had no, or insufficient, evidence before her prior to the issue of the Warrant to have reasonable grounds to suspect that the Applicants had committed any crime;
 - v. The Warrant itself was defective in a number of important material ways;
 - vi. The Respondents had no reasonable grounds to believe that there would be material "essential" to any inquiry at the Applicants' offices or medical facility; and
 - vii. The Respondents had no reasonable grounds to believe that entry to the offices or medical facility would have been granted without a warrant.

- viii. The CMO's decision to issue the Cease Notice was unlawful in that:
- i. he did not have the power to issue the Cease Notice pursuant to Section 14 of the misuse of Drugs Law (2017 Revision) or at all; and/or
 - ii. his decision to issue the Cease Notice was unreasonable, unnecessary, disproportionate and procedurally unfair;
- ix. The CMO failed to take into consideration all relevant information and took into consideration irrelevant information when he decided to issue the Cease Notice;
- x. The CMO failed to discharge his statutory obligations pursuant to as.19 (1) and (2) of the Cayman Islands Constitution Order 2009 (the "Constitution").

These grounds are detailed further below.

The Abuse of Process

12. The Second Customs Statement demonstrates that the history of their investigation:

- i. Customs received the 10 September Text advertising the availability of vaporisable medical cannabinoids the same day it was sent.
- ii. Customs contacted HPC to ask if medical cannabinoids could be administered by vape and the HPC told Customs it "*was of the opinion that it shouldn't [legal] be as Vaping is in the process of being banned in certain countries*".³
- iii. On 14 September 2019 "***After our concerns were communicated to the HPC [the Cease Notice] from the CMO was issued to all Registered Health Care Practitioners***".⁴ (emphasis added) (In fact the Cease Notice was never sent to the Applicants until over 30 minutes *after* the Warrant had been executed.)
- iv. On 17 September 2019 the OIC applied for the Warrant claiming that she had reasonable grounds to suspect that the Applicants were in unlawful "possession of a controlled drug". In fact the only evidence placed before the JP by the OIC was the 10 September Text and the Cease Notice (which Customs themselves had procured *after* the 10 September Text had been sent).

³ Second Customs Statement, p.2.

⁴ Ibid.

13. Accordingly, as admitted by the OIC; Customs had started the investigation before the Cease Notice had been issued; at a time when there was no prohibition on the prescription of vaporisable medical cannabinoids. Customs then caused the Cease Notice to be issued to ban the prescription of vaporisable medical cannabinoids and then used the 14 September Cease Notice as a basis to demonstrate to the Justice of the Peace that the 10 September Text evidenced an intention to defeat the terms of the Cease Notice and unlawfully possess/supply controlled drugs.

The Warrant

14. On the face of it the Warrant was defective because:

- i. It failed to name the person with the authority to execute it in breach of s.26 of the CPC.
- ii. It failed to identify the articles essential to the inquiry to be seized in breach of s.26 of the CPC.
- iii. The JP failed to delete inapplicable sections, indicating that her actions were little more than an exercise in 'rubberstamping' the OIC's application.

15. These are not mere defects in form. They are important protections which were ignored during what was (as set out below) a 'box ticking' exercise in obtaining the Warrant. On these bases alone the unlawful Warrant should be quashed and in an ordinary case would be. However, in this case there are also far more fundamental concerns regarding the issue of the Warrant.

No Reasonable Grounds to Suspect the Applicants were in Unlawful Possession of a Controlled Drug By The OIC

16. The Respondent OIC indicates, in the First Customs Statement that she was directed to investigate (by persons unknown) as a result of the 10 September Text. Subsequently, she asked and failed to obtain clarification of the legal position from the CMO.

17. The OIC indicated that she was aware of a letter, dated 24 January 2019, from the CMO to the Applicants giving them permission to import various medical cannabinoids. She then stated:

"However, it is noted that the said permission did not include Cannabis/THC Vapes. Based on the aforesaid information I had reasonable and probable cause to suspect that

the said company was in unlawful possession of a controlled substance with intent to supply.”⁵

On this basis the OIC determined to apply for the Warrant.

18. The foregoing does not establish a basis to suspect that the Applicants were in “unlawful” possession of a controlled drug with intent to supply. Quite the reverse, on the evidence available to the OIC, the Applicants were in lawful, licenced, possession of a controlled drug. They had (as far as she knew) received the Cease Notice from the CMO asking them to refrain from prescribing it, and she had absolutely no basis whatsoever to conclude that they intended not to comply with that notice.

19. The position is reinforced by the OIC’s comments at the execution of the Warrant for simple possession of a controlled drug:

“Mr. Banks informed me that he had been granted permission by the CMO to import and dispense Medical THC and CANABINOIDS products and did not understand why we were now coming to the premises to search for said products...I explained to Mr. Banks that although the CMO had granted such permission, he also had the power to rescind such permission, which he had indicated that he had.”⁶ [sic]

20. Finally, in the Second Customs Statement the OIC explains that:

“CBC Officers contacted the HPC to enquire if vapes could be administered medically. However, although the CMO was unavailable to address this concern the HPC was of the opinion that it shouldn’t be as Vaping is in the process of being banned in certain countries”⁷. [sic]

21. It is of note that:

- i. The CMO’s views on the question of the legality of vaporisable medical cannabinoids were never obtained;

⁵ First Customs Statement para. 12 & 13.

⁶ Ibid. para 19 – 20. As noted above, this statement is also untrue.

⁷ Second Customs Statement p.2.

- ii. Proper legal advice on the legality of vaporisable medical cannabinoids was never taken by the OIC;
- iii. The HPC is responsible for various regulatory functions set out in s.3 of the Health Practice Law. These do not include advising on the lawfulness of the methods of administration of prescribed medications;
- iv. The HPS's "opinion" that vaping of medical cannabinoids "shouldn't be [legal]" is not even a statement of the law. At best it's merely a view on what an unnamed individual at the HPC thinks the law "should" be; and
- v. The basis for the HPC's view of what it think the law "should" be is wholly irrational referring to laws that aren't in force, in completely different jurisdictions.

**No Reasonable Grounds to Suspect the Applicants were in Unlawful Possession of a Controlled Drug
By The Justice of the Peace**

22. It is trite law that the JP could not simply rely on the claim by the OIC that she believes there are reasonable grounds to suspect that the Applicants are in unlawful possession of a controlled drug. She has to consider the material put before her, ask questions if necessary and form her own view, based on the evidence.
23. If the OIC had imparted all the information above to the JP, the JP (for the same reasons as set out in relation to the OIC above) could have had no reasonable basis to believe the Applicants were in unlawful possession of a controlled drug, however, the OIC failed to provide the JP with all of the relevant information.
24. In direct response to the Applicant's lawyers' requests for "*A complete note of the evidence given on oath in support of the application for the Warrant....[and]...Copies of all materials placed before the Justice of the Peace at the application to grant the Warrant*" the totality of evidential material provided by the OIC was the "Application for a Search Warrant – Information" ("**the Information**").
25. The Information is in a "tick box" form and requires the Officer to delete the sections that are not applicable. No sections have been deleted, although some have been highlighted.

- i. The Information seeks a warrant under s.14 of the Misuse of Drugs Law (2017 Revision): S.14 of the Misuse of Drugs Law does not authorise the issuance of search warrants (or refer to warrants at all). The Warrant was therefore issued on an unlawful basis;
- ii. Information asserts that *"Items containing THC extracts not approved"* are likely to be found, when no evidential basis is identified to support this claim;
- iii. The Information claims *"that entry to the premises will not be granted unless a warrant is produced"*. No evidential basis was provided for this assertion (in fact an invitation had been extended to one of the Drugs Task Force Officers executing the Warrant to visit the Premises only 4 days previously which the RCIPS had cancelled without explanation); and
- iv. The Information states that *"to achieve the purpose for which the warrant is being applied it is necessary that the warrant authorises entry to and search of the premises at any time"*. No evidential basis is identified to support this claim.

26. Whilst these individual breaches of the law are not as serious as some of the gross failings and abuses in this case, they do evidence what was clearly a token attempt to go through the motions for the issuance of the Warrant and have it rubberstamped by the JP without any consideration for the Applicants' rights or the requirements of the law.

27. Finally, on the second page of the Information the OIC simply reiterates the terms of the 10 September Text and quotes a single line of the CMO's Cease Notice. According to the OIC no other evidence was provided to the JP.

28. The evidence of what was said in support of the application was explicitly and repeatedly requested from the JP. Regrettably she has failed to respond to any correspondence. The OIC completely fails to identify any evidential basis to believe that an offence has been committed or explain why materials sought are "essential" to any investigation, as required by the law.

Breach of Duties to Full and Frank Disclosure in the *Ex Parte* Warrant Application

29. An officer applying for a search warrant has a clear duty to draw the Justice of the Peace's attention to matters militating against the issue of the Warrant. Further, the officer also has a duty to ensure that the Justice of the Peace is aware of the relevant law if the officer is to put the matter fully and fairly. In this case OIC completely failed in both of those duties.

30. At no stage in the warrant application did the OIC inform the JP that:

- i. The Applicants possessed a Certificate of Operation of a Health Care Facility, issued in accordance with the Health Practice Law (2013 Revision);
- ii. The Applicants possessed Import Certificates permitting the importation and possession of cannabinoids, issued by the Chief Medical Officer;
- iii. The Applicants possessed a Trade and Business Licence, authorising the carrying on of business as an “agent importer of cannabis extracts and tinctures for medical purposes”.
- iv. The Applicants had lawfully imported Medical Cannabinoids with Customs’ knowledge and had paid duty on these;
- v. Despite the OIC asking the CMO whether medical cannabinoids could be administered by vape, before the issue of the Cease Notice, the CMO had never answered this question. (Although the clear implication is that it must previously have been lawful otherwise there would have been no need to issue the Cease Notice.);
- vi. The sole basis claimed for the OIC believing that administering medical cannabinoids via vape was not lawful was that “*the HPC was of the opinion that it shouldn’t be as Vaping is in the process of being banned in certain countries*”. The HPC have neither the expertise nor the remit to advise on this issue. (Particularly not on such an irrational basis and taking into account irrelevant factors.);
- vii. Customs had themselves procured the Cease Notice (as set out in paragraphs 10 & 11 above); and
- viii. The Cease Notice was not issued until 4 or 5 days after the 10 September Text.

31. By omitting these crucial facts the OIC breached her duties in the *ex parte* application. More seriously, she actively misrepresented the true factual position and misled the JP.

32. In further breach of her duties the OIC also failed to ensure that the JP was aware of the relevant law.

- i. The OIC applied for, and was granted, a warrant based on a section of the Misuse of Drugs Law (s.14) that did not authorise (or even address) the issuing of warrants;

- ii. The OIC failed to advise the JP of the provisions of s.2A of the Misuse of Drugs Law which specifically authorises the lawful possession and supply of medical cannabinoids by appropriately licenced entities like the Applicant and their physicians and pharmacists;
- iii. The OIC failed to explain to the JP that the method of administration of prescribed drugs is a matter for the prescribing doctor and that there was no law that prevented the prescription medical cannabinoids to be administered by vape; and
- iv. The OIC failed to advise the JP that there is no requirement for a specific licence to import “vaporisable medical cannabinoids” and that the Applicants in fact held all requisite licences under the law.

33. By omitting these crucial legal points the OIC breached her duties in the *ex parte* application. More seriously, she actively misrepresented the true legal position and misled the JP.

34. It must have been obvious to the OIC that the JP failed to understand the extent of her obligations under the law when issuing the Warrant. The OIC should have realised that a complex application such as this should have been made to a legally-trained Magistrate or to a Grand Court Judge. If determined to proceed before a JP without legal qualifications the OIC should have advised the JP to take formal legal advice from the Attorney General or Director of Public Prosecutions. At the very least the OIC should have advised the JP as to the law herself to enable the JP to make an informed decision about whether she should proceed to hear the application and to identify the relevant legal principles.

Breach of Duties by the JP

35. Regardless of the OIC’s breaches of duty the JP should also have been aware of her own obligations. The most cursory consideration of the ‘evidence’ provided on oath should have led the JP to make further enquiries. She failed to do so. The JP failed to seek legal advice when it must have been abundantly clear to her that she was unaware of the law and her obligations under it (in relation either to the underlying offence or the procedure for issuing the Warrant). The JP’s failure to keep a full note of the application and evidence that was given on oath was a clear breach of her duties. The JP never documented her reasons for granting the Warrant in further breach of her duties. Finally, she issued a warrant which was defective in substance and in

form, failing to name a person with authority to execute it and failing to identify items to be seized. Her actions were unlawful, they were *ultra vires*, and were Wednesbury unreasonable.

The Seized Goods

36. The Warrant failed to specify the items to be seized however it did direct Customs to “*produce the same before a court forthwith*”. In further breach of the law this has not been done. Instead Customs retained the seized property, issuing receipt to the Applicants stating they had been “detained”. This detention of goods is unlawful. That Customs never intended to comply with the law or the terms of the Warrant and bring seized property before a court is evident from the Second Customs Statement: “*Officers act[ed] quickly to ensure that these products were removed and detained pending further investigations.*” (emphasis added). Detention pending further investigations is not bringing before a court. This detention of the Applicants’ goods is unlawful.

The Cease Notice

37. On or around 14 September 2019 the CMO issued the Cease Notice in which he stated that: “Pursuant to my powers in relation to controlled drugs under section 14 of the Misuse of Drugs Law (2017 Revision) I request that all healthcare practitioners cease and desist from the issuance, processing, dispensing or selling of any cannabinoid which will be used by vaporisation until further notice”.
38. Pursuant to Section 14 of the Misuse of Drugs Law (2017 Revision) the CMO had the power to “make rules for inspection, keeping of inventories and general control and distribution of controlled drugs in the hands of persons authorised under this Law to be in possession of the same...”.
39. Section 14 of the Misuse of Drugs Law (2017 Revision) did not provide the CMO with the power to issue the Cease Notice and/or to control, limit and/or otherwise interfere with the Applicants’ legal possession and/or prescription of Cannabinoid products by vaporisation pursuant to s.2(1) of the Misuse of Drugs Law (2017 Revision).
40. If, which is not accepted, the CMO did have the power to issue the Cease Notice pursuant to Section 14 of the Misuse of Drugs Law (2017 Revision) in exercising his powers it is trite law that

the CMO had a common law duty to act independently, impartially and reasonably in the exercise of his discretion. Furthermore, and in accordance with section 19(1) of the Constitution the CMO had a duty to ensure that his decision was lawful, rational, proportionate and procedurally fair.

41. On 13 November 2019 the Applicants' attorneys wrote to the CMO and confirmed that pursuant to section 2A(1) of the Misuse of Drugs Law 2017 there is no proscribed method by which prescribed cannabis products may/must be administered in accordance with the Law. The Applicants' attorneys also made the following requests for information from the CMO:
- a. The basis on which the CMO was said to have the power to restrict the prescription of cannabinoid products by vaporisation;
 - b. The evidence that the CMO relied upon to conclude that there was insufficient evidence about the safety and efficacy of vaporised medical cannabinoids;
 - c. Why only vaporised cannabinoids were restricted and not all, or in addition to, any other methods of administering cannabinoids; and
 - d. When the cease Notice will be rescinded.
42. The CMO was also asked to provide copies of the concerns that the CMO received as referred to in the Cease Notice.
43. Regrettably since 13 November 2019 the CMO has failed to respond to the Applicants' request for information.

CMO's failure to act lawfully reasonable, independently and/or in accordance with s.19 of the Cayman Islands Constitution Order 2009 (the "Constitution")

44. In breach of the CMO's duty to act reasonably and/or in breach of section 19(1) of the Constitution the CMO failed to ensure that his decision was independent, impartial, reasonable, lawful, rational, proportionate and procedurally fair. If the CMO had acted lawfully he could not reasonably have concluded that the Cease Notice was necessary, proportionate or reasonable.

45. The issuance of the Cease Notice was unlawful in that the CMO:

- a. Did not have the power to issue the Cease Notice pursuant to Section 14 of the Misuse of Drugs Law (2017 Revision) or at all;
- b. Failed to exercise his discretion independently and/or impartially in that the Cease Notice was procured by the First Respondent;
- c. Failed to obtain and/or give sufficient regard to legal advice when considering if the Cease Notice was necessary and/or lawful;
- d. Failed to have sufficient regard to whether the Cease Notice was necessary;
- e. Failed to take into consideration relevant information including a failure to consult with the Applicants and/or other licensees lawfully permitted to prescribe Cannabinoid products in the Cayman Islands;
- f. Failed to give any and/or any sufficient weight to section 2(A) of the Misuse of Drugs Law;
- g. Based his decision on insufficient evidence;
- h. Took account of irrelevant information.

46. Furthermore and in accordance with section 19(2) of the Constitution, every person whose interest has been adversely affected by a decision of a public official has the right to request and be given written reasons for that decision. In breach of a.19(2) of the Constitution the CMO failed to respond to the Applicant's letter and request for information dated 31 November 2019.

Conclusion

47. The Respondents have committed multiple breaches of their obligations under the law in procuring, issuing and executing the Warrant.

48. The Applicants reserve the right to amend and/or amplify these grounds following full disclosure from the Respondents including the Fourth Respondent.



Campbells

Attorneys for the Applicant

Dated: 9 October 2019

Amended this 3rd day of December 2019

Filed this day of December 2020

